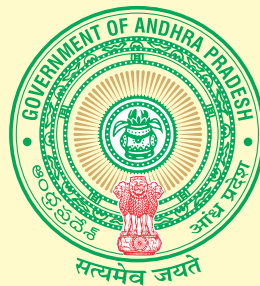




**Report of the
Comptroller and Auditor General of India
(Revenue Sector)**

for the year ended March 2013



Government of Andhra Pradesh
Report No. 4 of 2014

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TABLE OF CONTENTS

		Reference to	
		Paragraph	Page
	Preface		v
	Overview		vii
CHAPTER-I : GENERAL			
	Trend of revenue receipts	1.1	1
	Response of the Departments/Government towards audit	1.2	4
	Analysis of arrears of revenue	1.3	8
	Non reconciliation of remittance figures with those of treasury	1.4	8
	Analysis of the mechanism for dealing with the issues raised by Audit	1.5	9
	Analysis of Action Taken On Accepted Audit Findings in Audit Reports	1.6	11
	Audit planning	1.7	14
	Results of Audit	1.8	14
CHAPTER II : SALES TAX/VAT			
	Tax administration	2.1	19
	Trend of receipts	2.2	19
	Cost of collection	2.3	20
	Impact of Local Audit	2.4	20
	Working of internal Audit wing	2.5	21
	Results of Audit	2.6	21
	Audit observations	2.7	23
	Evasion of Value Added Tax (VAT) by builders	2.8	23
	Procedural irregularities relating to Sensitive Commodities	2.9	24
	Interstate sales	2.10	27

		Reference to	
		Paragraph	Page
	Payment of VAT on works contracts under non-composition	2.11	31
	Payment of VAT on works contracts under composition	2.12	32
	Application of incorrect rate	2.13	33
	Sales tax incentives for industrial units	2.14	34
	Non/Short levy of penalty	2.15	35
	Input Tax Credit	2.16	37
	Under declaration of tax due to incorrect exemption	2.17	40
	Non/Short payment of purchase tax	2.18	41
	Short levy of tax due to arithmetical error	2.19	42
	Short levy of VAT due to incorrect computation of taxable turnover	2.20	43
	Non-levy of interest on belated payments	2.21	43
CHAPTER III : STATE EXCISE DUTIES			
	Tax administration	3.1	47
	Trend of receipts	3.2	47
	Cost of collection	3.3	48
	Impact of Local Audit	3.4	48
	Working of Internal Audit Wing	3.5	49
	Audit observations	3.6	50
	Licensing and Monitoring of Bars and Liquor Shops	3.7	50
CHAPTER IV : LAND REVENUE			
	Tax administration	4.1	63
	Trend of receipts	4.2	63
	Impact of Local Audit	4.3	64

		Reference to	
		Paragraph	Page
	Levy and collection of tax for conversion of agricultural Land for non-agricultural purposes	4.4	65
CHAPTER V : TAXES ON VEHICLES			
	Tax administration	5.1	77
	Trend of receipts	5.2	77
	Cost of collection	5.3	78
	Impact of Local Audit	5.4	78
	Working of internal Audit wing	5.5	79
	Results of Audit	5.6	79
	Audit observations	5.7	80
	Quarterly tax	5.8	80
	Life Tax	5.9	82
	Misuse of 'Contract Carriage' permits as 'Stage Carriage' Permits	5.10	83
	Non-renewal of fitness certificates	5.11	84
	Differential tax structure between Private Contract Carriages (PCCs) and Andhra Pradesh State Road Transport Corporation (APSRTC)	5.12	85
	Non-levy of compounding fee	5.13	86
	Non-levy of green tax	5.14	86
	Non-levy of bilateral tax	5.15	87
CHAPTER VI : STAMP DUTY AND REGISTRATION FEES			
	Tax administration	6.1	91
	Trend of receipts	6.2	91
	Cost of collection	6.3	92

		Reference to	
		Paragraph	Page
	Impact of Local Audit	6.4	92
	Results of Audit	6.5	93
	Performance Audit on “Functioning of Registration and Stamps Department including Information Technology (IT) Audit of Computer aided Administration in Registration Department (CARD)”	6.6	94
CHAPTER VII : OTHER TAX RECEIPTS			
WATER TAX AND ROAD CESS			
	Levy and collection of water tax and road cess	7	127
CHAPTER VIII : REVENUE (ENDOWMENTS) DEPARTMENT			
	Monitoring and Administration by Endowments Department	8	137

P R E F A C E

This Report of the Comptroller & Auditor General of India has been prepared for submission to the Government under Article 151 of the Constitution for being laid before State Legislature.

It contains significant results of the compliance and performance audit of the Departments of the Government of Andhra Pradesh under the Revenue Services, including Departments of Commercial Taxes, Prohibition and Excise, Land Revenue, Transport, Roads & Buildings, Registration and Stamps etc.

Chapter-I of this Report covers trend of revenue receipts, response of the Departments/Government towards audit, analysis of the mechanism for dealing with the issues raised by audit, audit planning and results of audit.

The cases mentioned in this Report are among those which came to notice in the course of test audit (2012-13) of accounts for the period 2012-13 as well as those which had come to notice in earlier years, but could not be reported in previous years' Reports. Matters relating to the period subsequent to 2012-13 have also been included wherever necessary.

Audit has been conducted in conformity with the auditing standards issued by the Comptroller and Auditor General of India.

OVERVIEW

The report contains 26 paragraphs and involving ₹ 1,351.74 crore relating to non/short levy of taxes, interest, penalty, etc., and a performance audit on functioning of Registration and Stamps department including Information Technology (IT) audit of CARD involving ₹ 150.86 crore with total financial impact of ₹ 1,502.60 crore. Some of the significant Audit findings are mentioned below.

1 GENERAL

- The total revenue receipts of the State Government for the year 2012-13 amounted to ₹ 1,03,830.28 crore against ₹ 93,553.69 crore for the previous year. State Tax and Non-tax revenue accounted for 73 *per cent* of this (₹ 59,875.05 crore and ₹ 15,999.14 crore respectively). The balance 27 *per cent* was received from the Government of India as state share of divisible Union taxes (₹ 20,270.77 crore) and Grants-in-aid (₹ 7,685.32 crore)

(Paragraph 1.1.1)

- Test check of records of 231 units of VAT/land revenue, prohibition and excise, taxes on vehicles, stamp duty, registration fee and other department offices conducted during 2012-13 revealed preliminary audit findings involving non-levy/short-levy of taxes, duties etc. amounting to ₹ 1,726.23 crore in 939 cases.

(Paragraph 1.8.1)

2 SALES TAX/VAT

Audit noticed that

- In 17 circles of Commercial Taxes Department, 70 builders paid tax at lower rates which resulted in evasion of tax of ₹ 30.78 crore.

(Paragraph 2.8)

- Incorrect computation of turnovers/application of incorrect rates of tax for the assessment years 2006-07 to 2010-11 resulted in short levy of tax of ₹ 75.40 lakh.

(Paragraph 2.10.1)

- Incorrect levy of concessional rate of tax on fictitious “C” forms combined with incorrect exemption on fake “F” forms resulted in non-levy by penalty of ₹ 2.94 crore.

(Paragraph 2.10.2)

- Misuse of “C” declaration forms for interstate purchase of commodities not included in the certificate of registration led to non-levy of penalty of ₹ 1.04 crore.

(Paragraph 2.10.3)

- Suppression/incorrect computation of turnover and allowance of Input Tax Credit (ITC) in violation of provisions resulted in under declaration of tax of ₹ 1.34 crore in three cases during the period from 2007-08 to 2010-11.

(Paragraph 2.11.1)

- In 24 cases, tax of ₹ 2.16 crore was under declared for the period from 2007-08 to 2011-12, due to application of incorrect rates of tax leading in evasion of tax by that amount.

(Paragraph 2.13)

- Belated payment of deferred tax in 18 cases led to non/short-levy of interest of ₹ 77.24 lakh.

(Paragraph 2.14.1)

- In 40 cases penalty of ₹ 1.28 crore was not/short levied on account of delayed payment of tax declared in their periodical returns.

(Paragraph 2.15)

- Department allowed excess/incorrect claim of ITC of ₹ 1.93 crore in 18 cases.

(Paragraph 2.16)

3 STATE EXCISE DUTIES

- In eight offices of Prohibition and Excise superintendents, Additional License Fee (ALF) amounting to ₹ 9.44 crore was not levied on 54 bar and restaurants.

(Paragraph 3.8.1)

4 LAND REVENUE

- In nine Revenue Divisional Offices (RDOs) where Government lands to the extent of 4430.41 acres of Government lands were alienated in favour of 62 allottees, conversion tax of ₹ 28.93 crore was not realised.

(Paragraph 4.4.2)

- In Chevella Division demand notices involving conversion tax and penalty of ₹ 20.49 crore in respect of two cases were not issued.

(Paragraph 4.4.3)

- In 16 Divisions, involving 3,977 cases covering 40,573 acres of land converted for non-agricultural purposes, conversion tax and penalty amounting to ₹ 1047.28 crore were not levied due to non-existence of Provisions in the Act for sharing information between related agencies/ departments and absence of co-ordination between them.

(Paragraph 4.4.4)

- Conversion tax and penalty of ₹ 84.54 crore were not levied in respect of 1,441 mining/quarrying leases granted/ executed between January 2006 and March 2012 covering an area of 13,153.82 acres.

(Paragraph 4.4.5)

5 TAXES ON VEHICLES

- Quarterly tax of ₹ 10.32 crore and penalty of ₹ 20.65 crore were not realised from owners of 6,447 transport vehicles.

(Paragraph 5.8.1)

- Life tax of ₹ 1.93 crore was not/short-levied on 224 construction equipment vehicles in four offices of Deputy Transport Commissioners (DTC)/ Regional Transport Offices (RTO).

(Paragraph 5.9.1)

- Non-renewal of Fitness Certificate (FC) of 58,930 transport vehicles resulted in non-realisation of fee of ₹ 1.75 crore.

(Paragraph 5.11)

- Although similar services are rendered by Private Contract Carriages (PCCs) and APSRTC, there was difference in tax rates applicable to APSRTC and taxes paid by PCCs. The possible loss worked out by audit on account of lower rates being charged from PCCs as compared with taxes payable by APSRTC worked out to ₹ 1.01 crore.

(Paragraph 5.12)

6 STAMP DUTY AND REGISTRATION FEES

- Stamp duty was not levied on cost of improvements made by five lessees resulting in short levy of duties of ₹ 16.37 crore.

(Paragraph 6.14.2)

- Declaration of lesser annual rent in lease deeds than the actual rent received in 23 corresponding sale deeds and four gift deeds resulted in short levy of stamp duty and registration fees by ₹ 23.64 crore.

(Paragraph 6.17.1)

- Exclusion of development premium, development fee, conveyance of cash etc. from recitals of documents on various distinct matters resulted in non-levy of stamp duty and registration fees of ₹ 33.21 crore.

(Paragraph 6.20)

- Misclassification of Development Agreement cum General Power of Attorney (DGPA)/sale deed/other documents resulted in short levy of duties to the tune of ₹ 67.34 crore.

(Paragraph 6.21)

- Changes in business rules with respect to provisions such as change in rate of stamp duty, exemptions etc., were not correctly mapped into CARD system.

(Paragraph 6.26.1)

7 OTHER TAX RECIEPTS

Revenue (Land Revenue) Department

Water tax and road cess

- Of 35 mandals audited, village wise Demand Collection and Balance (DCB) registers were not maintained in 22 mandals for the period from 1 July 2007 to 30 June 2011. In the absence of such data, recovery of arrears could not be properly monitored.

(Paragraph 7.1.3)

- Adoption of incorrect procedure by nine mandals resulted in short-levy of water tax by ₹ 99.12 lakh.

(Paragraph 7.1.5)

8 REVENUE (Endowments) DEPARTMENT

- In five out of seven temples audited, the excess gold was not invested in accordance with the instructions of the Commissioner of Endowments. Interest earnings on gold deposits were thus forgone.

(Paragraph 8.1.9)

- Statutory contributions like the contribution to the Endowment Administrative Fund (EAF), Audit fee (AF), Common Good Fund (CGF) and Archaka Welfare Fund (AWF) were in arrears to the tune of ₹ 178.94 crore.

(Paragraph 8.1.17)

CHAPTER-I

GENERAL

CHAPTER I GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Andhra Pradesh during 2012-13, the State's share of divisible Union taxes and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are shown in Table 1.1:

Table 1.1 - Trend of revenue receipts

(₹ in crore)						
Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
I	Revenue raised by the State Government					
	• Tax revenue	33,358.29	35,176.68	45,139.55	53,283.41	59,875.05 ¹
	• Non-tax revenue	9,683.40	7,802.26	10,719.72	11,694.34	15,999.14
	Total	43,041.69	42,978.94	55,859.27	64,977.75	75,874.19
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	11,801.50	12,141.71	15,236.75	17,751.15	20,270.77
	• Grants-in-aid	8,015.26	9,557.70	9,900.28	10,824.79	7,685.32
	Total	19,816.76	21,699.41	25,137.03	28,575.94	27,956.09
III	Total receipts of the State (I + II)	62,858.45	64,678.35	80,996.30	93,553.69	1,03,830.28
IV	Percentage of I to III	68	66	69	69	73

During the year 2012-13, revenue raised by State Government from its own tax and non-tax resources constituted 73 *per cent* of the total revenue receipts of the Government. The balance 27 *per cent* of the receipts during 2012-13 was from the Government of India.

¹ For details please see Statement No.11- Detailed accounts of revenue by minor heads in the Finance Accounts of Andhra Pradesh for the year 2012-13. Figures under the major heads '0020-Corporation tax, 0021-Taxes on income other than corporation tax, 0028-Other taxes on income and expenditure, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties, 0044-Service tax and 0045-Other taxes and duties on commodities and services - 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 table.

1.1.2 Table 1.2 presents the details of tax revenue raised during the period from 2008-09 to 2012-13.

Table 1.2 - Details of Tax revenue

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13 ²	Percentage of increase (+)/decrease (-) in 2012-13 over 2011-12
1.	Value Added Tax (VAT)	20,596.47	22,278.14	27,443.24	33,251.87	38,783.14	(+) 16.63
	Central Sales Tax	1,255.19	1,362.07	1,701.61	1,658.14	1,931.53	(+) 16.49
2.	State Excise	5,752.61	5,848.59	8,264.67	9,612.36	9,129.41	(-) 5.02
3.	Stamp duty and registration fee	2,930.99	2,638.63	3,833.57	4,385.25	5,115.24	(+) 16.65
4.	Taxes and duties on electricity	218.54	159.25	285.88	304.95	308.96	(+) 1.31
5.	Taxes on vehicles	1,800.62	1,995.30	2,626.75	2,986.41	3,356.60	(+) 12.40
6.	Taxes on goods and passengers	15.88	10.28	9.48	12.06	11.73	(-) 2.74
7.	Other taxes on income and expenditure, tax on professions, trades, callings and employments	374.46	430.36	490.33	539.90	580.00	(+) 7.43
8.	Other taxes and duties on commodities and services	203.13	170.01	206.28	234.46	325.13	(+) 38.67
9.	Land revenue	130.35	221.56	170.74	140.56	61.78	(-) 56.05
10.	Taxes on immovable property other than agricultural land	80.05	62.49	107.00	157.45	271.53	(+) 72.45
	Total	33,358.29	35,176.68	45,139.55	53,283.41	59,875.05	(+) 12.37

Compared to 2011-12, tax revenues have increased by 12.37 per cent in 2012-13.

² Source : Statement 11 of Finance Accounts 2012-13

1.1.3 Table 1.3 presents the details of non-tax revenue raised during the period from 2008-09 to 2012-13:

Table 1.3 - Details of Non-Tax revenue

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13 ³	Percentage of increase (+)/decrease (-) in 2012-13 over 2011-12
1.	Interest receipts	3,487.40	4,851.52	5,774.29	6,278.82	9,625.54	(+) 53.30
2.	Other non-tax receipts	1,187.74	1126.82	1,497.02	2,044.67	2,335.85	(+) 14.24
3.	Forestry and wild life	93.22	103.11	139.06	149.22	168.78	(+) 13.11
4.	Non-ferrous mining and metallurgical industries (mines and minerals)	1,684.98	1,887.26	2,064.86	2,336.74	2,771.04	(+) 18.59
5.	Miscellaneous general services	2,944.06	(-) 617.71	806.97	255.17	159.79	(-) 37.38
6.	Power	15.77	26.12	27.61	38.43	28.12	(-) 26.83
7.	Major and medium irrigation	38.33	81.88	65.32	72.28	193.25	(+) 167.36
8.	Medical and public health ⁴	48.43	70.58	67.50	109.30	284.84	(+) 160.60
9.	Co-operation	20.09	37.51	29.21	18.29	26.29	(+) 43.74
10.	Public works	7.65	7.52	9.60	7.45	6.47	(-) 13.15
11.	Police	105.36	130.09	170.99	246.01	261.91	(+) 6.46
12.	Other administrative services	50.37	97.56	67.30	137.96	137.26	(-) 0.51
	Total	9,683.40	7,802.26	10,719.72	11,694.34	15,999.14	(+) 36.81

³ Source : *Statement II of Finance Accounts 2012-13.*

⁴ Reasons for increase in revenue in 2012-13 is attributed to increase in collections under the minor head 'other receipts.'

1.2 Response of the Departments/Government towards audit

Accountant General (AG) conducts test check of the transactions of Government Departments and communicates audit observations through Inspection Reports (IRs). Heads of offices report compliance to these observations in IRs within one month from the date of issue of IRs.

Paragraphs remaining unsettled are expedited by the audit committees set up for the purpose. Serious audit observations converted to draft paragraphs proposed for inclusion in Audit Report are communicated to the Department/Government. Government is required to furnish the replies to such draft paragraphs within six weeks of their issue. Departmental explanatory notes to the paragraphs included in Audit Reports are required to be submitted within three months of an Audit Report being presented to the State Legislature.

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

Accountant General (Economic and Revenue Sector Audit) conducts periodical inspection of Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with IRs, incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the Heads of the offices inspected with a copy to the next higher authorities for taking prompt corrective action. Heads of offices/Government are required to promptly comply with observations contained in the IRs, rectify the defects/omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to Heads of Departments and Government.

Details regarding IRs issued upto 31 December 2012 revealed that 32,118 paragraphs involving ₹ 12,909.94 crore relating to 10,925 IRs remained outstanding at the end of 30 June 2013 as mentioned below, alongwith corresponding figures for the preceding two years:

Table 1.4 - Summary of outstanding audit observations

	June 2011	June 2012	June 2013
Number of outstanding IRs	11,417	11,444	10,925
Number of outstanding audit observations	32,322	34,117	32,118
Amount involved (₹ in crore)	12,175.14	12,873.06	12,909.94

Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and amounts involved are mentioned below:

Table 1.5 - Department wise details of outstanding audit observations
(₹ in crore)

Sl. No.	Department	Nature of receipt	No. of outstanding IRs	No. of outstanding audit observations	Money value involved
1.	Commercial Taxes	VAT/ST/LT/ET	3,990	14,165	3,553.37
2.	Land Revenue	Water Tax, Conversion Tax	3,026	6,324	2,359.03
3.	Registration and Stamps	Stamp duty & Registration fees	2,279	6,036	779.64
4.	Prohibition and Excise	State Excise Duty	742	1,899	196.25
5.	Transport	Taxes on vehicles	468	2,475	2,640.83
6.	Mines and Minerals	Mineral Receipts	310	1,056	1,790.93
7.	Sugar and Cane	Purchase tax	87	136	249.55
8.	Energy	Electricity duty	16	20	809.45
9.	Municipal Administration and Urban Development	Royalty on water	2	2	83.19
10.	Finance and Planning	Interest	1	1	117.65
11.	Irrigation and Command Area Development	Road cess	4	4	330.05
Total			10,925	32,118	12,909.94

Even first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 30 IRs issued upto December 31, 2012. This pendency of the IRs due to non-receipt of the replies is indicative of the fact that heads of offices and heads of Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by AG in IRs.

It is recommended that Government may introduce a system for sending prompt and appropriate response to audit observations as well as for taking action against those failing to send replies to IRs/paragraphs as per prescribed time schedules.

1.2.2 Departmental audit committee meetings

Government set up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. During the year 2012-13 twelve Audit Committee Meetings of Land Revenue department were held. During these meetings 304 paras were settled involving an amount of ₹ 0.90 crore.

As pendency of IRs and paragraphs has increased, it is recommended that the Government may urge all the Departments to conduct more audit committee meetings to expedite clearance of outstanding objections.

1.2.3 Non-production of records to Audit for scrutiny

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

During 2012-13, audit of 231 offices was conducted. Out of these, in 36 offices, certain important records like Sales Tax assessment files, DCB registers, Receipt books, Daily collection registers etc., were not produced to audit though the audit programme was intimated well in advance.

It is recommended that Government may issue suitable instructions to Heads of Departments concerned for timely production of all relevant records for audit scrutiny.

1.2.4 Response of the Departments to draft audit paragraphs

Draft paragraphs/performance audits proposed for inclusion in the Audit Report are forwarded by AG to Principal Secretaries of Departments concerned through demi-official letters. According to instructions issued (September 1995) by Government, all Departments are required to furnish their remarks on draft paragraphs/reviews within six weeks of their receipt. The fact of non-receipt of replies from Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Twenty six paragraphs and one Performance Audit report are proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31 March 2013. These were forwarded to Principal Secretaries concerned at Government level and copies endorsed to the Heads of Departments concerned between March and December 2013. Of these, reply to only one draft paragraph and partial reply to another paragraph have been received from the Government.⁵

1.2.5 Follow up on Audit Reports – Summary

As per instructions issued by Finance and Planning Department in November 1993, Departments of Government are required to prepare and send to Andhra Pradesh Legislative Assembly Secretariat, detailed explanations (Departmental notes) on audit paragraphs within three months of an Audit Report being laid on the table of the Legislature.

A review of the position in this regard revealed that as of March 2014, 13 Departments had not furnished the Departmental notes in respect of 220 paragraphs included in Audit Reports for the years 2000-01 to 2011-12 due between June 2002 and October 2013. Delays ranged from five months to over 11 years as mentioned in the following table:

⁵ Responses received from the Department on preliminary audit findings have been duly considered.

Table 1.6 - Status of Departmental notes due

Sl. No.	Department	Year of the Audit Report	Dates of presentation to the Legislature	Last date by which Departmental notes were due	No. of paragraphs for which the Departmental notes were due	Delay in months
1.	Commercial Taxes	2007-08 to 2011-12	September 2009 to June 2013	November 2009 to October 2013	86	5 to 52
2.	State Excise	2008-09 to 2011-12	July 2010 to June 2013	October 2010 to October 2013	8	5 to 51
3.	Transport	2010-11 & 2011-12	March 2012 & June 2013	June 2012 & October 2013	13	5 to 21
4.	Registration and Stamps	2009-10 to 2011-12	March 2011 to June 2013	June 2011 to October 2013	25	5 to 33
5.	Co-operation	2000-01 & 2008-09	March 2002 & July 2010	June 2002 & October 2010	4	41 to 141
6.	Irrigation	2000-01 & 2006-07	March 2002 & March 2008	June 2002 & June 2008	4	69 and 141
7.	Land Revenue	2001-02 to 2011-12	March 2003 to June 2013	June 2003 to October 2013	67	5 to 129
8.	Industries & Commerce	2004-05, 2005-06 & 2010-11	March 2006, March 2007 & March 2012	June 2006, June 2007 & June 2012	6	93, 81 & 21
9.	Energy	2010-11	March 2012	June 2012	1	21
10.	Municipal Administration and Urban Development	2002-03 & 2003-04	July 2004 & October 2005	October 2004 & January 2006	3	98 and 113
11.	Forests	2007-08	September 2009	November 2009	1	52
12.	General Administration	2005-06	March 2007	June 2007	1	81
13.	Finance	2001-02	March 2003	June 2003	1	129
	Total	2000-01 to 2011-12	Between March 2002 and June 2013	Between June 2002 and October 2013	220	5 to 141

This indicates that executive failed to take prompt action on the important issues highlighted in Audit Reports that involved large sums of unrealised revenue.

1.2.6 Compliance with earlier Audit Reports

During the years 2007-08 to 2011-12, Departments/Government accepted audit observations involving ₹ 2,198.55 crore, out of which ₹ 14.85 crore were recovered till September 2013 as mentioned in the following table:

Table 1.7 - Recovery of accepted audit observations

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2007-08	443.46	177.31	4.56
2008-09	628.76	342.25	3.95
2009-10	1,168.41	1,046.51	4.36
2010-11	772.43	548.39	1.12
2011-12	244.70	84.09	0.86
Total	3,257.76	2,198.55	14.85

The percentage of recovery was only 0.67 per cent of the accepted money value.

It is recommended that the Government may advise the Departments concerned to take necessary steps for speedy recovery, especially in cases where Departments have accepted audit contention.

1.3 Analysis of arrears of revenue

As per the information furnished by the Departments, arrears of revenue as on 31 March 2013 in respect of some principal heads of revenue amounted to ₹ 12,833.53 crore of which ₹ 7,572.11 crore were outstanding for more than five years as detailed in the following table:

Table 1.8 - Reported arrears of revenue

(₹ in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years as on 31 March 2013	Remarks
1	State Excise Duties	5,923.18	5,441.42	More than 90 per cent of the amount was outstanding for more than five years.
2	Land revenue	420.77	315.73	75 per cent amount was outstanding for more than five years.
3	Taxes on vehicles	3,685.20	1,660.99	₹ 3682.47 crore are due from APSRTC and ₹ 2.73 crore are due from other individual cases.
4	Taxes and duties on electricity	2,680.77	153.97	Accumulation of arrears was very high during the last five years.
5	Mines and minerals	123.61	NA	Amount outstanding for more than five years not furnished by the Department.
Total		12,833.53	7,572.11	

1.4 Non-reconciliation of remittance figures with those of treasury

As per para 19.6 of AP Budget Manual read with Government instructions issued from time to time, Departmental Receipt and Expenditure figures should be reconciled every month with those booked by the treasury in order to detect, in time, misclassification or other accounting errors, fraudulent drawals and spurious challans etc., if any.

During scrutiny of records pertaining to conversion of agricultural land into non-agricultural purposes of 16 Revenue Divisional Offices (RDOs)⁶, audit noticed that conversion tax of ₹ 234.04 crore was collected by RDOs between 2006-07 and 2011-12 but no reconciliation was conducted by these offices from 2006 till date except by RDO, Chevella, where reconciliation was due from 2009 onwards.

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

Succeeding paragraphs 1.5.1 and 1.5.2 discuss the performance of Transport Department in dealing with cases detected during course of local audit conducted during the last six years and also the cases included in Audit Reports for the years 2007-08 to 2011-12.

1.5.1 Position of Inspection Reports

Summarised position of Inspection Reports (IR) issued during the last six years, paragraphs included in these reports and their status as on 31 March 2013 are shown in the following table indicating sub-optimal performance in clearance of IR paragraphs:

Table 1.9–Position of IRs of Transport Department

(₹ 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
2007-08	306	1247	2126.26	44	230	74.16	67	276	7.28	283	1201	2193.14
2008-09	283	1201	2193.14	44	242	80.81	12	38	0.68	315	1405	2273.27
2009-10	315	1405	2273.27	43	277	69.18	0	29	6.16	358	1653	2336.29
2010-11	358	1653	2336.29	44	259	115.09	1	98	18.19	401	1814	2433.19
2011-12	401	1814	2433.19	44	230	74.96	0	5	0.01	445	2039	2508.14
2012-13	445	2039	2508.14	34	197	147.92	10	185	24.81	469	2051	2631.25

1.5.2 Assurances given by Department/Government on issues highlighted in Audit Reports

1.5.2.1 Recovery of accepted cases

Position of paragraphs included in Audit Reports of last five years, those accepted by Department and amount recovered are mentioned in the following table.

⁶ Bhongir, Chevella, Guntur, Kadapa, Kakinada, Kurnool, Mahabubnagar, Medak, Nellore, Ongole, Rajahmundry, Ranga Reddy (East), Sangareddy, Vijayawada, Visakhapatnam and Warangal.

Table 1.10–Recovery of accepted cases of Transport Department

(₹ in crore)

Year of AR	Number of paragraphs/reviews included	Money value of the paragraphs	Number of cases involved	Number of cases accepted	Money value of accepted cases	Cumulative position of recovery of accepted cases
2007-08	6	63.18	194	126	13.92	3.46
2008-09	11	68.93	143	68	14.62	1.80
2009-10	6	39.79	102	49	2.31	2.34
2010-11	6	72.24	132	73	8.34	0.66
2011-12	6	32.19	223	110	16.02	0.22
Total	35	276.33	794	426	55.21	8.48

Against the money value of ₹ 55.21 crore involved in the accepted cases, only ₹ 8.48 crore was collected. There is no mechanism in Transport Department to prioritise and monitor the recovery of amounts relating to accepted cases.

1.5.2.2 Action taken on the recommendations accepted by the Department/Government

Report on Performance Audit conducted by AG during April-November 2009 was forwarded to Departments concerned/Government for their information with a request to furnish their replies. This was also discussed in exit-conference (November 2009) and Department's/Government's views were included, while finalising the review for the Audit Report 2008-09.

Out of the five recommendations made by Audit in the Performance Audit Report on Transport Department, two were accepted by the Department/Government. Status of action taken by the Department/ Government was as follows:

Year of AR	Name of the Review	Number of recommendations	Details of recommendations accepted	Status
2008-09	Citizen Friendly Services in Transport Department (CFST)	5	2 1) Ensure that the validation controls are built into the system to avoid entry of unauthorised and inconsistent data 2) Undertake the training of staff on priority basis. This will also reduce dependency on the outsourcing agency and it will be in the interest of data integrity	Government in their explanatory notes have stated that 1) the inconsistencies/improbabilities noticed by audit were tested and proper validations were put in place in all the offices in State. 2) efforts were being made to develop the technical expertise in the department by identifying the technical personnel within the department and by giving suitable training. This para is however yet to be discussed by the Committee on Public Accounts.

1.6 Analysis of 'Action Taken On Accepted Audit Findings in Audit Reports'

Every year Audit Reports in respect of Revenue Sector feature a paragraph detailing statistical information relating to compliance and amounts accepted by the departments concerned on the draft paragraphs and reviews printed in the earlier Audit Reports. Government/ Departments after acceptance of draft paragraphs/reviews issue show cause notices (SCNs), revise assessments and intimate the action taken by way of correspondence or during Exit Conferences.

An analysis of action taken on accepted cases with high money value was conducted under each revenue head i.e., VAT/Sales Tax, State Excise Duties, Stamp duty and Registration fees, Land Revenue, Taxes on Vehicles, Interest Receipts, Mines and Minerals etc. Accepted audit findings that featured in the Audit Reports (Revenue Receipts/Revenue Sector) in the preceding five years i.e., 2007-08 to 2011-12 were considered. Of the 1,046 accepted cases, a sample of 301 cases, each with a tax effect of ₹ five lakhs and above, covering 176 offices were selected for detailed scrutiny. Total amount involved in these cases was ₹ 1,715.97 crore. Latest status of action taken on the selected cases was obtained during the audit of unit offices/departments from February to April 2013. Accepted cases relating to six out of the 11 Performance Audits that appeared in the Audit Reports 2007-08 to 2011-12 were also selected for this analysis.

With respect to the selected cases, the following aspects were examined:

- Whether action on audit observation was completed and recovery made; where recovery had been made the following aspects were checked such as:
 - Whether amount had been fully or partly recovered after revision;
 - Whether revised demand had been dropped/resulted in refund;
 - Any rectificatory action had been taken to set right irregularities (procedural lapses) noticed by audit.
- Where any action had been initiated but not completed, following aspects were checked
 - Whether show cause notices (SCN) issued / demands were taken to Demand, Collection and Balance (DCB) Registers;
 - Whether amount had been partly recovered;
 - Whether assessments were revised but no further action had been taken;
 - Whether cases were under revision;
- Whether matter had been referred to higher authorities/authorities concerned

- Whether action was initiated under Revenue Recovery (RR) Act 1864.
- Whether the audit observation was initially accepted but later contested;
- Whether the matter was *sub judice*;
- Cases where there have been no progress;
- Information was not furnished/action not taken

Analysis of action taken by Departments on these accepted cases has been indicated in Annexure-I.

1.6.1 Results of analysis

1.6.1.1 Cases where action was completed

It is noticed from analysis that action had been completed only in 42 cases (out of 301 cases selected for analysis) involving ₹ 92.81 crore. The departmental authorities replied that assessments were revised as per audit observations and recoveries made. Details of action taken in these 42 cases are given below.

In Commercial Taxes Department, Registration and Stamps Department and Mines and Geology Department recoveries amounting to ₹ 1.23 crore were fully made in ten cases. In Commercial Tax Department, 31 cases were revised resulting in recoveries amounting to ₹ 1.95 crore made and refunds amounting to ₹ 1.83 crore against ₹ 91.42 crore pointed out by audit. In one case (₹ 16 lakhs) relating to Land Revenue Department, incorrect carry forward of closing balance was rectified.

1.6.1.2 Cases where action was initiated but not completed

In 152 out of 301 cases involving ₹ 336.62 crore selected for analysis, department had initiated action but the action had not been completed. Department-wise details are as follows.

It was seen from analysis that action had been taken with respect to only 20 *per cent* of the amount involved (₹ 336.62 crore out of ₹ 1,715.97 crore) in accepted audit observations. Of this, 90 *per cent* of the amount (₹ 303.14 crore out of ₹ 336.62 crore) involved in these cases had been referred to higher authorities for taking necessary action by Registration and Stamps, Industries and Commerce Departments etc. Although partial recovery of ₹ 5.97 crore had been made in 57 *per cent* of cases (87 out of 152), this amount constituted only 1.77 *per cent* of the amount involved (₹ 5.97 crore out of ₹ 336.62 crore).

1.6.1.3 Cases initially accepted but later contested

Although departments initially accepted the audit observations worth ₹ 988.71 crore (57.6 *per cent*) in 17 cases, they later contested the findings on various grounds. Analysis of significant cases that were initially accepted but later contested is given below:

- Finance and Planning Department contested four audit observations with money value of ₹ 976.82 crore that featured in Audit Report 2009-10 (Performance Audit on Interest Receipts) pertaining to review on interest receipts on loans sanctioned by Government. Government replied (July 2013) that the payment of interest was not being insisted upon as the loans had been given to Public Sector Undertakings for implementing various welfare programmes. Insisting on interest payments would inflate budgetary figures of the government and the capital cost of the programmes.
- In remaining 13 cases Government / Departments initially accepted the audit findings at the time of communication of draft paragraphs but were contested later by unit offices.

Before communicating acceptance to audit paragraphs/performance audits, Government/Departments should have given due consideration and coordinated with each other to work out means of realising.

1.6.1.4 Cases which have become *sub judice*

Though Government/departments accepted audit observations in 30 cases with a revenue impact of ₹ 76.96 crore (4.48 *per cent*), they have become *sub judice* as the dealers/ parties preferred appeal. Registration and Stamps Department accounts for 59 *per cent* (₹ 45.31 crore) of money value of such cases, followed by the Commercial Taxes Department accounting for 38 *per cent* (₹ 29.42 crore).

1.6.1.5 Miscellaneous cases

Transport, Roads and Buildings Department had initially accepted an audit observation on “Non-levy of penalty on belated payments” in 28 cases with revenue impact of ₹ 9.26 crore, but Government issued order⁷ in July 2009 with retrospective effect from July 2003 rendering audit objection irrelevant. Out of the two cases relating to Commercial Taxes Department involving ₹ 23 lakh, in one case department, instead of taking any action on the accepted audit observation, replied that assessee had closed business. In the other case, no reply was furnished. In one case involving ₹ 57 lakh relating to Registration and Stamps Department and in another case involving ₹ 56 lakh relating to Tribal Welfare Department, disciplinary actions were initiated against employees, but revenue was not recovered/remitted.

1.6.1.6 Action not taken

In three cases (₹ 1.39 crore) relating to Transport Roads and Buildings Department, one case (₹ five lakh) of Registration and Stamps Department, two cases (₹ 14 lakh) pertaining to State Excise Department and in other 18 cases (₹ 183.30 crore), no action was taken.

⁷ G.O.Ms.No.165 Transport Roads & Buildings (TRI) dated 21 July 2009

1.6.1.7 Information not furnished to audit

In two cases (₹ 30 lakh), one each relating to Commercial Taxes Department and Transport Roads and Buildings Department, no information on action taken was furnished by the departments during the course of this analysis.

It is recommended that Government may advise Departments to take prompt action and ensure immediate recovery of the accepted amounts pointed out by audit.

1.7 Audit planning

Unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter alia* includes examination of critical issues in Government revenues and tax administration highlighted through the Finance Minister's 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 impact thereof during the past five years etc.

Besides the compliance audit of individual unit offices under various Departments, a Performance Audit on 'Functioning of Registration and Stamps Department including Information Technology (IT) audit of Computerised Administration in Registration Department (CARD)' was also conducted to verify adequacy, efficiency and effectiveness of procedures relating to collection of stamp duty and internal control mechanism in the Department.

1.8 Results of audit

1.8.1 Position of compliance audits conducted during the year

Test check of records of 231 units of commercial tax, stamp duty and registration fees, state excise, motor vehicles, land revenue and other Departmental offices conducted during the year 2012-13 revealed preliminary audit findings involving under assessments/short levy/loss of revenue aggregating to ₹ 1,726.23 crore in 939 cases. During the course of the year, the departments concerned accepted under-assessments and other deficiencies of ₹ 177.37 crore involved in 1,752 cases of which 77 cases involving ₹ 94.88 crore were pointed out in audit during 2012-13 and the rest in earlier years. The Departments collected ₹ 3.36 crore in 141 cases during 2012-13.

1.8.1.1 Amendment made subsequent to audit observation

During the course of compliance audit of Prohibition and Excise Department, Audit pointed out the deficiency in the newly introduced A.P Excise (Grant of license of selling by Shop and conditions of license) Rules, 2012, in which the provision for fixing responsibility on the successful applicants of license for

liquor shop for loss occurred due to default on their part as contained in Rule 20 of A.P Excise (Grant of license of selling by Shop and conditions of license) Rules, 2005 was not incorporated. After being pointed out (November 2012) Government has amended the rule through Government Order⁸ dated 22 June 2013.

1.8.2 This Report

This report contains 26 paragraphs involving ₹ 1,351.74 crore (selected from the preliminary audit observations made during local audits referred to above and during earlier years which could not be included in earlier reports) and a performance audit on functioning of Registration and Stamps Department with monetary impact of ₹ 150.86 crore. Out of the total financial effect of ₹ 1502.60 crore, the Departments/Government have accepted audit observations involving ₹ 94.15 crore. Of these accepted cases, only ₹ 0.90 crore is reported to have been recovered. The replies in the remaining cases have not been received (March 2014). These are discussed in the succeeding Chapters II to VIII.

⁸ G.O.Ms.No. 357 Revenue(Excise II) Department dated 22 June 2013.

CHAPTER-II
SALES TAX/VAT

CHAPTER II SALES TAX/VAT

EXECUTIVE SUMMARY

Appreciable increase in tax collection	As indicated at para 1.1.2 of Chapter-I in the Report, the collection of taxes from VAT/CST increased by 16.63 <i>per cent</i> .
Low recovery on Audit observations pointed out in earlier years	During the period 2007-08 to 2011-12, Audit had pointed out non/short-levy, non/short-realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 1,422.03 crore in 7,310 cases. Of these, Department/Government had accepted audit observations in 2,881 cases involving ₹ 327.15 crore but recovered only ₹ 5.89 crore in 208 cases. Recovery position in respect of accepted objections was low at 1.80 <i>per cent</i> during five year period.
Results of audits conducted by us in 2012-13	In 2012-13, Audit test-checked records of 75 offices of Commercial Taxes Department and noted preliminary audit findings involving under-assessments of tax and other irregularities of ₹ 159.83 crore in 710 cases. Department had accepted under-assessments and other deficiencies of ₹ 63.27 crore in 1,398 cases, of which 16 cases involving ₹ 4.19 crore were pointed out in audit during the year 2012-13 and rest in earlier years. An amount of ₹ 1.42 crore was realised in 100 cases during the year.
What Audit has highlighted in this chapter	<p>This chapter includes illustrative cases of violation of Act provisions/Rules involving tax effect of ₹ 46.67 crore, selected from observations noticed during test check of records relating to the Commercial Taxes Department during 2012-13 as well as those noticed in earlier years but not included in previous years' reports.</p> <p>It is a matter of concern that similar omissions were pointed out by audit in Audit Reports for the past several years, but department had not taken corrective action.</p>
Conclusion	Department needs to improve internal control system and initiate necessary corrective action to recover non/short levy of tax, interest, penalty etc., pointed out by Audit, more so in cases where it has accepted audit contention.

With regard to sensitive commodities notified by Commissioner of Commercial Taxes due to their evasion prone nature, it is suggested that department needs to focus on cross verification of waybills transmitted by divisional officers with respective accounts of dealers by verifying utilisation certificates of waybills and purchase registers. Department should also conduct periodical internal audit regularly so as to prevent leakage of revenue with emphasis on such commodities prone to tax evasion.

2.1 Tax Administration

Commercial Taxes Department is under the purview of Principal Secretary to Revenue Department at Government level. The Department is mainly responsible for collection of taxes and administration of AP Value Added Tax (VAT) Act, Central Sales Tax (CST) Act, AP Entertainment Tax Act, AP Luxury Tax Act and rules framed thereunder. Commissioner of Commercial Taxes (CCT) is Head of Department entrusted with overall supervision and is assisted by Additional Commissioners, Joint Commissioners (JC), Deputy Commissioners (DC) and Assistant Commissioners (AC). Commercial Tax Officers (CTO) at circle level are primarily responsible for tax administration and are entrusted with registration of dealers and collection of taxes while the DCs are controlling authorities with overall supervision of the circles under their jurisdiction. There are 218 offices (25 Large Tax Payer Units (LTUs) headed by ACs and 193 Circles headed by CTOs) functioning under the administrative control of DCs. Further, there is an Inter State Wing (IST) headed by a Joint Commissioner within Enforcement wing, which assists CCT in cross verification of interstate transactions with different states.

2.2 Trend of Receipts

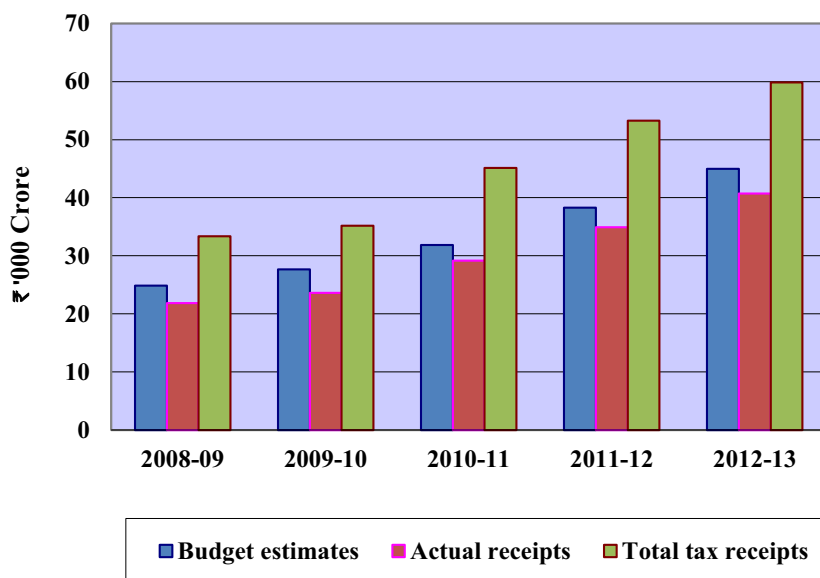
Actual receipts from VAT/CST during the last five year period from 2008-09 to 2012-13 along with total tax receipts during the same period is exhibited in the table 2.1 and graph 2.1, from which it can be seen that VAT constituted between 64 and 68 *per cent* of the State own tax receipts during the last five years, though the collections have consistently fallen short of the budget estimates.

Table 2.1 - Trend of receipts

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-a-vis total tax receipts
			excess (+)/ shortfall (-)			
2008-09	24,887.28	21,851.66	(-) 3,035.62	(-) 12.20	33,358.29	65.51
2009-10	27,685.00	23,640.21	(-) 4,044.79	(-) 14.61	35,176.68	67.20
2010-11	31,838.00	29,144.85	(-) 2,693.15	(-) 8.46	45,139.55	64.57
2011-12	38,305.60	34,910.01	(-) 3,395.59	(-) 8.86	53,283.41	65.52
2012-13	45,000.00	40,714.67	(-) 4,285.33	(-) 9.52	59,875.05	67.99

Graph 2.1: Budget estimates, Actual receipts and Total tax receipts



2.3 Cost of collection

Gross collection of Commercial Taxes Department, expenditure incurred on collection and percentage of such expenditure to gross collection during years 2010-11, 2011-12 and 2012-13 along with relevant all India average percentage of expenditure on collection to gross collection for the previous year are given below:

Table 2.2 - Cost of collection

					(₹ in crore)
Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Taxes/ VAT on sales, trade etc.	2010-11	29,144.85	261.98	0.90	0.96
	2011-12	34,910.01	282.63	0.81	0.75
	2012-13	40,714.67	311.31	0.76	0.83

2.4 Impact of Local Audit

During last five years, Audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with a revenue implication of ₹ 1,422.03 crore in 7,310 cases. Of these, Department/Government had accepted audit

observations in 2,881 cases involving ₹ 327.15 crore and had since recovered ₹ 5.89 crore. Details are shown in following table:

Table 2.3 - Impact of local audit

(₹ in crore)

Year	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	209	980	196.63	141	80.26	43	1.02
2008-09	198	1,282	267.95	776	43.90	21	1.19
2009-10	210	1,646	279.61	647	72.46	64	2.83
2010-11	223	1,622	373.64	582	87.55	43	0.50
2011-12	227	1,780	304.20	735	42.98	37	0.35
Total	1,067	7,310	1,422.03	2,881	327.15	208	5.89

The insignificant recovery of ₹ 5.89 crore (1.80 per cent) as against money value of ₹ 327.15 crore relating to accepted cases during the period 2007-08 to 2011-12 highlights failure of Government/Department machinery to act promptly to recover Government dues even in respect of cases accepted by them.

2.5 Working of Internal Audit Wing

Department did not have a structured Internal Audit Wing that would plan and conduct audit in accordance with a scheduled audit plan. Internal audit is organised at Divisional level under the supervision of Assistant Commissioner (CT). There are 25 Large Tax Payers Units (LTUs) and 193 circles in State. Each LTU/circle is audited by audit teams consisting of five members headed by either CTOs or Deputy CTOs. Internal audit report is submitted within 15 days from the date of audit to DC (CT) concerned, who would supervise rectification work giving effect to findings in such report or internal audit.

2.6 Results of audit

Test check of records of 75 offices of Commercial Taxes Department during 2012-13 relating to VAT, revealed under-assessments of tax and other irregularities involving ₹ 159.83 crore in 710 cases, which fall under following categories:

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Evasion of VAT by builders	1	30.78
2	Application of incorrect rate	270	79.29
3	Non/short levy of interest/penalty	80	13.12
4	Excess claim of input tax credit	80	7.26
5	Under declaration of VAT due to incorrect exemption	59	5.61
6	Under declaration of VAT on works contract	58	3.61
7	Other irregularities	162	20.16
Total		710	159.83

During course of the year 2012-13, Department accepted under-assessments and other deficiencies of ₹ 63.27 crore in 1398 cases, of which 16 cases involving ₹ 4.19 crore were pointed out in audit during year 2012-13 and the rest in earlier years. An amount of ₹ 1.42 crore was realised in 100 cases during year 2012-13.

A few illustrative audit observations involving ₹ 46.67 crore are mentioned in following paragraphs.

2.7 Audit Observations

During scrutiny of the records of the offices of the Commercial Taxes Department relating to revenue received from VAT and CST, Audit observed several cases of non-observance of the provisions of the Act/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by the Audit. Audit points out such omissions in audit every year, but not only do such irregularities persist, they also remain undetected till an audit is conducted. There is a need for improvement of internal controls so that such omissions can be avoided, detected and rectified.

2.8 Evasion of Value Added Tax (VAT) by builders

Under Section 4(7) (b) of AP VAT Act 2005, a VAT dealer executing works contract may opt to pay tax under composition⁹, at four/five *per cent*¹⁰ on total consideration received or receivable. He shall, before commencing execution of work, notify the prescribed authority in form VAT 250 of the details of work including value of contract on which option to pay tax under composition has been exercised.

However, under section 4(7) (d), works contractors engaged in construction and selling of residential apartments, houses, buildings and commercial complexes shall pay tax, under composition (if they opt) at the rate of four *per cent*/five *per cent*¹¹ on 25 *per cent* of the total consideration received or receivable or market value fixed for the purpose of stamp duty, whichever is higher.

Rule 17(4)(i) of AP VAT Rules 2005, provides that VAT is to be paid in the form of demand draft drawn in favour of CTO to Registration Department at the time of registration of the property.

Audit identified 70 builders of apartments, commercial complexes etc., through internet and test checked documents registered by them at offices of seven Sub-Registrars and one District Registrar¹². On scrutiny of registered documents at these offices, audit noticed that dealers (builders) were executing sale deeds at semi-finished stage (apparently to give buyer the advantage of lower stamp duty on sales price) and paying VAT at the rate prescribed under Section 4(7) (d) of the Act. For works carried out subsequently towards finishing of apartments, separate construction agreements were being entered

⁹ Under composition, a works contractor can opt to pay VAT at a composite rate on the total consideration received/receivable; otherwise he shall pay tax at normal rates on the value of goods incorporated in the works executed and he will have to maintain an account of those goods.

¹⁰ By Act No. 12 of 2012 dated 20 April 2012 rate changed from four *per cent* to five *per cent* w.e.f. 14 September 2011.

¹¹ By Act No. 12 of 2012 dated 20 April 2012 rate changed from four *per cent* to five *per cent* w.e.f. 14 September 2011.

¹² Jubileehills, Kukatpally, Medchal, Qutubullapur, Rajendranagar, Serilingampally, SR nagar, District Registrar - Rangareddy

into and VAT was being paid at same rate of four/five *per cent* on 25 *per cent* of consideration value applicable to construction and sale of apartment under Section 4(7)(d) of the Act.

Data collected from Registration Department in respect of these 70 builders was further cross-checked with VAT audit files and monthly returns (VAT 200) for the years 2009-10 to 2011-12 in 17 circles¹³ of Commercial Taxes Department. During scrutiny (between March and May 2013) of records it was noticed that these builders included consideration value (₹ 1,011.88 crore) of additional works carried out by them subsequent to execution of sale deeds with total value of the apartments and paid VAT under Section 4(7) (d) of the Act, i.e. at the rate of four/five *per cent* on 25 *per cent* of total consideration received.

Audit observed that rights of ownership/titles to the property were transferred upon execution of sale deed and payment of VAT under Section 4(7) (d). Any work carried out thereafter by entering into a separate agreement becomes a 'works contract' under AP VAT Act between such buyer and dealer and attracts tax under Section 4(7) (b) of the Act, i.e. the rate of four/five *per cent* of total consideration received. Commissioner of Commercial Taxes also clarified this in Advance Ruling¹⁴ dated 16 October 2012. Therefore, amount received towards subsequent works for finishing/completion was liable to VAT at the rate of four/five *per cent* instead of four/five *per cent* on 25 *per cent* of consideration value. Adoption of incorrect rate of tax thus resulted in evasion of ₹ 30.78 crore¹⁵ by 70 builders.

Matter was referred to Department in July 2013 and to Government in August 2013. Their reply has not been received (March 2014).

2.9 Procedural irregularities relating to sensitive commodities

Sensitive commodities are notified by Commissioner of Commercial Taxes under Rule 55(2) of the AP VAT Rules due to their evasion-prone nature. It includes commodities such as marbles, transformers, generators, paper, vegetable oils, oil seeds, iron and steel, crackers etc. In order to monitor the import of such sensitive commodities in the State from places outside, some provisions have been made, compliance to which has been commented upon in the following sub-paragraphs:

2.9.1 Non verification of Advance Way Bills

As per proviso to Rule 55(2) of APVAT Rules, sensitive commodities purchased and brought from other states/Union Territories shall be accompanied by advance way bills filled in and signed by the consignor in duplicate. One copy of advance way bill shall be surrendered at the first check

¹³ Ashoknagar, Barkatpura, Basheerbagh, Begumpet, Gandhinagar, Hyderguda, Hydernagar, IDA Gandhinagar, Jubileehills, MG Road, Madhapur, Nampally, Narayanguda, Panjagutta, Somajiguda, Srinagar colony and Vengalraonagar.

¹⁴ Advance Ruling Com/66/2011.

¹⁵ VAT chargeable on the consideration value of construction agreements (finishing works) under Section 4(7)(b) *less* VAT paid under Section 4(7)(d).

post through which goods enter into the State. Advance way bills so surrendered at check post shall be transferred to Deputy Commissioner (CT) concerned for further transmission to jurisdictional Commercial Tax Officers/Large Tax payers' Units (LTUs) for cross verification with the monthly returns of the purchasing dealer.

Audit noticed (between February and May 2013) that during the year 2011-12 in seven circles¹⁶ 22,604 out of 27,280 way bills (constituting 83 *per cent*) transmitted by Deputy Commissioners (CT) to circles were not cross verified. The very purpose of issuing the advance way bill has thus been defeated.

Audit also noticed that no advance way bills were transmitted from DCs (CT) to LTU Vijayawada and eight circles¹⁷ for cross verification.

Failure to cross verify the details in the advance way bills was fraught with risk of unaccounted sales which was likely to lead to tax evasion by dealers.

Matter was referred to Department in July 2013 and to Government in October 2013. Their reply has not been received (March 2014).

2.9.2 Short reporting of interstate purchases

In terms of Section 20 of AP VAT Act, read with Rule 23(1) of AP VAT Rules, every dealer registered under the Act shall submit return in Form VAT 200 within 20 days after the end of tax period along with proof of payment of tax. Under section 21 of the Act, this return shall be subject to scrutiny for verifying correctness of calculation, application of correct rate, input tax credit claimed and full payment of tax.

VAT dealers had to report non-creditable/exempt purchases in their monthly returns (VAT 200). These purchases include

- (i) interstate purchases
- (ii) local purchase of exempt goods; and
- (iii) taxable purchase from non-VAT dealers.

In Goods Information System (GIS)¹⁸ data registered at check posts, details of interstate purchases were recorded. Hence, non-creditable purchases reported by VAT dealers in their monthly returns had to be necessarily more than or equal to the turnover recorded at GIS data of check posts.

During cross verification of turnovers reported by VAT dealers with that of GIS data available at check posts in seven LTUs¹⁹ and 21 Circles²⁰, audit

¹⁶ Aryapuram, Bhimavaram, Malkajgiri, Mandapeta, Nacharam, Special commodities and Tirupati-II.

¹⁷ Anakapalle, Benz Circle, Eluru, Gudur, Hydernagar, Jeedimetla, Somajiguda and Tadepallegudem.

¹⁸ A module in the VATIS (VAT Information System software).

¹⁹ Abids, Eluru, Hyderabad (Rural), Kakinada, Punjagutta, Secunderabad and Visakhapatnam.

²⁰ Aryapuram, Benz Circle, Chittoor-II, Dwarakanagar, Eluru, Gowliguda, Gudur, Hydernagar, Jeedimetla, Malkajgiri, Mandapeta, Maredpally, Nacharam, Nellore-II,

noticed (between November 2012 and May 2013) that 715 dealers of sensitive commodities in their monthly returns had reported turnover for year 2011-12 as ₹ 6,626.39 crore, whereas, in GIS data of check posts, the turnover was ₹ 19,354.46 crore. Purchase turnover was thus short reported in VAT returns by ₹ 12,728.07 crore.

In response, nine CTOs/four Divisional Offices²¹ (between December 2012 and May 2013) in respect of 284 cases furnished non-specific and presumptive replies like variation being possibly due to mistakes in data entry or dealers possibly not reporting outside purchases etc., while the remaining authorities replied (between November 2012 and May 2013) in respect of 431 cases that matter would be examined and report submitted.

It is evident from the above that dealers violated the prescribed system of reporting purchases in monthly returns and department also failed to verify the correctness of the turnover.

Matter was referred to Department in July 2013 and to Government in December 2013. Their reply has not been received (March 2014).

2.9.3 Arrears in conducting VAT audit

As per Clauses 3.1(i) and 4.8.2 of AP VAT Audit Manual 2005²² every VAT dealer should be audited in a period of two years and audits so taken up should not exceed 12.5 *per cent* of total VAT dealers in a quarter.

VAT Audits need to be conducted strictly in accordance with the guidelines prescribed in the VAT Audit Manual, 2005, to minimize loss due to tax evasions. Audit scrutinized periodicity of VAT Audits conducted by the department with special emphasis on audit of dealers of sensitive commodities, as they are, by definition, evasion prone.

Based on the information furnished by the department, audit observed (between November 2012 and May 2013) in three LTUs²³ and 22 circles²⁴, that audit of only 359 dealers of sensitive commodities was conducted during the year 2011-12. As per the provisions of the AP VAT Manual, out of total 5,355 VAT dealers of sensitive commodities registered in these units, audit of 669 dealers (12.5 *per cent* of 5,355) was to be conducted during a quarter.

Punjagutta, Ramachandrapuram, Saroornagar, S.D. Road, Somajiguda, Tadepalligudem and Tirupati-II.

²¹ DCs Eluru, Hyderabad (Rural), Visakhapatnam, Abids, CTOs Hydernagar, Jeedimetla, Malkajigiri, Nellore-II, Ramachandrapuram, S.D. Road, Somajiguda, Tadepalligudem and Tirupati-II.

²² The department rescinded the earlier VAT audit Manual 2005 with effect from 23 July 2011 and a revised manual was issued in June 2012 which was implemented from September 2012. Since VAT audit manual 2005 was applicable upto 22 July 2011 audit observation was confined to audit coverage upto first quarter of financial year 2011-12.

²³ Eluru, Punjagutta and Vijayawada-II.

²⁴ Anakapalle, Aryapuram, Bhimavaram, Chittoor-II, Eluru, Gudur, Hydernagar, Jeedimetla, Kakinada, Malkajigiri, Mandapeta, Maredpally, Nacharam, Nellore, Punjagutta, Ramachandrapuram, Saroornagar, Somajiguda, Special Commodities circle, Srinagar Colony, Tadepalligudem and Tirupati-II.

Department thus could not achieve the target for one quarter even in a whole year.

Matter was referred to Department in July 2013 and to Government in December 2013. Their reply has not been received (March 2014).

2.10 Interstate sales

2.10.1 Non/short levy of tax on interstate sales

According to Section 8(2) of the Central Sales Tax (CST) Act, 1956, read with Rule 12 of the CST Registration & Turnover (R&T) Rules, 1957, every dealer, who in the course of interstate trade or commerce sells goods to a registered dealer located in another state, shall be liable to pay tax under the Act at the rate of four *per cent* (three *per cent* with effect from 1 April 2007 and two *per cent* with effect from 1 June 2008), provided the sale is supported by declaration in form 'C'. Otherwise, tax shall be calculated at double the rate in case of declared goods²⁵. In case of other than declared goods, tax is leviable at the rate of 10 *per cent* or at the rate applicable to sale of such goods within the state, whichever is higher. With effect from 1 April 2007, the respective state rate is applicable to all goods. The applicable rate of tax for commodities like cotton, by-products of maize, SS rough casting, rice etc. falling under Schedule IV of AP VAT Act is four *per cent* and the commodities like pharma equipments, paints, cement, granite etc., falling under Schedule V are liable to tax at the rate of 12.5 *per cent* upto 14 January 2010 and at the rate of 14.5 *per cent* thereafter.

Audit noticed (between March 2011 and April 2013) during the test check of CST assessment files of seven circles²⁶ that in 15 cases, the Assessing Authorities (AAs) while finalising the assessments, between February 2010 and March 2012 for the years 2006-07, 2008-09 to 2010-11, either incorrectly computed the taxable turnover of interstate sales or levied tax at rates less than the applicable rates on interstate sales of commodities like cotton, by-products of maize, SS rough castings, computer labels, rice, pharma equipment, paints and colours, vacuum pumps, rock drill machinery and spare parts, granite, cement and chemical admixtures etc. which were not supported by the declarations in form 'C'. This resulted in non/short levy of tax of ₹ 75.40 lakh on a turnover of ₹ 9.40 crore.

After audit pointed out the cases, in one case, CTO Maharajgunj stated (November 2012) that assessment was revised and demand raised. In remaining cases, the AAs replied (between March 2011 and April 2013) that matter would be examined and assessments revised.

²⁵ Goods declared under Section 14 of the CST Act, to be of special importance in interstate trade or commerce. e.g., Cereals, paddy, rice, wheat etc.

²⁶ Guntur (Kothapet), Hyderabad (Basheerbagh, Maharajgunj, Malkajgiri and Nacharam), Kurnool-III, and Vijayawada (Benz circle).

Matter was referred to Department (between April 2012 and June 2013) and to Government in November and December 2013. Their reply has not been received (March 2014).

2.10.2 Short levy of tax and non-levy of penalty on fake/false declarations

According to Section 9(2-A) of the CST Act read with Section 7(A) (2) of the Andhra Pradesh General Sales Tax (APGST) Act, 1957, where a dealer claims concessional rate of tax on the basis of documents containing false/fake declarations, he shall be liable to pay a penalty of three to five times the tax due for such transaction. After promulgation of AP VAT Act, under Section 16 of the AP VAT Act, read with Section 55(4) (b), penalty of 200 *per cent* of the tax due is leviable for such offence.

During the test check of the CST assessment files of seven dealers finalised between August 2010 and March 2011 in two circles²⁷ for the period 2004-05 and 2007-08, Audit noticed (between June and December 2011) that in cases of two dealers, the AAs incorrectly levied concessional rate of tax on transactions supported by fictitious 'C' forms. In case of one dealer, the AAs levied concessional rate of tax on interstate sale supported by fake 'C' forms and allowed exemption on branch transfer based on fake 'F' forms. In the remaining four cases, the Assessing Authority levied higher rate of tax i.e. tax applicable to commodity by withdrawing the concessional rate of tax on the turnover covered by fake 'C' forms. But in none of these cases had the AAs levied any penalty for submission of fake forms which resulted in non-levy of penalty of ₹ 2.94 crore besides short levy of tax of ₹ 0.53 lakh.

After audit pointed out the cases, CTO Chinawaltair stated (October 2012) that in four cases penalty proceedings would be initiated and intimated to audit. In the remaining three cases, CTO Jagityal contended (March 2013) that Government waived the excess demand under CST for interstate sale of "rice" during the period from 1 April 2007 to 31 May 2008 and therefore levy of penalty was unwarranted. However, Government had waived²⁸ excess demand of tax on "rice" raised by CTD only for non-furnishing of declaration forms. It did not waive the penalty under Section 55(4) (b) for producing fake forms.

Matter was referred to Department (between August 2012 and April 2013) and to Government in December 2013. Their reply has not been received (March 2014).

2.10.3 Non-levy of penalty on misuse of 'C' forms in interstate purchases

A dealer registered under section 7 of CST Act who carries on business in interstate trade under section 3 is eligible for purchase of any goods from the dealers outside the state. The selling dealer would get benefit of concessional rate of tax on sale of goods by providing 'C' form given by the purchasing dealer under section 8 (4) of CST Act read with Rule 12 (1) of CST (Registration & Turnover) Rules.

²⁷ CTO - Chinawaltair, Jagityal.

²⁸ Memo No.20345/CT.II(1)/2011-1 dated 08 June 2011.

As per section 8(3)(b) of CST Act, the goods purchased from outside the state shall be specified in the Registration certificate (Form B) of the purchasing dealer. Such dealers are eligible to issue 'C' form, provided that those goods shall be intended for (i) resale; (ii) manufacture or processing of goods for sale; (iii) mining; (iv) generation or distribution of electricity or any other form of power; (v) packing of goods for sale/resale.

Under Section 10A of CST Act, penalty not exceeding one and half times is required to be levied if the dealer violates the provisions mentioned under section 8(3)(b) of CST Act.

Audit noticed (between May 2012 and April 2013) during the test check of CST records of four circles²⁹ for the period from 2009-10 to 2011-12, that in two out of four cases, dealers made interstate purchase of electrical goods, automobile parts, electronics, machinery, paints and colours etc., which were not specified in their Registration Certificates. In the remaining two cases, works contractors purchased goods which were not incorporated in works in violation of Section 8(3)(b)(ii) of CST Act. Thus 'C' forms were misused for purchase of commodities which were not included in the registration certificate and commodities not used in execution of works contract. The penalty leviable for misuse of 'C' form worked out to ₹ 1.04 crore.

After audit pointed out the cases, AAs stated (February 2012 and April 2013), the matter would be examined and action taken.

Matter was referred to Department (between December 2012 and June 2013) and to Government in November 2013. Their reply has not been received (March 2014).

2.10.4 Grant of incorrect concessional rate of tax due to acceptance of invalid 'C' forms

According to Section 8(4) of the CST Act, 1956 read with Rule 12(1) of CST (R&T) Rules, every dealer shall file a single declaration in 'C' form covering all transactions of sale, which take place in a quarter³⁰ of a financial year between the same two dealers with effect from 1 October 2005.

Audit noticed (between November 2010 and April 2013) during the test check of the CST assessment files of nine circles³¹ that the AAs, while finalising the assessments in 14 cases between July 2009 and March 2012 for the years 2005-06 to 2008-09, incorrectly allowed concessional rate of tax on the interstate sales turnovers of switchgears and spares, paper, machinery, studs, industrial electronics, VCB trolley, electrical items, explosives, corrugated boxes, iron and steel etc., amounting to ₹ 3.05 crore supported by invalid 'C' forms. The 'C' forms were invalid as they covered transactions of more than one quarter/pertained to irrelevant period/duplicate copy of 'C' forms. This resulted in short levy of tax of ₹ 17.98 lakh.

²⁹ CTO - Basheerbagh, Dwarakanagar, Kakinada, Punjagutta.

³⁰ With effect from 1 October 2005, prior to that it was "one financial year".

³¹ Bhongir, Bowenpally, Gowliguda, Nacharam, Mahankali Street, Malkajgiri, Srinagar Colony, Tarnaka and Tirupati-II.

After audit pointed out the cases, the AAs stated (November 2010 and April 2013) that the matter would be examined and revision would be taken up.

Matter was referred to Department (between April 2012 and July 2013) and to Government between October and December 2013. Their reply has not been received (March 2014).

2.10.5 Non-levy of tax on export/deemed export sales/high sea sales not covered by documentary evidence

Under Section 5(1) and 5(3) of the CST Act, export of goods and goods sold for export are not liable to tax. As regards 'high sea 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 the import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by transfer of documents of title to the goods before the goods have crossed the customs frontiers of India. Further, under Section 5(4) of the Act read with Rule 12(10) of the CST (R&T) Rules, 1957 the dealer selling the goods shall furnish documentary evidence such as bill of lading, purchase order, 'H' form duly filled in and signed by the exporter in support of the transaction, failing which the transaction is required to be treated as interstate sale not covered by 'C' form and tax levied under section 8(2) of the Act at the rates applicable to the sale or purchase of such goods inside the appropriate State.

Audit noticed (between June 2011 and March 2013) during the test check of the CST assessment files of 10 circles³² for the period 2007-08 to 2010-11, that out of 12 cases where the assessments were completed between November 2010 and March 2012, in seven cases, the AAs incorrectly allowed exemption on deemed export sales/high sea sales, which were not supported by documentary evidence such as 'H' forms, purchase orders, bill of lading and bill of entry etc. In three cases, the goods were exported even prior to the date of purchase order. In the remaining two cases, details furnished in shipping bills and documents produced in proof of export were not same which makes it evident that goods shipped and goods for which exemption claimed were not the same. The incorrect exemption allowed on commodities worth ₹ 6.43 crore in these cases resulted in non-levy of tax of ₹ 29.09 lakh.

After audit pointed out the cases, CTO S.D. Road stated (December 2012) in respect of one case that notice would be issued. In remaining 11 cases, AAs stated (May 2011 and March 2013) that audit observations would be verified.

Matter was referred to Department (between January and July 2013) and to Government in October 2013. Their reply has not been received (March 2014).

³² Anakapally, Chilakaluripet, Guduwada, Hyderabad (Balanagar, Vengalraonagar), Palkol, Sangareddy, S.D.Road, Visakhapatnam (Dwarakanagar and Kuruppam Market).

2.11 Payment of VAT on works contracts under non-composition

2.11.1 Short levy of tax on works contractors who did not maintain detailed accounts

Under Section 4(7) (a) of the APVAT Act and Rule 17(1) (a) of APVAT Act Rules, tax is payable by every dealer executing works contract on the value of goods at the time of incorporation of such goods at the applicable rates. To determine the taxable turnover on works contract, the dealer should keep the records as prescribed under Rule 31 of APVAT Rules. As per Rule 17 (1) (g) of APVAT Act Rules, where the VAT dealer did not maintain the accounts of goods incorporated in execution of works as prescribed, the dealer shall pay tax at the rate of 12.5 *per cent* up to 25 April 2010 and 14.5 *per cent* with effect from 26 April 2010 on the total consideration received or receivable subject to standard deductions specified under the rules. Further, the contractor shall not be eligible to claim input tax credit (ITC) if tax is paid under Rule 17(1) (g).

During test check (February 2012 and April 2013) of the VAT assessment files of three circles for the period 2007-08 to 2010-11, Audit noticed the following:

In one case, the dealer did not report the amounts received towards works contracts in the turnover in monthly returns for the years 2007-08 and 2008-09 and the AA, Nandigama, also finalised the assessment on the basis of declared turnover. Audit cross-verified the returns with the Profit and Loss Accounts of the dealer and observed that the dealer had concealed the turnover amounting to ₹ 32.14 lakh resulting in under assessment of VAT of ₹ 2.81 lakh.

In another case, AA, Jeedimetla while finalising the assessment of a works contractor under Rule 17(1)(g), who had not opted for payment of VAT under composition and had not maintained accounts of goods incorporated, allowed ITC amounting to ₹ 5.13 lakh in contravention of the rules.

In a third case, AA, Dwarkanagar assessed the tax liabilities of a works contractor for the years 2008-09, 2009-10 and 2010-11. Since the dealer had not maintained the accounts of goods incorporated in execution of works contract, AA allowed standard deduction of 30 *per cent* from the total turnover of the dealer. But instead of levying VAT at the rate of 12.5 *per cent*/14.5 *per cent* on the remaining 70 *per cent* of turnover as provided under Section 17(1)(g), he levied VAT at lower rates of four *per cent*/12.5 *per cent*, which was not in order. In addition, after calculating the incorrect tax liability, ITC was also allowed, in contravention of the provision of Rule 17(1)(g). The incorrect calculation of VAT and irregular allowance of ITC resulted in under assessment of tax of ₹ 1.26 crore.

After audit pointed out the cases, the AAs stated (between February 2012 and April 2013) that matter would be examined and detailed reply sent in due course.

Matter was referred to Department (between December 2012 and June 2013) and to Government in October 2013. Their reply has not been received (March 2014).

2.11.2 Declaration of VAT by works contractors at incorrect rates

In terms of Section 13(7) of the AP VAT Act, VAT dealers paying tax under Section 4(7)(a) of the Act, (i.e., other than by way of composition) are required to maintain accounts under Rule 31 of AP VAT Rules. Tax is payable by every dealer executing works on the value of goods incorporated in the works at the rates applicable to goods after allowing deductions under Rule 17(1)(e) of APVAT Rules. These deductions include planning cost, designing cost, cost of consumables, hire charges of machinery etc. In such cases, the VAT dealer is eligible to claim ITC up to 75 per cent³³ on related input tax with effect from 15 September, 2011.

Audit noticed (between June and December 2012) during the test check of VAT records in respect of three cases in two circles³⁴ for the period 2010-11 and 2011-12 that in two cases, the dealers engaged in painting and other works contracts paid tax at the rate of four per cent on total consideration, although they had not opted to pay tax by way of composition. As goods used in works were taxed at higher rates, the dealers were liable to pay VAT at the rates applicable to input goods. In another case, a dealer had claimed ITC on 90 per cent of VAT paid on the purchases effected after 15 September 2011 instead of 75 per cent. This resulted in under declaration of tax of ₹ 52.67 lakh.

After audit pointed out the cases, the AAs stated that in two cases (December 2012), that notices would be issued to the dealers; and in remaining one case it was stated (March 2013) that DC (CT) Kadapa had assigned audit of the assessee to CTO (Intelligence), Kadapa.

Matter was referred to Department in February and May 2013 and to Government in November 2013. Their reply has not been received (March 2014).

2.12 Payment of VAT on works contracts under composition

Under Section 4(7)(b) and (c) of the APVAT Act, any VAT dealer executing works contract may opt to pay tax by way of composition at the rate of four per cent (five per cent from September 2011) on the total consideration received or receivable for any specific contract subject to conditions prescribed. Such contractors have to opt for composition and file Form VAT 250 before commencing each work. No other deduction except payments made to subcontractors is allowable to the dealers who opt for composition and they would not be entitled to claim ITC.

³³ Prior to 15 September 2011 ITC eligibility was up to 90 per cent.

³⁴ Kadapa-II and S.D. Road.

Audit noticed (between May 2011 and March 2013) during the test check of VAT records of 11 circles³⁵ for the period 2010-11 and 2011-12, that out of the 13 cases, in 10 cases, the dealers who had opted to pay tax under composition had under-declared tax either due to incorrect claim of exemption or on account of under-reporting of turnover/tax in the monthly returns. In two other cases, the dealers paid tax at the concessional rate of four *per cent*, though their options for payment of tax under composition were invalid due to filing of option after commencement of work. In one case, despite opting for composition, the assessee had claimed ITC on purchases relating to the period 2005-06 and 2007-08. This resulted in under declaration of tax of ₹ 62.90 lakh.

After audit pointed out the cases, CTO (Vishakhapatnam steel plant) stated that in one case (August 2012), notice was issued to the dealer. In remaining 12 cases, AAs stated (between May 2011 and March 2013) that the issue would be verified.

Matter was referred to Department (between December 2011 and June 2013) and to Government between October and December 2013. Their reply has not been received (March 2014).

2.13 Application of incorrect rate

Under Section 4(1) of the AP VAT Act, VAT is leviable at the rates prescribed in schedules I to IV & VI to the Act. Commodities not specified in any of the schedules fall under schedule V and are liable to VAT at 12.5 *per cent* from 1 April 2005 and at 14.5 *per cent* with effect from 15 January 2010.

Audit noticed (between September 2010 and March 2013) during the test check of the VAT records of 14 circles³⁶ for the period from 2007-08 to 2011-12 that 24 dealers declared VAT in their returns and paid ₹ 1.52 crore instead of ₹ 3.68 crore on turnover relating to commodities falling under Schedule V to the Act such as dyes and chemicals, cement poles, rock drills, detonators, food sales, automobiles parts etc., due to application of incorrect rate and due to reporting of turnover taxable at 12.5 *per cent*, though the rate of tax was enhanced to 14.5 *per cent* with effect from 15 January 2010 (26 April 2010 in the case of works contracts). This resulted in under declaration of VAT of ₹ 2.16 crore.

After audit pointed out the cases, the AAs replied in respect of 14 cases (between August 2011 and February 2013) that revision of assessments would be taken up. In remaining 10 cases, AAs stated (between September 2010 and March 2013) that facts would be verified.

³⁵ Guduwada, Hyderabad (Rajendranagar, Somajiguda), Jagityal, Macherla, Mancherla, Medak, Nellore-I, Palkol, Visakhapatnam (Steel plant) and Vuyyuru.

³⁶ Agapura, Anantapur-I, Benz circle, Chinawaltair, Dharmavaram, Kamareddy, Karimnagar-I Mangalagiri, Musheerabad, Nacharam, Nandyal-I, Nizamabad-II, S.D. Road and Srinagar colony.

Matter was referred to Department (between June 2011 and June 2013) and to Government between October and December 2013. Their reply has not been received (March 2014).

2.14 Sales tax incentives for industrial units

According to 'Target 2000 Sales Tax Incentive Scheme' promulgated by Government in 1996, sales tax incentive of deferment of tax is available for the products manufactured by the industrial units to the extent of incentive limit as mentioned in the Final Eligibility Certificate (FEC) issued by the Department of Industries and Commerce. After introduction of the AP VAT Act, with effect from 1 April 2005, sales tax holiday/exemption incentives sanctioned earlier to industrial units were converted into sales tax deferment with the remaining period of availment being doubled without any change in monetary limit of the incentives sanctioned.

Some of the cases regarding irregular availment of benefits of incentive scheme were noticed by audit and are presented in the following paragraphs.

2.14.1 Non/short levy of interest on belated payment of deferred sales tax

As per Government order³⁷ dated 8 May 2009, amending Rule 67 of the AP VAT Act with effect from 1 May 2009, the repayment of deferred Sales Tax was to commence after the completion of the period of deferment. In case of non-remittance of deferred tax on due dates, interest at the rate of 21.5 *per cent* per annum (as mentioned in the FEC) was liable to be paid.

Audit noticed (between August 2010 and May 2013) during the test check of the deferment records of two DCs³⁸ and nine circles³⁹ that in 18 cases, the dealers who availed sales tax deferment had paid tax belatedly (delay ranging from eight to 1406 days) for which interest was either not levied or levied short. This resulted in non/short levy of interest of ₹ 77.24 lakh.

After audit pointed out, five AAs⁴⁰ stated in five cases (between May 2011 and May 2013) that rectificatory action would be taken. CTO Adoni-II contended (June 2012 in respect of one case) that the dealer had paid the amount as per the due dates fixed by the DC and there was no delay in payment of interest. But as the tax deferment and payment schedule was approved by the Department of Industries and Commerce under an incentive scheme, DC should not have altered the payment schedule which was approved by a different authority. In the remaining 12 cases (between August 2010 and May 2013), it was stated that the matter would be examined.

Matter was referred to Department (between November 2011 and July 2013) and to Government between October and December 2013. Their reply has not been received (March 2014).

³⁷ G.O.Ms.No. 503 dated 8 May 2009.

³⁸ Charminar and Nalgonda.

³⁹ Adoni, Bhongir, Hyderabad (Gowliguda and Somajiguda), Nandigama, Nellore-II, Peddapuram, Suryapet and Tirupati-II.

⁴⁰ DC Nalgonda; CTOs -Bhongir, Gauliguda, Somajiguda and Tirupati-II

2.14.2 Excess availment of sales tax deferment

Audit noticed (April 2013) during the test check of records of Jeedimetla circle that in one case, the dealer was sanctioned 'Sales tax deferment' for an amount of ₹ 1.19 crore under Target 2000 scheme for the period from 1997-98 to 2011-12. This unit had availed tax deferment of ₹ 1.85 crore between 1997-98 and 2008-09. This resulted in excess availment of sales tax deferment to the extent of ₹ 65.86 lakh.

After audit pointed out the case, the AA replied (April 2013) that unit was closed and action was being taken to collect the excess availed deferment by taking coercive steps. However, AA did not intimate action taken on the issue before it was raised by audit. Status of recovery of deferred tax allowed in FEC was also not furnished.

Matter was referred to Department in June 2013 and to Government between October 2013 and December 2013. Their reply has not been received (March 2014).

2.15 Non/short levy of penalty

2.15.1 Under Section 51 of the APVAT Act, a dealer who fails to pay tax due on the basis of the return submitted by him by the last day of the month in which it is due, shall be liable to pay tax and a penalty of 10 *per cent* of the amount of tax due.

As per Rule 9(2A) of the CST Act, the provisions relating to tax, interest and penalties of AP VAT Act shall apply in relation to any dues required to be collected under CST Act in the State.

Audit noticed (between November 2011 and April 2013) during the test check of the VAT/CST records of six circles⁴¹ for the period from March 2006 to March 2012, that in 18 cases, the dealers paid tax of ₹ 6.19 crore as declared in their VAT/CST returns with delays ranging from six days to 1,892 days from the scheduled dates. The Assessing Authorities, however, did not levy penalty of 10 *per cent* of the amount of tax due on belated payments of tax. This resulted in non-levy of penalty of ₹ 62.13 lakh.

After the audit pointed out the cases, CTO Tirupati-II replied (April 2013) that orders were passed in four cases levying penalty; two CTOs⁴² stated (May 2012 and April 2013) that rectificatory action would be taken in three cases pointed out by audit. In the remaining 11 cases, AAs replied (November 2011 and May 2012) that matter would be examined.

Matter was referred to Department (between May 2012 and July 2013) and to Government between October and November 2013. Their reply has not been received (March 2014).

⁴¹ Hyderabad (Agapura, Basheerbagh, IDA Gandhinagar, M.J. Market), Special Commodities Circle and Tirupati-II.

⁴² Basheerbagh and Special Commodities Circle.

2.15.2 Under Section 53(1) of the AP VAT Act, 2005, where tax has been under-declared by any dealer and it has not been established that fraud or wilful neglect has been committed and such under-declared tax is less than 10 *per cent* of the tax payable, a penalty at 10 *per cent* of such under-declared tax is leviable. If the under-declared tax exceeds 10 *per cent* of tax payable, penalty is leviable at 25 *per cent* of the under-declared tax. Under Section 53(3) of AP VAT Act, where it is established that fraud or wilful neglect has been committed, the dealer shall be liable to pay penalty equal to the amount of tax under-declared, besides being liable for prosecution.

During the test check of the records of DC, Abids and eight circles⁴³ for the period covering 2005-06 and 2007-08 to 2011-12, Audit noticed (between February 2012 and May 2013) that in 17 cases, though the dealers under declared tax of ₹ 5.49 crore, the AAs either did not levy or short levied penalty against the provisions of the AP VAT Act, resulting in non/short levy of penalty of ₹ 44.25 lakh.

After audit pointed out the cases, CTO Ananthapur-I stated (June 2012) in respect of one case that Show Cause Notice (SCN) was issued to the dealer. In respect of nine cases three CTOs⁴⁴ replied (between December 2012 and April 2013) that revision would be taken up. DC (CT) Abids contented (January 2013 in respect of one case) that penalty was levied on over declared input tax credit and under declared output tax separately. But penalty under Section 53 was prescribed for the net under-declared tax during the tax period without treating input tax credit and output tax separately. In the remaining six cases, AAs replied (between February 2012 and March 2013), that matter would be examined.

Matter was referred to Department (between October 2012 and July 2013) and to Government between October and December 2013. Their reply has not been received (March 2014).

2.15.3 According to Section 50(1) of the APVAT Act, any VAT dealer, who fails to file a return where no tax is due by the end of the month in which it was due, shall be liable to pay a penalty of ₹ 2,500. Further, under Section 50(3), where a dealer files a return after the last day of the month in which it is due, he shall be liable to pay a penalty of 15 *per cent* of the tax due.

Audit noticed (between March 2012 and May 2013) during the test check of the records of Tirupati - II circle for the period 2010-11 and 2011-12, that in five cases, the dealers filed returns after the due date and they were liable to pay tax of ₹ 1.43 crore as per monthly returns filed by them. Although belated filing of returns attracted penalty under the provisions of the AP VAT Act, the AA did not do so. This resulted in non-levy of penalty of ₹ 21.49 lakh.

After audit pointed out the cases, the AA stated (between March 2012 and May 2013) that action would be taken for levy of penalty.

⁴³ Anantapur-I, Hyderabad (Hydernagar, Hyderguda, Gowliguda, Somajiguda), Nandigama, Nellore-II and S.D. Road.

⁴⁴ Hydernagar, S.D. Road and Somajiguda.

Matter was referred to Department in February/June 2013 and to Government in October 2013. Their reply has not been received (March 2014).

2.16 Input Tax Credit

2.16.1 Non-filing of periodical returns to claim Input Tax Credit (ITC)

According to Section 13(5) of APVAT Act, 2005, no ITC shall be allowed on the inputs used in manufacture of exempt goods. Similarly as per Section 13(6), ITC on exempt transactions shall be allowed in excess of four or five *per cent*. For this purpose the dealers using common inputs on sale of both taxable goods and exempt goods/exempt transactions have to file VAT-200A returns monthly associated with VAT 200 returns and VAT-200B returns annually to claim ITC entitled for.

Audit noticed (between November 2012 and May 2013) in 15 circles⁴⁵ that only five out of 448 test checked dealers submitted additional returns in Form-200-A and 200-B during the year 2011-12.

Though the department made electronic filing of VAT-200 returns mandatory for the dealers, filing of VAT 200A and VAT 200 B returns was not enforced. There was no mechanism to check whether these returns were actually filed. Due to non-filing of VAT-200A and VAT-200B returns by the dealers, the correctness of ITC claimed by these dealers could not be verified.

In response, CTOs Dwarakanagar and Jeedimetla stated (February and April 2013) that after introduction of e-filing of VAT 200 returns, there was no provision for the dealer to file 200A and 200B online and that the issue would be brought to the notice of higher authorities. The remaining AAs stated (between February 2013 and May 2013) that the matter would be examined and necessary action taken.

Matter was referred to Department in July 2013 and to Government in November 2013. Their reply has not been received (March 2014).

2.16.2 Excess claim of ITC

As per sub-rules (7), (8), (9) of Rule 20 of the APVAT Rules, a VAT dealer making taxable sales, exempted sales and exempt transactions of taxable goods shall restrict his ITC as per the formula prescribed⁴⁶.

Under Section 20(3) of the APVAT Act, every return shall be subject to scrutiny to verify the correctness of calculation, application of correct rate of tax and input tax claimed therein and full payment of tax payable for such tax period. If any mistake is detected as a result of such scrutiny, the authority

⁴⁵ Aryapuram, Benz circle, Dwarakanagar, Eluru, Gudur, Hydernagar, Jeedimetala, Kakinada, Malkajgiri, Nacharam, Nellore-II, Ramachandrapuram, S.D. Road, Srinagar colony and Tirupati-II.

⁴⁶ $A*B/C$, where A is the input tax for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

prescribed shall issue a notice of demand in the prescribed form for any short payment of tax or recovery of any excess ITC claimed.

Audit noticed (between November 2011 and March 2012) during the test check of VAT records of DC, Vizianagaram in one case that during the years 2009-10 and 2010-11, the dealer had sold sugar (taxable sales and exempt sales effected to SEZ) and claimed ITC on entire sales instead of restricting it to the amount allowed by the formula. In another case (CTO Nampally), the dealer had made both taxable and exempt sales during the year 2010-11 without restricting the ITC claim by applying the formula. In a third case (CTO Mandapeta), the dealer manufactured oil and made both taxable as well as exempt sales for the year 2009-10 by using common inputs taxable at four *per cent* and 12.5 *per cent*. The AA in this case restricted ITC only in the months in which the exempt sales were reported, instead of restricting it for the entire period for computing ITC by applying the formula.

These together resulted in excess claim of ITC of ₹ 78 lakh.

After audit pointed out the cases, CTO Mandapeta replied (December 2012) that revision had been taken up. DC Viziaynagram contested in one case stating (February 2012) that as the dealer had taxable/exempt turnovers and exempt transactions, ITC was allowed under Rule 20 (9) of the APVAT Rules which allows the dealers to claim 10.5 *per cent* portion of ITC eligibility. But there were no exempt transactions of the dealer during the relevant period and as such Rule 20(9) did not apply. In respect of another case, CTO Nampally replied (December 2011) that the matter would be examined and report submitted in due course.

Matter was referred to Department (between September 2012 and May 2013) and to Government in November 2013. Their reply has not been received (March 2014).

2.16.3 Incorrect claim of input tax credit on ineligible items

According to Section 13(1) of the APVAT Act, 2005, input tax credit (ITC) shall be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods made by that dealer during the tax period, if such goods are for use in the business of the VAT dealer. As per Section 13(4) of the APVAT Act, 2005 read with Rule 20(2) (h) made under the Act, no ITC is allowable on purchase of natural gas, naphtha, coal unless dealers are dealing in these goods. Further, as per Rule 20(2)(j) of APVAT Rules, a VAT dealer is not entitled for ITC or sales tax credit on earth moving equipment such as bulldozers, JCBs etc., and parts and accessories thereof unless the dealer is in the business of dealing in these goods. As per Rule 20(2) (q) of APVAT Rules furnace oil, LSHS and other similar fuels used in furnaces and boilers of factories or manufacturing or processing units are not entitled for ITC. Commissioner of Commercial Taxes also clarified⁴⁷ that LPG purchased from

⁴⁷ Advance Ruling Com 79/2012 dated 21 February 2012 given in case of M/s Vijayawada Hospitalities Private Limited.

local registered dealers and used for preparation of food items will not qualify for claiming ITC. In terms of Rule 20(2) (r), cement used in the manufacture of RCC and PCC pipes or poles etc. is not eligible for ITC.

Audit noticed (between March 2011 and April 2013) during the test check of the VAT records of six circles⁴⁸ for the period 2009-10 to 2011-12, that out of seven cases, in one case, the dealer had claimed ITC of ₹ 7.17 lakh on purchase of cement used in manufacture of PCC poles. In another case, the dealer who rendered catering service claimed ITC of ₹ 0.95 lakh on the items purchased for use in housekeeping. In two cases, the dealers claimed ITC of ₹ 31.42 lakh on purchase of 'cranes' and 'coal' though they were not dealing in those goods. In the remaining three cases, the dealers incorrectly claimed ITC on LPG purchases made from local dealers and used in preparation of food items. This resulted in incorrect claim of ITC to the extent of ₹ 64.35 lakh.

After audit pointed out the cases, CTO Nandyal-II replied (October 2012) that revision of the case had been initiated. Two CTOs⁴⁹ stated (April 2013 in respect of three cases) that rectificatory action would be taken up to realise differential tax. In remaining three cases AAs stated (between March 2011 and March 2013) that issue would be examined.

Matter was referred to Department (between September 2011 and May 2013) and to Government between October and November 2013. Their reply has not been received (March 2014).

2.16.4 Incorrect claim of ITC by eating establishments

Under Section 4(9)(d) of the AP VAT Act, every dealer who runs an eating establishment and whose annual total turnover is more than ₹ five lakh and less than ₹ 1.5 crore shall pay tax at the rate of four/ five *per cent*⁵⁰ on the taxable turnover of the sale or supply of goods being food or any other article for human consumption. Such dealers are not entitled to claim ITC under section 13(5) (h) of the Act.

Audit noticed (between May 2011 and May 2013) during the test check of VAT records of three circles⁵¹ that in five cases, the dealers who ran hotels declared annual sales turnover of less than ₹ 1.5 crore and claimed ITC for the period 2009-10 to 2011-12 in contravention of the provisions. This resulted in under-declaration of VAT by ₹ 6.33 lakh.

After audit pointed out, CTOs replied (January 2013 and April 2013) that facts would be verified and rectificatory action would be taken.

Matter was referred to Department (between September 2011 and June 2013) and to Government in December 2013. Their reply has not been received (March 2014).

⁴⁸ Aryapuram, Kurnool-III, Malkajgiri, Nandyal-II, Somajiguda and Tirupati.

⁴⁹ Somajiguda and Tirupati.

⁵⁰ Four *per cent* upto 13 September 2011 and five *per cent* thereafter.

⁵¹ Hyderabad (Basheerbagh, Khairatabad, Somajiguda).

2.16.5 Incorrect claim of ITC on interstate purchases and amalgamating companies

Section 5 of the AP VAT Act inter alia stipulates that the Act does not apply to the sales or purchases of goods outside the State. According to Section 13(5) (b) of the AP VAT Act, no input tax credit shall be allowed on the transfer of a business as a whole. As per Section 13(3) of the Act, a VAT dealer shall be entitled to claim input tax credit if he is in possession of a valid tax invoice.

Audit noticed (between September 2011 and August 2012) during the test check of VAT records of DC Chittoor and two circles⁵² for the period 2008-09 and 2010-11 that out of the three cases, in one case, the dealer had claimed ITC on purchases whereas scrutiny of the VAT records of the selling dealers revealed that the sale turnover reported by this dealer was 'Nil'. In another case, the dealer claimed ITC on interstate purchases, which was not in accordance with the Act provisions. In the remaining case, two companies were amalgamated into one assessee company and the unutilised ITC relating to amalgamated companies was claimed by the assessee, which was contrary to the provisions of the VAT Act. This resulted in incorrect claim of ITC of ₹ 5.15 lakh.

After audit pointed out the cases, CTO Sangareddy stated (February 2012) that action had been initiated. In remaining two cases, AAs stated (September 2011 and June 2012) the matter would be examined.

Matter was referred to Department (between May 2012 and January 2013) and to Government in October 2013. Their reply has not been received (March 2014).

2.17 Under declaration of tax due to incorrect exemption

The commodities rexine, mango pulp, cotton seeds, software, ash, carbon credits fall under Schedule IV of the APVAT Act and are taxable at four *per cent*. PP carpets, aluminium partitions, blinds, sofa sets and motor vehicles are not specified in Schedule I to IV to the APVAT Act and hence these goods fall under Schedule V and are liable to VAT at the rate of 12.5 *per cent* (14.5 *per cent* with effect from 15 January 2010). Further, food sales in restaurants are taxable at four *per cent* where turnover is less than ₹ 1.50 crore and at the rate of 12.5 *per cent* (14.5 *per cent* with effect from 15 January 2010) where annual total turnover is ₹ 1.50 crore or above, under Sections 4(9)(b) and 4(9)(c) of the Act.

Audit noticed (between December 2010 and May 2013) during the test check of VAT records of nine circles⁵³ for the period from 2007-08 to 2011-12 that in 10 cases, the dealers declared the sale turnover of ₹ 22.15 crore relating to mango pulp, cotton seeds, software, ash, carbon credits rexine, sale of food,

⁵² Lalapet and Sangareddy.

⁵³ Aryapuram, Hindupur, Hyderabad (Basheerbagh, Gowliguda, Nacharam, Nampally and Somajiguda), Paruchur and Tirupati-II.

PP carpets, aluminium partitions, blinds, sofa sets, motor vehicles etc., as exempted turnover which was against provisions of the Act. The incorrect claim of exemption of taxable turnover resulted in under declaration of VAT of ₹ 87.92 lakh.

After audit pointed out the cases, four CTOs⁵⁴ replied (between December 2010 and May 2013 in respect of five cases) that revision would be taken up. In remaining five cases, CTOs replied (between June 2011 and March 2013) that the matter would be verified and necessary action taken.

Matter was referred to Department (between July 2011 and June 2013) and to Government between October 2013 and November 2013. Their reply has not been received (March 2014).

2.18 Non/short payment of purchase tax

Under Section 4(4) of the AP VAT Act, every VAT dealer, who in the course of business, purchases any taxable goods from a person or a dealer not registered as a VAT dealer or from a VAT dealer in circumstances in which no tax is payable by the selling VAT dealer, shall be liable to pay tax at the rate of four *per cent* on the purchase price of such goods, if after such purchase, the goods are (i) used as inputs for goods which are exempt from tax under the Act or (ii) used as inputs for goods, which are disposed of otherwise than by way of sale in the State or dispatched outside the State otherwise than by way of sale in the course of interstate trade and commerce or export out of the territory of India. Wherever a common input is used to produce (exempt and taxable) goods, the turnover, taxable under this sub-section, shall be the value of the inputs, proportionate to the value of the goods, used or disposed of in the manner as prescribed.

During the test check of CST assessments and VAT records of DC Adilabad and three circles⁵⁵ for the period from 2005-06 to 2010-11, Audit noticed (between December 2011 and June 2012) that in one case, non-VAT purchases of biomass waste taxable at the rate of four *per cent* was used in the manufacture of electrical energy which is exempt under entry 13 of Schedule I to the APVAT Act. In another case, the assessee purchased black gram, dhal from unregistered dealers and did not pay tax on sale of black gram husk as they are exempt under entry 41 of Schedule I to the Act. In two other cases, the dealers claimed exemption on consignment sales of chillies purchased from unregistered dealers within the State. In the remaining one case, the dealer purchased soya bean seeds from unregistered dealers within the State and utilised them in the process of production of soya de-oiled cake which is exempt from levy of tax. In all these five cases, purchase tax was either not paid or paid less. This resulted in non/short payment of purchase tax of ₹ 43.42 lakh.

After audit pointed out the cases, DC Adilabad and CTO Warangal replied (December 2011 in respect of three cases) that facts would be verified.

⁵⁴ Aryapuram, Basheerbagh, Paruchur and Tirupati-II.

⁵⁵ Brodipet, Mangalagiri and Warangal.

CTO Brodipet contended (June 2012 in respect of one case) that since husk was not manufactured but obtained as a by-product of black gram, hence purchase tax was not chargeable. The reply was not tenable as husk was an exempt commodity and hence purchase tax was leviable on input goods under Section 4(4). Advance Ruling⁵⁶ dated 5 January 2013 also supports the audit view.

CTO Mangalagiri in another case contended (February 2013) that biomass waste was consumed in the process of manufacture of electricity but not used and therefore not liable to tax. However since biomass waste which was input for manufacture of electricity was purchased from unregistered dealers and output electrical energy was exempt from payment of VAT, tax is payable as per Section 4(4) of the APVAT Act.

Matter was referred to Department (between April 2012 and May 2013) and to Government between October 2013 and November 2013. Their reply has not been received (March 2014)

2.19 Short levy of tax due to arithmetical error

Under the CST Act, tax is leviable on interstate sale of goods at the rates prescribed in the Act.

Audit noticed (between March and April 2013) during the test check of CST records of two circles⁵⁷ that in three cases, the AAs while finalising the CST assessments in March 2012 for the period 2008-09, worked out the tax leviable as ₹ 6.44 lakh instead of ₹ 25.26 lakh due to arithmetical errors. This resulted in short levy of tax of ₹ 18.82 lakh.

After audit pointed out the cases, the AAs stated (March/April 2013) that audit observations would be examined, necessary action taken and compliance report submitted.

Matter was referred to Department (May and June 2013) and to Government in October 2013. Their reply has not been received (March 2014).

2.20 Short levy of VAT due to incorrect computation of taxable turnover

As per Section 21(3) of APVAT Act, 2005 read with Rule 25(5) of AP VAT Rules 2005, if assessing authority is not satisfied with a return filed by the VAT dealer or the return appears to be incorrect or incomplete, he shall assess the tax payable to the best of his judgment on form VAT 305 within four years of the due date of the return or within four years of the date of filing the return whichever is earlier.

As per Section 21(4) of the AP VAT Act 2005 authority prescribed may, based on any information available or on any other basis, conduct a detailed scrutiny of the Accounts of any VAT dealer and where any assessment, as a result of such scrutiny, becomes necessary, such assessment shall be made

⁵⁶ Advance Ruling Com/73/2012 dated 5 January 2013.

⁵⁷ CTO- Nacharam and Malkajiri.

within a period of four years from the end of the period for which assessment is to be made.

Every VAT dealer shall furnish for every financial year to the prescribed authority, the statements of manufacturing/trading, profit and loss accounts, balance sheet and annual report duly certified by Chartered Accountant on or before 31 December subsequent to the financial year to which the statements relate.

As per para 5.11.4 of VAT Audit Manual 2005, audit officer is required to verify the details given by the dealer on VAT returns against the annual accounts for that period.

Audit noticed (between December 2011 and May 2013) during test check of VAT returns/assessment files of nine circles⁵⁸, that the AA, while finalising assessments between January 2010 and March 2012, incorrectly computed the taxable turnover in 10 cases. Of the 10 cases, VAT audit had been completed in nine cases. In all these cases taken together, turnovers declared in monthly returns (VAT 200) were less than the turnovers reported in trading/profit and loss accounts by ₹ 3.05 crore. Consequently there was under declaration of tax of ₹ 17.95 lakh.

After audit pointed out the cases, CTO Hindupur replied (January 2013 in respect of two cases) that revision had been initiated. In three other cases CTOs⁵⁹ stated (between February 2013 and May 2013) that revision would be taken up. In remaining five cases, AAs stated (between May 2011 and May 2013) that reply would be furnished after examination.

Matter was referred to Department (between April 2011 and July 2013) and to Government in December 2013. Their reply has not been received (March 2014).

2.21 Non-levy of interest on belated payments

According to Section 22(2) of the APVAT Act, if any dealer fails to pay the tax due on the basis of return submitted by him under the Act within the time prescribed or specified thereunder, he shall pay, in addition to the amount of such tax or penalty or any other amount, interest calculated at the rate of one *per cent* per month for the period of delay from such prescribed or specified date for its payment.

Audit noticed (between July 2010 to December 2011) during the test check of records of five circles⁶⁰ for the period 2009-10 and 2010-11 that in five cases, the dealers paid tax of ₹ 16.40 crore as declared in their monthly VAT returns with delays ranging from five days to 177 days from the scheduled dates. The AAs however did not levy interest at the rate of one *per cent* per month on belated payment of tax. This resulted in non-levy of interest of ₹ 9.55 lakh.

⁵⁸ Anakapalle, Benz circle, Dwarakanagar, Hindupur, Janagaon, Lord bazaar, Nellore-II, Nizamabad-II and Somajiguda.

⁵⁹ Benz circle, Nizamabad-II and Somajiguda

⁶⁰ Anantapur, Hyderabad (Agapura, IDA Gandhinagar and Marredpally) and Special Commodities circle.

In response, CTO Marredpally stated (November 2011 in respect of one case) that revision had been initiated. In the remaining cases, AAs stated (between July 2010 and November 2011) that facts would be verified.

Matter was referred to Department (between March and May 2012) and to Government in October 2013. Their reply has not been received (March 2014).

CHAPTER III

***STATE EXCISE
DUTIES***

CHAPTER III STATE EXCISE DUTIES

EXECUTIVE SUMMARY

Decrease in tax collection	In 2012-13 the collection of Excise revenue decreased by 5.02 <i>per cent</i> over the previous year. The contribution of the State excise duty in total tax receipts has decreased from 17.24 <i>per cent</i> to 15.25 <i>per cent</i> during this period.
Recovery by the Department against accepted audit observations	During 2007-08 to 2011-12, audit pointed out non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 88.75 crore in 101 cases. Of these Department/Government accepted audit observations in 63 cases involving ₹ 21.96 crore and had since recovered ₹ 15.70 crore (71.49 <i>per cent</i>).
Results of audits conducted in 2012-13	<p>In 2012-13, test check of the records of 11 offices relating to Prohibition and Excise Department found audit observations relating to licensing system of bars and liquor shops involving ₹ 9.82 crore.</p> <p>The Department accepted audit observations of ₹ 25.75 lakh in six cases of which four cases involving ₹ 25.12 lakh were pointed out during the year 2012-13 and the rest in earlier years. An amount of ₹ 15.48 lakh was recovered in six cases.</p>
What audit has highlighted in this chapter	During the year 2012-13, audit observed non/short levy of additional license fee, on bars and restaurants with non-contiguous consumptions enclosures, non-levy and non-realisation of license transfer fees, issue & renewal of shop/bar licenses near educational/religious institutions and hospitals etc.
Conclusions	<p>Bar licenses are to be issued/renewed strictly as per provisions so as to ensure that sale outlets are not permitted near religious/ educational institutions/ hospitals.</p> <p>Provisions regarding change in the entity are to be strictly enforced. Status of entity of bar is to be changed only with prior approval of competent authority.</p> <p>Necessary amendment may be made to AP Excise (Grant of license of selling by bar and conditions of license) Rules 2005 for collection of additional license fee from bar licenses based on the area licensed for bar premises to dispense equal treatment.</p>

3.1 Tax administration

The Prohibition and Excise Department (P&E) is governed by the Andhra Pradesh Excise Act, 1968, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Andhra Pradesh Prohibition Act, 1995 etc. The Principal Secretary to Government, Revenue Department is the controlling authority at Government level. The Commissioner, Prohibition and Excise Department is the head of the Department in all matters connected with administration of these Acts. He is assisted by Director of Enforcement for implementation of the Acts. The 23 districts of the State, each headed by a Deputy Commissioner (DC), are classified under 53 excise districts. Each of the excise districts is under the charge of a Prohibition and Excise Superintendent (P&ES) who is assisted by the Assistant Excise Superintendent and other staff. Prohibition and Excise Inspectors are in charge of excise stations and check posts, while 23 DCs and Assistant Commissioners (AC) supervise the overall functioning of the offices of Excise Superintendents.

3.2 Trend of receipts

Actual receipts from State Excise Duty during the years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the table 3.1 and graph 3.1.

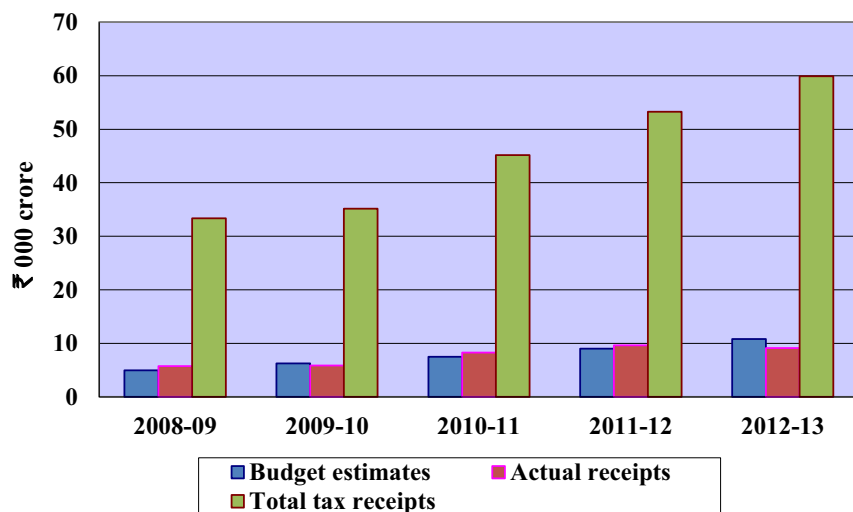
Table 3.1: Receipts from State Excise Duty

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	4,991.25	5,752.61	(+) 761.36	(+) 15.25	33,358.29	17.24
2009-10	6,260.00	5,848.59	(-) 411.41	(-) 6.57	35,176.68	16.63
2010-11	7,512.00	8,264.67	(+) 752.67	(+) 10.02	45,139.55	18.31
2011-12	9,014.40	9,612.36	(+) 597.96	(+) 6.63	53,283.41	18.04
2012-13	10,820.00	9,129.41	(-)1,690.59	(-) 15.62	59,875.05	15.25

It can be seen that excise receipts constituted between 15 and 18 *per cent* of the State's own total receipts during the last five years, during which period the receipts have grown at a Compounded Average Annual Growth Rate (CAGR) almost 12 *per cent*. However, while the total tax receipts of the State have increased by 79.49 *per cent* during the last five years, increase in the receipts from State Excise Duty has been recorded as 58.70 *per cent*. The contribution of the State Excise Duty in the total tax receipts has decreased from 17.24 *per cent* to 15.25 *per cent* during this period.

Graph 3.1: Budget estimates, actual receipts and Total tax receipts



3.3 Cost of collection

The figures of gross collection in respect of State Excise Duty, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2010-11 to 2012-13, along with the relevant all India averages are shown in Table 3.2, from which it is seen that the cost of collection has shown an increasing trend in the State, in absolute terms. In fact percentage of cost of collection to gross collection has increased in 2012-13 compared to 2011-12 though all India average has fallen during this period.

Table 3.2: Cost of collection of State Excise Duty

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Cost of collection to gross collection (per cent)	All India average percentage for the previous year
State Excise Duty	2010-11	8,264.67	233.64	2.83	3.64
	2011-12	9,612.36	263.81	2.74	3.05
	2012-13	9,129.41	288.46	3.16	2.98

3.4 Impact of Local Audit

During the last five years, audit had pointed out non/short levy, non/short realization and non-levy of interest with total revenue implication of ₹ 88.75 crore in 418 cases. Of these, the Department/Government had accepted audit observations in 63 cases involving ₹ 21.96 crore, and had since recovered ₹ 15.70 crore in 31 cases. The details are shown in Table 3.3.

Table 3.3: Impact of Local audit on State Excise Duty

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	50	79	6.41	8	0.01	0	0
2008-09	58	77	10.32	2 ⁶¹	0.00	2	0
2009-10	55	136	18.88	12	0.28	9	0.23
2010-11	55	25	26.54	14	20.52	1	15.42
2011-12	68	101	26.60	29	1.15	19	0.05
Total	286	418	88.75	65	21.96	31	15.70

3.5 Working of Internal Audit Wing

Internal audit is an important part of internal control mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. The orders issued by the Government of Andhra Pradesh from time to time stipulate, among others, that it is the responsibility of the Accounts branch of the Head of the Department to conduct internal Audit of the Regional Offices, District Offices, Unit Offices etc., periodically (at least once in a year) and furnish reports to the Commissioner.

No internal audit was conducted in the offices of Deputy Commissioners (23)/Assistant Commissioners (28)/Prohibition and Excise Superintendents (53).

⁶¹ Insignificant amount i.e. less than ₹one lakh.

3.6 Audit Observations

During scrutiny of the records in the offices of Prohibition and Excise Department, Audit observed several cases of non-observance of the provisions of the Acts/Rules, resulting in non-levy of additional licence fee, licence transfer fee etc. These cases are illustrative and are based on a test check carried out during a study on “Licensing and Monitoring of Bars and Liquor Shops”. Audit pointed out such omissions in earlier years too, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the monitoring and internal control system so that such omissions can be avoided, detected and rectified in a timely manner.

3.7 Licensing and Monitoring of Bars and Liquor Shops

The Prohibition and Excise Department plays a dual role of enforcing prohibition of arrack⁶² and generating revenue through regulation of Indian Made Foreign Liquor (IMFL), Foreign Liquor (FL) and toddy. The Department is responsible for control of Excise related crimes through detection, prevention, investigation and prosecution of offences under the law as well as prevention of illicit trafficking in narcotic drugs and psychotropic substances.

For sale, serving, stocking and transport of liquor, various kinds of licences are granted by the Department. These licences are governed by the provisions of AP Excise Act, 1968 and various sets of Rules made thereunder. The licensees have to comply with the terms and conditions attached to the licences, violation whereof attracts penal action under the extant provisions. As per the information provided by the Department, it had issued 1,431 licences (for serving) to Bars and 5,979 licences (for sale) to Liquor Shops for the year 2012-13.

An audit of licensing system and monitoring of bars and liquor shops was conducted with a view to

- ascertain whether the location and the premises of the bars were in accordance with the prescribed norms and the license fee was collected at correct rates;
- examine whether bar/shop licenses were renewed in time with the approval of the competent authority and in accordance with the Rules;
- verify whether allotment of shops was in accordance with Excise Rules, 2012 and its revenue implication when compared with allotment process followed under the Excise Rules 2005.

⁶² ‘Arrack’ includes all liquor produced or manufactured in India and supplied by the Government other than Foreign Liquor and Indian Made Foreign Liquor as defined in Section 2(1) of A.P. Excise Act, 1968.

For achievement of the above objectives, records⁶³ for the years 2009-10 to 2012-13 were test checked by Audit between June 2012 and May 2013. Out of total 53 P&ES offices in 23 districts, 11 offices⁶⁴ from six districts⁶⁵ were selected covering 843 Bars (out of 1431 or, 58.91 *per cent*) and 930 shops (out of 5,979 or 15.55 *per cent*). The districts were selected on the basis of maximum number of sanctions of Bars and Shops. The licenses of all selected bars were checked whereas for shops, licenses were test-checked. Joint physical verification was conducted with state excise staff to verify the functioning of bars. In respect of shops, inspection was conducted in selected cases in the presence of state excise staff. The records of the office of the Commissioner of Prohibition and Excise and Principal Secretary to the Government (Revenue) were also verified with regard to sanction and realisation of Excise revenue.

The audit objectives were benchmarked against the following audit criteria:

1. The AP Excise Act, 1968
2. AP Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005
3. A.P. Excise (Lease of right of selling by shop and conditions of license) Rules, 2005
4. A.P. Excise (Grant of license of selling by in-house and conditions of license) Rules, 2005
5. A.P. Excise (Lease of right of selling by shop and conditions of license) Rules, 2012⁶⁶.

During scrutiny of the records in 11 offices⁶⁷ of the P&ESs, audit noticed several cases of non-compliance to provisions of the Acts/Rules as discussed in the succeeding paragraphs.

3.8 Bar and Restaurants

3.8.1 Non-levy/collection of additional license fee (ALF) for non-contiguous additional enclosures

As per Section 28 of the Andhra Pradesh Excise Act, 1968 read with Rule 10 of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, the enclosures for consumption of liquor which are not contiguous shall attract levy of an additional license fee (ALF) at 10 *per cent* of original license fee for each such additional enclosure.

⁶³ Policy files, license fee register, instalment watch register, event permit register, bar renewal files.

⁶⁴ Dhoolpet, Gajuwaka, Guntur, Hyderabad, Medchal, Rajendranagar, Saroornagar, Secunderabad, Vijaywada, Visakhapatnam and Warangal.

⁶⁵ Guntur, Hyderabad, Krishna, Rangareddy, Visakhapatnam and Warangal.

⁶⁶ These rules superseded the earlier rules with effect from 1 July 2012.

⁶⁷ Dhoolpet, Gajuwaka, Guntur, Hyderabad, Medchal, Rajendranagar, Saroornagar, Secunderabad, Vijaywada, Visakhapatnam and Warangal

In terms of explanation given below the Rule, the word “enclosure” means one area of consumption of liquor, which is contiguous in utility for consumption. If one consumption enclosure is separated from another enclosure by non-contiguity and interposition of areas of different utilities other than consumption of liquor, it attracts additional license fee.

3.8.1.1 Audit noticed during joint inspection of bar and restaurants under jurisdiction of eight offices⁶⁸ of P&ES that the P&ESs concerned did not levy 10 *per cent* ALF amounting to ₹ 9.24 crore for the years 2009-10 to 2012-13 on 51 bar and restaurants with non-contiguous consumption enclosures like consumption halls situated in different places under different roofs of Bar premises, different floors of bars connected externally by steps, rooms situated in different areas in which liquor was served and in open areas outside bars etc.

After being pointed out, in respect of P&ESs, Warangal, Saroornagar and Medchal Department replied (October 2013) that respective DCs have been directed to monitor the collection of 10 *per cent* ALF. In respect of another bar in a hotel, it was contented that licensee had taken permission to serve the liquor for all the three floors which consisted of bar and rooms and that it was treated as contiguity and ALF need not be collected. Department’s reply was not consistent as additional license fee was collected for serving liquor in guest rooms in the case of another hotel under the jurisdiction of the same P&ES in the same period. P&ES, Dhoolpet stated that collection of license fee for additional enclosures was a policy matter.

Replies from four P&ESs⁶⁹ were not received.

3.8.1.2 During test check of records of offices of P&ES, Hyderabad and Dhoolpet, audit noticed that ALF of 10 *per cent*, though levied, was not collected for some periods between 2009-10 and 2012-13 from three bars, although no request/approval for discontinuance use of enclosures for serving liquor was found on record. The ALF in respect of these three bars worked out to ₹ 20.14 lakh.

Matter was referred to Department (between February and May 2013). Their reply has not been received (March 2014).

3.8.2 Non-levy and non-collection of license transfer fees

As per Rule 17(1) & (2) of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, no licensee shall transfer his license to any other person except with the sanction of the Commissioner of Prohibition and Excise. The Commissioner may allow such transfer of license on payment of 10 *per cent* of the license fee.

As per rule 17(4) when there are only two partners in the firm holding the license and one of them withdraws or expires, the entity of the firm is changed

⁶⁸ Dhoolpet, Hyderabad, Medchal, Saroornagar, Secunderabad, Vijaywada, Visakhapatnam and Warangal.

⁶⁹ Hyderabad, Secunderabad, Visakhapatnam and Vijayawada

from partnership to proprietary concern. It amounts to transfer of license. As per rule 17(5), conversion of proprietary concern into a firm or company or a firm into company and vice versa shall amount transfer of license.

3.8.2.1 In the offices of four P&ESs⁷⁰, audit noticed that status of the five concerns holding bar licenses was changed either due to death/retirement of partners or inclusion of partners/incorporation as firms. Change in status of the licensee concern called for levy of transfer of license fee amounting to ₹ 17.60 lakh.

- In respect of P&ES, Medchal the Commissioner replied (October 2013) that jurisdictional DC has been instructed to examine and submit a report.
- P&ES Guntur replied (March 2013) that issue was under scrutiny and matter referred to the Commissioner.
- P&ES Dhoolpet replied (November 2012) that request for conversion of the licensee from partnership into proprietary concern was under process.
- P&ES Vijayawada stated (April 2013) that matter would be examined and reply furnished in due course.

Matter was referred to Department (between February and May 2013). Their reply has not been received (March 2014).

3.8.3 Short levy of additional license fee

According to rule 10 of the A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, the annual license fee for the bar license shall be at rates notified by the Government from time to time.

Under the proviso to these Rules, additional license fee at 10 *per cent* is leviable for each enclosure utilised for consumption purposes if it is non-contiguous. As per proviso 2 of Rule 15 inserted through Government order⁷¹ dated 2 September 2008, the hotels holding bar licenses with status of four star and above in Greater Hyderabad Municipal Corporation (GHMC) area and in Rajiv Gandhi International Airport (RGIA) area and bars located in the terminal building of RGIA transacting business 24 hours a day are required to pay 25 *per cent* additional license fee.

Audit noticed from the license files of the office of P&ES Rajendranagar that in three cases, bar licensees, who were having non-contiguous enclosures and paid additional licence fee of 10 *per cent*, had applied for permission to transact business 24 hours a day in the licensed premises. Permission was granted but instead of charging additional license fee of 25 *per cent* on the main premises and non-contiguous enclosures, license fee of 25 *per cent* was charged on the main premises only. Audit observed that license fee

⁷⁰ Dhoolpet, Guntur, Medchal and Vijayawada.

⁷¹ G.O.Ms No 1079 Revenue (Ex II) dated 02 September, 2008.

amounting to ₹ 11.82 lakh was not levied on additional enclosures in these cases.

In response the Department replied (October 2013) that out of ₹ 11.82 lakh, an amount of ₹ 1.55 lakh pertaining to one bar was collected. The Commissioner had instructed the jurisdictional DC to expedite the collection of balance license fee.

3.8.4 Loss of license fee due to delay in grant of new bar license

According to Section 28 of AP Excise Act, 1968 read with Rule 5 of AP Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, Commissioner may grant Prior Clearance⁷² to a person intending to establish a new bar on payment of requisite fee.

Under Rule 10, the annual license fee for bars shall be at the rates notified by Government from time to time. For licenses granted during the first quarter (i.e. between July to 30 September), the full license fee is to be paid whereas for licenses issued in subsequent quarters, the amount is proportional to the number of quarters remaining in the excise year including the one in which the license is issued.

Commissioner in his circular⁷³ dated 10 October 2006 clarified that the P&ES and DC should ensure that the bar licenses were issued within the same quarter in which the Prior Clearances were granted.

During the course of audit of the office of the P&ES Secunderabad, audit noticed that Prior Clearance was granted on 19 August 2011 to an applicant. Applicant had applied for grant of bar license on 3 September 2011 and license was issued by the Department on 17 November 2011. Even though licensee applied during the quarter July-September, delay by Department in grant of license in the subsequent quarter i.e., October-December resulted in loss of license fee of ₹ 7.75 lakh.

Matter was referred to Department (May 2013). Their reply has not been received (March 2014).

3.8.5 Issue/renewal of shop/bar licenses near educational/religious institutions and hospitals

As per Rule 6 of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005 and Rule 25 of A.P. Excise (Grant of license of selling by shop and conditions of license) Rules, 2012, licenses for Bars and Liquor Shops shall not be granted if the premises is located within 100 meters from educational institutions recognised by the Government, places of public worship such as temples (registered with the Endowments Department), mosques (registered with the Wakf Board), churches and hospitals (minimum

⁷² Prior Clearance is permission granted by the Commissioner to establish a bar on payment of ₹ 5000. As per Form 2A, the Prior Clearance is valid for 45 days from the date of its issue.

⁷³ Cr. No.6147/2006/CPE/G2, dated 10 October, 2006

30 beds). Three star and above category hotels with bar licenses are exempted from maintaining the stipulated distance.

As per proviso to these Rules, the distance referred to above shall be measured from the mid-point of the entrance of the proposed bar/licensed shop premises along the nearest path by which a pedestrian would ordinarily reach to the mid-point of the nearest gate of the educational institutions/place of public worship/hospitals.

3.8.5.1 During joint inspection of bars and shops under the jurisdiction of nine offices⁷⁴ of P&ES, audit noticed that 61 bar and 24 shop licenses were issued/ renewed though they were located within 100 meters from educational institutions, places of public worship or hospitals.

- In respect of P&ES, Warangal, Department accepted (October 2013) audit objection in six cases and issued notices to the five licensees to shift the bar/shop premises and in one case the license was not renewed for the year 2013-14. In respect of remaining six cases, Department informed that DC, Warangal had been directed to verify the premises and submit report.
- P&ESs Medchal, Dhoolpet, Hyderabad, Vijayawada, Gajuwaka, Guntur, and Visakhapatnam stated that detailed reply would be submitted.

3.8.5.2 Audit noticed that two bar licenses were issued to two hotels under the jurisdiction of P&ESs, Visakhapatnam and Medchal in anticipation of star category recognition by the Tourism Department, although as per Rule 6 *ibid*, star category status is a prerequisite for exempting hotels serving liquor from maintaining stipulated distance from religious/educational institutions/hospitals.

On being pointed out, Department in respect of P&ES, Medchal replied (October 2013) that the restrictions under Rule 6(1) (i) to (iii) shall not be applicable to star hotels of three star and above. But, as the hotel had not received the star status from the Tourism Department on the date of issue of license (December 2011), the Commissioner directed (August 2013) the licensee to submit certificate of five star status by 15 November 2013. Reply in respect of P&ES, Visakhapatnam has not been received.

3.8.6 Unauthorised alteration of bar premises without approval of the competent authority

According to Section 31(1)(b) of AP Excise Act 1968 read with rule 13(2) (a) of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005 no change or alteration of the licensed premises shall be made during the license period without the prior approval of the DC. Under Section 47 of the Act, the offence of violation can be compounded by accepting a sum of money not exceeding ₹ one lakh.

⁷⁴ Dhoolpet, Gajuwaka, Guntur, Hyderabad, Rajendranagar, Saroornagar, Vijaywada, Visakhapatnam and Warangal.

During joint inspection of Bars under the jurisdiction of seven offices⁷⁵ of P&ESs, audit noticed that in respect of 34 Bars, the approved premises were altered without approval of the competent authority. The Departmental officers neither noticed this at the time of renewal of licenses nor during their periodical inspection.

- P&ES, Gajuwaka accepted (September 2013) the two cases pointed out by audit and collected compounding fee of ₹ one lakh each.
- P&ES Hyderabad, Secunderabad, and Vijaywada replied (November 2012-April 2013) that inspection of the premises would be conducted of bar & restaurants for taking necessary action.
- P&ES Dhoolpet and Medchal furnished (November/December 2012) irrelevant replies. Reply from P&ES, Visakhapatnam has not been received.

The matter was referred to the Department (February 2013). Their reply has not been received (March 2014).

3.8.7 Irregular utilisation of bar liquor for event permits

According to Rule 5 of AP Excise (Grant of license of selling In-house and conditions of license) Rules, 2005, licenses may be granted by the P&ES to sell or serve liquor within the licensed premises during fairs, festivals or on other specified occasions. Conditions for issue of license prescribe that the details of IMFL and FL purchased, utilized and balances are to be furnished to P&ES. According to Rule 26(2) of the above Rules, the licensee is required to procure IMFL and FL from the allotted depots of the Andhra Pradesh Beverages Corporation Limited (APBCL) or from liquor shops.

In terms of Section 47 of the AP Excise Act, 1968 read with Commissioner's circular⁷⁶ dated 10 March 2011, taking liquor out of the licensed bar premises is a compoundable offence and compounding fee of ₹ one lakh is leviable for each such violation.

During the course of audit of the P&ES Saroornagar audit noticed that a bar licensee had obtained 60 event permits in the year 2011 (January to December) and 146 event permits in the year 2012 (January to December). Instead of procuring the liquor from APBCL depots or liquor shops for serving against the event permits, the bar licensee had supplied IMFL and FL procured from bar to the events conducted outside the bar.

Audit also observed that accounts were not submitted by the event permit holder to the Excise Department and the Department too did not insist upon the same for any of the events held by the bar licensee. Although the rules were violated by the bar licensee no case was booked by the Department.

In response, the Commissioner replied (October 2013) that the licensee has purchased the stocks from liquor shops for supply at the events but had not

⁷⁵ Dhoolpet, Gajuwaka, Hyderabad, Medchal, Secunderabad, Vijayawada and Visakhapatnam

⁷⁶ Cr No 3600/2010 dated 10 March 2011

maintained the records. However, there was no documentary evidence in support of the reply.

3.8.8 Grant of bar license to a person charged with illegally serving liquor

According to Section 28 of AP Excise Act, 1968 read with Rule 5 of AP Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, Commissioner may grant prior clearance to a person intending to establish a bar on payment of requisite fee.

As per Rule 5(3) of the above Rules the holder of prior clearance has to apply for grant of license for a bar. In terms of Rule 5(2) the Commissioner may grant prior clearance for a bar having due regard to requirement and other factors as he may deem fit.

During scrutiny of the bar files in P&ES Office, Hyderabad, audit noticed that the Commissioner of Prohibition and Excise granted prior clearance for establishment of bar and restaurant on 17 August 2011 which was valid upto 30 September 2011.

During the scrutiny of records audit noticed that the applicant served liquor in his restaurant without obtaining a license. A case was booked by the Prohibition and Excise task force against him for the offence on 3 December 2011. The applicant was absconding upto 21 December 2011 and obtained bail on 22 December 2011. However the Department granted prior clearance to the applicant on 17 December 2011 and issued bar license on 31 January 2012. Issue of bar license to charged person was in itself irregular. In response, the P&ES, Hyderabad replied (November 2012) that the case was under investigation.

The matter was referred to Department (between February and May 2013). Their reply has not been received (March 2014).

3.8.9 Non compliance with accounting procedure

As per Rule 37 and 38 of A.P. Excise (Grant of license of selling by Bar and conditions of licenses) Rules, 2005 the licensee shall maintain full and day to day accounts of IMFL and FL received and disposed of and daily brand wise accounts in Form 6B and 7B respectively. Any violation of the Rules attracts penalty under Section 36 and is a compoundable offence under Section 47 of the Act. In terms of Rules 38 and 40, any officer not below the rank of Prohibition and Excise Sub Inspector is authorised to inspect the accounts of the Bars.

During joint inspection of bars under the jurisdiction of office of P&ES Dhoolpet, audit observed that 19 bar licensees did not maintain the 6B registers. Owing to non-maintenance of such accounts, unauthorised sale or purchase made by licensee, if any, would not be detected by the Department.

In response to audit observation, P&ES Dhoolpet replied (November 2012) that instructions have been issued for maintaining the accounts.

3.9 Liquor Shops

3.9.1 Adoption of incorrect procedure in allotment of liquor shop

For issue of licenses for liquor shop, Department issues a notification in the District Gazette mentioning the serial number and name of the locality where the shop will be established. As per Rule 12(6) of A.P. Excise (Grant of license of selling by shop and conditions of license) Rules, 2012, the selection process of the license holder of liquor shops shall be taken up shop-wise in accordance with serial numbers allotted to them, as notified in the District Gazette. The applicants have to submit an earnest money deposit of 10 *per cent* of the license fee up to a maximum of ₹ five lakh in the form of a Demand Draft along with their applications. The selection among the eligible applicants for grant of license shall be by draw of lots by the Collector in the presence of the applicants available at the time of selection. If the successful applicant is not available at the place of selection, the process is to be continued by taking a fresh lot, if necessary. In terms of Rule 12(8) where an applicant applies for more than one shop and gets selected for one shop, the other applications filed by him shall automatically become invalid. The annual license fee of liquor shops situated in the jurisdiction of Greater Hyderabad Municipal Corporation (GHMC) is ₹ 1.04 crore for each shop for the year 2012-13.

During scrutiny of liquor shop allotment files and registers of P&ES, Hyderabad for the year 2012-13, audit noticed that against shops notified for serial numbers 117 and 118, two applications each were received from three persons {2 for shop 117 and 2 (one being common) for shop 118}. At the time of selection of licensee for shop 117, the successful applicant was absent and hence the allotment authority proceeded to next shop i.e. 118 without allotting the shop 117. As per the procedure, the shop 117 was to be allotted to applicant who had applied for both the shops. But allotment authority allotted shop 118 to applicant whose application for the same would have become invalid if the shop 117 was allotted to him in accordance with the rules. Thus, the incorrect procedure adopted resulted in non-disposal of shop 117.

In response, P&ES, Hyderabad replied (November 2012) that selected applicant who applied for shop 117 was absent even after three calls. Hence, allotment authority conducted draw of lots for next shop 118. Reply of the Department is not tenable as there was an applicant, Mr. Y, who was present at the time of allotment but was not allotted the shop as per Rules.

Matter was referred to Department in May 2013. Their reply has not been received (March 2014).

These issues were referred to the Government in August 2013. Their reply has not been received (March 2014).

3.10 Conclusions

Audit reviewed the process leading to issue of bar and shops licenses and collection of fees with reference to the applicable Rules. License fee was not collected for non-contiguous consumption enclosures or was short-levied. Licenses were transferred without collecting requisite fee. Licenses were issued/ renewed near educational/religious institutions/ hospitals.

3.11 Recommendations

Based on audit observations, following recommendations are made so as to arrest revenue leakage.

- Ensure that the bar licenses are issued/renewed strictly as per the provisions such as ensuring that sale outlets are not permitted near religious/educational institutions/hospitals.
- Ensure that the status of entity of Bar was not changed without prior approval of competent authority.
- Necessary amendment may be made to A.P. Excise (Grant of license of selling by Bar and Conditions of License) Rules, 2005 for collection of Additional License Fee from bar licenses based on area utilised for bar premises to dispense equal treatment.
- Insist on application for permission when the legal nature of the licensee changes and to dispose of such applications within reasonable time limits.

CHAPTER-IV
LAND REVENUE

CHAPTER IV LAND REVENUE

EXECUTIVE SUMMARY

Decrease in tax collection	In 2012-13 the collection of land revenue decreased by 56.05 <i>per cent</i> over the previous year.
Action taken by Department in respect of observations pointed out by audit in earlier years	During the five year period 2007-08 to 2011-12, audit pointed out non/short levy of conversion fee, fine, non-finalisation of alienation proposals, non-levy of interest on collection of arrears etc. with revenue impact of ₹ 1,221.67 crore in 368 cases. Department/Government had accepted audit observations in 188 cases involving ₹ 262.51 crore and recovered ₹ 0.92 crore in 88 cases.
Results of audits conducted in 2012-13	In 2012-13, audit test checked records of 34 offices relating to Department of Land Revenue and found audit observations relating to levy and collection of tax for conversion of agricultural land for non-agricultural purposes. The Department accepted non/short levies and other deficiencies of ₹ 76.82 crore in 200 cases of which 195 cases involving ₹ 12.87 crore were pointed out during 2012-13.
What audit has highlighted in this chapter	<p>In this chapter audit highlighted non-levy of conversion tax of ₹ 1,249.65 crore. Some of the significant audit findings are given below:</p> <p>Conversion tax was not levied on 4,430.41 acres of land alienated in favour of allottees for non-agricultural purposes such as housing, industries, tourism etc.</p> <p>In 16 test checked divisions, covering 3,977 cases 40,573 acres of land was converted for other than agricultural purposes through approval of layouts by Divisional Level Panchayat Officers (DLPOs), Urban Development Authorities (UDAs), District Town and Country Planning Officer, Municipal Corporations/Municipalities and through execution of either Development cum General Power of Attorney Agreements at Sub-registrar/District Registrar offices or mining/quarrying leases by Industries and Commerce Department. In all these cases land was converted without obtaining permission of conversion from Revenue Department and payment of conversion tax.</p>

Based on information gathered from selected offices of Industries and Commerce Department, audit noticed that though 1,441 mining/quarrying leases covering an area of 13,153.82 acres were executed between 2 January 2006 and 31 March 2012, none of the lessees had applied for conversion of lands to non-agricultural purposes resulting in non-levy of conversion tax and penalty.

Conclusions

Monitoring mechanism is to be prescribed at RDO level through periodical returns from Tahsildar in respect of new layouts/industrial/mining activities taken up in their jurisdiction.

Co-ordination is to be ensured between Land Revenue and other Departments by making issue of 'no-objection certificate' by Land Revenue Department mandatory to avoid unauthorised conversion of agricultural lands for non-agricultural purposes.

Suitable clause is to be incorporated in alienation orders stipulating mandatory levy and collection of conversion tax.

Mechanism is to be prescribed for exercising effective control over recovery process.

4.1 Tax administration

At the apex level, Chief Commissioner of Land Administration (CCLA) is responsible for administration of Revenue Board's Standing Orders (BSO), Andhra Pradesh (AP) Water Tax Act, 1988, AP Agricultural land (Conversion for non-agricultural purpose) Act, 2006, AP Irrigation, Utilisation and Command Area Development Act, 1984 and Rules and orders issued thereunder. State is divided into 23 districts, each of which is headed by a District Collector who is responsible for the administration of the respective district. Each district is divided into revenue divisions and further into mandals⁷⁷, which are kept under administrative charge of Revenue Divisional Officers and Tahsildars respectively. Each village in every mandal is administered by a Village Revenue Officer (VRO) under the supervision of the Tahsildar. VROs prepare tax demands under all the Acts mentioned above for each mandal from the village accounts and get it approved by the concerned *Amabandi* officers⁷⁸. VROs/Revenue Inspectors are entrusted with work of collection of revenue/taxes such as water tax, conversion fee for agricultural lands etc. At Government level, Principal Secretary (Revenue) is in charge of overall administration of Revenue Department.

4.2 Trend of receipts

Actual receipts from land revenue during the years 2008-09 to 2012-13 alongwith total tax receipts during the same period is exhibited in the following table and graphs.

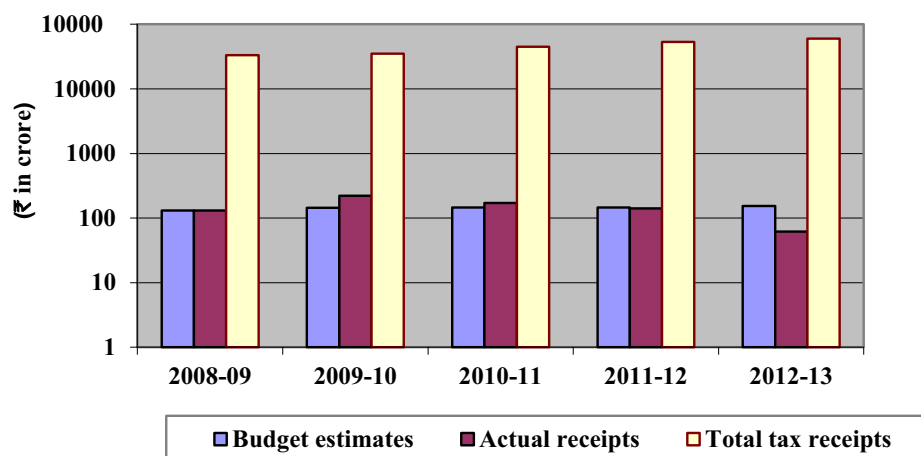
Table 4.1 - Trend of receipts

(₹ 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
2008-09	130.48	130.35	(-) 0.13	(-) 0.10	33,358.29	0.39
2009-10	144.00	221.56	(+) 77.56	(+) 53.86	35,176.68	0.63
2010-11	145.00	170.74	(+) 25.74	(+) 17.75	45,139.55	0.38
2011-12	146.00	140.56	(-) 5.44	(-) 3.73	53,283.41	0.26
2012-13	153.30	61.78	(-) 91.52	(-) 59.70	59,875.05	0.10

⁷⁷ Mandals are the jurisdictional area of each Tahsildar.

⁷⁸ *Amabandi* officer is District Collector or any other officer nominated by him not below the rank of Revenue Divisional Officer.

Graph 4.1: Budget estimates, actual receipts and total tax receipts


Percentage of land revenue receipts *vis-a-vis* total tax receipts of State had registered a decline from 0.39 *per cent* to 0.10 *per cent* during 2008-09 to 2012-13 except during 2009-10. Percentage of actual receipts *vis-à-vis* total tax receipts recorded during 2012-13 is lowest in the last five years.

4.3 Impact of Local Audit

During the last five years, audit had pointed out non/short levy, incorrect grant of remission, loss of revenue with revenue implication of ₹ 1,221.67 crore in 368 cases. Of these, Department/Government had accepted audit observations in 188 cases involving ₹ 262.51 crore and had since recovered ₹ 0.92 crore. Details are shown in the following table:

Table 4.2 - Impact of local audit

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	276	92	730.95	40	76.77	6	0.03
2008-09	180	53	110.50	22	0.66	2	0.01
2009-10	214	43	11.22	14	0.46	1	0.01
2010-11	272	82	314.01	42	182.83	37	0.45
2011-12	312	98	54.99	70	1.79	42	0.42
Total	1,254	368	1,221.67	188	262.51	88	0.92

Insignificant recovery of ₹ 0.92 crore (0.09 *per cent*) as against the money value of ₹ 262.51 crore relating to accepted cases during the period 2007-08 to 2011-12 highlights the failure of Government/Department machinery to act promptly to recover Government dues even in respect of cases accepted by them.

4.4 Levy and collection of tax for conversion of agricultural land for non- agricultural purposes

Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural purposes) Act, 2006, which came into force with effect from 2 January 2006 (hereinafter called as Act), prescribes a One-time Conversion Tax⁷⁹ (OTT) to be levied on all agricultural lands converted for non-agricultural purposes on or after the commencement of Act. The Act *inter alia* purports to

- monitor activities to discourage the indiscriminate conversion of agricultural land for non-agricultural purposes;
- accord permission for conversion of land for non-agricultural purposes like industrial, commercial, residential, etc.

Act mainly provides that

- no agricultural land in the State shall be put to non-agricultural purpose, without prior permission of the competent authority;
- every owner⁸⁰ or occupier of agricultural land shall pay a conversion tax at the rate of 10 *per cent* of the basic value⁸¹ of the land converted for non-agricultural purposes;
- if conversion tax so paid is found to be less than tax prescribed, a notice shall be issued by competent authority to applicant within 30 days of receipt of application intimating deficit amount to him. In case no intimation is received by applicant from Department within 30 days about deficit payment of conversion tax, it shall be deemed that amount paid is sufficient for the purpose;
- if any agricultural land had been put to non-agricultural purpose without obtaining permission, competent authority shall impose a penalty of 50 *per cent* over and above the conversion tax; and
- Any tax or penalty which remains unpaid after the date specified shall be recoverable as per provisions of Revenue Recovery (RR) Act.

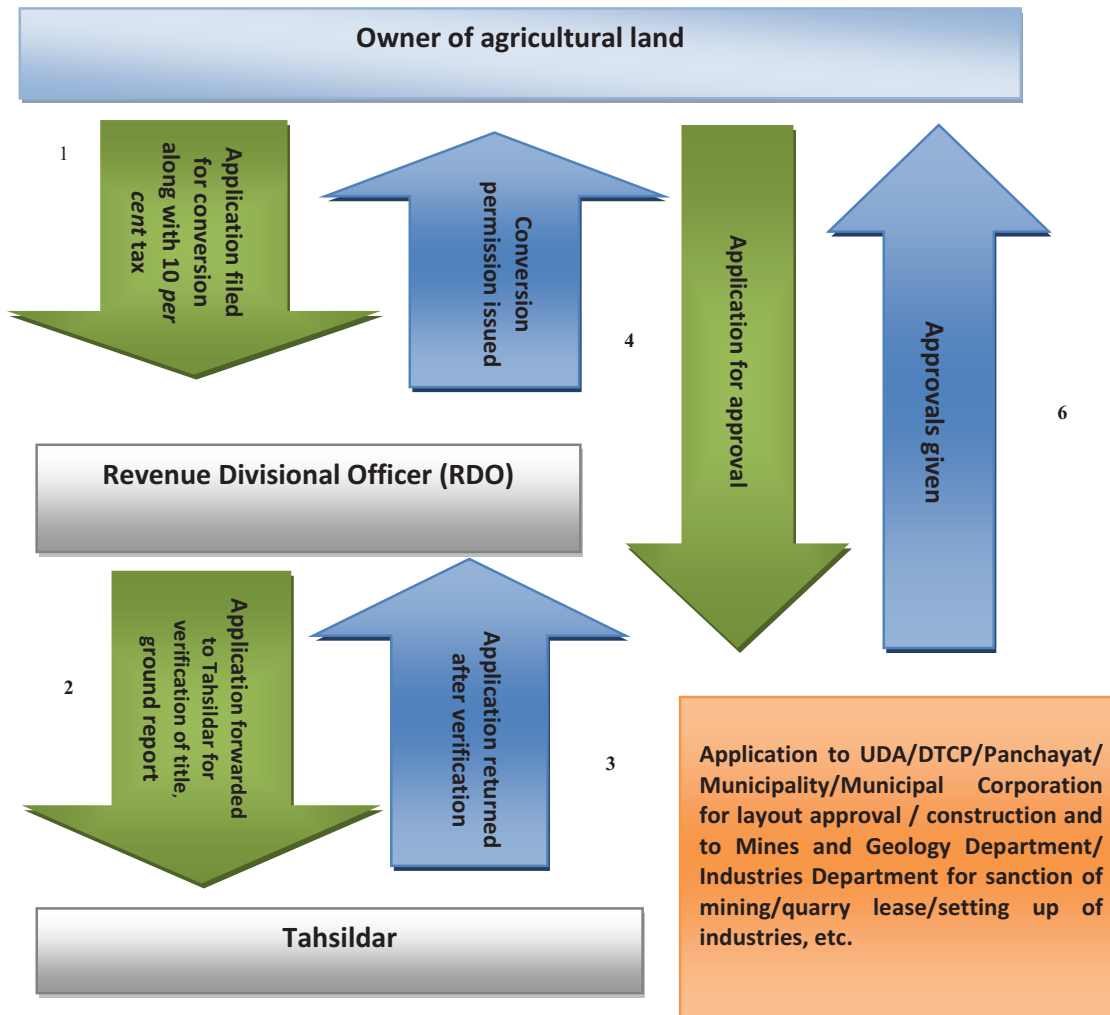
According to Rule 6(iv) of AP Agricultural Land (conversion for non-agricultural purposes) Rules, 2006, where land is deemed to have been converted for non-agricultural purposes, the date for the purpose of calculation of basic value shall be the earliest of the date of detection of conversion by competent authority or the date of entry into village accounts or the date of application by owner/occupier, whichever is earlier.

⁷⁹ Substituted for 'fee' vide G.O.Ms.No.396 dated 19 June 2012.

⁸⁰ As per Section 2 (m) of the Act, "Owner" includes any person in respect of whom lands that have been leased out by the State Government or the Central Government.

⁸¹ Basic value is defined as the value fixed by the competent authority i.e., Market value committee report which is maintained at District/Sub-Registrar's office.

Following flow chart describes the process of conversion of agricultural lands for non-agricultural purposes along with roles of all agencies concerned, and payment of conversion tax.



Revenue Department in State is headed by Principal Secretary, Revenue. Main activities of Revenue department include matters of land revenue (Survey, Settlement and Land Records, collection of water tax, alienation of Government land, according permissions for conversion of agricultural lands for non-agricultural purposes, etc.), State Excise, Commercial Taxes, Registration and Stamps as well as Endowments.

At the apex level, Chief Commissioner of Land Administration (CCLA) is responsible for administration of BSO, AP Agricultural Land (Conversion for non-agricultural purposes) Act, 2006, Rules and related orders issued. He is assisted by District Collectors at district level. Each district is divided into revenue divisions headed by Revenue Divisional Officer (RDO) and further sub-divided into mandals which are kept under administrative charge of Tahsildars. Each village in a mandal is administered by a Village Revenue

Officer (VRO) under the supervision of the Tahsildar. VROs/Revenue Inspectors are entrusted with work of maintaining land records and field inspection duties etc. RDO is the assessing authority in respect of land conversion and District Collector is the appellate authority.

4.4.1 Objectives, scope and methodology of audit

Audit was conducted with a view to examine whether there exists

- a sound system of levy of conversion tax/penalty due to Government, either in the normal course or in cases of detection of conversion; and
- adequate mechanism for coordination with other departments/bodies.

Audit was conducted between July 2012 and February 2013 for the period from 2007-08 to 2011-12 in 16⁸² out of 84 RDOs in State. Offices were selected keeping in view the (i) developments in real estate sector, (ii) major areas where mining/quarrying leases were granted by Mines & Geology Department, (iii) extent of industries set up, etc. In the selected offices, 749 out of 830 conversion cases (90 *per cent*) where conversion tax leviable was more than ₹ five lakh (balance 81 cases were not produced by Rangareddy East division) and 1,734 out of 11,046 conversion cases (10 *per cent*) where tax liability was less than ₹ five lakh were reviewed.

Information was obtained in respect of layout permissions from local bodies⁸³, District Industries Centre, Director of Mines and Geology and Vigilance and Enforcement Department of Government of Andhra Pradesh. Development/Development Agreement-cum-General Power of Attorney Agreements (DGPAs) entered into by owners and realtors/contractors and registered at District/Sub-Registrar offices were also taken into consideration to link up with the levy/non-levy of conversion tax/penalty. The above information/documents were cross-verified with the permissions issued by RDOs and notices issued by Department to check the non-levy/correctness of levy of conversion tax.

Audit objectives were benchmarked against the following sources of audit criteria:

- A.P Agricultural Land (Conversion for non-agricultural purposes) Act, 2006 and Rules thereunder; and
- Notifications and Orders issued by Government from time to time.

⁸² Bhongir, Chevella, Guntur, Kadapa, Kakinada, Kurnool, Mahabubnagar, Medak, Nellore, Ongole, Rajahmundry, Rangareddy East, Sangareddy, Vijayawada, Visakhapatnam and Warangal.

⁸³ Local bodies viz. Hyderabad Metropolitan Development Authority (HMDA), Vijayawada-Guntur-Tenali-Mangalagiri Urban Development Authority (VGTMDA), Municipal Corporations/Municipalities, District Town and Country Planning (DTCP), Divisional Level Panchayath Offices (DLPO)

Audit Findings

4.4.2 Non-levy of conversion tax and penalty in respect of alienation orders

During scrutiny of alienation records, audit noticed in the offices of nine RDOs that Government lands to the extent of 4,430.41 acres were alienated (between 2007 and 2012) in favour of 62 allottees (PSUs/Corporations/Semi-Government Organizations/Private Parties) for purposes such as housing, industries, tourism, etc. In all these cases, advance possession of lands was also given to allottees.

Under Section 4(1) of the Act, when the land was used for non-agricultural purposes, RDOs had to levy conversion tax at 10 *per cent*, on value of the land. There was no exemption allowed to any of these allottees under section 7 of Act or by Government. Through alienation orders, only was title of the land changed for using the same for specific non-agricultural purposes, but for that the land had to be converted first under the Act on payment of appropriate amount of conversion tax. Alienation orders were not to be construed as conversion orders. However, neither did allottees apply for conversion of land nor did RDOs take any action to levy the conversion tax. This resulted in non-levy and collection of conversion tax of ₹ 28.93 crore. Rangareddy East division alone contributed one third of the cases reported by audit and more than 50 *per cent* of tax realisable.

RDOs replied that matter would be examined.

4.4.3 Non/short levy of conversion tax in cases detected by the Vigilance and Enforcement Department

In the performance of its responsibilities, Vigilance and Enforcement (V&E) Department of Government of Andhra Pradesh, conducts physical inspection of layouts across the State. During 2007 and 2012 V&E detected unauthorised layouts that had come up in Revenue Divisions and reported to respective RDOs. Based on these reports, RDOs had to issue notices to land owners/realtors.

Audit noticed in Chevella Division that demand notices involving conversion tax and penalty of ₹ 20.49 crore in respect of two cases covering an extent of 28.22 acres of land were not issued despite being detected and informed by V&E Department.

Audit collected details of ventures / layouts laid in Ongole division from V&E Department and cross verified the same with records of RDO, Ongole and found that 271 layouts covering an extent of 834.39 acres of land were floated without obtaining prior permission from RDO. Conversion tax along with penalty leviable in these cases worked out to ₹ 19.59 crore.

Further, during test check of conversion cases finalised by Divisional offices of Chevella and Medak, it was noticed that based on reports of V&E, RDOs had issued notices in two cases, to individuals/realtors for payment of conversion tax and penalty. While issuing notices, RDOs had erroneously adopted area of land as 1.07 acres instead of 14.38 acres resulting in short levy of conversion tax and penalty by ₹ 8.64 crore.

Hence, inaction/erroneous action by Department in cases detected by V&E Department resulted in non/short levy of tax and penalty amounting to ₹ 48.72 crore.

RDOs stated that revised demand notices would be served.

Lack of co-ordination between Revenue and other Departments

4.4.4 Various layouts/construction approving authorities

Audit collected information/documents from other Departments for cross verification with records of the selected RDOs to test check monitoring mechanism of the department. In this process the following information was obtained from various sources as described below:

- **Divisional Level Panchayat Officers (DLPOs):** Details of the layouts approved by the Gram Panchayats were collected from 13 DLPOs⁸⁴.
- **Urban Development Authorities (UDAs):** UDAs are the layout approving authorities for the urban areas falling in other than municipal limits as well as District Town and Country Planning limits in the state wherever the UDAs formed. Information about the layouts approved by the two UDAs i.e. HMDA⁸⁵ and VGTMUDA⁸⁶ was collected.
- **Development Agreement-cum-General Power of Attorney (DGPAs):** Audit collected, from two District Registrar offices⁸⁷ and three Sub-Registrar offices⁸⁸, copies of DGPAs which were executed between the realtors/land owners and contractors for conversion/development of land into plots/buildings.
- **District Town and Country Planning (DTCP):** Audit collected information from five DTCPs⁸⁹ and 10 Municipal Corporations/Municipalities⁹⁰ regarding all the layouts/constructions which came up between 1 April 2007 and 31 March 2012.

⁸⁴ Bhongir, Guntur, Kadapa, Kakinada, Kurnool, Mahabubnagar, Nellore, Ongole, Rajahmundry, Rangareddy East, Vijayawada, Visakhapatnam and Warangal.

⁸⁵ Hyderabad Metropolitan Development Authority

⁸⁶ Vijayawada-Guntur-Tenali-Mangalagiri Urban Development Authority

⁸⁷ Nellore and Sangareddy.

⁸⁸ Narsapur, Qutubullapur and Stonehousepet.

⁸⁹ Kurnool, Medak, Ongole, Rajahmundry and Sangareddy.

⁹⁰ Addanki, Kadapa, Kakinada, Kurnool, Mandapeta, Ongole, Pithapuram, Rajahmundry, RC Puram and Samalkot.

- **Industries and Commerce Department:** Audit collected information from the official website of the Industries and Commerce Department and District Industries Centres, in respect of the details of lands used by the units that were set up after 1 April 2007 in the test checked divisions.

Information collected from these sources was cross checked with the records related to conversion permissions and notices for conversions issued by the concerned RDOs. It was observed that in the 16 test checked divisions, in 3,977 cases 40,573 acres of land was converted for use other than agricultural purposes with the layout approvals/permissions issued by the above respective agencies without obtaining the permission of conversion from and payment of conversion fees to the Revenue Department. Neither the individuals/organizations approached the concerned RDOs for obtaining the conversion permissions nor had the Department made any effort to levy conversion tax. Owing to non-existence of provisions in the Act for sharing the information about grant of permissions/leases by other Departments for using agricultural land for non-agricultural purposes and non-coordination with these agencies, conversion fees and penalty amounting to ₹ 1,047.28 crore could not be levied and collected as shown in the following table:

(₹ in crore)

Sl No.	Source	No. of cases	Extent (Ac-Cts)	Total value of land ⁹¹	Conv. Tax @ 10%	Penalty @ 50% of CT	Total Tax and Penalty
1.	Divisional Level Panchayat Officers (DLPOs)	3,620	37,283.50	6,115.06	611.51	305.75	917.26
2.	Urban Development Authorities (UDAs)	126	1,045.46	310.27	31.03	15.51	46.54
3.	Development Agreement-cum-General Power of Attorney	97	983.10	430.95	43.10	21.55	64.64
4.	District Town and Country Planning (DTCP)	86	404.75	59.22	5.92	2.96	8.88
5.	Industries and Commerce Department	48	856.17	66.38	6.64	3.32	9.96
TOTAL		3,977	40,573	6,981.88	698.19	349.09	1,047.28

In Rangareddy East Division alone, 11,360 acres (28 per cent of total) of land was being used for non-agricultural purposes by 774 individuals/organizations, without obtaining conversion permission and payment of conversion tax and penalty of ₹ 296 crore (28 per cent of total).

4.4.5 Mining/quarry leases

Director, Mines & Geology (DMG) and Deputy Directors (DDs) are empowered to grant mining/quarry leases in State. Assistant Director, Mines

⁹¹ The total value of the land was calculated as per the basic values maintained by Registration and Stamps Department.

and Geology (ADMG) is administrative authority who monitors mining/quarrying operations carried out by lease holders in his jurisdiction.

Section 2(m)(i) of the Act defines “Owner” and the definition includes any person in respect of whom lands have been leased out by State Government or Central Government and Section 4(1) provides that every owner or occupier of agricultural land shall pay a conversion tax for using the land for non-agricultural purposes. Hence, every land leased for mining/quarrying is required to be converted and liable for payment of conversion fees.

Audit obtained information from DMG, Hyderabad and twelve ADsMG⁹² in respect of mining/quarry leases that were executed between 2 January 2006 and 31 March 2012 and cross checked the same with permissions issued by Revenue Divisions concerned. It was observed that though 1,441 mining/quarrying leases covering an area of 13,153.82 acres were granted/executed during the above period, none of the lessees had applied for conversion of their lands from agricultural use to non-agricultural use nor had Department taken any action to levy conversion tax/penalty. This resulted in non-levy of conversion tax and penalty of ₹ 84.54 crore.

In response, five RDOs⁹³ accepted audit observation and intimated that demand notices will be issued. However, three RDOs⁹⁴ stated that these lands were rocky and hilly areas and unfit for agriculture. But Section 7 of the Act does not allow any exemption to such lands and under Section 2(m)(i) read with Section 4(1) of the Act, there indeed was liability to pay conversion tax. Remaining six RDOs replied that matter would be examined.

The above cases point towards absence of a co-ordination mechanism within Revenue Department with other departments such as Panchayat Raj, Municipal Administration and Urban Development, Registration and Stamps, Industries and Commerce (Mines & Geology) which resulted in non/short levy of conversion tax/penalty.

4.4.6 Non levy of penalty in cases of conversion without prior permission

During scrutiny of conversion cases finalised by 12 RDOs, it was noticed that in 110 cases, RDOs had issued permissions for conversion of 503.97 acres of agricultural lands for non-agricultural purposes and collected conversion tax. However, as per reports of Tahsildar/Revenue Inspector/VRO these lands were already being used for non-agricultural purposes without prior permission of the competent authority. Hence, penalty was leviable vide Section 6(2) of the Act. RDOs, however, had levied only conversion tax, which resulted in non-levy of penalty to the tune of ₹ 2.45 crore in test checked cases.

⁹² Guntur, Hyderabad, Kurnool, Mahabubnagar, Medak, Nalgonda, Nellore, Ongole, Rajahmundry, Vijayawada, Visakhapatnam and Warangal.

⁹³ Bhongir, Kakinada, Kurnool, Ongole and Warangal.

⁹⁴ Mahabubnagar, Rangareddy East and Visakhapatnam.

RDOs replied that notices would be issued to the parties concerned.

4.4.7 Misclassification of land

Details of lands such as name of land owner, survey number, extent and classification etc., are recorded in *Adangal* (Village Account No.3) maintained by VRO under supervision of Tahsildar.

It was noticed that RDO, Kakinada issued (April 2008) a show cause notice to a firm imposing conversion tax on an extent of 160.32 acres of agricultural lands held by them in Vakalapudi village. In response, the firm stated (May 2008) that lands were classified as 'Potukharabu' (which means land not fit for cultivation) and conversion tax did not apply to such lands. Based on Tahsildar's report (June 2008) that lands were classified as 'Potukharabu' and not fit for cultivation, RDO had withdrawn (June 2008) show cause notice issued to the firm. Audit, however, noticed that said lands were classified as dry/patta lands in village accounts (*Adangal*) that attracted conversion tax and that Tahsildar had misreported. Thus conversion tax alongwith penalty amounting to ₹ 34.92 crore was leviable on the firm.

RDO replied that matter would be examined.

4.4.8 Incorrect computation of tax

During test check of conversion cases finalised by RDO, Rangareddy East, it was noticed that five individuals had applied for conversion of 58.60 acres of agricultural lands for non-agricultural purposes and paid tax. It was observed that conversion tax of ₹ 1.64 crore was levied by RDO instead of ₹ 2.87 crore due to erroneous calculation resulting in short levy of conversion tax to the tune of ₹ 1.23 crore.

RDO stated that revised demand notices would be served.

4.4.9 Short levy of tax due to under valuation and non-levy of penalty

During test check of records of seven RDOs⁹⁵, it was noticed that 15 individuals/entities applied for conversion of 98.11 acres of agricultural land for non-agricultural purposes and paid the conversion tax. Audit noticed that lands were undervalued by adoption of lesser basic values than those maintained by Registration and Stamps Department. Department had levied conversion tax of ₹ 0.50 crore in these cases instead of ₹ 1.78 crore resulting in short levy of conversion tax of ₹ 1.28 crore. In seven of these cases (pertaining to Bhongir, Chevella and Sangareddy divisions) it was noticed that land was already being utilised for non-agricultural purposes without necessary permission for conversion and payment of tax thereof but penalty of ₹ 0.30 crore leviable was also not levied.

⁹⁵ Bhongir, Chevella, Kakinada, Kurnool, Ongole, Sangareddy and Vijayawada.

In response five RDOs⁹⁶ stated that action would be taken after examining the matter. RDOs of Chevella and Sangareddy divisions replied that demand notices would be served.

4.4.10 Short collection due to ineffective recovery process

As per Section 6(4) of the Act, any tax penalty which remains unpaid after the date specified shall be recoverable as per provisions of RR Act.

Audit noticed that 15 RDOs⁹⁷ had raised demands in respect of conversion tax non/short realised during the period from 2006-07 to 2011-12. It was seen from Demand Collection and Balance (DCB) Statements maintained by RDOs as of 31 March 2012, that out of total demand of ₹ 2,512.56 crore in 4,750 cases, only a sum of ₹ 9.84 crore pertaining to 296 cases was collected leaving ₹ 2,502.72 crore pending collection. No further action under RR Act had been taken to recover these arrears.

RDOs replied that necessary steps would be taken to recover the outstanding amount. Reply does not address the question of the magnitude of arrears lying unrealised.

4.4.11 Conclusion

Absence of a system of cross verification and co-ordination between Revenue Department and other Departments/Local Bodies resulted in non-levy of requisite conversion tax/penalty. No periodical returns were prescribed at RDO/Tahsildar level to watch/report on new mining/quarry leases/industries/layouts in their jurisdiction leading to deficient monitoring mechanism in Department.

4.4.12 Summary of recommendations

Government may consider the following recommendations to prevent the leakage of revenue:

- Prescribe a monitoring mechanism at RDO level through periodical returns from Tahsildar in respect of new layouts/industries/mining activities taken up in their jurisdiction;
- Ensure co-ordination between Land Revenue Department and other departments by considering to make ‘No Objection Certificate’ mandatory from the competent authority of Revenue Department before granting technical sanctions for layouts/constructions/mining and quarrying leases by the Urban Development Authorities/Municipal Corporations/Municipalities/DTCs/Gram Panchayats/Mines and Geology Department to avoid unauthorised conversion of agricultural lands for non-agricultural purposes;

⁹⁶ Bhongir, Kakinada, Kurnool, Ongole and Vijayawada

⁹⁷ Bhongir, Chevella, Guntur, Kadapa, Kakinada, Kurnool, Mahabubnagar, Medak, Nellore, Rajahmundry, Rangareddy East, Sangareddy, Vijayawada, Visakhapatnam and Warangal.

- Incorporate a suitable clause in the alienation orders stipulating mandatory levy and collection of conversion tax;
- Prescribe a mechanism for exercising effective control over recovery process.

CHAPTER-V
TAXES ON VEHICLES

CHAPTER V TAXES ON VEHICLES

EXECUTIVE SUMMARY

Increase in tax collection	In 2012-13, collection of taxes from motor vehicles increased by 12.40 <i>per cent</i> over previous year.
Low recovery by Department against observations pointed out by audit in earlier years	During period 2007-08 to 2011-12, audit had pointed out non/short realisation of tax, fee etc., with revenue implication of ₹ 414.20 crore in 1238 cases. Of these, Department/ Government accepted audit observations in 621 cases involving ₹ 61.18 crore and recovered only ₹ 9.19 crore in 294 cases. Recovery position as compared to acceptance of audit observations was low (15.02 <i>per cent</i>).
Results of audits conducted in 2012-13	In 2011-12 audit test checked records of 34 offices of Transport Department and found preliminary audit observations involving non/short levy of tax, fees, penalty, realisation etc., of ₹ 147.91 crore in 197 cases. The Department accepted under assessments and other deficiencies of ₹ 7.74 crore in 42 cases during the year 2012-13 and rest in earlier years. An amount of ₹ 2.43 lakh was realised in two cases.
What audit has highlighted in this chapter	<p>In this chapter illustrative cases involving tax effect of ₹ 38.11 crore selected from observations noticed during test check of records relating to levy and collection of taxes on vehicles in offices of Transport Commissioner (TC), Joint Transport Commissioner (JTC), Regional Transport Officers (RTO), where non-compliance with provisions of Acts/Rules were not observed are featured.</p> <p>In addition to recurring issues, audit made new observations by way of data analysis. Following audit observation were made</p> <p>(i) Audit noticed that contract carriage permits issued in offices selected by audit were misused. Audit observed that Private Contract Carriages (PCCs) were being used as stage carriages. Lack of effective vigilance/enforcement activity by Regional Transport Authorities (RTAs) in state led to misuse of permits.</p>

(ii) Analysis of tax payable by PCCs holding intra state permits and that of Andhra Pradesh State Road Transport Corporation (APSRTC) was compared. Audit observed that although similar services were rendered by PCCs and APSRTC there was difference in tax liability due to differential tax structure which favoured PCC operators.

Conclusion

Department needs to improve its internal control system so that weaknesses in the system are addressed and omissions of the nature detected by audit are avoided in future.

In order to prevent accumulation of arrears, for effective monitoring and realisation thereof, a system of automatic generation of notices to defaulters is to be introduced if arrears cross beyond a prescribed limit.

With regard to payment of life tax on non transport vehicles, Audit recommends that Government may take necessary steps to update Citizen Friendly Services in Transport department (CFST) package so as to ensure levy of Life tax on second/subsequent non transport vehicles as well as those owned by companies, institutions, societies and organisations at applicable rates and minimise scope for non/short levy of tax.

With regard to audit observation on 'non-levy of green tax', audit recommends that Government put in place, a proper monitoring mechanism as part of CFST package to raise alerts for demanding green tax 60 days prior to expiry of validity of registration, in accordance with provisions of Central Motor Vehicles (CMV) Rules, 1989. Further, they may also introduce necessary mechanism to update demand of green tax whenever transactions of tax payments and issue/renewal of permits occur.

5.1 Tax administration

Transport Department of Government of Andhra Pradesh is governed by Motor Vehicles (MV) Act, 1988, Central Motor Vehicle (CMV) Rules, 1989, Andhra Pradesh Motor Vehicles Taxation (APMVT) Act, 1963, Andhra Pradesh Motor Vehicles Taxation (APMVT) Rules, 1963 and Andhra Pradesh Motor Vehicle (APMV) Rules, 1989. Transport Department is primarily responsible for enforcement of provisions of Acts and rules framed thereunder which *inter alia* include provisions for collection of taxes and fees, issue of driving licenses and certificates of fitness to transport vehicles, registration of motor vehicles and granting regular and temporary permits to vehicles. At Government level, Principal Secretary (Transport, Roads and Buildings Department) heads Transport Department. Transport Commissioner (TC) is in charge of the Department. At district level, there are Deputy Transport Commissioners (DTCs) and Regional Transport Officers (RTOs) who are in turn assisted by Motor Vehicles Inspectors (MVIs) and other staff.

5.2 Trend of receipts

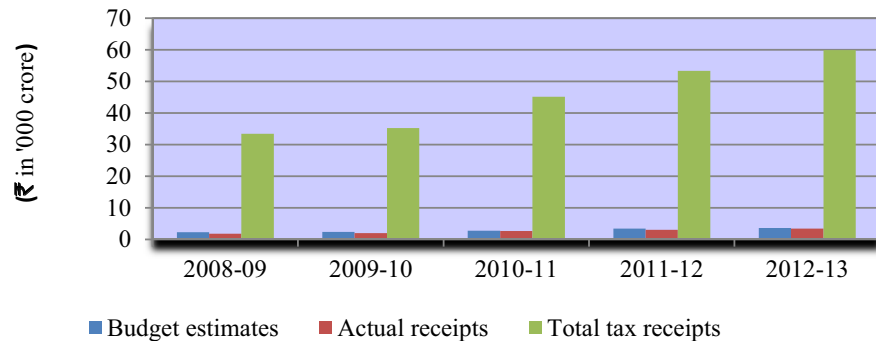
Actual receipts from taxes on vehicles during years 2008-09 to 2012-13, along with total tax receipts during the same period, is exhibited in the following table and graphs:

Table 5.1: Receipts from taxes on vehicles

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	2,289.80	1,800.62	(-) 489.18	(-) 21.36	33,358.29	5.40
2009-10	2,315.00	1,995.30	(-) 319.70	(-) 13.81	35,176.68	5.67
2010-11	2,778.00	2,626.75	(-) 151.25	(-) 5.44	45,139.55	5.82
2011-12	3,433.60	2,986.41	(-) 447.19	(-) 13.0	53,283.41	5.60
2012-13	3,640.00	3,356.60	(-)283.40	(-) 7.7	59,875.05	5.61

Graph 5.1: Budget estimates, actual receipts and total tax receipts



There was an increasing trend in receipts from taxes on motor vehicles from 2008-09 to 2012-13, matching trend in total tax receipts of State. It has also been noticed that budget estimates *vis-a-vis* actual receipts varied between (-)five *per cent* and (-) 21 *per cent*.

5.3 Cost of collection

Figures of gross collection in respect of taxes on vehicles, expenditure incurred on collection and percentage of such expenditure to gross collection during years 2010-11, 2011-12 and 2012-13 along with relevant all India average percentage of expenditure on collection to gross collection are mentioned below:

Table 5.2: Cost of collection of taxes on vehicles

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Taxes on vehicles	2010-11	2,626.75	85.17	3.24	3.07
	2011-12	2,986.41	100.38	3.36	3.71
	2012-13	3,356.60	110.78	3.30	2.96

Cost of collection in respect of taxes on motor vehicles has increased in absolute terms though as percentage to gross collection it decreased in 2012-13, however the percentage was more than All India average in 2012-13.

5.4 Impact of Local Audit

During last five years, audit had, pointed out non/short levy, non/short realisation, loss of revenue with revenue implication of ₹ 414.20 crore in 1,238 cases. Of these, Department/Government had accepted audit observations in 621 cases involving ₹ 61.18 crore and had since recovered ₹ 9.19 crore. Details are shown in the following table:

Table 5.3: Impact of Local audit on Taxes on Vehicles

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	39	230	74.16	128	13.92	90	3.43
2008-09	44	242	80.81	68	14.62	27	1.80
2009-10	44	277	69.18	50	2.31	50	2.34
2010-11	44	259	115.09	139	9.39	88	0.92
2011-12	44	230	74.96	236	20.94	39	0.70
Total	215	1,238	414.20	621	61.18	294	9.19

Recovery of only ₹ 9.19 crore (15.02 *per cent*) against money value of ₹ 61.18 crore relating to accepted cases during period 2007-08 to 2011-12 highlights failure of Government/Departmental machinery to act promptly to recover Government dues, even in respect of cases accepted by them.

5.5 Working of Internal Audit Wing

Internal audit provides a reasonable assurance of proper enforcement of laws, rules and departmental instructions, and this is a vital component of the internal control framework. There was no system of internal audit in department to ascertain compliance with Rules/Government orders by Department. When this was pointed out in Audit Report 2008-09, department assured that internal audits would be conducted in future. However, department did not furnish information regarding its implementation (March 2014).

5.6 Results of Audit

Test check of records of 34 offices of Transport Department revealed preliminary audit observations involving underassessment of tax and other irregularities of ₹ 147.91 crore in 197 cases, which fall under following categories:

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non-realisation of fee due to non-renewal of fitness certificates	31	2.76
2.	Non-levy of quarterly tax and penalty	30	47.09
3.	Non/short levy of life tax	49	8.95
4.	Non-finalisation of action on VCR under Section 200	28	1.62
5.	Non-levy and collection of green tax	31	0.57
6.	Non levy of stamp duty on vehicles registered with hypothecation ⁹⁸ agreements	1	59.42
7.	Life tax due to variation in invoice price of vehicles	1	16.51
8.	Misuse of 'Contract Carriage' permits as 'Stage Carriage' permits	1	8.31
9.	Differential tax structure between private bus operators and Andhra Pradesh State Road Transport Corporation (APSRTC)	1	1.22
10.	Other irregularities	24	1.46
Total		197	147.91

During 2012-13 Department accepted short levy and other deficiencies of ₹ 7.74 crore in 42 cases pointed out during 2012-13. A few illustrative cases involving ₹ 38.11 crore are mentioned in succeeding paragraphs.

⁹⁸ Para on the subject is included in Chapter-VI - 'Stamp Duty and Registration Fees'

5.7 Audit Observations

During scrutiny of records in offices of Transport department relating to revenue received from quarterly tax, green tax, life tax, etc., on vehicles Audit observed several cases of non-observance of provisions of Act/Rules resulting in non/short levy of tax/penalty and other irregularities as mentioned in succeeding paragraphs of this Chapter. These cases are illustrative and are based on test check carried out by audit. Audit pointed out such omissions, but not only do irregularities persist; these remain undetected till an audit is conducted. There is need for Government to improve the internal control system including strengthening internal audit so that such omissions are detected and rectified.

5.8 Quarterly Tax

5.8.1 Ineffective monitoring and non-realisation of Quarterly Tax arrears

Section 3 of APMVT Act stipulates that every owner of a motor vehicle is liable to pay the tax at rates specified by Government from time to time. Section 4 of APMVT Act specifies that tax shall be paid in advance either quarterly, half yearly or annually within one month from commencement of quarter. Under Section 6 of APMVT Act read with rule 13(1) of APMVT Rules, penalty for belated payment of tax shall be leviable at the rate equivalent to quarterly tax demanded, if tax is paid within two months and at twice the rate of quarterly tax if tax is paid beyond two months from beginning of quarter on cases detected.

In terms of section 53 of the MV Act, read with Rule 102 of AP MV Rules, 1989, any registering authority or other prescribed authority may suspend registration of a motor vehicle by sending a notice if the provisions of Act were not complied with.

During test check of records, audit noticed (between April 2012 and March 2013) that there was accumulation of arrears of quarterly tax of ₹ 19.55 crore realisable from owners of 49,486 vehicles in 34 offices⁹⁹ during the year 2011-12. Audit observed that in cases where quarterly tax exceeded ₹ 5000, tax amounting to ₹ 10.32 crore was neither paid by owners of 6,447 transport vehicles nor demanded by Department. Besides, penalty of ₹ 20.65 crore was also leviable at twice the rate of quarterly tax for delay over two months. This resulted in non-realisation of quarterly tax and penalty amounting to ₹ 30.97 crore.

In response, RTO Khammam stated (March 2013) that in respect of 110 vehicles, an amount of ₹ 2.07 lakh had been recovered; RTOs Mancherial

⁹⁹Joint Transport Commissioner (JTC) – Khairatabad. DTCs - Adilabad, Anantapur, Kadapa, Kakinada, Karimnagar, Kurnool, Nellore, Nizamabad, Rangareddy, Srikakulam, Vijayawada, Visakhapatnam and Warangal. RTOs - Amalapuram, Gudivada, Hindupur, Hyderabad (East, West, North, South), Ibrahimpatnam, Khammam, Mahbubnagar, Mancherial, Medchal, Nandigama, Nandyal, Nalgonda, Ongole, Proddatur, Rajahmundry, Siddipet and Vizianagaram.

and Nandyal stated (February 2013 and July 2013) that show cause notices were issued to all registered owners of vehicles (66); DTC Kakinada and RTO Hindupur have stated (April/May 2012) that show cause notices would be issued to vehicle owners. Seven DTC/RTOs¹⁰⁰ (between April 2012 and August 2012) stated that action would be taken to levy and realise tax and penalty in respect of 713 vehicles. Seven DTCs/RTOs¹⁰¹ in respect of 713 vehicles stated (between May 2012 and March 2013) that detailed reply would be submitted in due course. No reply has been received in respect of remaining vehicles.

In order to prevent accumulation of arrears, for effective monitoring and realisation, a suitable mechanism for automatic generation of show cause notices (SCN) is required to be put in place in Citizen Friendly Services in Transport (CFST) package.

Matter was referred to Department in April 2013 and to Government in July 2013. Their reply has not been received (March 2014).

5.8.2 Non realisation of quarterly tax and penalty in respect of vehicles owned by state autonomous bodies/State Government Companies/Municipalities

As per Section 9(1) of APMVT Act, Government granted tax exemption¹⁰² to all motor vehicles belonging to Government of Andhra Pradesh which are used for non-commercial purposes. Scope of this notification was extended¹⁰³ to jeeps used by Zilla Parishads/Panchayat Samitis and road rollers supplied to Zilla Parishads. However, vehicles registered in favour of quasi Government/autonomous bodies/State Government Companies were not exempted from payment of tax.

Audit noticed (July 2012 and March 2013) during scrutiny /analysis of data relating to DTC Nizamabad and RTO Khammam that quarterly tax of ₹ 12.26 lakh for the years 2008-09 to 2011-12 was not paid in respect of 140 vehicles maintained by State Government Company/Corporation/autonomous bodies. Besides tax, penalty of ₹ 24.51 lakh leviable at twice the rate of quarterly tax for delay over two months was not levied. This resulted in non-realisation of tax and penalty amounting to ₹ 36.76 lakh.

In response, DTC and RTO stated that show cause notices (SCNs) would be issued.

Matter was referred to Department in March 2013 and to Government in July 2013. Their reply has not been received (March 2014).

¹⁰⁰ DTCs - Karimnagar, Nellore, Ongole and Warangal.

RTOs - Amalapuram, Nalgonda and Vizianagaram.

¹⁰¹ DTCs-Adilabad, Ananthapur, Kurnool, Nizamabad, and Visakhapatnam

RTOs- Mahabubnagar and Rajahmundry.

¹⁰² G.O.Ms. No.453 Home (TR-II) dated 17 March 1964.

¹⁰³ Government Memo No. 2880/Progs VI/65 dated 10 October 1965,
Government Memo No. 5387/Progs VI/65-2 dated 7 January 1966,
Government Memo No. 2851/Progs VI/66-2 dated 29 August 1966.

5.9 Life Tax

5.9.1 Non/Short levy of life tax on construction equipment vehicles

As per Section 4 (aa) of APMVT Act, tax levied under second proviso to sub-section (2) of Section 3 shall be for life time of motor vehicle and shall be paid in advance in lumpsum by registered owner of motor vehicle or any other person having possession or contract thereof.

As per amended provisions of Section 3(2) of APMVT Act, through an ordinance¹⁰⁴, construction equipment vehicles were brought under purview of life tax. Rates, as specified in fourth schedule to AP MVT, Act are leviable on these vehicles which vary from four *per cent* to 7.5 *per cent*, depending upon cost of vehicle and age of vehicle at the time of registration.

During data analysis and test check of records of offices of three DTCs¹⁰⁵ and RTO Khammam, audit noticed (July and August 2012) that in offices of DTC Medak and RTO Khammam, life tax of ₹ 1.41 crore was not levied in respect of 167 vehicles; in remaining two offices there was short levy of life tax of ₹ 52.22 lakh on 57 construction equipment vehicles. Thus there was a total non/short levy of life tax of ₹ 1.93 crore in respect of 224 construction equipment vehicles.

After Audit pointed out the cases, DTC Karimnagar replied (August 2012) that action would be taken for collection of life tax and audit intimated (52 vehicles). Final replies in respect of remaining three offices have not been received (172 vehicles).

Matter was referred to Department in January 2013 and to Government in June 2013. Their reply has not been received (March 2014).

5.9.2 Short levy of Life Tax on Non Transport Vehicles

Government of Andhra Pradesh amended Section 3 (2) of APMVT Act, through an Ordinance No. 2/2010 dated 2 February 2010, enhancing life tax from 12 to 14 *per cent*, at the time of registration of second or subsequent non-transport vehicles owned by individuals. This ordinance was extended through ordinance (No.5/2010) dated 20 April 2010 and replaced by Act No. 11/2010 dated 31 July 2010.

Audit noticed (between April 2012 and August 2013) during audit of offices of 12 DTCs¹⁰⁶ and 10 RTOs¹⁰⁷ that life tax in respect of 647 second or subsequent registration of non-transport vehicles owned by individuals was

¹⁰⁴ No. 2/2010 dated 2 February 2010. This Ordinance was extended vide Ordinance No. 5/2010 dated 20 April 2010 and replaced by Act No. 11/2010 dated 31 July 2010

¹⁰⁵ DTCs - Karimnagar, Medak and Warangal

¹⁰⁶ DTCs - Adilabad, Eluru, Kadapa, Kakinada, Karimnagar, Kurnool, Medak, Nellore, Nizamabad, Rangareddy, Warangal and Vijayawada

¹⁰⁷ RTOs - Amalapuram, Hindupur, Ibrahimpatnam, Khammam, Mahabubnagar, Nalgonda, Nandyal, Ongole, Proddatur and Rajahmundry

collected during 2011-12 at pre-revised rate, instead of enhanced rate, resulting in short levy of life tax amounting to ₹ 33.62 lakh.

In response to audit observation, DTCs and RTOs replied (between April 2012 to April 2013) that details would be verified and action will be taken for collection of differential amount under intimation to audit.

Matter was referred to Department in January/May 2013 and to Government in June/July 2013. Their reply has not been received (March 2014).

5.10 Misuse of ‘Contract Carriage’ permits as ‘Stage Carriage’ Permits

As per Section 2 (7) of MV Act, a “Contract Carriage” means a motor vehicle which carries passengers for hire or reward and is engaged under a contract, for the use of such vehicle for carriage of passengers (a) on time basis, whether or not with reference to any route or distance; or (b) from one point to another, without stopping to pickup or set down passengers not included in contract anywhere during journey.

In terms of Section 2(40) of the MV Act, a “Stage Carriage” means a motor vehicle which carries more than six passengers excluding driver for hire or reward at separate fares paid by or for individual passengers, either for whole journey or for stages of journey.

Government by its order¹⁰⁸ fixed tax payable in respect of ‘contract carriage’ as ₹ 2,625 per seat per quarter (PSPQ) and in respect of ‘Stage Carriage’ as ₹ 3,675 PSPQ.

Under section 3A of AP MVT Act if permit granted under one class of vehicle is misused attracting higher rate of tax falling in another category, differential amount is collectable as additional Tax.

Audit collected information relating to 452 contract carriage permits granted from five offices¹⁰⁹. By obtaining service numbers of PCCs from portals of website and matching them with permits granted by concerned, audit found that these vehicles were issued contract carriage permits. Audit noticed from portals of these PCCs that tickets were issued from originating point to multiple points before reaching destination which was in violation of conditions prescribed under contract carriage permit.

It is thus evident that there was lack of effective vigilance/enforcement activity by RTA authorities in State resulting in misutilisation of contract carriage permits by private operators.

Government could not collect differential tax under APMVT Act as AP High Court ordered¹¹⁰ to forbear from taking action under section 3A of the Act till

¹⁰⁸ G.O.Ms.No.68 (Transport, Roads & Building (Tr 1)) department dated 13 April 2006

¹⁰⁹ Chittoor, Rangareddy, Tirupati, Vijayawada and Visakhapatnam

¹¹⁰ WP No. 21008 of 2006

a notification was issued and a machinery was provided for adjudication and collection of additional tax. Till date Government had neither issued any notification nor provided any adjudication machinery. In the absence of any other provisions for taking action against defaulting permit holders, misuse of permits continued.

Matter was referred to Department in March 2013 and to Government in April 2013. Their reply has not been received (March 2014).

5.11 Non-renewal of fitness certificates

As per Section 56 of the MV Act, a transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness (FC) issued by prescribed authority. As per Rule 62 of the CMV Rules, FC in respect of the transport vehicles shall be renewed every year. Rule 81 of CMV Rules, prescribes fee for conducting test of a vehicle for grant and renewal of FC.

Audit noticed (between April 2012 and May 2013) during test check of records relating to grant of FCs and analysis of the data of offices of one Joint Transport Commissioner (JTC) Khairatabad, 14 DTCs¹¹¹ and 15 RTOs¹¹² that during the year 2011-12, FCs in respect of 58,930 Transport vehicles had not been renewed although their status was active as per CFST database. 'Active' status implies that the vehicle has all the requisite certificates. Non-renewal of FC which is issued after testing of the vehicle for fitness, jeopardised public safety besides non realisation of FC fee of ₹ 1.75 crore.

In response, 22 JTC/DTCs/RTOs¹¹³ replied (between April 2012 and May 2013 in respect of 42,037 vehicles) that vehicles which plied without valid fitness certificate would be booked by enforcement authorities by prosecuting/seizure of vehicle. It was responsibility of registered owner to get fitness certificate renewed. It was added that offices were taking suitable action on vehicles plying without valid FC.

DTC Eluru stated (May 2012 in respect 409 vehicles) that it would be brought to notice of Transport Commissioner for making arrangements in system to allow both transactions i.e., tax payment and renewal of FC in a single counter when validity of FC expired.

Six DTCs/RTOs¹¹⁴ (between May 2012 and March 2013 in respect of 16,484 vehicles) furnished irrelevant replies.

¹¹¹ DTCs - Adilabad, Anantapur, Eluru, Kadapa, Kakinada, Karimnagar, Kurnool, Medak, Nellore, Nizamabad, Rangareddy, Vijayawada, Visakhapatnam and Warangal

¹¹² RTOs - Amalapuram, Anakapalle, Bhimavaram, Hindupur, Ibrahimpatnam, Khammam, Mahabubnagar, Mancherial, Nandyal, Nalgonda, Ongole, Proddatur, Rajahmundry, Rangareddy (East) and Vizianagaram

¹¹³ JTC - Khairatabad. DTCs - Anantapur, Kadapa, Kakinada, Kurnool, Medak, Nellore, Rangareddy, Vijayawada and Warangal
RTOs - Amalapuram, Anakapalle, Bhimavaram, Hindupur, Ibrahimpatnam, Mancherial, Proddatur, Khammam, Mahabubnagar, Nalgonda, Nandyal and Rangareddy (East)

¹¹⁴ DTCs Adilabad, Karimnagar, Nizamabad and Visakhapatnam
RTOs Ongole and Vizianagaram.

However, under section 56 of MV Act, it is mandatory to renew FC. Presumption that vehicles without FCs would be invariably checked by enforcement authorities and that vehicles not so detected were not plying on road is fallacious. Absence of an in-built mechanism in the CFST package to give alerts regarding validity of FC while issuing / renewal of permits, payment of quarterly tax etc., led to non-monitoring of fitness of vehicle.

Matter was referred to Department (between February and July 2013) and to Government in June/August 2013. Their reply has not been received (March 2014).

5.12 Differential tax structure between private contract carriages and Andhra Pradesh State Road Transport Corporation (APSRTC)

Section 3 of APMVT Act stipulates that every owner of a motor vehicle is liable to pay the tax at the rates specified by the Government from time to time. As per Government order¹¹⁵, tax of ₹ 2,625 is leviable per seat per quarter (PSPQ) on vehicles with contract carriage permits carrying more than six passengers (excluding driver) plying on intra state routes.

Under Section 6-A of AP MVT Act every registered owner who owns or keeps in his possession or control more than two thousand motor vehicles for plying on hire or reward shall pay tax at the rate of seven *per cent* of Gross Traffic Earning (GTE)¹¹⁶.

(i) A comparative analysis of tax payable by 40 private contract carriages (PCCs) (Volvo buses) holding intra state permits and that of APSRTC was undertaken by audit. Analysis had shown that APSRTC, having possession/control of more than 2000 vehicles, was liable to pay tax at seven *per cent* on GTE under section 6-A of the Act. Taking into consideration number of seats available in the fleet (Volvo buses) of vehicles of APSRTC and the amount of fare collected during a quarter, audit estimated the tax¹¹⁷ to be paid by APSRTC as ₹ 3,547 PSPQ, whereas the tax being paid by PCCs was ₹ 2,625 PSPQ. Although both PCCs and APSRTC rendered similar services, PCCs were paying ₹ 922 PSPQ less than tax paid by APSRTC.

(ii) Similar analysis of 20 sleeper coaches operated by PCCs *vis-à-vis* sleeper coaches operated by APSRTC was undertaken by audit. Analysis revealed that APSRTC was liable to pay tax at ₹ 4,914 PSPQ, against the tax being paid by PCCs at ₹ 2,625 PSPQ for rendering similar services. Difference in tax liability of APSRTC and tax paid by PCCs worked out to ₹ 2,289 PSPQ.

¹¹⁵ G.O.Ms. No.68 TR&B (TR1) dated 13 April, 2006

¹¹⁶ Gross Traffic Earning means total amount collected towards fares, freights, including luggage charges and any amount collected towards hire or reward by or on behalf of the registered owner.(Section 6-A of APMVT Act)

¹¹⁷ Gross Traffic Earning from Volvo buses = (Number of seats) x (fare collected per seat) x (number of days of operation) x (occupancy ratio provided by APSRTC).
Tax payable PSPQ= Seven *per cent* of GTE divided by number of seats.

Owing to disparity in tax structure, the PCCs were liable to pay tax at lower rates which would result in less collection of taxes approximately by ₹ 1.01 crore per annum (calculated on differential amount of taxes in respect of 40 Volvo buses and 20 Sleeper coaches taken for analysis).

In response, Government accepted (November 2013) audit observation and stated that action will be taken for review of existing taxation policy.

5.13 Non-realisation of compounding fee

Motor Vehicle Inspectors (MVIs) prepare VCRs on vehicles checked by them and forward these to RTOs concerned for taking action against the registered owners. These reports noted in register of VCRs for monitoring of the action taken. Under Section 200 of MV Act, authority concerned may compound offences punishable under the Act by collecting compounding fee in lieu of penal action as prescribed by Government. Government by its order¹¹⁸ prescribed minimum rates of compounding fee for various types of offences.

Audit noticed (between April and March 2012) during test check of VCRs/VCR Registers for the years 2010-11 and 2011-12 of offices of seven DTCs¹¹⁹ and eight RTOs¹²⁰ that 3731 cases of compoundable offences on motor vehicles like overloading, carrying excess passengers, driving without license, permit, FC, registration certificate etc. were registered. In all these cases, neither was penal action taken nor was minimum compounding fee levied. This resulted in non-realisation of compounding fee of ₹ 63.85 lakh.

In response DTC /RTO¹²¹ replied (between April 2012 and March 2013) that action would be taken and audit intimated.

Matter was referred to Department in January/May 2013 and to Government in July 2013. Their reply has not been received (March 2014).

5.14 Non-levy of green tax

Government levies¹²² “green tax” on transport vehicles and non-transport vehicles that have completed seven years and 15 years of age respectively from date of registration. Rate of tax is ₹ 200 per annum for transport vehicles. In respect of non-transport vehicles, it is ₹ 500 for every five years and in case of motorcycles it is ₹ 250 for every five years. As per Section 41(7) of MV Act read with Rule 52 of CMV Rules, registration of every non-transport vehicle is required to be renewed on completion of 15 years. Application for renewal can be submitted 60 days before its expiry.

¹¹⁸ G.O.Ms.No.332 {Transport Roads& Buildings (TR-1)} dated 13 November 2008.

¹¹⁹ DTCs - Anantapur, Kadapa, Karimnagar, Nizamabad, Srikakulam, Vijayawada and Visakhapatnam.

¹²⁰ RTOs - Amalapuram, Bhimavaram, Hyderabad (South), Mancherial, Nalgonda, Nandyal, Rajahmundry and Vizianagaram.

¹²¹ DTC – Kadapa. RTO - Hyderabad (South).

¹²² G.O.Ms.No. 238, Transport, Roads and Buildings (TR.I) dated 23 November 2006.

Audit noticed (between April 2012 and May 2013) during test check of records relating to re-registrations, permits and fitness and analysis of data of office of JTC Khairatabad, 12 DTCs¹²³ and seven RTOs¹²⁴ that green tax aggregating ₹ 52.46 lakh in respect of 16,945 transport vehicles and 6,518 non-transport vehicles that had completed seven years and 15 years of age respectively had not been levied or collected for the period from April 2011 to March 2012.

While exploring reasons for non-levy of green tax, audit observed that in CFST package, in respect of non-transport vehicles, levy of green tax is linked with renewal of registration as green tax is also to be collected after 15 years. However, as per provisions of CMV Rules, registration of a vehicle can be renewed 60 days before expiry of its validity. Hence, vehicles which come for renewal of registration before completion of 15 years escape payment of green tax.

Similarly, in respect of transport vehicles, payment of green tax is linked up in the CFST package with granting of fitness certificate which is also due every year. Vehicles which did not come for fitness certificate escaped payment of green tax. This could have been avoided by linking payment of green tax with renewal of FC or with other events like issue of permits, payment of quarterly tax etc.

In response, the JTC/DTCs/RTOs replied (April 2012 and May 2013) that the problem was due to non-synchronization of Transport Department server with Citizen Service Centres (Mee-Seva, AP online etc.) and that the matter would be brought to notice of IT wing for taking necessary action.

Matter was referred to Department in January and July 2013 and to Government in June/August 2013. Their reply has not been received (March 2014).

5.15 Non-levy of Bilateral Tax

Interstate vehicular traffic of goods is regulated by bilateral agreements, provisions of MV Act and Rules made thereunder. In terms of Section 88 of the Act, a permit granted by State Transport Authority (STA)/Regional Transport Authority (RTA) of any one State/Region shall not be valid in any other State/Region, unless permit has been countersigned by STA of that state or by RTA concerned.

In pursuance of bilateral agreement entered into with state of Maharashtra by Government of AP, Government ordered¹²⁵ levy of bilateral tax of ₹ 5,000 per annum (under APMVT Act) on every goods carriage vehicle which is registered in Maharashtra, provided it is covered by countersignature permits

¹²³ DTCs - Anantapur, Guntur, Kadapa, Karimnagar, Medak, Nellore, Nizamabad, Rangareddy, Srikakulam, Visakhapatnam, Vijayawada and Warangal.

¹²⁴ RTOs - Hindupur, Hyderabad (south), Mahabubnagar, Nalgonda, Ongole, Proddatur and Rangareddy (East).

¹²⁵ G.O.Ms.No.362, Transport, Roads and Buildings (Tr. II) department dated 16 December 2008.

and operated on routes lying partly in Maharashtra and partly in Andhra Pradesh. Tax shall be paid in advance in lumpsum before 15th of April every year failing which an additional sum of ₹ 100 for each calendar month of default shall be charged as penalty.

Audit noticed (between March and March 2013) during analysis of data at offices of DTCs Adilabad and Nizamabad and scrutiny of the registers relating to countersignature permits that in respect of 935 Maharashtra vehicles, bilateral tax amounting to ₹ 46.75 lakh and penalty of ₹ 11.22 lakh for the year 2011-12 was not collected. This resulted in non-realisation of revenue of ₹ 57.97 lakh.

In response DTCs replied (March/March 2013) that after introduction of national permits, most of the vehicles plying with countersignature permits had shifted to national permits. It was also added that vehicles pointed out by audit would be monitored.

However, as per CFST data all the vehicles pointed out by audit were covered by countersignature permits and no evidence was provided by DTCs in support of their statement.

Matter was referred to Department in January 2013 and to Government in July 2013. Their reply has not been received (March 2014).

CHAPTER-VI

***STAMP DUTY AND
REGISTRATION FEES***

CHAPTER VI STAMP DUTY AND REGISTRATION FEES

EXECUTIVE SUMMARY

Increase in tax collection	In 2012-13 the collection of stamp duty and registration fees increased by 16.65 <i>per cent</i> .
Low recovery by the Department against observations pointed out by audit	During 2007-08 to 2011-12, audit pointed out undervaluation of properties, misclassification of documents, incorrect exemption etc. with revenue impact of ₹ 578.76 crore in 2,241 cases. Of these, Department/Government accepted audit observations in 790 cases involving ₹ 187.64 crore and recovered ₹ 4.46 crore in 419 cases. The recovery position (2.38 <i>per cent</i>) was low when compared to acceptance of objections.
Results of audits conducted in 2012-13	<p>In 2012-13, audit test checked the records of 70 offices relating to District Registries (DRs) and Sub-Registries (SRs) and found irregularities like non/short levy of duties, misclassification of documents, undervaluation of properties, incorrect exemptions etc., of ₹ 150.98 crore in 29 cases.</p> <p>The Department accepted under assessments and other deficiencies of ₹ 2.38 crore in 31 cases of which six cases involving ₹ 2.27 crore were pointed out in audit during the year 2012-13 and the rest in earlier years. An amount of ₹ 86.20 lakh was realised in 29 cases during the year 2012-13.</p>
What audit has highlighted in this chapter	<p>In this Chapter results of Performance Audit on Functioning of Registration and Stamps Department including Information Technology (IT) Audit of Computerized Administration in Registration Department (CARD) with financial impact of ₹ 150.86 crore has been presented. The following points have been highlighted:</p> <p><u>Systemic Issues</u></p> <ul style="list-style-type: none">• Not conducting inspection of public offices resulted in the Department's inability to detect dutiable transactions occurring in other departments.• Lack of co-ordination between departments such as in case of Transport and Registration and Stamps resulted in non-levy of stamp duty on hypothecation of movable properties. <p><u>Compliance Issues</u></p> <ul style="list-style-type: none">• Exclusion of cost of improvements made by lessees resulted in short levy of duties of ₹ 16.37 crore.

- Cross verification of lease deed with value of annual rent revealed under-declaration of rent received resulting in short levy of stamp duty and registration fees of ₹ 23.64 crore.
- Exclusion of development premium, development fee, conveyance of cash etc. from recitals of documents on various distinct matters resulted in non-levy of stamp duty and registration fees of ₹ 33.21 crore.
- Misclassification of 'agreement of sale with possession' as 'agreement of sale without possession' led to short levy of duties to the tune of ₹ 59.78 crore.

IT Audit

- Department did not prepare any report on feasibility, System Requirement Specification (SRS), User Requirement Specification (URS) etc. while migrating to centralized architecture. This issue was also raised in the Audit Report of 2007-08.
- Changes in business rules with respect to provisions such as change in rate of stamp duty, exemptions etc., were not mapped into the system.
- Validation failures in the fields relating to dates of presentation, execution, and stamp purchase, etc.
- Inability to capture boundary details and lease period in the case of lease deeds.
- Value on which duty was to be levied did not match with maximum of consideration value/ market value/ 18 times annual rental value on which stamp duty is to be charged.

Conclusion

- A mechanism for exchange of data with other departments (Transport, Income tax etc.) is to be evolved for ensuring proper collection of stamp duty.
- Inspection of Public offices under Section 73 of the Act is to be conducted to detect leakage of revenue.

CARD

- Business rule changes should be incorporated into application.
- Department may co-ordinate with NIC to secure source code rights, data base and application support provision, documentation and knowledge transfer.

6.1 Tax administration

The Registration and Stamps Department is responsible for administration of the Indian Stamp (IS) Act, 1899 and the Registration Act, 1908, as amended from time to time by Union and State legislations. The Department is primarily entrusted with registration of documents and is responsible for determining and collecting stamp duty and registration fees on registration of various documents/instruments by the general public. The Commissioner and Inspector General (IG), Registration and Stamps exercises overall superintendence over all the registration offices in the State. He is assisted by the region-wise Deputy IGs. The District Registrar (DR) is in charge of the district. He superintends and controls the Sub-Registrars (SR) in the district concerned.

6.2 Trend of receipts

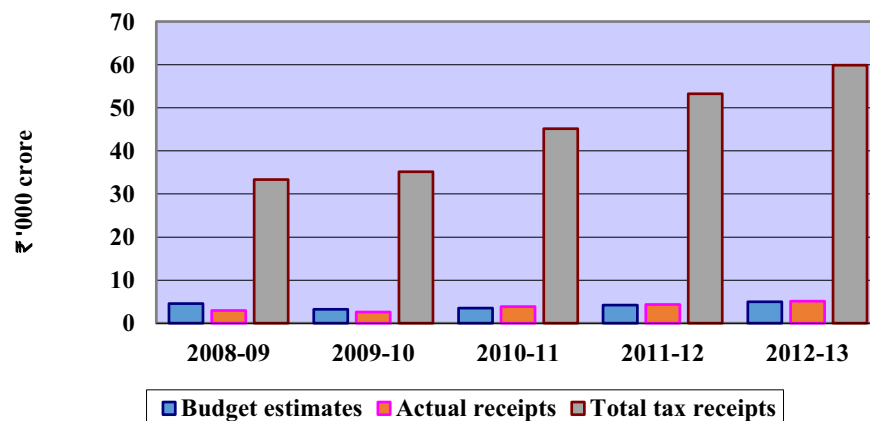
Actual receipts from Stamp Duty and Registration Fees (SDRF) during the years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the Table 6.1 and Graph 6.1.

Table 6.1: Receipts from Stamp Duty and Registration Fees

(₹ 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
2008-09	4,537.50	2,930.99	(-) 1,606.51	(-) 35.41	33,358.29	8.79
2009-10	3,224.00	2,638.63	(-) 585.37	(-) 18.16	35,176.68	7.50
2010-11	3,546.00	3,833.57	(+) 287.57	(+) 8.11	45,139.55	8.49
2011-12	4,240.00	4,385.25	(+) 145.25	(+) 3.43	53,283.41	8.23
2012-13	4,968.00	5,115.24	(+) 147.24	(+) 2.96	59,875.05	8.54

Graph 6.1: Budget estimates, actual receipts and total tax receipts



It is evident from the above that revenue contribution from stamp duty and registration fees to the total own tax receipts of the State has been at the same

level during the last five years except 2009-10, and the proceeds have been growing at a CAGR of 15 percent.

6.3 Cost of collection

Figures of gross collection in respect of the stamp duty and registration fees, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13, along with the relevant all India averages are shown in Table 6.2:

Table 6.2: Cost of collection of Stamp Duty and Registration Fees

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Stamp duty and Registration Fees	2010-11	3,833.57	94.99	2.48	2.47
	2011-12	4,385.25	101.67	2.32	1.60
	2012-13	5,115.24	141.25	2.76	1.89

It can be seen that not only has the cost of collection increased in 2012-13 as compared 2011-12, it remained higher than the all India average in all three years.

6.4 Impact of Local Audit

During the last five years, audit had pointed out misclassification of documents, under valuation, short levy of stamp duty and registration fee etc., with revenue implication of ₹ 578.76 crore in 2,241 cases. Of these, the Department/Government accepted audit observations in 790 cases involving ₹187.64 crore and recovered ₹ 4.46 crore. The details are shown in Table 6.3:

Table 6.3: Impact of Local Audit of Stamp Duty and Registration Fees

(₹ in crore)							
Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	303	449	20.45	61	0.76	36	0.15
2008-09	294	508	47.98	126	6.89	49	0.83
2009-10	276	590	275.20	63	6.45	48	0.41
2010-11	270	332	150.84	375	126.57	139	0.98
2011-12	334	362	84.29	165	46.97	147	2.09
Total	1477	2241	578.76	790	187.64	419	4.46

Recovery of only ₹ 4.46 crore (2.38 per cent) against the money value of ₹ 187.64 crore relating to accepted cases during the period 2007-08 to 2011-12 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

6.5 Results of audit

Test check of the records of 70 offices of the District Registrars and Sub-Registrars conducted during 2012-13, revealed preliminary audit findings involving non/short levy of stamp duty and registration fees of ₹ 150.98 crore in 29 cases, which broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Performance audit on the “Functioning of Registration and Stamps Department including Information Technology audit of CARD”	1	150.86
2	Misclassification of documents	3	0.0087
3	Short levy of stamp duty and registration fees	15	0.075
4	Incorrect exemption of duties	8	0.036
5	Other irregularities	2	0.0026
Total		29	150.9823

During the year 2012-13, the Department accepted under-assessments and other deficiencies of ₹ 2.38 crore in 31 cases, of which six cases involving ₹ 2.27 crore were pointed out in audit during the year 2012-13 and the rest in the earlier years. An amount of ₹ 86.20 lakh was realised in 29 cases during the year 2012-13.

A few illustrative audit observations involving ₹ 150.86 crore are mentioned in the following paragraphs.

Performance Audit on “Functioning of Registration and Stamps Department including Information Technology (IT) Audit of CARD” in Andhra Pradesh

6.6 Introduction

Stamp duty and Registration fee are major sources of revenue of Government of Andhra Pradesh. Registration and Stamps Department of Andhra Pradesh is responsible for registration of immovable properties, marriages, firms, societies, chits etc. The core function of the department i.e., levy and collection of stamp duty and registration fee was computerized in February 1999, through implementation of an Information Technology (IT) system named Computer Aided Administration in Registration Department (CARD) in Client Server Architecture. The objectives of CARD, *inter alia*, were to introduce a transparent system of valuation of properties easily accessible to citizens, which would bring speed, efficiency, consistency and reliability, replace the manual system of calculation of duties, indexing, accounting, reporting and copying and filing of documents. The CARD system of the department migrated to Centralised architecture in the year 2013.

Highlights

Non-conducting of inspection of public offices resulted in non-detection of loss of revenue of ₹ 99.06 lakh.

(Paragraph 6.11.1)

Variation in consideration declared in IT returns and registered documents led to non-realisation of revenue of ₹ 70.15 lakh.

(Paragraph 6.12.2)

Under valuation of property due to non-adoption of 18 times the Annual Rental Value resulted in short levy of duties of ₹ 23.64 crore.

(Paragraph 6.17.1)

Short levy of duties on documents involving distinct matters amounted to ₹ 33.21 crore.

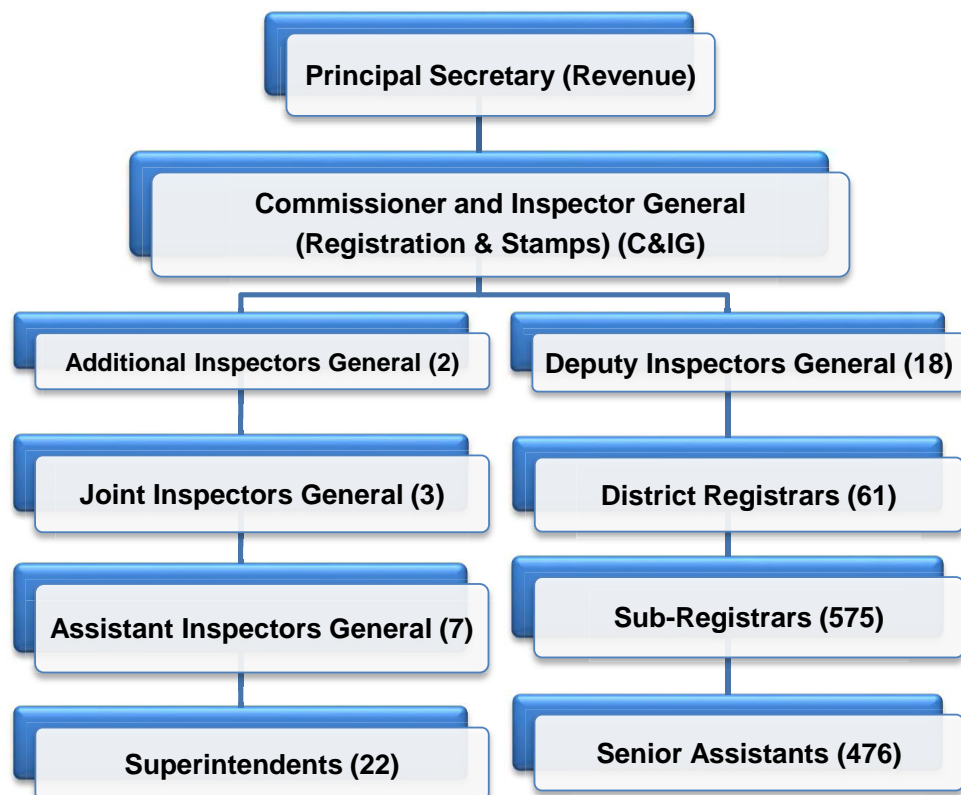
(Paragraph 6.20)

Sale deeds executed by banks misclassified as Certificate of sale led to short levy of duties of ₹ 37.13 lakh.

(Paragraph 6.21.1)

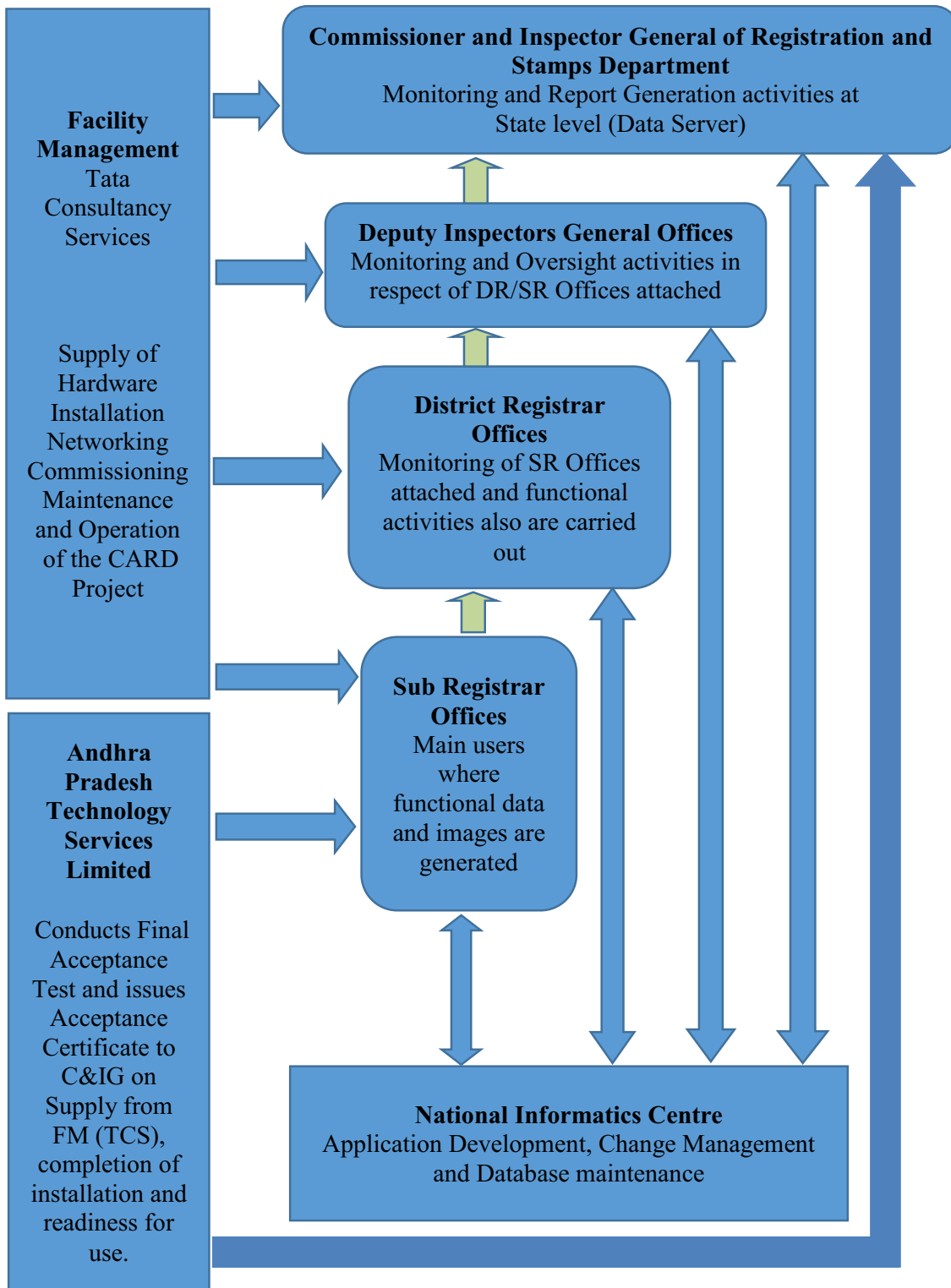
6.7 Organisational Setup

Principal Secretary, Revenue (Registration and Stamps) is in charge of the overall administration of the Registration and Stamps Department. Commissioner and Inspector General (Registration and Stamps) (C&IG) is the Head of department. He is assisted by two Additional Inspectors General and three Joint Inspectors General in the Headquarters. In the zonal office set-up C&IG functions through 18 Deputy Inspectors General, 61 District Registrars (DRs) and 575 Sub-Registrars (SRs). C&IG also functions as the Chief Controlling Revenue Authority (CCRA) under the Indian Stamp (IS) Act, 1899. The Organisational chart is given below.



The interactions among the various stakeholders in the new centralized architecture of CARD has been depicted in the following chart:

CARD Structure



6.8 Audit Objectives

The Performance Audit (PA) was conducted with a view to

- Verify the adequacy, efficiency and effectiveness of the procedures relating to collection of stamp duty;
- Check the leakage of revenue through cross check with different related user departments and within the registry with reference to the relevant documents
- Examine the extent of compliance with the rules and procedures and other Internal control mechanism in the department
- IT Audit of CARD was conducted with the objectives of:
 - assessing general and application controls;
 - evaluating network controls (technological direction/ implementation plan); and
 - test checking and evaluation of transaction processing.

6.9 Audit Criteria, Scope and Methodology

The Audit Criteria was derived from the following.

- Indian Stamp Act, 1899 (IS Act)
- The Registration Act, 1908 (Registration Act)
- AP Rules under the Registration Act, 1908
- The AP Revision of Market Value Guidelines Rules, 1998

Functioning of Registration and Stamps Department for the period from 2007-08 to 2011-12 covering 16 District Registries¹²⁶ (DRs) out of 38 and 34 Sub-Registries (SRs) out of 429 was reviewed during the period from July 2012 to July 2013. The selected districts are in major urban hubs where large number of documents were registered over the past years. As a part of the Performance Audit, cross verification with other departments such as local bodies, revenue, etc., was also carried out. In IT audit, the general controls and application controls were checked and data analysis of CARD application system was conducted. Out of the sample size of 50 offices, 40 offices¹²⁷ were selected for test check/ data analysis of CARD. The entire database of the offices selected for test check was analysed using Computer Aided Audit Techniques (CAATs) with MS Excel and IDEA. Relevant export backup of functional users (Logical dumps) for the period April 2007 to March 2012 was imported and ported to IDEA.

¹²⁶ Guntur, Hyderabad, Hyderabad (South), Kakinada, Kurnool, Nellore, Ongole, Rajahmundry, Rangareddy (East, West) Sangareddy, Tirupati, Vijayawada (East, West), Visakhapatnam and YSR Kadapa.

¹²⁷ 15 District Registries and 25 Sub-Registries.

6.10 Acknowledgement

Audit acknowledges co-operation extended by Registration and Stamps Department in providing necessary information and records. The draft report on Performance Audit of Registration and Stamps Department was forwarded to Government and Department in October 2013. The exit conference was held with Government on December 2013. Views expressed in the exit conference have been taken into consideration while finalising the report.

Audit findings

6.11 Adequacy of provisions

6.11.1 Non-conducting of inspection of Public Offices

As per Section 73 of IS Act, every Public Officer having, in his custody, any registers, books, records, papers, documents or proceedings, the inspection of which may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall, at all reasonable times, permit any person, authorized in writing by the Collector, to inspect, for such purpose, the registers, books, papers, documents and proceedings, and to take such notes and extracts, as he may deem necessary, without fee or charge.

It was observed that inspection of public offices, as prescribed under Section 73 was not being conducted by the department. During the compliance audit of Commercial Taxes Department, Directorate of Mines and Geology, State Excise Department and Land Revenue Department, following cases of short levy/non-levy of stamp duty of ₹ 99.06 lakh in the test checked districts were noticed, which could have been detected, had the department conducted inspection under Section 73.

- In the office of the Commercial Tax Officer (CTO), Somajiguda, it was seen from the registration files that one assessee had entered into a Lease Agreement with the owner of the property which was executed on a ₹ 100 stamp paper but was not registered. On the total rent payable for 18 years amounting to ₹ 78.78 crore, stamp duty payable on this deed amounted to ₹ 47.27 lakh, out of which an amount of ₹ 1.2 lakh only was remitted, resulting in short payment of duty of ₹ 46.07 lakh.
- In the offices of the Assistant Director of Mines and Geology, Kothagudem and Srikakulam, the department granted sand leases and entered into agreements with the lessees. However, the stamp duty amounting to ₹ 19.22 lakh was short levied in eight leases at Kothagudem and 19 leases at Srikakulam on the bid amounts of ₹ 2.11 crore and ₹ 15.05 crore respectively as the agreements were neither sufficiently stamped nor registered.

- In two Prohibition and Excise Superintendent offices¹²⁸, it was noticed from the test check of the 2-B (Bar) license files for the year 2008-09 that in 12 cases, duties on lease deeds of bar premises were short levied to the tune of ₹ 19.54 lakh on the Average Annual Rent (AAR) amounting to ₹ 4.09 crore.
- Scrutiny of mutation orders file of Tahsildar, Uppal, (Land Revenue Department) revealed that instead of executing a release deed under Article 46 of Schedule 1-A of IS Act, two siblings released their rights over a property (market value of ₹ 4.74 crore) to their two other siblings through a signed affidavit. Based on that affidavit, Tahsildar issued mutation orders transferring the title of the property in favour of the latter. Audit verified with the SR, Uppal that no Release deed in respect of the said released property was executed or registered, which resulted in loss of revenue amounting to ₹ 14.23 lakh.

Government agreed (December 2013) with the contention of audit and agreed to conduct audit of public offices under Section 73.

6.11.2 Augmentation of Revenue

Levy and regulatory powers in respect of stamp duty is in the Concurrent List of Constitution of India and rate of stamp duty (except those that are covered under Entry 91 of the Union list) is in the exclusive domain of State Government. IS Act is being followed by the Government of Andhra Pradesh with need based amendments/modifications from time to time.

In this regard, it was noticed that the State Government is yet to notify the rate of stamp duty under Section 8-A of the Indian Stamp Act. According to the IS Act, the issuer of shares, debentures or other securities in electronic mode is liable to pay stamp duty on the total amount of securities. Issuer of shares in demat form does not pay duty in Andhra Pradesh due to non-notification.

On the same being pointed out Government replied (December 2013) that it is in the process of issuing notification on the rate of stamp duty under Section 8-A.

6.12 Non co-ordination with other departments

As per Section 33(1) of the IS Act, every person having by law or consent of parties, authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance in his functions shall, if it appears to him that such instrument is not duly stamped, impound the same. Though IS Act is implemented by the Registration and Stamps department, there is need for the department to co-ordinate with other departments where documents are executed on which stamp duty is leviable such as agreements entered into by the Public Works department, hypothecation agreements in respect of vehicles etc. During the course of

¹²⁸ Hyderabad and Secunderabad

compliance audit of various department following instances of non-payment of stamp duty and registration fee were noticed which could have been detected had the concerned authorities taken action under Section 33(1) of IS Act.

6.12.1 Non-levy of stamp duty on vehicles registered with hypothecation agreement

As per Article 7(b) of Schedule IA to the IS Act, the pawn, pledge, or hypothecation of movable property, where it has been made by way of security for the repayment of money advanced or to be advanced by way of loan, or an existing or future debt, is leviable with stamp duty at 0.5 *per cent* of the amount secured subject to a maximum of two lakh rupees. Further, every instrument shall be properly stamped as per the provisions of the IS Act.

Transport Department is responsible for making necessary entries regarding hypothecation in the Registration Certificate (RC) of the vehicles. Analysis of the data in respect of 'Form 20' relating to the registration of vehicles obtained from the office of the Transport Commissioner revealed, that 7,39,980 vehicles were hypothecated to private banks/institutions during the year 2011-12. There is no mechanism to ensure that these private banks/financial institutions paid the requisite stamp duty.

A Para on 'non-levy of stamp duty on vehicles registered with hypothecation agreement' was included in the CAG's Audit Report No.1 of 2013¹²⁹, Government of Andhra Pradesh.

Government stated (December 2013) that matter would be taken up with Transport Department to ensure collection of duties.

6.12.2 Variation in consideration declared in IT returns and registered documents

As per Section 27 of the IS Act, the consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein. As per Article 47-A of Schedule IA to IS Act, duties are leviable at 9.5 *per cent* (including Transfer Duty and Registration Fee) on the market value of the document.

With respect to 11 cases in DR Sangareddy and one case in SR Maredpally, it was noticed from the Income Tax (IT) Returns and scrutiny files of Income Tax offices of ITO Ward 4(4) and ITO Ward-1, Sangareddy that consideration shown for purchase of properties in the Income Tax returns accepted by the Income Tax Department was ₹ 7.67 crore whereas the consideration shown as received/paid for the properties in the registered documents was ₹ 63.12 lakh.

The suppression of actual consideration paid/received by the parties resulted in non-realisation of revenue amounting to ₹ 70.15 lakh. Due to non-coordination

¹²⁹ Audit Report (Revenue Sector)

with the Income Tax Department, these cases could not be detected till Audit pointed them out.

Government stated (December 2013) that efforts would be made to co-ordinate with Income Tax department to check such suppression of facts. However, no action was reported to be taken in the cases pointed out by Audit.

6.13 Non-compliance with instructions regarding adoption of higher value

As per C&IG's instructions¹³⁰, the Sub-Registrar should note the higher value, if any, adopted by the party in a separate register in the prescribed proforma. This higher value data will not only indicate the prevailing trend of market rates but is also helpful for periodical revision of market value. Such higher value adopted to a particular property would be applicable to any future transaction relating to that property.

6.13.1 Audit observed that these instructions were not complied with and higher value registers were not maintained in seven DRs¹³¹ and 16 SRs¹³². This defeated the purpose for which the Register was prescribed.

6.13.2 Further, the C&IG's instructions regarding adoption of higher value for future registration of same property were also not complied with in the DR, Hyderabad (South) and SR Gandipet. Audit noticed that the five vendors between May 2008 and April 2012 had conveyed their properties to the vendees for a sale consideration of ₹ 20.47 crore. Scrutiny of the link documents of these properties available in the Registries revealed that the scheduled properties were originally purchased by the vendors for a consideration amounting to ₹ 29.58 crore which was higher than the sale consideration or market value shown in the present documents. The Registries, while registering the documents did not adopt the higher values for the properties which resulted in non-realisation of revenue to the tune of ₹ 73.77 lakh.

On the same being pointed out, Government replied (December 2013) that High Value Register had become irrelevant in CARD. However, C&IG had not issued any instructions dispensing with High Value Register and 27 out of 50 offices test checked were maintaining the said Register.

6.14 Non/Short levy of duties on lease deeds

Duties leviable on lease deeds are specified in Article 31 of Schedule I-A of IS Act, read with Government Orders¹³³. Depending on the period of lease, the duties are levied under Article 31 (a) to (c) as applicable. Further, under

¹³⁰ Circular No.MV1/20363-A/90 dated 10 August 1990.

¹³¹ Guntur, Hyderabad (South), Kadapa, Nellore, Rangareddy (West), Sangareddy, Visakhapatnam.

¹³² Anandapuram, Balanagar, Gajuwaka, Gandipet, Golconda, Gopalapatnam, Kukatpally, Madhurawada, Maredpally, Pendurthi, Rajendranagar, Saroornagar, Sarpavaram, Serilingampally, SR Nagar, Vallabh Nagar.

¹³³ G.O.Ms.No.408 Rev (Regn-I) Department, dated 11 May 2010

Article 31(d), where the lessee undertakes to effect improvements in the leased property and agrees to make the same to the lessor at the time of termination of lease, stamp duty is leviable at five *per cent* on the value of the improvements contemplated to be made by the lessee as set forth in the deed in addition to the duty chargeable under Article 31 (a), (b) or (c).

6.14.1 In DR Visakhapatnam, audit noticed¹³⁴ that the fact of ₹ 34.98 crore paid as development premium in respect of a BOT project was not disclosed in a document registered in July 2009. Non-disclosure of the fact of receiving development premium by the lessor resulted in non-levy of duties amounting to ₹ 1.75 crore by the Registering Authority.

Matter was referred to Department in September 2013; their reply has not been received (March 2014)

6.14.2 In DR Gunadala and two SRs¹³⁵, Audit noticed from the recitals of five lease deeds registered between 2007 and 2012 that the lessors leased out properties to lessees for construction of structures. After expiry of the lease periods, properties valuing ₹ 327.47 crore so constructed on the leasehold lands were handed over or were to be handed over to the lessors by the lessees without claiming any consideration for improvements. As the Registering Authorities did not consider the aspect of lease improvements in these cases there was short levy of duties to a tune of ₹ 16.37 crore.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

6.15 Short levy of stamp duty on Partition deeds

As per Article 40 of schedule IA to IS Act, stamp duty shall be leviable at one *per cent* on the amount or the market value of the separated share/shares of the property partitioned after exempting the major share in case of partition among family members. Further as per the Standing Orders¹³⁶ properties set apart for common enjoyment, whether the respective shares are specified or not and whether agreed to be divided in future or not, have to be treated as one distinct share.

6.15.1 Omission of joint share for calculation of duty

In six DRs¹³⁷ and SR Vanasthalipuram, it was noticed from the recitals of seven registered partition deeds that while partitioning the properties, properties worth ₹ 47.45 crore were retained jointly by the parties. These jointly held shares were not taken into consideration for arriving at the value of the properties partitioned whereas those were to be treated as distinct share and after exempting major share, duties were to be levied on ₹ 74.91 crore.

¹³⁴ Source of information was Visakhapatnam Urban Development Authority website

¹³⁵ Kukatpally and Uppal.

¹³⁶ SO 405(g) of Andhra Pradesh Registration Manual Part-II, read with Boards proceedings No.L.Dis.W3/3335/1960, dated 24 November 1960 & L.Dis.No.W/7761/61, dated 19 March 1962, L.Dis.No.7354/61, dated 12 February 1962

¹³⁷ Hyderabad (South), Kadapa, Kurnool, Nellore, Ongole and Vijayawada.

Omission of joint shares from transaction resulted in short levy of stamp duty amounting to ₹ 41.19 lakh.

On the same being pointed out, DR Nellore stated (November 2013) that there is no provision in IS Act which authorizes the levy of stamp duty on the items of properties which are not covered by the partition deed. All the properties mentioned in the partition deed were duly assessed for levying stamp duty. In respect of DR Kadapa, it was replied (December 2013) that the Registering Authority should not go beyond the recitals in assessing the stamp duty. However, provisions of the Standing Orders quoted above should have been followed.

Matter was referred to Department (September 2013); their reply has not been received (March 2014).

6.15.2 Incorrect allowing of cancellation of partition deeds

As per Article 15 of Schedule-I to the IS Act, on the instrument of cancellation if attested and not otherwise provided for, stamp duty is leviable at ₹ 30. As per Article 20 of Schedule 1A to the IS Act, for conveyance, stamp duty at five *per cent* on the market value has to be levied. C&IG issued instructions¹³⁸ that the registering officer shall ensure at the time of presentation for registration of cancellation deeds of previously registered deeds of conveyance on sale before him that such cancellation deeds were executed by all the executant and claimant parties to the previously registered conveyance on sale and that such cancellation deed was accompanied by a declaration showing mutual consent. The same condition was extended¹³⁹ to the instruments of AGPA, Development Agreement cum General Power of Attorney (DGPA), Partition, Release and Mortgage deeds also.

In DR, Kakinada and SR Patamata, two partition deeds were executed between members of two respective families in 2005 and 2009 respectively. Out of these, two individuals sold properties admeasuring 2,748.12 sq. yds (2009) and 142.43 sq. yds (2010) respectively from their shares. However, the parties suppressed the fact of selling these properties and executed cancellation instruments nullifying the earlier partition deeds.

These cancellation deeds effectively re-conveyed all the individual properties except the properties sold in favour of other members. However, instead of treating the documents as conveyance deeds, the Registering Authorities incorrectly treated the documents as cancellation deeds in contravention of the extant instructions and levied duties accordingly. Since parts of the properties were already sold on the basis of the partition deeds, those partition deeds could not be cancelled. This resulted in short levy of duties amounting to ₹ 19.57 lakh on properties valuing ₹ 3.56 crore.

¹³⁸ C&IG Endt No. G1/10866/06 dated 11 December 2006.

¹³⁹ C&IG Endt No. G1/10866/06 dated 14 March 2008.

On the same being pointed out, Government accepted (December 2013) the audit observation and stated that instructions would be issued to reopen these cases and for collection of the deficit amounts.

6.16 Short levy of stamp duty and registration fees due to incorrect classification of properties

Under Rule 7¹⁴⁰ of AP Revision of Market Value Guidelines Rules, different values have been fixed for agricultural lands fit for house sites/residential localities under the classification code 25. Further, square yard rate and rates for agricultural lands fit for house sites are mentioned in the market value registers.

As per Section 27 of IS Act, the consideration, if any, or the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

In two SRs¹⁴¹ and two DRs¹⁴², 12 documents styled as sale deed/AGPA/General Power of Attorney (GPA)/gifts deed were executed (between January 2008 and October 2011) by vendors/donors in favour of vendees/GPA holders/donees. Registering Authorities, while registering these documents, adopted the agricultural/acreage rate instead of square yard rate, even though lands had already been converted into non-agricultural lands by Land Revenue department resulting in undervaluation of properties. This resulted in short levy of stamp duty and registration fees of ₹ 1.24 crore as detailed in the following sub-paras:

6.16.1 In DR, Ongole acreage rate applicable to agricultural land was adopted in respect of two sale documents registered in 2010. However, Audit observed that in the immediate previous document registered on the same day, relating to the same venture, styled as gift to local bodies, square yard rate had been applied. This suppression of fact resulted in undervaluation of properties, leading to short levy of duties amounting to ₹ 4.16 lakh on a market value of ₹ 48.11 lakh.

DR Ongole replied (December 2012) that higher values adopted in one document need not be adopted for other documents. Reply is not tenable as the land was gifted to gram panchayat concerned on square yard basis and the same was not disclosed in the document.

6.16.2 In SR, Madhurawada acreage rate applicable to agricultural land was adopted in respect of four sale documents registered in 2008. However, audit observed that conversion orders converting the agricultural lands into non-agricultural land was issued by the land revenue authorities in July 2007. This suppression of fact resulted in undervaluation of properties, leading to short levy of duties amounting to ₹ 1.01 crore on a market value of ₹ 16.58 crore.

¹⁴⁰ Form II of Market Value (Agricultural lands).

¹⁴¹ Bheemunipatnam and Madhurawada.

¹⁴² Nellore and Ongole.

It was replied (February 2013) by SR, Madhurawada that rate adopted was as per market value guidelines existing as on the date of registration of document and hence there was no deficit. But the permission to convert the land for non-agricultural purposes was given by the revenue authorities and the same was not disclosed in the document.

6.16.3 In SR, Bheemunipatnam, acreage rate applicable to agricultural land was adopted in respect of two AGPA documents registered in 2009. However, audit observed that lands had already been converted into non-agricultural land in 2002 as mentioned in subsequent sale deeds registered in 2009. This suppression of fact resulted in undervaluation of properties, leading to short levy of duties amounting to ₹ 7.28 lakh on market value of ₹ 8.51 crore.

6.16.4 In DR, Nellore, acreage rate applicable to agricultural land was adopted in respect of four settlement documents registered on 15 October 2011 relating to property with market value of ₹ 3.49 crore. However, audit observed that it was mentioned in the documents that lands mentioned in all four settlement deeds had already been converted into non-agricultural lands by land revenue authorities prior to execution of settlement deeds (7 October 2011). This suppression of fact resulted in undervaluation of properties, leading to short levy of duties amounting to ₹ 11.77 lakh.

DR Nellore replied (November 2013) that, obtaining permission from the concerned authorities alone is not sufficient to change the exact nature of the land. However only revenue authorities are authorized to convert the land use from agricultural to non-agricultural purposes.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

6.17 Short levy of duties due to undervaluation of property

C&IG instructed¹⁴³ in June 1993 that any one of the following, whichever is higher, be adopted for levying stamp duty and registration fees.

- (i) Consideration set forth in the document;
- (ii) Market value as declared by the party;
- (iii) Market value arrived at by the Sub Registrar on the basis of the guidelines and the schedule of rates of construction;
- (iv) Eighteen times the annual rental value.

In following cases duties were short levied due to under valuation of the properties.

¹⁴³ C&IG's Memo No. MV1/8184/93 dated 9 June 1993.

6.17.1 Under valuation of property due to incorrect declaration of Annual Rental Value

In four DRs¹⁴⁴ and six SRs¹⁴⁵, 23 sale deeds and four gift deeds were executed and registered between 2007 and 2012 by the vendors who sold or gifted the scheduled properties to the vendees for consideration/market value of ₹ 235.37 crore.

Cross verification of lease deeds executed earlier with respect to the above properties revealed that the 18 times of Annual Rental Value of these properties was ₹ 549.17 crore. However, the Annual Rental Value declared in the documents was much lower than the actual rent which was being received by the vendors as per the previous lease deeds. Since 18 times of Annual Rental Value was higher than the market value of the property, stamp duty and registration fee were leviable on 18 times of Annual Rental Value. The misrepresentation of the Annual Rental Value resulted in short levy of stamp duty and registration fee amounting to ₹ 23.64 crore.

On this being pointed out, DR Rangareddy (for SR Serilingampally and SR Kukatpally) and DR Hyderabad (for SR Secunderabad) replied (November/December 2013) that Government had withdrawn (2012) the clause regarding 18 times of Annual Rental Value for calculation of market value. However, cases mentioned in the observation pertained to period prior to withdrawal of the circular.

Matter was referred to the Department in August 2013; their reply has not been received (March 2014).

6.18 Short levy of stamp duty on DGPAs

As per Article 6(B) of Schedule I(A) of IS Act read with Government Orders¹⁴⁶ stamp duty is leviable at one *per cent* on the amount of sale consideration or market value of property or estimated market value for land and complete construction made or to be made in accordance with schedule of rates, whichever is higher, on documents of Development Agreement cum General Power of Attorney (DGPA). C&IG through his instructions¹⁴⁷ had clarified that Stamp duty at five *per cent* shall be leviable in respect of Construction Agreements/Development Agreements.

¹⁴⁴ Hyderabad, Hyderabad (South), Kakinada and Rangareddy (West).

¹⁴⁵ Kukatpally, Marredpally, Malkajigiri, Saroornagar, Secunderabad and Serilingampally.

¹⁴⁶ G.O.Ms.No.1481, Revenue (Registration-I) Department, dated 30 November 2007 effective from 3 December 2007.

¹⁴⁷ Circular Memo No.S1/11217/2010 dated 22 November 2010.

6.18.1 Short levy of duties due to omission of development value

In eight DRs¹⁴⁸ and 22 SRs¹⁴⁹ Audit observed that in 104 DGPA documents registered between 2007 and 2012 the Registering Authorities have not considered the entire value of development for the purpose of levy of stamp duty which resulted in short levy of stamp duty as detailed below:

Sl. No.	No. of cases	Issues	₹ in crore)	
			Value of Development omitted	Duty chargeable
1.	39	Parking/ stilt area was not considered by the Registering Authorities	12.08	0.12
2.	63	Structure or land was not fully disclosed or considered by the Registering Authorities	295.82	2.95
3.	02	Owner's share of land or structure was not considered by the Registering Authorities.	1.37	0.01
Total	104		309.27	3.08

On the same being pointed out, DR Rangareddy replied (November 2013) that the objection was accepted and part amount of ₹ 4.51 lakh in respect of SR, Serilingampally was already collected and promised to collect the balance amount.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

6.18.2 Short levy of stamp duty on additions through Supplementary Agreements

In DR Hyderabad (South) and SR Secunderabad, four Supplementary Deeds to DGPAs were executed on stamp paper of ₹ 100 and no stamp duty was paid. As per the recitals of these supplementary deeds, the approved area of construction/ built up area including parking area was increased by 7.30 lakh sq.ft. However, the same was not considered for levying stamp duty resulting in short levy of stamp duty to the tune of ₹ 38.01 lakh.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

6.19 Short levy of stamp duty on AGPAs

Government amended¹⁵⁰ the rate of stamp duty applicable to all the 'Agreements or Memorandum of agreements of sale coupled with GPA clause' to six *per cent* (five *per cent* adjustable against the stamp duty payable on subsequent sale deed) with effect from 20 September 2010 on consideration or market value of the property whichever is higher.

¹⁴⁸ Kakinada, Kurnool, Ongole, Rangareddy (West), Rangareddy (East), Tirupati, Vijayawada, Rajahmundry.

¹⁴⁹ Anandapuram, Azampura, Balanagar, Bujabujanellore, Chikkadpally, Gandipet, Gopalapatnam, Kallur, Kukatpally, Madhurawada, Malkajgiri, Maredpally, Nallapadu, Nunna, Pendurthi, Rajendranagar, Saroornagar, Secunderabad, Serilingampally, Stonehousepet, Uppal, Vallabh Nagar.

¹⁵⁰ G.O.Ms No.1178, Revenue (Regn.I) Dept., dated 16 September 2010.

In DR Guntur and four SRs¹⁵¹, Audit noticed that in 82 AGPA documents involving properties worth ₹ 10.57 crore registered after 20 September 2010, the registries levied five *per cent* stamp duty as against six *per cent* leviable which resulted in short levy of stamp duty of ₹ 10.57 lakh.

On being pointed out, the DR, Rangareddy in respect of SR Gandipet, accepted (November 2013) the objection and promised to collect the deficit stamp duty.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

6.20 Short levy of duties on documents involving distinct matters

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

In three DRs¹⁵² and six SRs¹⁵³, Audit noticed from the recitals of 15 documents that duties were not levied on various distinct matters which resulted in short levy of duties amounting to ₹ 33.21 crore as detailed in the following table.

(₹ in crore)

Sl. No.	Name of offices	No. of cases	Distinct matter	Short levy of duties	Remarks
1	Two SRs ¹⁵⁴	2	Development premium	27.36	It was mentioned in the recitals of two DGPA documents registered in October 2008 that the total quoted price included the cost of land and One time land Development Premium. However, duties were not levied on the distinct matter of One time land Development Premium of ₹ 527.38 crore and ₹ 100.16 crore respectively
2	Two SRs ¹⁵⁵	6	Development Fee	4.92	It was mentioned in the recitals of six DGPA documents registered between September 2007 and March 2008 that the developers paid Development fee to the owners. However, duties were not levied on the distinct matter i.e. payment of 'Development Fee'.
3	Two SRs ¹⁵⁶ and three DRs ¹⁵⁷	7	Conveyance of cash, Conveyance of property, Conveyance through Court decree and Sale	0.93	It was noticed from the recitals of these documents that duties were not levied on the distinct matters viz., Conveyance of cash, Conveyance of property, Conveyance through Court decree and Sale resulting in short levy of duties, the office-wise details of which are given in the Annexure-II.
Total				33.21	

¹⁵¹ Gandipet, Nunna, Rajendranagar and Vanasthalipuram.

¹⁵² Rangareddy (East, West) and Tirupati.

¹⁵³ Bheemunipatnam, Dwarakanagar, Gandipet, Kukatpally, Madhurawada and Serilingampally.

¹⁵⁴ Gandipet and Serilingampally.

¹⁵⁵ Kukatpally and Madhurawada.

¹⁵⁶ Bheemunipatnam and Dwarakanagar.

¹⁵⁷ Rangareddy (East, West) and Tirupati.

On the same being pointed out, the DR Rangareddy (West) replied (November 2013) in respect of one case in SR Serilingampally, (item 1 of the above list) that APIIC had declared that they had not received any extra sale consideration towards the cost of land from the allottee company. Therefore levy and payment of deficit duty did not arise. However, Audit observed that the fact of payment of ₹ 116.53 crore and interest of ₹ 20.89 crore paid in 2008 for 27.29 acres of land in Phase II was mentioned in the document. In respect of SR Gandipet included in item 1 in the above list, it was replied (November 2013) that APIIC is an AP State Government authority and as such is well protected under proviso to sub-section 6 of Section 47A of IS Act as applicable to state of AP. Hence there is no loss to Government. However Audit had adopted the value adopted by APIIC, and the observation was on non-levy of duty on one time land development premium paid by the developer.

No reply has been received in respect of the remaining cases (March 2014).

6.21 Misclassification of documents

6.21.1 Sale deeds executed by Banks misclassified as Certificate of Sale

As per Article 16 of Schedule 1-A of IS Act, on sale of any property through public auction by a Civil Court or Revenue Court or Collector or other revenue officer in respect of which a certificate of sale is issued to the purchasers, the stamp duty as applicable to a Conveyance deed under Article 20 is leviable. The Government vide its orders¹⁵⁸ dated 22 June 2012, clarified that Sale deeds executed by Banks under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) will be governed by Article 47-A of Schedule IA of the IS Act and not Article 16 of the said schedule.

According to Article 47-A of Schedule 1-A to the IS Act, instruments of sale are chargeable to stamp duty at five *per cent* on the amount set forth in the instrument or the market value of the property, whichever is higher. Further, transfer duty is leviable at two *per cent* on the above value as per the provisions of various Acts of Local Bodies.

In four DRs¹⁵⁹, Audit noticed in respect of six documents registered between 2008 and 2011 that the Registering Authorities misclassified sale deeds executed by financial institutions under SARFAESI Act as certificates of sale which resulted in short levy of duties amounting to ₹ 37.13 lakh as detailed below.

¹⁵⁸ Memo No.3358/Regn.I/A2/2012 dated 22 June 2012

¹⁵⁹ Kurnool, Nizamabad, Ongole and Rajahmundry.

(₹ in lakh)

Sl. No.	Registering Authority	Sale price/ market value	Duties leviable/ Duties levied	Short levy of duties	Remarks
1.	Kurnool	10.70	<u>0.91</u> 0.59	0.32	Stamp duty was levied at five <i>per cent</i> instead of at eight <i>per cent</i> including Transfer Duty (TD)
2.	Nizamabad	627.72	<u>47.08</u> 14.31	32.77	Stamp duty and Registration Fee was levied on auction price instead of on market value and TD was also not levied
3.	Ongole	14.85	<u>1.41</u> 0.82	0.59	Stamp duty was levied at five <i>per cent</i> instead of at nine <i>per cent</i> including TD
4.	Ongole	5.52	<u>0.52</u> 0.30	0.22	Stamp duty was levied at five <i>per cent</i> instead of at nine <i>per cent</i> including TD
5.	Ongole	50.75	<u>4.82</u> 2.79	2.03	Stamp duty was levied at five <i>per cent</i> instead of at nine <i>per cent</i> including TD
6.	Rajahmundry	30.10	<u>2.86</u> 1.66	1.20	Stamp duty was levied at five <i>per cent</i> instead of at nine <i>per cent</i> including TD
		739.64	<u>57.60</u> 20.47	37.13	

Matter was referred to Department in September, 2013; their reply has not been received (March 2014).

6.21.2 Misclassification of mortgage with possession

As per Article 35 (a) of Schedule IA to IS Act, a mortgagor who gives or has given to the mortgagee a power of attorney to collect rents, or has given to the mortgagee a lease of the property mortgaged or part thereof, is deemed to have given possession thereof within the meaning of the Article and stamp duty at five *per cent*, registration fee at 0.5 *per cent* and transfer duty at two *per cent* on the loan secured shall be levied.

In two DRs¹⁶⁰, Audit observed that in one case, a Mortgage Deed was executed in 2007 and a loan amount of ₹ 1.71 crore was raised against mortgage of property. In another case a Tripartite Agreement was executed for raising a loan of ₹ 1.20 crore and a property leased to third party was mortgaged. From the recitals of these documents it was noticed that the mortgagees were authorized to collect rents from the tenants and lessee. As such, these documents had to be treated as Mortgage with possession and duties under Article 35(a) were leviable. Misclassification of these documents as Mortgage without possession had resulted in short levy of duties of ₹ 15.83 lakh.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

¹⁶⁰ Kakinada and Tirupati

6.21.3 GPA for Consideration

As per Article 42(g) when the instrument of Power of Attorney is given for construction or development of, or sale or transfer (in any manner whatsoever) of, any immovable property, stamp duty is leviable at one *per cent* on the market value of the property. As per Article 42(e), when the instrument of Power of Attorney is given for consideration and authorizing the Attorney to sell any immovable property, Stamp duty at five *per cent* is leviable for a consideration or market value equal to the amount of the consideration.

6.21.3.1 In two SRs¹⁶¹, Audit noticed from the recitals of two GPA documents executed by Housing Board in 2007 and 2008 that the developers were given GPA to enter into agreements, sale deeds and to receive consideration. Audit noticed from the subsequent Agreements of sale document registered in SR, Kukatpally in 2011 that the said GPA was given against the bid amount paid by the developers for development of land in an extent of 6.31 acres. As the GPAs were given for consideration in the form of ‘bid amount’, stamp duty at five *per cent* amounting to ₹ 97.38 lakh on the consideration value of ₹ 19.48 crore adopted by the Registering Authorities was leviable. However, the Registering authorities misclassified these documents as GPAs without consideration and levied duties amounting to ₹ 19.48 lakh. This misclassification of document and application of incorrect rate of duty by the Registering Authorities resulted in short levy of duties amounting to ₹ 77.90 lakh.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

6.21.3.2 In SR Secunderabad, a GPA document was executed in April 2010 in favour of two persons. Audit noticed from the scrutiny of recitals of GPA document that the present GPA was based on a GPA executed in favour of the father of the GPA holders who had paid the value of the property but expired before execution of sale deed. As the entire sale consideration was stated to have been received, this document was to be treated as a GPA for consideration. However, the Registering Authority levied stamp duty under Article 42(g) amounting to ₹ 6.75 lakh at one *per cent* on consideration amount of ₹ 6.75 crore treating the document as GPA without consideration whereas duties at five *per cent* amounting to ₹ 33.75 lakh were to be levied. This misclassification of document resulted in short levy of stamp duty amounting to ₹ 30.37 lakh on the consideration amount of ₹ 6.75 crore as adopted by the Registering Authority.

Matter was referred to Department in September, 2013; their reply has not been received (March 2014).

6.21.4 DGPA with non-refundable advances treated as AGPA

As per Article 6(B) of Schedule IA of IS Act, 1899 read with Government Orders¹⁶² stamp duty shall be levied at one *per cent* on the amount of sale

¹⁶¹ Kukatpally and Sanjeevreddy Nagar

¹⁶² G.O.Ms.No.1481, Revenue (Registration-I) Department, dated 30 November 2007

consideration or market value of property or estimated market value for land and complete construction made or to be made in accordance with schedule of rates whichever is higher, on documents of DGPA. In October 2003, the Government had decided that stamp duty at five *per cent* of the market value should be levied on the amount of cash conveyed/non-refundable advances paid in respect of a DGPA.

In DR, Hyderabad (South) and SR, Dwarakanagar in three documents styled as AGPA registered in 2007, the vendors who were land owners were paid ₹ 2.55 crore as advance by the developers and the developers agreed to give 43 flats to the owners after construction of flats in those lands with the funds of the developers. As such, these deeds were to be treated as DGPAs with non-refundable advances and duties were chargeable on the cash conveyed. This misclassification resulted in non-levy of stamp duties on the amounts paid by the purchasers to the vendors amounting to ₹ 12.75 lakh as detailed below.

Sl. No.	Registry	Non-refundable advance (₹ in lakh)	No. of flats proposed to be handed over to the land owners	Stamp duty leviable at 5 <i>per cent</i> on the non-refundable advance (₹ in lakh)
1.	DR, Hyderabad (South)	215	35	10.75
2.	SR, Dwarakanagar	20	4	1.00
3.	SR, Dwarakanagar	20	4	1.00
	Total	255	43	12.75

Matter was referred to Department in September, 2013; their reply has not been received (March 2014).

6.21.5 Misclassification of DGPA as Development Agreement

As per Article 6(B) read with Government order¹⁶³ dated 30 July 2005, stamp duty payable on DGPA documents was reduced to one *per cent* subject to a maximum of ₹ 20,000. The maximum limit clause was deleted through Government order¹⁶⁴ dated 01 April 2008.

In DR, Hyderabad (South) and four SRs¹⁶⁵ six documents styled as Development Agreements were registered before April 2008 on which the Registering Authorities levied stamp duty amounting to ₹ 2.31 lakh on a market value of ₹ 416.03 crore. Audit noticed from the scrutiny of these documents that there were recitals in the documents authorising the developer to get permissions for construction from the competent authorities, marketing and lease the properties out, enter into sale agreements with the prospective buyers etc. Thus, these documents had all the covenants of a DGPA. However, to evade stamp duty, the documents were styled as Development Agreements, resulting in short levy of stamp duty amounting to ₹ 4.14 crore on a market value ₹ 416.03 crore.

effective from 3 December 2007.

¹⁶³ G.O.Ms.No.1475, Revenue (Registration-I) Department dated 30 July 2005.

¹⁶⁴ G.O.Ms.No.568, Revenue (Registration-I) Department, dated 01 April 2008.

¹⁶⁵ Champapet, Dwarakanagar, Stonehousepet and Vallabh Nagar.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

6.21.6 Misclassification of Dissolution of Partnership as Partition

According to Article 40 of Schedule IA to IS Act read with Government Orders¹⁶⁶, duties amounting to one *per cent* on the market value is leviable on the value of separated share or shares in a partition document. According to Article 41 (C) of Schedule IA to the IS Act where the property belonged to one partner or partners when the partnership commenced, is distributed or allotted or given to another partner or partners in case of dissolution of partnership, stamp duty is leviable at five *per cent* on the market value of the property distributed or allotted or given to the partner or partners under the instrument of dissolution in addition to the duty which would have been chargeable on such dissolution if such property had not been distributed or allotted or given.

In three DRs¹⁶⁷ and three SRs¹⁶⁸, in six documents styled as Partition deeds, Audit noticed from the recitals that the properties being partitioned were originally purchased during the currency of partnership in the name of the firm. The Registering Authorities treated these documents as partition deeds and levied duties amounting to ₹ 16.36 lakh. As the properties did not belong to any of the partners at the time of commencement of partnership, these documents were to be treated as dissolution of partnership deeds and duties amounting to ₹ 59.03 lakh on a market value of ₹ 10.73 crore under Article 41(c) were to be levied. Because of this misclassification and application of incorrect rate resulted in short levy of duties to a tune of ₹ 42.67 lakh.

On the same being pointed out, DR Nellore in respect of one document replied (November 2013) that the properties belonged to an erstwhile firm which was discontinued long ago and were also being enjoyed as the property of the joint family by the members. But it was not mentioned in the document that the partnership firm had been dissolved nor was a copy of the dissolution of partnership firm furnished to audit. The SR, Secunderabad replied (December 2013) that all the members of the firm were family members and hence duties were levied as applicable to a Partition deed. Reply is not acceptable as the property was in the name of the firm and partners of the firm were getting their respective shares from the firm. Hence the instrument should have been treated as dissolution of the firm under Article 41-C.

Matter was referred to Department in September, 2013; their reply has not been received (March 2014).

6.21.7 Misclassification of Gift/settlement deeds

As per Article 49 (A)(a) of Schedule IA to IS Act, read with Government Order¹⁶⁹, stamp duty in respect of gift settlement in favor of family members

¹⁶⁶ G.O.Ms.No.1129, Revenue (Registration-I) Department, dated 13 June 2005.

¹⁶⁷ Nellore, Rajahmundry and Tirupati.

¹⁶⁸ Koritepadu, Patamata and Secunderabad.

¹⁶⁹ G.O.Ms.No.1129 Revenue (Regn-I) Dept dated 13 June 2005 w.e.f. 01 July 2005.

was reduced to one *per cent* of the market value of the property settled. In any other case, settlements are chargeable with stamp duty at six *per cent* under Article 49 (A) (b) of Schedule IA to the Act.

In three DRs¹⁷⁰ and four SRs¹⁷¹ it was noticed from the recitals of 16 gift/settlement documents registered between 2007 and 2011 that in seven cases, either properties belonging to trusts/ partnership firms were settled in favour of individuals/ firms/trusts etc., or individuals settled properties in favour of trusts/ educational institutions etc. Further, in one case, there was no relationship between the donor and the donee and in another case, the liabilities on the properties settled were passed on to the donees. As these settlements fall outside the ambit of the definition of family the documents were to be treated as settlement in favour of others. However, the Registering Authorities treated them as settlements in favour of family members and levied duties amounting to ₹ 6.45 lakh on a market value of properties valuing ₹ 23.06 crore. This resulted in short levy of duties amounting to ₹ 99.56 lakh as detailed in the following table.

(₹ in lakh)

Sl. No.	Name of the office	No. of cases	Issues	Market value of the property	Duties leviable	Duties levied	Short levy of duties
1	SR, Kukatpally	2	Individual settled properties in favour of family trusts.	32.73	1.96	0.33	1.63
2	SR, Uppal	6	Properties of Partnership firms settled in favour of individuals.	681.40	37.48	6.87	30.61
3	SR, Uppal	1	Firm's property settled in favour of family members	45.53	2.50	0.45	2.05
4	SR, Maredpally	2	Property of a Society settled in favour of a pharmacy college	820	61.50	24.60	36.90
5	SR, Maredpally	1	Trust settled property in favour of individual.	180.72	10.84	5.43	5.41
6	DR, Hyderabad (South)	1	Donor and donee are not related and are not members of a family	176.53	10.59	1.78	8.81
7	DR, Hyderabad	1	Settled the property in favour of a Trade Union	163.67	9.82	4.91	4.91
8	SR, Secunderabad	1	Donees passed on the liability to repay the loans and security deposit. Hence it is a conveyance for consideration.	164.28	9.04	1.66	7.38
9	DR, Rangareddy East	1	Firm's property settled in favour of son.	41.40	2.28	0.42	1.86
Total				2,306.26	146.01	46.45	99.56

¹⁷⁰ Hyderabad, Hyderabad (South) and Rangareddy (East).

¹⁷¹ Kukatpally, Maredpally, Secunderabad and Uppal.

Matter was referred to Department in September, 2013; their reply has not been received (March 2014).

6.21.8 Misclassification of release as partition and incorrect valuation of property

As per Article 46 of Schedule IA to IS Act read with Government Orders¹⁷², stamp duty was leviable at one *per cent* in respect of Release deeds relating to family members on the consideration of such release as set forth therein or the market value of the property whichever was higher, over which claim was relinquished. Further, as per the Market Value Guidelines, acreage rate in respect of agricultural lands and square yard rate in respect of non-agricultural lands was to be adopted.

In SR, Uppal it was noticed from the recitals of a document registered as a partition deed in November 2008 that two members of a family paid a consideration of ₹ seven lakh each to other seven family members towards release of their share in their favour. The Registering Authority treated the document as a partition deed and by allowing exemption of duties on one share of property, levied duties amounting to ₹ 5.30 lakh. Audit observed that as seven members of the family joined in the execution of this document releasing their rights over the property for a consideration of ₹ seven lakh each in favour of two members, this document was to be treated as a release deed instead of a partition deed.

Audit further noticed from the recitals of the link documents registered in August and October 2008 i.e. prior to the registration of the present document that the property had already been converted into non-agricultural land and that some of the portions of the said property were sold as plots on which square yard rate was adopted by the Registering Authority. Hence, non-agricultural rate was to be applied for the purpose of valuation in respect of this property and duties amounting to ₹ 30.18 lakh on the market value of ₹ 30.18 crore at non-agricultural rate was leviable. Misclassification of document and undervaluation of property resulted in short levy of stamp duty amounting to ₹ 25.48 lakh.

Matter was referred to Department in September, 2013; their reply has not been received (March 2014).

6.21.9 Misclassification of Agreements of sale with possession as Agreement of sale without possession

As per the explanation given under Article 47-A of Schedule IA to IS Act, an agreement to sell followed by or evidencing delivery of possession of the property agreed to be sold was chargeable as ‘Sale’ under this article. As per Article 47-A, stamp duty at seven *per cent* and six *per cent* respectively of market value was to be levied on sale of properties situated in any area

¹⁷² G.O.Ms.No.1129 Revenue (Regn-I) Department dated 13 June 2005 effective from 01 July 2005.

comprised in a municipal corporation and other than a municipal corporation respectively.

In two DRs¹⁷³ and nine SRs¹⁷⁴, APIIC in 72 cases and individuals in three cases, had executed Agreements to sell in favour of intending purchasers for a consideration of ₹ 859.72 crore and the possession of the property was delivered to the purchasers on the date of agreement itself. Therefore the documents were to be treated as Agreement to Sell for consideration followed by the delivery of possession of the property and duties were to be levied at seven *per cent*/six *per cent* if the property is situated in any area in a municipal corporation/in any area in other than a municipal corporation respectively. This misclassification of Agreements of Sale with possession as Agreements of Sale without possession resulted in short levy of duties to the tune of ₹ 59.78 crore.

Matter was referred to Department in September, 2013; their reply has not been received (March 2014).

6.22 Incorrect refund of stamp duty

As per Government orders¹⁷⁵, refund of stamp duty is allowed upto three months from the date of remittance. Refund after allowing 10 *per cent* deduction shall be permitted for one more month i.e. fourth month as grace period with a deduction of 20 *per cent* of the total stamp duty paid through challan. The validity period of the challan is restricted to four months only from the date of payment.

It was noticed from the refund of stamp duty records in three offices¹⁷⁶ of Tahsildars that stamp duty was incorrectly refunded to 57 individuals after four months with 10 *per cent* deduction. The incorrect refund of stamp duty resulted in loss of revenue amounting to ₹ 15.50 lakh.

Matter was referred to Department in September 2013; their reply has not been received (March 2014).

IT Audit

6.23 Introduction

The Government of Andhra Pradesh as part of its vision to provide good governance to its citizens, initiated steps to harness the potential of Information Technology to enhance quality, transparency, convenience, certainty and accountability in providing public services. Computerisation of Stamps and Registration Department was envisaged (1998) and implemented through application software called Computer aided Administration of Registration Department (CARD). Main objectives of CARD include:

¹⁷³ Rangareddy (West) and Visakhapatnam.

¹⁷⁴ Anandapuram, Bujabujanellore, Gajuwaka, Kallur, Sarpavaram, Golconda, Serilingampally, Sanjeevareddy Nagar and Vallabh Nagar.

¹⁷⁵ G.O.Ms.No.222 Revenue (Registration-I) Department dated 19 February 2005.

¹⁷⁶ Hayathnagar, Medchal and Quthbullahpur.

- (a) Introduction of transparent system of valuation of properties easily accessible to citizens, which would bring speed, efficiency, consistency and reliability; and
- (b) Replacement of the manual system of indexing, accounting, reporting and copying and filing of documents.

CARD was developed by National Informatics Centre (NIC), Hyderabad. This project (two tier architecture) was initially operated (February 1999) in 214 registries and was extended to 387 registries in the State by March 2008 and later on to all 432 Registries under 38 D R Offices by June 2013 including 12 DIG Offices and the Office of C&IG of Registration and Stamps.

Department envisaged to migrate from client-server architecture to centralized architecture (where in data and scanned images of the documents from all the functional units would be stored and retrieved from central server) of application and database by July 2013. Transition to centralized architecture was completed in June 2013.

Tata Consultancy Services (TCS) was awarded (June 2010) the Facility Management (FM) contract, which included hardware and network maintenance, asset management, preventive maintenance etc.

6.24 Follow up of previous Audit Reports

An IT audit of the CARD was conducted in 2008 and the comments made on the following aspects in the Report of the Comptroller and Auditor General for the year ended 31 March 2008¹⁷⁷ still remain unaddressed:

- Non-preparation of feasibility report, user requirement specifications and system requirement specifications.
- Not planning or documenting of disaster recovery and business continuity plan.
- Non replacement of complete process of registration to prevent manual intervention in arriving at chargeable duties.
- Non utilisation of CARD services (e.g. manual register of Account-A).
- Acknowledgement/checking/scanning delays.
- Non-integration of CARD with other departments.
- Violation of business rule to arrive at Final Taxable Value (FTV) (which is equal to the maximum of consideration value (CV), market value (MV), or 18 times of Annual rental value) by CARD.
- Non implementation of Change Management controls such as uniform implementation of changes in business rules and non-maintenance of related documentation.

¹⁷⁷ Audit Report (Revenue Receipts), Government of Andhra Pradesh for the year ended 31 March 2008

During the present Performance Audit, these issues were revisited to check the improvements made. Department did not provide any information on follow up of Audit Report.

Audit findings

6.25 Supervision and Performance Monitoring issues

The Citizen's Charter of the Department issued through Centre for Good Governance¹⁷⁸ stipulated timelines as mentioned in service standards for completion of processing, scanning and making the documents available to the users. Analysis of data pertaining to 40 offices (Annexure-III) revealed that Department could not adhere to the timeframe and there were delays in acknowledgement, checking and registration phases of registration activity.

- For completion of the whole process of registration of a document, three days' time has been set in the Citizen's Charter. However, analysis revealed that in respect of 11,716 transactions, even issue of acknowledgement slips took more than three days.
- In respect of 14,176 records, it took more than three days after issue of acknowledgement slip for completion of checking activity, which is also a part of registration process.
- Scanning and issue of documents after registration could not be completed even after three days from date of registration in respect of 3,68,926 documents.

Department stated (December 2013) that delays are due to power failures in remote areas and other problems. However, users cannot be denied service on such grounds.

- Department is not in a position to generate reports or logs of various performance indicators and is dependent on information /reports generated by NIC.

Department accepted (December 2013) that it was not in a position to generate reports on its own and was dependent on NIC because Department lacks technical resources. Absence of specific report generation facilities in CARD pertaining to performance and changes in business rules limited the Departmental control over the system.

¹⁷⁸ The Centre for Good Governance (CGG) was established in October, 2001 by the Government of Andhra Pradesh in collaboration with the Department for International Development (DFID) of the United Kingdom and the World Bank to help it achieve the State's goal of Transforming Governance.

6.26 Application controls and Logical access controls including Password Management

6.26.1 Non mapping of business rules into application

Whenever there are changes in the provisions in respect of the processes of the Department, they are to be mapped into business rules of the application in order to prevent manual intervention. Following changes were not mapped into the business rules of application.

- Change of stamp duty from five *per cent* to six *per cent* in respect of AGPAs with effect from 20 September 2010¹⁷⁹ was not mapped into CARD application system till the date of audit (June 2013), which necessitated manual intervention in order to arrive at correct stamp duty resulting in non-exploitation of the full potential of the automation.

Department accepted (December 2013) that change of stamp duty rate was not carried out in the CARD Application but no reasons were provided.

- Exemption from stamp duty was given¹⁸⁰ on sale of flats (with area up to 1200 sq. ft.) in respect of sales made from 1 January 2009 to 31 December 2010. Since no provision was made in the application for capturing the required information (area), manual intervention was required to ascertain the eligibility for granting exemption. Audit could not verify the correctness of the exemptions granted as CARD application does not provide exemption status.

Department accepted (December 2013) that no specific provision was made in CARD application to generate reports that indicate exemption status.

- Stamp Duty exemption to the extent of one *per cent* in respect of sale deeds in favour of women was made applicable¹⁸¹ for the period of one year from 27 October 2008. However, no provision was available in CARD to indicate the gender of the buyer, leading to manual intervention to arrive at applicable stamp duty. Total exemption given under this could not be arrived at from the data available with Department.
- Audit observed that owing to non-mapping of business rules as well as for other reasons, 1,70,000 documents (i.e., nearly 13 *per cent* of 13,21,255 sample documents) were entered using ‘post manual’ mode during the period from April 2007 to March 2012 as shown in Annexure-III. Leases, mortgage, AGPA and all types of transactions dealing with flats were entered in post manual mode, depriving the Department from capitalising the benefits of automation.

Department did not furnish any relevant reply.

¹⁷⁹ G.O.Ms No. 1178, Revenue (Registration-I) Department, dated 16 September 2010.

¹⁸⁰ G.O.Ms.No.1, Revenue (Registration-I) Department, dated 01 January 2009.

¹⁸¹ G.O.Ms.No.1231, Revenue (Registration-I) Department, dated 24 October 2008.

6.26.2 Failure of application validations

Application validations are designed in the application system to ensure completeness, relevance, consistency and integrity of the data captured. Such validation mechanism ensures that the MIS reports generated using the data project a true picture.

Data analysis of the sampled units (13,21,254 records) revealed (Annexure-III) following validation failures:

- In 880 records, date of stamp purchase was later than execution or presentation date.
- There were 5,430 records for which presentation date of document was prior to execution date.
- In 701 records the registration date was prior to presentation or execution date.
- In case of 1,917 records boundary details of the scheduled properties (all sides) were not captured.
- In case of 1,015 lease transactions, lease period was not captured.

6.26.3 Logical access controls and Password management controls

Audit was informed that the Department is yet to draft security policy which includes password management policy. However for the purpose of disseminating necessary guidance on data security and integrity, user manuals were made available with all Registering Authorities.

Against this, Audit observed in 40 sample offices that no user manuals were available with functional units. Default user names and passwords of database were not changed, exposing the application to the threat of unauthorized data manipulation.

Department did not furnish any relevant reply.

6.27 Technological Direction Implementation

6.27.1 Delays in training programme

Risks associated with functional delay (in execution of day to day activities) and using web based application directly accessing centralized servers and critical functional data can only be addressed by adequate training to staff. The test checked DRs/SRs did not provide any information regarding training programmes conducted for the Departmental staff (who capture data and attach scanned images) to use CARD in Centralised Architecture.

In reply Department stated (December 2013) that training programme has been delayed due to strikes in the state and the same would be initiated soon. However, the Department had started the migration to Centralised Architecture in phased manner from November 2012.

Department had not entered into agreements with NIC regarding source code rights, database and application support provisions, documentation (SRS/URS/SDD etc.) and knowledge transfer.

In response, Department stated (December 2013) that no agreement was entered into with NIC regarding ownership and source code; measures were being taken for the same in consultation with NIC.

6.27.2 Network controls

Though it was provided in the facility management agreement with TCS, the Department failed to ensure generation of network/security incident/operational/system logs.

Department stated that Facility Management vendor had failed to generate reports but amounts payable have been withheld. Withholding amounts to be paid does not resolve system security events. Controls to prevent recurrence of such events only can ensure continuity of project as per the intended objective of keeping system available from 9:00 AM to 9:00 PM on working days (RFP 3.2 Key performance indicator).

6.27.3 Non-levy of penalty for violation of agreement clause

The department entered into an agreement for Facility Management (FM) with Tata Consultancy Services (TCS) through Andhra Pradesh Technology Services Limited (APTS) which is the nodal agency for all the Government departments for creating Information Technology infrastructure in Andhra Pradesh. APTS is responsible to conduct final acceptance tests of the installed system and issue acceptance certificate. FM includes supply of hardware, installation, networking, commissioning, maintenance and operation of the CARD project.

Audit noticed from Testing and Acceptance Certificate issued (August 2011) by APTS that supply and commissioning of system/equipment was not completed by Facility Management Vendor on the dates scheduled in 212 locations. However, department did not levy penalty for lapses in supply and commissioning of equipment as provided in the agreement.

Department stated (December 2013) that an amount of ₹ 16.59 crore was withheld from the payments to be made to Facility Management Vendor (TCS) subject to finalisation. However, the agreement provides for levy of penalty for non-supply or commissioning of equipment.

6.27.4 Test check and Processing Controls

Processing controls ensure correct processing of input data as per relevant business rules captured through application logic to produce the output. It was observed that in CARD Application inputs were not correctly processed as is seen in the following cases (Annexure-III).

- In case of 2,820 sale records (out of 8,34,115 total sample records), Final Taxable Value (FTV) on which stamp duty levied did not match

with the maximum of Consideration Value, Market value or 18 times Annual rent/value, indicating application did not implement the relevant business rule in arriving at Stamp duty to be charged. Department accepted that in some cases FTV did not match the business rule.

- The value of cash paid generated from application was not matching with the entries in the manual register. Department stated that this was due to non-incorporation of exemptions and reductions in rates of Stamp duty/Registration Fee and it cannot be construed that there is loss of revenue in such cases. However, it does not ensure data integrity and reports generated basing on the data captured by the application cannot be relied upon.
- Under section 23 of provisions of the Registration Act, no document (other than a will) shall be accepted for registration after four months from date of execution without collecting applicable fine. It was noticed that this provision was not built into CARD necessitating manual intervention in arriving at and collecting such fines. It was noticed that in respect of 179 documents, fine amounting to ₹ 56.08 lakh was not levied resulting in forgoing of revenue.

Department stated (December 2013) that there are some exceptions to relaxation of four months i.e., as per Rule 38 of Andhra Pradesh Rules under Registration Act, fine is leviable on such delays. The department's reply is irrelevant as the contention of audit itself is that such fine had not been levied on documents registered after four months from the date of execution. Further, three SRs promised to collect the fines as pointed out by Audit.

6.27.5 Internal control mechanism

Internal Audit is an important part of internal control mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weakness. It also provides a reasonable assurance on enforcement of law, rules and departmental instructions. When the internal audit particulars were called for, the C&IG stated (August 2013) that a separate wing for internal audit team headed by SR (Market Value (MV) and Audit)/DR (MV and Audit) would draw up the audit programme every month and conduct audit of offices of DR/SR offices. DIG concerned would supervise the progress of audit and monitor the collection of deficit stamp duty in the finalised audit paras and disciplinary action against responsible registering officers, who caused the loss of revenue due to their deliberate lapses.

However, it is evident from the above observations that the internal audit being conducted by Department has not been effective. It is desirable that internal audit be made more effective.

6.28 Conclusion

Non co-ordination with other departments (Transport and Income tax), frequent changes/amendments to Act/Rules increases the risk of leakage of revenue. Lack of strict monitoring of compliance with Acts/Rules resulted in revenue loss on account of misclassifications and undervaluation of documents. Department did not insist upon documentation from service provider. The continued dependence on the service provider poses risk to the Department. Hence it should develop its own expertise to generate reports independently and for making the data reliable.

6.29 Recommendations

Government may consider taking steps to

- ensure inspection of public offices under Section 73 immediately so as to detect the leakage of revenue;
- evolve a mechanism with departments (Transport, Income Tax, Revenue, etc.) to ensure proper collection of stamp duty;
- strengthen internal audit and make it more effective;
- incorporate business rule changes into the application in a timely manner;
- get into the role of data owner with ability to utilise on the information resources; and
- co-ordinate with NIC regarding source code rights, database and application support provisions, documentation (SRS/URS/SDD etc.) and knowledge transfer.

CHAPTER-VII

***OTHER TAX
RECEIPTS***

CHAPTER VII OTHER TAX RECEIPTS

EXECUTIVE SUMMARY

Tax administration	Other tax receipts include receipts from taxes and duties on electricity, professions tax, water tax, taxes and duties on commodities and services etc. The collection of other tax receipts for the year 2012-13 amounted to ₹ 1497.35 crore.
Results of audits conducted in 2012-13	<p>Test check of records of related offices indicated under assessments of tax and other irregularities involving ₹ 7.49 crore.</p> <p>Department accepted non-levy/short levies and other deficiencies of ₹ 2.23 crore in 40 cases of which three cases involving ₹ 0.38 crore was pointed out in audit during the year 2012-13 and the rest in earlier years.</p>
What audit has highlighted in this chapter	<p>This chapter highlights irregularities relating to levy and collection of water tax and road cess.</p> <p>Significant findings are given below:</p> <ul style="list-style-type: none">• <i>Jamabandi</i> which was to be completed before the <i>fasli</i> (1st July to 30 June) was completed after two years in most of the cases analysed in 24 mandals.• Of 35 mandals audited village wise Demand, Collection and Balance (DCB) registers were not maintained in 22 mandals for the period from 1 July 2007 to 30 June 2011.• Water tax was short levied due to raising of demand on lesser extent of area than communicated by Department of Irrigation.• Though Government alone is competent to remit water tax, remission was granted by <i>jamabandi</i> officers.
Conclusions	<p>Government may take necessary steps to:</p> <ul style="list-style-type: none">• Implement provisions in the Acts/Rules/notifications for timely completion of <i>jamabandi</i> (village accounts).• Levy of water tax on correct extent of land irrigated if necessary by conducting of joint inspection of by officials of Irrigation, Revenue and Agriculture Departments.

Levy and collection of water tax and road cess

7.1 Introduction

Receipts on account of water supplied by the State Government consist of Water tax and Road cess. Every land receiving water for the purpose of irrigation from any Government source of irrigation notified under the Act for each *fasli*¹⁸² year is subject to levy of Water tax at rates specified in the schedule to the Andhra Pradesh Water Tax Act (Act) 1988 as amended in 1997, which governs assessment and collection of Water tax. Similarly, under the Andhra Pradesh Irrigation, Utilization and Command Area Development Act, 1984, read with the notification issued thereunder, road cess at the rate of ₹ 12.35 per hectare per annum is to be levied for construction and maintenance of roads in the command areas of Nagarjunasagar, Sriramsagar and Tungabhadra Projects. According to a clarification issued in August 1989¹⁸³ by Chief Commissioner of Land Administration, Road cess is to be levied on all *ayacutdars*¹⁸⁴ irrespective of the formation of roads and supply of water in the command areas of the above projects.

The Revenue Department is headed by the Principal Secretary to Government. The Chief Commissioner of Land Administration (CCLA) is the administrative head for Land Revenue and is responsible for administration of the Revenue Board's Standing Orders (BSO), AP Irrigation Utilisation and Command Area Development Act 1984 and Rules 1985, AP Water Tax Act, 1988 and Rules 1988, AP Agricultural Land (Conversion for non-agricultural purposes) Act, 2006, and orders issued thereunder. He is assisted by District Collectors at district level. Each district is divided into revenue divisions headed by Revenue Divisional Officers (RDOs) and further sub-divided into mandals, which are under administrative charge of Tahsildars. Each village in a mandal is administered by a Village Revenue Officer (VRO) under the supervision of the Tahsildar. VROs/Revenue Inspectors are entrusted with the work of maintaining the land records, collection of water tax, road cess, field inspection duties etc.

The basic record for computation of Water tax and Road cess is the village account, which contains survey number, extent of land, pattadar, nature of crop, source of irrigation etc. The Village Revenue Officer (VRO) prepares the demand for both Water tax and Road cess in respect of the villages under his jurisdiction and Tahsildars consolidate the demand for each mandal¹⁸⁵. The final accounts called *Jamabandi*¹⁸⁶ are to be completed before the end of *fasli* and mandal demand statements must be closed within fifteen days after end of the *fasli* year, so as to finalise the settled demands in respect of Water tax and Road cess.

¹⁸² Period of 12 months from July to June.

¹⁸³ Z2/486/88 dated 28 August, 1989.

¹⁸⁴ Owners of the "land in Command areas of Irrigation Projects" (Ayacut).

¹⁸⁵ Mandals are the jurisdictional area of each Tahsildar.

¹⁸⁶ Finalisation of village accounts and demand.

7.1.1 Objectives, Scope and Methodology of audit

Audit on Levy and Collection of Water Tax and Road Cess was conducted to

- examine whether the *Jamabandi* was completed within the stipulated time frame;
- ascertain that the correct water tax rates were applied and interest on the arrears collected was levied and collected;
- verify whether the Road cess was levied and collected on the entire localised *ayacut* in the command areas of the three irrigation Projects; and
- examine whether remissions of water tax granted were in order.

Out of the 221 mandals of the command area of Nagarjunasagar, Sriramsagar and Thungabadhra projects, audit of thirty five mandals¹⁸⁷ was conducted during the period from June 2012 to April 2013. The sample was selected on the basis of highest irrigated area under these projects for the years from 2008-09 to 2011-12¹⁸⁸. Detailed check of records relating to two villages under each mandal and test check of remaining villages in the mandal were conducted with reference to observations on water tax and road cess.

The audit objectives were benchmarked against the following sources of audit criteria.

- Board's Standing Orders (BSO);
- AP Irrigation Utilisation and Command Area Development Act, 1984 and Rules 1985;
- AP Water tax Act, 1988 and Rules 1988;
- AP Revenue Recovery Act, 1864;
- AP Financial Code (APFC);
- AP Budget Manual; and
- Orders / notifications issued by the Government / Department from time to time.

¹⁸⁷ Chandarlapadu, Chintakani, Chityal, Damaracherla, Garidepalli, Holagunda, Huzurnagar, Jagtial, Jammikunta, Julapally, Kalluru, Kanchikacherla, Karimnagar, Kodada, Kowthalam, Madhira, Mattampalli, Mellacharuvu, Miryalaguda, Morthad, Nandigama, Narsaraopet, Nelakondapalli, Nereducherla, Nidmanoor, Odela, Parkal, Pedakadubur, Peddapally, Ramagundam, Rompicherla, Sattenapalli, Velgatoor, Veerulapadu and Yemmiganur.

¹⁸⁸ No period limit was considered for non/short levy of water tax/road cess, i.e. observations were taken in respect of all pending cases from the earliest year from which water tax/road cess was not levied upto the year of completion of *jamabandi*.

Audit findings

General

7.1.2 Failure to complete *Jamabandi* within stipulated time

As per the instructions issued in B.S.O. 12(5), *Jamabandi* is required to be completed before the end of *fasli* and mandal demand statements must be closed within fifteen days, so as to finalise the settled demand in respect of Water tax, Road cess and other revenue.

Audit scrutinized *jamabandi* records pertaining to five *fasli* years from 1417 to 1421 (1 July 2007 to 30 June 2012) of the selected mandals. Scrutiny revealed that details of *jamabandi* finalisation were available only in 24 mandals. Details regarding completion of *jamabandi* are tabulated below.

Fasli year	Completed within six months	Completed after six months to one year	Completed after one year to two years	Completed after two or more years	Not completed at all	Total
1417	Nil	Nil	12	11	1	24
1418	3	9	8	3	1	24
1419	2	4	8	9	1	24
1420	Nil	5	4	14	1	24
1421 ¹⁸⁹	Nil	2	Nil	19	1	22
Total	5	20	32	56	5	118
	4.24%	16.95%	27.12%	47.46%	4.24%	

Analysis of above data on the 24 mandals¹⁹⁰ revealed that only in 4.24 per cent mandals *Jamabandi* was completed within six months. The delay in completing *Jamabandi* varied from five months to over five years (Chityal and Peddapalli). In the office of Tahsildar Jammikunta *jamabandi* had not been completed for any of the *fasli* years. In 47 per cent of cases, the delay was more than two years.

In nine offices, it was replied that the completion of records was still under process. In four offices, it was replied that records of two *fasli* years were completed and were kept ready for submitting to the *jamabandi* officer. The remaining offices did not mention any relevant reason for non-completion in their replies.

Reasons for non-finalisation were not submitted to Audit. It was brought to the notice of CCLA (June 2013) and a reminder was sent (November 2013). Reply has not been received. (March 2014).

¹⁸⁹ Two offices of Karimnagar and Nereducherla were audited in the month of June 2012 by when *jamabandi* for *fasli* year 1421 was not due for completion. Hence number of offices has been correspondingly reduced for *fasli* year 1421.

¹⁹⁰ Chandarlapadu, Chityal, Damaracherla, Garidepalli, Jammikunta, Kanchikacherla, Karimnagar, Kowthalam, Madhira, Miryalaguda, Morthad, Nandigama, Narsaraopet, Nelakondapalli, Nereducherla, Nidmanoor, Odela, Parkal, Pedakadubur, Peddapally, Ramagundam, Rompicherla, Sattenapalli and Veerulapadu.

The delay in completion of *jamabandi* has resulted in non-finalisation of demands. Though provisional demands are being raised, there is no assurance that they accurately reflect the revenue to be recovered.

7.1.3 Non-maintenance of village wise Demand, Collection and Balance Registers

In order to integrate the village accounts of both Telangana and Andhra regions, Government of AP introduced integrated village accounts in the order¹⁹¹ dated 10 March 1992 and prescribed Demand Collection and Balance (DCB) register to be maintained by Village Revenue Officer as Village Account No. 5. As per Government Order¹⁹² dated 5 January 1990, village accounts are to be scrutinized and approved by the Mandal Revenue Officer (MRO)/ Tahsildar.

Articles 8 and 9 of APFC also prescribe that every departmental controlling officer should closely watch the progress of the realisation of the revenue under his control and obtain regular returns from his subordinates for the amount received by them.

Of 35 mandals audited, Village wise DCB registers were not maintained in 22 mandals¹⁹³ for the period from 1 July 2007 to 30 June 2011 (*Fasli* years 1417 to 1420). In the absence of Village wise DCB registers, action taken if any, to recover the arrears could not be properly monitored.

Tahsildar, Julapally replied that information was not readily traceable and that DCB registers would be produced to Audit. Other Tahsildars replied that DCB Registers would be updated and submitted to audit in due course.

The matter was brought to the notice of CCLA and the Government (June 2013) and a reminder was sent (November 2013). Their reply has not been received (March 2014).

7.1.4 Non-reconciliation of remittance figures with those of treasury

As per Para 19.6 of the AP Budget manual read with Government instructions issued from time to time, the departmental receipts were to be reconciled regularly every month with those booked by the treasury in order to detect in time, the misclassifications, accounting errors, fraudulent and spurious challans etc. if any.

Audit noticed in 11 Tahsildar offices¹⁹⁴ that accounts of revenue realised and remitted towards water tax were not reconciled for the *fasli* years from 1414 to 1421 (1 July 2004 to 30 June 2012) with the treasury accounts. As a result,

¹⁹¹ G.O.Ms.No.265 Revenue department dated 10 March 1992.

¹⁹² G.O.Ms.No.3 of Revenue Department dated 5 January 1990.

¹⁹³ Chityal, Damaracherla, Garidepalli, Holagunda, Jagtial, Jammikunta, Julapally, Kowthalam, Madhira, Miryalaguda, Morthad, Nandigama, Nelakondapalli, Nereducherla, Nidmanoor, Odela, Parkal, Pedakadabur, Peddapally, Ramagundam, Velgatoor and Yemmiganur.

¹⁹⁴ Chityal, Garidepally, Holagunda, Jagtial, Karimnagar, Madhira, Morthad, Narasaraopet Peddapally, Velgatoor and Yemmiganur.

the department did not have a system in place for detecting misclassifications, accounting errors, fraudulent and spurious challans etc.

In response, Mandal Offices replied that reconciliation would be completed and audit intimated.

The matter was brought to the notice of CCLA and the Government (June 2013) and a reminder was sent (November 2013). Their reply has not been received (March 2014).

Water tax

7.1.5 Short levy of water tax due to adoption of incorrect procedure

Government in their orders¹⁹⁵ dated 13 February 2001 and 8 June 2007 laid down the procedure for raising water tax demand. As per this procedure, Executive Engineers of Project areas/irrigated sources are required to communicate the extent of area irrigated for fixation of water tax demand by Tahsildar. In case of variation between actual area irrigated as indicated by Irrigation Department and that of Revenue Department, Joint *Azmoish*¹⁹⁶ should be done and the actual figures of area irrigated should be arrived at.

Audit noticed from *Jamabandi* records of nine mandals¹⁹⁷ that water tax demand raised for the *fasli* years from 1415 to 1419 (1 July 2005 to 30 June 2010) were finalised by *Jamabandi* Officers¹⁹⁸ in respect of areas which were less than the actual extent of irrigated areas furnished by the Irrigation department. As a result, water tax amounting to ₹ 99.12 lakh was short levied on an extent of 1,31,727.33 acres.

In response, two Tahsildars¹⁹⁹ stated that action would be taken to levy the tax. Six Tahsildars²⁰⁰ stated that the matter would be examined. Tahsildar, Huzurnagar replied that joint *azmoish* statements would be produced to audit.

The matter was brought to the notice of CCLA and the Government (June 2013) and a reminder was sent (November 2013). Their reply has not been received (March 2014).

7.1.6 Adoption of incorrect rate of water tax

As per Water tax Act, 1988, all major and medium irrigation projects are regarded as Category I, while other Government sources that supply of water for not less than four months are regarded as Category II. The rates of water

¹⁹⁵ G.O.Ms.No.115 (LR-III) Department dated 13 February 2001.

G.O.Ms.No.96 Irrigation & CAD (General) IV.2 Department dated 8 June 2007

¹⁹⁶ Joint *azmoish* means joint inspection of irrigated land conducted by Irrigation, Agriculture and Revenue departments.

¹⁹⁷ Chandarlapadu, Chityal, Huzurnagar, Julapally, Madhira, Mattampally, Nereducherla, Parkal and Velgatoor.

¹⁹⁸ Officer not below the rank of Revenue Divisional officer authorised to finalise village accounts.

¹⁹⁹ Chityal and Nereducherla.

²⁰⁰ Chandarlapadu, Julapally, Madhira, Mattampalli, Parkal and Velgatoor.

tax for Category I source (First or Single wet crop) is ₹ 200 per acre whereas for second wet crop the water tax is leviable at ₹ 150 per acre.

Scrutiny of the *Jamabandi* records revealed that in two mandals²⁰¹ water tax was short levied during the *fasli* years from 1413 to 1418 by applying incorrect rate of second wet crop rate (₹ 150 per acre) instead of applying single wet crop rate of ₹ 200 per acre on an irrigated extent of 29,218 acres. This resulted in short levy of Water tax amounting to ₹ 14.71 lakh.

In response, Mandal Offices replied that matter would be examined and detailed reply furnished to audit.

The matter was brought to the notice of CCLA and the Government (June 2013) and a reminder was sent (November 2013). Their reply has not been received (March 2014).

7.1.7 Non-levy of interest

As per Section 8 of AP Water tax Act, 1988, water tax payable by a land owner in respect of any land shall be deemed to be public revenue due and the provisions of the Andhra Pradesh Revenue Recovery (APRR) Act, 1864, shall apply. Further, under Section 7 of APRR Act, arrears of revenue shall bear interest at the rate of six *per cent* per annum.

During scrutiny of Demand Collection and Balance records and receipt books of 10 Tahsildar offices²⁰², audit noticed that during *fasli* years from 1411 to 1421 (1 July 2001 to 30 June 2012), arrears of land revenue towards Water tax amounting to ₹ 4.88 crore was collected. However, interest leviable under Section 7 of APRR Act was not levied. Interest of ₹ 29.26 lakh was computed by audit on a conservative estimate (calculated at the rate of six *per cent* for minimum period of one year) as the period of delay could not be checked on account of non/improper maintenance of DCB registers at village level.

In response, eight Tahsildars²⁰³ stated that interest on arrears would be collected while two Tahsildars²⁰⁴ replied that the matter would be examined. The issue was brought to the notice of CCLA (June 2013) and a reminder issued (November 2013) seeking reasons for non-levy of interest. Reply has not been received (March 2014).

7.1.8 Irregular grant of remission of water tax

As per provisions of Section 3 of AP Water tax Act 1988, water tax is to be levied on all types of lands receiving water from Government sources. Any exemption from the application of these provisions can only be granted by the Government. Hence, only Government is competent to remit Water tax.

²⁰¹ Nelakondapalli and Peddapally.

²⁰² Holagunda, Jagtial, Jammikunta, Kalluru, Narasaraopet, Odela, Peddapally, Ramagundam, Rompicherla and Yemmiganur.

²⁰³ Holagunda, Jagtial, Kalluru, Narasaraopet, Odela, Peddapally, Ramagundam and Rompicherla

²⁰⁴ Jammikunta and Yemmiganur

CCLA also clarified²⁰⁵ and directed that Collectors are required to obtain necessary orders whenever such cases of remission arise. Remission granted by the Government has to be noted in village accounts (Account 4B).

During scrutiny of Statement of Remissions (Village Account 4B) and *Jamabandi* records audit noticed in four Tahsildar offices²⁰⁶ that remission of water tax amounting to ₹ 5.65 crore was granted by the *Jamabandi* officers for the *fasli* years from 1415 to 1420 without any sanction from the Government. Unauthorised remissions resulted in short realisation of Government revenue to that extent.

In response, two Tahsildars²⁰⁷ replied that matter would be examined and reply furnished to audit in due course. Tahsildars, Miryalaguda and Chityal stated that remissions were granted by *jamabandi* officer.

The replies are not tenable since Government alone is competent to remit water tax as per provisions of water tax Act. *Jamabandi* officers themselves granting remission is irregular and violates the internal control mechanism.

The matter was brought to the notice of CCLA and the Government (June 2013) and a reminder was sent (November 2013). Their reply has not been received (March 2014).

Road cess

7.1.9 Non/Short levy of Road cess in command areas of the Irrigation Projects

During the test check of *jamabandi* records i.e., Village Account 8 relating to extent of ayacuts, Village Account 4 relating to amount of road cess levied and Taluk Account 12 containing road cess demand pertaining to the mandal, of 15 Tahsildar offices²⁰⁸, audit noticed that road cess of ₹ 27.04 lakh was short levied in 12 offices for the *fasli* years from 1411 to 1421 (1 July 2001 to 30 June 2012) as only the irrigated extent of the land was taken into account instead of entire *ayacut* of the command area. In three offices²⁰⁹, road cess of ₹ 13.57 lakh was not levied on ayacutdars in the command areas of the irrigation projects. The reasons for non-levy were not found on records. This resulted in non/short levy of road cess of ₹ 40.61 lakh.

In response, four Tahsildars²¹⁰ replied that road cess would be levied and audit intimated. Remaining Tahsildars replied that matter would be examined and reply furnished in due course.

²⁰⁵ CCLA Ref.No. AP1/1260/2009 dated 24 February 2010.

²⁰⁶ Chityal, Damaracherla, Garidepalli and Miryalaguda.

²⁰⁷ Damaracherla and Garidepalli.

²⁰⁸ Chandarlapadu, Chintakani, Chityal, Damaracherla, Holagunda, Julapally, Karimnagar, Morthad, Odela, Peddapally, Ramagundam, Rompicherla, Veerulapadu, Velgatoor and Yemmiganur.

²⁰⁹ Chintakani, Julapally and Peddapally

²¹⁰ Holagunda, Karimnagar, Rompicherla and Yemmiganur.

Matter was referred to Department (June 2013) and to the Government (June 2013). Their reply has not been received (March 2014).

7.1.10 Conclusion

In none of the offices audited, *jamabandi* was completed on time. In most of the cases there were delays in each year. DCB registers at village level were not properly maintained resulting in weak monitoring system for arrears of revenue and leakage of revenue due to factors like non-levy of interest. The procedure for arriving at water tax demand was not adhered to. Interest on arrears was not levied by the department under AP Revenue Recovery Act. Remission of water tax was granted by authorities who were not authorized to do so. Road cess was levied on only irrigated extent of land instead of on the entire *ayacut* in accordance with the provisions.

7.1.11 Recommendations

It is recommended that Government may consider taking steps to ensure that the provisions contained in the Acts/Rules and orders/notifications are properly complied with for

- timely completion of *Jamabandi*; and
- levy of Water Tax and Road Cess at correct rate and on correct extent of land in accordance with the statutory provisions.

CHAPTER VIII
REVENUE
(Endowments)
DEPARTMENT

CHAPTER VIII REVENUE DEPARTMENT

EXECUTIVE SUMMARY

Background

Activities relating to administration and governance of Hindu religious institutions, management of properties and utilization of funds etc are governed by the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (APCHRIE) Act, 1966 which was replaced by APCHRIE Amendment Act 1987. The main source of revenue for the temples is by way of *hundial* collections, sale of tickets for darshan, prasadam, accommodation of pilgrims etc.

The expenditure of department is initially met out of the Consolidated Fund of the state and later recouped from the Endowment Administration Fund. A theme based compliance audit on 'Monitoring and Administration by Endowments Department' was conducted to check maintenance of temple funds/property etc. Audit covered the office of the Commissioner of Endowments and offices of the Executive Officers of seven major temples which were selected on the basis of their income during the period from 2010-11 to 2012-13.

The major audit findings are given below:

Major Audit Findings

- Audit observed that in five out of seven temples though gold accumulations exceeded prescribed limit of one kg, the excess gold was not deposited under the schemes prescribed. Interest earnings on gold deposits offered by banks were thus forgone.
 - Demand, Collection and Balance (DCB) statements of all items of revenue, decree income, (both cash and in kind) which were to be prepared annually were not prepared. In six of the temples, audit observed that an amount of ₹ 7.61 crore was pending collection to the end of March 2013 towards lease rents from shops and bid amounts for license rights.
 - It was noticed that out of sale proceeds of temple lands valuing ₹ 9.91 crore sold to District Revenue authorities an amount of only ₹ 7.93 crore was realized (November 2012) leaving a balance of ₹ 1.98 crore.
-

- Audit observed that statutory contributions like Endowment Administration Fund (EAF), Audit fee (AF), Common Good Fund (CGF) and Archaka Welfare Fund (AWF) were in arrears to the tune of ₹ 178.94 crore.
- It was noticed that in five of the temples selected for audit, bank balances were not reconciled with cash book balance. The difference in the balances ranged between ₹ 50.72 lakh to ₹ 1.94 crore.
- An amount of ₹ 5.34 crore was drawn (between March 2003 and January 2011) on Abstract Contingent (AC) bills in the Commissioner's office. The amounts were to be settled within three months of drawal by submission of Detailed Contingent (DC) bills. However, this was not done.

Major Recommendations

- As custodians of temple funds, Executive officers of the temples have to ensure proper accounting of funds and its judicious utilization.
- Proper mechanism is to be devised to ensure proper investment of temple funds for optimal returns.
- Donations received in foreign currencies are to be credited to temple funds after exchange without any delay.

8.1 Monitoring and Administration by Endowments Department

8.1.1 Introduction

The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (APCHRIE) Act 1966 (which was repealed and replaced by the APCHRIE Amendment Act, 1987) was enacted after formation of the Andhra Pradesh. The objectives of the Act are to consolidate/amend the laws relating to administration and governance of Charitable and Hindu Religious Institutions and Endowments in the State of Andhra Pradesh, to abolish all hereditary rights of *Archakas*²¹¹ and other servants and to ensure better management of properties and utilisation of funds. The Act was enacted to facilitate resumption of lands from existing tenants. Section 3 of the Act provides for appointment of a Commissioner by the Government for the purpose of exercising the powers and performing the functions under this Act. Section 8(1) empowers Commissioner to pass any order which may be deemed necessary to ensure proper administration of temples and accounting of their income.

8.1.2 Organisational setup

The Endowments Department is headed by the Principal Secretary, Revenue (Endowments) Department at Government level, and by the Commissioner of Endowments who is assisted by three Additional Commissioners, one Joint Commissioner and a Vigilance Officer at the State level, Regional Joint Commissioners at Regional level; Deputy Commissioners at Zonal level; and Assistant Commissioners at District level and Inspectors at the Revenue Division level. There is an Engineering Wing headed by the Chief Engineer with supporting staff and also a *Silpi* Wing being headed by the *Sthapathi*²¹².

As per Section 15 of the APCHRIE Act, every religious institution/charitable institution or endowment, shall have a Board of Trustees. In the case of institutions governed by Section 6(a) of the Act, Government has to constitute the Board of Trustees consisting of nine persons appointed by it.

Based on their annual income, the temples are administered by the officers at various grades of the Endowment Department, called Executive Officers (EOs) in this Report, as detailed in the following table:

Rank of Executive Officers	Annual income of temples
Regional Joint Commissioners (RJs)	Above ₹ 1 crore
Deputy Commissioners (DCs)	Between ₹ 50 lakh and ₹ 1 crore
Assistant Commissioners (ACs)	Between ₹ 15 lakh and ₹ 50 lakh
Executive Officers Grade-I, II, III	Between ₹ 2 lakh and ₹ 15 lakh

²¹¹ *Archaka* includes a pujari, a panda, an Archakatwam Mirasidar (Descendent or other person who personally performs or conducts any archana, pooja or other ritual).

²¹² *Sthapathi* is a religious representative construction and maintenance of the temples and related buildings.

A total of 37,419 temples were in the State categorized under Section 6 of the Act as shown in the following table:

Sl. No.	Category of the temple	No. of temples
1.	6 (a) institutions whose annual income is ₹ 25 lakh and above	148
2.	6 (b) institutions whose annual income is ₹ 2 lakh to ₹ 25 lakh	1,141
3.	6 (c) institutions whose annual income is below ₹ 2 lakh	36,130
Total		37,419

Under Section 29(3) of APCHRIE Act, 1987 the Executive Officer shall

- (i) be responsible for proper maintenance and custody of all the records, accounts and other documents and of all the jewels, valuables, money, funds and other properties of the Institution or Endowment;
- (ii) arrange for the proper collection of income and for incurring of expenditure;
- (iii) sue or be sued in the name of the institution or Endowment in all legal proceedings;
- (iv) deposit money received by the institution or Endowment in such Bank or treasury as may be prescribed and be entitled to sign all orders or cheques against such moneys;
- (v) have power in cases of emergency to direct the execution of any work or doing of any act, which is provided for in the budget for the year or the immediate execution or the doing of which is in his opinion necessary for the preservation of the properties of the institution or endowment or for the service or safety of pilgrims resorting thereto and to direct that the expenses of executing such work or the doing of such work or the doing of such act shall be paid from the funds of the institution or endowment.

The overall performance and functioning of the temples is monitored by the Commissioner of Endowments (COE), Andhra Pradesh, Hyderabad.

8.1.3 Financial management

The main source of revenue for the temples is receipts by way of sale of tickets for *darshan*, *prasadam*s, accommodation to pilgrims, *kesakhandana* besides daily *hundial*²¹³-collections and other offerings and donations given for *Annadanam*, *Saswathapujalu*, etc. Although every item of expenditure is met from the funds of the temples, administrative sanction is obtained from the COE.

According to provisions of APCHRIE (Amendment) Act 2007, every temple/Hindu religious institution in the State shall contribute certain sums to the Endowments Department every year towards Endowment Administration

²¹³ *Hundial* collections are the money and ornaments put in the *hundials* by the devotees.

Fund (EAF), Audit Fee, Common Good Fund, and Archaka Welfare Fund as detailed in the following table:

Sl. No.	Name of the Fund	Section of the Act	Annual Contribution
1	Endowment Administration Fund (EAF)	65 (1)	12 <i>per cent</i> of assessable income if annual income exceeded ₹ 50,000
2	Audit Fee (AF)	65 (4)	1.5 <i>per cent</i> of the annual income if annual income exceeded ₹ 50,000
3	Common Good Fund (CGF)	70 (1)	5 <i>per cent</i> of assessable income if annual income exceeded ₹ 50,000
4	Archaka Welfare Fund (AWF)	161 (1)	3 <i>per cent</i> of the income if annual income exceeded ₹ 20 lakh

According to Section 65 (2) of the Act, the Tirumala Tirupathi Devasthanam (TTD) shall be liable to pay to the Endowment Department/State Government annually from the income derived by it, a contribution of seven *per cent* of such annual income or ₹ 50 lakh in lumpsum whichever is higher in addition to five *per cent* contribution to CGF.

The accounts of these contributions are maintained at Commissionerate. The salaries and other allowances of the staff of the Department are met from the EAF for the services rendered by them to the temples.

The expenditure of Endowments Department is initially met out of the Consolidated Fund of the state (through MH 2250-102-01) and later recouped from the EAF held as a public deposit (8235-103-01: General and other Reserve Fund-Hindu Religious and Charitable Endowment Account Fund Main) with the state. The contributions made by the endowments institutions towards EAF are remitted to the public deposit head.

8.1.4 Audit Objectives

The audit was conducted to ascertain whether the Executive Officers, being the representatives of the Government were performing their duties in administration of the temples as per the provisions of APCHRIE Act, 1966 and other Government orders issued from time to time in monitoring various activities of the temples and protection of temple properties/assets. Audit test checked the temple records to see:

- Whether collections from Hundis²¹⁴ and donations received from general public or philanthropists were being accounted for properly and transparently;
- Whether jewellery items were properly secured and sufficient system of security existed in the temples;
- Whether the provisions of the Act for leasing/renting of commercial establishments and lands were complied with and lease fee/rent was collected in time;

²¹⁴ Hundi is a metal box kept in which devotees put their offerings.

- Whether temple lands were protected against encroachments by proper monitoring; and
- Whether temple funds were invested and accounted for in accordance with extant rules/provisions.

8.1.5 Audit Scope & Methodology

Audit was conducted covering Office of the Commissioner of Endowments, Hyderabad and seven major temples headed by Executive Officers of Regional Joint Commissioner grade. These were selected on the basis of their income during the last three years i.e., 2010-11 to 2012-13.

Field study conducted between February and May 2013, involved scrutiny of records of Commissionerate and seven major temples viz., Sri Bhramaramba Mallikarjuna Swamy Devasthanam (SBMSD), Srisailam; Sri Durga Malleswara Swamy Varla Devasthanam (SDMSVD), Vijayawada; Sri Lakshmi Narsamiha Swamy Devasthanam (SLNSD), Yadagirigutta; Sri Raja Rajeswara Swamy Devasthanam (SRRSD), Vemulavada; Sri Tirupathamma Ammavari Devasthanam (STAVD), Penuganchiprolu; Sri Varaha Lakshminarasimha Swamy Devasthanam (SVLNSD), Simhachalam; and Sri Varasiddi Vinayaka Swamy Devasthanam (SVVSD), Kanipakam.

8.1.6 Budgetary Position

The following are the details of budget allotted, expenditure incurred by the Department and contribution to EAF made by the temples during 2010-11 to 2012-13.

(₹ in lakh)

Year	Budget Allotted	Actual Expenditure	Annual contributions remitted to the EAF	Difference between Annual Contribution and Expenditure
2010-11	3,815.37	3,530.97	4,613.03	1,082.06
2011-12	4,613.20	3,761.76	5,035.49	1,273.73
2012-13	5,160.64	4,306.94	6,470.95	2,164.01

Audit findings

8.1.7 Management of Hundis in Temples

As per Section 29 (3)(b)(iv) of Act, the Executive Officer shall be responsible to deposit money received by the institution or endowment in such bank or treasury as may be prescribed and shall be entitled to sign all orders or cheques against such moneys. However no specific provisions exist in the Act regarding treatment to be given to the foreign currencies found in the hundis.

8.1.8 Hundial collection in Foreign currency

As per the Circular²¹⁵ issued by the COE, the currency received from *hundis* was to be sent to bankers and challans were to be given by the bank officers on the spot. It was noticed in four temples²¹⁶ that the foreign currency collected

²¹⁵ Circular No.7 in Rc.No.DP (I)/16729/2010 dated 21 April 2010.

²¹⁶ Kanipakam, Srisailam, Vemulavada, Yadagirigutta.

in *hundials* sent for exchange was returned in the same form by the bankers without assigning any reason. In the absence of any specific provisions/orders, the Executive Officers (EOs) did not take any alternative action for their disposal.

Although, in response EOs assured to take action but Audit recommends that the Department may consider introducing specific provisions for management of foreign currency collected in *hundials*.

8.1.9 Non-compliance with instructions to deposit Gold in banks

COE in December 2009 permitted²¹⁷ the EOs of all temples to deposit the unused gold (not used in the form of deities' ornaments etc.) in SBI Gold Deposit Bond Scheme whenever more than one kilogram of gold accumulated with the temples. The precious stones were also to be sold off and cash so obtained was to be invested as per the Depositing and Investment of Moneys Rules, 1989.

It was noticed (February-May 2013) that though gold accumulations exceeded the prescribed limit of one kilogram in five out of seven selected temples viz., SLNSD Yadgirigutta (three kg); SVLNSD Simhachalam (three kg); SRRSD Vemulavada (nine kg); SDMSVD Vijayawada (eight kg); and SBMSD Srisailam (nine kg), the excess gold was not deposited under the scheme. Interest on the gold deposits offered by the banks was thus foregone by the institutions. On this being pointed out, EOs of the temples promised compliance.

At SBMSD Srisailam, precious stones extracted out of the jewellery weighing more than two kilograms were not disposed of and value thereof was also not accounted for in the records.

8.1.10 Improper accounting of donations

Following deficiencies in accounting of donations were noticed in the test checked temples:

- In every temple the devotees contribute donations towards *Nitya Annadanam*, *Saswatha Pujalu* and different *Arjita Sevas*. At SLNSD Yadgirigutta, it was noticed during test check of counterfoils of receipt books of donations, that the amounts of donations received for *Nitya Annadanam* and *Saswatha Pujalu* were not recorded in the counterfoils of the receipt books, giving scope for mismanagement of public donations. The EO assured to take care of it in future.
- At SRRSD Vemulavada, 3.951 kg of silver received from donors in September-October 2009 though recorded in the *Kanukala* (offerings) register, was not taken to the Register of Assets (April 2013). EO accepted the audit observation.

²¹⁷ Memo No: J3/24483/2009 dated 14 December 2009.

8.1.11 Deficiencies in security arrangements/equipments

As per COE's Circular²¹⁸ (March 1974) read with the Commissioner Review Proceedings dated 16 April 2010, adequate security measures/ fool proof arrangements are to be ensured not only for the temple but also for jewellery kept in the temple. At every temple, the local Intelligence Wing of Police Department is to conduct security audit periodically and submit the reports for strengthening the security measures.

It was noticed from the security audit reports and stock register of security devices maintained by the temples that the security measures at all the temples were inadequate. There was shortage of security devices like Jammers, CCTV Cameras, Metal detectors, VHF sets, Scanners, Dragon lights, fire fighting equipments, Alarm systems etc., besides insufficient security personnel as mentioned in the following cases:

- At SBMSD Srisailam, as per the recommendations made in the Joint Security Survey report (January 2012) by the A.P. Special Protection Force with Local Police and Chief Security Officer of the Devasthanam, the security measures at the temple premises and at toll gate needed to be revamped and further strengthened to avoid any untoward incident. No fire fighting equipment was installed at the Very Very Important Persons (VVIP) guest houses named as Bramarambika Sadanor at the newly constructed *Annadanam* and administrative buildings of the temple. No action in this regard was taken till the date of audit (April 2013).
- At SVLNSD Simhachalam, it was noticed that out of seven metal detectors installed, three metal detectors (purchased in July 2008) were not in working condition since July 2009.
- Similarly, at SDMSVD Vijayawada, 19 CCTV cameras purchased between 2010 and 2011 at a cost of ₹ 4.76 lakh had developed faults but were not repaired and were lying idle since 2011. Further, no steps were taken for repairing three metal detectors which were not in working condition. EO promised that action would be taken to repair the CC Cameras.
- At STAVD Penuganchiprolu, eight out of 44 CCTV cameras purchased between 2010 and 2012 at a cost of ₹ 6.60 lakh were lying idle for want of repairs. Further, no steps were taken for repairs of two metal detectors. The EO promised to get the security devices repaired and put to use.

Audit recommends conducting regular inspections of the security/ safety equipment and taking action on the recommendations made in the survey report.

²¹⁸ Cr. No.8/74 dated 16 March 1974

8.1.12 Management of temple properties and service rights

As per Section 29(3)(ii) of the Act, the Executive Officer of the temple concerned shall be responsible for proper collection of income and for incurring of expenditure.

Apart from *hundial* collections, receipts towards rents and leases on temple properties and licenses of service rights²¹⁹ are also the major source of income of temples. Renting and leasing of temple properties are governed by The APCHRIE's Immovable Properties (Other than agricultural lands) Lease Rules, 1982 and Lease of Agricultural Lands Rules, 2003.

8.1.13 Arrears of shop rents and bid amounts on the licences of service rights

As per Government Order²²⁰ dated 30 June 1989, a statement of Demand, Collection and Balance (DCB) of all items of revenue or income of decrees, both arrears and current, outstanding amounts along with the names of tenants or other persons from whom the arrears are due with details of years for which they are due shall be prepared at the end of the financial year by the EOs. However, the EOs did not mention the complete details in the DCB statements during 2010-13 at six selected temples. An amount of ₹ 7.61 crore²²¹ was outstanding towards rent of leased shops and bid amounts for licences issued for various service rights till the end of March 2013.

Some of the deficiencies noticed in collection of shop rents and bid amounts by the temples are discussed in subsequent paras.

8.1.14 Ineffective collection of dues

It was noticed that at SDMSVD Vijayawada, even after expiry of contract period, the shop rent of ₹ 10.02 lakh for the cloak room and toll gate bid amount of ₹ 25.34 lakh for the year 2010-11 were not collected from the bidders. EO had not obtained any bank guarantee from the bidders though collection of bank guarantee was stipulated in the tender conditions. The EO replied that the matter was being pursued and that EMD and bank guarantee would be collected in all future contracts.

Similarly, at SRRSD Vemulavada, the license fee amounting to ₹ 8.16 lakh relating to two licence rights (lifting of coconut halves and *kanaka daralu & pusala dandalu*) issued for the period 2009-11 was not recovered even after a lapse of two years. The EO replied that the matter was under pursuance.

²¹⁹ Service rights of collection of human hair, coconut halves, sarees etc.

²²⁰ G.O.Ms.No.635 of Revenue (Endowment-1) Department dated 30 June 1989

²²¹ ₹ 26.74 lakh at Yadagirigutta, ₹ 57.17 lakh at Vemulavada, ₹ 59.90 lakh at Penuganchiprolu, ₹ 131.21 lakh at Kanipakam, ₹ 195.69 lakh at Srisailam and ₹ 289.89 lakh at Simhachalam.

8.1.15 Non-realisation of land cost on sale of temple lands

It was noticed that land admeasuring 51.09 acres belonging to Sri Venugopala and Sri Sitaramachandra Swamy temple at Huzurnagar was sold (November 2012) to Nalgonda District Revenue authorities. As against the land value of ₹ 9.92 crore (which was to be paid in lump sum to the Endowments Department) realizable from Revenue Authorities, an amount of ₹ 7.93 crore was collected on 1 November 2012 leaving a balance of ₹ 1.98 crore. COE replied (May 2013) that the matter was being pursued for collection of dues.

At SBMSD Srisailam, four acres of temple land was sold to APSRTC in 1989 for ₹ eight lakh. APSRTC paid ₹ five lakh on 05 June 1990 and the remaining amount of ₹ three lakh remained unpaid. EO did not take any action for realisation of this amount even after lapse of more than two decades. No specific reply was furnished.

8.1.16 Temples lands not mutated in Revenue Records

At SRRSD Vemulavada a total extent of 2.38 acres of land gifted / purchased in Vemulavada (V) was not updated in the revenue records in favour of the Devasthanam. Further, though Devasthanam purchased 0.03 guntas in Sy.No.1018 of Vemulavada (V) for ₹ 2.12 lakh, no registered sale deed was executed. Both lands are prone to encroachment. The EO promised to take necessary action in this regard.

It was also noticed that Pattadar Pass Books (PPBs)²²² were obtained only for 3.213 acres as against a total extent of 4.953 acres owned by the SVVSD, in five villages viz., Kanipakam, Punyasamudram, Kothapalli, Patnam and T.Puttur. Similarly, title deeds/PPBs were not obtained by the temple for 41.135 acres of land acquired between 2003 and 2005 in Kanipakam and Punyasamudram villages giving scope for encroachment. The EO promised to take necessary action in this regard.

In another case, though 1.325 acres of land in Sy.No.254/B, 306/1A and 306/1C of Yerlampalle (V), Irala (M) of Chittoor District; and 113 sq.yds., in Sy.No.122 of Boddapadu (V) of Krishna District were gifted by devotees in December 2012 and October 2012, respectively, necessary mutations were not made in village accounts in favour of Devasthanam to guard against encroachment. The EO promised to take early action in this regard.

²²² Pattadar Pass Book is the record of Title (in the form of a book given by the Mandal Revenue Officer) which contains details like survey number, extent and village etc., belonging to a particular person/entity/authority.

Investment and accounting of temple funds

8.1.17 Non-realisation of statutory contributions

It was noticed that there were arrears of statutory contributions like EAF, Audit Fee (AF), CGF and Archaka Welfare Fund (AWF) from endowment institutions other than TTD in the State to the tune of ₹ 17,894 lakh as shown below.

(₹ in lakh)		
Sl. No.	Name of the Fund	Balance
1	Endowment Administration Fund (EAF)	8,340.99
2	Audit Fee (AF)	2,460.62
3	Common Good Fund (CGF)	2,759.27
4	Archaka Welfare Fund (AWF)	4,332.79
	Total	17,893.67

It was also noticed that contributions towards Endowment Administration Fund (EAF) of ₹ 38,792 lakh and Common Good Fund (CGF) of ₹ 18,861 lakh were due from TTD relating to the period from 2003-04 to 2012-13.

As per Section 69 of APCHRIE Act, 1987 the EAF contributory fund shall vest in the Commissioner. The same was deposited with the Government every year under the account (HOA 8235-103-01). It was noticed that the annual EAF contribution receipts were not properly accounted for and consolidated at the Commissionerate level and that the DCB statements do not reflect the true picture. The Deputy Commissioners have not watched the demands for contribution. It was further noticed that no internal audit of the Endowments Commissionerate was conducted as there was no such wing in the Commissionerate.

COE replied that the matter was being pursued with the TTD and other endowment institutions and promised to take necessary action to ensure proper accounting of statutory dues.

8.1.18 Non-investment / Improper investment of funds

Temple funds were invested in the banks that offer lesser interest at the temples viz., SVLNSD, Simhachalam (₹ 5.6 lakh); SLNSD, Yadagirigutta (₹ 5.54 lakh); and SVSD, Kanipakam (₹ 10.26 lakh). The EO, SVLNSD, Simhachalam promised compliance. The EO, SLNSD, Yadagirigutta replied that as per Commissioner's Instructions (April 2007), the amounts were re-invested in the same banks with latest rate of interests and no loss was caused to the temple funds on the above transactions. However, subsequent to issue of above orders, there were several cases of investment of funds in banks which offered less interest. The EO SVVSD, Kanipakam promised compliance.

8.1.19 Non-reimbursement of amounts advanced

As per Section 70 of the APCHRIE Act, 1987, the common good fund shall be utilised for the purposes like preservation and maintenance including payment

of salaries to archakas etc. However, it was noticed in COE that ₹ 50 lakh diverted between 2011 and 2013 from CGF account for State Institute of Temple Administration (SITA), a training institute of the Department, was pending recoupment (May 2013).

The COE promised to reimburse the amount as and when separate budget was provided.

At SDMSVD, Vijayawada, an amount of ₹ 50 lakh advanced to Vijayawada Municipal Corporation (VMC) towards road widening work on reimbursement basis, was pending realization from 2008. The EO promised to take action in this regard.

8.1.20 Non-Reconciliation of cash book balances with banks

It was noticed that in all the selected temples, except Vemulavada and Penuganchiprolu temples, the cash book balances were not reconciled with the banks as shown below:

(Amount in ₹)

Name of the temple	Balance (as on 31 March 2013)		Difference	No. of accounts
	As per Pass book/Bank statements	As per Cash book		
Vijayawada	8,49,71,867	6,64,99,590	1,84,72,277	11
Srisailam	1,89,63,378	1,38,91,776	50,71,602	2
Kanipakam	2,24,15,307	1,42,90,328	81,24,979	18
Yadagirigutta	5,04,32,210	3,09,93,725	1,94,38,485	5
Simhachalam	1,91,14,239	1,31,47,848	59,66,391	10

The EOs promised to take immediate action for reconciliation of the balances with banks.

Other points of interest

8.1.21 Non-submission of DC Bills for AC Bills drawn

According to Government Orders²²³, amounts drawn on Abstract Contingent (AC) bills shall be settled within three months from the date of their drawal by submitting respective Detailed Contingent (DC) bills. However, it was noticed in the office of COE that the DC bills were not submitted for the AC bills drawn, as shown in the following table:

²²³ G.O.Ms.No.507 of Finance (TFR) Department dated 10 April 2002.

(₹ in lakh)

Period of AC Bill	Purpose of drawal	Amount drawn	Expenditure incurred	Remarks
March 2003	Renovation of CCLA Building.	85.00	85.00	Amount was spent from the Consolidated Fund of the state.
November 2008	Tungabhadra Pushkarams	249.00	74.80	Amount was spent from the Endowments Administration Fund (EAF). A vehicle for ₹ 12.79 lakh was purchased without proper sanction. Unspent amount may be remitted to the Head of Account from which it was withdrawn.
January 2011	Pranahita Pushkarams	200.00	114.04	Amount was spent from the Endowments Administration Fund (EAF). Unspent amount may be remitted to the Head of Account from which it was withdrawn.
	Total	534.00	273.84	

The COE replied that the DC bills were being sent to the PAO, Hyderabad duly remitting the unspent balances and compliance reported to audit.

8.1.22 Conclusion


Management of *Hundis* had deficiencies. In many cases, action to exchange foreign currency with the bankers was not taken. Contrary to Commissioner's instructions, unused gold was not deposited in the Gold Bond Scheme. Improper accounting of donations received for specific purposes was noticed. Security measures in the temples were not adequate. The monitoring system for protection of temple lands was found to be ineffective. Accounting and investment of temple funds was also found to be improper.

8.1.23 Summary of Recommendations

- The temple funds should be spent judiciously. The Executive Officers of the temples, being the custodians of the funds are responsible for ensuring proper accounting of such funds and for taking due care of their utilization.
- Effective measures to be taken to protect the temple lands from encroachments.
- Proper mechanism to be devised to ensure the investment of temple funds appropriately to optimise the returns for the temples.


- Donations received in foreign currencies need to be credited to the temple funds after exchange without delay.
- Protective measures should be in place for safety of the gold, jewellery and other valuables.
- Security measures in and around temples need to be further strengthened.

Hyderabad
The 2 May, 2013


(Lata Mallikarjuna)
Accountant General (Economic &
Revenue Sector Audit)
Andhra Pradesh

Countersigned

New Delhi
The 6 May, 2013


(Shashi Kant Sharma)
Comptroller and Auditor General of India

ANNEXURES
&
GLOSSARY

ANNEXURE-I
(Ref. Paragraph 1.6)

(₹ in crore)

Cases where	Transport Roads and Buildings Department		Commercial Taxes Department		Registration and Stamps Department		State Excise Department		Other Departments		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Action completed												
Revised and dropped	0	0	17	4.98	0	0	0	0	0	0	42	10.15
Revised and collected ¹	0	0	11	1.95	0	0	0	0	0	0		
Revised and resulted in refund	0	0	3	1.83	0	0	0	0	0	0		
Amount fully collected	0	0	5	0.82	4	0.28	0	0	1	0.13		
Observation rectified/ action completed	0	0	0	0	0	0	0	0	1	0.16		
Action taken												
Notices issued/taken in DCB but no further action	0	0	6	8.63	11	5.64	0	0	5	0.84	152	336.62
Partly collected	62	4.25	2	0.03	6	0.18	1	0.2	16	1.31		
Assessment revised and no further action	0	0	15	5.83	0	0	0	0	1	0.07		
Under revision	0	0	9	4.83	1	0.17	0	0	2	0.39		
Matter referred to higher/ concerned authorities/ Government	0	0	0	0	3	37.93	0	0	5	265.21		
Referred under R.R. Act	0	0	0	0	5	1.00	1	0.05	1	0.06		
Initially accepted but contested	2	0.96	3	1.86	3	2.57	1	0.14	8	983.18 ²	17	988.71
Sub judice	0	0	27	29.42	2	45.31	0	0	1	2.23	30	76.96
Miscellaneous	31	10.63	1	0.12	1	0.57	0	0	1	0.56	34	11.88
Information not furnished	1	0.18	1	0.12	0	0	0	0	0	0	2	0.30
Action not taken	3	1.39	0	0	1	0.05	2	0.14	18	183.30 ³	24	184.88
Total	99	17.42	100	60.41	37	93.70	5	0.53	60	1437.44	301	1609.50⁴

¹ Action complete but recovered amount does not match with the tax effect pointed out by audit.

² Out of the ₹ 983.18 crore (relating to eight cases), the major contributor is the Finance Department with ₹ 976.82 crore (relating to four cases) included in the review on “Interest receipts” featured in AR of 2009-10.

³ Out of the ₹183.30 crore (18 cases), the major contributor is the Land Revenue Department where ₹ 182.31 crore is involved in nine cases on the review on “Land alienation” featured in AR for 2010-11.

⁴ Actual amount under the objections in 301 cases was ₹1715.97 crore but difference in amount was due to difference between the amount pointed out in audit observations in cases where recovery was made and the actual amount realized in such cases.

ANNEXURE-II
(Ref. Paragraph 6.20)

(₹ in lakh)

Sl. No.	Name of the Office	Remarks	Duties leviable/ duties levied	Short levy
1	DR, Ranga Reddy (East)	Audit noticed that the recitals of two documents styled as 'AGPA' registered in December 2008 contained two distinct matters viz., AGPA and Conveyance of cash. It was mentioned in the recitals of these documents that an individual who joined in execution and mediated in settling the disputes received a consideration of ₹ two crore. Hence, there is a distinct matter of conveyance in both the instruments. Duties were levied on the matter of AGPA and were not levied on conveyance.	25.57 ----- 14.57	11.00
2	DR, Tirupathi	A document styled as AGPA registered during April 2007 contained two distinct matters viz., AGPA and sale. It was mentioned in the recitals that the property originally sold by a Society to an individual which was not registered and now on the request of the individual, this present deed was executed. Though duties were levied on the matter of AGPA, but these were not levied on the matter of Sale.	1.07 ----- 0.12	0.95
3	SR, Bheemuni patnam	A document styled as 'Memorandum of Deposit of Title Deeds' registered during July 2009 contained two distinct matters viz., DOTD and Conveyance of Cash. It is mentioned in the recitals that the borrowers borrowed a loan amount of ₹ 5.55 crore. Audit also noticed from the recitals that the borrowers gave an amount of ₹ 5.35 crore to various companies and individuals. Duty on conveyance of cash in the document was not levied.	29.94 ----- 0.51	29.43
4	SR, Dwaraka nagar	A document styled as AGPA registered during April 2010 contained two distinct matters viz., AGPA and Conveyance through auction by Court. Duties were levied on the matter of AGPA and were not levied on the matter of Conveyance through auction by court.	1.57 ----- 0.80	0.77
5	SR, Dwaraka nagar	A document styled as DGPA registered in May 2010 contained two distinct matters viz., DGPA and non-refundable advance of ₹ 20 lakh paid by the Developer to the owner. Duties were levied on the matter of DGPA and were not levied on the matter of non-refundable advance.		1.00
6	DR, Ranga Reddy (West)	Audit noticed that the recitals of a document styled as DGPA registered in January 2012 contained two distinct matters viz., DGPA and Non-refundable premium. The developer had paid/agreed to pay an amount of ₹ 12.50 crore, as non-refundable premium to the land owners. Duties were not levied on the matter of non-refundable premium.	62.50 ----- 12.50	50.00
		Total		93.15

Annexure -III

IT Audit of eSRD in Registration and Stamp Department

[Ref. Paragraphs (6.26.2); (6.27.4)]

Sl. No	Office Name	Presentation date previous to Execution date	Time between execution and presentation dates greater than 10 days	Execution / presentation date before date of stamp purchase	All transaction for which applicable stamp duty is not updated in eSRD	Case deeds here period is not mentioned	Boundaries not captured	Manually entered	Delay in scanning documents	Delay in issue of acknowledgment slip	Delay in checking the document	Execution or presentation dates greater than registered date	Final taxable value not matching with Market value as prescribed	Number of transactions
1	SR, Vanastalipuram	2	7	4	72	1	16	1833	9049	13	15	296	83	26277
2	SR, Rajendranagar	8	81	27	68	8	3	11932	11932	3	68	3	219	32547
3	SR, Uppal	26	8	27	130	76	23	7346	19193	200	13254	0	1296	54535
4	DR, Vijayawada	22	41	29	19	20	63	8688	129	0	0	0	36	40243
5	DR, Vijayawada	8	106	22	131	7	57	10559	108	0	2	0	55	25999
6	DR, Guntur	39	46	66	165	58	201	4765	48474	6655	3	2	43	61887
7	SR, Patamata	26	48	21	13	19	71	6613	1255	0	3	0	44	36246
8	SR, Koritipadu	6	17	9	798	6	50	3636	6196	1321	493	384	7	22034
9	SR, Nallapadu	0	10	13	128	29	160	2655	13375	14	125	0	10	44343
10	DR, Ongole	15	37	16	285	20	101	3120	2322	5	1	1	62	70777
11	SR, Kukatapally	4801	16	39	67	24	7	1472	33387	26	49	0	21	8945
12	SR, Dwaraka nagar	1	5	4	19	146	0	4156	70	6	4	0	9	18402
13	DR, Rajahmundry	9	19	10	9	68	0	5175	6605	23	22	0	8	41304
14	DR, Kakinada	29	86	25	4	103	93	6422	29769	487	95	3	37	59249
15	DR, Tirupathi	4	16	14	2	7	0	4696	2209	0	8	0	8	35240
16	SR, Bujabujanellore	8	7	8	1	0	7	2727	1857	142	42	0	9	26198
17	SR, Stonehousepet	5	16	16	40	14	31	3735	17058	0	22	0	9	31061
18	DR, Nellore	61	6562	46	22	42	98	8704	44998	1355	89	6	23	77472
19	DR, Rangareddy (West)	28	216	105	51	26	4	15377	37211	328	62	3	257	52574
20	DR, Rangareddy (East)	2	384	21	45	3	11	6273	24223	666	31	2	58	48173
21	SR, Sanjeeva Reddy Nagar	4	19	9	3	0	143	2486	1361	2	0	0	12	14355
22	DR, Kadapa	0	26	9	33	11	125	3852	7368	191	15	0	27	41133
23	SR, Kadium	10	6	12	5	0	18	3010	1747	0	0	0	11	24692

Sl. No	Office Name	Presentation date previous to Execution date	Time between execution and presentation dates greater than 120 days	Execution / presentation date before date of stamp purchase	AGPA transaction for which applicable stamp duty was not updated in CARD	Lease deeds where period was not mentioned	Boundaries not captured	Manually entered	Delay in scanning documents	Delay in issue of acknowledgement slip	Delay in checking the document	Execution or presentation dates later than registered date	Final taxable value not matching with Market value as prescribed	Number of transactions
24	SR, Sarpavaram	8	35	10	6	24	17	2379	4381	0	0	0	0	19234
25	DR, Visakhapatnam	25	47	28	45	194	48	6709	136	86	29	0	46	36892
26	SR, Bheemunipatnam	14	35	15	19	10	11	2063	144	0	2	0	27	23214
27	SR, Champapet	24	47	22	63	2	5	1055	2155	6	10	0	10	22149
28	SR, Azampura	0	19	0	1	9	165	1160	3063	2	1	0	18	31450
29	SR, Secunderabad	0	23	10	14	20	31	861	133	9	6	0	12	11570
30	SR, Golconda	7	26	8	0	0	10	2666	1431	0	0	0	0	25340
31	SR, Gajuwaka	21	25	20	32	3	19	2363	29	1	11	0	31	22899
32	DR, Hyderabad (South)	15	47	21	136	14	72	2065	8519	30	21	0	60	26442
33	SR, Chikkadapally		20	8	6	12	54	2365	686	19	16	0	30	22381
34	DR, Hyderabad	9	23	11	5	12	2	4299	2168	23	91	0	59	19482
35	SR, Hayatnagar	13	16	30	213	1		2807	9439	14	75	0	10	19958
36	SR, Maredpally	14	18	19	30	7	173	1216	3290	88	16	0	1	14817
37	SR, Vallabh Nagar	3	24	16	1	0	23	2426	5510	60	30	0	0	24057
38	SR, Balanagar	5	5	16	63	1	4	1188	1429	0	0	1	23	10822
39	SR, Madhurawada	7	21	21	51	13		2211	463	1	1	0	21	21067
40	DR, Sangareddy	151	65	73	459	5	1	2935	6054	0	4	0	63	75794
	Total	5430	8275	880	3254	1015	1917	170000	368926	11776	14716	701	2820	1321254

GLOSSARY

Abbreviations	Full form
AAR	Average Annual Rent
AAs	Assessing Authorities
AC	Assistant Commissioner
AC	Abstract Contingent
AF	Audit Fee
AGPA	Agreement of sale cum General Power of Attorney
ALF	Additional License Fee
AP	Andhra Pradesh
APBCL	Andhra Pradesh Beverages Corporation Limited
APCHRIE	Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments
APFC	Andhra Pradesh Financial Code
APGST	Andhra Pradesh General Sales Tax
APIIC	Andhra Pradesh Industrial Infrastructure Corporation
APMVT	Andhra Pradesh Motor Vehicles Taxation
APRR Act	Andhra Pradesh Revenue Recovery Act
APSRTC	Andhra Pradesh State Road Transport Corporation
APTS	Andhra Pradesh Technology Services
AP VAT	Andhra Pradesh Value Added Tax
AWF	Archaka Welfare Fund
BCP	Business Continuity Planning
BSO	Board Standing Orders
C&IG	Commissioner and Inspector General
CAAT	Computer Aided Audit Techniques
CARD	Computer Aided Administration of Registration Department
CCLA	Chief Commissioner of Land Administration
CCRA	Chief Controlling Revenue Authority
CCT	Commissioner of Commercial Taxes
CFST	Citizen Friendly Services in Transport Department
CGF	Common Good Fund
CMV	Central Motor Vehicles
COE	Commissioner of Endowments
CST Act	Central Sales Tax Act
CST (R&T) Rules	Central Sales Tax Act (Registration and Turnover) Rules
CT	Commercial Tax
CTD	Commercial Tax Department
CTO	Commercial Taxes Officer
CV	Consideration Value
DC	Deputy Commissioner
DC	Detailed Contingent
DCTO	Deputy Commercial Tax Officer
DCB	Demand Collection and Balance
DGPA	Development Agreement cum General Power of Attorney
DIG	Deputy Inspector General
DLPOs	Divisional Level Panchayat Officers

Abbreviations	Full form
DR	District Registrar/Registry
DTC	Deputy Transport Commissioner
DTCP	District Town & Country Planning
EAF	Endowment Administrative Fund
EMD	Earnest Money Deposit
EO	Executive Officer
EOAT	Extension of Agreement Time
EOT	Extension of Time
FC	Fitness Certificate
FEC	Final Eligibility Certificate
FL	Foreign Liquor
FTV	Final Taxable Value
GHMC	Greater Hyderabad Municipal Corporation
GIS	Goods Information System
GPA	General Power of Attorney
GTE	Gross Traffic Earnings
IMFL	Indian Made Foreign Liquor
IR	Inspection Reports
IS Act	Indian Stamp Act
IST	Inter State Wing
IT	Information Technology
IT	Income Tax
ITC	Input Tax Credit
ITO	Income Tax Office/Officer
JC	Joint Commissioner
JTC	Joint Transport Commissioner
LTU	Large Tax Payers Unit
MRO	Mandal Revenue Officer
MV	Motor Vehicles
MV	Market Value
MVI	Motor Vehicle Inspector
NIC	National Informatics Centre
P&ES	Prohibition and Excise Superintendent
PAO	Pay and Accounts Officers
PCC	Pre-stressed Cement Concrete
PCCs	Private Contract Carriages
PPBs	Pattedar Pass Books
PSPQ	Per Seat Per Quarter
RC	Registration Certificate
RCC pipes	Reinforced Concrete Pipes
RDO	Revenue Divisional Officer
RGIA	Rajiv Gandhi International Airport
RI	Revenue Inspector
RTA	Regional Transport Authority
RTO	Regional Transport Officer
SARFAESI	Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest

Abbreviations	Full form
SDD	Software Design Document
SDRF	Stamp Duty and Registration Fees
SEZ	Special Economic Zone
SHO	Station House Officer
SR	Sub Registrar/Registry
SRS	System Requirement Specification
STA	State Transport Authority
TC	Transport Commissioner
TD	Transfer Duty
TTD	Tirumala Tirupati Devasthanam
UDAs	Urban Development Authorities
URS	User Requirement Specification
VRO	Village Revenue Officer
VUDA	Visakhapatnam Urban Development Authority