

CHAPTER IV

EXECUTIVE SUMMARY

Trend of receipts The revenue collection of the State under Land Revenue was increased by 96.63 *per cent* in 2012-13 as compared to 2008-09.

Revenue impact of Audit Reports During the last five years, 2007-08 to 2011-12, we had pointed out in our Audit Reports cases of under assessments/non/short levy/loss of revenue of land revenue, etc., interest and other irregularities with revenue implication of ₹ 599.65 crore in 193 cases. Of these, the Department had accepted audit observations in 125 cases involving ₹ 99.08 crore and had recovered ₹ 7.01 crore in 54 cases.

Results of audit We reported underassessment, short levy, non-levy of Land Revenue, loss of revenue etc., amounting to ₹ 50.01 crore in 174 cases on basis of test check of records relating to land revenue conducted during the year 2012-13.

The Department accepted and recovered under assessments and other deficiencies involving ₹ 11.29 crore in 225 cases, of which 29 cases involving ₹ 0.83 crore were pointed out during 2012-13 and rest during earlier years.

What we have highlighted in this Chapter A paragraph on “**Determination of market value of allotted Government land for levy of occupancy price, lease rent and unearned income**” revealed the following :

Application of agricultural rates instead of non-agriculture (NA) rates for determination of occupancy price of land allotted to Central Reserve Police Force resulted in short realisation of occupancy price of ₹ 2.08 crore.

(Paragraph 4.2.4.1)

The market rates were not fixed in accordance with the Annual Schedule of Rates in six cases resulting in short recovery of occupancy price of ₹ 39.67 lakh.

(Paragraph 4.2.4.2)

NA rates were not applied while calculating market value of land for levy of lease rent which resulted in non/ short recovery of lease rent of ₹ 65.92 lakh.

(Paragraph 4.2.4.3)

Due to incorrect classification by the Government, unearned income of ₹ 5.15 crore from land owners was not recovered.

(Paragraph 4.2.7.1)

Incorrect determination of market value of land by two Divisional Commissioners resulted in short recovery of unearned income of ₹ 3.83 crore.

(Paragraph 4.2.7.2)

Government norms were not adhered to at the time of registering the agreement which resulted in loss of revenue amounting to ₹ 40.02 lakh.

(Paragraph 4.2.8)

Apart from this audit observations on short levy of *nazrana* / unearned income involving ₹ 1.27 crore are also included in the report.

(Paragraphs 4.4.1 to 4.4.3)

CHAPTER IV: LAND REVENUE

4.1 Introduction

4.1.1 Tax Administration

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

4.1.2 Trend of receipts

Actual receipts from Land Revenue during the years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table.

(₹ in crore)

Year	Budget estimates ¹	Actual receipts ¹	Variation Excess(+)/shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	700.00	546.22	(-) 153.78	(-) 21.97	52,029.94	1.05
2009-10	770.00	714.04	(-) 55.96	(-) 7.27	59,106.33	1.21
2010-11	1,647.74	1,094.98	(-) 552.76	(-) 33.54	75,027.10	1.46
2011-12	1,497.13	963.81	(-) 533.32	(-) 35.62	87,608.46	1.10
2012-13	1,600.86	1,074.02	(-) 526.84	(-) 32.90	1,03,448.52	1.04

As can be seen from the above table, the revenue collection under Land Revenue increased by 96.63 *per cent* in 2012-13 as compared to 2008-09 and the percentage shortfall for the periods 2010-11 to 2012-13 was more than 30 *per cent*, which indicate that the budget estimates were not framed on a realistic basis.

4.1.3 Impact of Audit Reports

Revenue impact

During the last five years, 2007-08 to 2011-12, we had pointed out in our Audit Reports cases of underassessments/non/short levy/loss of revenue of land revenue, etc., interest and other irregularities with revenue implication of ₹ 599.65 crore in 193 cases. Of these, the Department had accepted audit

¹ Source: Finance Accounts.

observations in 125 cases involving ₹ 99.08 crore and had recovered ₹ 7.01 crore in 54 cases. The details are shown in the following table:

(₹ in crore)

Year	Amount objected		Amount accepted		Amount recovered	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
2007-08	141	365.68	84	9.51	54	7.01
2008-09	26	140.51	25	1.57	Nil	Nil
2009-10	1	2.80	Nil	Nil	Nil	Nil
2010-11	13	1.57	7	1.15	Nil	Nil
2011-12	12	89.09	09	86.85	Nil	Nil
Total	193	599.65	125	99.08	54	7.01

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

4.1.4 Results of audit

We reported under assessment, short levy, non-levy of Land Revenue, loss of revenue etc., amounting to ₹ 50.01 crore in 174 cases as shown below, on the basis of test check of records relating to land revenue conducted during the year 2012-13 :

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Audit of "Determination of market value of allotted Government land for levy of occupancy price, lease rent and unearned income"	1	12.71
2	Non-levy/short levy of measurement fees, sanad fees, license fee etc.	4	0.54
3	Non-levy/short levy of fine, non-auction/short recovery of surface rent on account of sand ghats, royalty etc.	42	16.35
4	Non-levy/short levy/incorrect levy of Non-Agriculture Assessment (NAA), ZP/VP cess and conversion tax.	76	3.75
5	Non-levy/short levy of occupancy price, lease rent, unearned income etc.	37	14.64
6	Other irregularities	14	2.02
Total		174	50.01

In response to the observation made in the local audit during the year 2012-13 as well as during earlier years, the department accepted and recovered under assessments and other deficiencies involving ₹ 11.29 crore in 225 cases, of which 29 cases involving ₹ 83.01 lakh were pointed out during 2012-13 and rest during earlier years.

A paragraph on “Determination of market value of allotted Government land for levy of occupancy price, lease rent and unearned income” with a total financial effect of ₹ 12.71 crore including amount of ₹ 5.15 crore contested by the Department and audit observations involving ₹ 1.27 crore are included the succeeding paragraphs.

4.2 Paragraph on “Determination of market value of allotted Government land for levy of occupancy price, lease rent and unearned income”

4.2.1 Introduction

Maharashtra Land Revenue Code, 1966 (MLR Code) empowers the Government to allot any land vested in it, on such terms and conditions, as it may deem fit. The allotment of land includes revenue free allotment, allotment on payment of occupancy price (also called market value), allotment on lease hold right in accordance with the policy adopted by the Government and rules framed there under for the purpose, as envisaged in Government Resolutions (GRs) issued from time-to-time.

4.2.2 Audit objective

The audit was conducted to ensure that the market value of Government land determined for levy of occupancy price²/lease rent³/un-earned income⁴ has been correctly assessed, levied and recovered by the authorities in accordance with the rules and guidelines framed by the Government.

4.2.3 Audit coverage

The audit covered four⁵ Divisional Commissioners, six⁶ Collectors and 17⁷ Tahsil offices of the selected six districts to check whether levy and recovery of occupancy price, lease rent and unearned income on sale permission for Class-II⁸ land was correct.

Six districts and 17 tahsils from these districts were selected on the basis of number of cases of allotment of land and involving more number of sale permission cases issued in these selected districts/tahsils.

A total of 321 allotment orders of land grant⁹ were issued by the Government of Maharashtra during the period of five years¹⁰ i.e. 2007-2008 to 2011-2012, of which, all 51 land grant orders pertaining to the 17 tahsils, of selected districts were scrutinised and all the 251 sale permission orders¹¹ issued by the four¹² Divisional Commissioners during the same period were scrutinized. The audit was conducted between January and June 2013.

² The price at which Government land is allotted on occupancy basis.

³ The rent determined of the Government land allotted on lease basis.

⁴ Difference between the price at the time of purchase of land and the price realized by way of its sale.

⁵ Konkan, Nagpur, Nashik and Pune.

⁶ Ahmadnagar, Bhandara, Jalgaon, Kolhapur, Raigad and Sangli.

⁷ Alibag, Bhandara, Gadhinglaj, Jalgaon, Karvir, Kopargaon, Miraj, Muktainagar, Palus, Panvel, Radhanagri, Raver, Rahuri, Rahata, Roha, Sakoli and Tasgaon.

⁸ Class-II land: As per section 29 of the MLR Code, occupant class-II means the person who holds un-alienated land in perpetuity subject to restrictions on the right to transfer.

⁹ Memorandum issued by the Revenue and Forest Department for allotment of land to allottees.

¹⁰ Revenue year starts from August.

¹¹ Orders issued by the Divisional Commissioner who is empowered to give sale permission of Class II land to the occupant.

¹² Konkan, Nagpur, Nashik and Pune.

An exit conference with the Additional Chief Secretary (Revenue), Revenue and Forests department, Government of Maharashtra was held on 28 October 2013. The Government replies are incorporated at appropriate places.

Audit findings

4.2.4 Occupancy price and lease rent

As per GR issued in May 2006, for allotment of government land on occupancy basis or on lease basis and in all cases where valuation of government land is to be done, valuation shall be determined as per rates prescribed in Annual Statement of Rates (ASR) as on the date on which order for allotment of government land is passed or other orders regarding valuation are passed. As per instructions of ASR, if Government land situated in rural area is allotted for non-agriculture purpose, market value shall be determined at 50 per cent of non-agriculture (NA) rate prescribed in the ASR for that zone.

4.2.4.1 Short/Non-levy of occupancy price

In September 2009, Revenue and Forests Department (R&FD) sanctioned the allotment of land admeasuring 44.68 ha situated in *mouze*-Chitapur, Taluka and District-Bhandara with advance possession to the Central Reserve Police Force (CRPF) for construction of camp of 206 CoBRA Battalion. The R&FD issued (March 2010) final order on condition of payment of occupancy price at current market rate and directed that the occupancy price may be recovered by deducting the amount of occupancy price paid at the time of advance possession.

During test-check (January 2013) of records of Collector, Bhandara, it was observed that the advance possession of land was given in September 2009, final order was issued by Collector, Bhandara in April 2011 and demand notice issued on same date for depositing the occupancy price ₹ 60.32 lakh, but same was not deposited by the CRPF (January 2013).

The occupancy price was to be calculated at the 50 per cent of NA rate prescribed in ASR as land is allotted for NA purpose i.e. for construction of camp of 206 CoBRA Battalion. However, audit observed that the demand of ₹ 60.32 lakh was determined by considering per hectare rate i.e. at agriculture rate of ASR which is applicable if land is used for agriculture purpose. For NA purpose, the rate prescribed in ASR was 'per square meter (sqm)' i.e. NA rate and market value of the land determined at this rate comes to ₹ 2.08 crore. This resulted in short demand of ₹ 1.48 crore and non recovery of a total amount of ₹ 2.08¹³ crore taking into account the previously unrecovered/unpaid of ₹ 60.32 lakh. The construction work of the unit at above land was nearing completion (January 2013).

¹³ Market value= 10,000 X 77.5 X 70% = ₹ 5,42,500 (For first 10,000 sqm).
4,36,800 X 77.5 X 60% = ₹ 2,03,11,200 (For remaining area).
Total = ₹ 2,08,53,700.

After this was pointed out, the Additional Chief Secretary (ACS), R&FD accepted (October 2013) the observation. However, further action taken was not intimated (January 2014).

4.2.4.2 Short recovery of occupancy price

Test-check of 34 cases of land allotment on occupancy right revealed that in six cases, land was allotted for non-agriculture purposes by Collector, Ahmednagar and Sangli between August 2007 and August 2009 and total occupancy price levied was ₹ 45.79 lakh on the basis of market value intimated by the Sub-Registrar/Joint District Registrar. However, the market value was worked out without following the instruction of the ASR on the date of allotment. The correct occupancy price was worked out as ₹ 85.46 lakh. This resulted in short levy of occupancy price of ₹ 39.67 lakh as detailed in **Appendix VI**.

The ACS, R&FD accepted (October 2013) the observation. However, further action taken has not been received (January 2014).

4.2.4.3 Non/Short recovery of lease rent

As per GR issued in May 2006, where Government land is allotted on lease basis, lease rent shall be levied on market value determined as per rates prescribed in Annual Statement of Rates (ASR) as on date on which order is passed. Further, as per GR of July 1999, the annual lease rent shall be calculated at Prime Lending Rate (PLR) declared by the State Bank of India from time to time on full market value of land.

The R&FD allotted (October 2008) land admeasuring 1,20,000 sqm to Agriculture Produce Marketing Committee (APMC), Tasgaon District-Sangli for construction of market building. The land was allotted on lease for 30 years. The lease rent was to be calculated at Prime Lending Rate (PLR) on market value of the land.

Scrutiny (June 2013) of records of the Collector, Sangli revealed that the Collector, Sangli issued (November 2008) an order of allotment of above land by fixing lease rent of ₹ 8.03 lakh per year on market value of ₹ 62.96 lakh calculated at per ha rate i.e. at agriculture rate instead of the NA rate of the zone in which the land is situated, as land is allotted for NA use. However, the lease rent was not recovered from the APMC since handing over of 1,17,700 sqm land in December 2008. The lease rent of ₹ 61.84 lakh was recoverable for 2008-13.

Similarly, the R&FD permitted (June 2009) Maharashtra State Road Transport Corporation (MSRTC), Palus, District-Sangli for use of 350 sqm land already in possession of MSRTC. The land was permitted for commercial purpose on lease of 30 years on lease rent to be calculated at PLR rate on the market value of land.

The Collector, Sangli issued (August 2009) final permission and recovered lease rent of ₹ 0.29 lakh for the year 2009 but lease rent for subsequent years was not recovered. The lease rent for the year 2009 was also recovered short. The total lease rent recoverable was ₹ 4.37 lakh.

Due to non/short recovery of lease rent in both the cases, lease rent of ₹ 65.92 lakh remained unrecovered as shown in **Appendix VII**.

The Collector, Sangli stated (June 2013) that action would be taken for recovery of lease rent after giving notices to the concerned allottee.

The ACS, R&FD accepted (October 2013) to recover the lease rent through the District Collector. Further reply is awaited (January 2014).

4.2.5 Short recovery of premium

R&FD Government Resolution (GR) dated 21 November 1957, provides for conversion of tenure of non-agriculture plot by levying a premium of 50 *per cent* of difference between present market value and the occupancy price originally paid plus value of the improvement made to the plot by the grantee.

During test-check (March 2013), we noticed that R&FD granted (August 2009) permission for change in use of class-II land admeasuring 522.18 sqm for commercial purpose by levying premium amount equal to 10 *per cent* of the cost of the land instead of 50 *per cent*. The Collector, Kolhapur permitted (February 2010) change in use of land and recovered premium amount of ₹ 4.76 lakh only against the leviable amount of ₹ 23.83 lakh (i.e. 50 *per cent* of ₹ 47.66 lakh¹⁴) resulting in short levy of ₹ 19.07 lakh.

The Collector, Kolhapur stated (March 2013) that the premium amount was recovered at 10 *per cent* as mentioned in the memorandum issued (August 2009) by R&FD. He also stated that matter would be referred to Government for further necessary orders.

This is in contravention of the GR of 1957 and memorandum of August 2009 was not approved by the cabinet.

The ACS, R&FD accepted (October 2013) the observation.

4.2.6 Irregular allotment of land

As per the Rule 6 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, land may be allotted by the Collector free of occupancy price if the purpose for which the land is allotted is such that no benefit can be derived i.e. schools, hospitals, dispensaries and other public works. The Collector is empowered to sanction such cases involving market value upto ₹ 2.50 lakh and the Divisional Commissioner can sanction upto ₹ 6.25 lakh. Further, Rule 8 stipulates that every grant of land under Rule 6 shall not be transferred except with the prior sanction of the State Government.

During the test-check (February 2013) we noticed that Collector, Bhandara handed over (April 2012) 1,800 sqm land having market value of ₹ 28.39 lakh under Bhandara city area to the Secretary, Indian Red Cross Society, Bhandara

¹⁴ The occupancy price originally paid was meager amount of ₹ 4,214 only, as such it was not taken into consideration while calculating premium amount for the conversion of land for non-agriculture purpose by the Department and no cost was incurred for improvement of the plot by the grantee.

(Society) for construction of building. Possession of land was given in June 2012 and it was allotted free of cost.

The market value of land allotted by the Collector works out to ₹ 28.39 lakh, for which the Collector is not empowered. The land was transferred by the Collector without prior sanction of the Government and so was irregular. The Collector is ex-officio chairman/president of the society.

The ACS, R&FD accepted (October 2013) the observation.

4.2.7 Unearned income

As per R&FD GR dated 8 September 1983, permission to sell agriculture land held as class-II occupant shall be granted subject to payment of 50 *per cent* of net unearned income. In case of permission to sell agriculture land for non-agriculture purpose unearned income shall be 75 *per cent*. Unearned income means the difference between current market value or the price realised by way of sale whichever is higher and the occupancy price paid at the time of allotment plus cost of improvement. Further, as per GR dated 29 May 2006, the rate of ASR as on date on which the permission to sell is granted shall be considered for determination of market value for recovery of unearned income on transfer of land. The R&FD clarified (September 2006) that in case the market value so determined is less than price realized by way of sale, the unearned income shall be determined on sale price.

4.2.7.1 Non-recovery of unearned income from land owners

During test-check (April 2013) of cases of sale permission at the office of the Divisional Commissioner, Konkan region, we noticed that in two cases (**Appendix VIII**), permission for sale of class-II land was given for selling the land. M/s Zafza Mumbai Business Park (India) Pvt. Ltd. purchased Class-II land from 15 land owners and Karnala Mahila Readymade Garment and Vastra Udyog Industrial Co-operative Society purchased Class-II land from Shri Madhukar Mahadev Bhoir. From none of the land owners, unearned income was recovered.

The consideration in the transaction was ₹ 6.87 crore as per the sale deeds obtained from Sub-Registrar. The land owners were liable to pay ₹ 5.15 crore (75 *per cent* of ₹ 6.87 crore). This was not recovered due to an incorrect clarification issued by the Under Secretary, Government of Maharashtra as detailed below:

The Divisional Commissioner responsible for recovery of unearned income had sought for a clarification (July 2009) for determination of unearned income of the above property. The Under Secretary, R&FD issued a clarification (February 2010) that only 2 *per cent* of sale price may be recovered from purchaser and the provisions of GR of September 1983 were applicable for the NA land. As such no unearned income was recovered from the land owners.

The clarification issued by the Under Secretary was not correct as GR is applicable for agriculture land sold for both agriculture and non-agriculture purposes. The clarification issued was in contravention to the GR where the 50 per cent and 75 per cent of unearned income is recoverable if land is sold for agriculture and non agriculture purpose respectively. Due to issue of a wrong clarification ₹ 5.15 crore not recovered, though recovered in other cases of sale of class-II land. It is recommended that the department may consider issuing fresh clarification in this regard and withdrawing the earlier clarification.

The ACS, R&FD stated (October 2013) that the clarification from Government would be obtained. Further reply is awaited (January 2014).

4.2.7.2 Short recovery of unearned income

The R&FD clarified (September 2006) that in cases of sale of class-II land, if the market value of land is less than price realized by way of sale, the unearned income shall be determined on sale price.

During the test-check (April 2013) of cases of sale permission of class-II land in two¹⁵ Divisional Commissioners, we noticed that out of 251 sale permission cases, in 37 cases, permission for sale of class-II land was given between August 2007 and September 2012 for agriculture and non-agriculture use and unearned income ₹ 2.38 crore was recovered. The Commissioner did not

consider the greater of market value and selling price for recovery of unearned income. The recoverable amount determined considering the greater of market value or sale price was ₹ 6.21 crore. This resulted in short recovery of ₹ 3.83 crore as shown in **Appendix IX**.

After pointing out by audit, the Divisional Commissioner, Konkan Region directed (June 2013) to Collector, Raigad for recovery of amount and Divisional Commissioner, Pune stated (June 2013) that the unearned income was recovered as per the GR dated 29 May 2006 by calculating unearned income on the market value on the date of issuing order of sale permission. The sale transaction of land executed after sale permission order hence recovery of unearned income on higher of market value or consideration was not possible.

The ACS, R&FD accepted (October 2013) to recover the unearned income. Further reply is awaited (January 2014).

Government may consider putting in place a system whereby the sub registrars are required to forward a copy of sale deed in respect of sale of Class-II land to Collector. The order granting permission to sell is verified before taking action on application for mutation of such land by Tahsildars and there is proper follow up by Commissioner granting permission for sale of class-II land.

¹⁵ Konkan and Pune Region.

4.2.8 Non-adherence to Government norms of registering the agreement

As per GR dated 31 October 2006, in all cases of allotment of Government land to various institutions, local bodies, individuals etc. on occupancy rights or on lease, an agreement shall be executed with the allottee and shall be registered under Bombay Stamp Act, 1958. It also stipulated that the possession of land shall not be given unless the agreement is executed and registered.

During scrutiny (January to June 2013) of land grant cases in five¹⁶ Collectorates, we noticed that in 27 out of 34 cases of allotment of Government land on occupancy rights, the Collectors handed over the possession of land without getting the agreements registered. Also it was not on record to indicate that the

documents were executed and registered. The revenue on account of stamp duty and registration fee on these cases worked out to ₹ 40.02 lakh (**Appendix X**). Thus, non-adherence to Government norms resulted in loss of revenue amounting to ₹ 40.02 lakh.

Four¹⁷ Collectors stated that letters would be issued to concerned allottees for registration of documents and Collector, Bhandara stated that concerned Tahsildars were instructed for registration of document with the allottees.

The ACS, R&FD accepted (October 2013) the observation and stated that the issue of registration of agreements from 2006 onwards would be examined in detail and order would be issued for further action by the Collectors. Further reply is awaited (January 2014).

Government may ensure effective implementation of instructions by the executing authorities.

¹⁶ Ahmednagar, Bhandara, Kolhapur, Raigad and Sangli.

¹⁷ Ahmednagar, Kolhapur, Raigad and Sangli.

4.3 Audit observations

During scrutiny of records of the various land records and land revenue offices we noticed several cases of non-compliance of the provisions of the Maharashtra Land Revenue Code, 1966 (MLR code), Government notifications/instructions as mentioned in the succeeding paragraphs of this chapter. These are illustrative cases and are based on the test check carried out by us. As such cases are pointed out by us repeatedly; there is need on the part of the Government to improve the internal control system so that recurrence of such cases can be avoided.

4.4 Non-observance of the provisions of Acts/Rules

The provisions of the Maharashtra Land Revenue Code, 1966 (MLR code), Government notifications/instructions provides for:-

(i) Levy of unearned income on market value as on date of order granting permission to sale Government land or price realised by way of sale whichever is higher.

We noticed non-compliance of the above provision which resulted in short levy of ₹1.27 crore as mentioned in paragraph 4.4.1 to 4.4.3.

4.4.1 Short levy of unearned income and penalty due to non-consideration of sale value

Tahsildar Baramati, District: Pune

As per Government Resolution issued in September 1983, Circular issued in July 2002 and clarification issued in September 2006, where class-II land is transferred by the occupant without permission for non-agriculture purpose and without payment of prescribed *nazrana*/unearned income, in such case, the District Collector shall regularize such transfer by recovering *nazrana*/unearned income at the rate of 50 per cent of market value as per the rates prescribed in the ASR for the area in which property is situated or consideration received whichever is higher and penalty @ 50 per cent of *nazrana*/ unearned income.

During test check of records we noticed that the Divisional Commissioner Pune issued order (3 April 2010) for granting permission to sell the land admeasuring 2.0 Hectare held by the applicant as Class-II land for agriculture purpose with the conditions that the land holder will pay ₹ 1.30 lakh towards 50 per cent of unearned

income to the Government, the purchaser will hold land as class II holder and use land for agricultural purpose. The amount of ₹ 1.30 lakh was paid (April 2010) into the Government account.

A perusal of the records revealed that the class-II land holder already executed an agreement on 18 October 2008 to sell the said land to a Co-operative Housing Society for a consideration of ₹ 36.25 lakh. Subsequently sale deed was executed on 15 April 2010. It was seen from clause 5 of the sale deed that

society had purchased this land for welfare of their members and erection of residential flats / building scheme which is a non agriculture purpose.

As the land was used for non agricultural purpose market value of land as per ASR works out to ₹ 13 lakh but since the consideration amount i.e. ₹ 36.25 lakh is higher, unearned income at the rate of 50 per cent of this amount at ₹ 18.12 lakh and penalty on unearned income at ₹ .06 lakh is leviable. This has resulted in short recovery of unearned income of ₹ 16.83 lakh and penalty of ₹ 9.06 lakh.

After we pointed out the case in January 2011, Divisional Commissioner, Pune accepted (May 2012) the observation and ordered to recover deficit unearned income of ₹ 16.83 lakh and penalty of ₹ 9.06 lakh from the party concerned.

The matter was reported to the Government in June 2013; their reply is awaited (January 2014).

4.4.2 Short levy of *nazrana* / unearned income and penalty

Collector, Nashik

As per Government Resolution dated 8 September 1983, Circulars dated 10 March 2000 and dated 9 July 2002, for converting the new tenure of watan lands re-granted (as old tenure), *nazrana* equal to 50 per cent of the market value of the land is to be levied if the land is or is intended to be used for a purpose other than agriculture. Further, if Class II (agricultural) land is transferred for non agricultural (NA) purpose without prior permission of revenue authority and without remitting prescribed amount of *nazrana* by the land holders, such conversion/transfer should be regularized by District Collector on payment of *nazrana* on 50 per cent of current market value of the land and penalty equal to 50 per cent of *nazrana* amount payable. Market value of property is determined as per the instructions and rates mentioned in the ASR.

During test check of land grant/regularization orders in Collector Nashik, we noticed that the Collector regranted the Class II land admeasuring two hectare situated in *mouze* Agartakli, Tahsil and District Nashik. The land owner through his Power of attorney applied to the Collector for conversion of land for Non Agriculture (NA) purpose i.e. residential as well as

commercial in December 2000. Collector Nashik granted (April 2002) permission for residential as well as commercial purpose for an area admeasuring 16050 sqm and levied *nazrana* amounting to ₹ 28.09 lakh, @ 50 per cent of market value of agricultural land at the rate of ₹ 35,000 per hectare.

We further noticed that Collector Nashik regularised (April 2006) unauthorized NA use by levying NA charges and penalty of ₹ 3.16 lakh. The land holder was using agriculture land unauthorisedly for non-agricultural purpose since 1975-76 onwards. However, this fact was not taken into

account at the time of re-grant of permission for agricultural purpose in April 2002.

Based on rates of open land as per ASR 2002, the market value of land works out to ₹ 1.61 crore. *Nazrana* amount @ 50 per cent of market value at ₹ 80.25 lakh and penalty of ₹ 40.13 lakh @ 50 per cent of *nazrana* amount was thus leviable. This has resulted in short levy of *nazrana* of ₹ 52.16 lakh and penalty of ₹ 36.97 lakh.

After we pointed out the case in July 2010/January 2013, the Collector, Nashik has accepted (May 2013) the short levy and directed Tahsildar Nashik for recovery of amount, accordingly Tahsildar has issued demand notice (June 2013).

The matter was reported to the Government in July 2013; their reply is awaited (January 2014).

4.4.3 Short levy of unearned income due to incorrect adoption of market value of land

Collector, Dhule

As per Government resolution dated 8 September 1983, permission for conversion of agriculture land for non agricultural purpose can be granted by Divisional Commissioners to the occupants Class II (New tenure). The holder shall pay to the Government an amount equal to 75 per cent of the unearned income on current market value or price realised by way of sale, whichever is higher. Market value of property is determined as per instructions and rates mentioned in the ASR.

During test check of cases of granting permission for change in use of Government land in Collector, Dhule, we noticed (June 2012) that permission was granted by Divisional Commissioner, Nashik (July 2010) to the occupants (Class –II) to convert the agriculture land for non-agricultural use i.e., for plotting purpose.

The Department calculated the market value of land admeasuring 24,700 sqm situated at *mouze* Boradi at ₹ 13.42 lakh. The unearned income of ₹ 10.07 lakh at the rate of 75 per cent of market value was levied and recovered.

Based on rate of ASR 2010 by applying condition 17 (B), the market value of land works out to ₹ 30.04 lakh¹⁸ and unearned income @ 75 per cent of this market value works out to ₹ 22.53 lakh. This has resulted in short levy of unearned income of ₹ 12.46 lakh.

After we pointed out the case in June 2012, the Collector, Dhule stated (November 2012) that the amount of unearned income was recovered based on valuation carried out by Joint District Registrar Class I (Lower Grade) Dhule as per instruction 30 of ASR 2010.

¹⁸ Market value = 10,000 sqm x ₹ 225 x 60% = ₹ 13.50 lakh (for first 10,000 sqm)
 = 14,700 sqm x ₹ 225 x 50% = ₹ 16.54 lakh (for remaining area)
 Total = ₹ 30.04 lakh (i.e. ₹ 13.50 lakh + ₹ 16.54 lakh)

The reply is not tenable, as instruction 30 of ASR is applicable if there is first sale or allotment of Government land in rural areas for non-agriculture purpose and in this case, the land is in possession of land holder and he is seeking permission for using the land for non agriculture purpose and neither the Government land was sold nor was it allotted, instruction 30 is not applicable.

The matter was reported to the Government in July 2013; their reply is awaited (January 2014).