

## Chapter-I

### Revenue Sector

#### 1.1 Introduction

##### 1.1.1 Trend of revenue receipts

**1.1.1.1** The tax and non-tax revenue raised by the Government of National Capital Territory (NCT) of Delhi during the year 2013-14, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in the **Table 1.1**.

**Table: 1.1**  
**Trend of revenue receipts**

(₹ in crore)						
Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
<b>1</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	13,447.85	16,477.75	19,971.67	23,431.52	25,918.69
	• Non-tax revenue	3,467.40	4,188.95	460.87	626.93	659.14
	<b>Total</b>	<b>16,915.25</b>	<b>20,666.70</b>	<b>20,432.54</b>	<b>24,058.45</b>	<b>26,577.83</b>
<b>2</b>	<b>Receipts from the Government of India</b>					
	• Grants-in-aid	3,536.08	4,357.40	1,960.64	1,502.52	1,402.86
<b>3</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>20,451.33</b>	<b>25,024.10</b>	<b>22,393.18</b>	<b>25,560.97</b>	<b>27,980.69</b>
<b>4</b>	<b>Percentage of 1 to 3</b>	<b>83</b>	<b>83</b>	<b>91</b>	<b>94</b>	<b>95</b>

(Source: Pay and Accounts Office Delhi Govt.)

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 26577.83 crore) was 95 per cent of the total revenue receipts. The balance five per cent of the receipts during 2013-14 was from the Government of India.

**1.1.1.2** The details of tax revenue raised during the period 2009-10 to 2013-14 are given in **Table 1.2**.

**Table 1.2**  
**Details of tax revenue raised**

(₹ in crore)													
Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease(-) in 2013-14	
		BE <sup>1</sup>	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual over BE for 2013-14	Actual of 2013-14 over 2012-13
<b>1</b>	Taxes on sales, trade etc.	10000.00	10126.01	12600.00	12068.62	14000.00	13750.95	16500.00	15803.68	18200.00	17925.71	(-)01.51	(+ )13.43
<b>2</b>	State Excise	1512.00	1643.56	2000.00	2027.09	2400.00	2533.72	3000.00	2869.74	3200.00	3151.63	(-)01.51	(+ )9.82
<b>3</b>	Stamp Duty	900.00	929.97	1399.97	1355.75	2399.97	2240.25	3799.97	3098.06	3799.98	2969.07	(-)21.87	(-)04.16
<b>4</b>	Motor Vehicles Tax	450.00	462.65	650.00	707.55	950.00	1049.19	1370.00	1240.18	1400.00	1409.27	(+ )0.66	(+ )13.63
<b>5</b>	Others	312.00	285.64	311.00	318.71	378.00	397.54	487.00	419.84	475.00	463.00	(-)02.53	(+ )10.28
<b>6</b>	Land revenue	0.00	0.02	0.03	0.02	0.03	0.01	0.03	0.01	0.02	0.01	(-)50.00	0.00
	<b>Total</b>	<b>13174.00</b>	<b>13447.85</b>	<b>16961.00</b>	<b>16477.74</b>	<b>20128.00</b>	<b>19971.66</b>	<b>25157.00</b>	<b>23431.51</b>	<b>27075.00</b>	<b>25918.69</b>		

(Source: Finance Account)

<sup>1</sup> Budget Estimates

The above table shows that actual receipts for the year 2013-14, under the Heads Stamp Duty and Land Revenue decreased by 21.87 per cent and 50 per cent respectively over Budget Estimates. The actual receipts for the year 2013-14 under the Head Stamp Duty decreased by 4.16 per cent over the previous year. Revenue Department stated (January 2015) that decrease in revenue collection was due to striking down of the Court Fees (Delhi Amendment) Act, 2012 by the Hon'ble High Court of Delhi, slump in economy, high interest rates, rising cost of properties and affordable properties in the peripheral area of National Capital Region.

**1.1.1.3** The details of the non-tax revenue raised during the period 2009-10 to 2013-14 are indicated in **Table 1.3**.

**Table 1.3**  
**Details of non-tax revenue raised**

(₹ in crore)													
Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual over BE for 2013-14	Actual of 2013-14 over 2012-13
1	Interest receipts	3257.00	3236.62	3918.17	3869.84	369.81	174.14	473.54	340.03	754.50	379.35	(-)49.72	(+)11.56
2	Other administrative services	55.80	67.93	57.50	71.95	78.00	92.93	91.00	95.60	115.00	91.04	(-)20.83	(-)4.77
3	Other Non-tax receipts	101.82	107.87	188.00	183.71	116.66	107.97	123.66	101.50	111.42	88.65	(-)20.44	(-)12.66
4	Medical and Public Health	23.66	24.65	26.50	36.28	41.00	47.56	44.24	54.32	65.00	63.05	(-)3.00	(+)16.07
5	Public Works	11.00	14.99	15.50	15.64	20.00	26.15	23.10	25.55	20.00	18.59	(-)7.05	(-)27.24
6	Power	10.00	15.34	17.00	11.53	15.00	12.12	14.00	9.93	22.01	18.46	(-)16.13	(+)85.90
<b>Total</b>		<b>3459.28</b>	<b>3467.40</b>	<b>4222.67</b>	<b>4188.95</b>	<b>640.47</b>	<b>460.87</b>	<b>769.54</b>	<b>626.93</b>	<b>1087.93</b>	<b>659.14</b>		

(Source: Finance Account)

The above table shows that actual receipts for the year 2013-14, decreased between 3 to 49.72 per cent over Budget Estimates. The Actual receipts under the Heads Public Works and Other Non-tax receipts for the year 2013-14, decreased by 27.24 per cent and 12.66 per cent respectively, over the previous year. Finance Department stated (December 2014) that the reasons for above variation were that Budget Estimates are prepared in advance and actual realization in the financial year are based on number of service takers/ services provided, and Non-Tax revenue receipts were not a regular income but were charges on account of various commodities, services, fines and other receipts, collected there under.

### **1.1.2 Analysis of arrears of revenue**

The arrears of revenue as on 31 March 2014 on some principal heads of revenue amounted to ₹ 21810.54 crore, as detailed in the **Table 1.4**.

**Table 1.4**  
**Arrears of revenue**

(₹ in crore)				
Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2014	Amount outstanding for more than 5 years as on 31 March 2014	Remarks
1	Taxes on sales, trade etc.	21,797.10	Not available	Reasons for arrear of revenue not furnished by the department.
2	State excise, Entertainment and Luxury	13.44	2.79	In most of the cases operation of hotels were transferred on lease and lessee had left the premises and could not be located at their given address.
<b>Total</b>		<b>21,810.54</b>	<b>2.79</b>	

*(Source: Depts. of Trade & Taxes and State Excise, Entertainment & Luxury)*

### 1.1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Department of Trade and Taxes and State Excise, are as given in **Table 1.5**.

**Table 1.5**  
**Arrears in assessments**

Head of revenue	Opening Balance	New cases due for assessment during the year 2013-14	Total assessments due	Cases disposed of during the year 2013-14	Balance at the end of the year	Percentage of disposal (col.5 to 4)
1	2	3	4	5	6	7
Taxes on sales, trade etc.	1,305	2,50,632	2,51,937	2,51,837	100	99.96
State Excise	1,923	754	2,677	836	1,841	31.23

*(Source: Depts. of Trade & Taxes and State Excise, Entertainment & Luxury)*

It would be seen from the above table that percentage of disposal of assessment cases was as low as 31.23 *per cent* in respect of Department of State Excise.

### 1.1.4 Response of the Government/ Departments towards Audit

The Principal Accountant General (Audit), Delhi (PAG) conducts periodical inspection of the 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 the Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within four weeks from the date of

receipt of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

Inspection reports issued up to December 2013 disclosed that 12,500 paragraphs involving ₹ 11,456.63 crore relating to 663 IRs remained outstanding at the end of June 2014 as mentioned below along with the corresponding figures for the preceding two years in **Table 1.6**.

**Table 1.6**  
**Details of pending Inspection Reports**

	June 2012	June 2013	June 2014
Number of IRs pending for settlement	483	624	663
Number of outstanding audit observations	10,028	12,224	12,500
Amount of revenue involved (₹ in crore)	8,938.03	11,054.77	11,456.63

#### 1.1.4.1 Department wise details of IRs

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in the **Table 1.7**.

**Table 1.7**  
**Department wise details of IRs**

(₹ in crore)					
Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	Trade and Taxes	Taxes on Sales, Trade etc.	527	11,911	11,329.22
2	State Excise	State Excise Entertainment & luxury tax etc.	8	33	61.67
3	Transport	Taxes on motor vehicles	55	120	20.42
4	Revenue	Stamps and Registration fees	73	436	45.32
<b>Total</b>			<b>663</b>	<b>12,500</b>	<b>11,456.63</b>

Audit did not receive even the first reply in any case, from the heads of offices within period of four weeks from the date of receipt of the IRs, during 2013-14. This large pendency of the IRs due to non-receipt of replies, is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out in IRs.

The Government may consider to have an effective system for prompt and appropriate response to audit observations.

#### 1.1.4.2 Departmental Audit Committee Meetings

The Government set up Audit Committees to monitor and expedite the progress of the settlement of audit paragraphs in the IRs.

One Audit Committee meeting was held with the Department of Trade and Taxes only, however, no outstanding paragraph was settled.

The Government may take concrete steps to clear outstanding paragraphs.

#### 1.1.4.3 Non-production of records to audit for scrutiny

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

During the year 2013-14, 1,464 assessment files/ cases out of 6,469 files/ cases, were not made available to audit by the Department of Trade and Taxes representing 23 *per cent* and revenue involved in these cases could not be ascertained.

#### 1.1.4.4 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the PAG to the Principal Secretaries/ Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the Department/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Three draft paragraphs were sent to the Government/ Departments during August 2014 to January 2015. Department's replies in respect of all the draft paragraphs have been received and suitably incorporated in the Audit Report.

#### 1.1.4.5 Follow up on Audit Reports – summarized position

The internal working system of the Public Accounts Committee lays down that after presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately in 60 paragraphs and eight performance audits included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of NCT of Delhi for the years ended 31 March 2009, 2010, 2011, 2012 and 2013, placed before the State Legislature Assembly between March 2010 to July 2014. The action taken explanatory notes from the concerned departments on these paragraphs were received late with the average delay of six months in respect of each of these Audit Reports. Action taken explanatory notes in respect of 37 paragraphs and four performance audits (PAs) from the departments had not been received for the Audit Reports year ended 31 March 2009, 2010, 2011, 2012 and 2013 as mentioned in the **Table 1.8**.

PAC did not discuss paragraphs pertaining to the Audit Reports (Revenue Sector) for the period 2008-09 to 2012-13.

**Table 1.8**

Sl. No.	Year of Report ending 31 March	Number of Paragraphs and Performance Audits printed in Report	Number of Paragraphs and Performance Audits for which ATNs were awaited
1	2009	13+2(PAs)	9+2(PAs)
2	2010	17+1 (PAs)	13+0(PAs)
3	2011	12+3(PAs)	10+1(PAs)
4	2012	16+1(PAs)	3+0(PAs)
5	2013	2+1(PAs)	2+1(PAs)

### 1.1.5 Status of Inspection Reports and recovery of amount in accepted cases

The status of the Inspection Reports and recovery of amounts in accepted cases for the last 10 years for the Department of Trade and Taxes, State Excise, Revenue and Transport are given in paragraphs 1.1.5.1 and 1.1.5.2:

#### 1.1.5.1 Position of Inspection Reports

The summarized position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2014 are given in **Table 1.9**.

**Table 1.9**  
**Position of Inspection Reports**

(₹ in crore)													
Sl. No.	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
1	2004-05	1145	10821	1127.42	93	1436	306.27	668	7468	404.91	570	4789	1028.78
2	2005-06	570	4789	1028.78	81	1377	399.89	227	1916	174.95	424	4250	1253.72
3	2006-07	424	4250	1253.72	64	880	320.51	265	2548	543.25	223	2582	1030.98
4	2007-08	223	2582	1030.98	62	1329	1077.42	79	1266	349.89	206	2645	1758.51
5	2008-09	206	2645	1758.51	89	2265	1748.24	6	429	413.39	289	4481	3093.36
6	2009-10	289	4481	3093.36	108	2972	2900.71	11	301	218.47	386	7152	5775.60
7	2010-11	386	7152	5775.60	54	2009	1831.89	85	564	434.09	355	8597	7173.40
8	2011-12	355	8597	7173.40	96	2204	3079.27	24	657	394.02	427	10144	9858.65
9	2012-13	427	10144	9858.65	104	1610	1209.64	62	520	571.99	469	11234	10496.31
10	2013-14	469	11234	10496.31	92	790	1099.45	3	83	--	558	11941	11595.76

It is evident from the above table that at the beginning of 2004-05 there were 10,821 paras involving audit objections of ₹ 1,127.42 crore awaiting response from the departments but at the end of year 2013-14, number of paras increased to 11,941 involving money value of ₹ 11,595.76 crore. This is indicative of the fact that the Departments did not take adequate steps to settle outstanding paragraphs.

#### 1.1.5.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the departments and the amount recovered are mentioned in **Table 1.10**.

Table 1.10

(₹ in crore)						
Year of Audit Report	Number of Paragraphs included	Money value of the Paragraphs	Number of paragraphs accepted included money value	Money value accepted	Amount recovered during the year	Cumulative position of recovery of accepted cases as of 31 March 2014
2003-04	23	410.05	15	121.72	-	-
2004-05	27	402.36	12	200.31	-	0.10
2005-06	20	177.85	13	18.44	-	0.06
2006-07	16	254.93	13	209.06	-	0.27
2007-08	11	945.52	7	28.17	-	0.18
2008-09	15	1729.62	7	109.00	-	0.14
2009-10	18	1764.20	5	49.36	-	0.39
2010-11	15	1479.98	4	58.00	-	0.06
2011-12	17	2363.11	1	19.14	-	1.23
2012-13	3	536.00	3	70.16	-	-

It is evident from the above table that the progress of recovery, even in accepted cases was negligible, throughout during the last 10 years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Departments/ Government. Further, the arrear cases including accepted audit observations were not available with the Department of Trade and Taxes, State Excise, Revenue and Transport. In the absence of suitable mechanism, the Departments could not monitor the recovery of accepted cases.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

#### 1.1.6 Action taken on the recommendations accepted by the Department/ Government

The draft performance audits conducted by the PAG are forwarded to the concerned Departments/ Government for their information with a request to furnish their replies. These reviews are also discussed in an exit conference and the Department's/ Government's views are included while finalizing the reviews for the Audit Reports.

Eight Performance Audits (PA) were conducted and featured in the Audit Reports for the years 2008-09 to 2012-13. The audit had made 30 recommendations in the PAs. The departments concerned have not furnished their replies.

#### 1.1.7 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* include critical issues in government revenues and tax administration i.e. budget speech, white paper on State Finances, recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during past five years, factors of the tax administration, audit coverage and its impact during past five years etc.

During the year 2013-14, there were 150 auditable units, of which 89 units were planned and 80 units had been audited. Due to engagement of audit staff in Assembly Elections of Delhi, 9 planned units could not be audited.

## 1.1.8 Results of audit

### 1.1.8.1 Position of local audit conducted during the year

Test check of records of 80 units relating to VAT/ Sales Tax and Motor Vehicle Tax, conducted during the year 2013-14 showed under assessments/ short levy of tax/ loss of revenue and other irregularities involving ₹ 905.66 crore in 2001 cases which fall under the following categories as given in **Table 1.11**.

**Table 1.11**  
**Categories wise irregularities**

			(₹ in crore)	
Sl. No.	Categories	No. of cases/ paras	Amount	
<b>Sales Tax/Value Added Tax</b>				
1	Assessment, levy and collection of Tax on Works Contract	1	98.26	
2	Loss of revenue on account of allowance of inadmissible concessional rate of tax on inter-state sales.	1	0.13	
3	Other irregularities	1045	794.25	
<b>Total</b>		<b>1047</b>	<b>892.64</b>	
<b>Stamp duty and Registration Fee</b>				
1	Short levy of stamp duty and registration fee	180	0.17	
2	Other irregularities	740	9.66	
<b>Total</b>		<b>920</b>	<b>9.83</b>	
<b>Motor Vehicle Tax</b>				
1	Contract management in Motor Vehicle Department	1	3.19	
2	Other irregularities	33	-	
<b>Total</b>		<b>34</b>	<b>3.19</b>	
<b>Grand Total</b>		<b>2001</b>	<b>905.66</b>	

During the course of the year, the concerned Departments accepted under assessment and other deficiencies of ₹ 20.83 crore, which were pointed out in audit during 2013-14.

### 1.1.8.2 Internal control and internal audit

Every department responsible for tax collection is required to institute appropriate internal controls for its efficient and cost effective functioning for adequate safeguard against non/ short collection or evasion of taxes.

The Internal Audit Cell of the Department of Trade and Taxes neither prepared any plan nor conducted any audit for 2009-13, as of October 2014. Further, the Department did not furnish information on any audit conducted by the Directorate of Audit under the Finance Department of GNCTD. Internal Audit of the Transport Department (HQ) was conducted upto 2012-13 and Internal Audit of Department of Revenue was not conducted for the year 2013-14.

## 1.1.9 Contents of the Revenue Chapter

This chapter contains three paragraphs involving revenue implication of ₹ 98.39 crore. The concerned Departments have accepted audit observations involving ₹ 20.83 crore, out of which no amount was recovered. The replies of the departments have been received (March 2015) and suitably incorporated. These are discussed in succeeding paragraphs.



## AUDIT OF TRANSACTIONS

### TRADE AND TAXES DEPARTMENT

#### 1.2 Audit on 'Assessment, Levy and Collection of Tax on Works Contract'

**Failure of DTT to institute a system of inter-departmental cross-verification for detection of cases of un-registered works contractors, suppression of turnover, non-filing of returns, non-deduction of TDS and underassessment of turnover in 55 cases led to short levy of tax of ₹ 98.26 crore including interest and penalty.**

The Audit of Department of Trade and Taxes (DTT) for the period 2009-13 was conducted during May to December 2014, to see whether the DTT has in place, proper system to ensure assessment, levy and collection of tax on Works Contract. Audit examined records of Special Zone of the DTT, Government of National Capital Territory of Delhi. Of 634 assessed cases, audit randomly selected 321 (50 *per cent*) cases of the Works Contracts, assessed during 2009-13 involving turnover of ₹ 5301.24 crore. Out of selected cases, the DTT provided only 38 cases (11.83 *per cent*) involving turnover of ₹ 307.21 crore for audit. The main audit findings are as under:

#### 1.2.1 System deficiencies

Regular and systematic inter-departmental cross verification of database can assist in detecting unregistered works contractors, suppression of turnover, widening of tax base etc. However, existing system in the Department, for assessment, levy and collection of tax on works contract, has deficiencies enumerated in following sub-paragraphs.

##### 1.2.1.1 Absence of a mechanism of cross verification of details of works contractors

A White Paper by the Empowered Committee of State Finance Ministers, constituted by the Ministry of Finance, GoI, which was released on 17 January 2005, emphasised the importance of cross-checking of tax returns and other documents of the VAT system of the States and those of Central Excise and Income Tax, to help reduce tax evasion and growth of tax revenue. However, the Department did not install and make use of the system of cross-verification of the data of the contractors registered/ engaged in other departments and undertakings of the Union and State Governments with the database of the dealers registered in the Department, to detect cases of the dealers not registered with the Department.

Further, the Department issued instructions (January 2006) for conducting surveys to identify the entities i.e. the dealers who were not registered even though they had become eligible for registration as per DVAT Act. However, the Department did not provide data to audit regarding the unregistered dealers/works contractors, detected as a result of survey conducted.

Thus, failure of the Department to institute a system of inter-departmental cross-verification for detection and registration of the works contractors resulted in loss

of revenue to the State which was not possible to quantify in the absence of data. Audit, however, detected six cases of non-registration of contractors, 29 cases of suppression of turnover and four cases of concealment of turnover by contractors on cross verification of records of the Department with that of other departments, which are discussed in the following sub-paragraphs.

The Department in its reply (March 2015) stated that efforts are being made to evolve a mechanism to utilise database available with these departments.

**(i) Loss of revenue due to non-registration of works contractors – ₹ 9.26 crore**

Under Section 86(12) of DVAT Act, failure of a works contractor in registering his firm with the DTT and payment of applicable tax attracts penalty and interest on the unpaid amount of tax at the prescribed rates.

Audit cross verified records of the Department with the data and information obtained from the Pragati Power Corporation Limited (PPCL) and Delhi Metro Rail Corporation (DMRC) and observed that six<sup>2</sup> works contractors executed works contracts aggregating to ₹ 40.57 crore, with PPCL and DMRC during the period 2009-13. However, none of these six contractors was registered with the DTT and, hence, they were not assessed for their liability of tax on the works contracts they executed during that period. Had they been registered, assessed and tax levied on their turnover, the Department could have received additional tax revenue of ₹ 3.77 crore. Thus, the system of registration of works contractors in the Department, was deficient to the extent that it failed to unearth unregistered contractors and resulted in loss of revenue to the Government, which, in these six works out to ₹ 9.26 crore, including interest and penalty.

The Department, while accepting the audit observation, stated (March 2015) that efforts are being made to bring unregistered dealers in the ambit of Works Contract Tax.

**(ii) Loss of revenue due to suppression of turnover and non filing of return**

Section 32 of the Act provides that if the Commissioner is satisfied that any person, who has been liable to pay tax under the Act in respect of any period(s) has failed to get himself registered or has paid less tax, the Commissioner may, for reasons to be recorded in writing, assess to the best of his judgment the amount of net tax due for such tax period(s) and all subsequent tax periods. Also under Section 42(2) and 86(10) (b), interest and penalty are leviable respectively, for the amount of tax deficiency made by the contractor.

**(a)** Audit cross-verified records/data collected from DSIIDC, NBCC, PPCL, DJB and DDA, with the returns (DVAT 16 and 17), TDS certificate (DVAT 43) and annual accounts. The cross verification showed that in 29 cases of 22 works contractors, the Department under assessed turnover of works contracts during

---

<sup>2</sup> Four contractors of PPCL and Two contractors of DMRC

2009-13, due to suppressed or incorrect information, declared by the contractors in their returns. As per the departmental records, the Department assessed total turnover in these 29 cases, as ₹ 208.65 crore, whereas, on the basis of cross verification of records, it should have been ₹ 415.73 crore. This only showed that the Department did not have an in-built system in place, to verify or cross-verify correctness of the turnover declared by the contractors in their returns. The deficiency in the system allowed opportunity to works contractors for evasion of tax by suppression and concealment of turnover. In these 29 cases, there was suppression of turnover by ₹ 207.08 crore, and consequent loss of revenue of ₹ 52.29 crore, including interest and penalty.

On this being pointed out, the Department stated (March 2015) that there are many instances where dealers reflect their turnover on the basis of bills raised in a particular month but receive payment and TDS certificate after six months. Hence, receipt of TDS certificate cannot be correlated with the turnover and observations made by Audit are not based on the actual practice adopted in the industry.

Reply of the Department is not correct as the audit observation was made on the basis of information of actual payment made to the contractors by the departments of the State Government. Also amount credited to contractor as per TDS certificate was required to be included in their GTO during the financial year.

**(b)** Cross-verification of information collected from other departments in respect of payments made to contractors, with the online database of the Department, showed that nine contractors, though received payments for works contracts executed by them, did not file their returns, thereby concealing their turnover of ₹ 47.01 crore. As the Department did not have a system of cross-verification of contractee returns (DVAT- 48) with that of the contractors returns (DVAT -16 and 17), to detect cases of non-submission of returns by the contractors, nine contractors escaped the process of tax assessment, resulting in revenue loss of ₹ 11.44 crore, including interest and penalty.

The Department in its reply (March 2015) stated that efforts are being made to evolve a mechanism so that the database available with these departments can usefully be utilised by it. The reply confirms the audit observation.

**(iii) Assessment without cross verification of details in returns with the data available with the Department**

Under Section 36A (11) of the Act, every person (contractee), responsible for deducting tax at source, is required to furnish a TDS return (Form DVAT 48) annually (quarterly from April 2012), within a period of 28 days from the end of the year (quarter), in which tax at source has been deducted from the payment made to the contractors. The return should contain details of the works contractors engaged, gross value of their contract, amount paid to them during the year, etc. Under Section 42(2) and 86(10) (b), interest and penalty are leviable respectively, for the amount of tax deficiency made by the contractor.

Audit observed that no system existed in the Department, where information available in the returns filed by the contractee, are utilized to cross verify the correctness of turnover, TDS, etc., as declared by the corresponding contractors in their returns (Form DVAT 16 or DVAT 17). Such a cross verification can detect cases of suppression of turnover, excess claim of TDS and unearth works contractors who have not got themselves registered with the Department. However, as a result of cross verification of returns of contractee, with the returns of the contractors, available with the Department itself, audit detected cases of concealment of turnover by the contractors. During the period 2009-13, four contractors filed returns declaring their total turnover as ₹ 10.35 lakh. However, the TDS returns (DVAT 48) filed by the contractee in respect of these contractors, showed turnover of ₹ 12.44 crore. This resulted in non-levy of tax of ₹ 3.28 crore, including interest and penalty.

The Department in its reply (March 2015) stated that to contain leakage in VAT in works contract, it has developed a module, making mandatory for all contractee to file TDS return (DVAT-48) online and to issue online certificate to this effect (DVAT-43) after depositing the TDS online in the Government account.

The reply is silent with regard to above stated observation of non-levy of tax already occurred and recovery thereof.

#### **1.2.1.2 Non-deduction of TDS**

Under section 36A (1) of the DVAT Act, any person not being an individual or HUF who is responsible for making payment to any dealer for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of works contract, for the value exceeding twenty thousand rupees, shall at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by any other mode, whichever is earlier, deduct tax thereon at the rate prescribed.

The information collected from M/s. PPCL, showed that it got executed works contract and paid ₹ 21.51 crore to 13 contractors without deducting TDS from such payments during the period 2009-14. Further, it was seen that PPCL was not filing DVAT 48 return showing the details of TDS deducted and deposited and the Department also did not take any action to enforce the provisions of the Act on the contractee, for non-deduction of TDS. This resulted in revenue loss of ₹ 0.42 crore, besides penalty was also leviable.

The Department in its reply (March 2015) stated that it has been conducting various sensitization programmes with different departments to educate them regarding provisions of DVAT-36A. Department's reply is not satisfactory as PPCL is a registered contractee and the department should have imposed the penalty for non-filing of DVAT-48.

## 1.2.2 Compliance deficiencies

Cases of non-compliance of various provisions of the Act, Rules, notifications, instructions etc. noticed during audit, are discussed in succeeding paragraphs:

### 1.2.2.1 Irregular allowance of deduction

As per Section 5(2) of the Act, and Rule 3 of the DVAT Rules, in case of turnover arising from the execution of the works contract, the amount representing the taxable turnover shall exclude the charges towards labour and services etc., subject to the dealer's maintaining proper records evidencing payment of charges towards labour and services etc., to the satisfaction of the Commissioner. If the amount of the labour and services is not ascertainable from the accounts of the dealer, it should be deducted at the prescribed rate of 25 *per cent* of GTO, in case of civil works contract.

(a) Audit scrutiny showed that in four cases for the period 2009-14, the Assessing Authority (AA) allowed exemption ranging from 28 *per cent* to 98 *per cent* on account of labour and services of ₹ 311.76 crore, from the GTO of ₹ 337.12 without giving adequate reasons particularly in cases where allowed exemption was more than the prescribed rate. In one case of M/s. Gammon-Constructora Cidade-Tensaccai-JV Delhi, 98 *per cent* of GTO was claimed and allowed as labour and services without mentioning any basis. The GTO of the assessee for the year 2010-14 was ₹ 298.57 crore and as per DVAT Department's circular No. 9 of June 2005, the assessee having GTO more than ₹ 5 crore, was to be assessed compulsorily, however, no assessment was made in the case of Gammon-Constructora Cidade-Tensaccai-JV Delhi for the year 2010-2014.

On this being pointed out, the Department stated (March 2015) that in such instances, deduction claimed by the contractor was allowed by the Assessing Authority during scrutiny after verification of records and in most cases, documents were returned after checking. The reply is not tenable as there was nothing mentioned in the assessment order on which basis the labour component was allowed in excess of the prescribed limit of 25 *per cent*.

(b) In another case, a contractor claimed exemption of ₹ 6.64 crore on turnover, on account of inter-state purchases for the year 2009-11, for which there is no provision in the Act. However, the AA accepted the claim and allowed the exemption, which was irregular and resulted in short levy of tax of ₹ 2.14 crore, including interest and penalty. The department replied (March 2015) that exemption on turnover on account of interstate purchases were allowed after checking the terms of contract as per contract agreement in accordance with Section 3 & 4 of the CST Act, 1956. The Reply is not acceptable as neither the copy the agreement was furnished to audit nor the basis on which the exemption was allowed mentioned in the assessment order.

### **1.2.2.2 Underassessment of turnover**

Audit noticed (May 2014 to December 2014) from the assessment record of ward 107 that the AA while finalising the assessment (May 2014) of contractor for the year 2009-10, allowed deduction of ₹ 57.27 crore from the GTO on account of material directly billed by the contractee to the contractor. The deduction so allowed was irregular as supply of the material by the contractee to the contractor tantamount to sale. This resulted in under assessment of tax of ₹ 7.16 crore, besides interest of ₹ 5.11 crore and penalty of ₹ 7.16 crore was also leviable.

The Department in its reply (March 2015) stated that in many instances dealers reflect their turnover on the basis of bills raised in a particular month but receive payment and TDS certificate after six months. Hence, receipt of TDS certificate cannot be correlated with the turnover and the Audit observations are not based on the actual practice adopted in the industry.

Reply of the Department is not correct as the audit observation was made on the basis of deduction allowed by the Assessing Authority from Gross Turnover (GTO) on account of material billed directly to the contractee.

### **1.2.3 Non-production of records**

Section 18 of CAG's (DPC) Act, 1971 provides for co-operation by auditee department, in carrying out his constitutional duty. It further provides that the person in charge of any office or department, the accounts of which have to be inspected and audited by the Comptroller and Auditor-General, shall afford all facilities for such inspection and comply with requests for information in a complete form as possible and with all reasonable expedition.

The Department provided access to its online database for viewing and copying the dealer's profile/ returns. However, online database does not have details contained in other documents, submitted by the assessee either during the assessment proceedings or along with the hard copy of returns. Only on the basis of information available on online database, and which are very limited, audit could not derive complete assurance. Despite six meetings with higher authorities and repeated reminders, the Department provided only 38 files involving turnover of ₹ 307.21 crore and tax paid of ₹ 12.34 crore, out of selected 321 files involving turnover of ₹ 5301.24 crore.

The Department in its reply (March 2015) stated that out of 321 files demanded by the Audit, 165 assessment cases were done online, 21 were not done, 47 pertained to other wards and out of the remaining 88 cases, 44 were furnished to audit. It further stated that 230 cases were made available either through system or manually to Audit. The Department added that it is undergoing a complete transition from manual operations to digitization.

Reply of the department is not acceptable as 321 assessment cases were selected from the list provided by the Department. Out of 230 cases, 38 files were made

available and for remaining cases, only limited online access was given on which audit could see only the dealers profile/ returns and the necessary documents<sup>3</sup> were not available on the online database. In the absence of these documents, it was not possible for audit to arrive at any conclusion.

#### **1.2.4 Internal control**

Every department responsible for tax collection is required to institute appropriate internal controls for its efficient and cost effective functioning for adequate safeguard against non/ short collection or evasion of taxes. Internal control mechanism in the department was not effective as audit had pointed out observations relating to cross verification of details of work contractors, non filing of returns by the registered dealers (Para 2.3.1.1) and working of the enforcement branch {Para 2.3.4(ii)}.

##### **(i) Internal Audit**

As per paragraph 2.13 of the 'White Paper' of the Empowered Committee on VAT, departmental audit should check the correctness of self-assessment, for which a certain percentage of dealers should be taken up for audit every year on a scientific basis. The Department has an Internal Audit Cell (IAC) under the charge of the Joint/Additional Commissioner (Audit). However, the IAC neither prepared any plan nor conducted any audit during 2009-13. Directorate of Audit under the Finance Department of GNCTD conducts audit of all the departments and offices of GNCTD. The Department did not furnish information regarding audit conducted by the Directorate of audit.

The Department stated (March 2015) that IAC is being strengthened.

##### **(ii) Working of the Enforcement Branch**

The Department has an Enforcement Branch (EB) headed by Additional Commissioner (Enforcement) to detect evasion of tax by conducting surveys, searches and seizures of the dealers in Delhi. Information provided by the EB showed that the Department did not have ward-wise fixed targets of the dealers to be selected for search or survey. During the period 2009-13, only seven enforcement activities i.e. searches/ surveys were conducted. Further, no record of search and survey conducted during 2009-13 was available with the Special Zone dealing exclusively with the cases of works contractors.

The Department stated (March 2015) that the Enforcement Branch had conducted 1508 surveys during the year 2013-14 and ₹ 14351.57 lakh has been deposited by the dealers voluntarily. These cases have further been assessed and sent to the concerned wards for recoveries.

Reply of the department is not satisfactory as the department has provided information regarding surveys conducted only during the year 2013-14, whereas

<sup>3</sup> Copies of DVAT Forms-43, 48, & 51, accounts and agreement of contract

the observations pertained to 2009-13. The Department is silent on enforcement activities pertaining to Special Zone.

The above points were reported to the Government (January 2015); Director (Finance) in its reply (March 2015) stated that the instructions have been issued to all assessing authorities to send replies within three days. The replies from the department were received and suitably incorporated.

### **1.3 Loss of revenue on account of allowance of inadmissible concessional rate of tax on inter-state sales**

**Acceptance of duplicate copy of 'C' Forms, which contained overwriting in name of the selling dealer, amount, number and date of bill, resulted in inadmissible claim of ₹ 91.59 lakh involving short realisation of tax of ₹ 9.62 lakh.**

Section 8(4) of the Act stipulates that the provision of Section 8(1) shall not apply unless dealer selling the goods, furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold, containing the prescribed particulars in a prescribed form obtained from the prescribed authority. Further, as per High Court order in the case of Bharat Petroleum Corporation Ltd. v/s State of Kerala (2011), Forms would be treated as defective if, there were cuttings, erasures and manipulation of details on the forms and these deficiencies could not be removed merely through confirmation letters of the purchaser; and these could be removed by attestation of the purchaser on the form itself and counter-signature of the assessing officer of the issuing State.

Audit noticed during test check of the records of Ward 204 between February 2014 to May 2014 that in one case relating to the assessment year 2010-11 (assessed on 17 April 2012), the dealer claimed concession on interstate sale of ₹ 101.11 lakh against Form 'C' in the month of October 2010. Out of this claim of ₹ 91.59 lakh was against duplicate 'C' Forms, which contained overwriting in name of the selling dealer, amount, number and date of bill. However, the Assessing Authority did not look at these irregularities during assessment and allowed concessional rate of tax on the basis of defective Forms 'C'.

Thus, inadmissible allowance of concessional rate of tax on inter-state sales of ₹ 91.59 lakh, resulted in short realisation of tax of ₹ 9.62 lakh. Besides, interest of ₹ 2.94 lakh was also leviable.

The Department in its reply (30 March 2015), stated that correspondence with the concerned authorities of issuing State has been made (22 July 2014) to verify the Forms. In case the concerned authorities did not verify the amount claimed by the dealer, the case will be re-assessed and appropriate demand will be raised.



## TRANSPORT DEPARTMENT

### 1.4 Motor Vehicle Tax

**Poor contract management and not taking timely action by the Department resulted in extra burden of ₹ 3.19 crore on vehicle owners. Only 170581 out of 1017764 vehicles were affixed with HSRPs. The Department has no mechanism to trace out vehicles plying without valid Certificate of Fitness.**

Audit of the Transport Department (the Department) for the period 2011-14 was conducted during June to August 2014, to see whether registration of vehicles, issuance of driving licenses, fitness certificates, permits, collection of road tax, etc., were in accordance with the provisions of Acts and Rules. Audit examined records at Transport Headquarters and randomly selected five<sup>4</sup> out of 15 offices of Motor Licensing Officers (MLOs). The findings are given in succeeding paragraphs.

#### 1.4.1. Contract for registration of vehicles

The Department entered into an agreement with M/s. Shonkh Technology International Limited (STIL) in June 2003 to prepare vehicle registration certificates (VRCs) in smart cards and charge ₹ 416 per vehicle from the owner. As per clause 16(1) (b) of the agreement, the agreement could be terminated by both parties for any material breach of obligations.

##### 1.4.1.1 Extra burden on vehicle owners due to poor contract management

The Reports of the Comptroller and Auditor General of India for the year ended 31 March 2008 and 31 March 2011 (Report No.2), highlighted issues like - lapses in the process of selection and award of work for implementation of Smart Card for registration of vehicles to STIL, failure of the Department to take concrete steps, inadequate monitoring of the contract, non-initiation of process to award the work afresh or to decide upon continuing with the services of STIL.

As per clause 5 (xiii) of the agreement, STIL was to maintain sufficient stock of blank smart cards to prepare new or replacement VRCs in smart cards within four working days of application. Scrutiny of records, however, showed that STIL did not maintain sufficient stock of blank smart cards. As such, the firm was not able to maintain timely issue of VRCs and as a consequence, 63082 VRCs were pending to be issued as of May 2013. In the meanwhile, the Department instead of taking a firm decision to terminate the agreement issued six<sup>5</sup> show cause notices to STIL from June 2006 to May 2013. In October 2013, when the Department decided to terminate the services of STIL from 31 December 2013, STIL got stay order from the Delhi High Court. The contract was finally terminated on 21 April 2014. However, by that time, pendency of issue of smart cards reached to 159619,

<sup>4</sup>MLO (ARU), MLO (VIU), MLO (Mall Road), MLO (Loni Road), and MLO (Vasant Vihar)

<sup>5</sup>07.06.2006, 06.07.2007, 02.05.2008, 07.03.2012, 21.09.2012 and 10.05.2013.

and the firm had collected ₹ 6.64 crore from the public against these pending cards at the rate of ₹ 416 per card.

On 22 April 2014, the work of issue of VRCs was allotted to Delhi Integrated Multi Modal Transit System Ltd. (DIMTS) at the rate of ₹ 200 per card on nomination basis due to urgency with the approval of Lieutenant Governor. However, vehicle owners who had earlier paid ₹ 416 per card to the previous vendor, were not allowed any credit for the same and they had to pay ₹ 200 per card afresh, to the new vendor for issue of VRCs for their vehicles. Thus, poor contract management and not taking timely action on the part of the Department, for termination of agreement with STIL, resulted in extra burden of ₹ 3.19 crore<sup>6</sup> on vehicle owners.

The Department in its reply (March 2015) stated that the contract was not managed poorly and the lapses of M/s. STIL were brought to its notice vide several memorandum/ show cause notices. As regards collecting ₹ 6.64 crore from vehicle owners against pending cards, the Department had asked the concerned Bank to invoke the Bank Guarantee of ₹ 50 lakh in favour of the Department and also claimed ₹ 6.64 crore from STIL before the Arbitral Tribunal. Reply of the department is not tenable as the Department, instead of taking timely decision to terminate the contract and encash bank guarantee, had only issued memorandum/ show cause notices to STIL during June 2006 to May 2013, despite pointed out in the Audit Reports for the year ended 31 March 2008 and 31 March 2011.

#### **1.4.1.2 Non-retrieval of VRC's data**

As per clause 21.2 of the agreement, on expiry of the contract, the vendor shall duly transfer all data and information to the vendee. On termination of the contract with STIL on 21 April 2014, the Department asked (June 2014) the vendor to provide all data including that of VRCs, however, it had not received the same as of March 2015.

The Department has accepted (March 2015) the audit observation and stated that the process is in progress.

#### **1.4.2 Policy regarding High Security Registration Plates (HSRP)**

As per the Supreme Court's direction (February 2012), all State Governments were to implement the scheme of HSRP in their entire state positively by 30 April 2012, in case of new vehicles and from June 2012 in case of old vehicles.

The Department selected M/s. Rosmerta Technologies Limited in April 2012 for affixation of HSRP on vehicles after bidding process. A notice for implementation of the scheme of HSRP was also published on 28 April 2012. All vehicles registered on or after 30 April 2012, were required to be affixed with HSRP by the firm at the time of registration of vehicle and from 15 June 2012 to 14 June 2014 in case of old vehicles.

---

<sup>6</sup>(159619 @ ₹ 200)

The firm was to guarantee vehicle owners imperishable nature of HSRP for a minimum period of five years, give cash receipt bearing the help line number, submit bi-weekly progress report, prepare a plan for affixation of HSRP on vehicles registered prior to 30 April 2012, devise a system to reach out to all such vehicle owners, develop software for online booking of time slots for affixation of HSRP and provide HSRP pendency details along with a softcopy, to the Department.

Scrutiny of records showed that 1017764 HSRPs were required to be affixed by the vendor on vehicles registered from 30 April 2012 to 31 March 2014. However, the vendor fixed only 170581 HSRPs (17 *per cent*) on vehicles, leaving 847183 (83 *per cent*).

The Department stated (March 2015) that while it was considering action for termination of the contract, keeping in view lapses on the part of vendor, the vendor initiated arbitration proceedings against the proposed action of the Department.

#### **1.4.3 Vehicles plying without valid Certificates of Fitness (CoFs)**

Section 56 of the Motor Vehicles Act, 1988 provides that subject to the provisions of section 59 and 60, a transport vehicle shall not be deemed to be validly registered unless it carries a CoF issued by the prescribed authority in the prescribed form. The CoF in respect of a new transport vehicle shall be valid for two years; which shall be renewed every year against receipt of prescribed fees for inspection and testing of the vehicles and grant or renewal of CoF. The CoF in respect of new non-transport vehicles shall be valid for 15 years; and after this, it shall be renewed every five years against receipt of prescribed fees for inspection and testing of the vehicles.

As per information made available by the Computer Branch (July 2014), there were 61283 commercial vehicles and 2680641 non-transport vehicles, whose fitness period had expired by 31 March 2014, but not reported for fitness test and were plying on roads. Thus, not only huge number of vehicles were plying without valid fitness certificates but also the Department was deprived of revenue on account of re-registration/renewal of fitness fee. The Department has no mechanism to trace out vehicles plying without valid CoF.

The matter was referred to the Department (December 2014). The reply is awaited (March 2015).

The above points were reported to the Government (December 2014); their reply is awaited (March 2015).