



**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector**

**for the year ended 31 March 2015**



**Government of Rajasthan**

**Report No. 1 of the year 2016**



Presented to the Legislature on 29.03.2016.

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## PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2015 has been prepared for submission to the Governor of Rajasthan under Article 151 of the Constitution of India.

This Report contains significant findings of audit of Receipt and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 and Regulations on Audit and Accounts, 2007 issued thereunder by the Comptroller and Auditor General of India.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2014-15 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2014-15 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.





# *OVERVIEW*

## OVERVIEW

This Report contains 37 paragraphs involving ₹ 346.48 crore, including a Performance Audit on ‘**System of Registration, Assessment and Collection under VAT**’. Some of the significant audit findings are mentioned below:

### I. General

The total revenue receipts of the Government of Rajasthan during 2014-15 were ₹ 91,326.91 crore as against ₹ 74,470.37 crore for the year 2013-14. The revenue raised by the Government amounted to ₹ 51,902.37 crore comprising tax revenue of ₹ 38,672.87 crore and non-tax revenue of ₹ 13,229.50 crore. The receipts from the Government of India were ₹ 39,424.54 crore (State’s share of divisible Union taxes of ₹ 19,817.04 crore and grants-in-aid of ₹ 19,607.50 crore).

(Paragraph 1.1)

### II. Taxes/VAT on Sales, Trade, etc.

A Performance Audit of ‘**System of Registration, Assessment and Collection under VAT**’ disclosed the following:

- More than one Registration Certificate, aggregating to 742, was issued to 366 persons against the provisions of the RVAT Act. This resulted in non-levy of tax of ₹ 14.73 lakh on turnover of ₹ 3.27 crore in five cases.

(Paragraph 2.4.9)

- Cross verification of information collected from Department of Mines and Geology revealed that 142 mine owners/lease holders were not brought under the tax net and tax amounting to ₹ 9.49 crore could not be levied on turnover of ₹ 189.87 crore.

(Paragraph 2.4.11.2)

- Return formats were inadequate to capture all essential details to ascertain the correct tax liability. Absence of information resulted in non-levy of tax including interest and penalty of ₹ 6.37 crore on 22 dealers.

(Paragraph 2.4.13.1 and 2.4.13.3)

- Shortfall ranging between 36 to 67 *per cent* in conducting business audit of selected dealers was noticed. Due to shortfall in conducting business audit, 3,206 assessment cases for business audit got time barred. Besides, the shortfall in conducting the business audit provides leeway to tax assessing authorities to pick and choose the cases for actually conducting business audit and may provide scope for unethical practices.

(Paragraph 2.4.15.1)

- It was noticed that 1,440 dealers had collected tax of ₹ 11.39 crore but showed nil turnover in their returns. However, the Assessing Authorities could not detect the evasion and did not levy tax including interest and penalty of ₹ 38.95 crore.

(Paragraph 2.4.15.4)

- Input Tax Credit (ITC) of ₹ 1.93 crore was claimed by 189 dealers, who had shown purchases from selling dealers whose registration certificates were cancelled. However, these dealers were deemed assessed by Assessing Authorities resulting in wrong allowance/non-levy of input tax credit, interest and penalty of ₹ 6.61 crore.

**(Paragraph 2.4.19.1)**

- In 144 cases, the Assessing Authorities allowed input tax credit of ₹ 1.44 crore claimed by the dealers though registration certificates of the selling dealers from whom purchases were made had already been cancelled. This resulted in non-levy of reverse tax, interest and penalty of ₹ 4.93 crore.

**(Paragraph 2.4.19.2)**

- Assessing Authorities did not impose penalty of ₹ 3.24 crore while levying reverse tax on 117 dealers who had claimed input tax credit on the goods purchased from dealers whose registration certificates were cancelled.

**(Paragraph 2.4.19.3)**

- Audit noticed that 159 dealers had irregularly claimed input tax credit in respect of purchases of ineligible goods. However, Assessing Authorities did not levy reverse tax, penalty and interest of ₹ 21.04 crore.

**(Paragraph 2.4.20)**

- It was noticed that 100 dealers had either not shown re-imported goods or shown less amount in their returns which resulted in non-levy of tax, interest and penalty of ₹ 5.38 crore.

**(Paragraph 2.4.23)**

- State Excise Department had issued bar licences to 11 dealers as three stars and above or heritage hotels (B-category). However, these dealers had paid tax at lower rates on the sale of food cooked and served by them treating the hotels as below three star status. The Assessing Authorities did not levy tax, interest and penalty of ₹ 15.18 crore.

**(Paragraph 2.4.25.1)**

Non-levy of entry tax on the goods purchased from other States for consumption or use in the business resulted in non-recovery of tax of ₹ 1.21 crore and interest of ₹ 45.41 lakh.

**(Paragraph 2.7)**

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

A paragraph on 'Road Safety measures in Transport Department' disclosed the following:

- The delay in implementation of the action plan relating to mandatory use of helmets by drivers of two wheeled vehicles in the whole State reflected

indifference towards safety concerns on the part of Department/ Government.

**(Paragraph 3.4.4.1)**

- Enforcement Module of VAHAN software was not in operation for easy retrieval of history of offences and for identifying and taking stringent action against repeat offenders.

**(Paragraph 3.4.4.3)**

- The relaxation granted by the State Government in imposition of fine for overloading diluted the deterrence which was sought to be achieved. Besides, the State Government was deprived of revenue of ₹ 84.91 crore.

No action was taken against test checked 700 overloaded vehicles involved in mining activities. An amount of ₹ 2.25 crore was leviable as fine/composition amount on these vehicles.

**(Paragraph 3.4.4.5)**

- Computerised weighbridges were to be established at tax collection centres on interstate boundaries to check overloading of vehicles. However, no computerised weighbridges were established by the Department.

**(Paragraph 3.4.5.2)**

- In 21 out of 51 District Transport Offices, no test driving track was available indicating absence of the required infrastructure for conducting test before issue of driving licences.

**(Paragraph 3.4.5.3)**

- Out of total vehicles registered in the State during last 15 years; fitness certificates in respect of 7,25,854 vehicles under transport category were not renewed during 2011-12 to 2013-14. This also resulted in non-realisation of fitness certificate renewal fee of ₹ 7.26 crore.

**(Paragraph 3.4.5.5)**

Short/non-realisation of One Time Tax and surcharge aggregating to ₹ 1.18 crore was noticed against 108 non-transport vehicles.

**(Paragraph 3.5)**

Lump-sum tax of ₹ 1.35 crore in respect of 312 transport vehicles owners was either not paid or paid short.

**(Paragraph 3.6)**

Government money amounting to ₹ 11.74 crore shown to have been deposited in the cash book was actually deposited after the dates mentioned in the cash book. The delay in deposit ranged from 1 to 191 days. Receipts aggregating to ₹ 16.63 crore were not deposited on the next working day but were deposited after a delay ranging from one to five days and receipts aggregating to ₹ 32.74 lakh was not deposited into the bank.

**(Paragraph 3.7)**

Motor vehicle tax and special road tax aggregating to ₹ 18.05 crore in respect of 5,538 vehicles for the period between April 2011 and March 2014 were either not paid or paid short.

**(Paragraph 3.8)**

#### **IV. Land Revenue**

In two cases, the Department incorrectly worked out the cost of land surrendered when compared to the cost of land allotted. This resulted in non-recovery of differential cost of ₹ 1.37 crore.

**(Paragraph 4.4)**

Agricultural land was used for non-agricultural purposes without obtaining permission for change of land use, resulting in either non-recovery or short recovery of conversion charges of ₹ 80.68 lakh.

**(Paragraph 4.5)**

#### **V. Stamp Duty and Registration Fee**

A piece of land belonging to M/s Capstan Meter Company (India) Limited (CMC) was converted from industrial to commercial and lease was issued to another entity *i.e.* M/s Jai Drinks Private Limited (JDPL) without cancelling the lease deed executed earlier with the CMC or without ensuring whether the land was transferred to JDPL on receipt of consideration. The value of the land was ₹ 531.41 crore as per District Level Committee rates, on which Stamp Duty (SD) of ₹ 29.23 crore was leviable. Besides, SD and surcharge of ₹ 2.29 crore was short levied on conversion charges.

**(Paragraph 5.4.1)**

Stamp Duty and surcharge of ₹ 6.39 crore in 212 cases though leviable under section 37(4) of the Rajasthan Stamp Act, 1998 was not levied.

**(Paragraph 5.4.2)**

Stamp Duty, surcharge and Registration Fee (RF) of ₹ 6.15 crore were not levied or short levied in 34 development agreements due to misclassification or undervaluation.

**(Paragraph 5.5)**

In 20 sale deeds, the Sub-Registrars (SRs) had not taken into account the capital contribution or total land contribution by individuals to partnership firms in consideration of their share and the Stamp Duty was not recovered as per extant provision on market value of ₹ 54.59 crore. This resulted in non-levy of Stamp Duty and surcharge of ₹ 3.00 crore.

**(Paragraph 5.6)**

Due to breach of conditions mentioned in the Rajasthan Investment Promotion Scheme, 2010 or lack of eligibility, the beneficiaries were liable to refund the SD and surcharge of ₹ 1.22 crore.

**(Paragraph 5.7)**

The market value of properties was considered on lower side despite the fact that such properties were purchased for commercial/institutional/residential purposes or located at the site where higher DLC rates were applicable. This resulted in short levy of SD and RF amounting to ₹ 1.59 crore in 15 cases.

**(Paragraph 5.8)**

A document was registered as an agreement to sell without possession despite the fact that the entire amount of consideration had been received at the time of handing over physical possession of the land. This resulted in short levy of SD and RF of ₹ 25.02 lakh.

**(Paragraph 5.10)**

## **VI. State Excise**

A paragraph on 'Arrear of State Excise Department' disclosed the following:

- Arrear aggregating to ₹ 198.73 crore was outstanding as on 31 March 2015.

**(Paragraph 6.4.4)**

- The Excise Commissioner had identified 64 cases involving amount of ₹ 35.32 crore pertaining to the period 1967-68 to 2006-07 for write-off. No decision for write-off was taken till 31 March 2015.

**(Paragraph 6.4.4.2)**

- Identified properties of defaulters were not attached in three cases pertaining to District Excise Office (DEO), Kota and Ajmer wherein revenue of ₹ 28.90 crore was involved.

**(Paragraph 6.4.6)**

- Two properties of a defaulter licensee of liquor group Kota for the year 1999-2001 having solvency amount of ₹ 1.60 crore, though attached during the period 2000-2001 by DEO Kota, were still in the possession of defaulters. The department could not auction the properties despite issuing more than 20 auction notices.

**(Paragraph 6.4.7.2)**

- Scrutiny of records of five DEOs disclosed that auction amount of ₹ 1.90 crore realised by the Department in auction of 34 properties was much less than ₹ 4.19 crore, the amount shown in the solvency certificates.

**(Paragraph 6.4.8)**

In DEOs, Behror and Alwar, 95,186.96 bulk litres (12,204 cartons) of beer involving excise duty of ₹ 42.02 lakh exported by five breweries were short delivered. Duty was neither paid by the breweries nor was it demanded by the Department. This resulted in non-levy of State excise duty of ₹ 42.02 lakh.

**(Paragraph 6.5)**

The Department charged hotel bar licence fee of 'other' category hotel instead of 'star' category and issued/renewed hotel bar licence. This resulted in short recovery of hotel bar licence fee of ₹ 36.50 lakh.

**(Paragraph 6.6)**

Two wholesale vendors imported 65 bottled in other country (BIO) brands of foreign liquor for various depots and 106 retail-on vendors imported 2,841 BIO brands during the year 2013-14. However, the licence fee for import of foreign liquor had neither been paid by these wholesale and retail-on vendors nor demanded by the Department. This resulted in non-levy of licence fee amounting to ₹ 8.65 crore.

**(Paragraph 6.8)**

## **VII. Non-Tax Receipts**

Rejection of highest bid for collection of the excess royalty pertaining to mineral *Bajri* resulted in loss of ₹ 1.85 crore.

**(Paragraph 7.4)**

Irregular collection of royalty amount on the mineral used in the works of Mega Highway against the provision of Rule 37A(ix) of the Rajasthan Minor Minerals Concession Rules, 1986 resulted in non-recovery of ₹ 58.05 lakh from the Excess Royalty Collection Contractor.

**(Paragraph 7.5)**

Two lessees of mineral marble and 27 lessees of mineral masonry stone excavated 3,985 MT mineral marble and 2.29 lakh MT masonry stone valuing ₹ 5.82 crore without obtaining consent to operate.

**(Paragraph 7.8)**

Sixty five lessees excavated mineral masonry stone and sand stone valued at ₹ 15.56 crore without approval of mining plan.

**(Paragraph 7.9)**

There was short raising of demand of ₹ 11.81 crore in 52 cases where kiln owners used brick earth illegally without obtaining requisite permits and payment of royalty.

**(Paragraph 7.12)**



*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 Rajasthan during the year 2014-15, 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 corresponding figures for the preceding four years are mentioned in the table 1.1.1.

**Table 1.1.1**

(₹ in crore)

Sl. no.	Particulars	2010-11	2011-12	2012-13	2013-14	2014-15
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	20,758.12	25,377.05	30,502.65	33,477.70	38,672.87
	• Non-tax revenue	6,294.12	9,175.10	12,133.59	13,575.25	13,229.50
	<b>Total</b>	<b>27,052.24</b>	<b>34,552.15</b>	<b>42,636.24</b>	<b>47,052.95</b>	<b>51,902.37</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	12,855.63	14,977.05	17,102.85	18,673.07	19,817.04
	• Grants-in-aid	6,020.33	7,481.56	7,173.92	8,744.35	19,607.50
	<b>Total</b>	<b>18,875.96</b>	<b>22,458.61</b>	<b>24,276.77</b>	<b>27,417.42</b>	<b>39,424.54</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>45,928.20</b>	<b>57,010.76</b>	<b>66,913.01</b>	<b>74,470.37</b>	<b>91,326.91<sup>1</sup></b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>59</b>	<b>61</b>	<b>64</b>	<b>63</b>	<b>57</b>

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹ 51,902.37 crore) was 57 per cent of the total revenue receipts. The balance 43 per cent of receipts during 2014-15 was from the Government of India by way of share of net proceeds of divisible Union taxes and duties and grants-in-aid.

<sup>1</sup> For details, please see Statement No. 14 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Rajasthan for the year 2014-15. Figures under the head 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0022 - Taxes on agriculture income, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties and 0044 - Service tax - share of net proceeds assigned to State booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

1.1.2 The details of the budget estimates (BE) and the actual receipts in respect of the tax revenue raised during the period from 2010-11 to 2014-15 are given in the table 1.1.2.

**Table 1.1.2**

(₹ in crore)

Sl. no.	Heads of revenue	BE Actual	2010-11	2011-12	2012-13	2013-14	2014-15	Percentage of increase (+)/ decrease (-) in 2014-15 over 2013-14
1.	Taxes on sales, trade, etc.	BE	11,514.82	13,088.08	15,402.08	19,528.00	24,120.00	
		Actual	11,901.24	14,665.63	17,214.34	19,834.72	22,644.89	(+) 14
	Central sales tax	BE	215.18	401.92	1,147.92	1,522.00	1,505.00	
		Actual	728.35	1,100.80	1,360.31	1,380.79	1,525.02	(+) 10
2.	State excise	BE	2,450.00	2,623.00	3,250.00	4,500.00	5,330.00	
		Actual	2,861.41	3,287.05	3,987.83	4,981.59	5,585.77	(+) 12
3.	Stamp duty and registration fee							
	Stamps-judicial	BE	35.60	43.15	60.14	105.40	156.66	
		Actual	43.07	79.40	144.27	104.59	54.27	(-) 48
	Stamps-non-judicial	BE	1,379.48	1,577.08	2,264.97	3,268.57	2,823.35	
		Actual	1,522.01	2,153.68	2,693.13	2,577.76	2,705.10	(+) 5
	Registration fee	BE	234.92	279.77	474.89	526.03	520.00	
		Actual	375.96	418.29	497.47	442.98	429.52	(-) 3
4.	Taxes on motor vehicles	BE	1,450.00	1,650.00	1,900.00	2,500.00	2,800.00	
		Actual	1,612.25	1,927.05	2,283.13	2,498.90	2,829.86	(+) 13
5.	Taxes and duties on electricity	BE	778.80	846.64	1,505.25	1,512.61	1,697.18	
		Actual	905.81	1,094.48	1,570.06	948.93	1,534.51	(+) 62
6.	Land revenue	BE	185.06	196.06	196.06	185.51	324.69	
		Actual	222.17	209.01	304.55	337.98	288.58	(-) 15
7.	Taxes on goods and passengers	BE	252.00	265.00	280.00	300.00	360.00	
		Actual	230.69	220.13	248.57	287.92	956.52	(+) 232
8.	Other taxes and duties on commodities and services	BE	74.99	78.74	50.99	55.00	99.99	
		Actual	64.43	43.44	48.47	68.46	113.68	(+) 66
9.	Other taxes <sup>2</sup> , etc.	BE	450.00	300.00	300.00	50.00	50.17	
		Actual	290.73	178.09	150.52	13.08	5.15	(-) 61
	<b>Total</b>	<b>BE</b>	<b>19,020.85</b>	<b>21,349.44</b>	<b>26,832.30</b>	<b>34,053.12</b>	<b>39,787.04</b>	
		<b>Actual</b>	<b>20,758.12</b>	<b>25,377.05</b>	<b>30,502.65</b>	<b>33,477.70</b>	<b>38,672.87</b>	<b>15.52</b>
	<b>Percentage of increase of actual over previous year</b>			<b>22.25</b>	<b>20.19</b>	<b>9.75</b>	<b>15.52</b>	

<sup>2</sup> Other taxes includes taxes on income and expenditure, tax on professions trades, callings and employments and land tax.

There has been continuous increase in the collection of tax revenue during the last four years. The growth of revenue was 15.52 per cent during 2014-15.

There was increase (62 per cent) in 'taxes and duties on electricity' which was mainly due to more receipt under taxes on consumption and sale of electricity and increase (232 per cent) in 'taxes on goods and passengers' which was mainly due to more receipt of tax on entry of goods into local areas. The increase of (66 per cent) under 'other taxes and duties on commodities and services' was due to more receipts under entertainment tax and luxury tax and decrease (61 per cent) in 'other taxes, etc.', was due to exemption of the land tax in the State while the decrease in land revenue (15 per cent) was due to less receipts on sale proceeds of waste lands.

**1.1.3** The details of the budget estimates (BE) and the actual receipts in respect of the non-tax revenue raised during the period from 2010-11 to 2014-15 are given in the table 1.1.3.

Table 1.1.3

(₹ in crore)

Heads of revenue	BE Actual	2010-11	2011-12	2012-13	2013-14	2014-15	Percentage of increase (+)/ decrease (-) in 2014-15 over 2013-14
Non-ferrous mining and metallurgical industries	BE	1,760.00	2,060.00	2,500.00	3,210.00	3,566.00	
	Actual	1,929.58	2,366.32	2,838.59	3,088.66	3,635.46	(+) 18
Interest receipts	BE	1,129.25	1,229.22	1,428.79	1,933.88	1,959.83	
	Actual	1,276.70	1,714.53	2,067.00	2,142.49	2,065.39	(-) 4
Miscellaneous general services	BE	216.02	195.40	324.29	576.17	920.88	
	Actual	271.19	353.09	686.10	846.36	963.85	(+) 14
Police	BE	200.00	150.00	165.00	170.48	220.10	
	Actual	133.93	143.54	192.07	167.27	240.03	(+) 44
Other administrative services	BE	61.49	60.99	78.88	89.94	107.19	
	Actual	80.33	110.99	85.50	147.38	133.21	(-) 10
Major and medium irrigation	BE	61.27	69.21	122.21	90.62	90.90	
	Actual	86.04	91.83	87.21	80.62	67.08	(-) 17
Forestry and wild life	BE	61.50	61.60	56.05	66.67	80.20	
	Actual	93.20	74.95	91.24	77.52	89.31	(+) 15
Public works	BE	70.00	75.75	75.75	65.00	74.76	
	Actual	62.10	55.85	57.63	69.16	71.74	(+) 4
Medical and public health	BE	42.78	48.17	61.88	61.00	105.07	
	Actual	45.46	59.38	96.04	65.61	116.43	(+) 77
Co-operation	BE	23.81	21.12	23.65	20.42	16.52	
	Actual	16.35	22.38	22.02	18.80	16.88	(-) 10
Other non-tax receipts <sup>3</sup>	BE	1,349.82	2,466.69	4,114.64	6,370.23	6,327.04	
	Actual	2,299.24	4,182.24	5,910.19	6,871.38	5,830.12	(-) 15
<b>Total</b>	<b>BE</b>	<b>4,975.94</b>	<b>6,438.15</b>	<b>8,951.14</b>	<b>12,654.41</b>	<b>13,468.49</b>	
	<b>Actual</b>	<b>6,294.12</b>	<b>9,175.10</b>	<b>12,133.59</b>	<b>13,575.25</b>	<b>13,229.50</b>	<b>(-) 2.55</b>
<b>Percentage of increase of actual over previous year</b>			<b>45.77</b>	<b>32.24</b>	<b>11.88</b>	<b>(-) 2.55</b>	

<sup>3</sup> Other non-tax receipts constitute income from housing, village and small industries, fisheries, dividends and profit, contribution and recoveries towards pension and other retirement benefits, etc.

Audit observed that increase in the collection of non-tax revenue during the last four years has lost its pace and it turned negative in the year 2014-15.

There was increase (77 per cent) in revenue under the head 'Medical and public health' which was mainly due to more receipts under Employees State Insurance Scheme and increase (44 per cent) in revenue under the head 'Police' which was mainly due to more police force provided to other governments and parties. The decrease (17 per cent) in 'major and medium irrigation' was due to less receipt from sale of water for irrigation purpose while decrease in 'other non-tax receipts' (15 per cent) was due to less receipt of royalty.

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 relating to some principal heads of revenue amounted to ₹ 4,431.29 crore of which ₹ 1,604.88 crore was outstanding for more than five years, as given in the table 1.2.

**Table 1.2**

(₹ in crore)

Sl. no.	Heads of revenue	Total Amount outstanding as on 31 March 2015	Amount outstanding for more than five years as on 31 March 2015
1.	Commercial taxes	3,731.29	1,304.85
2.	Transport	63.13	23.71
3.	Registration and stamps	248.62	53.52
4.	State excise	198.73	194.41
5.	Mines, geology and petroleum	189.52	28.39
<b>Total</b>		<b>4,431.29</b>	<b>1,604.88</b>

Source: Furnished by the concerned Departments.

It would be seen from the table that recovery of ₹ 1,604.88 crore was pending for more than five years. The stages at which arrears were pending for collection, though called (October 2015) for, were not intimated by the Departments.

## 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 respective Departments in respect of Commercial Taxes, Registration and Stamps and Mines, Geology and Petroleum are given in the table 1.3.

**Table 1.3**

Name of the Department	Opening balance	New cases due for assessment during 2014-15	Total assessments due	Cases disposed of during 2014-15	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Commercial taxes	15	3,84,875	3,84,890	2,79,075	1,05,815	72.51
Registration and Stamps	6,840	6,094	12,934	6,863	6,071	53.06
Mines, geology and petroleum	10,485	14,497	24,982	15,208	9,774	60.88

Source: Furnished by the concerned Departments.

As would be seen, the percentage of disposal of cases was the lowest in Registration and Stamps Department. The Department may take necessary action for disposal of the cases.

#### 1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected, cases finalised and the demands for additional tax raised, as reported by the Commercial Taxes Department are given in the table 1.4.

**Table 1.4**

Sl. no.	Head of revenue	Cases pending as on 31 March 2014	Cases detected during 2014-15	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2015
					Number of cases	Amount of demand (₹ in crore)	
1.	Commercial Taxes	332	6,815	7,147	6,736	1,104.12	411

Source: Furnished by the Commercial Taxes Department.

It would be seen from the above table that 94 per cent of the total cases were settled during the year 2014-15. However, the amount recovered on account of settlement in these cases was not intimated (November 2015) by the Department.

#### 1.5 Pendency of Refunds Cases

The number of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2014-15 as reported by the Departments is given in the table 1.5.

**Table 1.5**

(₹ in crore)

Sl. no.	Particulars	Sales tax/VAT		Registration and stamps	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	206	98.57	1,042	5.19
2.	Claims received during the year	4,973	601.44	2,300	8.88
3.	Refunds made during the year	4,900	478.97	2,246	8.72
4.	Balance outstanding at the end of year	279	221.04	1,096	5.35

It would be seen from the above that there has been increase in the outstanding refund cases in Commercial Taxes Department and Registration and Stamps Department. Necessary action may be taken by the concerned Department(s) for speedy disposal of the refund cases. This would not only benefit the claimants but would also save the Government from payment of interest on the delayed payment of refunds.

### 1.6 Response of the Government/Departments towards audit

The Accountant General (Economic & Revenue Sector Audit), Rajasthan, Jaipur 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 by Inspection Reports (IRs) which incorporate irregularities detected during the inspection and not settled on the spot. The IRs 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 Accountant General within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued upto December 2014 disclosed that 8,964 paragraphs involving ₹ 3,206.77 crore relating to 2,932 IRs remained outstanding at the end of June 2015. The figures as on June 2015 along with the corresponding figures for the preceding two years are given in the table 1.6.

**Table 1.6**

Particulars	June 2013	June 2014	June 2015
Number of IRs pending for settlement	2,882	2,896	2,932
Number of outstanding audit observations	9,489	9,477	8,964
Amount of revenue involved (₹ in crore)	7,731.42	4,592.63	3,206.77

It would be seen from the above that the number of outstanding observations and the amount of revenue involved therein has decreased considerably during the last three years.

**1.6.1** The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in table 1.6.1.

**Table 1.6.1**

Sl. no.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Amount involved (₹ in crore)
1.	Commercial taxes	Taxes/VAT on sales, trade, etc.	584	2,369	558.93
		Entertainment tax, luxury tax, etc.	20	23	7.12
2.	Transport	Taxes on motor vehicles	437	1,352	168.70
3.	Land revenue	Land revenue	113	300	441.70
4.	Registration and Stamps	Stamp duty and registration fee	1,362	3,625	325.01
5.	State excise	State excise	111	224	50.27
6.	Mines, geology and petroleum	Non-ferrous mining and metallurgical industries	305	1,071	1,655.04
<b>Total</b>			<b>2,932</b>	<b>8,964</b>	<b>3,206.77</b>

Audit did not receive first replies from the heads of offices even after expiry of more than one month from the date of issue in respect of 18 IRs issued during 2014-15.

Though the decrease in number of outstanding observations and the amount involved therein as compared to preceding years is appreciable, there is still a need to make more efforts for rectifying the defects and irregularities pointed out by Audit.



### 1.6.2 Departmental Audit Committee Meetings

The Government constituted audit committees to monitor and expedite the progress of the settlement of the paragraphs in the IRs. The details of the audit committee meetings held during the year 2014-15 and the paragraphs settled are mentioned in the table 1.6.2.

**Table 1.6.2**

Sl. no.	Name of the Department	Number of audit committee meetings held	Number of audit sub-committee meetings held	Number of paragraph settled	Amount (₹ in crore)
1.	Commercial taxes	3	3	113	14.13
2.	Transport	4	3	74	2.27
3.	Land revenue	1	12	79	98.52
4.	Registration and Stamps	4	4	141	2.41
5.	State excise	3	-	-	-
6.	Mines, geology and petroleum	4	7	492	1,229.20
	<b>Total</b>	<b>19</b>	<b>29</b>	<b>899</b>	<b>1,346.53</b>

It would be seen from the above that in 19 meetings held in respect of commercial taxes, land revenue, registration and stamps, state excise, mines and geology and petroleum Departments, 899 paragraphs involving ₹ 1,346.53 crore were settled.

### 1.6.3 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 Accountant General to the Principal Secretaries/Secretaries of the concerned Departments, 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.

45 draft paragraphs clubbed into 37 paragraphs including one Performance Audit were sent to the Principal Secretaries/Secretaries of the respective Department by name between April to October 2015. The Principal Secretaries/Secretaries of the Departments did not send replies to 15 draft paragraphs and the same have been included in this Report without the response of the Department.

### 1.6.4 Follow-up on the Audit Reports - summarised position

The Rules and Procedures of the Public Accounts Committee (PAC) of the Rajasthan State Assembly framed in 1997, prescribe that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the 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 PAC. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 176 paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Rajasthan for the years ended 31 March 2010, 2011, 2012, 2013 and 2014 were placed before the State Legislative Assembly between 26 August 2011 and 25 March 2015. The action taken explanatory notes from the concerned Departments on these paragraphs were received late with an average delay of 73 days in respect of each of these Audit Reports. The PAC discussed 36 selected paragraphs pertaining to the Audit Reports for the years from 2009-10 to 2011-12 and its recommendations on 11 paragraphs were incorporated in their four Reports (2012-13 and 2014-15).

### 1.7 Analysis of the mechanism for dealing with the issues raised by Audit in Land Revenue Department

To analyse the system of addressal of the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs included in the Inspection Reports/ Audit Reports of the last 10 years for one Department was evaluated.

The succeeding paragraphs 1.7.1 to 1.7.2 discuss the performance of the Land Revenue Department on the cases detected in the course of local audit and also the cases included in the Audit Reports.

#### 1.7.1 Position of inspection reports

The summarised position of the inspection reports pertaining to Land Revenue Department issued during 2007-08 to 2014-15, paragraphs included in these reports and their status as on 30 September 2015 is tabulated in the table 1.7.1.

**Table 1.7.1**

(₹ in crore)

Position upto year	Opening balance			Addition during the year			Clearance during the year			Closing balance at the end of the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2007-08	156	199	86.48	52	136	54.57	73	124	25.52	135	211	115.53
2008-09	135	211	115.53	53	87	5.31	53	122	42.29	135	176	78.55
2009-10	135	176	78.55	211	367	174.48	87	156	73.48	259	387	179.55
2010-11	259	387	179.55	109	230	50.90	125	243	25.23	243	374	205.22
2011-12	243	374	205.22	53	184	933.82	63	154	113.37	233	404	1,025.67
2012-13	233	404	1,025.67	17	133	406.39	27	66	328.72	223	471	1,103.34
2013-14	223	471	1,103.34	16	109	58.63	96	241	612.21	143	339	549.76
2014-15	143	339	549.76	13	113	13.33	43	131	120.31	113	321	442.78

The Government arranges sub-audit committee meetings between the Department and the Audit Office to settle the old paragraphs. Although the Department has been making progress in settlement of old IRs/Paragraphs, further effective and concrete steps are required to achieve substantial results.

### 1.7.2 Position of paragraphs and Recovery of accepted cases included in the Audit Reports

The details of paragraphs relating to Land Revenue Department included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in the table 1.7.2.

**Table 1.7.2**

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year 2014-15	Cumulative position of recovery of accepted cases as of 30 September 2015
2004-05	4	3.17	4	1.75	-	0.73
2005-06	2	29.98	2	28.66	-	14.84
2006-07	1	22.14	1	22.14	-	-
2007-08	4+1	239.19	4	196.05	-	76.63
2008-09	-	-	-	1.13	-	1.13
2009-10	3	180.00	3	117.55	0.10	10.02
2010-11	3	300.37	1	292.42	-	0.72
2011-12	7	23.83	5	8.68	0.11	7.35
2012-13	5	229.02	3	8.36	-	0.31
2013-14	5	8.22	-	-	-	-
<b>Total</b>	<b>35</b>	<b>1,035.92</b>	<b>23</b>	<b>676.74</b>	<b>0.21</b>	<b>111.73</b>

The Department could recover an amount of ₹ 111.73 crore only during the period of 10 years against 35 observations valuing ₹ 1,035.92 crore, out of which 23 observations of ₹ 676.74 crore were already accepted by it. The recovery was just 16.52 per cent of the accepted amount of observations.

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

### 1.7.3 Action taken on the recommendations accepted by the Departments/Government

The draft Performance Audits (PAs) conducted by the Accountant General are forwarded to the concerned Departments/Government for their information with a request to furnish their replies. These PAs are also discussed in exit conferences and the views of the Department/Government are included while finalising the PAs for the Audit Reports.

During the last five years, two performance audits relating to Land revenue were conducted in which 21 recommendations were made for improving the working and system of tax collection. The Department has accepted four recommendations and has taken action by adopting uniform *jarib*<sup>4</sup> for measurement of land, use of biometric device through password for security of data relating to land and issuing directions for physical verification of IT assets. The progress made in implementation of the remaining recommendations has not been received (November 2015).

## 1.8 Audit Planning

The unit offices working 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, 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, audit coverage and its impact during past five years, *etc.*

During the year 2014-15, 437 units were planned and all units had been audited. One performance audit was also conducted in Commercial Taxes Department.

## 1.9 Results of audit

### Position of local audit conducted during the year

Test check of the records of 414 units of Commercial Taxes, Transport, Land Revenue, Registration and Stamps, State Excise, Mining and other Departmental offices conducted during the year 2014-15 disclosed underassessments, short levy/loss of revenue, *etc.* aggregating to ₹ 634.56 crore in 26,511 cases. During the year, the concerned Departments accepted underassessments and other deficiencies in 16,799 cases involving Government revenue of ₹ 179.77 crore, of which 4,655 cases involving ₹ 34.87 crore were pointed out in audit during 2014-15 and the rest in the earlier years. The Departments recovered ₹ 32.14 crore in 8,593 cases during 2014-15.

## 1.10 Coverage of this Report

This Report contains 37 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including one Performance Audit on 'System of Registration, Assessment and collection under VAT' involving financial effect of ₹ 346.48 crore.

The Departments/Government have accepted audit observations involving ₹ 246.76 crore out of which ₹ 8.95 crore had been recovered. The replies in the remaining cases were either not received or found unsatisfactory. These are discussed in Chapters II to VII.

<sup>4</sup>Jarib-A chain for measuring land.



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

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

### 2.1 Tax administration

Sales Tax/Value Added Tax laws and rules framed thereunder are administered at the Government level by the Principal Secretary (Finance). The Commissioner is the head of the Commercial Taxes Department (CTD) and is assisted by 26 Additional Commissioners, 47 Deputy Commissioners (DC), 91 Assistant Commissioners (AC), 136 Commercial Taxes Officers (CTO), 402 Assistant Commercial Taxes Officers (ACTO) and a Financial Adviser (FA). They are assisted by Junior Commercial Taxes Officers and other allied staff or administering the relevant Tax laws and rules.

The Rajasthan Value Added Tax (RVAT) Act, Rajasthan Tax on Entry of Goods into Local Areas (RET) Act, Rules framed thereunder and notifications issued from time to time govern the levy and collection of value added tax and entry tax, levy of interest and penalty.

### 2.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. The Wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of units audited by the Internal Audit Wing during the last five years is as under:

Year	Pending units for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2010-11	198	384	582	489	93	16
2011-12	93	384	477	411	66	14
2012-13	66	384	450	267	183	41
2013-14	183	414	597	287	310	52
2014-15	310	413	723	471	252	35

There was a shortfall in conducting internal audit ranging between 14 and 52 per cent during the years 2010-11 to 2014-15.

It was further noticed that 18,459 paragraphs of internal audit were outstanding at the end of the year 2014-15. The year-wise break up of outstanding paragraphs is as under:

Year	Up to 2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
No. of paras	11,827	1,255	1,661	1,386	1,250	1,080	18,459

Non-settlement of large number of outstanding paragraphs indicates that the Department is not monitoring settlement of the observations raised by its own Internal Audit Wing.

### 2.3 Results of audit

In 2014-15, test check of records of 70 units relating to VAT/Sales Tax assessment and other records showed underassessment of tax and other irregularities involving ₹ 224.14 crore in 1,581 cases, which fall under the following categories as given below:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1.	A Performance Audit on 'System of Registration, Assessment and Collection under VAT'	1	164.13
2.	Underassessment of tax	502	46.53
3.	Acceptance of defective statutory forms	86	3.92
4.	Evasion of tax due to suppression of sales/purchase	15	0.54
5.	Irregular/incorrect/excess allowance of Input Tax Credit	367	4.78
6.	Other irregularities relating to		
	(i) Revenue	561	2.93
	(ii) Expenditure	49	1.31
<b>Total</b>		<b>1,581</b>	<b>224.14</b>

During the year 2014-15, the Department accepted underassessment and other deficiencies of ₹ 38.36 crore in 1,074 cases of which 86 cases involving ₹ 1.35 crore were pointed out in audit during the year 2014-15 and the rest in the earlier years. During the year 2014-15, the Department recovered/adjusted ₹ 4.15 crore in 177 cases of which 18 cases involving ₹ 1.94 crore pertained to the year 2014-15 and the rest to earlier years.

The Department accepted and recovered the entire amount of ₹ 40.49 lakh in eight cases pointed out by audit after issue of draft paragraphs to the Government. These paragraphs have not been discussed in the Report.

A Performance Audit on 'System of Registration, Assessment and Collection under VAT' involving ₹ 164.13 crore and a few illustrative cases involving ₹ 2.14 crore are discussed in the paragraphs from 2.4 to 2.7.



## 2.4 Performance Audit on ‘System of Registration, Assessment and Collection under VAT’

### Highlights

- More than one Registration Certificate, aggregating to 742, was issued to 366 persons against the provisions of the RVAT Act. This resulted in non-levy of tax of ₹ 14.73 lakh on turnover of ₹ 3.27 crore in five cases.

**(Paragraph 2.4.9)**

- Cross verification of information collected from Department of Mines and Geology revealed that 142 mine owners/lease holders were not brought under the tax net and tax amounting to ₹ 9.49 crore could not be levied on turnover of ₹ 189.87 crore.

**(Paragraph 2.4.11.2)**

- Return formats were inadequate to capture all essential details to ascertain the correct tax liability. Absence of information resulted in non-levy of tax including interest and penalty of ₹ 6.37 crore on 22 dealers.

**(Paragraph 2.4.13.1 and 2.4.13.3)**

- Shortfall ranging between 36 to 67 *per cent* in conducting business audit of selected dealers was noticed. Due to shortfall in conducting business audit, 3,206 assessment cases for business audit got time barred. Besides, the shortfall in conducting the business audit provides leeway to tax Assessing Authorities to pick and choose the cases for actually conducting business audit and may provide scope for unethical practices.

**(Paragraph 2.4.15.1)**

- It was noticed that 1,440 dealers had collected tax of ₹ 11.39 crore but showed *nil* turnover in their returns. However, the Assessing Authorities could not detect the evasion and did not levy tax including interest and penalty of ₹ 38.95 crore.

**(Paragraph 2.4.15.4)**

- Input Tax Credit (ITC) of ₹ 1.93 crore was claimed by 189 dealers, who had shown purchases from selling dealers whose registration certificates were cancelled. However, these dealers were deemed assessed by Assessing Authorities resulting in wrong allowance/non-levy of input tax credit, interest and penalty of ₹ 6.61 crore.

**(Paragraph 2.4.19.1)**

- In 144 cases the Assessing Authorities allowed input tax credit of ₹ 1.44 crore claimed by the dealers though registration certificates of the selling dealers from whom purchases were made already been cancelled. This resulted in non-levy of reverse tax, interest and penalty of ₹ 4.93 crore.

**(Paragraph 2.4.19.2)**

- Assessing Authorities did not impose penalty of ₹ 3.24 crore while levying reverse tax on 117 dealers who had claimed input tax credit on the goods purchased from dealers whose registration certificates were cancelled.

**(Paragraph 2.4.19.3)**

- Audit noticed that 159 dealers had irregularly claimed input tax credit in respect of purchases of ineligible goods. However, Assessing Authorities did not levy reverse tax, penalty and interest of ₹ 21.04 crore.

**(Paragraph 2.4.20)**

- It was noticed that 100 dealers had either not shown re-imported goods or shown less amount in their returns which resulted in non-levy of tax, interest and penalty of ₹ 5.38 crore.

**(Paragraph 2.4.23)**

- State Excise Department had issued bar licences to 11 dealers as three stars and above or heritage hotels (B-category). However, these dealers had paid tax at lower rates on the sale of food cooked and served by them treating the hotels as below three star status. The Assessing Authorities did not levy tax, interest and penalty of ₹ 15.18 crore.

**(Paragraph 2.4.25.1)**

### 2.4.1 Introduction

The Rajasthan Value Added Tax Act, 2003 (RVAT Act) and the Rajasthan Value Added Tax Rules, 2006 (RVAT Rules) framed thereunder govern the levy, assessment and collection of Value Added Tax (VAT) in the State. Under RVAT Act, tax is levied at each stage of sales with allowance of credit of tax paid on purchases (called input tax credit) to nullify cascading effect of multiple taxation. Thus, all the registered dealers are liable to pay tax only on value addition. The RVAT Act is administered by the Commercial Taxes Department (Department) of the Government of Rajasthan (GoR).

The RVAT Act provides for registration of dealers, filing of periodical returns, self-assessment by the dealers and business audit assessment of the cases selected by the Department to ascertain the correctness of levy and payment of tax, etc. The relevant provisions in the RVAT Act are briefly mentioned as under:

#### Registration of Dealers

Section 3 read with Section 11 of RVAT Act stipulates that any dealer whose total turnover exceeds threshold limit of ₹ ten lakh in a year, a manufacturer of goods whose annual turnover exceeds ₹ five lakh and an importer of goods shall not carry on business unless he possesses a valid certificate of registration. Any dealer whose turnover does not exceed the threshold limit or deals in tax free goods mentioned in Schedule-I of the Act, can however, carry on the business as un-registered dealer.

#### Filing of returns by the Dealers

The registered dealer has to assess his tax liability and furnish returns in Form VAT-10 and VAT-10A/11 within the prescribed time to the Assessing Authority. The return is supported by the necessary statutory forms.

#### Deemed / Scrutiny Assessment

Section 23 and 24 of the Act stipulates that every registered dealer who has filed annual return for the year within the prescribed time is deemed to be assessed for that year on the basis of annual return filed unless any error is detected on scrutiny of returns based on criteria prescribed by the Commissioner, Commercial Taxes. If any error is detected and the dealer files revised return within specified period he shall be deemed to have been assessed. If the dealer does not rectify errors in returns within the prescribed period, the Assessing Authority shall on the basis of material available on record assess the dealer to the best of his judgment.

**Business  
Audit  
Assessment**

Section 27 of the Act stipulates that the Commissioner, Commercial Taxes may arrange for ‘audit of the business’ of selected registered dealers. If on audit, the returns filed by the dealers are not found to be correct, or any avoidance or evasion of tax is detected, the Assessing Authority will assess his tax and other liabilities.

**Payment of  
Tax**

Section 20 read with Section 38 of the Act stipulates that the dealer shall deposit the tax payable on the basis of his accounts in such manner and at such intervals as notified by the GoR. The tax paid by a dealer or a person shall be adjusted against the tax assessed and the balance of the amount shall be payable by such dealer within thirty days from the date of service of the notice.

**2.4.2 Trend of Revenue**

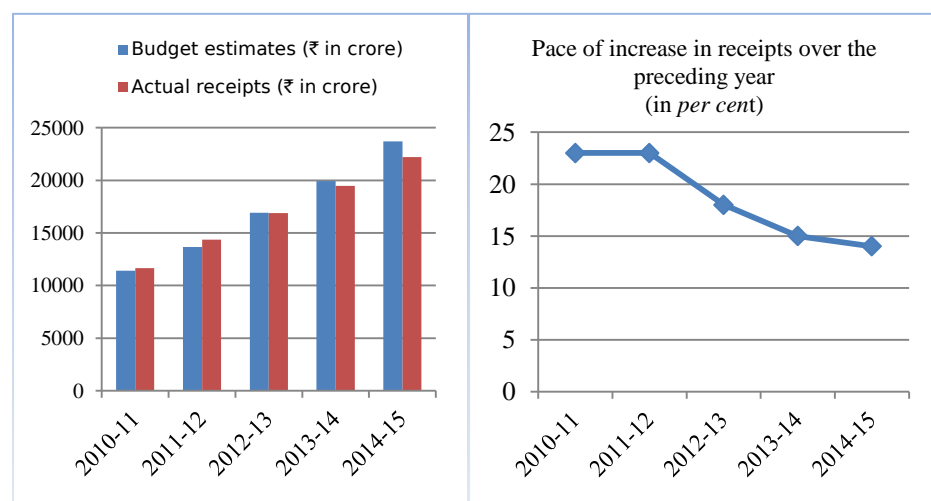
Actual receipts from VAT alongwith budget estimates during the years 2010-11 to 2014-15 and increase in receipts over the preceding year are shown in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Increase in receipts over the preceding year (in per cent)
2010-11	11,394.21	11,638.74	23
2011-12	13,653.06	14,371.53	23
2012-13	16,912.99	16,887.48	18
2013-14	19,944.29	19,490.41	15
2014-15	23,712.99	22,214.88	14

Source: Budget document of State Government and Finance Accounts.

Trends of revenue are shown in the following charts:



It would be seen from the above that though the revenue increased every year, the pace of increase in receipts during the years 2012-13 to 2014-15 could not maintain trend in comparison to preceding years. However, the Department

had increased its revenue up to 91 *per cent* as compared to 2010-11, which is significant.

### 2.4.3 Organisational set-up

The Department functions under the control and supervision of the Principal Secretary, Finance Department, Government of Rajasthan. The Department is headed by Commissioner of Commercial Taxes. He is assisted by 26 Additional Commissioners.

The Department has 15 zones, headed by Deputy Commissioners. There are 130 circles<sup>1</sup> under these zones. The assessment and recovery of tax is undertaken by Assessment Authority at the level of Assistant Commissioners/ Commercial Taxes Officers and Assistant Commercial Taxes Officers posted in circles and wards respectively.

### 2.4.4 Audit objectives

The Performance Audit was conducted with a view to ascertain:

- whether the system of registration of dealers was efficient and effective to bring the eligible dealers into the tax net;
- whether the provisions existing in Act and Rules were adequate to safeguard the interest of the Department;
- the level of compliance of the provisions existing in Act and Rules and notifications/circulars issued thereunder; and
- the adequacy and effectiveness of the internal control mechanism.

### 2.4.5 Audit criteria

The audit criteria for Performance Audit were derived from the provisions of the following Acts, Rules and notifications/circulars issued thereunder which govern the system of registration, assessment and collection under VAT by the Department:

#### State Laws

- Rajasthan Value Added Tax Act, 2003; and
- Rajasthan Value Added Tax Rules, 2006;

#### Central Laws

- Central Sales Tax Act, 1956; and
- Central Sales Tax (Registration and Turnover) Rules, 1957.

### 2.4.6 Scope and methodology of Performance Audit

The Performance Audit on ‘System of Registration, Assessment and Collection under VAT’ was conducted between January and June 2015 covering the period 2011-12 to 2013-14, wherein the assessments for the

<sup>1</sup> Special circles- 25, Regular circles-73, Works contracts and leasing tax circles-12, Anti-evasion circles-20.

financial year from 2009-10 to 2011-12 were finalised. Out of the 98 circles<sup>2</sup>, 11 circles<sup>3</sup> were selected on the basis of probability proportion to size sampling method. These 11 circles together contributed 59 per cent of the VAT receipts during the years 2009-10 to 2013-14. Records of the office of the CCT and data available on the departmental website 'Raj VISTA' were also examined. Besides, information from other Government Departments i.e. Mines and Geology, State Excise, Central Excise and Customs were also obtained and cross checked with the data available on the departmental website. As a Performance Audit on 'Recovery of arrears in Commercial Taxes Department' was conducted and incorporated in the Audit Report for the year ended 31 March 2013, the system of collection of VAT was excluded from this Performance Audit.

#### 2.4.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation extended by the Commercial Taxes Department, their officers and staff in providing necessary information and records to audit.

An Entry Conference was held on 12 February 2015 with Commissioner, Commercial Taxes wherein objectives, scope and methodology of Performance Audit were explained. The Factual Statement/Draft Paragraph was forwarded to the Government and the Department in August/October 2015. An Exit Conference was held on 24 November 2015 with Commissioner, Commercial Taxes and Secretary, Finance (Revenue) Department wherein the findings of the Performance Audit were discussed. The replies received during the Exit Conference and at other points of time have been appropriately considered in the relevant paragraphs.

#### Audit findings

##### Registration

As per Section 3 read with Section 11 of RVAT Act, a dealer, who is liable to get registration, shall get himself registered under RVAT Act by submitting an application in Form VAT-01. The authority competent to grant registration, after making necessary enquiry, shall grant a certificate of registration in the prescribed Form VAT-03. Where a dealer is liable to be registered under the Act but does not make application for the same, the authority competent to grant registration, shall compulsorily register him. The dealer is however given a chance to explain the reason for not applying for registration and in case the reasons are not found satisfactory, penalty not exceeding ₹ two thousand shall be levied.

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<sup>2</sup> Since a Performance Audit on 'Levy and collection of VAT on works contract' was included in the Audit Report for the year ending 2014, 12 works contracts and leasing tax circles were excluded from scope of PA and 20 circles involved in anti-evasion activities were also excluded.

<sup>3</sup> **Special Circles:** Bhilwara, Jaipur-III, Pali and Rajasthan Jaipur.

**Regular Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

The position of dealers registered under RVAT Act is given below:

Year	Number of dealers in the beginning of the year	Number of dealers registered during the year	Total	RC Cancellation of dealers during the year	Number of registered dealers at the end of the year
2009-10	3,44,852	33,314	3,78,166	1,478	3,76,688
2010-11	3,76,688	39,516	4,16,204	6,881	4,09,323
2011-12	4,09,323	49,437	4,58,760	17,918	4,40,842
2012-13	4,40,842	45,192	4,86,034	14,529	4,71,505
2013-14	4,71,505	22,087	4,93,592	37,026	4,56,566

The above table indicates that there was an increase of 1,11,714 *i.e.* 32 *per cent* registered dealers during the last five years despite cancellation of registration of 77,832 dealers.

#### 2.4.8 Verification of dealer's status

Rule 14 of RVAT Rules provides that the registration authority having satisfied that the application for registration is complete in all respect and is accompanied with the required documents shall issue registration certificate (RC) within twenty four hours of receipt of such application. Thereafter, the registration authority or the assessing authority shall, within forty-five days of such issuance, conduct an enquiry to verify the facts and statements made in the application for registration.

Information available on *RajVISTA*<sup>4</sup> as on 6 July 2015 disclosed that verification of the facts and statements made in the applications for registration was pending in 726 cases out of 4,554 registrations processed in selected circles<sup>5</sup> for a period ranging between 46 and 365 days.

**Absence of module in this system for verification of RCs:** To ascertain the level of compliance, the month of April 2011 was selected and it was noticed that 422 RCs were issued in the selected seven circles<sup>6</sup>. On being enquired, CTOs/ACTOs of these circles did not furnish the date of verification of the facts and statements as there was no module available to monitor verification of RCs within stipulated period by the concerned officer. In absence of required module and desired information, the delay in verification of RCs could not be ascertained.

The Government replied (November 2015) that due to shortage of Junior Commercial Taxes Officers (JCTOs), verification of the status of the newly registered dealers could not be conducted in the prescribed period. It was also stated that verification of most of the cases had been done and some cases were shown pending due to non-uploading of verification report on *RajVISTA*. Further, it was also intimated that declaration forms were not being issued until verification of dealer's status.

<sup>4</sup> *RajVISTA*: It is a website for official use only by the Department.

<sup>5</sup> **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jodhpur-A and Udaipur-B.

<sup>6</sup> **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

The Department may ensure timely verification of dealer's status to avoid hindrances in business to genuine dealers and any tax evasion by unscrupulous dealers.

### 2.4.9 Business with multiple RCs

Section 11 of RVAT Act read with Rule 14 of RVAT Rules provides that a dealer who intends to do business at one or additional places in the State shall be granted one registration certificate for principal place of business and branch certificates will be issued for the additional places. Thus, a registered dealer shall be allotted only one Tax Identification Number (TIN).

Scrutiny of information available on *RajVISTA* revealed that 366 persons were granted 742 RCs and these dealers were doing business at two or more places with separate RCs for each place of business in the selected circles upto March 2015. However, the Department had not initiated action to cancel the additional RCs of these dealers.

**Impact of double registration:** Scrutiny of information available on *RajVISTA* disclosed that 37 persons having 74 RCs had opted for payment of tax at the rate of 0.50 per cent under Section 3(2)<sup>7</sup> of RVAT Act either on one RC or on both RCs during the year 2011-12. Scrutiny of annual returns disclosed that there were dealers who were not eligible to opt for payment of tax at the rate of 0.50 per cent under Section 3(2) as gross turnover of these dealers was more than the eligibility criteria. Due to non-availability of commodity wise details, the rate of tax on these turnovers could not be ascertained. This resulted in non-levy of tax of ₹ 14.73 lakh in few cases is mentioned in table 2.4.9.

**Table 2.4.9**

Sl. no.	PAN number <sup>8</sup>	TIN number	Dealer category	Gross Turnover	Turnover on which tax at lower rate was paid	Differential tax leviable at the rate of 4.5 per cent <sup>9</sup>
1.	AAWPA3060A	08130300017	3(2)	33,95,420	33,95,420	1,52,794
		08720246197	VAT	93,35,454		
2.	ACXPG1695G	08182154484	3(2)	59,22,683	1,06,68,562	4,80,085
		08242156003	3(2)	47,45,879		
3.	APKPG5912L	08702191931	3(2)	25,40,432	25,40,432	1,14,319
		08452190565	VAT	1,60,49,523		
4.	AAHPL5243M	08972558006	3(2)	51,69,616	51,69,616	2,32,633
		08922558761	VAT	12,71,996		
5.	AARFS0965P	08762553805	3(2)	57,32,469	1,09,60,663	4,93,230
		08162560537	3(2)	52,28,194		
<b>Total</b>					<b>3,27,34,693</b>	<b>14,73,061</b>

<sup>7</sup> Those dealers who had their annual turnover not exceeding ₹ 50.00 lakh (up to 14 April 2011), ₹ 60.00 lakh (15 April 2011 to 8 April 2013) and ₹ 75 lakh (after 8 April 2013) and purchase goods from a registered dealer of State could opt to pay tax under this Section. The rate of tax for these dealers is 0.50 per cent only.

<sup>8</sup> PAN means Permanent Account Number allotted by Income Tax Department.

<sup>9</sup> Due to non-availability of commodity wise details, these turnovers were treated taxable at the rate of five per cent.



The Government accepted the audit finding and replied (November 2015) that process of cancellation of RCs or issuing branch certificates where more than one RC was issued, was under progress. It was further stated that the system had been upgraded for issuing only one RC on one PAN.

#### **2.4.10 Surety to more than four dealers**

Section 15 of RVAT Act provides that at the time of grant of obligatory registration to the dealers, the initial security shall be in the form of surety of two dealers registered under RVAT Act, and where the dealer is not in a position to furnish such surety, he shall submit security in the form of national saving certificate or in cash or in the form of three years bank guarantee of a nationalised bank. As per circular dated 24 March 2009, a single registered dealer cannot furnish surety to more than two dealers. Further, *vide* circular dated 23 September 2010, this limit was increased to four dealers.

The Department had not evolved a system in the *RajVISTA* or otherwise to ensure compliance with the above criteria. Scrutiny of information available on *RajVISTA* disclosed that:

- In case of 1,921 dealers, the surety was provided by 241 dealers. Each dealer had given the surety to more than four dealers ranging between 5 to 29 dealers in the selected circles.
- In case of 8,302 dealers, the RC of either both or one of the dealers who had given the surety was cancelled.

The provisions of the Act were not followed and in case of default, the surety may not be in a position to make payment *in lieu of* these 10,223 dealers.

The Government accepted the audit finding and replied (November 2015) that a system had been developed on *RajVISTA* to ensure that a dealer does not provide surety to more than four dealers. It was also stated that a module was being developed to monitor cases where RCs of the surety providing dealers are cancelled.

#### **2.4.11 Identification of dealers for registration for VAT**

Section 11(6) of RVAT Act provides that when a dealer, who is liable to get registration, does not make application for registration, the authority competent to grant registration, after affording an opportunity of being heard to such dealer, shall grant him a certificate of registration under this Act. Survey is an important tool to detect unregistered dealers and to widen the tax base. The CCT instructed (September 2011) to conduct surveys to bring eligible dealers under the tax net.

**2.4.11.1** To evaluate the level of compliance of the above instructions, information regarding surveys conducted by 41 AAs of selected circles<sup>10</sup> was sought. However, the desired information was not provided by 10 AAs and 26 AAs intimated that no survey was conducted. Five AAs had granted registration to 92 dealers on the basis of surveys conducted during the period

<sup>10</sup> **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

2011-12 to 2013-14. Results of test check disclosed that 84 *per cent* AAs did not conduct surveys to widen the tax base.

**2.4.11.2** To detect unregistered dealers, information was collected from Departments of Mines and Geology, Central Excise and Customs for the year 2011-12 and cross checked with the information available on *RajVISTA*. PAN was used for cross checking the information. The findings are discussed in the following paragraphs.

- **Non-registration of mining lease holders**

Department of Mines and Geology, Government of Rajasthan allots mining lease to various persons/entities. Information collected from 14 Mining Engineers/Assistant Mining Engineers was cross checked with the information made available to Audit by Commercial Taxes Department and it was noticed that 142 mine owners/lease holders were not registered under RVAT Act though they had excavated minerals more than the value liable for their registration during the year 2011-12. These dealers could not be brought under the tax net and hence tax amounting to ₹ 9.49 crore could not be levied on the turnover of minerals worth ₹ 189.87 crore.

- **Non-registration of importers**

Information collected from Central Excise and Customs Departments, cross checked with the information obtained from the Department disclosed that 390 importers were not found registered under RVAT Act though every dealer who imported goods was liable to be registered under RVAT Act. These importers had imported goods valuing ₹ 306.07 crore during the year 2011-12. In the absence of registration under the RVAT Act, levy, assessment and collection of tax of ₹ 6.05 crore could not materialise on the total value of the goods imported by these dealers.

These findings were based on the data for one year only *i.e.* 2011-12; the actual volume may be higher if the turnover details of other years could also be captured. It is essential for the Commercial Taxes Department to investigate these cases thoroughly and take necessary action as per the law. These findings highlight the need to devise a regular system for registering the dealers by way of obtaining information from other Government departments or by conducting surveys.

The Government replied (November 2015) that Regional Economic Intelligence Council (Council) was formed for co-operation among the Income Tax Department, Central Excise and Customs Department and the Department. On the basis of information received during the meetings of the Council, action was being taken in tax evasion cases.

In case of importer of goods, the Department replied that the importer details of the Customs Department do not capture the destination/business palace of the importer. It was further stated that address mentioned in the PAN of the dealer can be of Rajasthan but he may be working in other State and thus the import cannot be taken as sale in Rajasthan.

The fact, however, remains that the Department had not used the information available with the other Departments to identify unregistered dealers. Further, the department had not made any efforts to verify the business destination of

the importers who were importing goods in the State. The Department was, therefore, not vigilant about identifying dealers who may be evading tax.

The Government may devise a regular system for registering the dealers by way of obtaining information from other Government departments or by conducting surveys.

## Assessment

### 2.4.12 Non-monitoring of dealers who had not filed returns

#### 2.4.12.1 Non-filing of returns by dealers who collected tax

Scrutiny of information collected from selected circles<sup>11</sup> disclosed that 11 per cent dealers had not filed returns during the year 2011-12. To check the possible evasion of tax by such dealers in the State, the Department was requested to generate a report for the year 2011-12 through *RajVISTA* showing purchases made from such dealers by other registered dealers. Scrutiny of the report provided by the Department disclosed that 6,776 dealers had sold goods valuing ₹ 4,201.46 crore and collected tax of ₹ 102.39 crore. However, these dealers had not filed returns.

Scrutiny of transactions of 112 dealers of selected four circles<sup>12</sup> available on *RajVISTA* disclosed that these registered dealers had sold goods valuing ₹ 7.52 crore and collected tax of ₹ 41.66 lakh but had not submitted their returns. As per Demand and Collection Register (DCR) available on *RajVISTA*, no demand was raised against these dealers. This resulted in non-levy of tax of ₹ 41.66 lakh besides interest of ₹ 17.50 lakh and penalty of ₹ 83.32 lakh.

The Department should investigate all the above cases involving tax effect of ₹ 102.39 crore to check the revenue leakage. Further, the *RajVISTA* system did not have a module to generate a report regarding turnover of these dealers by using available information provided by the purchasing dealers.

The Government accepted and replied (November 2015) that a module had been developed for identifying the dealers who had not filed returns or filed return with nil turnovers though they had sold/purchased goods.

#### 2.4.12.2 Non-assessment of dealers who had not filed returns

As per Section 22 of RVAT Act, where a dealer has failed to deposit tax within the notified period or to submit a return within the prescribed period, the AA shall assess tax for that period to the best of his judgment. However, no order under this Section shall be passed after the expiry of nine months from the last date for submission of return.

As per information available on *RajVISTA*, 2,212 dealers of selected circles had not filed their annual returns for the year 2011-12. Scrutiny of DCRs

<sup>11</sup> Information provided by eight Circles: Bhiwadi-B, Bhilwara-Special, Jaipur-D, Jaipur-Special Rajasthan, Jodhpur-A, Nagaur, Pali-Special and Udaipur-B. Information not provided by three Circles: Jaipur-J, Jaipur-N and Jaipur-Special III.

<sup>12</sup> Circles: Jaipur-D, Jaipur-J, Jaipur-N and Jaipur-Special III.

available on *RajVISTA* disclosed that AAs of eight circles<sup>13</sup> did not assess 151 dealers. Further, scrutiny of information provided by the Department revealed that out of these 151 dealers, 11 dealers had collected tax of ₹ 3.09 lakh on the sale of goods valued at ₹ 60.95 lakh from 51 registered dealers. This resulted in non-levy of tax, interest and penalty of ₹ 10.67 lakh.

The reasons for non-assessment of these cases were not available on *RajVISTA*. All these cases had become time barred in February 2014. Consequently, evasion of tax and loss of revenue cannot be ruled out due to non-assessment of these cases and similar cases in other circles.

The Government replied (November 2015) that all assessments for the year 2011-12 had been made under Section 23 and 24 of RVAT Act and where dealers had not submitted their annual returns, the assessments had been made on the basis of quarterly returns.

The reply was not acceptable as details of assessment of the above mentioned cases were not available in the DCR on *RajVISTA* which is the principal document for monitoring the raising of demand.

### **2.4.13 Inadequate Return format**

The basis for levy and collection of tax under the VAT system is the filing of correct and complete return by the dealers. It is, therefore, necessary that the returns should be prescribed in such a manner so as to capture all the relevant information. Audit observed several deficiencies in the format of the VAT returns as discussed below:

#### **2.4.13.1 Absence of information in Form VAT-10 relating to name of exempted commodity**

Goods exempted from tax classified in 136 entries were mentioned in Schedule-I of RVAT Act. These entries were available on the Department's website '*Rajtax*' with open access to all. For transparency and assessment of correct tax, it is essential to mention the name of the exempted commodity in the return filed by the dealer.

It was observed that there were columns to mention the name of the taxable commodity. However, no column was prescribed to mention the name of commodity sold as exempted goods by the dealer in the quarterly return Form VAT-10. Scrutiny of the information available on *RajVISTA* revealed that 7,101 dealers of the selected circles had sold goods worth ₹ 37,601.02 crore as exempted goods during the year 2011-12. In absence of the name of goods, Audit could not ascertain whether the dealers had correctly classified the goods as exempted.

Scrutiny of other information available in the assessment records of the test checked circles disclosed that the goods mentioned by the dealers as exempted were not exempted under RVAT Act. A few instances are mentioned below:

- (i) As per entry number 172 of Schedule-IVB of RVAT Act, 'Sacks and bags, of a kind used for the packing of goods of jute, or of other textile base

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<sup>13</sup> **Circles:** Bhiwadi-B, Bhilwara-Special, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.

fibers' were taxable at the rate of five *per cent*. However, according to entry number 63 of Schedule-I of RVAT Act, 'old jute bags and old HDPE bags' were exempted for levy of tax subject to the condition that the goods were mentioned in the RC of the selling dealer.

Test check of assessment records of Special Circle-III, Jaipur revealed that two dealers (M/s N. K. Proteins Ltd, TIN 08561705747 and M/s Pinkcity Oil Products Pvt. Ltd, TIN 08601650823) declared sale of exempted goods valuing ₹ 34.62 crore in their returns during the year 2011-12. The AA while finalising the assessments erroneously treated old *bardana* (bags) as exempted goods which was not mentioned in the RCs of the dealers. However, the AA did not levy tax of ₹ 1.73 crore at the rate of five *per cent* on this turnover besides interest of ₹ 72.66 lakh.

(ii) Another dealer (M/s Bharat Potteries Ltd., TIN 08371652938) had declared sale of goods valuing ₹ 4.71 crore during the year 2011-12 as exempted under Schedule-I. The AA while finalising the assessment did not levy tax on these goods. Scrutiny of the RC of the dealer available on *RajVISTA* revealed that the dealer was not dealing in any goods which were exempted under Schedule-I. However, in absence of the name of goods, tax leviable on this turnover could not be worked out.

The Government replied (November 2015) that details regarding exempted goods were not being obtained as it was not feasible in absence of Harmonised System of Nomenclature (HSN). The Government further stated that it was essential for the AAs to verify the goods mentioned in RC in case of conditional exemption.

The reply was not acceptable as name of exempted commodities had already been mentioned in the Schedule-I of RVAT Act. Further, in absence of name of commodity, the AAs could not ascertain the correctness of the exempted turnover of the dealers even in case of conditional exemption.

#### **2.4.13.2 Absence of essential details in Form VAT-10 to verify ITC availed by oil companies**

As per notification dated 10 November 2008, where sale of high and light speed diesel oil and petrol takes place among the oil companies within the State, the purchasing oil company shall be allowed to claim Input Tax Credit (ITC) in respect of such purchases to the extent of five *per cent* (four *per cent* upto 6 June 2010) of the net retail sale price or purchase price, whichever is less. The return form VAT-10, however, does not contain any column to exhibit purchase price and net sale price of the goods related to these transactions. These companies had claimed ITC of ₹ 73.36 crore for the purchases of goods valued ₹ 1,467.20 crore from each other during the year 2011-12. The AA allowed the entire amount of the ITC claimed by the oil companies without verifying the sale or purchase price. In absence of these details, the correctness of the claim of ITC by the oil companies could not be verified by Audit.

The Government replied (November 2015) that only three oil companies are working in the State and purchase/sales made by these companies and ITC are fully monitored. However, no regular mechanism was found or prescribed by the Department for monitoring the correctness of the ITC claimed by these

companies. The reply was also not acceptable as in absence of columns in the return to capture the details regarding purchase price and net retail sale price, the AAs could not ascertain the correctness of the ITC without collecting the related information from the companies.

#### **2.4.13.3 Absence of information in Form VAT-10 and 10A relating to sales at subsidised price**

The State Government had inserted (March 2011) a sub-section 3A in Section 18 of RVAT Act. Statement of objects and reasons (Finance Bill 2011-12) to insert the sub-section was as under:

‘In certain trades, goods are being sold and tax on such sales is being recovered from the purchaser, but at later stage seller provides incentive to the purchasing dealer in the form of credit notes or subsidy *etc.* Such purchasing dealers after selling goods at subsidised rates claim refund of tax paid at earlier stage. In order to check this tendency, a new sub-section (3A) is proposed to be inserted in Section 18 of the Rajasthan VAT Act, 2003’. Accordingly, if any goods purchased in the State are subsequently sold at subsidised price, the ITC allowable under this sub-section in respect of such goods shall not exceed the output tax payable on such goods.

To ensure compliance of the above provisions two information were essential in return *i.e.* incentive/discount/subsidy received by the purchaser and purchase value of the goods sold. However, scrutiny of ‘Return-Forms’ *i.e.* VAT-10 and 10A revealed that there was no column to show these details. To check the extent of compliance by dealers, details of credit notes issued for incentive/discount/subsidy to the purchasing dealers by a selling dealer of tyres registered in circle Special-Rajasthan, Jaipur were collected for the year 2011-12 and cross-checked with the VAT returns of 55 purchasing dealers<sup>14</sup> available on *RajVISTA*. It was observed that 22 purchasing dealers had sold goods at subsidised<sup>15</sup> rates. However, these dealers had not shown reverse tax in their returns amounting to ₹ 1.17 crore leviable as per Section 18(3A).

As per information available on *RajVISTA*, the AAs while finalising the assessments of 20 dealers had not raised any demand. Assessments of two dealers were not available on *RajVISTA*. Thus, in absence of required information in the returns, the AAs could not levy reverse tax of ₹ 1.14 crore besides penalty of ₹ 2.29 crore and interest of ₹ 48.06 lakh on 20 dealers. Further, in four cases, the dealers had not submitted trading accounts with their annual returns. As a result, the implication of Section 18(3A) could not be checked by Audit in these four cases.

The CCT during Exit Conference assured to examine the feasibility of obtaining the information in returns.

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<sup>14</sup> Selection of purchasing dealers was based on the highest purchases made from the selling dealer during any quarter of 2011-12.

<sup>15</sup> Sale value of goods was less than the purchase value and the dealer got incentive/discounts/subsidy.

#### **2.4.14 Deemed assessments without complete information in returns**

Every dealer is required to make self-assessment of his tax liability under the Act and to file a return in prescribed time and Form. Every return filed by the dealer is subject to scrutiny by the AA in accordance with the directions issued by the CCT. Further, the CCT issued instructions (22 April 2013) that where a dealer has filed the return in time and has paid his tax in time, the dealer shall be deemed to have been assessed by the Department. However, it is implied that every dealer shall furnish a correct and complete return in respect of all transactions made by him.

To ensure the compliance of the above provisions by the dealers as well as by the AAs, annual returns for the year 2011-12 of top 550 dealers on the basis of highest turnover in the selected circles were test checked. It was noticed that out of these dealers, 295 dealers were deemed assessed. Scrutiny of these deemed assessment cases revealed that incomplete information was given in the returns by the dealers *i.e.* trading accounts were not furnished in 69 returns, details of used declaration forms were not given in 96 returns, difference in figures were noticed in 20 returns and the nature of business was not shown in 37 returns. Despite these shortcomings, the dealers were deemed assessed. Hence, these cases were required to be assessed after proper hearing and on the basis of material available on the record. It was observed that in all these cases, the AAs overlooked the missing information in the returns while declaring the cases as deemed assessed. Thus, allowance of irregular ITC and short levy of tax could not be ruled out.

In this regard, provisions regarding submission of information by dealers in other States were reviewed. It was noticed that Commercial Taxes Department, Karnataka issued a notification (29 April 2014) regarding online submission of details of invoice-wise purchase/sale of goods including any debit notes or credit notes issued or received and transfer/receipt of goods otherwise than by way of sale or purchase on departmental website. Implementation of similar provisions in the RVAT Act/Rules may help the Department to prevent leakage of revenue.

The Government replied (November 2015) that trading account had been made a mandatory part of the VAT-10A since 14 July 2014. It was further stated that as regard to requirement of re-assessment of such cases, Section 26 does not permit to take action for re-assessment just on the basis of incomplete information.

The reply did not indicate the measures taken by the Department for ensuring correct and complete scrutiny of the returns on their submission by the dealers.

#### **2.4.15 Business Audit assessments**

Section 27 of RVAT Act provides that the CCT may arrange for audit of the business of selected<sup>16</sup> registered dealers to promote compliance to the Act. During audit, if the returns filed by the dealer are not found to be correct, or

<sup>16</sup> CCT may select the dealers on the basis of application of any criterion or on random selection basis or in respect of whom there are reasons to believe that detail scrutiny of their business is required

any avoidance or evasion of tax is detected, the AA will issue a show cause notice to the dealer and after considering the reply of the dealer will assess his tax and other liabilities and get such order approved from his immediate higher officer before its issuance to the dealer along with the demand notice. If the dealer fails to submit the reply, the AA will assess the liability of the dealer to the best of his judgment. Further, Rule 47(3) of RVAT Rules provides that after completion of the audit, the auditor shall prepare an audit report mentioning therein the discrepancies found, if any, at the time of audit. Scrutiny of the information/records provided by the Department revealed the following deficiencies:

**2.4.15.1** Business Audit and the resultant assessments are crucial to ensure revenue realisation in a smooth manner and in bridging the gap between the tax due and the tax declared by the dealers. Further, as per Section 27(6) of RVAT Act, no notices can be issued for Business Audit after a lapse of five years from the end of the relevant year. The overall position of dealers selected for Business Audit and audited was as under:

Business Audit for the Year	Total number of registered dealers	Number of dealers to be selected as per norms/criteria	Actual number of dealers selected (shortfall in percentage)	Actual number of Business Audit conducted up to the year 2014-15	Actual Shortfall (shortfall in percentage)
(1)	(2)	(3)	(4)	(5)	(6)
2009-10	3,76,688	18,834	5,776 (69)	2,570	3,206 (55)
2010-11	4,09,323	20,466	7,313 (64)	2,352	4,961 (67)
2011-12	4,40,842	22,042	1,297 (94)	827	470 (36)

It would be seen from the above table that there was a huge short fall ranging between 36 to 67 *per cent* in conducting the business audit of selected dealers. Due to shortfall in conducting business audit, 3,206 assessment cases for business audit got time barred. Besides, the shortfall in conducting the business audit provides leeway to tax Assessing Authorities to pick and choose the cases for actually conducting business audit and may provide scope for unethical practices.

Scrutiny of zone wise position of business audit disclosed that:

- five zones<sup>17</sup> had not selected any dealer for business audit for the years 2009-10 and 2010-11;
- five zones had not selected any dealer, six zones<sup>18</sup> had selected only 17 dealers and two zones<sup>19</sup> had selected 1280 dealers *i.e.* 99 *per cent* of the total selection for the year 2011-12.

The above facts indicated that the departmental officers did not follow the instructions issued by the CCT. Failure to conduct business audit adequately resulted in non-ensuring the correctness of the returns submitted by the dealers and prevention of leakage of revenue.

<sup>17</sup> Zones: Bhilwara, Bikaner, Jodhpur, Pali and Udaipur.

<sup>18</sup> Zones: Bhilwara, Bikaner, Jaipur-I, Jodhpur, Sriganganagar and Udaipur.

<sup>19</sup> Zones: Alwar and Kota.



The Government accepted the audit contention and replied (November 2015) that business audit was not conducted as per prescribed norms during the years 2009-10 to 2011-12 as maximum time of AAs was spent in solving the problems related to assessments and ITC verification.

**2.4.15.2** No audit manual was prepared by the Department even after a lapse of nine years incorporating various procedural and other aspects of audit for streamlining the audit process and making it effective. Such manuals were prepared by Commercial Taxes Department of Utter Pradesh, Maharashtra and Andhra Pradesh.

The Government replied (November 2015) that instructions regarding business audit were issued from time to time through letters, circulars and detailed instructions had been issued on 1 May 2013.

**2.4.15.3** The CCT prescribed norms in 2011, 2012 and 2013 for selection of five *per cent* of total number of registered dealers for business audit. During the examination of the database of the Department on *RajVISTA*, it was observed that the data required for selection of dealers as per norms *i.e.* dealers availing benefit under incentive/deferment schemes, dealers dealing in evasion prone commodities, dealers against whom cases of evasion/avoidance of tax had been noticed, *etc.* were not available. In absence of required data for selection of dealers, the selection process lacked transparency.

The Government replied (November 2015) that online submission of return was not mandatory during the referred years and hence *RajVISTA* system was not fully effective for this purpose. It further stated that currently the selection of cases was being done on scientific method.

**2.4.15.4** During the scrutiny of the criteria prescribed for selection of dealers for Business Audit for the year 2009-10 to 2011-12, it was found that instead of selection from all types of registered dealers, selections were made from either the tax paying dealers or dealers who had not filed their returns. However, no attention was given to those dealers who had filed returns with *nil* turnovers.

To check the possible evasion of tax by such dealers in the State, the Department was requested to generate a report for the year 2011-12 through *RajVISTA* showing purchases made from such dealers by other registered dealers. Scrutiny of this report revealed that 1,440 registered dealers who had sold goods valuing ₹ 176.37 crore and collected tax of ₹ 11.39 crore had shown *nil* turnovers in their returns. As per DCR available on *RajVISTA*, no demand was raised against these dealers. This resulted in non-levy of tax of ₹ 11.39 crore besides penalty of ₹ 22.78 crore and interest of ₹ 4.78 crore.

Further, as per information of DCR available on *RajVISTA*, the AAs had raised demand of ₹ 18 lakh only against 145 registered dealers, who had sold goods valuing ₹ 971.52 crore and collected tax of ₹ 12.03 crore but shown *nil* turnovers in their returns. This resulted in short levy of tax of ₹ 11.85 crore besides penalty of ₹ 23.71 crore and interest of ₹ 4.98 crore.

The Government replied (November 2015) that conducting business audit of dealers who had declared *nil* turnover was not justified as such cases are dealt

by anti-evasion wings. However, outcome of such cases dealt by anti-evasion wing was not furnished.

#### **2.4.15.5 Deficient business audit assessments**

RVAT Act was implemented in the State since 2006. However, the CCT belatedly issued (1 May 2013) guidelines for conducting audit of dealers under Section 27 of the RVAT Act. Thereafter, in the entire State 1,818 business assessments were made during the year 2013-14 as intimated by Department (June 2015).

Scrutiny of the information disclosed that out of 11 circles selected for PA, the Department had conducted business audit of 336 dealers during 2013-14 in five selected circles<sup>20</sup>. On being asked to provide these business audit assessment orders, the Department could provide only 182 business audit assessment orders pertaining to four selected circles<sup>21</sup>. Business audit assessment orders of circle Jaipur Special-III had not been provided by the Department. The remaining six circles<sup>22</sup> did not conduct business audit assessments during 2013-14. Scrutiny of these business audit assessments disclosed that the AAs did not fill the prescribed questionnaire in 109 cases; the AAs had not followed the prescribed check list in 59 cases; the income tax return was not cross checked in 17 cases; and the AAs had not shown even the name of commodities dealt by the dealers in 23 cases. The guidelines were not at all followed in 22 cases. Further, the business audit was not conducted in nine cases because the dealers had closed the business.

The Government accepted the audit contention and replied (November 2015) that regular AAs had conducted the business audits and due to shortage of time and manpower, business audit was not conducted properly. It was further stated that two audit circles had been now established in each zone to strengthen the business audit and detailed instructions had been issued to conduct business audit effectively.

#### **2.4.16 Assessment of dealers without having jurisdiction**

As per order issued by CCT (31 March 2011), ACTO could assess the dealers having annual turnover upto one crore. During scrutiny of information available on *RajVISTA* for the financial year 2011-12, it was noticed that 22 ACTOs of selected circles<sup>23</sup> had assessed 143 dealers having turnover of more than one crore. The ACTOs had, therefore, assessed the dealers without having jurisdiction to assess them. The monitoring authorities also could not detect this irregularity.

The CCT during Exit Conference stated that out of above referred cases some cases were examined and found that these were assessed by ACs/CTOs and the discrepancies could be due to non-depiction of upgraded posts.

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<sup>20</sup> **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N and Jaipur-Special-III.

<sup>21</sup> **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J and Jaipur-N

<sup>22</sup> **Special Circles:** Bhilwara, Pali and Rajasthan Jaipur, **Regular Circles:** Jodhpur-A, Nagaur and Udaipur-B.

<sup>23</sup> **Circles:** Bhiwadi-B (3 ACTOs), Jaipur-D (5 ACTOs), Jaipur-J (3 ACTOs), Jaipur-N (2 ACTOs), Jodhpur-A (5 ACTOs), Nagaur (3 ACTOs) and Udaipur-B (1 ACTOs).

### 2.4.17 Audit of accounts

As per Section 73 of RVAT Act, every registered dealer, other than the dealer who has opted for payment of tax under sub-section (2) of Section 3 or under Section 5 or the dealer or class of dealers as may be notified by the State Government, shall, if his turnover exceeds rupees one crore in any year, get his accounts in respect of such year audited by a Chartered Accountant/Cost Accountant<sup>24</sup> within the prescribed period from the end of that year.

However, *vide* notification dated 25 February 2008, the dealers who filed e>Returns with prescribed documents were exempted from audit of accounts under this Section. Further, *vide* notification dated 9 March 2011, every dealer was liable to submit the returns electronically. The effect of these amendments was that no dealer was liable to get his accounts audited by Chartered/Cost Accountant.

The object of the Section 73, therefore, to get the accounts of the dealers having turnover of more than one crore audited was rendered ineffective.

Thus, neither the Business Audit was being conducted by the Departmental officers nor the Chartered/Cost Accountants audited the accounts of the dealers having turnover of more than one crore.

The Government replied (November 2015) that Form VAT-10A had been designed to obtain almost all the information which were available in VAT report proforma.

The reply was not acceptable as proforma of trading account prescribed in annual return VAT-10A does not contain the information like entry number of schedule in which goods sold were covered, sale of fixed assets, capitalisation of fixed assets on which ITC was claimed as capital goods, purchase against declaration forms (VAT-15, C Form, H Form, etc.). Therefore, either proforma of VAT-10A should be modified or VAT audit should be made mandatory.

### Input Tax Credit

As per Section 18 of RVAT Act, ITC shall be allowed to registered dealers in respect of purchase of any taxable goods made within the State from a registered dealer to the extent and in such manner as may be prescribed for the purposes and the claim of ITC shall be allowed on the tax deposited on the basis of original VAT invoice. As per Rule 19(5) of RVAT Rules, quarterly return shall be submitted by the dealers along with statement of purchases in Form VAT-07A and statement of sales in Form VAT-08A.

Section 61 of RVAT Act provides that where any dealer has availed ITC wrongly, the AA shall reverse such credit of input tax and shall impose on such dealer a penalty equal to double the amount of such wrong credit. Scrutiny of assessment orders and information available on *RajVISTA* disclosed the following irregularities:

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<sup>24</sup> (i) A Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (Central Act No. 38 of 1949); and (ii) a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (Central Act No. 23 of 1959).

### **2.4.18 Allowance of ITC without verification**

CCT had issued instructions in August 2009 that claim of ITC must be verified by the AAs within six months from the date of filing of quarterly return.

**2.4.18.1** Scrutiny of 35 assessment cases out of 80 assessments selected in four circles<sup>25</sup> revealed that in nine cases, ITC of ₹ 27.19 crore was allowed by the AAs at the time of finalisation of assessments subject to verification at a later stage. However, even after a lapse of two years, verification of ITC was not done in these cases. Further, in 26 cases, ITC of ₹ 10.56 crore was allowed by the AAs, without making any statement in the assessment order that verification of ITC was done. In these cases, Audit was not able to ascertain whether ITC was allowed after due verification.

**2.4.18.2** During test check of assessment records in circle Jaipur-J, it was noticed that a dealer M/s Omega Enterprises (TIN: 08344101089) (purchasing dealer) had shown purchases of ₹ 2.40 crore from M/s Rishabh Computronics Ltd. (TIN: 08742200154) (selling dealer) and claimed ITC of ₹ 33.59 lakh during the year 2010-11 and 2011-12. It was noticed that the selling dealer did not deposit the collected tax. Thus, as per provision of Section 18(2) of RVAT Act, the purchasing dealer could not avail ITC. To check the overall effect on the revenue in this case, the sales made by the selling dealer were cross verified with the ITC claimed by other purchasing dealers.

Cross verification revealed that nine purchasing dealers had availed ITC of ₹ 84.39 lakh for the purchases made from the selling dealer (M/s Rishabh Computronics Ltd.) during the years 2010-11 and 2011-12. However, at the time of assessments of these purchasing dealers, the AAs of eight circles did not levy reverse tax of ₹ 84.39 lakh besides interest of ₹ 42.34 lakh. This resulted in non-levy of reverse tax amounting to ₹ 1.18 crore besides interest of ₹ 59.56 lakh.

Had the instructions of CCT regarding verification of ITC been complied by the AAs, the above mentioned cases of ineligible claim of ITC by the dealers could have been easily identified by the Department.

The CCT during Exit Conference stated that the cases were being examined.

### **2.4.19 Incorrect grant of ITC on purchases made from dealers whose RCs were cancelled**

To avoid penalty for irregular claim of ITC on the goods purchased from dealers whose registrations were cancelled, the website *Rajtax* provides facility to check the registration status (active/cancelled) of any dealer registered under RVAT Act. Further, *RajVISTA* also had a module to assist the AAs to check such irregular ITC. Audit scrutinised the data/information available on *RajVISTA* to ascertain the genuineness of the claim of ITC and allowance thereof. The results are discussed as under:

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<sup>25</sup> **Circles:** Bhilwara Special, Jaipur-D, Jodhpur-A and Udaipur-B.

**2.4.19.1** It was noticed that during the period 2011-12, 189 dealers of 10 selected circles<sup>26</sup> had shown purchases of goods valuing ₹ 39.58 crore from the selling dealers whose RCs were cancelled before the date of transactions. These dealers had claimed ITC of ₹ 1.93 crore in their returns. These purchasing dealers were deemed assessed by the Department. As a result, there was wrong allowance of ITC of ₹ 1.93 crore and non-levy of penalty of ₹ 3.87 crore besides interest of ₹ 81.24 lakh.

**2.4.19.2** In 144 cases of scrutiny assessments, it was noticed that the dealers had shown purchases of goods valuing ₹ 20.89 crore during the year 2011-12 from the selling dealers whose RCs were cancelled before the date of transactions. These dealers had claimed ITC of ₹ 1.44 crore in their returns. However, while finalising the scrutiny assessments of these purchasing dealers, the AAs of selected circles neither detected the irregularities nor asked the dealers to revise the returns or levied reverse tax of ₹ 1.44 crore besides penalty of ₹ 2.88 crore and interest of ₹ 60.58 lakh for claiming irregular ITC.

**2.4.19.3** It was noticed that 117 dealers had purchased goods valued at ₹ 22.44 crore during the year 2011-12 from the selling dealers whose RCs were cancelled before the date of transactions. These purchasing dealers had claimed ITC of ₹ 1.62 crore in their returns. The AAs while finalising the assessments levied reverse tax for claiming irregular ITC. However, the AAs did not impose penalty of ₹ 3.24 crore on irregular claim of ITC.

In spite of availability of relevant module on *RajVISTA*, the AAs did not levy reverse tax, interest and penalty of ₹ 14.78 crore on the dealers.

The CCT during Exit Conference stated that the cases were being examined.

## 2.4.20 Irregular claim of ITC

As per Section 18(1) of RVAT Act, ITC shall be allowed to registered dealers in respect of purchases of any taxable goods made within the State from a registered dealer for being used as raw material in the manufacture of goods other than exempted goods for sale within the State or in the course of inter-State trade or commerce and for being used in the State as capital goods<sup>27</sup> in manufacture of goods other than exempted goods.

**2.4.20.1** There was a provision for showing name of goods while claiming ITC in quarterly return. However, it was noticed that the dealers did not mention the name of goods for which ITC was claimed. Due to lack of information, the AAs could not levy reverse tax on wrong availment of ITC on ineligible goods. To assess the impact, few commodities *i.e.* generator sets, firefighting equipments and transformers which were neither used as inputs nor used as capital goods in manufacture were selected for cross-verification. For cross-verification, 16 selling dealers of these commodities were selected from the statistical abstract published by the Department and other available

<sup>26</sup> **Circles:** Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Nagaur, Udaipur-B Special-Bhilwara, Special-Jaipur-III and Special-Pali.

<sup>27</sup> As per Section 2(7) of RVAT Act, 'capital goods' means plant and machinery including parts and accessories thereof, meant for use in manufacture unless otherwise notified by the State Government from time to time in the Official Gazette.

information. Sales shown in VAT-08A by these dealers were cross verified with VAT-07A of the purchasing dealers. It was noticed that 152 dealers had claimed ITC of ₹ 64.80 lakh in respect of purchases of the ineligible goods valuing ₹ 9.84 crore during the period 2011-12. As per information available on *RajVISTA*, no demand was raised against these purchasing dealers. Thus, ITC of ₹ 64.80 lakh claimed by the dealers was to be reversed and a penalty of ₹ 1.30 crore besides interest of ₹ 27.22 lakh was leviable.

The CCT during Exit Conference stated that the cases were being examined.

**2.4.20.2** Scrutiny of assessment records of selected circles and results of cross verification of ITC availed by dealers revealed that seven dealers had claimed ITC for the ineligible goods as discussed in the following table:

Sl. no.	Name of purchasing dealer, TIN and year	Name of commodity for which ITC was availed	Nature of observations
1.	M/s Hindustan Zinc Ltd TIN: 08059017658 Year: 2010-12 Circle: Udaipur-Special	Explosive	M/s Indian Oil Corporation Ltd, Bhilwara TIN 08041002395(Circle: Bhilwara-Special) had sold explosives to the dealer M/s Hindustan Zinc Ltd. during the years 2010-11 and 2011-12. Cross verification of the transactions disclosed that the purchasing dealer had claimed ITC of ₹ 5.16 crore in his returns on these purchases. Business of the purchasing dealer was mining, manufacturing and selling of non-ferrous and precious metals. Since explosive was not used as raw material in the goods manufactured by the dealer, ITC was not admissible to the dealer. However, while finalising the assessment, the AA had not levied reverse tax of ₹ 5.16 crore, interest of ₹ 2.51 crore and penalty of ₹ 10.32 crore.
2.	M/s Govind Sweets Pvt. Ltd. TIN: 08434101961 Year: 2010-12 Circle: Jaipur-J	Air-conditioners, Generator sets, EPABX system, firefighting equipment, etc.	The dealer was manufacturer and seller of sweets. Since these purchased goods were not meant for use in manufacturing of sweets, ITC was not admissible. However, while finalising the assessment the AA had not levied reverse tax of ₹ 4.86 lakh, interest of ₹ 2.33 lakh and penalty of ₹ 9.73 lakh.
3.	M/s Honda Motorcycle and Scooter India Pvt. Ltd., TIN: 08134201066 Year: 2011-12 Circle: Bhiwadi-B	Generator sets	The dealer was manufacturer and seller of two wheelers. Generator sets were not capital goods for the dealer and hence the AA disallowed the ITC on generator sets. However, the AA levied reverse tax of ₹ 6.50 lakh only instead of ₹ 10.82 lakh and did not levy penalty for irregular availment of ITC. This resulted in short levy of reverse tax of ₹ 4.33 lakh besides interest of ₹ 1.82 lakh and penalty of ₹ 21.64 lakh.
4.	(i) M/s Shree Balaji foods TIN: 08302156940	Wheat	The dealers were manufacturers of wheat flour. These dealers had availed ITC of ₹ 7.68 lakh on the purchases of wheat during the year 2010-11 which was subsequently used for manufacturing

	(ii)M/s Anand Flour Mills Bassi TIN: 08504100129 (iii)M/s Radha Govind Food Products TIN:08024100489 Year 2011-12 Circle: Jaipur-J		of exempted commodity <i>i.e.</i> wheat flour during the year 2011-12. Thus, ITC was not admissible to the dealers. However, while finalising the assessment, the AA had not levied reverse tax of ₹ 7.68 lakh, interest of ₹ 3.69 lakh and penalty of ₹ 15.36 lakh.
5.	M/s Param Products Pvt. Ltd TIN:08211650892 Year 2011-12 Circle: Jaipur Special-III	Rubber rings	The dealer was manufacturer and seller of pipes and fittings. The dealer purchased rubber rings and availed ITC of ₹ 3.29 lakh at the rate of 14 <i>per cent</i> . However, the dealer had not sold any goods taxable at the rate of 14 <i>per cent</i> . Rubber rings are finished goods and could not be used in manufacturing of pipes. Thus, ITC availed by the dealer was not admissible. However, while finalising the assessment, the AA had not levied reverse tax of ₹ 3.29 lakh, interest of ₹ 1.38 lakh and penalty of ₹ 6.58 lakh.

The above cases indicate that the dealers had availed ITC for inadmissible goods. However, the AAs could not detect the irregularity in six cases and in one case, the AA did not levy correct amount of reverse tax. This resulted in non/short levy of reverse tax, interest and penalty amounting to ₹ 18.82 crore.

The CCT during Exit Conference stated that the cases were being examined.

#### 2.4.21 Refunds

As per Section 53 of RVAT Act, where any amount is refundable to a dealer under the provisions of the Act, after having duly verified the fact of deposit of such amount, the AA shall refund to such dealer the amount to be refunded.

#### 2.4.22 Increase in VAT refunds

Year-wise position of VAT receipts and refunds was as under:

(₹ in crore)		
Year	VAT Receipts	VAT refunds
2009-10	9,436.29	4.50
2010-11	11,638.74	1.24
2011-12	14,371.53	14.47
2012-13	16,887.47	88.94
2013-14	19,490.41	323.37

It would be seen from the above table that there was only 106 *per cent* increase in VAT receipts during the period 2009-10 to 2013-14. However, there was an alarming increase of 7,086 *per cent* in VAT refunds during the same period.

The reasons for abnormal increase in refunds during the year 2013-14 were not analysed by the Department. Audit also could not verify the reasons

behind the abnormal increase in refunds because of non-furnishing of detailed information by the Department.

## Levy of tax

### 2.4.23 Escaped turnover

Information collected from Central Excise and Customs Department for the year 2011-12, cross checked with the data available on *RajVISTA* disclosed that 100 registered dealers had either not shown their transactions related to re-import of goods or shown less value of transactions. The findings are discussed as under:

**2.4.23.1** Eighty eight registered dealers had re-imported goods worth ₹ 112.84 crore. However, these dealers had not shown these transactions in their trading accounts submitted with annual returns. This resulted in non-levy of tax of ₹ 1.13 crore besides interest of ₹ 47.39 lakh on escaped turnover and penalty of ₹ 2.26 crore.

**2.4.23.2** Twelve registered dealers had re-imported goods worth ₹ 54.40 crore. However, these dealers had shown goods returned amounting to ₹ 9.90 crore only in their annual returns. This resulted in non-levy of tax of ₹ 44.50 lakh besides interest of ₹ 18.69 lakh on escaped turnover and penalty of ₹ 89 lakh.

The Government replied (November 2015) that the re-import data of three dealers had been examined by the anti-evasion team and it was found that all the re-imported goods had been shown in the books and thus taken into stock.

The reply was not acceptable as the dealers had not shown or shown less value of transactions related to re-import in their annual returns which form the basis of assessment.

### 2.4.24 Goods held in stock at the time of cancellation of RC

Section 17(4) of RVAT Act provides that every person whose registration is cancelled under this Act shall pay tax in the manner prescribed in respect of every taxable goods held in stock and capital goods on the date of such cancellation.

During the period 2013-14, 2014 dealers had got their RCs cancelled with effect from April 2011 or thereafter in the selected circles<sup>28</sup>. The information regarding submission of returns, verification of RCs and turnover according to last return was called for but the desired information was not provided by any circle.

To assess the level of compliance, a sample of 1,532 dealers whose registrations were cancelled with effect from 31 March 2012 or 1 April 2012 was selected. Scrutiny of information available on *RajVISTA* revealed that out of these 1,532 dealers, 1,247 dealers had not filed their returns and 18 dealers had not submitted trading accounts with their annual returns for the year

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<sup>28</sup> Circles: Bhiwadi-B, Jaipur-D, Jaipur-N, Jodhpur-A, Nagaur and Udaipur-B.



2011-12. However, no demand was levied by the AAs in these cases. Further, in seven cases, though the dealers had declared closing stock but the AAs had not levied tax, interest and penalty.

It was noticed that provision of the RVAT Act regarding levy of tax in respect of goods/capital goods held in stock at the time of stoppage of business was not given effect to in such cases. In such circumstances, the possibility of the stock held at the time of stoppage of business, being sold subsequently thereby causing loss of revenue to the Government on account of non-payment of tax, cannot be ruled out.

#### **2.4.25 Application of incorrect rate of tax**

As per Section 4 of RVAT Act, sale of goods is taxable at the rates specified in the Schedules appended to the Act. Further Section 8(3) of RVAT Act provides that the State Government, by issue of notification, may exempt from tax the sale or purchase by any person or class of persons as mentioned in Schedule-II, without any condition or with such condition as may be specified in the notification. To assess the level of compliance, two commodities *i.e.* cooked food and capital goods for which conditional exemption were provided were selected. The results of test check are discussed as under:

**2.4.25.1** The rate of tax on cooked food was 14 *per cent*. However, the State Government *vide* notification dated 9 March 2010 exempted the restaurant and hotels below three stars category from payment of tax to the extent the rate of tax exceeded five *per cent* on the sale of food cooked and served.

Information regarding hotels having bar licences issued by State Excise Department as three stars and above category hotels or heritage hotels (B-category) was collected. Scrutiny of returns submitted by these dealers for the year 2011-12 revealed that 11 dealers had paid tax at the rate of 5 *per cent* instead of correct rate of tax at 14 *per cent* on cooked food. This resulted in short payment of tax of ₹ 4.39 crore besides interest of ₹ 2.02 crore and penalty of ₹ 8.77 crore. The information available on *RajVISTA* revealed that no demand was raised by the AAs at the time of assessments of these cases.

Secretary Finance (Revenue) during Exit Conference informed that a committee had been constituted for issuing status certificates to hotels.

**2.4.25.2** The State Government *vide* notification dated 27 August 2008 exempted from payment of tax to the extent the rate of tax exceeded five *per cent* on the purchase of capital goods, their parts and accessories by a manufacturing registered dealer subject to the condition that such purchasing dealer of the State shall furnish a prescribed declaration form to the selling registered dealer of the State.

(i) Scrutiny of the assessment records of selected circles<sup>29</sup> revealed that five dealers had sold plant and machinery as capital goods amounting to ₹ 1.97 crore at the rate of five *per cent* without obtaining prescribed declaration forms from the purchasing dealers during the period 2011-12. While finalising the assessments, the AAs did not levy the correct rate of tax

<sup>29</sup> Circles: Bhiwadi-B and Udaipur-B.

*i.e.* 14 per cent. This resulted in short levy of tax of ₹ 17.69 lakh besides interest of ₹ 7.43 lakh and penalty of ₹ 35.39 lakh.

(ii) Generating sets are used for generation of electricity. Thus, a selling dealer cannot sell the generating sets as capital goods against declaration forms. During scrutiny of assessment records of circle Bhiwadi-B, it was observed that a dealer (M/s Honda Motor Cycle and Scooter India Pvt. Ltd. TIN 08134201066) had purchased generating sets at the rate of five per cent from selling dealer (M/s Sudhir Power Projects Ltd., TIN 08401764617). Cross verification of these facts with the returns of the selling dealer available on *RajVISTA* revealed that the selling dealer had sold generating sets of ₹ 1.93 crore at the rate of five per cent as capital goods during the year 2011-12. Further scrutiny of DCR available on *RajVISTA* revealed that the AA (Circle Jaipur-B) did not raise demand against the selling dealer for charging lower rate of tax. This resulted in short payment of tax of ₹ 17.41 lakh besides interest of ₹ 7.31 lakh and penalty of ₹ 34.82 lakh.

The above observations revealed that the Department had not developed an effective system to check the misutilisation of declaration forms<sup>30</sup> issued by the purchasing dealers for purchase of goods at concessional rate. Further, there was no provision in the RVAT Act regarding imposition of penalty for misutilisation of declaration forms by purchasing dealer.

#### **2.4.26 Irregular allowance of exemption from tax**

As per Rule 21(1) of RVAT Rules, a dealer, who claims partial or full exemption from payment of tax on sale of goods to another dealer in the State or in the course of export of goods out of the territory of India, shall furnish declaration form/certificate prior to the date of filing of annual return. Provided that the CCT on being satisfied and after recording reasons for doing so, may by notification in the Official Gazette, extend the period of furnishing such declaration form/certificate for a period not exceeding one year. Provided further that for the assessments completed up to 30 September 2012, the dealers were allowed to furnish declaration forms/certificates up to 30 June 2013.

During test check of assessment records of selected circles<sup>31</sup>, it was noticed that demand of ₹ 1.15 crore was reduced during the year 2013-14 by AAs on submission of declaration forms by eight dealers after prescribed time. It was noticed that these declaration forms were accepted in-contravention of above mentioned rule. This resulted in irregular reduction of demand of ₹ 1.15 crore.

The Government replied (November 2015) that Rules had further been amended on 9 March 2015 as follows 'Provided further that for the assessment completed upto September 30, 2014 the dealer may furnish the declaration forms or certificates upto June 30, 2015'. In the light of above amendment, the declaration forms/certificates submitted during the year 2013-14 was valid. The reply was not correct as the amendment for extension of time period was

<sup>30</sup> The purchasing dealer can issue a self-printed declaration form for purchase of capital goods on concessional rate without any permission from the Department.

<sup>31</sup> Circle: Bhillwara-Special, Jaipur-Special-III, Jaipur-J and Udaipur-B.

notified on 9 March 2015 and the AAs were not empowered to reduce prior to the notification the demand. Thus acceptance of declaration was incorrect. This was again pointed out to the Department and Secretary Finance (Revenue) directed the Department to prescribe a time limit for submission of declaration forms/certificates.

#### **2.4.27 Short/Non-levy of interest**

As per Section 55 of RVAT Act, where any dealer commits a default in making the payment of any amount payable by him within the specified time, he shall be liable to pay interest on such amount at 12 *per cent* per annum for the period commencing from the day immediately succeeding the date specified for such payment and ending with the day on which such payment is made.

Scrutiny of the records of selected circles<sup>32</sup> revealed that in 408 cases, the dealers had deposited demand of ₹ 1.15 crore with delay ranging between 3 to 232 months. It was noticed that neither the dealer had deposited the interest at the time of depositing the demand nor the AAs demanded the interest for the delayed deposit of the demand even at the time of making entries in the next year's DCR. This resulted in non-raising of demand for interest of ₹ 49.55 lakh.

#### **2.4.28 Non-monitoring of declaration required to be carried with the goods in movement for import**

As per Rule 53 of RVAT Rules, a registered dealer, (i) who imports from any place outside the State, any taxable goods, as may be notified by the State Government, for sale; or (ii) who receives any taxable goods as may be notified by the State Government, consigned to him from outside the State or by way of branch transfer/depot transfer/stock transfer; or (iii) who intends to bring, import or otherwise receives any taxable goods as may be notified by the State Government, from outside the State for use, consumption, or disposal otherwise than by way of sale; shall furnish or cause to be furnished a declaration in form VAT-47, completely filled in all respect in ink and ensure that the value, date and month of use of such form shall be punched at the specified place provided for in the form. The counterfoil of the declaration form shall be retained by such dealer and its portions marked as 'Original' and 'Duplicate' shall be carried with the goods in movement. Further, the registered dealer shall submit a statement of import of goods in Form VAT-48 along with the duplicate portions of Form VAT-47 and in case the original portion of the Form VAT-47 has not been retained by any officer, it shall also be furnished along with duplicate portion of Form VAT-47 to the assessing authority along with the return.

Scrutiny of 284 VAT-47 forms used and available in the assessment records of 22 dealers of selected circles<sup>33</sup> disclosed that the dealers had submitted incomplete forms as shown in the following table:

<sup>32</sup> Circle: Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N and Udaipur-B.

<sup>33</sup> Circle: Bhiwadi-B (6 dealers), Jaipur-J (6 dealers), Jaipur Special-III (5 dealers) and Pali-Special (5 dealers).

Sl. no.	Description of shortcomings	Number of dealers	Number of forms
1.	Details were not filled by the consigner	22	174
2.	Details were not filled by the transporter	19	98
3.	Dealers had not punched the value	22	254
4.	Dealers had not punched the date of the use of the forms	22	254

With a view to prevent or check avoidance or evasion of tax, check-posts were set-up by CCT at 63 places in the State. However, these check-posts were abolished with effect from 1 May 2008. Due to non-existence of any check-posts, VAT-47 form is the only control in existence to check unauthorised movement of the goods. The above VAT-47 forms declared movement of goods worth ₹ 38.08 crore. However, due to the above deficiencies, possibility of non-accounting/short accounting of goods purchased from outside the State by these dealers cannot be ruled out.

The Government replied (November 2015) that with effect from 1 July 2015, the dealer having annual turnover of ₹ 25 lakh in the year 2014-15 or any succeeding year is under obligation to generate VAT-47A through official website. Therefore, no blank or incomplete form can be generated.

The Department may monitor the declaration forms used prior to 1 July 2015 to prevent any leakage of revenue and ensure submission of statement in form VAT-48 alongwith used VAT-47 forms.

#### 2.4.29 Internal control system

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. Monitoring is the key component of the internal control system. The existence of continuous and effective monitoring system is essential to secure the success of the internal control system. In order to ensure effective tax management, CCT issues instructions to the field formations regarding jurisdiction for assessments, scrutiny of returns, verification of ITC, business audit *etc.* However, non-adherence to such instructions by the field formation as discussed in preceding paragraphs and non-monitoring of its compliance by the higher authorities is indicative of weak control mechanism. Further, the following shortcomings were noticed:

**2.4.29.1** As per Section 24 of RVAT Act, every return furnished by a registered dealer shall be subject to such scrutiny as may be determined by the CCT, to verify its correctness and if any error is detected, the assessing authority shall serve a notice in the prescribed form on the dealer to rectify the error.

It was noticed in the selected circles that no register was maintained by any AA to monitor the compliance of the notices issued to the dealers. In absence of such register, it was difficult to ensure that compliance was made by the dealers and in case of non-compliance, if any, penal action was taken.

Further, the AAs issue pre-revision notices whenever they find defects in the completed assessments. The Department had no mechanism to watch whether

any action had been taken on such notices issued by the AAs. Consequently, tax evasion by the dealers who did not comply with the notices cannot be ruled out.

Secretary Finance (Revenue) during Exit Conference directed the Department to issue all notices through the online system.

**2.4.29.2** CCT issued circular (3 January 2008) and instructed AAs to maintain DCR in the prescribed form. Scrutiny of DCRs maintained by five AAs of circle Jaipur-J revealed that these AAs had kept 52 serial numbers of DCRs (2012-13 and 2013-14) blank at the time of making entries regarding assessments orders. Further, these AAs had used one serial number of DCR twice by using sub-number in case of making entries of 30 assessment orders. These irregularities put a question mark on the authenticity of the DCRs.

CCT during Exit Conference stated that presently DCRs were being maintained on *RajVISTA*.

**2.4.29.3** It was noticed that there was no control mechanism to watch whether all entries of outstanding demands had been carried forward by the AAs in the DCR of the current year. During test check of DCRs (Year 2013-14 and 2014-15) of circles Jaipur-J and Jaipur-N, it was noticed that demand of ₹ 3.96 lakh outstanding in 28 cases was not carried forward in the DCRs of the next year by two AAs<sup>34</sup>. This resulted in deletion of demand of ₹ 3.96 lakh from DCRs.

CCT during Exit Conference stated that presently DCRs were being maintained on *RajVISTA*.

**2.4.29.4** RVAT Act provides for tax deduction at source, its timely remittance to Government account by the awarder and in case of violation of statutory provisions, penalty on the awarder. It was noticed that neither any control register nor individual files of the awarders were prescribed for monitoring the submission of monthly statement up to the year 2013. As a result, the AAs did not have any mechanism to ensure that awarders had correctly deducted TDS and deposited it in time. Thereafter, CCT issued (19 July 2013) instructions to maintain prescribed registers to monitor the awarder's liabilities. On being enquired by Audit, the prescribed registers were not provided by the selected circles<sup>35</sup> for scrutiny. It could not, therefore, be ensured whether registers were maintained by these circles or how the awarder's liabilities were ascertained by AAs.

### **2.4.30 Conclusion and Recommendations**

VAT is a significant component of the State revenues. Any leakage of tax will have a serious impact on the Government's revenue and its ability to balance budget. A sound system for registration, assessment and collection of VAT is, therefore, essential for successful implementation of taxation system. The Department has introduced some significant changes like online filing of returns by dealers and assessment thereof, verification of ITC claims through IT module, etc. However, the following areas require special attention:

<sup>34</sup> **Circle:** Jaipur-J ACTO ward III and Jaipur-N ACTO ward III.

<sup>35</sup> **Circle:** Bhilwara-Special, Bhiwadi-B, Jaipur-D, Jaipur-J, Jaipur-N, Jodhpur-A, Jaipur-Special III, Pali Special, Nagaur and Udaipur-B.

- Mechanisms in the Department to unearth dealers who are liable for registration were inadequate. *The Government may consider incorporating a provision in RVAT Act for obligatory registration of every mining lease holder of taxable minerals and requesting the Central Excise & Customs Department to add a column in the 'bill of entry form' for TIN of the importing dealers to easily identify the importers. The Government may also consider devising a system to use information available with other departments/within the department so as to bring eligible unregistered dealers into tax net.*
- Returns formats were inadequate to capture essential details to ascertain the correct tax liability of the dealers. Further, the dealers had furnished incomplete returns or contradictory information in the returns. Enforcement of provision relating to scrutiny of returns as well as monitoring was poor. *The Government may consider modifying the prescribed format of the returns in order to make them more compatible with the provisions of the RVAT Act/Rules. The Government may also consider improving the system of RajVISTA to ensure that incomplete returns are not accepted. Till such change is made in the RajVISTA, the CCT may direct the AAs to scrutinise incomplete returns.*
- There was lack of compliance to the provision of RVAT Acts/Rules and large numbers of dealers who had collected tax were either not filing returns or filing returns with nil turnovers. *The Government may consider formulating modules in RajVISTA to check tax evasion by dealers who file returns with nil turnovers or do not file returns. The Government may also consider incorporating a provision in RVAT Rules to upload invoice-wise details of all purchases, sales, purchase returns, sales returns, credit/debit notes by dealers as provided by Commercial Taxes Department, Karnataka;*
- Business Audit being a vital part of the tax administration was neglected, as there was shortfall in conducting business audit up to 67 per cent of selected cases and 3,206 cases got time barred. *The Government may strengthen the process of Business Audit to plug leakage of revenue. It may also consider preparing a Business Audit manual to streamline the Business Audit process.*

These recommendations were also discussed during Exit Conference. The Secretary, Finance (Revenue) assured to adopt the recommendations after due examination.

## 2.5 Non-levy of Penalty

As per Section 10A read with Section 10(d) of the Central Sales Tax Act (CST Act), 1956, if any person, after purchasing any goods for any of the purposes specified in clause (b) of Section 8(3) fails to make use of the goods for any such purpose specified, the authority who granted to him a certificate of registration under this Act, after giving him a reasonable opportunity, may impose upon him by way of penalty a sum not exceeding one and a half times the tax leviable in respect of sale of the goods within the State.

During test check (June 2014) of assessment records of Commercial Taxes Officer, Circle B, Udaipur, it was noticed (July 2014) that a dealer (M/s The Lake Palace Hotel & Motels Pvt. Ltd.) who deals in hotel business, purchased electrical & electronic goods, furniture, lift and bath fitting accessories, etc, from other State in support of form 'C' valuing ₹ 139.58 lakh during the years 2010-11 and 2011-12. These goods were not used for the purposes as specified in clause (b) of sub-section (3) of Section 8. The dealer was, therefore, liable for a penalty of ₹ 29.31 lakh, *i.e.* one and half time of tax leviable at the rate of 14 *per cent* on these goods. The Assessing Authority while finalising the assessments (February 2013 and March 2014) of the dealer did not take any action for imposition of penalty.

The omission was pointed out to the Department (July 2014) and reported to the Government (March 2015). Government intimated (July 2015) that demand of VAT and CST of ₹ 60.29 lakh had been raised and ₹ 6.03 lakh had been recovered. Reply on remaining recovery is awaited (November 2015).

## 2.6 Incorrect grant of benefit of Composition Scheme to the Petroleum dealers

Government by issue of a notification dated 9 March 2007 under Section 5 of the RVAT Act, 2003 notified a Composition Scheme for registered dealers having retail outlets of petroleum companies, permitting such dealers to opt for payment of composition amount *in lieu* of tax on sale of lubricant, yellow cloth, and fan belt. According to paragraph 5.04(ii), where a dealer has failed to deposit the composition amount in the period specified, he shall be allowed to continue to avail the benefit of the scheme on fulfillment of condition that he shall deposit the whole of the amount which has become due under the scheme along with interest thereon at the rate notified under RVAT Act. Besides, he shall also deposit a late fee amounting to 25 *per cent* of the due composition amount if he deposits the due installment within three months of the due date. This late fee shall be 50 *per cent* of due amount if he deposits the due instalments after aforesaid period of three months but before 31 March of the relevant financial year, and thereafter he shall not be eligible for the benefits under the scheme.

The Government *vide* notification dated 21 June 2012, amended the above notification dated 9 March 2007 and allowed benefits of scheme to the dealers who had furnished the details of their turnover to the assessing authority for the period prior to 31 March 2011 but failed to deposit composition amount or late fee or interest before 31<sup>st</sup> March of relevant year. It was required in the amendment that the defaulting dealer shall deposit the whole of the amount which had become due under the scheme along with interest thereon at the rate

notified under RVAT Act in addition to a late fee amounting to 100 *per cent* of the due composition amount by 15 July 2012.

During test check (June 2014) of the assessment records of Commercial Taxes Officer, Circle 'C' Bhilwara for the period 2011-12 to 2013-14, it was noticed (June 2014) that five dealers who had opted for Composition scheme for registered dealers having retail outlets of petroleum companies, failed to deposit the prescribed composition amount and late fee within the specified period. Due to non-compliance of condition of the scheme, the dealers were not eligible for the benefit under the scheme. However, the Assessing Authority did not initiate action against the dealers for regular assessment under RVAT. This resulted in non-levy of differential amount of tax of ₹ 13.19 lakh and interest of ₹ 5.57 lakh.

The omission was pointed out to the Department (July 2014) and reported to Government (April 2015). The Government replied (July 2015) that demand of ₹ 13.19 lakh for tax and ₹ 7.14 lakh for interest had been raised and ₹ 10.62 lakh had been recovered. Reply on remaining recovery is awaited (November 2015).

## 2.7 Non-levy of Entry Tax

By issue of notifications dated 8 March 2006 and 9 March 2011 under Section 3(1) of the Rajasthan Tax on Entry of Goods into Local Area Act, 1999, the State Government specified the tax payable by a dealer in respect of the specified goods brought into any local area for consumption or use or sale, at such rates as shown in the notification.

During test check (between June 2014 and February 2015) of Entry Tax assessment records with VAT assessment records of eight Commercial Taxes Offices<sup>36</sup>, it was noticed that 16 dealers purchased various goods amounting to ₹ 35.71 crore from outside the State during the period 2009-10 to 2012-13 for consumption or use in business on which entry tax was leviable. However, these dealers did not pay any entry tax. The Assessing Authority, while finalising the entry tax assessment of the dealers, failed to link the purchases made by these dealers with the purchases shown in the documents enclosed with VAT returns (Form VAT-47, 'C' form, Audit Report and VAT-10A) to levy entry tax. This resulted in non-levy of entry tax of ₹ 1.21 crore and interest of ₹ 45.41 lakh (up to March 2014).

The omission was pointed out to the Department (between July 2014 and April 2015) and reported to the Government (April 2015). The Government replied (August 2015) that demand of ₹ 1.60 crore (entry tax ₹ 71.02 lakh, interest ₹ 32.53 lakh and penalty ₹ 56.65 lakh) had been raised and ₹ 49.35 lakh had been recovered. Reply on remaining recovery is awaited (November 2015).

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<sup>36</sup> CTO Spl. Pali, CTO Sikar, CTO 'B' Ajmer, CTO (WT) Bharatpur, CTO 'B' Udaipur, CTO Spl.-VII Jaipur, CTO Spl-II Bhiwadi and CTO 'C' Jaipur.



*CHAPTER-III*

**TAXES ON VEHICLES,  
GOODS AND PASSENGERS**

## CHAPTER-III TAXES ON VEHICLES, GOODS AND PASSENGERS

### 3.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and rules made thereunder and are under the administrative control of the Transport Department. The receipts from road tax and special road tax are regulated under the provisions of the Rajasthan State Motor Vehicles Taxation (RMVT) Act 1951, the rules framed thereunder and notification issued from time to time which are administered by the Transport Commissioner of the State.

The Transport Department is headed by the Transport Commissioner and is assisted by 5 Additional Transport Commissioners and 13 Deputy Transport Commissioners. The entire State is divided into 11 regions, headed by Regional Transport Officers (RTO) cum *ex officio* Member, Regional Transport Authority. Besides, there are 37 vehicles registration cum taxation offices headed by District Transport Officers (DTO).

### 3.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This Wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria laid down by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit was as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2010-11	6	43	49	49	-	-
2011-12	-	43	43	43	-	-
2012-13	-	43	43	43	-	-
2013-14	-	43	43	39	4	9.30
2014-15	4	51	55	45	10	18.18

It was noticed that 13,039 paragraphs upto 2014-15 were outstanding at the end of 2014-15. The year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1992-93 to 2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
<b>Paras</b>	8,485	729	823	957	893	1,152	<b>13,039</b>

There were 8,485 paragraphs of internal audit reports which pertained to the period prior to 2009-10. The huge number of outstanding paragraphs indicates

that the Department needs to pay more attention for settlement of the observations raised by the Internal Audit Wing.

The Government may issue appropriate instructions to the Department for early disposal of outstanding observations raised by the Internal Audit Wing.

### 3.3 Results of audit

During test check of the records of 28 units during the year 2014-15, audit noticed irregularities in 7,470 cases involving ₹ 33.48 crore. These cases broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1.	A Paragraph on 'Road Safety measures in Transport Department'	1	9.51
2.	Non/short payment of tax, penalty, interest and compounding fees, etc.	3,934	10.64
3.	Non/short determination of tax, computation of motor vehicle tax/special road tax.	3,513	12.90
4.	Other irregularities	22	0.43
<b>Total</b>		<b>7,470</b>	<b>33.48</b>

During the year, the Department accepted underassessment and other irregularities of ₹ 14.72 crore in 6,004 cases, of which 1,766 cases involving ₹ 5.08 crore were pointed out in audit during the year 2014-15 and rest in earlier years. During the year 2014-15, an amount of ₹ 5.03 crore was recovered in 2,291 cases, of which ₹ 1.25 crore in 421 cases were pointed out in 2014-15 and the rest in the earlier years.

A paragraph on 'Road Safety measures in Transport Department' involving revenue of ₹ 9.51 crore and few illustrative cases involving ₹ 26.15 crore are discussed in the paragraphs from 3.4 to 3.9.

### 3.4 Road Safety measures in Transport Department.

#### 3.4.1 Introduction

The Central Government approved a National Road Safety Policy (15 March 2010) which outlines the policy initiatives to be undertaken by the Government at all levels to improve the road safety and traffic management activities in the Country. The policy initiatives included, *inter alia*, raising awareness about road safety issues, ensuring safer road infrastructure, safer vehicles, safer drivers, enforcing safety laws, *etc.*

No road safety policy has been formulated in the State so far. However, the Government of Rajasthan constituted (18 March 2010) a high power committee under the chairmanship of Additional Chief Secretary to make an action plan for enhancing road safety measures and reducing road accidents. The committee prepared short term and long term action plans that were circulated (16 August 2010) by the Government to concerned Departments for compliance.

Though it was the joint responsibility of concerned Departments<sup>1</sup> to ensure that action plans were implemented within the allocated timeframes, the Transport Department was responsible for formulating plans and programmes for ensuring road safety and monitoring their implementation. The salient features of the action plans relating to the Transport Department, in which compliance was not ensured properly within the prescribed time limit, were as below:

Sl. no.	Action Plan	Time Plan
<b>(A) Short Term Action Plan</b>		
1.	Strengthen the process of issuing driving licences.	2 Months
2.	Mandatory use of helmets in the State for driving two wheelers; Provide breath analyser to flying squads of the Department for test of drunken driving.	6 Months
3.	Strict prevention of over loaded goods vehicles; Ensure strict action against use of mobile during driving; Investigate the reasons of accidents.	Continued
<b>(B) Long Term Action Plan</b>		
1.	Establish a Road Safety Fund for road safety measures; Strengthen the Department to make the scheme for investigation of accident cases under Section 135 of the MV Act 1988.	1 Year
2.	Establish checking plaza and computerised weighbridges at tax collection centres on interstate boundaries and residential motor drivers training institutes at zonal and district level; Make available modern equipment <i>viz.</i> interceptors, speed radar gun, breath analyser <i>etc.</i> with all flying squads for testing of vehicles; Create wayside amenities for rest and recuperation of drivers at highways.	2 Years

<sup>1</sup> Finance, Police, Public Works, Education, Health, District Administration, National Highway Authority, Non-Government Organisations (NGOs), *etc.*

### 3.4.2 Objectives and scope of Audit

The audit of road safety measures undertaken by the Transport Department was taken up with a view to ascertain the efficiency and effectiveness of the Department in implementation of the action plan made for augmenting road safety measures. Out of 33 districts in Rajasthan, we selected eight districts<sup>2</sup> (25 per cent selection) on the basis of probability proportion to size sampling (PPS) method. Records pertaining to five RTOs and three DTOs for the period from 2011-12 to 2013-14 were test checked during audit.

### 3.4.3 Trend of road accidents in the State vis-à-vis causes

The number of road accidents in the State and resultant casualties during 2011-12 to 2013-14 vis-a-vis the all India statistics on road accidents are given below:

(In numbers)

Year	State statistics			National statistics		
	No. of road accidents	Loss of lives	Persons injured	No. of road accidents	Loss of lives	Persons injured
2011	23,245	9,232	28,666	4,97,686	1,42,485	5,11,394
2012	22,969	9,528	28,135	4,90,383	1,38,258	5,09,667
2013	23,592	9,724	27,424	4,86,476	1,37,572	4,94,893
<b>Total</b>	<b>69,806</b>	<b>28,484</b>	<b>84,225</b>	<b>14,74,545</b>	<b>4,18,315</b>	<b>15,15,954</b>

Source: Ministry of Road Transport and Highways, GoI and Statistical Abstract of the Department.

It may be seen from the above that in 69,806 road accidents in the State, 28,484 lives were lost. This was significantly higher than the national average loss of lives in accidents as the fatality ratio in the State was one against 2.45 accidents as against the national ratio of one is to 3.52 accidents. The details of the causes of road accidents are given in the table below:

(In numbers)

Year	Fault of driver	Fault of passengers	Bad road condition	Bad weather	Mechanical defects in vehicles	Cattle/cattle carts	Others	Total
2011	22,576	5	282	14	16	-	352	23,245
2012	21,939	16	209	30	28	4	743	22,969
2013	22,120	-	203	76	72	14	1,107	23,592
<b>Total</b>	<b>66,635</b>	<b>21</b>	<b>694</b>	<b>120</b>	<b>116</b>	<b>18</b>	<b>2,202</b>	<b>69,806</b>

Source: Statistical Abstract of the Department.

It would be seen from the above that 95 per cent of the road accidents were due to fault of drivers which necessitated better licensing system and its enforcement alongwith training and education for drivers.

However, it was noticed in eight test checked RTOs/DTOs that enforcement measures were lacking and there were many shortcomings in compliance of action plans as well as in other remedial measures essential for road safety as discussed in the succeeding paragraphs.

<sup>2</sup> RTO: Bikaner, Dausa, Jaipur, Kota and Udaipur; DTO: Banswara, Jhunjhunu and Rajsamand.

## Audit Findings

### 3.4.4 Short Term Action Plan

#### 3.4.4.1 Compulsory wearing of helmets for driving two wheelers

As per Section 129 of MV Act, 1988 read with Rule 8.28 of RMV Rules 1990, every person driving or riding on a motor cycle including any two wheeled motor vehicle shall, while in public place, wear a protective headgear, *i.e.* helmet conforming to the standards of Bureau of Indian Standards to protect from injury in the event of an accident. The State Government *vide* notification dated 5 July 2002 granted relaxation in case of pillion riders and Sikh drivers wearing turban and exempted areas other than the municipal limits of all district headquarters of the State. Further, as per action plan of the Government regarding road safety policy, wearing of helmet by drivers of two wheeled vehicles in the whole State was to be implemented within six months.

During scrutiny of files regarding District Level Traffic Management Committees<sup>3</sup> (TMC) meetings at selected units, it was noticed that action plan for wearing of helmets by drivers of two wheeled vehicles was discussed repeatedly in TMC meetings. It was further noticed that the State Government granted (1 April 2015) relaxation to pillion riders in areas other than the municipal limits of Divisional Headquarters of the State and exempted areas other than the municipal limits of all municipalities of Rajasthan State. Finally, the Government implemented (28 October 2015) the provisions of the said rule in the whole State by rescinding the notification dated 1 April 2015. The delay in implementation of the action plan relating to mandatory use of helmets in the State reflected slackness on the part of Department/ Government.

Analysis of data regarding vehicles involved in road accidents disclosed that almost 22 *per cent* of accidents involved two wheelers but no challan for not wearing helmets by two wheeler drivers was found to have been made by the Transport Department in test checked challans at the selected units.

#### 3.4.4.2 Creating public awareness through observance of Road Safety Week

Road Safety Week (RSW) is observed throughout the country during the first week of January every year. In Rajasthan also, various activities such as advertisement on road safety, street plays, cycle rallies, quiz competitions, debate competitions are organised by RTOs/DTOs during RSW.

Audit noticed that during the period 2011-14, though programmes of the RSW were prepared by the Department and the concerned TMCs, yet no funds for the purpose were allocated to RTOs/DTOs by the Department except allocation of ₹ 10.50 lakh during 2012-13 to four RTOs/DTOs<sup>4</sup>.

<sup>3</sup> Constituted by the State Government on 28 June 2008 under Section 215(3) for each district in the State to discharge functions relating to the road safety programmes.

<sup>4</sup> RTO: Chhitorgarh and Jaipur; DTO: Bharatpur and Dholpur.

Some welfare organisation/NGOs were asked to develop audio visual presentations, films in local language, interactive games, quizzes, folk songs, etc. to create road safety awareness amongst the people. The expenditure of ₹ 30.08 lakh incurred on these activities by 12 NGOs during 2012-13 was funded by the Government.

#### **3.4.4.3 Non-implementation of VAHAN Enforcement Module**

Manual documentation of enforcement activity against vehicles/drivers poses a challenge in maintaining/retrieving a history of offences/offenders. The VAHAN software was designed by NIC to automate the management of complete information related to vehicle registration. Enforcement Module of VAHAN software was designed to capture the working of the enforcement wings. With the launch of VAHAN enforcement module, offence cases were to be fed daily in the computer database. The database was to be shared on the State and National Register of vehicles for easy retrieval of history of offences and for identifying and taking stringent action against repeat offenders.

During test check of selected offices, it was noticed that though 'VAHAN' was functional in all field offices, yet enforcement module was not in operation. It was further noticed that offline entries of challan issued against the offending vehicles were being captured subsequently in Enforcement Module of VAHAN at RTO Jaipur. Such entries were not made in the remaining selected offices.

#### **3.4.4.4 Composite checking of vehicles**

As per administrative report of the Department, campaign for composite checking is conducted from time to time by joint team of the Transport Department, Police and District Administration for prevention of unauthorised operation of passenger vehicles in view of road safety measures. Analysis of performance data during the period from 2011-12 to 2013-14 disclosed that almost 86 *per cent* checking of vehicles pertained to trucks while their involvement in road accidents was below 20 *per cent*. Involvement of car/jeeps in road accidents was almost 28 *per cent* while checking of these vehicles ranged between 3.99 to 5.20 *per cent* which indicated that the focus on other passenger vehicles was lacking.

#### **3.4.4.5 Overloading of vehicles**

As per Section 113(3)(b) of MV Act, 1988, no person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer, the laden weight of which exceeds the gross vehicle weight specified in the certificate of registration.

Scrutiny of records disclosed that there was an increasing trend of overloading of vehicles when compared to the total number of vehicles checked during the period from 2010-11 to 2013-14 as evidenced from the details below:

Year	Total number of vehicles registered	No. of vehicles checked	Percentage of vehicles checked	No. of challans made for overloaded vehicles	Composition money realised from overloaded vehicles	
					Total composition (₹ in crore)	Per challan composition (Amount in ₹)
2010-11	79,87,355	36,13,662	45.24	1,55,801	114.96	7,379
2011-12	89,85,568	30,63,995	34.10	1,43,324	86.94	6,066
2012-13	1,00,72,035	26,41,555	26.23	1,42,717	89.78	6,291
2013-14	1,11,84,430	21,44,742	19.18	1,38,495	91.80	6,628

Source: Statistical Abstract of the Department.

### Performance of flying squads in checking of vehicles

For compliance of MV Rules, there were 265 flying squads (including 48 Enforcement flying squads) in the Department during 2012-13. A separate Enforcement Wing was also constituted in the Department with effect from 23 July 2012 which was headed by the Additional Transport Commissioner (Enforcement). The main duties of the officers of the Enforcement Wing are to ensure proper enforcement of the provisions of the MV Act and Rules made thereunder, by checking vehicles on road.

It may be seen from the above table that the number of vehicles checked and challans issued by the flying squads of the Department showed a decreasing trend from the year 2010-11 to 2013-14. Though the number of vehicles registered in the State increased by 40.03 *per cent* in 2013-14 when compared to 2010-11, the performance of flying squads in checking of vehicles decreased to 19.18 *per cent* from 45.24 *per cent* of total vehicles registered in the State during the same period.

It was intimated by the Department that as against 265 sanctioned flying squads, only 158 flying squads were working as on 31 March 2014. The Department needs to strengthen its enforcement activities to ensure road safety.

### Relaxation granted by the State Government in minimum fine for overloading

Section 194 of MV Act, 1988 prescribes minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per ton of excess load, together with the liability to pay charges for off-loading of the excess load.

It was observed that the State Government substituted the above provisions and prescribed a penalty of ₹ 500 upto three ton, ₹ 1,000 above 3 ton to 10 ton and ₹ 1,500 above 10 ton of excess load in July 2010. As a result, the per challan composition money realisation from overloaded vehicles also decreased from ₹ 7,379 in 2010-11 to ₹ 6,628 in 2013-14.

The deterrent impact that was sought to be achieved by imposing minimum and additional fine was, therefore, diluted in 2010. Besides, the State Government was deprived of revenue of ₹ 84.91 crore in 4,24,536 cases of challans issued during the period 2011-14 due to removal of minimum fine of ₹ 2,000 for overloading.



### Overloaded vehicles were allowed without off-loading

Under Section 114 of MV Act, 1988 read with Rule 8.3 of RMV Rules, 1990, if a goods vehicle or trailer is found contravening the restriction imposed, then the driver may be directed to off-load the excess weight at his own risk and not to remove the vehicle or trailer from that place until the laden weight has been reduced.

It was noticed that excess weight in case of overloaded vehicles was not being off-loaded as no proof of off-loading was found mentioned in test checked challans of selected units. The statistical data of the Department showed that number of vehicles off-loaded was almost 50 *per cent* during the period from 2011-12 to 2013-14 as per details given below:

Sl. no.	Year	No. of challans	No. of vehicles off-loaded	Vehicles passed without off-loading	
				No. of vehicles	Percentage
1.	2011-12	1,43,324	74,769	68,555	47.83
2.	2012-13	1,42,717	72,571	70,146	49.15
3.	2013-14	1,38,495	65,842	72,653	52.46

Source: Statistical Abstract of the Department.

It may be seen from the above that almost 50 *per cent* overloaded goods vehicles were being allowed to pass without off-loading the excess weight as no action was taken by the Department for off-loading the excess load which not only would have caused significant damage to the road surface but also endangered lives of the road users.

### Lack of action against overloaded vehicles involved in mining activities

We collected information regarding vehicles involved in mining activities during the month of March 2014 from the Mining offices of seven selected districts<sup>5</sup>. We selected 100 vehicles of highest gross vehicle weight per district. Cross verification of gross vehicle weight of these vehicles with the registered laden weight specified in the certificate of registration disclosed that all the selected vehicles were overloaded but no action regarding off-loading the excess load and imposing fine was found initiated by the Transport Department against such vehicles. These overloaded vehicles are hazardous to traffic and human life. If the Department had initiated action against such vehicles, revenue of ₹ 2.25 crore<sup>6</sup> could have been realised as fine/composition amount from these 700 overloaded vehicles. Thus, possibility of realisation of huge revenue from the overloaded vehicles involved in mining activities in the entire State cannot be ruled out.

<sup>5</sup> Banswara, Bikaner, Dausa, Jaipur, Jhunjhunu, Rajsamand and Udaipur.

<sup>6</sup> The amount has been calculated in accordance with the notification dated 22 July 2010.

#### **3.4.4.6 Investigation of the reasons of accidents**

Section 135 of the MV Act, 1988 empowers the State Government to frame schemes for the investigation of accidents. Further, as per action plan of the Government relating to road safety, the Department was to investigate the reasons of each accident, prepare report and find out solutions to check recurrence of road accidents. During test check of records in selected units, it was noticed that no such works were undertaken by RTOs/DTOs. The Department intimated (June 2015) that no scheme under Section 135 of the MV Act had been framed so far.

It was also observed that no system was evolved in RTO/DTO offices to share or exchange the information regarding road accidents in their jurisdiction with the district police for working out measures to control the rising menace of road accidents. Though TMC meetings were conducted with participation of various stakeholders involved in execution of the action plans regarding road safety, neither any information nor any mechanism for effective coordination was put in place at selected units.

#### **3.4.4.7 Discrepancies in monthly progress reports**

For monthly review of work done by RTOs/DTOs, a monthly progress report in 36 mandatory tables was to be submitted to TC. During test check of two tables related with road safety in selected units, it was noticed that:

- Table number 35 was prescribed for measures taken by RTOs/DTOs regarding road safety. This table was found blank in all the selected units. No information regarding number of meetings held at panchayat to district level, awareness programs organised, eye testing of drivers, testing on driving track, testing of school vehicles, *etc.* was furnished in the monthly progress report. The monthly progress report, therefore, did not indicate the road safety measures undertaken at RTOs/DTOs level.
- Table number 34 regarding road accidents in the district was also furnished blank. No mechanism was found at RTOs/DTOs level to get information regarding road accidents from district police. In absence of information regarding road accidents in the district, the RTOs/DTOs were not in a position to identify or address the reasons behind road accidents.

### **3.4.5 Long Term Action Plans**

#### **3.4.5.1 Allocation and utilisation of funds for road safety**

The State Government announced creation of a Road Safety Fund in its budget speech of 2012-13 by initial contribution of ₹ 10.00 crore. The fund was meant for implementation of decisions of State Road Safety Council (SRSC) relating to road safety measures undertaken in the State. The Fund was to be utilised mainly for such works of road safety for which regular budget provision was not made or if there was shortage of fund for road safety measures in concerned Departments.

Audit noticed that no budget was allotted prior to 2012-13 for road safety measures. During 2012-13 and 2013-14, an amount of ₹ 500.08 lakh each year

was allocated under Road Safety Fund and an expenditure of ₹ 75.79 lakh and ₹ 24.28 lakh respectively was incurred by the Department towards road safety measures and the remaining amount was surrendered without utilisation of the same for the purpose for which it was allotted. The Department intimated (June 2015) that the budget was surrendered due to non-allotment of the amount in time. As the sanctioned amount was allotted at the fag-end of the financial years, many road safety measures like e-challan, modernisation of traffic police and orientation programme for road safety suffered.

#### **3.4.5.2 Non-establishment of computerised weighbridges**

As per action plan of the Government, computerised weighbridges were to be established at tax collection centres (TCC) on interstate boundaries for strict prevention of overloading of vehicles. During scrutiny of challans and information supplied by the Department, it was noticed that no computerised weighbridges were established by the Department and no portable weighbridges were supplied to test checked RTOs/DTOs for detection of overloading of vehicles. It was also observed that challans were issued and fine realised but there was no proof that the weight of vehicles was measured as no slip of weighbridge or other proof of weight measured was found enclosed with 1,697 challans out of 2,400 test checked challans issued in case of overloaded vehicles. Overloaded vehicles were, therefore, allowed to pass after verifying the overloading manually as there was no alternative arrangement for weighing of vehicles. The Department stated (June 2015) that installation of computerised weighbridge at 16 TCCs was under process.

#### **3.4.5.3 Driving Licences**

As per Section 3 of MV Act, 1988, no person shall drive a motor vehicle in any public place unless he holds a valid driving licence issued to him by the competent authority. The deficiencies regarding driving licences are discussed below:

- As per Section 9(3) of MV Act, 1988, no driving licence shall be issued to any applicant unless he passes to the satisfaction of the licensing authority such test as may be prescribed by the Central Government. Norms of such test are prescribed in Rule 15 of CMV Rules, 1989. Such test was to be taken mandatorily on driving tracks in compliance of the Department's order dated 2 February 2009. As per information furnished by the Department, it was noticed that there was no driving track in 21 out of 51 DTO offices (February 2015) which clearly indicate absence of required infrastructure for conducting tests before issue of driving licences.
- As per action plan of the Government regarding road safety policy, residential motor drivers' training institutes at zonal and district level for imparting training with a view to prepare expert drivers in the State were to be established upto March 2013. During scrutiny of records at selected units and information supplied by the Department, it was noticed that only two residential motor drivers' training institutes were established in Ajmer and Udaipur zone. Despite elapse of two years, the scheme was, therefore, not fully implemented.

- As per Section 180 and 181 of MV Act, 1988 allowing unauthorised persons to drive vehicles and driving vehicles without having an effective driving licence respectively shall be punishable with imprisonment for a term which may extend upto three months or applicable fine or with both. It was noticed from 180 out of 5,200 test checked challans contained with offence of plying of vehicles by drivers without having valid driving licences that the vehicles were released by imposing fine only. No action was found to have been taken against owner of the vehicles putting the public life and property at jeopardy.

#### 3.4.5.4 Non-availability of equipment with Flying Squads

As per action plan of the Government regarding road safety policy, strict action should be ensured against drivers using mobile phones during driving and for drunken driving. Driving by a drunken person or by a person under the influence of drugs shall be punishable under Section 185 of MV Act, 1988. Further, under Section 112 of MV Act, 1988, no person shall drive a motor vehicle or allow a motor vehicle to be driven at any place at a speed exceeding the maximum speed or below the minimum speed fixed for the vehicle. The State Government or any other authority authorised on this behalf by State Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interest of public safety or convenience or because of the nature of any road or bridge, by notification in official gazette or by causing appropriate traffic signs to be placed or erected at suitable places fix such maximum/minimum speed limits as it thinks fit for the motor vehicles or specified class of motor vehicles.

Interceptors may be used by the Department to detect use of seat belt, use of mobile phones during driving, over speeding, lane jumping, dangerous driving, *etc.* and breath analysers may be used for test in case of drunken driving.

As per information provided (June 2015) by the Department, five interceptors and 17 breath analysers were issued to 5<sup>7</sup> and 10<sup>8</sup> RTOs/DTOs respectively. However, the concerned RTOs Bikaner, Dausa, Kota and Udaipur intimated that no such equipment were available in their jurisdiction, which requires investigation.

The flying squads, therefore, lacked necessary equipment to enforce road safety measures relating to over-speeding, drunken driving, *etc.*

#### 3.4.5.5 Certificate of Fitness

Under Section 56 of MV Act, 1988 read with Rule 62 of CMV Rules, 1989, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness (FC) issued by prescribed authority in the prescribed form. Further, under Rule 4.2-A of RMV Rules, 1990, a transport vehicle shall not be deemed to be validly registered after the expiry of 15 years from the

<sup>7</sup> One interceptor to each RTO Ajmer, Chittorgarh, Pali, Sikar and DTO Barmer.

<sup>8</sup> RTO Bikaner (2), Jodhpur (2), Alwar (2), Udaipur (2), Sikar (2), Pali (1), Kota (2), Dausa (1), Ajmer (1) and DTO Bhilwara (2).

date of its first registration until the vehicle is re-registered. The deficiencies regarding FCs of motor vehicles are discussed in the succeeding paragraphs.

• **Non-renewal of Certificate of Fitness of transport vehicles**

As per Rule 81 of the CMV Rules 1989, FCs in respect of a new transport vehicle shall be valid for two years; otherwise it shall be renewed every year against payment of prescribed fees of ₹ 100.

During analysis of registration and mechanical fitness of vehicles in the State, it was noticed that FCs in respect of 7,25,854 vehicles registered within 15 years under transport category had not been renewed during 2011-12 to 2013-14 as mentioned in the table below:

(In number)

Sl. no.	Particulars	2011-12	2012-13	2013-14	Total
1.	Transport vehicles registered during the period from last 2 to 15 years which were due for fitness during the year	4,13,933	4,58,002	5,09,580	13,81,515
2.	Total FCs issued during the year	2,96,859	3,06,501	2,64,510	8,67,870
3.	FCs of new registered vehicles during the year	71,666	76,613	63,930	2,12,209
4.	FCs of old vehicles renewed during the year (2-3)	2,25,193	2,29,888	2,00,580	6,55,661
5.	FCs of old vehicles not renewed during the year after due (1-4)	1,88,740	2,28,114	3,09,000	7,25,854
6.	Non realisation of minimum FC fees at the rate of ₹ 100 per vehicle	1,88,74,000	2,28,11,400	3,09,00,000	7,25,85,400

Source: Statistical Abstract of the Department.

It is seen from the above that transport vehicles were plying without having valid FCs and hence these were hazardous to traffic and human life. This also resulted in non-realisation of FCs renewal fee of ₹ 7.26 crore.

• **Non-establishment of fitness centres at RTOs/DTOs level**

As per proviso under Rule 62 of the Central Motor Vehicles Rules 1989, renewal of a fitness certificate shall be done only after the specified tests have been carried out by the Inspecting Officer or authorised testing stations.

It was noticed that no vehicles fitness centres were established by the Department at selected units. The concerned RTOs/DTOs stated that no equipment for specified tests were provided at RTOs/DTOs level to ensure proper mechanical condition of vehicles which also resulted in plying of vehicles without proper fitness. As per information furnished (June 2015) by the Department, one private fitness centre at Kota and two at Udaipur under 'Vehicle Fitness Inspection Centre Regulation Scheme-2011' were authorised for conducting the specified tests.

**3.4.6 Conclusion and Recommendations**

The Central Government approved a national Road Safety Policy in March 2010. A committee constituted by Government of Rajasthan promptly made an action plan for enhancing road safety measures. The Government made helmet

mandatory for two-wheeler riders across the state with effect from 28 October 2015 by rescinding exemption notification issued earlier. However, several shortcomings in implementations of the action plan by the Transport Department were noticed. The Department may focus its attention on the following issues;

- There was no driving track in 21 out of 51 DTOs for conducting tests before issue of driving licenses. Further, with a view to prepare expert drivers, residential motor drivers' training institutes at zonal and district level for imparting training were to be established.

*The Government may strengthen the system of driver licensing and training to improve the competence and capability of drivers. It may augment the required infrastructure by establishing drivers testing tracks.*

- Sufficient fund for observance of Road Safety week was not provided in the annual budget of the Department which showed that road safety measures were not given due priority by the Department.

*The Government may allocate sufficient fund for creating awareness among public by suitable audio visual media and other means.*

- Enforcement module of VAHAN software which was designed to capture the offence cases was not in operation.

*The Government may take effective steps for earliest implementation of VAHAN enforcement module in all RTO/DTO offices for easy retrieval of history of offences and for taking stringent action against repeat offenders.*

- Sufficient equipment were not provided to RTOs/DTOs for detection of over speeding, dangerous and drunken cases.

*The Government may take steps to provide essential equipment to flying squads for detection of over speeding, dangerous and drunken driving, use of mobile phones during driving, etc.*

- Fitness Certificates in respect of 7,25,824 vehicles registered within 15 years under transport category had not been renewed during 2011-12 to 2013-14. No vehicles fitness centre was established by the Department at selected units and necessary equipment were not provided at RTOs/DTOs level to ensure proper mechanical condition of vehicles.

*The Government may consider implementing a facility to issue notice/SMS alert to vehicle owners not having valid Fitness Certificates on the basis of MIS report of Vahan database. It may also take immediate steps for establishment of fitness centers at RTOs/DTOs level.*

- No computerised weighbridges were established by the Department at tax collection centers on interstate boundaries for detection of over-loading cases.

*The Government may establish computerised weigh bridges for strict prevention of overloading of vehicles. It may take strict action against overloaded, over height, over dimensioned and overcrowded vehicles.*

### 3.5 Non/short recovery of One Time Tax in respect of non-transport vehicles

As per notification dated 9 March 2010 as amended *vide* notification dated 26 March 2012, One Time Tax (OTT) is to be levied and collected on all non-transport vehicles used or kept for use in the State, at the rates prescribed by the State Government. Further, *vide* notification dated 9 March 2011, surcharge at the rate of 10 *per cent* is also leviable on tax payable.

During test check of the records (between September 2014 and March 2015) of 13 RTOs/ DTOs<sup>9</sup> for the years 2012-13 to 2013-14, it was noticed that in respect of 108 non-transport vehicles, OTT and surcharge were either not paid or short paid by the owners of these vehicles. This resulted in non/short realisation of OTT and surcharge amounting to ₹ 1.18 crore.

After this was pointed out (between September 2014 and June 2015), the Government replied (July 2015) that in respect of 14 vehicles, ₹ 62.29 lakh was not recoverable as these vehicles were covered under the definition of construction equipment vehicles by virtue of their speed limitation.

The reply is not acceptable because as per the official website of manufacturer, the speed of the vehicles was more than 50 kilometre (Km) per hour and as per explanation given below Rule 2(ca) of Central Motor Vehicles Rules, 1989, a vehicle can be treated as construction equipment vehicle if its speed does not exceed 50 Km per hour. The objected amount, therefore, is leviable from these vehicles.

### 3.6 Non/short realisation of outstanding instalments of lump-sum tax

Under Section 4-C of the Rajasthan Motor Vehicles Taxation Act, 1951, a lump-sum tax on transport vehicles shall be levied at the rates prescribed by notifications issued from time to time by the State Government. The lump-sum tax payable may be paid in full or in three equal instalments within a period of one year. Further, as per notification dated 9 March 2011, surcharge at the rate of 10 *per cent* is also payable on tax.

During test check of the records (between June 2014 and March 2015) of 10 Regional Transport Offices (RTOs)/District Transport Offices (DTOs)<sup>10</sup> for the years 2011-12 to 2013-14, it was noticed that owners of 312 transport vehicles opted for lump-sum payment of tax in three equal instalments. However, it was observed that either second and/or third instalments were not paid or paid short by the owners of these vehicles. The taxation officers also did not initiate any action to realise the amount of due tax. This resulted in non-realisation of lump-sum tax amounting to ₹ 1.35 crore.

After this was pointed out (between September 2014 and June 2015), the Government stated (July 2015) that in respect of 37 vehicles, ₹ 12.41 lakh had been recovered. Replies in respect of remaining vehicles are awaited (November 2015).

<sup>9</sup> RTO: Chittorgarh and Pali; DTO: Baran and Kotputli.

<sup>10</sup> RTO: Jodhpur, Pali and Udaipur; DTO: Barmer, Beawar, Jaisalmer, Jalore, Sirohi, Sriganganagar and Rajsamand.

### 3.7 Embezzlement of Government Money

As per Rules 7 and 27 of General Financial and Accounts Rules (GF&AR), the Controlling Officer has to see that all dues of the Government are correctly and promptly assessed, collected, accounted for and paid into the treasury expeditiously. Further, as per Rule 48(5), when the Government money in the custody of the Government servant is paid into the treasury or the bank, the Head of Office making such payment shall compare treasury/bank records with the entry of the cash book before attesting it to satisfy himself about authenticity of such payment. Transport Department *vide* its office order no. 34/2004 dated 3 July 2004 prescribed that in case fees and taxes received on registration of vehicles were short realised or short deposited, the dealer would have to deposit the differential amount alongwith penalty and interest. The Government *vide* S.O. 50 dated 1 May 2003 prescribed that penalty at the rate of 1.5 per cent per month or part thereof shall be levied on the due amount.

The Transport Commissioner *vide* office order 45/2002 dated 9 October 2002 and 50/2002 dated 23 October 2002 prescribed that the money collected by the office should be deposited by next working day in the Government Account.

**3.7.1 (i)** During test check of Cash Books, Bank Revenue Collection Register (R.C.R) and T.Y-11 of the DTO, Sriganaganagar for the period from April 2011 to March 2014, it was observed (March 2015) that the Government money was received and shown in cash book as deposited in bank but the actual deposit took place with a delay ranging from 1 to 191 days by the cashier. This resulted in temporary embezzlement of ₹ 11.74 crore on which penalty of ₹ 11.26 lakh was chargeable.

(Amount in ₹)

Sl. no.	Year	Amount deposited with delay	Delay in deposit	Penalty at the rate of 1.5 per cent per month or part of
1.	2011-12	3,25,02,480	2 to 32 days	3,05,785
2.	2012-13	1,51,59,700	11 to 30 days	1,02,150
3.	2013-14	6,96,91,310	1 to 191 days	7,18,466
<b>Total</b>		<b>11,73,53,490</b>		<b>11,26,401</b>

**(ii)** Test check of Cash Books for the period from March 2011 to March 2014 disclosed that the total amount of opening balance of Cash Book was not deposited in bank within the prescribed time limit. Substantial amount was withheld and partial amounts were deposited on next day without assigning any reason. This resulted in delayed deposit of ₹ 16.63 crore by one to five days and penalty of ₹ 24.95 lakh.

Similar observations were pointed out to the Department through our Inspection Report for the period of April 2010 to March 2011 wherein delayed deposit of ₹ 21.66 crore and loss of interest ₹ 32.50 lakh was highlighted. However, the irregularity still persists indicating therein the Department had not taken any corrective measures.

Thus, poor internal control system and non-compliance of the provision of rules resulted in delayed deposit of Government money into bank causing loss



of ₹ 68.71 lakh during the period from April 2010 to March 2014.

The cases were pointed out to the Department and reported to the Government (between March 2015 and June 2015). The Government stated (August 2015) that efforts were being made for recovery of ₹ 11.26 lakh from defaulting person.

**3.7.2** During test check (March 2015) of cash books, bank revenue collection register (R.C.R) and T.Y-11 of DTO, Sriganganagar for the period from 2011-12 to 2013-14, it was observed that as per the cash book, the cashier had collected ₹ 32.74 lakh but had not deposited the same into the treasury. The cash thus remained out of cash chest which resulted in the embezzlement of Government money of ₹ 32.74 lakh due to non-compliance of the instructions issued by the Transport Commissioner and provisions of GF&AR by the DTO Sriganganagar. The summarised position of amount not deposited in bank is given below:

Sl. no.	Date of collection	Cash book page no.	Amount (in ₹)	Remarks
1.	31.10.11	54	20,35,000	Cash book not certified by DTO
2.	2.11.11	54	7,96,000	Cash book not certified by DTO
3.	25.10.12	40	4,43,100	No remarks
<b>Total</b>			<b>32,74,100</b>	

The mater was reported to the department (between March 2015 and April 2015) and the Government (between March 2015 and June 2015). The Department stated (August 2015) that ₹ 12.74 lakh had already been deposited by cashier on different dates but the amount was erroneously not entered in the cash book. It was also stated that ₹ 20.00 lakh had been deposited in the last week of March 2015. This indicates that the amount was deposited after being pointed out by audit on 12 March 2015. Further, scrutiny of challans submitted by the department disclosed that an amount of ₹ 4.43 lakh was deposited on 16 October 2012, prior to its receipt in cash book on 25 October 2012. This indicates that the challan pertained to other transactions. Non-depiction of the cash transaction in cash book shows major system deficiencies in verifying the cash balance with balance as per cash book.

### 3.8 Taxes on motor vehicles not realised

Under Sections 4 and 4B of the RMVT Act, 1951 and the Rules made thereunder, motor vehicle tax and special road tax are to be levied and collected on all motor vehicles used or kept for use in the State at the rates prescribed by the State Government from time to time. Further, *vide* notification dated 9 March 2011, surcharge at the rate of 5 per cent on tax is also payable.

During test check of the registration records, tax ledgers and general index registers of eight RTOs<sup>11</sup> and 16 DTOs<sup>12</sup> for the period 2011-12 to 2013-14, it

<sup>11</sup> Alwar, Ajmer, Bikaner, Chittorgarh, Jodhpur, Kota, Pali and Udaipur.

<sup>12</sup> Barmer, Baran, Beawar, Bundi, Didwana, Jaipur Jaisalmer, Jalore, Jhunjhunu, Karauli, Kotputli, Pratapgarh, Rajasamand, Sirohi, Sriganganagar and Sawai madhopur.

was noticed (between May 2014 and March 2015) that in respect of 5,538 vehicles for the period from April 2011 to March 2014, tax was not paid by the owners of these vehicles. There was no evidence on record to prove that the vehicles were off the road or were transferred to other District/States. The taxation officers did not initiate any action to realise the due tax. This resulted in non/short realisation of tax and surcharge amounting to ₹ 18.05 crore as mentioned below:

Sl. no.	Category of vehicles	No. of vehicles	Period of tax	Amount (₹in crore)	Name of offices where irregularities noticed
1.	Goods vehicles	1,547	April 2011 to March 2014	3.04	RTOs - Alwar, Ajmer, Bikaner, Chittorgarh, Jodhpur, Kota, Pali and Udaipur; DTOs - Barmer, Baran, Beawar, Bundi, Didwana, Jaisalmer, Jalore, Jhunjhunu, Karauli, Kotputli, Rajasamand, Sirohi, Sriganganagar and Sawai madhopur.
2.	Contract carriages (seating capacity upto 13 persons excluding driver)	2,103	April 2011 to March 2014	3.85	RTOs - Alwar, Ajmer, Bikaner, Chittorgarh, Jodhpur, Kota, Pali and Udaipur; DTOs - Barmer, Baran, Beawar, Bundi, Didwana, Jaisalmer, Jalore, Jhunjhunu, Karauli, Kotputli, Pratapgarh, Rajasamand, Sirohi, Sriganganagar and Sawai madhopur.
3.	Contract carriages (seating capacity more than 13 persons excluding driver)	81	April 2011 to March 2014	2.13	RTOs - Alwar, Jodhpur, Chittorgarh and Udaipur; DTOs - Barmer, Beawar, Bundi and Jhunjhunu.
4.	Stage carriages	575	April 2011 to March 2014	3.90	RTOs - Alwar, Ajmer, Jodhpur and Udaipur; DTOs - Barmer, Baran, Didwana, Jaipur, Jalore, Jhunjhunu, Karauli, Rajasamand, Sriganganagar and Sawai madhopur.
5.	Articulated goods vehicles	441	April 2011 to March 2014	1.42	RTOs - Ajmer, Bikaner, Chittorgarh, Jodhpur, Kota, Pali and Udaipur; DTOs - Beawar, Didwana, Jhunjhunu, Kotputli, Rajasamand, Sirohi, Sriganganagar and Sawai madhopur.
6.	Passenger vehicles kept without permits	97	April 2011 to March 2014	1.19	RTOs - Alwar, Jodhpur and Bikaner; DTOs - Jaipur, Jhunjhunu, Karauli, Kotputli and Sriganganagar.
7.	Dumpers/tippers	694	April 2011 to March 2014	2.52	RTOs - Alwar, Ajmer, Bikaner, Chittorgarh, Jodhpur, Kota, Pali and Udaipur; DTOs - Barmer, Baran, Beawar, Didwana, Jaisalmer, Jalore, Jhunjhunu, Kotputli, Rajasamand, Sirohi, and Sawai madhopur.
<b>Total</b>		<b>5,538</b>		<b>18.05</b>	

After being pointed out (between June 2014 and June 2015), the Government stated (July 2015) that in respect of 900 vehicles, ₹ 2.24 crore had been recovered and in respect of 67 vehicles, ₹ 0.30 crore was not recoverable due to deposit of lump-sum tax, *etc.* The report on progress of recovery in the remaining cases was awaited (November 2015).

### **3.9 Short realisation of special road tax (SRT) and surcharge in respect of stage carriage vehicles of Rajasthan State Road Transport Corporation (RSRTC)**

As per the Government of Rajasthan, Transport Department's notification dated 11 June 2008, special road tax on stage carriages owned by a fleet owner shall be payable at the rate of 2.05 *per cent* of the cost of chassis of the entire fleet of vehicles used or kept for use as stage carriages. Further, as per notification dated 9 March 2011, surcharge as prescribed was also leviable on the tax payable. The monthly tax was required to be deposited on or before 14<sup>th</sup> day of each month.

Scrutiny of monthly returns (between October and November, 2014) of RTO, Jaipur for the year 2013-14 disclosed that SRT in respect of operational 1,738 stage carriage vehicles owned by RSRTC (the fleet owner) was not levied due to non-reconciliation of the position of vehicles, registration of which were surrendered or released during the month, with reference to the position of vehicles available for taxation during the preceding month. This resulted in non-levy of SRT and surcharge amounting to ₹ 4.56 crore.

After this was pointed out (between October 2014 and June 2015), the Government in its reply (July 2015) furnished revised position of new RCs issued, RCs cancelled and vehicles available with RSRTC. However, reasons for differences were not explained. Further, the revised position furnished by the Government did not tally with the returns submitted by RSRTC.

*CHAPTER-IV*

**LAND REVENUE**

## CHAPTER-IV: LAND REVENUE

### 4.1 Tax administration

Assessment and collection of land revenue are governed under the Rajasthan Land Revenue Act, 1956 and rules framed thereunder. Land revenue mainly comprises rent on land, lease rent, premium, conversion charges and receipts from sales of Government land.

The Revenue Department functions as the Administrative Department of the Government and it administers all matters relating to assessment and collection of land revenue. The overall control of revenue related judicial matters along with supervision and monitoring over revenue officers vests with the Board of Revenue (BOR). The BOR is assisted by 33 Collectors at the district level, 289 Sub-Divisional Officers (SDOs) at the sub-division level and 314 *Tehsildars* at the *Tehsil* level. The BOR is also the State level implementing authority for computerisation of land records in Rajasthan.

The Rajasthan Land Revenue Act, 1956, the Rules made thereunder and the notifications issued by the Government from time to time govern the allotment of land and other related issues.

### 4.2 Internal audit conducted by the Department

The Financial Adviser, BOR is the head of the Internal Audit Wing. There were 14 internal audit parties. The position of number of units due for audit, number of units actually audited and number of units remaining unaudited during the period from 2010-11 to 2014-15 is as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2010-11	172	570	742	707	35	5
2011-12	35	624	659	589	70	11
2012-13	70	672	742	670	72	10
2013-14	72	672	744	586	158	21
2014-15	158	672	830	551	279	34

Source: Information provided by the Board of Revenue, Ajmer.

The number of units remaining unaudited at the end of the year was growing year after year and the short fall in coverage of units due for audit has also increased from five *per cent* at the end of 2010-11 to 34 *per cent* at the end of 2014-15.

The Department stated that the arrear in audit was due to short fall in internal audit parties and deployment of staff in general election.

It was noticed that 20,090 paragraphs were outstanding at the end of 2014-15. Year-wise break up of outstanding paragraphs of Internal Audit Wing follows:

Year	Upto 2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Paras	9,085	953	1,418	2,125	2,775	3,734	20,090

Source: Information provided by the Board of Revenue, Ajmer.

9,085 paragraphs of Internal Audit Wing pertaining to the period upto 2009-10 were pending for want of compliance/corrective action. The reason given for slow pace of disposal of paras was the shortage of posts in various cadres.

The Government may take steps to ensure expeditious compliance with the outstanding observations raised by the Internal Audit Wing.

### 4.3 Results of audit

During test check of records of 10 units of Land Revenue Department conducted during the year 2014-15, audit noticed non-recovery and other irregularities amounting to ₹ 7.70 crore in 1,092 cases which fall under the following categories:

(₹ in crore)

Sl. no.	Category	No. of cases	Amount
1.	Non-recovery/short recovery of premium and lease rent from State Government Departments	11	5.34
2.	Non-recovery/short recovery of conversion charges from <i>khatedars</i> <sup>1</sup>	839	1.85
3.	Other irregularities	242	0.51
	<b>Total</b>	<b>1,092</b>	<b>7.70</b>

During the year 2014-15, the Department accepted audit observation of ₹ 12.41 crore in 916 cases which were pointed out in earlier years. The Department recovered ₹ 5.53 crore in 264 cases during the year 2014-15 which related to the earlier years.

The Department also reverted land valuing ₹ 2.43 crore to the State Government after issue of a draft paragraph to the Government.

A few illustrative cases involving ₹ 2.30 crore are discussed in the paragraphs from 4.4 to 4.6.

<sup>1</sup> *Khatedars* are tenants on Government land to whom land is given for agricultural purpose.

#### 4.4 Non-recovery of difference in market value of allotted and surrendered land

**4.4.1** The State Government accorded sanction (October 2012) for allotment of land to M/s J.K. Cement Works with a condition that the company would surrender equivalent land in favour of the State. In case of difference in rates prescribed by District Level Committee (DLC) in respect of land allotted by the Government and private land surrendered by company *in lieu* of pasture land, payment/adjustment would be made. As per foot note 3 of relevant DLC rates, two times of maximum rate of agricultural land in the village are payable for mining and probable mining land.

During scrutiny of records of District Collector, Chittorgarh, it was noticed (September 2014) that 9-13 *bigha* pasture land situated at village Mangrol was allotted (October 2012) to M/s J.K. Cement Works under Rajasthan Land Revenue (Allotment of land for Industrial Area) Rules, 1959 in exchange of 9-13 *bigha khatadari* land<sup>2</sup> surrendered by the company. It was found that cost of the land surrendered by the company worked out to ₹ 19.46 lakh<sup>3</sup> as per DLC rate which was lower than the value of land allotted by the Department. Since the land allotted by Department was for mining purpose, the value of land worked out to ₹ 86.48 lakh<sup>4</sup> as per DLC rate. Due to acceptance of surrendered land having lower market value as per DLC rate, revenue of ₹ 67.02 lakh was required to be recovered.

The matter was brought to the notice of the Department (December 2014) and reported to the Government (March 2015); their reply is awaited (November 2015).

**4.4.2** The State Government accorded sanction (July 2012) to allot a piece of land to M/s Hindustan Zinc Limited with the condition that the company would surrender in favour of the State Government equivalent pasture land in the same village.

During test check of records of District Collector, Rajasmand, it was noticed (December 2014) that 53-13 *bigha* pasture land situated at village *Mahenduria, Tehsil* Railmagra was allotted (March 2013) on lease for 99 years to M/s Hindustan Zinc Limited for establishment of Smelting and Power Plant Industry. The Company surrendered 53-13 *bigha khatadari* land situated in villages *Mahenduria* and *Katiya ka Khera*.

It was further noticed that the land surrendered by the Company was not in accordance with the terms and conditions of sanction accorded by the State Government (July 2012) which required that equivalent land should have been surrendered by the Company in the same village. Besides this, the market value of land allotted to the Company was ₹ 135.73 lakh<sup>5</sup> at the rate prescribed by the DLC, whereas the market value of the land surrendered by the Company worked out to ₹ 65.66 lakh<sup>6</sup>. Due to acceptance of surrendered land

<sup>2</sup> *Khatadari* land is Government land to be given exclusively for agricultural purpose.

<sup>3</sup> 9-13 *bigha* land at the rate of ₹ 2,01,628/- per *bigha* = ₹ 19,45,710/-

<sup>4</sup> 9-13 *bigha* land at the rate of ₹ 4,48,063/- per *bigha* x 2 = ₹ 86,47,616/-

<sup>5</sup> 53-13 *bigha* land at the rate of ₹ 2.53 lakh per *bigha* for *Mahenduria-A* = ₹ 135.73 lakh.

<sup>6</sup> Land at village *Mahenduria* @ ₹ 1,51,800/- per *bigha* for *Mahenduria-B* for 28-14 *bigha* = ₹ 43,56,660/-

Land at village *Katiya ka Khera* @ ₹ 88,550/- per *bigha* for 24-19 *bigha* = ₹ 22,09,322/-

Total = ₹ 65,65,982/-

in different villages having lower market value, there was a loss of revenue of ₹ 70.07 lakh.

The District Collector replied (June 2015) that demand for the differential amount had been raised.

The matter was brought to the notice of the Department (January 2015) and reported to the Government (March 2015); their reply is awaited (November 2015).

#### **4.5 Short recovery of conversion charges**

As per Rule 7 of Rajasthan Land Revenue (RLR) (Conversion of Agricultural Land for non-agricultural purposes in Rural Areas) Rules, 2007, premium for conversion of agricultural land for non-agricultural purpose shall be charged at the prescribed rates. Conversion charges for industrial purpose would be charged at ₹ five per square metre (psqm) or five *per cent* of rate of agricultural land prescribed by DLC or five *per cent* of purchase cost of agricultural land as mentioned in registered sale deed, if any, whichever is higher.

Further, under Rule 13, a person who had used agricultural land for non-agricultural purpose without permission can apply for regularisation of case by depositing four times of the conversion charges.

**4.5.1** During test check of records of Collector, Chittorgarh, it was noticed (September 2014) that in one case, the *Khatedari* land measuring 1.67 lakh sqm area bearing nine *khasra*<sup>7</sup> numbers was used for industrial purpose without obtaining permission for conversion of land. The Department recovered premium and penalty of ₹ 31.40 lakh for change of land use of one *khasra* measuring 0.40 lakh sqm land instead of the entire area of 1.67 lakh sqm spread over nine *khasras* on which ₹ 73.29 lakh was leviable. This resulted in short recovery of premium and penalty of ₹ 41.89 lakh.

The District Collector replied (June 2015) that the conversion charges were recovered on *Khasra* on which the company had made unauthorized construction and the audit objection was for the entire area which was not as per rules. The reply was not acceptable because conversion orders for the entire area were issued for which the State Government had granted permission for exemption from the operation of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 prior to issue of conversion orders. As such, penalty should have been imposed on the entire area.

The matter was brought to the notice of the Department (December 2014) and reported to the Government (March 2015); their reply is awaited (November 2015).

**4.5.2** Test check of records of Collector, Chittorgarh also revealed (September 2014) that 1.37 lakh sqm *Khatedari* land in *Tehsil* Nimbahera was converted for non-agricultural purpose in favour of M/s Lafarge India Pvt. Ltd. on 8 January 2014.

It was noticed that the Department applied incorrect rate for calculating premium to be levied by applying rate of five *per cent* of rate of agricultural

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<sup>7</sup> A type of index of field-book map, popularly known as *khasra* wherein all facts about crop are mentioned.



land prescribed by DLC at ₹ 9 psqm whereas it should have been calculated at five *per cent* of purchase cost of ₹ 3.39 crore as mentioned in the registered sale deed. Thus, a total premium of ₹ 16.94 lakh was recoverable.

It was also observed that the Department worked out premium of ₹ 12.34 lakh out of which it recovered only ₹ 6.17 lakh after allowing rebate of ₹ 6.17 lakh on the basis of entitlement certificate issued by the Industries Department for land other than the land for which permission for conversion was sanctioned. Thus, premium of ₹ 10.77 lakh was short recovered due to incorrect calculation of premium and irregular allowance of rebate.

The matter was brought to the notice of the Department (December 2014) and reported to the Government (March 2015); their reply is awaited (November 2015).

**4.5.3** During test check of records of Collectors (Land Records), Udaipur, Bhilwara and Chittorgarh, it was noticed (between May 2014 and November 2014) that in 49 cases, the Department calculated premium of ₹ 27.54 lakh instead of ₹ 55.56 lakh for conversion of agricultural land for non-agricultural purposes by applying incorrect DLC rates or non-application of DLC rates. Thus, conversion charges of ₹ 28.02 lakh were short recovered, as detailed below:

(₹ in lakh)

Sl. No.	Unit/ No. of cases	Conversion charges leviable	Conversion charges levied	Conversion charges short levied	Remarks
1.	Collectorate Bhilwara/13	15.49	10.61	4.88	Four cases of residential colony, two for residential purpose, six for industrial and one for commercial purposes.
2.	Collectorate Chittorgarh/35	29.99	14.69	15.30	Three cases of residential colony, 10 for residential purpose, 15 for industrial and seven for commercial purposes.
3.	Collectorate Udaipur/1	10.08	2.24	7.84	One case of residential purpose.
<b>Total</b>	<b>49</b>	<b>55.56</b>	<b>27.54</b>	<b>28.02</b>	

The matter was brought to the notice of the Department (between August 2014 and January 2015) and reported to the Government (March and April 2015); their reply is awaited (November 2015). However, the District Collector Chittorgarh and Bhilwara replied (June 2015 and July 2015) that in three cases an amount of ₹ 0.37 lakh had been recovered.

#### 4.6 Non-reversion of land to Government

As per Clause 3(3) of terms of Allotment of Unoccupied Government Agricultural Lands for Buildings of Public Utility as notified on 20 July 1963, construction of building for which the land was allotted shall commence within six months from the date of handing over possession. The allottee shall be liable to complete the construction of building and also put it to use for the purpose for which the land was allotted within two years and in case of breach of any conditions mentioned in Clause 3, the land shall revert to the State Government as per Clause 3(7) of the terms of allotment. Rule 7 of Rajasthan Industrial Area Allotment (RIAA) Rules, 1959 provides that industries shall be set up within a period of two years on the land allotted for the purpose, failing which the land shall revert to the Government unless the period of two year is extended by the allotting authorities for valid reasons.

During test check of records of District Collector, Udaipur, it was noticed (October 2014) that Government land of 4,600 sqm situated at village Umarda was allotted to Fine Florocam, Madari Purohitan, Udaipur in 1997 for industrial purpose. It was noticed that the land was not used within the prescribed period. However, the authority failed to take any action to revert the land to the State Government. As a result, land valuing ₹ 11.97 lakh<sup>8</sup> remained unutilised and the intended benefits could not be achieved.

The matter was brought to the notice of the Department (January 2015) and reported to the Government (March 2015); their reply is awaited (November 2015).

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<sup>8</sup> 4,600 sqm land at the rate of ₹ 260.12 psqm = ₹ 11,96,552.

*CHAPTER-V*

**STAMP DUTY AND  
REGISTRATION FEE**

## CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

### 5.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State are regulated under the Indian Stamp Act, 1899, Registration Act 1908, the Rajasthan Stamp (RS) Act, 1998 and rules made thereunder. The SD is leviable on execution of instruments and RF is payable on registration of instruments.

The Secretary, Finance (Revenue) is responsible for determination of policy, monitoring and control at the Government level. The Inspector General, Registration and Stamps (IGRS) is the head of the Registration and Stamps Department. He is assisted by two Additional Inspectors General in administrative and enforcement matters and by a Financial Adviser in financial matters. Besides this, one Additional Inspector General, Jaipur is entrusted with administration work. The entire State has been divided into 18 circles, headed by Deputy Inspector General (DIG) (Stamps). There are 33 District Registrars (DRs), 114 Sub-Registrars (SRs) and 409 *ex-officio* SRs<sup>1</sup>.

### 5.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of the Financial Adviser. Planning for internal audit of units is made on the basis of importance and revenue realisation. The position of the internal audit conducted and units remaining unaudited during the years 2010-11 to 2014-15 was as under:

Year	Pending units*	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2010-11	-	369	369	132	237	64.22
2011-12	-	369	369	149	220	59.62
2012-13	-	369	369	183	186	50.40
2013-14	-	369	369	117	252	68.29
2014-15	-	523	523	16	507	96.94

Source: Information provided by the IG, Registration and Stamps, Ajmer.

\* Audit has been conducted from the month of last audit to preceding month of current audit.

The short fall in coverage of units due for audit ranged between 50.40 *per cent* and 96.94 *per cent* during 2010-11 to 2014-15. The Department stated that the short fall in audit during 2014-15 was due to the fact that concerned audit parties were diverted for other departmental work.

It was noticed that 10,353 paragraphs of internal audit reports were outstanding at the end of 2014-15. Year-wise breakup of outstanding paragraphs of internal audit reports is as under:

<sup>1</sup> Tehsildars and Naib Tehsildars have been declared as *ex-officio* SRs.

Year	Upto 2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Paras	6,411	859	941	1,187	827	128	10,353

Source: Information provided by the IG, Registration and Stamps, Ajmer.

The number of outstanding paragraph is increasing year after year due to diversion of internal audit parties to other departmental functions. Action on these paragraphs would become increasingly difficult with passage of time. As such, these need immediate and focused attention of the Government.

The Government needs to strengthen the Internal Audit Wing so that timely detection and correction of errors in levy and collection of revenue are ensured. Further, efforts may be made for expeditious settlement of outstanding issues raised by the Internal Audit Wing.

### 5.3 Results of audit

During the year 2014-15, test check of records of 242 units of the Registration and Stamps Department disclosed short realisation of SD and RF amounting to ₹ 200.28 crore in 6,732 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Categories	Number of Cases	Amount
1.	Incorrect determination of market value of property	1,464	23.55
2.	Non/short levy of Stamp Duty and Registration Fee	3,306	110.11
3.	Other irregularities	1,962	66.62
	<b>Total</b>	<b>6,732</b>	<b>200.28</b>

During the year 2014-15 the Department accepted underassessment and other deficiencies of ₹ 51.56 crore pertaining to 2,995 cases, of which 735 cases involving ₹ 23.72 crore were pointed out during the year 2014-15 and the rest in the earlier years. The Department recovered ₹ 4.75 crore in 2,273 cases during the year 2014-15, of which 90 cases involving ₹ 0.23 crore related to the year 2014-15 and rest to the earlier years.

A few illustrative cases involving ₹ 51.65 crore are discussed in the paragraphs from 5.4 to 5.13.

#### 5.4 Non-levy/short levy of SD and surcharge on transfer of immovable property and change of land use

As per Article 21(i) of the Schedule to the RS Act, 1998, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Section 17 of the Registration Act, 1908, provides that other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or future, any right, title or interest whether vested or contingent, of the value of ₹ 100 and above, to or in immovable property, are required to be compulsorily registered.

The State Government *vide* notification dated 25 February 2008 reduced SD chargeable on the instrument of immovable property executed by the State Government, Rajasthan Housing Board, Jaipur Development Authority (JDA), Urban Improvement Trust (UIT), RIICO, Municipality, Municipal Council or Nagar Nigam, after change of land use. The SD was to be charged on the difference of market value of land calculated on the basis of previous land use and changed land use. *Vide* notification dated 14 July 2014 a provision was made in supersession of above notification to the effect that SD chargeable on order of land use change issued under the Rajasthan Urban Areas (change of land use) Rules, 2010 or under any other relevant rules, shall be reduced and charged at the rate of 10 *per cent* of the amount of charges or fee for land use change, subject to a minimum of ₹ 500 in each case. Further, it was clarified that the provisions of notification would also be applicable to all conversion orders issued prior to the date of issue of this notification.

**5.4.1** During test check of the records of SR, Jaipur-III and information collected from JDA, it was noticed (November 2014) that one commercial lease deed (document no. 6195 dated 6 June 2013) measuring 72,967 square metre (sqm) (total area 74,147 sqm *minus* surrendered land for road 1,180 sqm) land was registered in favour of M/s Jai Drinks Private Limited (JDPL). Scrutiny of the lease deed and *Jamabandi*<sup>2</sup>, disclosed that initially 205.40 *bigha* land (5.19 lakh sqm including *Niji Khatedari*<sup>3</sup> land) at village Jhalana Dungar was allotted to M/s Capstan Meter Company (India) Limited (CMC) on 99 years lease basis for industrial purpose on 23 April 1965 and 19 October 1965. The CMC had thereafter executed a sub-lease for 45 *acres* (1.82 lakh sqm) out of the said land in favour of JDPL for 98 years with effect from 1 April 1966 for the same purpose with the approval of the Government of Rajasthan.

JDPL on behalf of CMC applied for change of land use of 74,147 sqm land (69,431 sqm *Niji Khatedari* and 4,716 sqm Government land) from industrial to commercial purpose. Permission for conversion of 72,967 sqm land was accorded in favour of CMC. However, *patta* (lease deed) was issued in favour of JDPL on instruction of Government (UDH Department) and 1,180 sqm land was surrendered for public road. The SR, Jaipur-III charged SD at the rate of conveyance on 71.99 crore (₹ 41.66 crore conversion charges and ₹ 30.33 crore cost of Government land) deposited by the applicant for commercial *patta*. However, the SD at conveyance rate of five *per cent* should have been charged on the cost of the Government land *plus* other charges

<sup>2</sup> *Jamabandi* is a revenue record containing the names of tenants from whom land revenue is to be recovered.

<sup>3</sup> *Niji Khatedari* land means agricultural land held by *Khatedar* as per *Jamabandi*.

(lease amount) paid in addition to 10 per cent SD on conversion charges. This worked out to ₹ 6.25 crore including surcharge whereas SD of ₹ 3.96 crore including surcharge was only paid. Thus, SD and surcharge of ₹ 2.29 crore were short levied.

It was also found that the land measuring 69,431 sqm belonged to CMC and application for change of land use was moved on behalf of CMC, though the *patta* was issued to JDPL. Audit could not ascertain from the records available whether the lease deed executed earlier with the CMC was cancelled, or the land was transferred by the CMC to JDPL on receipt of consideration prior to issue of *patta* to JDPL, which would have attracted SD at the rate of conveyance. The value of the land was ₹ 531.41 crore on which SD of ₹ 29.23 crore<sup>4</sup> was leviable.

The matter was brought to the notice of the Department (December 2014) and reported to the Government (May 2015). The Government replied (November 2015) that the case had been registered with DIG (Stamps).

**5.4.2** Section 37(4) of the RS Act, 1998, prescribes that when a person incharge of a public office, during the course of inspection or otherwise, detects an instrument or copy thereof or when it appears therefrom to a person referred to in Sub-section (1) that the instrument is not duly stamped, such person shall forthwith make a reference to the Collector in that matter. The IGRS also issued circular dated 2 November 2010 in this regard.

Scrutiny of records of public offices<sup>5</sup> and departmental offices of six districts<sup>6</sup> out of 33 districts covering the period between 2008-09 and 2013-14 and regular audit conducted during May 2014 and March 2015, disclosed that the orders for change of land use were issued in 212 cases. Audit observed that in 203 cases, the provisions of Section 37(4) were not followed by the person incharge of the concerned public offices, which resulted in non-levy of SD of ₹ 5.07 crore. Further, in nine cases, SD of ₹ 1.32 crore was short levied as

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<sup>4</sup> SD chargeable @ five per cent on market value of ₹ 5,31,41,09,878 @ DLC of ₹ 69,580 psqm (10 per cent extra for corner plot) and surcharge = ₹ 29,22,76,043 (₹ 26,57,05,494 SD + ₹ 2,65,70,549 SC).

<sup>5</sup> The State Government *vide* notification dated 16 December 1997 declared Nagar Nigam, UIT, Development Authorities, Rajasthan Industrial Investment Corporation (RIICO) and other authorities as public offices.

<sup>6</sup> Ajmer, Bikaner, Jaipur, Jodhpur, Kota and Udaipur.

detailed below:

(₹ in lakh)

Sl. no.	Name of public office	change of land use		No. of cases	Conversion charges paid	SD chargeable @ 10% of conversion charges (+) surcharge	SD/SC charged	No. of cases	Non-levy of SD/SC	No. of cases	Short levy of SD/SC	Total recoverable amount
		From	To									
1.	RIICO	Industrial	Commercial	27	4,457.70	486.03	138.63	20	222.75	7	124.65	347.40
2.	Nagar Nigam	Residential	Commercial/Mixed use	136	2,725.60	229.94	0	136	229.94	0	0	229.94
3.	Nagar Nigam	Residential	Institutional (Hospital)	1	32.60	3.59	0	1	3.59	0	0	3.59
4.	JDA/ADA <sup>7</sup>	Residential	Commercial/Mixed use	9	108.41	11.92	0	7	4.21	2	7.71	11.92
5.	JDA/ADA	Industrial	Residential	2	178.89	19.68	11.96	2	7.72	0	0	7.72
6.	JDA/ADA	Institutional	Commercial	1	12.10	1.33	0	1	1.33	0	0	1.33
7.	UIT	Residential	Commercial	35	309.44	34.03	0	35	34.03	0	0	34.03
8.	UIT	Residential	Institutional	1	35.10	3.86	0	1	3.86	0	0	3.86
<b>Total</b>				<b>212</b>	<b>7,859.84</b>	<b>790.38</b>	<b>150.59</b>	<b>203</b>	<b>507.43</b>	<b>9</b>	<b>132.36</b>	<b>639.79</b>

The matter was pointed out to the Department and reported to the Government (June 2015). The Government replied (September 2015) that cases had been registered with DIGs (Stamps) in 44 cases; recovery was pending in two cases after decision of DIGs (Stamps); notices had been issued in 53 cases and reply was awaited from DIGs in 76 cases. In four cases, documents were stated to have already been registered and in 32 cases, recovery had been made. The Government did not furnish details of decision in one case.

### 5.5 Non-levy/Short levy of SD and RF on development agreements

As per Article 5(e) of the Schedule to the RS Act, 1998, SD on an agreement or memorandum of an agreement relating to giving authority or power to a promoter or a developer, by whatever name called, for construction on, or development of, or sale or transfer (in any manner whatsoever) of any immovable property, shall be charged as on a conveyance on the market value of the property. The State Government *vide* notification dated 6 March 2013 reduced SD from five *per cent* to one *per cent* of the market value of the property from the date of issue of notification.

Further, as per Article 21(i) of the Schedule to the RS Act, 1998, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property.

<sup>7</sup> Ajmer Development Authority.



## 5.5.1 Misclassification and Undervaluation

### 5.5.1.1 Misclassification

During test check of records of five SRs<sup>8</sup>, it was noticed (between July 2014 and December 2014) from the recitals of 19 documents that these documents were titled as development agreements and the SRs had registered the same according to their title despite the fact that the developers had either received consideration value from the owners or a certain percentage of share was transferred to the developers together with land, basement and open area. The developers could sell their share without intervention of owners. The details are as under:

(₹ in crore)

Sl. no.	Nature of irregularity	No. of documents (No. of SRs)	SD and surcharge leviable	SD and surcharge levied	Short levy of SD and surcharge
1.	Certain percentage of share in constructed area was transferred together with land, basement, open area	10 (2)	0.49	0.21	0.28
2.	Consideration amount received; villa and flats received as consideration; joint ownership from ground floor to other floors	9 (5)	5.28	0.63	4.65
<b>Total</b>		<b>19 (7)</b>	<b>5.77</b>	<b>0.84</b>	<b>4.93</b>

As such, these documents should have been treated as conveyance and SD should have been charged at the rate of five *per cent* of the market value as per Article 21 of the Schedule to the RS Act, 1998. Due to this misclassification, SD and surcharge of ₹ 4.93 crore was short levied.

### 5.5.1.2 Undervaluation

During test check of records of four SRs<sup>9</sup>, it was noticed (between September 2014 and November 2014) that in eight development agreements, the market value of properties was considered on lower side due to incorrect application of DLC rate despite the fact that the agreements were made for construction of residential building/mixed purpose, resulting in short levy of SD, surcharge and RF of ₹ 31.77 lakh.

This resulted in short levy of SD, surcharge and RF aggregating to ₹ 5.25 crore.

The matter was brought to the notice of the Department (between August 2014 and January 2015) and reported to the Government (May 2015). The Government replied (July 2015) that cases had been registered with DIGs (Stamps) in 14 documents; notices had been issued in two cases; factual position had been called for in eight cases; recovery was pending in two decided cases and one case was under consideration.

<sup>8</sup> Jaipur-II, Jaipur-VI, Kotkasim, Neemrana and Tapukara.

<sup>9</sup> Udaipur-I, Tijara, Behror and Neemrana.

## 5.5.2 Non-levy/Short levy of SD

**5.5.2.1** During test check of records of SRs Bhilwara, Jaipur II, Udaipur-I and Udaipur-II, it was noticed (between July 2014 and October 2014) from the recital of six sale deeds that development agreements were executed between the owners of the property and the developers to develop residential/commercial building on plots/agricultural land. There was no evidence of payment of SD on these development agreements. This resulted in non-levy of SD and surcharge amounting to ₹ 83.23 lakh.

**5.5.2.2** As per Article 44(ee) of the Schedule to the RS Act, 1998, when power of attorney (PoA) is given, without consideration to sell immovable property to-

- (i) the father, mother, brother, sister, wife, husband, son, daughter, grand-son or grand-daughter of the executants, SD of ₹ 2,000 would be chargeable,
- (ii) any other person, SD at the rate of two *per cent* of the market value of the property, which is the subject matter of PoA, would be chargeable.

As per Article 44(eee) of the Schedule to the RS Act, 1998, when a PoA is given to promoter or developer by whatever name called, for construction, or development of, or sale or transfer (in any manner whatsoever) of, any immovable property, SD at the rate as on conveyance on the market value of the property would be chargeable.

During test check of records of SR Parbatsar, it was noticed (August 2014) that a PoA was registered on 16 April 2012 for development of integrated residential colony. The SR charged SD and RF of ₹ 0.49 lakh on the market value of ₹ 22.24 lakh by misclassifying the document as PoA given without consideration to sell the immovable property under Article 44 (ee) (ii). The document should have been classified under Article 44 (eee) on which SD of ₹ 1.12 lakh<sup>10</sup> was chargeable. Besides this, it was found from the recital of the document that a development agreement was also executed between the parties for the above purpose. However, there was no evidence of payment of SD of ₹ 6.04 lakh<sup>11</sup> on the development agreement. This resulted in non-levy/short levy of SD and surcharge aggregating to ₹ 6.67 lakh<sup>12</sup>.

The matter was pointed out to the Department (August 2014 and November 2014) and reported to the Government (February 2015). The Government replied (July 2015) that in six documents, cases had been registered with DIGs (Stamps) and in remaining one case, action for registering the case was being undertaken.

<sup>10</sup> SD chargeable @ 5 *per cent* on market value of ₹ 22,23,971 = ₹ 1,12,318  
SD charged @ 2 *per cent* on market value of ₹ 22,23,971 = ₹ 48,930  
Difference of SD = ₹ 63,388 -----A

<sup>11</sup> SD chargeable @ 1 *per cent* on current market value of ₹ 5,48,64,591=  
₹ 5,48,646 SD + ₹ 54,864 SC = ₹ 6,03,510 -----B

<sup>12</sup> Total A + B = ₹ 6,66,898

## 5.6 Non-levy of SD on transfer of immovable properties to partnership firms

As per Article 43(1)(c) of the Schedule to the RS Act, 1998, inserted on 26 March 2012, in case of instrument of partnership where share contribution is brought in by way of immovable property, SD should be chargeable as on conveyance on the market value of such property.

During test check of records of 11 SRs<sup>13</sup>, it was noticed (between July 2014 and January 2015) that 20 sale deeds were executed between partnership firms/companies and the purchaser wherein individuals had made capital contribution or contributed total land to partnership firm in consideration of their share. Thus, the SD and surcharge was chargeable but the SRs had not taken into account this fact at the time of registering the sale deeds by the partnership firms and the SD was not recovered as per extant provision on market value of ₹ 54.59 crore. This resulted in non-levy of SD and surcharge of ₹ 3.00 crore.

The matter was brought to the notice of the Department (between August 2014 and February 2015) and reported to the Government (February 2015 and June 2015). The Government replied (September 2015) that in 14 documents, cases had been registered with DIGs (Stamps); in one document, notice for recovery had been issued and action in accordance with decision of DIGs (Stamps) was awaited in remaining five cases.

## 5.7 Non-recovery of exempted SD on breach of conditions

As per Clause 5 of Rajasthan Investment Promotion Scheme (RIPS) 2010, an enterprise to which Entitlement Certificate has been issued shall be eligible to claim 50 *per cent* exemption on the SD payable on the instruments executed for the purchase or lease of land. Clause 3 of the scheme stipulates that the scheme shall be applicable to a new enterprise, sick industrial enterprise for its revival and existing enterprise making investment for modernisation/expansion/diversification subject to the condition that the enterprise shall commence commercial production or operation during the operative period of the scheme.

Annexure-1 of the scheme includes a list of enterprises not eligible for benefits of subsidies and/or exemptions under the scheme. This includes enterprise established at the site of an existing enterprise excluding sick industrial enterprise. As per Clause 8(D), where on scrutiny or inspection by the officers of Commercial Taxes/Industries Department, it is found that the enterprise which has availed the benefits under the scheme is not eligible for such benefits, a reference shall be made to the appropriate Screening Committees. On being satisfied with the genuineness of the reference, the Committee may take appropriate decisions including withdrawal of benefits and recovery of the benefits already availed with interest at the rate of 18 *per cent* per annum.

During test check of records of SRs Behror, Sambher and Jaipur-III, it was noticed (August 2014 and November 2014) that in three cases, benefits of 50 *per cent* exemption on SD were availed by the purchasers but they either

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<sup>13</sup> Jaipur-II, Sawaimadhopur, Bhiwadi, Badgaon, Srimadhapur, Udaipur-I, Udaipur-II, Jhunjhunu, Jodhpur-III, Sikar and Jaipur-I.

failed to fulfill conditions/requirement or were not eligible for availing such benefits, as detailed below:

(₹ in lakh)

Sl. no.	Name of SR	Name of Party (Document no.)	Amount of SD and surcharge	Remarks
1.	Behror	M/s Sidhi Multi Trade Pvt. Ltd. (4308/26.7.2013)	103.99	Purchaser purchased sick industrial unit for revival but sold a part of land and executed a development agreement on remaining land without revival of sick unit.
2.	Jaipur-III	M/s Varity Craft Export (7750/19.7.2013)	6.32	Purchaser purchased existing enterprise (not sick industrial enterprise) for new investment and hence not eligible to claim exemption in SD under Clause 3 and Annexure-1 of the scheme.
3.	Sambher	M/s Oshiya Steel Pvt. Ltd. (2561/4.1.2012)	12.03	Purchaser sold the land on 19 June 2013 without establishing the unit.
<b>Total</b>			<b>122.34</b>	

Thus, due to breach of conditions mentioned in the scheme or lack of eligibility, the beneficiaries were liable to refund the SD and surcharge of ₹ 1.22 crore.

The matter was pointed out to the Department (September 2014 and December 2014) and reported to the Government (February 2015). The Government replied (October 2015) that cases had been registered with DIG (Stamps) in all documents.

### 5.8 Short levy of SD and RF due to undervaluation of properties

As per Article 21(i) of the Schedule to the RS Act, 1998, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Rule 58 of the Rajasthan Stamp Rules, 2004, provides that the market value of the land shall be assessed on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by the IGRS, whichever is higher.

During test check of records of eight SRs<sup>14</sup>, it was noticed (between May 2014 and February 2015) that the market value of properties was considered on lower side despite the fact that such properties were purchased for commercial/institutional/residential purposes or located at the site where higher rates of DLC were applicable. The SRs valued the properties transferred through these documents at the rates lower than the rates which were most appropriately applicable based on description or location of properties. This resulted in short levy of SD and RF amounting to ₹ 1.59 crore in 15 cases.

<sup>14</sup> Kurawad, Udaipur-II, Chomu, Tapukara, Luni, Newai, Jaipur-I and Phalodi.

The matter was pointed out to the Department (between June 2014 and January 2015) and reported to the Government (May 2015). The Government replied (October 2015) that cases had been registered with DIGs (Stamps) in five documents; notices for recovery had been issued in nine documents and in remaining one case, recovery of ₹ 0.59 lakh had been made.

## **5.9 Short levy of SD and RF due to incorrect application of rates in valuation of properties**

### **5.9.1 Industrial purposes**

The Department *vide* Circular No. 1/2009 made a provision that in case of land used or converted for industrial purpose at the time of execution of document, the valuation should be done at industrial rate and in case the land was situated out of RIICO area, valuation should be done at industrial rate prescribed by the DLC and if DLC rates had not been prescribed then the valuation should be done at prevalent reserve price of nearest RIICO area or the rates prescribed by the DLC, whichever was higher.

During test check of records of SRs Sanchore, Asnawar, Chaksu and Kolayat, it was noticed (October 2014 and December 2014) that 21 documents were registered between May 2012 and March 2014 for purchase of land converted for industrial purpose and agricultural land for industrial purposes. It was found that the lands were situated beyond five Km from RIICO area and hence SD was chargeable at industrial rate as per provision of Circular No. 1/2009 but the SRs valued the lands at agricultural and residential rate. The SRs charged SD and RF of ₹ 71.34 lakh instead of ₹ 116 lakh resulting in short recovery of SD and RF of ₹ 44.66 lakh.

Further, it was noticed (November 2014) that SR Srimadhapur, had applied lower rates in valuation of land converted for industrial purpose in three documents. Application of incorrect rates in valuation resulted in short recovery of SD and RF of ₹ 5.42 lakh.

This resulted in short levy of SD and RF aggregating to ₹ 50.08 lakh.

The matter was pointed out to the Department (between November 2014 and March 2015) and reported to the Government (May 2015). The Government replied (September 2015) that notices for recovery had been issued in 18 documents and cases had been registered with DIGs (Stamps) in six documents.

### **5.9.2 Properties purchased by companies and educational institutions**

The State Government *vide* notification dated 9 March 2011 specified that SD on instrument of transfer of land for institutional purposes for which rates are not recommended by the DLC shall be charged on consideration amount mentioned in the document or 1.5 times of the rates of residential land, whichever is higher. As per substituted Rule 58 of the Rajasthan Stamp Rules, 2004, inserted *vide* notification dated 8 May 2012, the rates of land for institutional purposes shall be equal to 1.5 times of rate of residential land.

The State Government issued a notification on 8 May 2012 superseding the notification dated 9 March 2011 prescribing that the rates of agricultural land

purchased by companies or partnership firms for the purposes other than industrial, tourism, residential or commercial shall be 1.5 times of the rate of residential land of that area with the condition that these rates shall be applicable where the rates for such land have either not been recommended by the DLC or rates recommended by the DLC in respect of the same are less than the aforementioned prescribed rates.

During test check of records of SRs Nasirabad, Wair and Kanod, it was noticed (July 2014 and August 2014) that six sale deeds were executed between September 2011 and July 2013, wherein lands were purchased by companies and educational institutions. The SRs had determined the market value of properties as shown in documents/at agricultural rate instead of considering 1.5 times of Residential Rate (RR) as per extant provision as detailed below:

(₹ in lakh)

Name of SRs	Notification, the provision of which was violated	No. of cases involved	Money value adopted	Money value to be adopted i.e. 1.5 times of RR or rate prescribed by DLC	SD/RF levied	SD/RF leviable	Short recovery	Reasons
Nasirabad and Wair	9 March 2011	3	13.05	190.61	0.81	11.57	10.76	1. SD calculated at consideration amount mentioned in document instead of valuation at 1.5 times of RR. 2. SD calculated on market value at agricultural rate instead of valuation at 1.5 times of RR.
Kanod	8 May 2012	3	9.34	650.15	0.61	37.19	36.58	SD calculated on market value at agricultural rate instead of valuation at 1.5 times of RR.
<b>Total</b>		<b>6</b>	<b>22.39</b>	<b>840.76</b>	<b>1.42</b>	<b>48.76</b>	<b>47.34</b>	

This resulted in short levy of SD, surcharge and RF amounting to ₹ 47.34 lakh.

The matter was pointed out to the Department (between July 2014 and September 2014) and reported to the Government (February 2015). The Government replied (October 2015) that cases had been registered with DIG (Stamps) in three documents; notices for recovery had been issued in two documents and in remaining one document, the amount had been recovered.

### **5.10 Short levy of SD and RF on agreement to sell with transfer of possession**

Section 2(xi) of the RS Act, 1998 defines conveyance as a conveyance on sale by which property or any estate or interest or any property is transferred to or vested in, any other person, *intervivos*. As per Article 21 of the Schedule to the RS Act, 1998, SD on conveyance of immovable property would be charged at the rate of five *per cent* of the market value. As per Article 5(c) of the Schedule to the RS Act, 1998, SD of three *per cent* of the total consideration of the property would be chargeable on agreement to purchase or sell an immovable property when possession is neither given nor agreed to be given.

During test check of records of SR Nathdwara, it was noticed (January 2015) that a document (No. 1349 dated 24 April 2013) was registered as an agreement to sell without possession for a land converted for the purpose of agricultural trade unit on which SR charged SD and RF of ₹ 1.27 lakh on face value of ₹ 29.50 lakh. On recital of the document, it was noticed that the entire amount of consideration had been received at the time of handing over physical possession of the land. As such, the document was squarely covered under the category of conveyance. It was not made clear in the document whether the land was initially converted for agricultural processing or for marketing of crop. Audit therefore, worked out the valuation of the property at a rate applicable for agricultural plot, on which SD and RF of ₹ 26.29 lakh was payable. This resulted in short levy of SD and RF of ₹ 25.02 lakh.

The matter was pointed out to the Department (February 2015) and reported to the Government (April 2015). The Government replied (August 2015) that the case had been registered with DIG (Stamps).

### **5.11 Short levy of SD due to misclassification of mortgage deed as agreement of loan**

The State Government *vide* notification dated 7 March, 1994 specified that the SD chargeable on mortgage deed executed in favour of any bank or co-operative society for obtaining loan for non-agricultural purposes shall be reduced to one *per cent* of the loan amount or ₹ 100, whichever is higher.

During test check of records of SRs Jodhpur-I, Udaipur-II and Kishangarh (Ajmer), it was noticed (between September 2014 and December 2014) that in four cases, the documents were titled as mortgage deeds wherein the borrowers had mortgaged their properties in favour of banks/loan provider company as security of the loan taken by them with the condition that in case of default in payment of the amount of loan, the loan providers shall be free to sell out the properties so mortgaged. In these cases, SD and surcharge of ₹ 20.18 lakh at the rate of one *per cent* on the market value should have been charged but the SR levied SD and surcharge of ₹ 2.02 lakh at the rate of 0.1 *per cent* of market value treating the documents as agreement of loan. In another case in which the document was titled as deposit of title deed, the SR levied SD and surcharge of ₹ 0.37 lakh at the rate of 0.1 *per cent* considering the document as agreement of loan instead of mortgage deed on which SD and surcharge of ₹ 3.74 lakh at the rate of one *per cent* of the market value should have been charged as the recital of the document stated that the borrower had

mortgaged his property in favour of banks/loan provider company as security of the loan taken by him with the condition that in case of default in payment of the amount of loan, the loan providers shall be free to sell out the property so mortgaged. This resulted in short levy of SD and surcharge of ₹ 21.53 lakh.

The matter was pointed out to the Department (between October 2014 and January 2015) and reported to the Government (April 2015). The Government replied (October 2015) that cases had been registered with DIGs (Stamps) in all the five cases.

### 5.12 Short levy of SD and RF due to undervaluation of properties registered as farm houses

The sub-rule 1 of Rule 58 of the Rajasthan Stamp Rules, 2004, provides that the market value of the land shall be assessed on the basis of the rates recommended by the DLC or the rates approved by the IGRS of Stamps from time to time, whichever is higher. As per point 7 of circular 5/2011 issued by the IGRS on 31 March 2011, it would be appropriate to make valuation at residential rate in case of re-transfer of lease for farm house due to its non-agricultural purpose.

During test check of records of SRs Udaipur-I, Udaipur-II and Badgaon, it was noticed (September 2014) that in 13 cases, lands were sold after getting the agricultural land converted into farm houses. On scrutiny, it was noticed that the SRs valued the land in eight cases at 35 *per cent* of residential rate of that area and in five cases at face value. However, the valuation should have been done at residential rate as per the above provisions because the rates prescribed by the IG *vide* Circular 5/2011 was higher than the rates prescribed by the DLC. This resulted in short levy of SD and RF amounting to ₹ 23.30 lakh<sup>15</sup>.

The matter was pointed out to the Department (October 2014) and reported to the Government (April 2015). The Government replied (June 2015) that in 10 documents, cases had been registered with DIG (Stamps) and in case of three documents, recovery of ₹ 2.74 lakh had been made.

### 5.13 Short levy of SD and RF due to undervaluation of gift deed and by extending benefit of concessional SD

As per Article 31 of the Schedule to the RS Act, 1998, the SD on instrument of gift is chargeable as conveyance on market value of the property, which is the subject matter of gift. The State Government *vide* notification dated 9 March 2011 prescribed that the SD chargeable on gift deeds of immovable property executed in favour of relatives specified in the notification, shall be reduced to 2.5 *per cent*.

The State Government *vide* another notification dated 9 March 2011 amended the Rajasthan Stamp Rules, 2004 and specified that stamp duty on instrument of transfer of land for institutional purposes for which rates are not recommended by the DLC shall be charged on consideration amount

<sup>15</sup> SD/RF chargeable on valuation of ₹ 630.40 lakh = ₹ 37.77 lakh  
SD/RF charged on valuation of ₹ 230.61 lakh = ₹ 14.47 lakh  
SD/RF short levied = ₹ 23.30 lakh



mentioned in the document or 1.5 times of the rates of residential land, whichever is higher.

During test check of records of SR Atru (Baran), it was noticed (November 2014) that two *bigha* land was given through a gift deed to Indian Education Society, *Chardana* to facilitate education at college level.

Audit observed that valuation was done at aggregate value of ₹ 5.75 lakh for levying of SD/RF though the transferred land was to be used for running a college. The SR worked out the value of land applying the agricultural rate of ₹ 2.87 lakh per *bigha* instead of 1.5 times of residential rate of that area. The valuation of the land should have been ₹ 196.26 lakh, on which SD and RF of ₹ 11.29 lakh was leviable.

It was also found that the SR charged SD of only ₹ 0.21 lakh on the valuation of ₹ 5.75 lakh after allowing rebate of ₹ 0.15 lakh erroneously by treating the land given as gift in favour of specified person as per notification dated 9 March 2011. The land was neither gifted to a specified person nor given for agriculture purpose. Thus, SD of ₹ 11.08 lakh<sup>16</sup> was short levied due to incorrect valuation of land and by extending benefit of concessional SD.

The matter was pointed out to the Department (December 2014) and reported to Government (February 2015). The State Government replied (July 2015) that notice for recovery had been issued by the SR.

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<sup>16</sup> SD chargeable @ five *per cent* on market value of ₹ 1,96,26,240 @ DLC of ₹ 570 psft (1.5 x 380 psft) for 34,432 sft, surcharge and RF = ₹ 11,29,443 (9,81,312 SD + 98,131 SC + 50,000 RF)  
SD charged @ 2.5 *per cent* on market value of ₹ 5,74,600 @ DLC of ₹ 2,87,300 per *bigha* for two *bigha* land, surcharge and RF = ₹ 21,560 (14,370 SD + 1,440 SC + 5,750 RF)  
Short levy = ₹ 11,07,883

*CHAPTER-VI*  
**STATE EXCISE**

## CHAPTER-VI: STATE EXCISE

### 6.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven Zones which are headed by the Additional Excise Commissioners (AECs). District Excise Officers (DEO) and Excise Inspectors working under the control of the AECs of the respective Zones are deputed to oversee and regulate levy/collection of excise duties and other levies.

### 6.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit is as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remaining unaudited	Percentage of units remaining unaudited
2010-11	70	40	110	83	27	25
2011-12	27	40	67	60	7	10
2012-13	7	41	48	41	7	15
2013-14	7	41	48	42	6	13
2014-15	6	41	47	47	0	-

During 2014-15, all the units due for audit by Internal Audit Wing had been covered.

It was also noticed that 627 paragraphs were outstanding at the end of 2014-15 of which 133 paragraphs were outstanding for more than five years. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Paras	133	51	70	111	262	*	627

\* Information awaited.

The pendency of paragraphs for a long period defeated the very purpose of internal audit. The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

### 6.3 Results of audit

Test check of the records of 21 units of the State Excise Department conducted during the year 2014-15 disclosed non/short recovery of Excise Duty and Licence Fee, interest on security deposit, loss of Excise Duty on account of excess wastages of liquor and other irregularities involving ₹ 62.29 crore in 3,870 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	A paragraph on 'Arrear of State Excise Department'	1	38.69
2.	Non/short realisation of Excise Duty and Licence Fee	403	17.79
3.	Loss of Excise Duty on account of Excess Wastages of Liquor	678	0.89
4.	Non-Recovery of Interest on Security Deposits	610	0.17
5.	Other irregularities	2,178	4.75
<b>Total</b>		<b>3,870</b>	<b>62.29</b>

The Department accepted deficiencies in 3,844 cases involving ₹ 10.62 crore, of which 1,797 cases involving ₹ 1.64 crore had been pointed out in audit during 2014-15 and the rest in earlier years. The Department recovered ₹ 2.71 crore in 2,700 cases, of which 668 cases involving ₹ 0.51 crore had been pointed out in audit during the year 2014-15 and the rest in earlier years.

A paragraph on 'Arrear of State Excise Department' involving revenue of ₹ 38.69 crore and few illustrative cases involving ₹ 9.59 crore are discussed in the paragraphs from 6.4 to 6.8.

## 6.4 Arrear of State Excise Department

### 6.4.1 Introduction

State Excise revenue consists of duty, tax, fine, fee or composite fee and includes exclusive privilege amount leviable on liquor, spirit, hemp (*bhang*), lanced poppy heads (LPH) and other such articles on which the State Government is empowered to impose such levy. Whenever such amount is not paid despite demand of departmental authority, it becomes arrear of the Department. As on 31 March 2015, arrears amounting to ₹ 198.73 crore were outstanding in 201 cases pertaining to the period from 1967-68 to 2014-15.

Section 40 of the Rajasthan Excise (RE) Act, 1950 and Section 256 of Rajasthan Land Revenue Act, 1956 provide that all excise revenue, including all amounts due to the State Government by any person on account of excise revenue, may be recovered from the person primarily liable to pay the same or from his surety as arrears of land revenue. The DEOs are empowered to recover the due amount under the provisions mentioned in the above sections.

A performance audit on 'Recovery of arrears under the Land Revenue Act, 1956' by various Departments including Excise Department was included in CAG's Audit Report on Revenue Receipts for the year 2002-03. The Audit Report has been discussed in Public Accounts Committee (PAC) and recommendations have been received.

### 6.4.2 Organisational set-up

The Excise Commissioner (EC) is the administrative head of the State Excise Department. He is assisted by seven Additional Excise Commissioners at Zonal Headquarters (Jaipur, Ajmer, Jodhpur, Udaipur, Bikaner, Kota and Bharatpur) and 36 DEOs in 33 Districts besides two DEOs (Prosecution) at Jaipur and Jodhpur to oversee the matters of recovery pending with High Courts.

### 6.4.3 Audit Objective and Scope

The audit was conducted to ascertain whether prompt and appropriate steps were undertaken to recover the arrears and to ascertain the action taken on recommendations made by the PAC.

All 53 cases pertaining to the selected eight DEOs<sup>1</sup> were selected for scrutiny. Besides, the records at the two DEOs (Prosecution) and EC office were examined. The arrears amount involved in these cases was ₹ 90.63 crore.

### 6.4.4 Position of Arrears

As per the information furnished by the Department, arrears aggregating to ₹ 198.73 crore were outstanding as on 31 March 2015. Major share of arrear accumulated in the years 1999-2001 which was attributed to flaws in Excise policy applicable at that point of time. The year wise position of arrears for the period from 2010-11 to 2014-15 is given in the following table:

<sup>1</sup> Ajmer, Bundi, Churu, Jalore, Jodhpur, Kota, Pali and Sirohi.

(₹ in crore)

Year	Arrear at the beginning of the year	Additions during the year	Total	Recoveries/ adjustments during the year	Percentage of recoveries [Column (5) to (4)]	Arrears of revenue at the end of the year
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2010-11	218.34	0.44	218.78	1.38	0.63	217.40
2011-12	217.40	31.70	249.10	17.60	7.07	231.50
2012-13	231.50	4.58	236.08	16.36	6.93	219.72
2013-14	219.72	4.53	224.25	4.42	1.97	219.83
2014-15	219.83	3.90	223.73	25.00	11.17	198.73

The recovery of arrears was only in the range of 0.63 to 11.17 per cent of the total recoverable arrears.

**6.4.4.1** Age-wise Analysis: The age wise details of pendency of arrears are as given below:

(₹ in crore)

Pendency of arrears	No. of cases	Amount	Percentage of arrears
Less than 5 years old	27	4.07	2.05
Between 5 and 10 years old	72	18.74	9.43
Between 10 and 15 years old	37	136.28	68.58
Between 15 and 20 years old	32	21.28	10.70
Over 20 years old	33	18.36	9.24
<b>Total</b>	<b>201</b>	<b>198.73</b>	<b>100.00</b>

As could be seen, out of total arrears, ₹ 194.66 crore i.e. 97.95 percent were pending for more than five years. The main reasons behind such accumulation of arrears were acceptance of fraudulent solvency certificates<sup>2</sup> and inaction/lack of timely action by the Department to recover amount of 'risk and cost' payable by the defaulting bidders. Since the Department had not laid down any norms/targets for clearance of arrears, recovery of such arrears may become difficult with the passage of time.

**6.4.4.2** The stages at which the arrears are pending are as follows:

(₹ in crore)

Categories	31 March 2014		31 March 2015	
	Number of cases	Amount involved	Number of cases	Amount involved
Recoveries under LR Act	109	98.65	104	97.75
Under write off	66	35.52	64	35.32
Stay under various courts	40	85.66	33	65.66
<b>Total</b>	<b>215</b>	<b>219.83</b>	<b>201</b>	<b>198.73</b>

<sup>2</sup> Certificate showing the value of properties owned by licensees/guarantors duly certified by the revenue authorities.

The arrears locked up under the category of 'Recoveries under LR Act' amounting to ₹ 97.75 crore or 49 *per cent* of arrears as on 31 March 2015 were yet to be recovered despite the fact that such arrears were against such defaulter licensees whose whereabouts and property details had been identified by the Department. Scrutiny of such 27 cases amounting to ₹ 44.20 crore in selected units disclosed that the Department failed to auction/dispose of such properties in time despite issuing repeated notices to auction the properties. A few of such cases are discussed in succeeding paragraphs.

Audit also observed that the Excise Commissioner had identified 64 cases involving ₹ 35.32 crore pertaining to the period 1967-68 to 2006-07 for write-off. Out of these 64 cases, 55 files were provided to audit. Scrutiny disclosed that in these cases, either the defaulters had no property or their whereabouts were not known. No decision for write off was taken in these cases despite elapse of 21 to 315 months as of 31 March 2015. The Department had forwarded 24 cases to the Finance Department for write off. Out of these, 19 cases were returned with remarks that efforts may be remade for recovering the arrear by the Department. The remaining five cases were still pending with the Government for decision (July 2015).

Further, the department informed (July 2015) that 33 cases of recovery from defaulter licensees/guarantors were pending in Courts. Scrutiny of such 13 cases pending with courts<sup>3</sup> in selected offices disclosed that the licensees/guarantors had obtained stay against auction of their attached properties. The Department had not made efforts to get the stay orders vacated despite elapse of 1 to 17 years. Some of the cases are discussed in detail in succeeding paragraphs.

#### 6.4.5 Follow-up action on PAC's Recommendations

Mention regarding arrears of State Excise Department was made in CAG's Audit Reports (Revenue Receipts) for the years 2001-02 and 2002-03. The PAC, in its recommendation reports (number 98, 168, *etc.*) had recommended that arrears should be recovered expeditiously. It was also recommended that suitable action against departmental officials who were responsible for accumulation of arrears may be taken.

- In compliance of the recommendations of PAC dated 26 August 2010, the Excise Commissioner identified 46 cases involving ₹ 183.65 crore and directed (November 2010) Additional Excise Commissioners<sup>4</sup> for speedy recovery. It was noticed that ₹ 8.98 crore had been recovered up to 31 March 2015 in 15 cases. In 31 cases, no recovery was made.
- Disciplinary actions were initiated against 53 officials of Excise and Revenue Departments, involved in 20 cases having arrear of ₹ 82.82 crore, who had either verified incorrect value of properties or had not obtained required security deposits or failed to cancel the licences on non-fulfillment of terms and conditions of licences. The matter was closed against 16 persons. It was stated while concluding the cases that charges could not be established against 14 officials and two officials retired. Four officials were penalised and

<sup>3</sup> Nine in High Court, one in SDM Court, two in District Consumer Protection Forum and one in Rajasthan Tax Board.

<sup>4</sup> Jaipur, Ajmer, Kota, Bikaner, Udaipur and Jodhpur.

action against remaining 33 officials was pending at the Department or the State Government level.

#### **6.4.6 Non-attachment of identified property of defaulter**

Under the provisions of Section 228 to 257 of the Rajasthan Land Revenue Act, 1956, the DEO can attach and sell movable and immovable property of the defaulter if he fails to deposit the amount due. It was noticed that identified properties of defaulters were not attached in the following cases:

**6.4.6.1** Demand of ₹ 28.82 crore was pending against a defaulter licensee (Shri Parasram) of liquor group Kota during 1999-01. During the period 2000-01, the DEO Kota attached 13 properties shown in the solvency certificate of the licensee. Against this, the co-owner of a property (M/s K.K. Industries Bottling Plant, Kota) approached the Rajasthan High Court. The Court directed (20 March 2002) to release the property from attachment against bank guarantee of ₹ 50 lakh. The co-owner submitted (27 March 2002) bank guarantee of ₹ 50 lakh to the Department and accordingly the property was released (31 March 2002) from attachment. It was noticed that the bank guarantee expired on 27 March 2006 and the Department had made no efforts for its renewal or to obtain fresh bank guarantee. The Rajasthan High Court directed (9 December 2011) the DEO Kota to decide the representation of the petitioner within two weeks from the date of order or within one week from the date of receipt of order and till then the recovery against petitioner was stayed.

The petitioner submitted his representation on 13 January 2012. The DEO Kota decided (12 June 2014) the case and fixed the liability of the petitioner but in absence of the bank guarantee, the amount could not be recovered. Further, no action was taken to reattach and auction the property.

**6.4.6.2** Demands of ₹ 3.15 lakh and ₹ 5.02 lakh were pending against two defaulter licensees (Shri Shambhu Lal Mali and Shri Mishri Lal) of liquor group Andheri Devari, Ajmer during 2007-09 and 2009-11. The DEO, Ajmer issued attachment warrants for properties on 2 July and 28 November 2014. It was noticed that the DEO kept issuing reminders to Circle Inspectors (CIs) for attachment of the properties but no action was taken by the concerned CIs to execute the warrant and attach the properties (August 2015).

#### **6.4.7 Delay in auction of attached property**

Section 40 of Rajasthan Excise Act, 1950 provides that all excise revenue due to the State Government by any person on account of any contract may, without prejudice to any other mode of recovery, be recovered from the person primarily liable to pay the same or from his surety as arrears of land revenue or in the manner provided for the recovery of public demands by any law for the time being in force.

As per Section 239 of the Rajasthan Land Revenue Act 1956, action for sale of the attached properties through public auction is to be taken within 30 days or period mentioned in the proclamation of sale. For sale of property, wide publicity is to be given to attract the bidders.



Scrutiny of records of 53 default cases disclosed that the defaulters owned properties in 30 cases involving arrear of ₹ 84.22 crore. Out of this, ₹ 12.60 crore was recovered as a result of auction and by other means. This comprised ₹ 8.90 crore towards auction of properties of defaulters in 23 cases. In the remaining cases, property could not be auctioned even after lapse of 4 to 14 years. A few cases are discussed in detail:

**6.4.7.1** One of the licensees (Shri Hajari Ram S/o Sahi Ram) of LPH group Hanumangarh in 1999-01 presented the solvency certificate of ₹ 42.30 lakh on the basis of an agriculture land and a house in Jaipur. The licensee defaulted in payment of exclusive privilege amount which resulted in accumulation of arrears of ₹ 12.18 crore at the end of the licence period. As per the undertaking given by the licensee, he was not allowed to alienate or encumber the property before payment of arrears. However, the licensee sold the property and the purchaser got the land converted under Section 90 (B) of RLR Act, 1956 *vide* Deputy Commissioner, JDA's order dated 16 January 2006. The Department belatedly filed an appeal (2008) in the Court of Divisional Commissioner, Jaipur which was rejected (December 2009) on the ground that the Department was aware of the sale of property since beginning as the conversion order was passed after inviting public objections through two newspapers. The Department had filed an appeal (2011) against the decision of Divisional Commissioner, Jaipur in the Rajasthan High Court, whose decision was awaited.

**6.4.7.2** The Excise Commissioner issued (October 1988) instructions that after attachment, the property could not be kept under the possession of the original owner. In case of any income generated from the property, the same was required to be deposited into the Government account.

Two properties<sup>5</sup> of the defaulter licensee (Shri Parasram) of liquor group Kota for the year 1999-2001 having solvency amount of ₹ 1.60 crore were attached during the period 2000-01 by DEO Kota. It was noticed that the properties were still in the possession of the defaulters even after lapse of 14 years in contravention to departmental instructions to keep the attached property under possession of Excise Department. Scrutiny of the records also disclosed that the concerned DEO had issued more than 20 auction notices for sale of attached properties. However, efforts to auction the properties did not fructify.

**6.4.7.3** The DEO Bundi had attached the properties of the two guarantors (Shri Bhagwan Singh and Smt. Rajni Dogra) of a defaulter licensee (Shri Parasram) of liquor group Bundi for the year 1999-2001. The guarantors had given the guarantees of ₹ 25 lakh and ₹ 60 lakh respectively in October 2000. Scrutiny of the records disclosed that the DEO failed to auction the property in time though almost 100 notices to auction the properties were issued during the period 2001 to 2013. The guarantors approached the Rajasthan High Court, Jaipur (in the year 2009 and 2013 respectively) whereupon the court directed (23 November 2013) that the properties of the guarantors may not be auctioned till the finalisation of liability of the defaulter licensee by the department as per decision of Supreme Court in similar nature of case pertaining to DEO, Kota. It was noticed that the State Government had already finalised (27 October 2010) the liability of the licensee in pursuance of

<sup>5</sup> (1) Mayur Hotel, Near Nayapura Bus Stand, Kota. (2) Commercial Plot (No.8, 9 and 10), Motor Market, Kota.

the orders passed by the Supreme Court. The Government had fixed the liability of ₹ 28.83 crore against the defaulter. The DEO Bundi also did not make efforts to find out the status about finalisation of liability of the defaulter licensee from DEO Kota and kept the auction pending by treating the orders of High Court as stay order on the disposal of properties.

**6.4.7.4** In another case of DEO Bundi, properties of a guarantor (Shri Balbeer Singh) who had given the guarantees of ₹ 40 lakh in the form of two pieces of agricultural land at *Dabi* village, Kota and a residential house at Kota were attached in October 2000. Scrutiny of the records disclosed that two properties were auctioned (2003 and 2007) but auction notices for sale of the remaining piece of agriculture land were not issued after March 2009.

#### **6.4.8 Auction at prices below the amount shown in Solvency Certificates**

As per condition number 14.1 of tender notice for grant of licences of liquor groups for the year 1999-2001, the licensees were required to furnish the sound financial position certificate and surety bond/certificate equivalent to 30 per cent of the accepted Unified Privilege Money before start of the shops.

The whereabouts of properties mentioned in the solvency certificates of the licensees and their sureties were required to be verified by concerned DEOs at the time of granting licences as per circular issued (27 May 1997) by Excise Commissioner so that the sale proceeds received in auction of such properties may commensurate with the value of property declared in solvency certificates.

Scrutiny of auction of 11 properties out of 34 properties revealed that the DEOs had not carried out any exercise to ascertain the value of the properties before initiating the process of auction. Further, the properties were auctioned without wide publication in print and electronic media and no reserve price was fixed. As a result, they were auctioned at prices (₹ 72.59 lakh) lower than the value of properties (₹ 197.72 lakh) declared in solvency certificates. Out of 11 properties, eight properties were auctioned at prices (₹ 57.46 lakh) even lower than the prevalent District Level Committee rates (₹ 83.15 lakh) as notified by the District Collector for that area. Review of records of five DEOs<sup>6</sup> disclosed that the auction amount of ₹ 1.90 crore realised by the Department in auction of 34 properties was much less than ₹ 4.19 crore which was the value of these properties declared in solvency certificates.

#### **6.4.9 Failure in identifying properties of defaulter licensees**

Scrutiny of records of 53 cases disclosed that the Department could not identify the properties of the defaulter bidders in 12 cases involving arrear of ₹ 8.95 crore. The Department tried to enquire about the whereabouts of the defaulter bidders and their properties in some cases through the revenue officials *i.e.* *Patwari, Tehsildar* of stations concerned where the defaulters owned the property or were last residing. Revenue officials, however, reported

<sup>6</sup> Bundi, Churu, Jodhpur, Kota and Pali.

that no property of the defaulter bidders could be identified in their respective areas. Thus, no recovery could be made from such defaulters and the Department submitted four cases to the Government for write off. A few of such cases are discussed in the following paragraphs:

**6.4.9.1** In DEO Jodhpur, a demand of ₹ 1.61 crore was pending against a defaulter licensee (Shri Dilip Sharma) of liquor group Phalodi and Luni (Rural) for the year 1999-2001. Scrutiny of the records disclosed that the Department was having a solvency certificate of ₹ 6 lakh of a property located in Jaipur. The property could not be auctioned by DEO Jaipur as it was not demarcated and the licensee deposited ₹ 6 lakh in 2005 against the solvency certificate which was accepted by DEO. No further action was taken to recover the remaining arrear of ₹ 1.55 crore by identifying other properties of the licensee by co-ordinating with DEO Dholpur despite knowing the fact that he was the domicile of Dholpur (April 2000).

**6.4.9.2** In DEO Kota, it was noticed that a demand of ₹ 20.77 crore was pending against a defaulter licensee (Shri Parasram) of liquor group Kota for the year 1999-2001 even after auctioning of nine properties for ₹ 5.84 crore out of attached 13 properties. Four properties amounting to ₹ 7.35 crore as mentioned in solvency certificate were pending for attachment/auction (July 2015). Scrutiny of records further disclosed that the DEO had not made any efforts to identify other movable and immovable properties of the defaulter licensee through pursuance with the offices of *Tehsil*, UIT, Municipality, Municipal Corporation, Income Tax Department, Rajasthan Housing Board, *etc.* in the District.

**6.4.9.3** In another case in DEO Kota, a demand of ₹ 39.68 lakh was pending against a defaulter licensee (Shri Kailash Chand Kabra) of liquor group Sangod at Kota for the year 1996-97. It was noticed that no solvency certificate was obtained by the Department at the time of grant of licence. Scrutiny of the records disclosed that the DEO was informed about specific seven properties<sup>7</sup> and investments of the defaulter licensee through a letter by 'Rashtriya Sikh Sangat Rajasthan (RSSR)' (December 2006). The DEO (between July 2007 and June 2009) made inquiry regarding property details of the licensee from *Tehsildar* Ladpura, UIT, Municipal Corporation and RHB Kota without mentioning the specific details of the properties as pointed out in the letter of RSSR. These agencies informed that no property existed in the name of licensee in their jurisdictions.

**6.4.9.4** In DEO Bundi, a demand of ₹ 1.60 crore was pending against defaulter licensees (Shri Babu Khan and party) of liquor group Indergarh-Lakheri- Keshoraypatan at Bundi for the year 1996-97. On scrutiny of records, it was found that as per information provided by Excise Inspector, Kota, the licensees and guarantors who were relatives, had been residing at Jaipur, Chittorgarh, Churu and Nagaur districts. However, no efforts were made by the department to find out the properties of defaulters at these places either through revenue authorities, municipal authorities, other local bodies, *etc.* or guarantors residing at these places.

<sup>7</sup> House (40'×60'), House (20'×60'), House (20'×90'), House (20'×50') Furniture Showroom, Seed Godown (15'×50') and plot (30'×60') in Kota.

**6.4.9.5** During test check of the records of LPH group 2006-07 at Sirohi, it was noticed that an applicant (Shri Rampal) applied for licence at the exclusive privilege amount of ₹ 1.27 crore and deposited demand drafts of ₹ 5.91 lakh as earnest money. The applicant backed out and did not execute the licence. As per the Excise Policy, the backed out applicant had to pay the risk and cost amount equivalent to the amount which was short received in re-auction. Thus, a demand of ₹ 42.11 lakh was raised (9 May 2006) against the licensee. The applicant represented (24 May 2006) that he had not applied for the licence. It was noticed that the Department had not made any efforts to identify the whereabouts of impersonating persons from the Banks whose demand drafts were submitted as earnest money.

#### **6.4.10 Non-vacation of stay order**

Scrutiny of 13 pending cases out of 33 cases of selected units disclosed that an amount of ₹ 3.50 crore was under stay for 1 to 17 years in various courts. However, no concrete efforts were made to vacate the stay orders even after lapse of many years. No time frame was fixed by the Department for filing counter affidavits/appeals in court cases. Some of the cases are discussed below:

**6.4.10.1** Three partners of the liquor group Sardarshahar under DEO Churu in 1999-2001, presented solvency certificate of ₹ 83.50 lakh including that of six guarantors. The licensees defaulted in payment and an arrear of ₹ 1.31 crore accumulated at the end of the licence period. Due to non-verification of title of properties of licensees/guarantors, properties of one licensee (Shri Bhanwarlal) and two guarantors (Shri Jugal Kishor and Shri Omprakash) could not be auctioned as co-owners of the properties approached SDM Courts in Ratangarh, Ramgarh Sethan and Fatehpur respectively against the auction. The concerned SDMs granted (2001) stay in all the three cases. Though a period of 14 years had elapsed, the stay was still effective (July 2015). As such, recovery of ₹ 46.00 lakh could not be realised due to non-vacation of stay order.

**6.4.10.2** A licensee (Shri Anil Kumar) of liquor group Abu Road- Pindwara of DEO Sirohi for the period 1995-97 had arrears of ₹ 23.41 lakh at the end of licence period. It was noticed that the demand of ₹ 23.41 lakh was raised (March 1999) against Shri Anil Kumar when he was the licensee of liquor group Sirohi-Revdar in 1997-99. It was stated in the notice that on failure of the licensee to deposit the demand, the recovery would be adjusted against the security deposit for the period 1997-98. The licensee obtained (26 March 1999) a stay from Rajasthan High Court, Jodhpur against recovery of arrears of ₹ 23.41 lakh by forfeiting his security deposit. Though the court had stayed the forfeiture of security deposit only, the Department did not initiate any action to get the stay order vacated and recover the amount.

### 6.4.11 Incorrect raising of demand

In five cases of three selected units, it was noticed that the demand was short raised which resulted in short depiction of arrears to the tune of ₹ 65.83 lakh as detailed below:

**6.4.11.1** During test check of the records of LPH group 2002-03 at Churu, it was noticed that an applicant (Shri Jagannath) applied for licence at the unified privilege amount of ₹ 2.52 crore. Due to non-submission of security deposit and solvency certificates, the licence was cancelled (12 April 2002) at the risk and cost amount equivalent to the amount short received in re-auction. Against the original bid amount of ₹ 2.52 crore, the licence was awarded to subsequent bidder at ₹ 1.40 crore. Against the leviable amount of ₹ 1.12 crore, a demand of only ₹ 1.03 crore was raised against the licensee resulting in short raising of demand by ₹ 0.09 crore. Reason for short raising of demand was not found on record.

**6.4.11.2** As per the Rajasthan Distillery Rules 1976, on expiry, cancellation or suspension of licence of a distiller, the distiller was bound to pay the duty on, and to remove all spirit remaining within the distillery in accordance with the rules in force. The Department destroyed (31 December 2011 and 7 June 2013) the stock of one licensee (Interlink Bottling Plant, Sirohi) whose licence was not renewed since 1 April 2005 and issued a notice (15 April 2013) to the licensee for depositing excise duty of ₹ 37.83 lakh on the closing stock of spirit and liquor. It was noticed that duty of ₹ 77.96 lakh was leviable on the stock available at the bottling plant as on 1 April 2005. This resulted in short realisation of ₹ 40.13 lakh. Meanwhile, the Rajasthan High Court stayed (6 March 2014) the recovery till the next listing date, *i.e.* 19 March 2014. No further progress in the case was available on the record.

**6.4.11.3** In DEO, Ajmer, three composite shops/groups<sup>8</sup> were shown outside five Km from municipal limit and composite fees was deposited accordingly by the licensees during the years 2006-07 to 2011-12. However, such shops were found within five Km in an enquiry made by the department in April 2010 and November 2011. According to excise policies, higher composite fees were recoverable from these licensees.

It was observed that though the department had recovered the differential amount of composite fee since 2009-10, the composite fee for 2006-07, 2007-08 and 2008-09 was not recovered. As such, demand of ₹ 16.70 lakh was raised short, which resulted in understatement of arrears.

### 6.4.12 Conclusion and Recommendations

Non-verification of title, value and location of movable and immovable properties of the licensees and their guarantors at the time of granting licences resulted in non-recovery/short recovery of arrear. The DEOs did not make adequate efforts to identify properties of defaulters through active pursuance with the offices of *Tehsil*, UIT, Municipal Corporation, Income Tax Department, Rajasthan Housing Board, *etc.* in whose jurisdiction the defaulters owned property or were last residing. The efforts made to dispose

<sup>8</sup> *Tabiji* (₹ 7.90 lakh) for 2006-09, *Byawarkhas* (₹ 3.15 lakh) for 2007-09 and *Palra* (₹ 5.65 lakh) for 2007-09.

the identified properties of defaulters did not bear fruits in absence of wide publicity. No reserve price was fixed prior to initiation of auction process. As a result, sale proceeds received in auction of attached properties were not commensurate with the value of property declared in solvency certificates. The Department also did not pursue the cases diligently with various Courts to get the stay orders vacated.

*The Department needs to vigorously pursue recovery of long outstanding arrears by coordinating with the offices of Tehsil. UIT, Municipal Corporation, Income Tax Department, Rajasthan Housing Board, etc. in whose jurisdiction the defaulter owned property or were last residing. It may also follow up the cases pending in courts and get the stay order vacated expeditiously.*

### **6.5 Non-levy of excise duty on short delivered beer exported to other States**

Rule 41 of the Rajasthan Brewery Rules, 1972 provides that no beer shall be removed from a brewery until the duty imposed under Section 28 of the Rajasthan Excise Act, 1950 (Act) has been paid or until a bond under Section 18 of the Act in form R.B.11 or R.B.12 has been executed by the brewer for export of beer outside the State. Condition number (2) of the bond provides that if the quantity of beer mentioned in the bond has not been delivered at the destination, the brewer is liable to pay for any loss of duty, which the Government may suffer by reason of such non-delivery or short delivery and will have to pay on demand the duty at the rate applicable. Further, there is no provision in the Rules regarding allowance of wastage of beer in transit and payment of duty in importing states.

During the scrutiny of the Excise Verification Certificates of beer exported by five breweries<sup>9</sup> during the period 2013-14 under DEOs, Behror and Alwar, it was noticed (between September 2014 and February 2015) that during the course of export of beer outside the State under bond, 95,186.96 bulk litres (12,204 cartons) of beer were short delivered at the destination. The duty on this quantity of beer exported was neither paid by the brewers nor demanded by the Excise Department. This resulted in non-levy of excise duty amounting to ₹ 42.02 lakh.

After it was pointed out (November and February 2015), the Department stated (March 2015) that excise duty was not payable as per the condition and terms of the bond executed by the licensees.

The reply is not correct as the condition of the bond stipulated that the brewers were liable to pay excise duty on the beer short delivered at the destination. The reply of the Government is awaited (November 2015).

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<sup>9</sup> M/s Mount Shivalik India Pvt. Ltd. Behror, M/s Deewan Modern Breweries Ltd. Behror, M/s United Breweries Ltd. Bhiwadi and M/s Arian Breweries Ltd. Bhiwadi. M/s Carlsberg India Pvt. Ltd., Alwar.

## 6.6 Short recovery of hotel bar licence fee

As per rule 3 of the Rajasthan Excise (Grant of Hotel Bar/Club Bar licenses) Rules, 1973, for the purpose of hotel bar licenses, the hotels are broadly categorised in three categories *i.e.* luxury, heritage and other. Luxury hotels are further categorised as five star, four star and three star. Different rates of license fee have been prescribed for hotel bar licenses for the year or part thereof.

During scrutiny of records of hotel bar/club bar licenses at DEOs, Jaipur City and Ajmer for the year 2012-13 and 2013-14, it was noticed (between August 2014 and November 2014) that two hotels<sup>10</sup> in jurisdiction of DEO Jaipur City were advertised as 'five star' category on their own websites. Another two hotels<sup>11</sup> in jurisdiction of DEO, Ajmer had been categorized in 'four star' and 'three star' category, as per the official website of Ministry of Tourism, Government of India. The Department however, charged hotel bar license fee of 'other' category hotel instead of 'star' category and issued/renewed hotel bar license. This resulted in short recovery of hotel bar license fee of ₹ 36.50 lakh as per details given below:

(₹ in lakh)

Sl. no.	Name of DEO	Name of Hotel Bar Licensee	Category of Hotel	Period	Licence fee due	Licence fee recovered	Short recovery
1.	Ajmer	Country Inn & Suites	Four Star	2012-13	10.50	3.50	7.00
				2013-14	10.50	3.50	7.00
2.	Ajmer	Ananta Spa & Resorts	Three Star	2012-13	8.50	7.00	1.50
				2013-14	8.50	7.00	1.50
3.	Jaipur City	Shiv Vilas Resort Kukas	Five Star	2013-14	15.50	3.50	12.00
4.	Jaipur City	Royal Orchid, Durgapura	Five Star	2013-14	15.50	8.00	7.50
<b>Total</b>					<b>69.00</b>	<b>32.50</b>	<b>36.50</b>

After it was pointed out (between September 2014 and February 2015), the Government stated (March 2015) that an amount of ₹ 17 lakh had been recovered from the two hotels under DEO, Ajmer. In case of one hotel (*Shiv Vilas Resort Pvt. Ltd.*) under DEO, Jaipur City, notice for recovery had been issued and the matter of another hotel (*Hotel Royal Orchid*) was under consideration of Hon'ble Court. The progress of recovery on remaining amount is awaited (November 2015).

## 6.7 Non-levy of licence fee for wholesale vend of country liquor

As per serial number 12(a) of table below Rule 68 of the Rajasthan Excise Rules 1956, inserted vide notification of April 2011, licence fee at the rate of ₹ 5 lakh per year is to be levied for wholesale vend of country liquor from bonded warehouse established at the place of manufacture. Further, an entry at serial number 13 of table below Rule 68 authorises levy of ₹ 5 lakh per year as

<sup>10</sup> Shiv Vilas Resort Pvt. Ltd., Jaipur and Hotel Royal Orchid, Durgapura- Jaipur.

<sup>11</sup> Hotel Ananta Spa & Resorts, Ajmer and Country Inn & Suits, Ajmer.

annual licence fee for wholesale vend by manufacturers of liquor to wholesale vendors.

During test check of licence file of a distillery<sup>12</sup> under the jurisdiction of the DEO, Behror, it was noticed that the unit was manufacturing and vending Indian Made Foreign Liquor (IMFL) and country liquor in wholesale from the place of manufacture despite the provision Rule 4 of the Rajasthan Distilleries Rules, 1976 that the distiller who is licenced to manufacture IMFL shall not be allowed to manufacture potable or non-potable products of any other kind on the same premises. The Department levied licence fee of ₹ 15 lakh for the period 2011-12 to 2013-14 under Rule 68(13) for the wholesale vend of foreign liquor and beer. However, the licence fee of ₹ 15 lakh for the same period for wholesale vend of country liquor under Rule 68(12)(a) was not levied. This resulted in non-levy of licence fee of ₹ 15 lakh.

The matter was pointed out to the Department and reported to the Government (March 2015). The Government stated (April 2015) that licence fee for wholesale vend of country liquor under Rule 68(12) (a) was not payable as the licensee was a manufacturer and wholesale vendor of IMFL/Beer and country liquor and accordingly licence fee for wholesale vend of liquor was recovered under Rule 68(13).

The reply is not correct as the entry at serial number 12(a) of table below Rule 68 authorises levy of licence fee for wholesale vend of country liquor besides existing Rule 68(13). Further, licences for wholesale vend of IMFL/Beer and country liquor were issued separately to the unit and as per conditions of the licences no other liquor was to be stored in the warehouse except for which the licence was granted. Thus, licence fee for wholesale vend of country liquor under Rule 68(12)(a) was payable by the unit.

### **6.8 Non-levy of licence fee from wholesale and retail on vendors of foreign liquor**

As per Rule 47(4) of the Rajasthan Excise Rules, 1956, licence for wholesale vend by traders or dealers of foreign liquor bottled in foreign countries to wholesale vendors may be granted by Excise Commissioner (EC) on such terms and conditions as State Government may specify. Accordingly, the EC granted such licences to two wholesale vendors *i.e.* M/s Rajasthan State Beverage Corporation Ltd. (RSBCL) and M/s Canteen Stores Department (CSD), for import of foreign liquor bottled in other country, popularly known as BIO brands. Further, Rule 5-A of the Grant of Hotel Bar/Club Bar Licences Rules, 1973 allows Hotel Bar/Club Bar licensees to import foreign liquor into Rajasthan from outside India under an import licence with the prior permission of the EC.

As per Rule 68 (13-C) of the Rajasthan Excise Rules, 1956 notified on 1 April 2012, licence fee of ₹ 6 lakh up to 10 brands and ₹ 10,000 per brand above 10 brands is to be charged for the term or part thereof, for wholesale vend by manufacturers or their authorised dealers of BIO brands for their own wholesale vend or other wholesale vendors and retail vendors.

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<sup>12</sup> M/s Globus Spirits Limited, Behror.



During scrutiny of permits issued to the wholesale vendors and retail on vendors *i.e.* Hotel Bar/Club Bar licensees for import of foreign liquor bottled in other country by concerned DEOs, it was observed (between June 2014 and January 2015) that the two wholesale vendors imported 65 BIO brands of foreign liquor for various depots and 106 retail on vendors imported 2,841 BIO brands during the year 2013-14. However, the licence fee for import of foreign liquor had been neither paid by these wholesale and retail on vendors nor demanded by the Department. This resulted in non-levy of licence fee amounting to ₹ 8.65 crore.

After it was pointed out (between June 2014 and March 2015), the Department intimated (August 2015) that recovery of ₹ 22.30 lakh on import of BIO from Rajasthan State Beverages Corporation Limited had been made. The action taken in recovery of the remaining amount has not been received (November 2015).



*CHAPTER-VII*

**NON-TAX RECEIPTS**

## CHAPTER-VII: NON-TAX RECEIPTS

### 7.1 Tax administration

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. The DMG is assisted by five Additional Directors, Mines (ADM) and three Additional Directors, Geology (ADG) in administrative matters and by a Financial Advisor in financial matters. The ADMs exercise control through seven circles headed by Superintending Mining Engineer (SME).

There are 39 Mining Engineers (ME)/Assistant Mining Engineers (AME), who are responsible for assessment and collection of revenue besides prevention of illegal excavation and despatch of minerals from areas under their control. The Department has a separate vigilance wing headed by Deputy Inspector General (Vigilance), Jaipur for prevention of illegal excavation and despatch of minerals.

### 7.2 Internal audit conducted by the Department

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner and that subordinate offices are maintaining various records and registers properly and accurately besides taking adequate safeguards against non-collection, short collection or evasion of revenue.

Scrutiny of records of the DMG, Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit, the Departmental authorities were not aware of the areas of the weakness in the system which resulted in evasion or leakage of revenue. The matter was pointed out in the Comptroller and Auditor General's Audit Report 2013-14. However, no action was taken by the Department.

### 7.3 Results of audit

Test check of the records of 43 units of the Department of Mines and Geology and Department of Petroleum conducted during the year 2014-15 revealed non-recovery/short recovery of revenue amounting to ₹ 106.32 crore in 5,766 cases, which broadly fall under the following categories :

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1.	Unauthorised excavation	1,121	52.45
2.	Non/short recovery of dead rent and royalty	183	28.73
3.	Non/short-recovery of Environment Management Fund (EMF)	409	13.03
4.	Non-levy of penalty/interest	304	5.74
5.	Other irregularities	3,749	6.37
<b>Total</b>		<b>5,766</b>	<b>106.32</b>

During 2014-15, the Department accepted short realisation, *etc.* of ₹ 52.10 crore in 1,966 cases, of which 271 cases involving ₹ 3.08 crore were pointed out in audit during 2014-15 and the rest in earlier years. The Department recovered ₹ 9.97 crore in 888 cases, out of which three cases involving ₹ 0.04 crore were of current year and the rest were of earlier years.

A few illustrative cases involving ₹ 39.49 crore are discussed in the paragraphs from 7.4 to 7.12.

## 7.4 Loss of revenue due to rejection of highest valid offer

Provisions of Excess Royalty Collection Contract (ERCC)/ Royalty Collection Contract (RCC) have been laid down in Rules 32 to 37 of the Rajasthan Minor Mineral Concession Rules (RMMC), 1986. Rule 35(vi)(c) provides that every tender shall be accompanied by an affidavit stating that no dues of the Department are outstanding against the tenderer/all partners of the firm/all members of association of persons/all directors of the company or family members<sup>1</sup> of the tenderer/partners/members of association of persons/directors, as the case may be. Such affidavit should not be older than 15 days from the date of its submission. Further, Rule 35(ix) provides that tender opening committee shall provisionally select the highest valid offer given by the tenderer. Furthermore, Rule 35(xii) provides that competent authority shall take decision for sanction or rejection of the provisionally selected bid.

During audit of records of office of ME, Bikaner, it was noticed (January 2014) that the Mining Department invited tenders for ERCC/RCC for collection of the excess royalty pertaining to mineral *Bajri, etc.* for a period of two years (2012-14). The tender opening committee selected the highest bid amounting to ₹ 13.94 crore per year against the reserve price of ₹ 10.28 crore. The bid was provisionally selected (9 February 2012) and the contractor complied with all provisions of Rule 32 to 35. Accordingly, the ME recommended the name of the contractor to the DMG for award of the contract. However, the DMG rejected (30 March 2012) the proposal under the provisions of Rules 35(xii) on the ground that dues of the department were outstanding against a firm in which the wife of the proprietor of the bidder firm was a partner on the date of submission of the bid and the proprietor of bidder firm submitted false affidavit and concealed facts.

The wife of the proprietor of the bidder firm was once a partner in the above said firm against which dues of the department were outstanding. But subsequently she relinquished all her interest in the said firm through a retirement deed dated 31 December 2011. It was also noticed that the outstanding amount alongwith interest was also deposited (16/17 March 2012) before passing of the rejection order (30 March 2012) by the DMG and no dues certificate was issued to the said firm (19 March 2012). These facts were brought to the notice of the Department but the DMG rejected the proposal. Aggrieved with the orders of DMG, the bidder approached the High Court which decided that the rejection of the tender was incorrect.

Rejection of the highest bid without considering full facts resulted in collection of royalty of ₹ 89.77 lakh only through departmental *nakas* against the recoverable amount of ₹ 2.75 crore during the period from 1 April 2012 to 11 June 2012. Incorrect decision taken by the DMG, therefore, resulted in loss of ₹ 1.85 crore<sup>2</sup>.

The matter was brought to the notice of the Department and reported to the Government (June 2015). The Government replied (August 2015) that the decision for rejection of bid was taken after taking legal and financial opinion. The legal and financial opinion taken by the Department was not produced to

<sup>1</sup> As per rule 3(xiii-b) of RMMC Rules, 1986 family means husband, wife and their dependent children.

<sup>2</sup> Proportionate contract amount ₹ 2.75 crore (₹ 13,93,93,939/365 days x 72 days) - Collection ₹ 0.90 crore through departmental *Nakas* = Loss of ₹ 1.85 crore.

Audit. The fact remains that the rejection of the tender was not a prudent decision and it adversely affected the collection of royalty by the Department. This was also confirmed by the Additional Counsel while giving legal opinion on the scope of further appeal. The counsel opined that there was no error factually as well as legally in the order passed by the High Court and, therefore, it was not a fit case for further appeal in the matter.

## 7.5 Non-recovery of royalty

As per Rule 37A(ix) of the RMMC Rules, 1986, a contractor shall not recover royalty and/or permit fee for the minerals used in construction and renewal of Mega Highways, four or six lane roads and laying and repair of Railway tracks. For such works, separate short term permit shall be issued and if the minerals are obtained from existing leases, separate paid *rawannas*<sup>3</sup> shall be issued to the lessee.

During the audit of the records of ME, Makrana, it was noticed (December 2014) that construction of a Mega Highway<sup>4</sup> was sanctioned in November 2012 by Rajasthan State Road Development and Construction Corporation Limited. The royalty was required to be collected by department through the paid *rawannas*. However, the Excess Royalty Collection Contractor<sup>5</sup> (ERCC) collected royalty amount of ₹ 58.05 lakh on the mineral used in the works of Mega Highway against the above provisions. The ME did not detect the mistake and assessed the minerals used in the work as royalty paid.

The works contractor should have got issued the *rawannas* after paying the advance royalty of ₹ 58.05 lakh to the ME office. The amount was required to be deposited in the Government account. The details of the amount are as under:

Sl. no.	Name of mineral	Quantity of mineral (MT)	Recoverable royalty amount (₹ in lakh)
1.	Gravel	1,58,154	26.89
2.	Sand/Bajri	13,689	2.74
3.	Crusher grit	1,46,888	24.97
4.	Ballast	20,269	3.45
	<b>Total</b>	<b>3,39,000</b>	<b>58.05</b>

The matter was pointed out to the Department and reported to the Government (June 2015). The Government accepted the fact and replied (August 2015) that the action for recovery was being initiated.

<sup>3</sup> *Rawanna* means delivery challan for removal or despatch of mineral from mines.

<sup>4</sup> Jaipur-Nagaur via Jobner-Kuchaman 63/500 Km (Bhatipura) to 101/700 Km (Narayanpur Tiraha).

<sup>5</sup> Excess royalty collection contractor is a contractor authorised to collect the royalty for a certain period on payment of a lump sum amount.

### 7.6 Non-raising of demand for unauthorised excavation and despatch of mineral out of leased area

Rule 48(5) of the RMMC Rules, 1986 provides that whenever any person, without a lawful authority raises mineral, the cost of mineral alongwith royalty shall be recovered. The cost of mineral will be computed as 10 times of the royalty at the prevalent rates.

During audit of the records of office of the ME, Jalore, it was noticed (March 2014) that a complaint of illegal mining was received against the holder of lease No. 448/02 (Shri Narendra Kumar). On an enquiry conducted (18 July 2012) by Senior Foreman of the office of ME Jalore, it was found that the lease holder had illegally excavated 5,040 MT mineral granite out of the lease area, of which 4,873 MT mineral was despatched and the remaining 167 MT mineral was seized by the Department. The ME did not serve notice to the lessee even after lapse of three years to recover the cost of illegally excavated mineral granite, which worked out to ₹ 85.28 lakh. Action for disposal of the seized mineral was also not taken.

The matter was pointed out to the Department and reported to the Government (June 2015). The Government stated (August 2015) that show cause notice (23 July 2015) had been issued to the lessee.

### 7.7 Non-raising of demand of interest and excess royalty

Section 9(2) of the Mines and Minerals Development and Regulation (MMDR) Act, 1957 provides that the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate specified in the second Schedule of the MMDR Act in respect of that mineral. Government instructions issued in April 2000 and March 2008 provide that competent authorities should calculate royalty in respect of despatched mineral on monthly basis, raise demand and initiate action for recovery thereof. Further, under Rule 64(A) of MC Rules, 1960, simple interest at the rate of 24 *per cent* per annum on royalty due to Government is chargeable from the sixtieth day of the expiry of the due date fixed for payment.

During the course of audit of ME, Pratapgarh, it was noticed (February 2015) that payment of excess royalty on mineral despatched was delayed by seven lessees. The demand of interest on delayed payment of dues which worked out to ₹ 21.21 lakh was not raised by the ME. Out of these seven cases, in two cases, the demand for excess royalty which worked out to ₹ 4.22 lakh was also not raised.

The matter was pointed out to the Department and reported to the Government (May 2015). The Government stated (September 2015) that in four cases, the amount of excess royalty of ₹ 0.08 lakh and interest of ₹ 12.19 lakh had been deposited/adjusted under 'Amnesty Scheme 2014'. Progress of recovery, in respect of remaining three cases wherein excess royalty of ₹ 4.14 lakh and interest of ₹ 9.02 lakh was involved, is still awaited (November 2015).



## 7.8 Production of mineral without obtaining consent to operate

Under Section 21(1) of the Air (Prevention and Control of Pollution) Act, 1981 and Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974, a lessee is required to obtain 'consent to operate' from the Rajasthan State Pollution Control Board (RSPCB) determining quantity of minerals that can be excavated during the prescribed period. Further, as per Rule 18(10) of the RMMC Rules, 1986, the lessee shall abide by all existing Acts and Rules enforced by the Government of India or the State Government and all such other Acts or Rules as may be enforced from time to time in respect of working of the mines and other matters affecting safety, health, environment and convenience of the lessee's employees or of the public.

During audit of records of the office of AME, Kotputli and ME, Pratapgarh, it was noticed (December 2014 and February 2015) that two lessees of mineral marble and 27 lessees of mineral masonry stone excavated 3,985 MT mineral marble and 2.29 lakh MT masonry stone without obtaining consent to operate which resulted in illegal excavation of mineral worth ₹ 5.82 crore, as detailed below:

Sl. no.	Name of office	Name of mineral	No. of lessees	Quantity of mineral excavated (MT)	Rate of royalty per MT (in ₹)	Cost of mineral 10 times of royalty (₹ in lakh)
1.	AME, Kotputli	Masonry stone	27	2,29,263	22	504.38
2.	AME, Pratapgarh	Marble block	2	3,985	195	77.71
	<b>Total</b>		<b>29</b>	<b>2,33,248</b>		<b>582.09</b>

The matter was pointed out to the Department and reported to the Government (June 2015). In case of AME, Kotputli the Government stated (August 2015) that mining without consent or even after lapse of earlier consent can be regularised by charging the applicable annual consent fee for the default period of operation at the time of grant or renewal of subsequent consent to operate by Rajasthan State Pollution Control Board Office as per circular dated 18 November 2006. The facts remain that no coordination existed between Mining Department and Pollution Control Board and the excavation was carried out without the approval of Pollution Control Board.

### 7.9 Production of minor mineral without Mining Plan

As per Rule 37(B) of the RMMC Rules, 1986, Mining Plan is a pre-requisite to the grant of mining lease, quarry licence or short term permit. Further, as per Rule 37G(1), existing lessees shall carry out mining operations in accordance with approved mining plan/simplified mining scheme. The lessees have to submit plan/simplified mining scheme for approval within one year from the date of enforcement (19 June 2012) of the Rule.

During audit of the records of the office of AME, Kotputli, ME, Bundi-I and ME, Jhunjhunu, it was noticed (December 2014, January 2015 and March 2015) that 65 lessees were existing as on 19 June 2012. These lessees were required to submit mining plan by 18 June 2013 which were not submitted. Despite this, the lessees were allowed to excavate mineral in violation of the Rule. The Department also incorrectly issued *rawannas* for despatch of 5.88 lakh MT masonry stone and sand stone valued at ₹ 15.56 crore as detailed below:

Sl. no.	Name of office	Name of mineral	No. of lessees	Quantity of mineral excavated (MT)	Rate of royalty per MT (in ₹)	Cost of mineral 10 times of royalty (₹ in lakh)
1.	Bundi division-I	Sand stone	28	35,788	95	339.99
2.	Jhunjhunu	Masonry stone	11	1,73,321	22	381.31
3.	Kotputli	Masonry stone	26	3,79,268	22	834.39
<b>Total</b>			<b>65</b>	<b>5,88,377</b>		<b>1,555.69</b>

The matter was pointed out to the Department and reported to the Government (June 2015). The Government stated (July 2015) that Rule 18(21) of RMMC Rules, 1986 is applicable in cases of AME, Kotputli and ME, Jhunjhunu where penalty of twice the amount of annual dead rent may be imposed. In case of ME, Bundi-I, it was stated that mineral was despatched in a lawful manner after obtaining *rawannas* and therefore such despatch did not fall under the category of illegal mining in any manner.

However, in the above cases the reply was silent about the issue of *rawannas* without approval of the Mining Plan which was pre-requisite for carrying out mining activities. Since it involves environmental issues, the Department may consider issuing of *rawannas* only after approval of the mining plan.

## 7.10 Non-recovery/short recovery of Environment Management Fund (EMF)

Rule 37T(5) inserted in RMMC Rules, 1986 by Government of Rajasthan through notification dated 19 June 2012 provides that every lessee/licensee of marble, granite and limestone (dimensional stone) of Kota and Jhalawar districts shall deposit a sum of ₹ 10 per ton and lessee/licensee/short permit holder of other minerals shall deposit ₹ five per ton towards Environment Management Fund (EMF). The rate of EMF amount for ordinary earth was reduced to ₹ one per MT from ₹ five per MT with effect from 9 October 2012. The EMF is required to be used for carrying out environment protection work as per Environment Management plan. However, these provisions were declared illegal, without jurisdiction and *ultra vires* with directions that the amended rule shall not be implemented any further as decided on 9 April 2015 by the Rajasthan High Court, Jodhpur. However, if a contractor/lessee had collected EMF amount from consumer or lifter of mining material, he was not entitled to retain the said amount and had to deposit the amount in Government exchequer. A few instances where EMF amount was not collected or collected but not deposited in the Government account are mentioned in the following paragraphs.

### 7.10.1 Non-recovery of the Environment Management Fund from public works contractors

During audit of records of ME, Bhilwara, it was noticed (November 2014) that 28 public works contractors obtained Short Term Permits (STPs) for 4.54 lakh MT gravel, masonry stone, sand and 2.75 lakh MT ordinary earth on advance payment of royalty. The ME, however, did not recover the EMF amount on the above quantities which worked out to ₹ 25.47 lakh. Similarly, during audit of records of AME, Tonk, it was noticed (January 2015) that construction work of roads<sup>6</sup> was awarded (14 October 2009) to Modern Road Makers Private Limited by National Highway Authority of India. It was further noticed that the contractor was issued STPs for 11.60 lakh MT ordinary earth during the period from 21 June 2012 to 28 June 2012 without realising the EMF amount of ₹ 58 lakh. Furthermore, during the audit of records of AME, Jhalawar, it was noticed (February 2014) that three public works contractors obtained (June and July 2012) STPs for 90,600 MT gravel, masonry stone, etc. and 1,70,000 MT ordinary earth on advance payment of royalty. The ME did not recover the EMF amount which worked out to ₹ 13.03 lakh. Thus, the total recoverable amount worked out to ₹ 96.50 lakh.

The matter was pointed out to the Department and reported to the Government (May and June 2015). The Government stated (July 2015) that in four cases of ME, Bhilwara and in one case of AME, Tonk, ₹ 2.68 lakh and ₹ 11.60 lakh respectively had been recovered. Besides, in case of AME Jhalawar, the Government stated that EMF would be recovered by Works Department as per instructions issued vide letter dated 18 September 2012.

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<sup>6</sup> Construction of four lane work on Jaipur to Deoli section of NH-12 from km 63 to 114 - package II.

### 7.10.2 Short recovery/non-recovery of Environment Management Fund

During scrutiny of the demand registers, assessments files and monthly return files of six MEs/AMEs, it was noticed (September 2013 to March 2015) that the EMF amount of ₹ 1.61 crore was not recovered or short recovered from lessees, brick earth permit holders and royalty collection contractors as detailed below:

Sl. no.	Name of office	Name of Mineral	Period		Quantity of Mineral (in MT)	EMF (₹ in lakh)
			From	To		
1.	ME, Bundi-I	Sandstone	19.6.2012	22.3.2013	6,23,079	31.15
2.	AME, Nimbahera	Marble	19.6.2012	31.3.2013	33,049	3.30
		Granite	19.6.2012	31.3.2013	380	0.04
		Masonry stone	19.6.2012	31.3.2013	2,121	0.11
		Limestone	19.6.2012	31.3.2013	2,91,873	14.59
3.	ME, Jhunjhunu	Brick earth	19.6.2012	31.3.2014	4,09,175	20.46
		Masonry stone	19.6.2012	31.3.2013	3,54,433	17.72
4.	ME, Jalore	Granite	19.6.2012	31.3.2013	1,36,619	13.66
5.	ME, Sikar	Brick Earth	19.6.2012	31.3.2013	8,82,150	44.11
6.	ME, Dholpur	Sandstone	19.6.2012	29.10.2012	2,84,730	14.24
		Masonry stone	19.6.2012	29.10.2012	34,460	1.72
<b>Total</b>						<b>161.10</b>

The matter was pointed out to the Department and reported to the Government (June 2015). The Government accepted (August 2015) the facts and stated that in five cases<sup>7</sup>, ₹ 46.53 lakh had been recovered.

### 7.11 Non-raising of demand for cost of minerals illegally excavated and despatched

Rule 48(5) of RMMC Rules, 1986 provides that whenever any person without a lawful authority raises any mineral from any land and mineral so raised has already been consumed or despatched, the cost of mineral along with royalty shall be recovered. The cost of mineral will be computed as ten times of the royalty payable at the prevalent rates.

During scrutiny of records *viz. panchnamas*<sup>8</sup> of ME, Karauli, it was noticed (October 2014) that ME served the show cause notices to the defaulters in seven cases for the recovery of cost of minerals illegally excavated and despatched during April 2012 to October 2013 but the defaulters did not deposit the cost of mineral. The ME submitted only three cases to the SME for according approval for raising the demand of cost of mineral but no proposal was submitted in the remaining four cases. Thus, demand for ₹ 19.12 lakh in all the seven cases could not be raised against these defaulters even after

<sup>7</sup> ME Bundi-I, Jhunjhunu, Jalore, Sikar and AME Nimbahera.

<sup>8</sup> Verification note made by the inspecting officer on the spot regarding illegal excavation.

passage of one to two years as detailed below:

Sl. no.	Number of cases	Name of Mineral	Quantity illegally excavated (in MT)	Rate of royalty per MT (in ₹)	Cost of mineral (₹ in lakh)
1.	1	Brick Earth	4,769	18	8.58
2.	2	Masonry Stone	280	17	0.48
3.	4	Sandstone	875	115	10.06
<b>Total</b>					<b>19.12</b>

After this was pointed out, the ME, Karauli accepted the fact and stated (November 2014) that the demand would be raised and intimated to audit.

The matter was pointed out to the Department and reported to the Government (February 2015). The Department replied (May 2015) that in one case, the ME, Karauli sent a proposal to SME, Bharatpur seeking approval for raising the demand and other six cases were under departmental enquiry.

### 7.12 Non-raising/short raising of demand of cost of brick earth

As per notification issued on 10 June 1994 issued under Rule 65A of the RMMC Rules, 1986, the kiln owner shall obtain permission for the brick earth to be used in making bricks. The permission shall be at least for one year and maximum for five years. The royalty on brick earth shall be recovered on the basis of annual metric ton quantity of earth used as per a given formula (150 days x 3.5 MT x number of *ghories*). Further, Rule 48 of the *ibid* Rules, 1986 provides that whenever any person raises, without lawful authority, any mineral, he shall be liable to pay cost of the mineral so excavated along with royalty.

During test check of the records of MEs, Jaipur, Ajmer and Bharatpur, it was noticed (between June 2013 and October 2014) that in 52 cases, kiln owners used brick earth illegally without obtaining requisite permits and paying royalty. The Department, however, raised demand of ₹ 1.57 crore on the basis of actual quantity of bricks found on the spot at the time of inspection whereas, the recoverable cost worked out to ₹ 13.48 crore. This resulted in short recovery of ₹ 11.81 crore as detailed below:

(₹ in lakh)

Sl. no.	Name of office	No. of cases	Month of <i>panchnama</i>	Recoverable cost	Demand raised by the Department	Short raised demand
1.	ME, Jaipur	39	May 2012 to July 2012	1,041.39	130.63	910.76
2.	ME, Ajmer	5	April 2012 to November 2012	102.91	14.68	78.88
3.	ME, Bhartpur	8	May 2013 to February 2014	203.18	11.90	191.28
<b>Total</b>		<b>52</b>		<b>1,347.48</b>	<b>157.21</b>	<b>1,180.92</b>

The matter was pointed out to the Department and reported to the Government (June 2015). The Government accepted the fact and stated (July 2015) that in respect of ME, Ajmer and ME, Bharatpur, notices were issued for recovery. However, in case of ME, Jaipur, it was stated that the demand was raised on the basis of mineral found at the time of inspection by the technical staff and it would not be correct to assume that kiln worked for the whole year. The reply is not acceptable as the demand of cost of mineral found on site was raised without taking into consideration the quantity which had already been excavated, used in kiln and despatched from site.



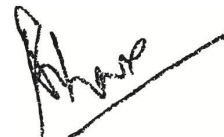
(S. ALOK)

**Accountant General**

**(Economic & Revenue Sector Audit), Rajasthan**

**JAIPUR,  
The 26 FEB. 2016**

**Countersigned**



**(SHASHI KANT SHARMA)**

**Comptroller and Auditor General of India**

**NEW DELHI,  
The 02 MAR. 2016**

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