

CHAPTER – IV
ELECTRICITY DUTY

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Electricity Duty



4.1 Results of Audit

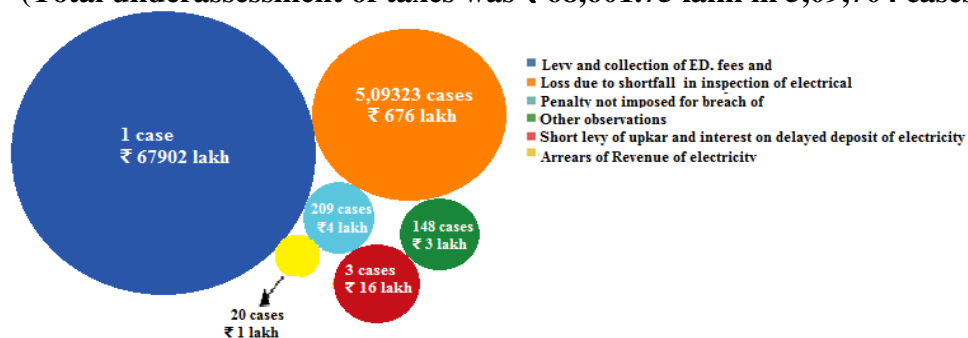
We test checked records of 24 units relating to Electricity Duty during the year 2015-16 and found electricity duty, fees and cess not realised/short realised; and other irregularities involving ₹ 686.02 crore in 5,09,704 cases which fall under the following categories as mentioned in the **Table 4.1**:

Table 4.1
Results of Audit

Sl. No.	Categories	No. of Cases	(₹ in lakh)
			Amount
1.	Levy and Collection of Electricity duty, fees and cess	1	67,902.44
2.	Loss due to shortfall in inspection of electrical installations	5,09,323	675.68
3.	Penalty not imposed for breach of rules	209	4.06
4.	Short levy of <i>upkar</i> and interest on delayed deposit of electricity duty	3	15.52
5.	Arrears of Revenue of electricity duty	20	1.28
6.	Other observations	148	3.21
Total		5,09,704	68,601.75

Chart 4.1: Result of Audit

(Total underassessment of taxes was ₹ 68,601.75 lakh in 5,09,704 cases)



All the audit observations were forwarded to the Department and the Department accepted revenue not realised/short realised and other deficiencies of ₹ 1.11 crore in 41,552 cases, which were pointed out in audit during the year 2015-16. An amount of ₹ 97,000 was realised in 23 cases by the Department during the year 2015-16.

Audit findings of the Audit on "**Levy and Collection of Electricity duty, Fees and Cess**" having money value of ₹ 679.02 crore are discussed in the following paragraphs:

4.2 Levy and Collection of Electricity duty, Fees and Cess

4.2.1 Introduction

The Indian Electricity Act, 2003 governs the law relating to generation, transmission, distribution, trading, use of electricity, supply of electricity etc. The Government of Madhya Pradesh, for levy and collection of taxes and duties on electricity supplied/sold to consumers, have framed Madhya Pradesh Electricity Duty Act, 1949 (MPEDA), Madhya Pradesh *Vidyut Shulk Adhinyam*, (MPVSA) 2012 and the Rules thereunder. Every distributor/distribution licensee¹ (DISCOMs)/franchisee, every generating company, captive power generating plant and producer of electrical energy shall pay every month to the State Government, at the prescribed time and in the prescribed manner, a duty calculated at the specified rate, on the units of electrical energy sold or supplied to a consumer or consumed by himself for his own purposes during the preceding month. Under the Madhya Pradesh Electricity Duty Rules (MPEDR), 1949 every producer and distributor of electrical energy shall pay the electricity duty in respect of each month before the expiry of the following month into Government Treasury and submit a return for each month in the Form "G" along with the treasury receipt to the Electrical Inspectors (EIs) within 15 days from such credit. The amount of duty due and remaining unpaid shall carry interest at such rate and in such circumstances as may be prescribed and shall be collected as arrears of land revenue. Energy Development Cess (EDC) is also leviable on sale or consumption of electrical energy under Madhya Pradesh *Upkar Adhinyam*, (MPUA), 1981 and its amendments. Further, fees for inspection of the electrical installation is levied and collected under the Indian Electricity Act 1910 (amended in 2003) and Indian Electricity Rules 1956. The receipts of the Department are deposited under the Major Head "0043-Taxes and duties on electricity".

4.2.2 Organisational setup

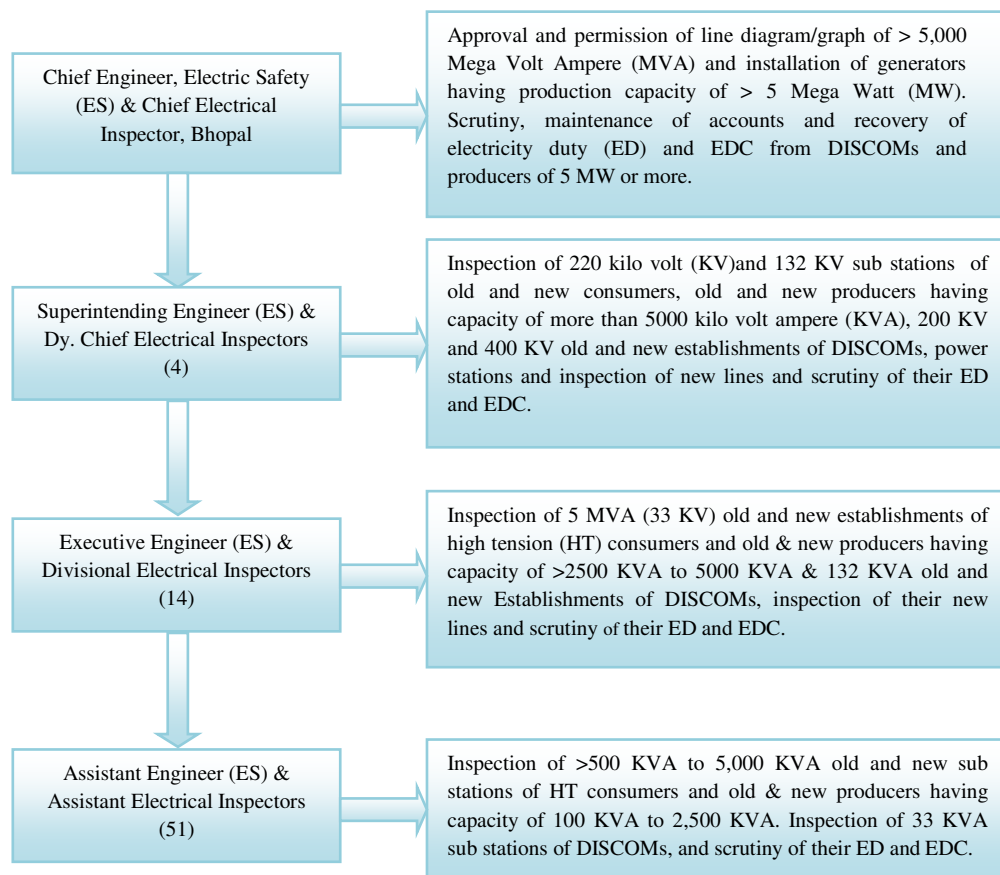
The Office of the Chief Electrical (Electrical Safety) & Chief Electrical Inspector is headed by the Chief Electrical Inspector (CEI) while the Principal Secretary of the Energy Department is the head at the Government level. The CEI is assisted by four Deputy Chief Electrical Inspectors (DCEIs), 14 Divisional Electrical Inspectors (DEIs) at the division level and 51 Assistant Electrical Inspectors (AEIs) at the sub divisional level for conducting inspection of electrical installations. They are responsible for ensuring

¹ Madhya Kshetra Vidyut Vitaran Co. Bhopal, Paschim Kshetra Vidyut Vitaran Co. Indore and Poorva Kshetra Vidyut Vitaran Co. Jabalpur

correctness of the levy and collection of duty, cess and inspection fees (IF) in respect of captive producers and other consumers of electricity.

Chart 4.2

Chart showing organisational set up and duties and functions



4.2.3 Audit Objective

The audit was conducted with a view to

- to assess the efficiency and effectiveness of the system of levy and collection of electricity duty, inspection fees and energy development cess;
- to ascertain whether statutory inspection of the electrical installations was being carried out and fees for such inspection was realised on time; and
- Whether exemptions granted if any were in conformity with provisions of the Indian Electricity Act, Madhya Pradesh *Vidyut Shulk Adhiniyam* and notifications issued from time to time.

4.2.4 Audit Criteria

Audit criteria has been derived from the provisions of the following Act, Rules, circulars and notifications issued there under:

- Indian Electricity Act 1910² (repealed in 2003);
- The Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010;
- The Indian Electricity Rules, 1956;
- Madhya Pradesh Electricity Duty Act (MPEDA), 1949;
- Madhya Pradesh Electricity Duty Rules (MPEDR), 1949;
- Madhya Pradesh *Vidyut Shulk Adhinyam* (MPVSA), 2012;
- Madhya Pradesh *Upkar Adhinyam* (MPUA), 1981; and
- various notifications and circulars issued from time to time by the Government and the Department.

4.2.5 Audit scope and methodology

With a view to evaluate the efficiency and effectiveness of the system and procedures of levy and collection of Electricity Duty (ED), Inspection Fee (IF) and Energy Development Cess (EDC) under the MPEDA & MPVSA, records of CEI, DCEI, DEI and AEI for the period between 2011-12 and 2015-16 were examined and it was also verified whether recommendations made in the Review on this topic in C&AG Audit Report 2009-10 “Revenue Receipts” had been implemented.

The Audit was conducted between October 2015 and June 2016 covering 17 out of 70 units, comprising offices of CEI (one), DCEI (four), DEI (seven) and AEI (five). Hundred *per cent* units of CEI and DCEIs have been selected, while the units of DEIs and AEIs were selected on the basis of simple random sampling method.

The recommendations of Public Accounts Committee (PAC) on the Review conducted in 2009-10 were tabled in Vidhan Sabha on 22 July 2015, however, action taken note thereon has not yet been received (September 2016).

4.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Energy Department for providing information and records to audit. An entry conference to discuss the audit objectives and scope of audit was held with the Principal Secretary of the Department and officials from CEI on 17 February 2016. The audit findings were forwarded to the State Government in June 2016.

The findings of the Audit were discussed with the Principal Secretary of the Department in an exit conference held on 3 September 2016. The views of the Government/Department have been suitably incorporated in paragraphs.

² Indian Electricity Act, 1910 has been repealed by the Electricity Act, 2003 and Indian Electricity Rules 1956 have also been replaced by Central Electricity Authority (Measures relating to safety and electric supply) Regulations 2010. However, this Act and Rules framed thereunder are still applicable as it is provided in the Electricity Act, 2003, that, Indian Electricity Rules, 1956 made under Section 37 of the Indian Electricity Act, 1910 as it stood before such repeal shall continue to be in force till the regulations under Section 53 of this Act are made.

4.2.7 Trend of Revenue

The Budget Manual chapter 3 B(i) provides that the estimates should take into account only such receipts as the estimating officer expects to be actually realised or made during the budget year. The Budget Manual clearly states that if the test of accuracy is to be satisfied, not merely should all items that could have been foreseen be provided for, but also only so much, and no more should be provided for as is necessary.

The trend of revenue from ED, EDC and IF receipts during last five years ending 31 March 2016 is as under:

Table 4.2
Table showing trend of revenue (Revised estimates and Actual Receipts)

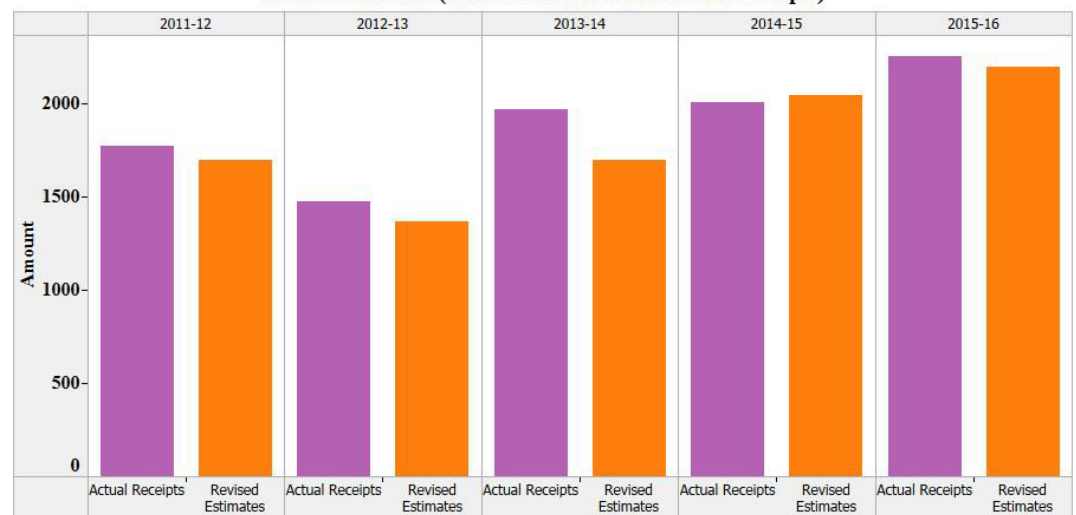
(₹ in crore)

Year	Revised estimates (RE)	Actual receipts (As per Finance Accounts)				Percentage increase (+)/decrease (-) over REs (Finance Accounts)	Total tax revenue of the State	Percentage of actual tax receipts to total receipts
		ED	EDC	IF	Total			
2011-12	1700.00	1297.25	230.95	245.12	1773.32	(+) 4.31	26973.44	6.57
2012-13	1370.00	1249.71	148.73	79.27	1477.71	(+) 7.86	30581.70	4.83
2013-14	1700.00	1537.11	304.63	130.46	1972.20	(+) 16.01	33552.16	5.88
2014-15	2050.00	1565.36	193.17	251.67	2010.20	(-) 1.94	36567.31	5.49
2015-16	2200.00	1769.50	313.13	175.20	2257.83	(+) 2.63	40240.43	5.61

(Source: Finance Accounts of GoMP for the period 2011-12 to 2015-16.)

Chart 4.3

Trend of Revenue (Revised Estimates and Actual Receipts)



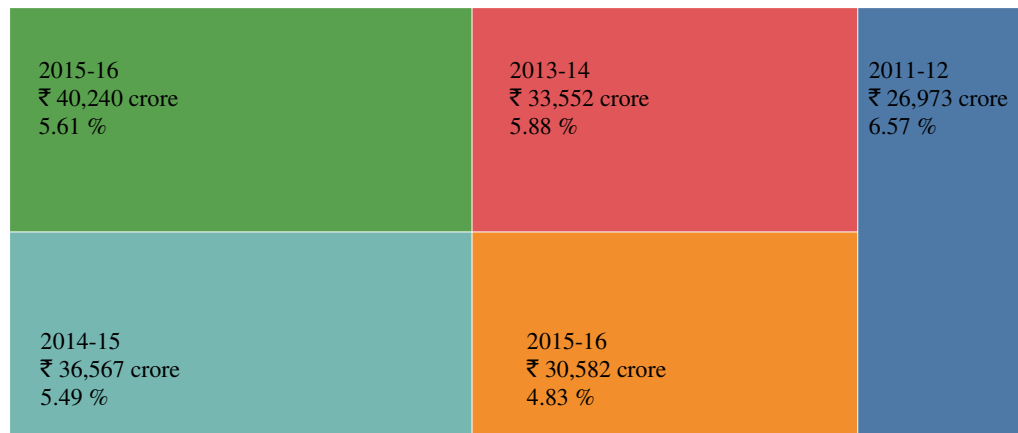
From the table, it is evident that though the actual receipts were higher than the revised estimates in all the years except 2014-15, in the year 2012-13, the revised estimates were drastically reduced to ₹ 1,370 crore against ₹ 1,700

crore in 2011-12. The variation between revised estimates and actual receipts ranged between (-) 1.94 and (+) 16.01 *per cent*.

Regarding variation between revised estimates and actual receipts, Department replied (March 2016) that actual receipts exceeded the revised estimate figure by ₹ 73.32 crore due to outstanding balances received from DISCOMs in the year 2011-12. Similarly, actual receipts exceeded by ₹ 107.71 crore and ₹ 272.20 crore against revised estimates in the year 2012-13 and 2013-14 respectively due to receipt of outstanding balances of revenue and interest. Actual receipt decreased by ₹ 39.80 crore against revised estimates in 2014-15, as duty was exempted on new connection connected through grid (March 2014) and EDC on captive power producers was abolished in January 2013 by a notification issued in this regard. Further, in year 2012-13, the revised estimate was reduced to ₹ 1,370 crore against ₹ 1,700 crore of previous year due to implementation of MPVSA³, which was effective from 25 April 2012.

Chart 4.4

Percentage share of actual receipts of taxes and duty on electricity to total tax revenue of the State



The actual receipts of taxes and duty on Electricity vis-à-vis total tax revenue of the State between 2011-12 and 2015-16 ranged between 4.83 *per cent* and 6.57 *per cent*. This percentage declined substantially in 2012-13, 2014-15 and 2015-16 to 4.83 *per cent*, 5.49 *per cent* and 5.61 *per cent* respectively of the total receipts of the State from 6.57 *per cent* in 2011-12.

Audit findings

4.2.8 Position of arrears

According to Section 5 of MPEDA and Section 7 of MPVSA the amount of duty due and remaining unpaid shall carry interest and may be recovered in the same manner as an arrear of land revenue. The position of outstanding

³ According to MPVSA, 2012, no duty shall be payable in respect of electricity sold/supplied or consumed by any Generating Company in which the Government of Madhya Pradesh has at least fifty one *per cent* equity.

revenue including the ED, EDC and IF during the last five years ending March 2016 is given below:

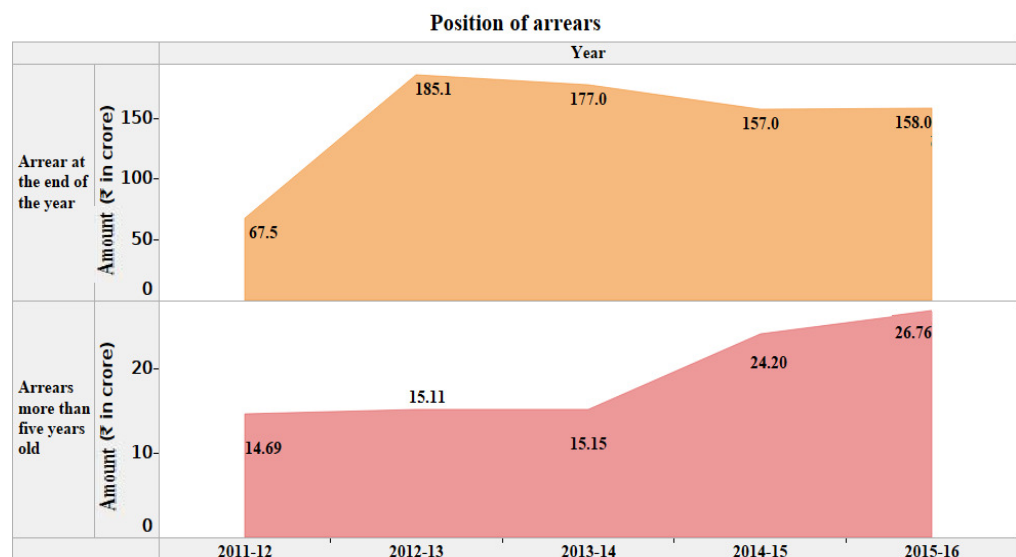
Table 4.3
Position of outstanding revenue

(₹ in crore)

Year	Opening balance	Additions during the year	Total outstanding arrears	Recovery during the year	Arrear at the end of the year	Arrear more than five years old
2011-12	70.67	8.64	79.31	11.83	67.49	14.69
2012-13	67.49	123.37	190.86	5.73	185.13	15.11
2013-14	185.13	4.94	190.07	13.09	176.98	15.15
2014-15	176.98	13.10	190.08	33.12	156.96	24.20
2015-16	156.96	4.88	161.84	3.89	157.95	26.76

(Source: Information furnished by the Department)

Chart 4.5



We observed that the recovery during the year as compared to the total outstanding arrears for the year varied between 2.40 *per cent* and 17.42 *per cent* during the last five years. An amount of ₹ 157.95 crore was outstanding as arrears on 31 March 2016 out of which ₹ 26.76 crore was outstanding for more than five years. As may be seen from the above table, the position of arrear has deteriorated, increasing from ₹ 67.49 crore in 2011-12 to ₹ 157.95 crore in 2015-16. Similarly, arrear outstanding for more than five years has also increased from ₹ 14.69 crore in 2011-12 to ₹ 26.76 crore in 2015-16. An analysis of major defaulters in terms of outstanding arrears revealed that the top five major defaulters were M/s J P Rewa (₹ 71.28 crore), M/s J P Bela (₹ 35.15 crore), M/s Hotline CPT, Malanpur (₹ 7.61 crore), M/s Ultratech Cement (₹ 1.50 crore) and M/s Rymond Limited, Sousar (₹ 1.47 crore).

The Government stated (September 2016) that out of ₹ 157.94 crore, revenue recovery certificates (RRC) had been issued for recovery of ED, EDC and IF of ₹ 126.95 crore, arrears pending in sub-judice cases were ₹ 9.64 crore, arrears of ₹ 3.67 crore were due from sick textile mills, revenue of ₹ 27.91

lakh were under consideration with State Government and arrears of ₹ 17.41 crore were due with others. It was further stated that Department sends notices to consumer from time to time for recovery of dues, while recovery in sub-judice cases is pending for long time. In the cases of recovery against RRC issued, it was replied that no recovery was effected due to lack of co-operation by District Collectors concerned. In all such cases where arrears of revenue are of more than one crore, the Department prepares a list of such consumers and sends it to Government and the Government forwards such cases to District Collectors concerned.

4.2.9 Energy Development Cess either not credited or belatedly credited in Electricity Development fund and utilised for other than the intended purposes

The Energy Development Cess amounting to ₹ 325.17 crore was not utilised for the purpose for which cess was levied and Department also did not timely transfer the amount of Energy Development Cess amounting to ₹ 88.22 crore into Electricity Development Fund.

According to Section 3(2) of the MPUA, EDC shall first be credited to the Consolidated Fund of the State and the State Government may, at the commencement of each financial year, place all the proceeds of cess realised by the State in the preceding financial year to the credit of a separate fund to be called the Electricity Development Fund (EDF) and such credit to the said fund shall be an expenditure charged on the Consolidated Fund of the State.

Further Section 3(3) of the MPUA, provided that the amount in the credit of the fund shall be utilised for research and development in the field of energy, improving the efficiency of generation, transmission, distribution and utilization of energy including reduction of losses in transmission, research in design, construction, maintenance, operation, survey of energy sources including non-perennial sources to alleviate energy shortage and others.

Details of EDC collected and credited into EDF are given in table below:

Table 4.4
Details of EDC collected and credited into EDF

(₹ in crore)				
Year	Actual Receipt of Cess	Amount credited to EDF in next financial Year	EDC excess (+) / less (-) credit to EDF	Disbursement of EDF
2010-11	349.15			
2011-12	230.95	305.00	(-) 44.15	33.45
2012-13	148.73	275.00	(+) 44.05	291.72
2013-14	304.62	----	(-) 148.73	153.34
2014-15	193.17	68.20	(-) 236.42	-----
2015-16	-----	490.20	(+) 297.03	108.15
Total	1226.62	1138.40	(-) 88.22	586.66

(Source: Finance Account of GoMP)

From the above table, it can be observed that the EDC amounting to ₹ 1,226.62 crore had been credited to the Consolidated Fund of the State during the period between 2010-11 and 2014-15 out of which an amount of ₹ 1,138.40 crore was credited to EDF between 2011-12 and 2015-16, including an amount of ₹ 490.20 crore credited to EDF on 31 March 2016

instead of commencement of financial year. Thus, an amount of ₹ 88.22 crore remained outside the EDF, which was against the provision of MPUA.

Further, it was also observed that during the period 2011-12 to 2015-16, an amount of ₹ 586.66 crore was disbursed against ₹ 1138.40 crore transferred to EDF and ₹ 551.74 crore remained undisbursed. Out of this, an amount of ₹ 325.17 crore was transferred to MH-4801-05-190 (Capital outlay on power projects)⁴ for the purpose of investment in power sector during the year 2011-12 and 2012-13, which otherwise should have been utilised for the purpose of research and development, improving the efficiency of generation, transmission, distribution and utilization of energy including reduction of losses in transmission etc. in the field of energy. It clearly depicts, that the amount of EDC was neither credited regularly in EDF at the commencement of each financial year, nor was the amount of EDF being disbursed for the purpose for which EDC was collected.

The Government replied (September 2016) that the amount of EDF is utilised for the intended purpose given in section 4 of MPUA. In future EDC would be transferred in EDF well in time.

Reply of the Government was not acceptable, because intended purpose of utilisation of EDF was derived in Section 3 (3) of MPUA and not in Section 4 and amount of EDF was disbursed for capital outlay instead of intended purpose as described in Section 3(3) of MPUA, 1981.

The Government may institute a mechanism to ensure timely transfer of EDC into EDF and timely and effectiveness utilisation of EDC for the intended purpose.

4.2.10 Interest not levied on outstanding balances with DISCOMs

During the years 2011-12 to 2015-16 an amount of ₹ 6,018.79 crore was collected by DISCOMs as ED and EDC but an amount of only ₹ 5,993.52 crore was transferred/adjusted to DISCOMs as loan by State Government. The amount of ED and EDC were transferred/adjusted as perpetual loan to DISCOMs with delay ranging between one month and eleven months. Thus, DISCOMs were liable for payment of interest of ₹ 272.11 crore up to March 2016 for the delay period.

According to Rule 3 of MPEDR, every distributor of electrical energy and every producer shall pay the electricity duty in respect of each month before the expiry of the following month into the Government Treasury to be credited under the head “0043- Taxes and duties on electricity- Taxes on consumption and sale of electricity” and send the treasury receipt to the EIs within 15 days from the date of such credit. As per Rule 5 of MPEDR, where the duty due is not paid within the period specified under Rule 3, the same shall attract interest thereon at the rate⁵ as may be fixed by the State Government by notification from time to time subject to a maximum of 24 *per cent* per annum.

⁴ MH-4801- Capital outlay on power projects, 05-transmission and Distribution, 190- investments in public sector and other undertakings

⁵ As per Notification date 22 July 1975, rate of interest shall be up to 3 months-12 *per cent* per annum (p.a.), >3 and 6 months-15 *per cent* p.a., >6 and 12 months-20 *per cent* p.a. and more than 12 months-24 *per cent* p. a

According to Rule 7 of MPEDR, every distributor of electrical energy and every producer shall submit monthly return form 'G' and yearly return form 'K' to the Electrical Inspector.

We observed from the records of the CEI that the annual returns in form 'K' were not submitted by the DISCOMs while monthly return in form 'G' were not submitted in the prescribed format. During the years 2011-12 to 2015-16 an amount of ₹ 6018.79 crore⁶ was collected by DISCOMs as ED and EDC but an amount of ₹ 5993.52 crore⁷ was transferred/adjusted to DISCOMs as loan by State Government. Balance amount of ₹ 25.27 crore was retained by DISCOMs, which was not converted into perpetual loan by the Government. The amount of ED and EDC collected by the DISCOMs was transferred/adjusted as perpetual loan to DISCOMs with delay ranging between one month and eleven months. As a result, DISCOMs were liable for payment of interest of ₹ 272.11 crore up to March 2016, which was calculated for the intervening period when the payment of ED was due and when the due amount was converted into perpetual loan.

Further, it was also observed that during the year 2011-12, ED of ₹ 878.37 crore and EDC of ₹ 105.56 crore was collected by DISCOMs. But ED amounting to ₹ 883.32 crore and EDC amounting to ₹ 105.38 crore was transferred/adjusted as perpetual loan. As a result ₹ 4.94 crore of ED was transferred/adjusted as perpetual loan in excess of ED collected by the DISCOMs, while EDC of ₹ 18.02 lakh was retained with DISCOMs, which remained unadjusted as perpetual loan.

On being pointed out in audit, the Government stated (September 2016) that as per Cabinet Note, the amount of ED/EDC collected by DISCOMs is converted into perpetual loan on monthly basis.

Reply of the Government is not acceptable, as there was delay in conversion of ED and EDC collected by DISCOMs into perpetual loan and as relevant Act/Rules were not amended in consonance with the Cabinet note by issuance of notification for its implementation.

Government should formulate a mechanism by which the ED due against the DISCOMs should either immediately be converted into perpetual loan or Government should levy interest in cases of delay in payment of electricity duty.

4.2.11 Electricity duty not paid without obtaining a certificate of eligibility for exemption

Orient Paper Mills, Amlai had set up two captive power plants of 25 MW and 30 MW thermal generator (TG) set and assumed exemption from ED without making any formal application and without obtaining a certificate of eligibility for exemption from payment of ED. As a result of which electricity duty amounting to ₹ 51.79 crore including interest could not be realised.

⁶ ED amount of ₹ 5901.26 crore and EDC amount of ₹117.53 crore.

⁷ ED amount of ₹ 5876.56 crore and EDC amount of ₹ 116.96 crore.



Orient Paper Mills, Amlai (Shahdol)

According to Notification dated 12 July 2006, the State Government had granted exemption from the payment of ED for a period of five years, seven years and ten years to the electrical energy produced by the Captive Power Plants of the projects (Mega Projects) investing permanent capital of more than ₹ 25 crore but upto ₹ 100 crore, more than ₹ 100 crore but up to ₹ 500 crore and more than ₹ 500 crore respectively, subject to certain condition.

Aforesaid notification was made effective from 02 May 2005 (retrospective date) in view of the decision taken by Empowered Committee on Investment Promotion which was held on 02 May 2005 Vide Notification dated 19 August 2008.

We observed in the office of the CEI, Bhopal, that Orient Paper Mills, Amlai had set up two captive power plants of 25 MW and 30 MW TG set with investment of ₹ 161.16 crore. The temporary permission was granted to operate TG set by CEI, Bhopal on 25 July 2012 and generation of electricity had been started through 25 MW TG set and 30 MW TG set from the month of September 2012 and October 2012 respectively. Orient Paper Mills had not paid any ED and assumed exemption from ED without making any formal application and without obtaining a certificate of eligibility for exemption from payment of ED from the EI. This was contrary to the conditions of notification dated 12 July 2006 *ibid*. This resulted in loss of ED of ₹ 51.79 crore (including interest of ₹ 15.75 crore up to March 2016) Further, we observed that Form 'G' of both TG set was sent up to December 2012 only. The Department also failed to notice of not submitting of form 'G' and did not take any tangible action against company for not paying ED. The ED has been calculated on the basis of average production and consumption of electricity energy for four and three months respectively for both TG Sets from September 2012 to January 2016.

The Government replied (September 2016) that Oriental Paper Mill had neither submitted monthly return Form 'G' nor deposited ED on consumption of units. Consumer did not pay electricity duty for trial run period and assumed exempted from ED. Legal action is being taken for breach of rule.

4.2.12 Loss of revenue due to failure to install separate meters for dutiable and not dutiable consumption of electricity

Separate meters were not installed for dutiable and not dutiable consumption of electrical energy in the case of 24 HT consumers resulting in loss of revenue amounting to ₹ 16 crore.

According to Rule 10 of the MPEDR, every distributor of electrical energy and every producer, shall install a meter separately for each category for

which rate of duty applicable are different. Further, amendment of Section 3 of the Act provides that if the consumption of any one purposes is used either wholly or partly, without the consent of distributors or producer of electricity, for consumption for any purpose for which higher rate of duty is chargeable, the entire energy sold or supplied shall be charged at the highest applicable rate. If consumption of electrical energy, both dutiable and not dutiable, is recorded by one meter, the dutiable energy consumption of different categories shall be assessed in the manner laid down by the Electrical Inspector (till such time, meter for each category is installed). Further, this issue was also highlighted in the previous Performance Audit (2009-10), on which, the CEI, Bhopal had replied (April 2010) that written communication has been sent to the distribution companies for issuing directions to install separate meters for recording dutiable and not dutiable consumption.

The Public Account Committee had also recommended that:

- i. The basis of duty of electricity without installing the separate meters for dutiable and not dutiable energy consumption be conveyed to the PAC.
 - ii. Action taken for recovery pointed out by Audit against Bhopal and Habibganj railway stations be made available to PAC
 - iii. Necessary instructions may be issued for fixation of dutiable and not dutiable consumption of electricity in a time bound manner.
- We observed in respect of 17 HT connections⁸ (16 railway stations and one Garrison Engineer) that separate meters were not installed for dutiable and not dutiable consumption of electricity, though the DISCOMs supplied 146.44 MU of electrical energy to HT consumers for combined purposes. ED on only 69.11 MU (47.19 per cent) of electrical energy was collected by these DISCOMs and remaining consumption was exempted from payment of the ED treating this as not dutiable consumption. The duty leviable at the applicable rates to dutiable units worked out to ₹ 6.32 crore for the last five years. Even for the dutiable consumption, the CEI did not have any basis for computation. We further observed that though the DISCOMs submitted the monthly returns regularly to the DEIs yet the latter failed to reassess the dutiable and not dutiable consumption recorded by a single meter. This led to failure to levy of ED of ₹ 6.32 crore. **(Appendix XVIII)**

On being pointed out in audit, the Government replied (September 2016) that the instructions for installation of separate meters for dutiable and not dutiable consumption of energy were issued in the year 2010 to DISCOMs. But even after lapses of six years, separate meters were not installed for dutiable and not dutiable consumption of electrical energy. Twelve out of 17 HT consumers had been reassessed between January 2016 and September 2016 after observations were made in the audit. Remaining HT consumers would be

⁸ (1) Divisional Superintendent, Mhow, (2) Divisional Superintendent, WR, Indore (3) Sr. divisional Electrical Engg. (WCR), Jabalpur (4) Sr. divisional Electrical Engg. (G) CR, Bhopal (Bina station) for Offices and Qutrs.(5) Divisional Electrical Engg. (DEE) G Central Railway, Bhopal (Bina station) (6) DEG (G) CR Bhopal (Bina river)(7) Divisional Suptd. Central Railway, Katni (8) Divisional Suptd. SE Railway, Mandla (9) Divisional Suptd. Western Railway, 1st point, Ratlam (10) Divisional Suptd. Western Railway station, Ujjain (11) DRM (WR) Kota Shamgarh Station (12) DRM (WR) Kota Ratlam, Neemuch Station(13) The Sr. DEE Railway station, Harda (14) Divisional Supt. (CR) Gwalior Railway station(15) DEE Maint. (CR) Battery Charger, Gwalior (16) The DRM, CR BPL Bara Tawa and (17) Garrison Engineer, No. 1, Mhow

assessed between September 2011 and November 2014. Of those consumers assessed, dutiable units of one HT consumer increased from 47 *per cent* to 60 *per cent* and bill was amended accordingly from April 2015 onwards.

- We observed that at seven HT connections⁹, separate meters were not installed for dutiable and not dutiable consumption of electricity, though the three DISCOMs supplied 181.02 MU of electrical energy to these seven HT consumers for combined purposes. However, ED on only 53.25 MU (29.42 *per cent*) of electrical energy was collected on the basis of fixed unit consumption each month by these DISCOMs and the remaining consumption was exempted from payment of the ED treating this as not dutiable consumption. The duty leviable at the applicable rates on dutiable units worked out to ₹ 9.68 crore for the last five years (**Appendix XIX**). Though the Chief Electrical Inspector instructed the distributions companies in 2010 regarding installation of separate meters for dutiable and not dutiable energy consumption, even after lapse of six years, no action has been taken in this regard. Moreover, the Department has also not taken any further initiative to get their aforesaid order implemented.

The Government replied (September 2016) that one HT consumer (the Commandant, CRPF, Neemuch) was reassessed in January 2016 and dutiable consumption was increased from 0.024 *per cent* to 67 *per cent*, for which recovery order has been issued. Railway station, Habibganj was reassessed in October 2014 and found that dutiable consumption increased from 20,250 unit per month to 34,390 unit per month which was fixed in January 2015. The instructions have been given to field officers for inspection of sites for calculation of dutiable and not dutiable consumption of energy and effect recovery of ED accordingly. The Department has decided to install separate meter for dutiable and not dutiable consumption after meeting with officials of Railway, Garrison Engineer, and Medical College.

The reply is not acceptable, because even after a lapse of six years, separate meters were not installed for dutiable/not dutiable consumption of electrical energy. In previous Review conducted in 2009-10, observation on this issue was also made on which, PAC also recommended suitable action. However, no remedial action was taken by the Department and such irregularities persisted including that of Habibganj Railway Station which also appeared in the last Review.

On previous review on this issue, Public Account Committee recommended for resolution of issue of dutiable and not dutiable consumption of electricity in a time bound manner and also asked the Department to give the basis of levy of electricity duty without installing the separate meters for dutiable and not dutiable energy consumption. We again recommend that Department may install separate meters for dutiable and not dutiable consumption of electricity and there should be a time bound recovery in all such cases where electricity duty was short levied due to absence of separate meters for dutiable and not dutiable consumption of electricity.

⁹ (1) Garrison Engineer, MES, Mhow (2) Superintendent M.Y. Hospital, Indore (3) Garrison Engineer, MES west Jabalpur (4) Garrison Engineer, MES west Jabalpur (5) Station Commandant CRPF, Neemuch (6) Joint Director, Medical Hospital, Jabalpur. (7) Sr. Divisional Electrical Engineer, Habibganj

4.2.13 Shortfall in electrical inspection

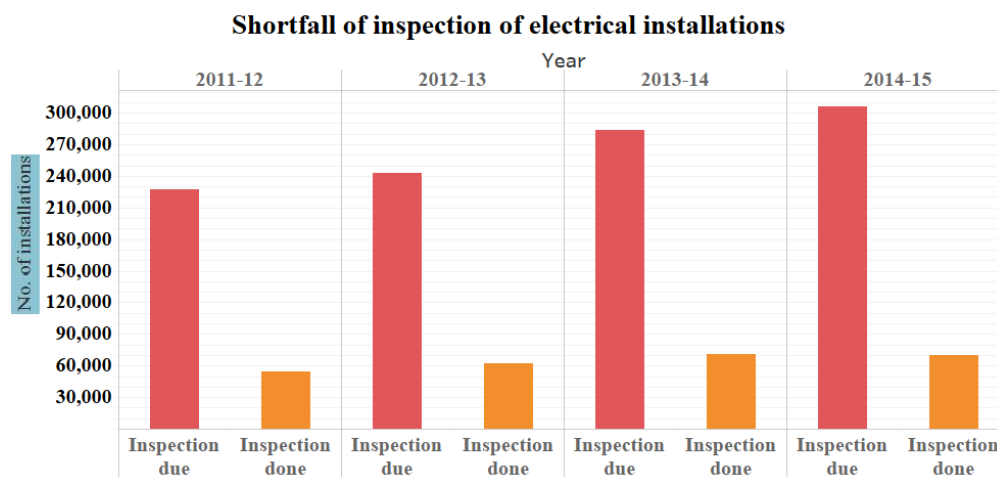
Department could not achieve targets of annual inspection of electrical installations, jeopardising the safety of medium and high tension electric installations. Besides, inspection fees amounting to ₹ 11.35 crore was also foregone.

Under the Indian Electricity Rules, every installation shall be periodically inspected and tested at an interval not exceeding five years either by an inspector or any other officer, on payment of fees in advance at the prescribed rates, depending on the connection load. The main purpose of this inspection is to ensure safety of the electrical installations and prevention of electrical accidents.

We observed in the seven DEIs¹⁰ and two AEIs¹¹ offices that out of 10.59 lakh medium voltage and high voltage electrical installations required to be inspected during the period 2011-12 to 2014-15, only 2.59 lakh installations were inspected by the Department, leaving a shortfall of eight lakh installations. The average shortfall of inspection of electrical installations was 75.58 per cent between 2011-12 and 2014-15.

It is evident that the Department never achieved full targets of annual inspection of electrical installations. Lack of timely inspection of electrical installation may have a huge bearing on the safety of electrical installations. Besides this, it also resulted in revenue foregone amounting to ₹ 11.35 crore as inspection fees.

Chart 4.6



The Government replied (September 2016) that hundred per cent inspection of electric installations is not possible due to lack of sufficient inspection staff. The target of inspection of installations has been achieved as per available technical staff and safety of installations was not compromised.

¹⁰ DEI, Guna, Hoshangabad, Chhindwara, Sagar, Gwalior, Shahdol and Ratlam
¹¹ AEI, Bhopal-2, Indore-2

The reply is not acceptable, as inspection of electrical installation is vital in prevention of electrical accidents and is one of the primary functions of the Department. By not inspecting the electric installations in accordance with the provisions, their safety was compromised.

The Government may ensure that the provisions relating to periodic inspection of the electrical installations be scrupulously followed in order to ensure safety of these electrical installations.

4.2.14 Short realisation of duty from High Tension consumers

Eight HT industrial consumers had consumed 18.04 Mega Unit (MU) electrical energy and paid ED at the rate of nine *per cent* instead of 15 *per cent* of tariff rate due to mis-classification of their business activity. This misclassification resulted in short realisation of ED and interest there on amounting to ₹ 1.43 crore.

According to Section 3 of MPED (Amendment) Act, 2011 (effective from 10 August 2011) and Section 3(1) (A) of MPVSA, every distributor/distribution licensee/franchisee of electrical energy shall pay every month to the State Government, at the prescribed time and in the prescribed manner, a duty calculated at the specified rate on the units of electrical energy sold or supplied to consumer or consumed by himself for his own purposes during the preceding month. As per Part-B of Section 3 of MPED (Amendment) Act, 2011 and Part-A of MPVSA, on HT¹² Industries connections, rate of duty would be 15 *per cent* of tariff per unit of electricity per month. Further, interest¹³ is also leviable on unpaid amount of ED at the rate as may be fixed by the State Government by notification from time to time subject to a maximum of 24 *per cent* per annum.

We observed during test check of 4480 HT consumers out of 6316 HT industrial consumers that eight HT industrial consumers had consumed 18.04 Mega Unit (MU) electrical energy and paid ED at the rate of nine *per cent* instead of 15 *per cent* of tariff rate. Four HT consumers out of these eight were involved in production of plastic packing material like Flexible Intermediate Bulk Containers, Plastic Product (PP) and high-density polyethylene (HDPE) Woven Sacks and PP & HDPE Woven Fabric, however, these were categorised as Textile Mills, weaving mills and spinning mills. Remaining three HT consumers were involved in production of food products and treated as Flour Mills. One HT consumer M/s Ruchi Soya Industry, Guna was involved in production and refining of edible oil on large scale and treated as oil expeller. This misclassification of industries/business resulted in short realisation of ED and interest there on amounting to ₹ 1.43 crore as detailed below:

¹² Connection of 11 kV and more are treated as HT connections.

¹³ As per Notification date 22 July 1975, rate of interest shall be upto 3 months-12 *per cent* per annum (p.a.), >3 and 6 months-15 *per cent* p.a., >6 and 12 months-20 *per cent* p.a. and more than 12 months-24 *per cent* p. a

Table 4.5
Short realisation of duty from High Tension consumers

(₹ in lakh)

Sl. No.	Name of consumers	Contract demand	Period	Units consumed (MU)	ED payable	ED paid	Amount of ED recoverable	Amount of interest
1	M/s Sita Shri food product, Indore	1000 KVA	03/13 to 04/14	2.71	26.43	15.86	10.57	5.68
2	M/s Ad-Manum Packaging Ltd. Mhow	900 KVA	09/12 to 07/15	1.24	97.57	58.54	39.03	17.56
3	M/s Mukesh Associate, Indore	250 KVA	05/13 to 07/15	3.50	27.36	16.42	10.94	3.66
4	M/s Parth Plast Pack Pvt. Ltd. Indore	460 KVA	08/13 to 07/15	3.14	25.13	15.08	10.05	3.06
5	M/s Malwa Agro Food Pvt. Ltd. Depalpur, Indore	350 KVA	07/12 to 04/14	1.04	10.89	6.53	4.36	3.73
6	M/s Manish Flexipack, Indore	450 KVA	04/15 to 07/15	0.85	7.26	4.35	2.90	0.34
7	M/s Malwa Agro Food Pvt. Ltd. Indore	700 KVA	09/13 to 10/13	0.49	3.89	2.33	1.56	0.85
8	M/s Ruchi Soya, Guna	1250 KVA	09/11 to 12/12	5.07	37.16	22.30	14.87	14.03
Total				18.04	235.69	141.41	94.28	48.91

The Government replied (September 2016) that Sl. No. 9 of Section 3 of MPVSA, 2011 clearly depicted that ED shall be levied at the rate of nine *per cent* for power loom, flour mill, oil expeller and textile mills. Further it was stated that four consumers (Sl. No. 2, 3, 4 and 6 of the table) were textile mills, three consumers (Sl. No. 1, 5 and 7 of the table) were flour mill and one consumer (Sl. No. 8) was an oil expeller. Hence, duty at the rate of nine *per cent* was levied.

The reply is not acceptable because, these units were related to manufacturing and production of plastic packaging material, Flexible Intermediate Bulk Containers, high-density polyethylene (HDPE) Woven Sacks and PP & HDPE Woven Fabric), food products (Bakers Maida, Sooji, Rawa, Tandoori Atta, Regular Atta, Daliya etc. on large scale) and production and refining of edible oil on a large scale and cannot be treated as textile mill/flour mill/oil expeller. Further, all consumers were having HT connections, hence these units should also have been classified as HT Industries according to Part-A of MPVSA, on which duty at the rate of 15 *per cent* was leviable.

4.2.15 Fine not levied for not submitting of monthly returns

In four DCEIs and seven DEIs offices 1,083 captive producers, neither submitted Form 'G', nor paid the duty against the energy produced/consumed through captive power. However, the Department did not file the cases with the jurisdictional court to impose fine for not submitting Form 'G'.

According to Rule 7 of the MPEDR, every distributor of electrical energy and every producer shall submit monthly return to the EI in Form 'G' along with the treasury receipt which contains amount of duty with dutiable and not dutiable consumption. Further, according to Section 8 of MPVSA, every distribution licensee or franchisee or every producer, captive generating plant, generating company and consumer obtaining electricity through open access shall keep in such form, books, accounts and records and furnish such returns at such times and to such authorities as may be prescribed. As per Section 11 of MPVSA, if any franchisee, producer, captive generating plant, generating company or consumer fails to keep accounts, records or to furnish returns in accordance with any rules, he shall be punishable with a fine which may extend to rupees five thousand. For this purpose, Department should issue notices/reminders to these producers/generating companies/franchisees for not submitting monthly returns. In the case of failure to comply with these notices, Department should initiate imposition of penalty through filing of cases with court of law as per applicable provisions.

We observed in the four DCEIs¹⁴ and seven DEIs offices¹⁵ that 1,083 captive producers out of 3910 captive producers neither submitted Form 'G' nor paid the duty against the energy produced/consumed through captive power. This attracted maximum fine of ₹ 54.15 lakh for which the Department did not file the case with the jurisdictional court. Amount of ED leviable could not be worked out due to the absence of Form G.

On being pointed out in audit, the Government stated (September 2016) that the instructions were issued to field offices for imposition of fine for not receiving monthly returns Form 'G' from distributors and producers. In future, online system will be adopted for receipt of Form 'G'.

The Department should strictly monitor the submission of returns by distribution companies and captive power producers and may also impose fine against errant companies to have a deterrent effect.

4.2.16 ED not realised for self-consumption and short levy of EDC for sale of electricity to DISCOMs

The Department did not levy ED on consumption of electricity for own use by HEG Limited amounting to ₹ 10.59 lakh and also did not levy EDC on sale of electricity of DISCOMs amounting to ₹ 26.75 lakh.

According to Section 3 (3) of MPVSA, 2012, every Generating Company, captive generating plant and producer shall pay every month to the State Government at the prescribed time and in the prescribed manner a duty

¹⁴ SE (ES) & DCEI, Indore, Jabalpur, Ujjain, and Rewa

¹⁵ EE (ES) & DEI, Hoshangabad, Guna, Chhindwara, Sagar, Gwalior, Shahdol and Ratlam

calculated at the rates specified in Part-C of the Schedule on the units of electricity consumed by himself or sold to consumer within the State of Madhya Pradesh. As per Part-C of Section 3(3), 15 per cent of the tariff shall be levied as electricity duty, if the electricity is supplied by Distribution Licensee. As per Section 7(1) of MPVSA, 2012, the amount of duty due and remaining unpaid shall carry interest¹⁶ at such rate and in such circumstances as may be prescribed.

We observed in the office of the CEI, Bhopal, that M/s HEG Limited, a hydel power producer at Itarsi produced electricity energy through 2x6.75 MW generating units. In the month of February 2015 and July 2015, 10,73,088 units and 8,550 units of electricity energy was consumed by Graphite unit of the HEG Limited, but no ED was paid for this consumption. Officials of the Department failed to analyse the information available in Form 'G' submitted by the Company. As a result, ED of ₹ 10.59 lakh¹⁷ (including interest of ₹ 2.31 lakh up to March 2016) was not levied.

- According to Section 3 (I) (b) of the MPUA (*Sanshodhan*), 2012, dated 11 January 2013, every person owing or operating generating plant shall pay to the State Government at the prescribed time and in the prescribed manner, an energy development cess at the rate of fifteen paise per unit on the total units of electrical energy sold or supplied to a distribution licensee or consumer in the State of Madhya Pradesh or its employee during prescribed period. Interest on the belated payment of cess shall also be levied according to the provisions of the Act.

- We observed in scrutiny of Form 'G' of HEG Limited that Company sold 2,57,94,848 units of electrical energy to distribution licensee (MP DISCOMs) between August 2015 and November 2015 but paid EDC only for 9437319 units. This resulted in short levy of EDC of ₹ 26.75 lakh¹⁸ (including interest of ₹ 2.22 lakh up to March 2016).

On being pointed out in audit, the Government stated (September 2016) that hydroelectric project of HEG Limited, Tawa is a captive power project for its Graphite Unit at Mandideep and transmission of energy for self-consumption at HEG Plant, Mandideep. According to schedule 14 of Section 3 of MPSVA, 2012, duty at the rate of 15 per cent of the tariff rate ₹ 5.65 per unit for auxiliary and self (residential colony) consumption has been paid regularly on HV 3.1 at 33 KV line as per MPERC orders.

The reply is not acceptable as HEG Limited is a producer/captive power producer and hence ED is leviable at the rate of 15 per cent of the tariff on auxiliary/self-consumption (Residential complex at Tawa Nagar and Graphite

¹⁶ As per Notification date 22 July 1975, rate of interest shall be up to 3 months-12 per cent per annum (p.a.), >3 and 6 months-15 per cent p.a., >6 and 12 months-20 per cent p.a. and more than 12 months-24 per cent p. a

¹⁷ Calculation of ED and interest
ED for 1073088 units @5.10x15%= ₹ 820912/- and interest= 820912 x 14 months x 24 percent= ₹ 229855/-
ED for 8550 units @5.65x15%= ₹ 7246/- and interest = 7245 x 9 months x 20 percent = ₹ 1087/-

¹⁸ Calculation of EDC and interest
August 2015, (76,06,509 -31,39,100) = 4467409 units @0.15 = ₹ 670111/- and interest = ₹ 670111 x 8 months x 20 percent = ₹ 89348/-
Similarly, in the month of September 2015, ₹ 31004/-
In the month of October 2015, ₹ 39024/-
In the month of November 2015, ₹ 62341/-

Unit). A total of 10,73,088 units and 8,550 units of electricity energy was consumed in the month of February 2015 and July 2015 by Graphite unit of the HEG Limited but no ED was paid till date. Regarding ED and EDC, illustration has been given by the Department for three months from August 2015 to October 2015 while no comments were offered for balance units in these months after auxiliary and self- consumption. The fact is that these units were sold to DISCOMs or other consumer and therefore cess should have been levied on balance units sold.

4.2.17 Irregular exemption of ED to HT consumers

Department gave irregular exemption of electricity duty to old consumers treating them as new. As a result, electricity duty amounting to ₹ 25.76 lakh could not be realised.

According to Notification dated 4 March 2014 of Energy Department, the State Government, exempted new HT consumers of 33 kV, 132 kV and 220 kV from the payment of ED on consumption of electricity supplied from the grid for a period of five years, seven years and ten years respectively. The exemption was applicable to HT consumers who take new connection from Electricity Distribution companies of the State within five years from the date of issue of this notification with the restriction that the exemption shall not be available for units/consumers presently with the Electricity Distribution Companies of the State.

We observed in office of the DCEI, Indore that three HT consumers had connected through grid and were granted exemption from electricity duty despite being old consumers of electricity distribution companies. This resulted in irregular exemption of ED of ₹ 25.76 lakh (Including interest up to Dec. 2015) as detailed below:

Table 4.6
Irregular exemption of ED to HT consumers

(₹ in lakh)							
Sl. No.	Name of consumer	Previous HT/contract demand	Present HT/contract demand	Month of exemption	Units consumed	Amount of ED	Amount of Interest
1	M/s Agroha Enterprises, Indore	11kV/ 300KVA	33 kV/ 400 KVA	August 2014 to July 2015	1109120	8.48	1.69
2	M/s Aaron Developers Pvt. Ltd., Indore	33 kV/ 200 KVA	33 kV/ 200 KVA	May 2014 to July 2015	1280628	9.80	2.30
3	M/s Sainath Stone Crusher, Indore	33 kV/ 125 KVA	33 kV/ 146 KVA	June 2014 to July 2015	140300	2.86	0.63
Total					2530048	21.14	4.62

On being pointed out in audit, the Government stated (September 2016) that M/s Sainath Stone Crusher, Indore had taken new connections after 4 March 2014 hence ED was not payable and recovery of ED is being initiated against balance two consumers.

The reply of Government regarding M/s Sainath Stone Crusher, Indore is not acceptable as the exemption was not available to existing units/consumers of the Electricity Distribution Companies of the State.

4.2.18 Conclusion

- The Energy Development Cess was neither being timely deposited in Electricity Development Fund, nor it was being utilised for the purpose for which cess was levied.
- The Department delayed in converting the ED due against DISCOMS into the perpetual loan and also did not levy interest against the amount of ED due with DISCOMs for the intervening period of ED due and conversion of ED into perpetual loan.
- Substantial revenue was lost as no separate meters were installed to assess dutiable and not dutiable consumption of electricity.
- Department could not achieve targets of annual inspection of electrical installations, jeopardising the safety of medium and high tension electric installations. This also resulted in substantial loss of inspection fees.
- The monitoring of the monthly return submitted in the DEI and CEI offices by the distribution companies and those by the captive power producers was deficient which led to failure in detection of short levy of duty.

4.2.19 Recommendations

- We recommend that the Government should ensure timely transfer of Electricity Development Cess into Electricity Development Fund and timely utilisation of Energy Development Cess for the intended purpose.
- Government should formulate a mechanism by which the ED due against the DISCOMs should either immediately be converted into perpetual loan or Government should levy interest in cases of delay in payment of electricity duty.
- On previous review on this issue, Public Account Committee recommended for resolution of issue of dutiable and not dutiable consumption of electricity in a time bound manner and also asked the Department to give the basis of levy of electricity duty without installing the separate meters for dutiable and not dutiable energy consumption. We again recommend that Department may install separate meters for dutiable and not dutiable consumption of electricity and there should be a time bound recovery in all such cases where electricity duty was short levied due to absence of separate meters for dutiable and not dutiable consumption of electricity.
- The provisions relating to periodic inspection of the electrical installations should scrupulously be followed in order to ensure safety of these electrical installations.
- The Department should strictly monitor the submission of returns by distribution companies and captive power producers and may also impose fine against errant companies to have a deterrent effect.