

## CHAPTER-VI NON TAX RECEIPTS

### STATE LOTTERIES

#### 6.1 Tax administration

The Lotteries (Regulation) Act, 1998, promulgated by the Government of India was formed to regulate the system of lotteries in the States of India and empowered the States to regulate the conduct of lotteries. In Kerala, a separate Department called “Directorate of State Lotteries” was formed under the administrative control of Secretary (Taxes).

#### 6.2 Internal audit

The internal audit wing (IAW) of the Lotteries Department consists of one Joint Director, one District Lottery Officer, one Accounts Officer, one Senior Superintendent, one Junior Superintendent and four clerks supervised by Finance Officer. During the year 2016-17, 183 audit observations were settled out of the 232 outstanding observations, which was 78.88 *per cent* of the outstanding observations.

## **6.3 Compliance Audit on Conduct of Lotteries in the State of Kerala**

### **6.3.1 Introduction**

The administration of the conduct of lotteries in Kerala is governed by the Kerala Paper Lotteries (Regulation) Rules, 2005. The Secretary to Government, Taxes Department has administrative control over the Lottery Department. At the Directorate level, the Lottery Department is headed by the Director of State Lotteries (DSL) who is empowered to organise lotteries in the State. All important functions in the conduct of lotteries, including fixing the number and face value of a lottery, its prize structure, designing and printing of lottery tickets, sale of lottery tickets to distributors, draw of lotteries, etc., are vested with the DSL, who is assisted by Additional/Joint/Deputy Directors at State level and District Lottery Officers (DLOs) at district level. The State is conducting three type of lotteries; normal<sup>1</sup>, specific purpose<sup>2</sup> and bumper lotteries<sup>3</sup>. The specific purpose lotteries *inter alia* include 'Karunya' and 'Karunya Plus' lotteries, from the net proceeds of which Government constituted<sup>4</sup> the Karunya Benevolent Fund (KBF) organised by the State for providing financial assistance to the poor for the treatment of cancer, kidney and heart diseases, palliative care patients and haemophilia.

During the audit period,<sup>5</sup> the Department conducted 2011 normal draws and 36 bumper draws and distributed 10.97 crore prizes amounting to ₹ 10,845.82 crore. Department earned a revenue of ₹ 27,019.49 crore by selling 806.20 crore tickets during the same period. Net profit earned by the Department during the audit period was ₹ 6,185.54 crore, which comprises 22.89 *per cent* of the total revenue of the Department. Gross revenue contributed by the Department comes to 71.53 *per cent* of the total non-tax revenue of the Government of Kerala during the audit period.

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<sup>1</sup> Weekly lotteries conducting without any specific purpose.

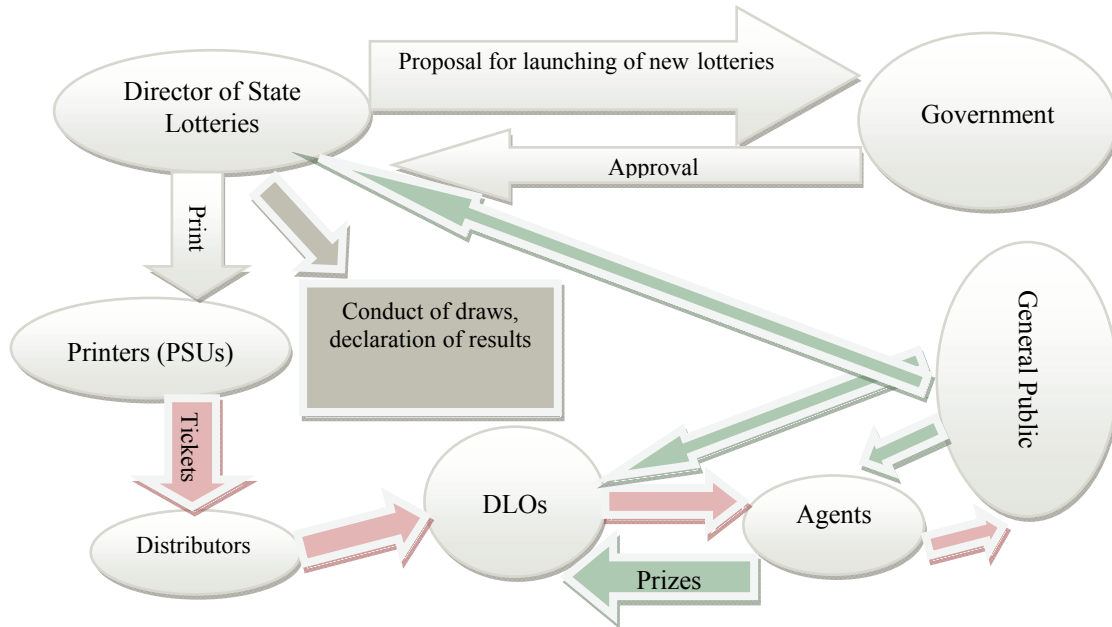
<sup>2</sup> Weekly lotteries conducting with intention to transfer its net proceeds to some specific purpose.

<sup>3</sup> Lotteries conducted on special occasion with high prizes.

<sup>4</sup> Vide GO(MS)No.07/12/TD dated 30 January 2012.

<sup>5</sup> From 2011-12 to 2016-17.

The process of conducting lotteries is depicted in the following flow chart



The core functions and responsibilities of the State, distributors and customers in the lottery process and their inter-relationship are given in **Appendix XXXVIII**.

The objectives of Audit were to assess whether:

- (1) procedures laid down in the Lotteries (Regulation) Act, Rules and the State specific Rules were followed in letter and spirit while organising lotteries by the State;
- (2) revenues from the lotteries are properly assessed and remitted;
- (3) taxes on income/VAT, wherever applicable, were deducted at source and remitted/paid into proper heads of account; and
- (4) in the case of special purpose lotteries, revenue generated was used for the prescribed purposes.

Audit of the conduct of lotteries in the State of Kerala was conducted between September 2016 and April 2017, covering the period from 2011-12 to 2016-17.

The scope of the audit was confined mainly to the Directorate of State Lotteries, Kerala State Lottery Agents and Sellers Welfare Fund Board (KSLASWFB), KBF and District Lottery Offices. Audit selected five<sup>6</sup> out of the 14 District Lottery Offices by simple random sampling method using IDEA. An entry conference was held on 19 September 2016 with the Additional Secretary, Taxes Department, to discuss the Audit objectives, scope, criteria and audit plan. On

<sup>6</sup> DLO Ernakulam, Kozhikode, Palakkad, Thiruvananthapuram and Thrissur.

conclusion of the audit, an exit conference was held on 17 July 2017 with the Additional Secretary (Taxes) and the Director of State Lotteries. Audit findings were also discussed with the Secretary (Taxes) on 24 August 2017. Their views and replies have been suitably incorporated in the relevant paragraphs.

The Indian Audit and Accounts Department acknowledges the co-operation of the Taxes Department, the Directorate of State Lotteries, The Kerala Police Department, The Kerala Books and Publications Society, C-apt, KBF, authorities of various hospitals and Kerala State Lottery Agents and Sellers Welfare Fund Board in providing necessary information and records to Audit.

### **Audit findings**

#### **6.3.2 Conduct of lotteries**

##### **6.3.2.1 Lack of transparency in the appointment of selling agents of lottery tickets**

**According to Rule 5 of the Kerala Paper Lotteries (Regulation) Rules, 2005, any person desirous of obtaining an agency for sale of Kerala State lottery tickets shall apply for it in Form No. II to the District Lottery Officer by remitting a fee of ₹ 200 (from 1 October 2014 ₹ 300) in cash.**

Audit observed that the District Lottery Offices did not have a separate inward receipt section and the applications for agency were received directly in the counter and no inward receipt register was maintained in the counter. As on 31 March 2017, there were 65,079 registered lottery agents, out of which 28,456 agents were registered during the period from 2010-11 to 2016-17. The District Lottery Office-wise statement is given in the **Appendix XXXIX**. On a scrutiny of Lottery Information Management System (LIMS), Audit observed that the Department did not have Management Information System (MIS) report on the status of applications for agency. In the absence of MIS report, the total number of applications received and disposed off, the reason for pendency or rejection of applications, etc., could not be ascertained, which indicated lack of control over applications received.

Government stated (October 2017) that on the basis of Audit observation, direction was given to all District Lottery Officers for maintaining a register of all agency applications received and details of grant of registration.

##### **6.3.2.2 Failure to collect the details of sub agents from the registered agents**

Rule 6 of the Kerala Paper Lotteries (Regulation) Rules, 2005, stipulates that the agent shall be liable to keep and produce, on demand, all particulars of sub agents and retailers under him for verification to the District Lottery Officers. The Director of State Lotteries had also issued circular<sup>7</sup> to collect the details of tickets

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<sup>7</sup> No. S1/2231/12/DSL dated 7 August 2012.

sold by the agents, who collect more than 2,000 tickets from the District Lottery Offices.

Audit observed that in three<sup>8</sup> District Lottery Offices, out of the five District Lottery Offices audited, the authorities did not demand such particulars from the registered agents and hence the officers responsible to monitor the sale of lottery tickets were functioning without the knowledge of the number and details of sellers of lottery tickets in the State. The Joint Physical Inspection (JPI) conducted during March and April 2017 with the Police Department and Directorate of State Lotteries, in the offices of four wholesale dealers under the jurisdiction of two District Lottery Offices<sup>9</sup> showed that they did not submit any sales details as required under the Rules to the District Lottery Officers in spite of sales of more than 2,000 tickets.

Government stated (October 2017) that on the basis of the Audit observation, strict instructions were given to all District Lottery Officers to direct the agents to comply with the Rule 6 of the Kerala Paper Lotteries (Regulation) Rules, 2005, and to conduct surprise checks of the same.

### **6.3.2.3 Non-payment of charges for the lotteries organised/promoted in the State**

According to Rule 3(10) of the Lotteries (Regulation) Rules, 2010, the organising State shall charge a minimum amount of ₹ five lakh per draw for bumper draw of lotteries and for all other form of lotteries, a minimum of ₹ 10,000 per draw with effect from 1 April 2010.

Audit observed that from 1 April 2011 to 31 March 2017, lottery tickets of 36 bumper draws and 2,011 other draws organised by DSL were sold in the State. However, the DSL did not pay any amount as provided under the Rules, which resulted in non-payment of charges of ₹ 3.81 crore to the Government.

Government stated (October 2017) that the Department was paying taxes on all the lotteries conducted at the prescribed rate to the Commercial Taxes Department.

The reply was not acceptable since the provisions for collecting charges were as per Rule 3(10) of Lotteries (Regulation) Rules, 2010 and taxes paid by DSL were derived from Section 6 of the Kerala Tax on Paper Lotteries Act, 2005, i.e., from two different statutes, one from Union List and the other from State List.

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<sup>8</sup> DLO Ernakulam, Palakkad and Thiruvananthapuram.

<sup>9</sup> DLO Ernakulam and Palakkad.

#### **6.3.2.4 Multiple payments of prizes for a single ticket**

According to Rule 9(6) of Kerala Paper Lotteries (Regulation) Rules 2005, no ticket shall be eligible for more than one prize in a draw and if any event of a ticket winning more than one prize in a draw, the ticket shall be eligible only for the highest prize declared to it.

The prizes were allowed after identifying the prize winning tickets by reading the number and secret code using bar code readers and match it with the input data available in LIMS. Audit observed that in the selected District Lottery Offices<sup>10</sup>, 1,149 prizes were distributed for 568 prize winning tickets of same series during the period from April 2011 to February 2013. Against an actual prize claim of ₹ 2.26 lakh for the 568 tickets, the DLOs distributed ₹ 4.53 lakh to the winners and this had resulted in an excess payment of ₹ 2.27 lakh as shown in **Appendix XL**.

Government stated (October 2017) that even though preliminary examination of the winning prize search reports pertaining to the ticket numbers in LIMS software shows multiple payments for a single ticket, the subsidiary cash book, which is the authentic report on daily receipts and expenditure, shows only single payment. It was also stated that the service provider, M/s KELTRON, informed that in normal case, the possibility of this kind of error of duplicate ticket was not possible. M/s KELTRON was required to analyse the database and programme for finding any issue and would submit report on completion of the analysis.

However, even after persistent follow-ups, the Department did not provide the subsidiary cash book and connected vouchers to verify the correctness of the reply (February 2018).

#### **6.3.2.5 Disbursement of prizes on tickets collected unauthorisedly by agents from the prize winners**

Rule 9(5) of Kerala Paper Lotteries (Regulation) Amendment Rules, 2008, stipulates that the agents can collect prize tickets up to the amount of ₹ 5,000 from the prize winners and can present the same for payment to District Lottery Officers within a period of 60 days from the date of draw. Sub Rule 3(5) of Rule 6 of Kerala Treasury Code provides that the sale proceeds of lottery tickets received by District Lottery Officers may be utilised for meeting the expenditure of prize money up to ₹ 5,000 by direct appropriation of departmental receipts.

Audit observed that the District Lottery Officers allowed the claims of ₹ 10,000 and ₹ one lakh submitted by agents, though the agents were not authorised to collect such tickets as mentioned in the succeeding paragraphs.

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<sup>10</sup> DLO Ernakulam, Kozhikode, Palakkad, Thiruvananthapuram and Thrissur.

- **Unauthorised appropriation of prize amount against cost of tickets**

Audit verified the claims of ₹ 10,000 prizes disbursed during the period from 2011-12 to 2016-17 by collecting the data captured in LIMS and observed that though the agents were not allowed to collect the prize tickets of ₹ 10,000, the District Lottery Officers allowed prizes of those unauthorisedly collected tickets. Scrutiny of the vouchers submitted by agents in the selected cases, revealed that there were instances in which the prize amount of ₹ 10,000 was adjusted against the cost of new tickets purchased by the agent who presented the prize winning tickets. Illustrative cases are mentioned in **Appendix XLI**.

The District Lottery Officers neither complied with the provisions of the Rules nor reported the matter of unauthorised collection of tickets by agents to the DSL and appropriated the prize amount against the cost of tickets violating the provision in Kerala Treasury Code.

Government stated (October 2017) that circular was sent to all District Lottery Officers not to accept ₹ 10,000 prize claims from agents other than from their unsold portion. As per the proceedings of the DSL dated 28 June 2017, prize structure of all lottery schemes was revised eliminating ₹ 10,000 prizes, except consolation prizes, which were limited to only 11 prizes.

- **Unauthorised collection of ₹ one lakh prized tickets**

Audit collected the details of prizes of ₹ one lakh disbursed during the period from 2011-12 to 2016-17 by five District Lottery Offices selected for audit and observed that in three District Lottery Offices<sup>11</sup>, out of 2,951 prize winning tickets of ₹ one lakh, 937 tickets were presented by 31 agents contrary to the Rule as shown in **Appendix XLII**, which constituted 32 *per cent* of the total claims.

The District Lottery Officers neither complied with the provisions of the Rules nor reported the matter of unauthorised collection of tickets by agents to the DSL. As Income Tax was paid in the name of the agents, payment of high value prizes will create unaccounted money in the hands of actual prize winner.

During discussion Secretary (Taxes) stated (August 2017) that majority of the claims of ₹ one lakh prizes by agents were on the tickets kept with them as unsold. The issue was referred to Vigilance and Enforcement Directorate. The reply was not acceptable since one of the 31 agents mentioned in the para claimed ₹ one lakh prizes 155 times during the audit period. However, Government reply (October 2017) was silent on the issue.

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<sup>11</sup> DLO Ernakulam, Palakkad and Thiruvananthapuram.

### **6.3.2.6 Existence of fake lottery tickets**

Section 7(3) of Lotteries (Regulation) Act, 1998, provides rigorous imprisonment to those persons who organise, conduct, promote lotteries or purchase and sell the tickets of lotteries in contravention to the provisions of the Act. Rule 3(21) of the Lotteries (Regulation) Rules, 2010, stipulates that the organising State shall devise suitable means and procedures to effectively supervise the conduct of lotteries to avoid any malpractice. According to Section 26(2) of Kerala Tax on Paper Lotteries Act 2005, any person who is found to be in possession of unaccounted lottery tickets shall be liable to a penalty of ₹ one lakh.

Audit observed that in all the five selected District Lottery Offices, 2,348 claims of prizes were pending for payment from March 2014, the reason stated for which was that the tickets presented were not genuine<sup>12</sup> tickets. Further to verify whether these were stray incidence or not, Audit collected the data relating to tickets presented for prize claim of all the District Lottery Offices in the State for the period from 2011-12 to 2016-17 from LIMS. The analysis of the data revealed that during the period 8,18,96,698 prize winning tickets were presented, out of which 3,48,699 tickets were denied payment by the District Lottery Officers for the reason that payment for those tickets were already made. Illustrative cases are given in **Appendix XLIII**.

When these tickets were identified by the authorities as fake, those were returned back to the presenters. Only in few cases, the presenters insisted for prize claiming that the tickets presented by them were genuine and so the District Lottery Officers sent the tickets to DSL for verification and 123 such tickets were received by DSL.

The DSL also received details of 36 tickets confiscated by the Police Department and submitted to the Judicial First Class Magistrate, Thiruvananthapuram as 'mainour'<sup>13</sup>, out of which, 30 tickets were confirmed as fake by the printers C-apt (Kerala State Centre for Advanced Printing & Training). Though prize payments were not effected to a second ticket presented, neither the District Lottery Officers had reported the existence of fake ticket of the same number to the higher authorities nor DSL followed up LIMS report in this regard. Audit also felt that had the DLOs and DSL reported the cases to the Commercial Tax Department, penalty would have been levied as per Section 26(2) of Kerala Tax on Paper Lotteries Act, 2005, for possession of unaccounted lottery tickets.

During discussion, the Secretary (Taxes) stated (August 2017) that there was no revenue loss to Government due to the existence of fake lottery tickets as fake prize winning tickets were made as photocopy/scanned copy of prize winning tickets after the draw. Government stated (October 2017) that the agents, who present the tickets were not aware that the tickets were fake as they collected the

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<sup>12</sup> Tickets printed and sold by the Department and complete in all respects.

<sup>13</sup> A thing stolen, discovered in the hands of the thief.



tickets from the winners and the cases were registered for production of fake tickets. Enquiry on cases registered was in progress and penal provisions could be initiated only on completion of enquiry.

The reply was not acceptable as Rule 3 (21) of Lotteries (Regulation) Rules, 2010, stipulates that the organising State shall device suitable means and procedures to effectively supervise the conduct of lotteries to avoid any malpractice. There was neither an enforcement wing to curb this practice nor manual prescribing the procedures to be followed in such occasions.

### **6.3.2.7 Non/short deduction of Income Tax from the agent prize disbursed**

Rule 9(7) of the Kerala Paper Lotteries (Regulation) Rules, 2005, stipulates that Income Tax and surcharge as per Rules will be deducted from the prize claims and remitted to Income Tax Department. According to section 194G of Income Tax Act 1961, any person who is responsible for paying to any person, who is or has been stocking, distributing, purchasing or selling lottery tickets, any income by way of commission, remuneration or prize (by whatever name called) on such tickets in an amount exceeding ₹ 1,000 (from 1 June 2016 ₹ 15,000 ) shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct Income Tax thereon at the rate of 10 *per cent* (from 1 June 2016 five *per cent*).

Audit observed that during the period from 2011-12 to 2016-17, three District Lottery Officers did not deduct Income Tax at prescribed rates from the agent prize disbursed in 284 cases out of 779 cases test checked. Illustrative cases are given in **Appendix XLIV**.

Government stated (October 2017) that the cases pertaining to the period from 2011-12 to 2015-16 and the Department has to verify the records at District Lottery Offices and detailed reply would be furnished later.

### **6.3.2.8 Non deduction of Income Tax from winning prizes disbursed**

Rule 3(18) of the Lotteries (Regulation) Rules, 2010, states that it shall be the duty of the lottery organising State to ensure that Income Tax on prizes, wherever applicable, is deducted at source. According to Section 194B of Income Tax Act, the person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle or card game and other game of any sort in an amount exceeding ₹ 10,000 shall, at the time of payment thereof, deduct Income Tax thereon at the rate of 30 *per cent*.

Audit observed that in all the five District Lottery Offices selected for audit, the agents or individuals claimed prizes exceeding ₹ 10,000 at a time through more than one prize winning tickets of ₹ 10,000. As the prize won by a person from a single draw exceeds ₹ 10,000, Income Tax should be deducted from the prizes

disbursed. A total of 40,216 tickets which won ₹ 10,000 prizes were disbursed during the period from 2011-12 to 2015-16 to agents or individuals who won two or more such prizes in a single draw. Illustrative cases are furnished in **Appendix XLV**. There was no provision in LIMS to deduct Income Tax automatically on winning from lotteries where the prize amount was less than ₹ one lakh. Prizes worth ₹ 40.20 crore were disbursed without tax deducted at source.

Government stated (October 2017) that as per the Finance Act 2010, the word “ten thousand rupees” was substituted for “five thousand rupees” and thereby mandating TDS for only prizes above ₹ 10,000. It was also stated that as per Rule 9(6) of the Kerala Paper Lotteries (Regulation) Rules 2005, no ticket shall be eligible for more than one prize in a draw and hence there cannot be two or more ₹ 10,000 prizes on the same lottery ticket warranting TDS.

The reply was not acceptable since Section 194B of Income Tax Act clearly provides that TDS must be effected for payment exceeding ₹ 10,000 at a time from winning of lotteries.

### **6.3.2.9 Irregular collection of Service Tax from agents violating the provisions of Service Tax Act**

According to Section 73 A (2) of the Service Tax Act, 1994, where any person who has collected any amount, which is not required to be collected, in any manner as representing Service Tax, such person shall forthwith pay the amount so collected to the credit of the Central Government.

Government appointed<sup>14</sup> the Kerala State Lottery Agents and Sellers Welfare Fund Board (KSLASWFB) as the sole distributor of the State lotteries and KSLASWFB opted (November 2015) for compounding system of payment of Service Tax<sup>15</sup>. The sole distributor is responsible for paying Service Tax on behalf of the agents. Government permitted<sup>16</sup> the distributor to collect Service Tax from the agents at prescribed<sup>17</sup> *per cent* on the face value of the tickets. The District Lottery Officers who sold the tickets to agents on behalf of the distributor collected the Service Tax from the agents and the DSL consolidated the figures received from District Lottery Officers and transferred it to KSLASWFB for payment to the Central Excise Department.

During the period from November 2015 to March 2017, the District Lottery Officers collected Service Tax of ₹ 153.96 crore from agents and transferred to KSLASWFB, which remitted ₹ 131.85 crore to Central Excise Department

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<sup>14</sup> GO (P) No. 177/2015/TD dated 30 September 2015.

<sup>15</sup> Required to pay Service Tax at the rate of ₹ 12,800 on every ₹ 10 lakh (or part thereof) of aggregate face value of tickets printed by the State.

<sup>16</sup> Letter No. 10751/H1/2015/TD dated 8 October 2015.

<sup>17</sup> 1.35 *per cent* against 1.28 *per cent* from 8 October 2015, 1.5 *per cent* against 1.33 *per cent* from 22 December 2015, 1.6 *per cent* against 1.38 *per cent* from 4 July 2016.

thereby keeping ₹ 22.10 crore as detailed in **Appendix XLVI**, violating the provisions of Service Tax Act.

Government stated (October 2017) that it was clearly written in the invoice given to the agents that 1.6 *per cent* collected was towards Service Tax and administrative expenses of Welfare Board. So it is erroneous to conclude that Service Tax was retained by Welfare Board against the provisions of the Service Tax Act. Moreover, the balance ₹ 22.10 crore with KSLASWFB as mentioned in the audit report includes ₹ 7.41 crore in the Service Tax component for the period 9 November to 31 December 2016 for which exemption was sought for from the Central Government as a relief towards losses occurred due to demonetisation.

The reply was not acceptable as the Government order states that 1.6 *per cent* should be collected as Service Tax and not include administrative expenses as claimed in the reply. The amount collected in the name of Service Tax was seen appropriated towards payment of Service Tax in respect of unsold tickets. This clearly violates Section 73A(2) of Service Tax Act.

### **Internal control**

#### **6.3.2.10 Lack of Internal control mechanism to ensure correctness of printing/sale of lottery tickets**

Section 4(b) of Lotteries (Regulation) Act, 1998, provides that lottery tickets bear the imprint and logo of the State in such manner that the authenticity of the lottery ticket is ensured. As per Rule 3 of Kerala Paper Lotteries (Regulation) Rules, 2005, the tickets shall bear the facsimile signature of DSL and shall contain name of the lottery, draw number, date of draw, series, ticket number, cost of the ticket and other important details on the front side of the ticket and details such as prize pattern, terms and conditions, etc., on the reverse side of the ticket. As per the agreement between the printers and DSL, if the contractors default in the prompt printing and supply of tickets or any portion thereof or commits breach of all or any of the provisions, the contractor shall be responsible for the resulting revenue loss to the Government exchequer and the entire revenue loss shall be recovered from the contractor.

An authentic ticket contains unique number and corresponding to the unique number a secret code, which can be verified by bar code readers using LIMS. The Regional Director of State Lotteries, Ernakulam was assigned with the responsibility to supervise the output of printed tickets from the Kerala Books and Publications Society<sup>18</sup> and the Deputy Director of State Lotteries (Printing) was assigned with the responsibility to supervise the output of printed tickets from the Kerala State Centre for Advanced Printing and Training (C-apt).

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<sup>18</sup> The Kerala Books and Publications Society and C-apt are the printing presses authorised for printing the lottery tickets.

Analysis of data collected from Directorate of State Lotteries revealed that in the case of a particular lottery, 'Bhagyanidhi' (BN 258) series, out of the 2,348 tickets presented for payment in six District Lottery Offices<sup>19</sup>, 1,410 tickets were pending for disposal as LIMS was unable to read the bar codes and secret codes in those tickets presented. The cause for this was attributed to printing errors.

A beneficiary survey conducted by Audit among 50 agents and four sub agents during December 2016 and January 2017 revealed that tickets purchased by four agents from District Lottery Offices or from registered agents were with printing errors.

During joint physical inspection, one agent produced evidences of defective printing of lottery tickets, which were purchased from District Lottery Offices. During the scrutiny of records of Directorate of State Lotteries, the major printing errors noticed were (a) in certain tickets of a particular draw the details of another lottery was printed (b) the bar code and secret code were printed outside the specified place (c) printers failed to print the full digits of the ticket number, etc.

Audit observed that these types of printing errors were the result of lack of internal control mechanism to monitor the printing of tickets and also found that this will affect the credibility of the conduct of lotteries by DSL. Besides this, revenue loss occurred to Department due to the printing errors was also not levied against printing presses as provided in item 13 of the agreement between the printers and DSL.

Government stated (October 2017) that strict instructions were given to the printers to avoid mistakes/doubling of tickets and that if the Department had to make prize payments due to printing errors, the printers are made liable for the same and the amount would be deducted from printing charges. It was also stated that more security features were added to lottery tickets so that the chances of fake tickets reaching the hands of public can be avoided. Government further stated that as per clause 13 of the agreement executed with the press, press was liable to pay any revenue loss to Government due to printing errors and the Department deducted ₹ 18,540 from two presses.

The reply was not acceptable as recovery was made only in two small cases and the reply was silent on the introduction of proper monitoring system.

- **Failure to conduct annual financial audit of various lottery schemes and system audit**

Rule 3(19) of Lotteries (Regulation) Rules, 2010, provides that every lottery organising State shall conduct an annual financial audit of various lottery schemes organised by it and system audit.

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<sup>19</sup> DLO Ernakulam, Kollam, Kozhikode, Palakkad, Thiruvananthapuram, Thrissur.

Audit observed that the Department failed to conduct financial audit of the various lottery schemes organised during the audit period (from 2011-12 to 2016-17) by the Directorate of State Lotteries. As the records pertaining to earlier periods could not be traced, the same was not verified.

It was also noticed that the functions regarding the conduct of lotteries, except printing, were computerised in 2008 using the web based software, LIMS. Though the software certification for LIMS by Standardisation Testing and Quality Certification was taken up in 2010, the accuracy and reliability of the software was not tested by a competent authority and as such the Directorate was still using uncertified software. Though this was brought to the notice of the Department vide para No.8.1.5.4 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2012, the position remained unchanged.

Government stated (October 2017) that lottery/scheme-wise audit was not conducted in the Department due to various reasons such as non-completion of prize distribution of a particular draw/scheme within a fixed time, difficulty in separation of publicity, distribution and other charges, etc. Government further stated that financial audit was conducted based on the total receipts and expenditure of a financial year. The software developer/promoter, M/s KELTRON, assured that LIMS was safe, even though uncertified, since it functions in Virtual Private Network (VPN) platform. It was also stated that the Department was permitted to develop a new version of Lottery Information Management System, entrusting it to NIC.

Reply was not acceptable since the multiple prize payment was made for the same number (para 6.3.2.4) and Income Tax to be deducted from prize winners of above ₹ 10,000 was not done (para 6.3.2.8) due to the failure of software. Moreover, the statute mandates the conduct of annual financial and system audit.

#### **Non utilisation of sale proceeds of lotteries introduced for special purposes**

According to Rule 3(2) of the Lotteries (Regulation) Rule, 2010, State Government may organise a lottery by issuing a notification in its official gazette outlining the purpose, scope, limitation and methods thereof. Audit observed that in two cases, out of the three such lotteries organised, the net proceeds were not fully utilised for the intended purposes as stated below:

##### **6.3.2.11 Lottery organised for women welfare**

Kerala State Social Security Mission, under Social Justice Department, proposed to implement ‘Sthree Sakthi’ a scheme for the upliftment of women with components like increase work participation of women, modernise the rehabilitation of the distressed women, extend higher education to the needy women, assistance to physically/mentally challenged and aged women, marriage assistance to poor and needy women, assistance to widows, etc. The State

Government accorded sanction<sup>20</sup> for a special purpose weekly lottery ‘Sthree Sakthi’ lottery, with the intention of utilising the net proceeds of the lottery for the implementation of Sthree Sakthi Scheme. The first draw of the lottery was on 3 May 2016.

Audit observed that though 48 draws of ‘Sthree Sakthi’ lottery were made upto 31 March 2017, the scheme was not implemented even after a lapse of one and half years after commencement of the lottery. The net sale proceeds from the 48 draws of the lottery comes to about ₹ 169.22 crore and this fund was placed in the Consolidated Fund, just like all other lotteries conducted by DSL, instead of transferring it for the intended purpose for which the lottery was organised.

Government stated (October 2017) that Social Security Mission or Social Justice Department did not submit any scheme for implementation.

The reply of Government was not tenable as it was its duty to work towards the intended objectives.

#### **6.3.2.12 Bumper lottery organised for Jawans**

On the basis of decision of Armed Forces Flag Day Fund Committee (9 November 2011) Government agreed to launch a lottery to give the net proceeds to Sainik Welfare Department for the welfare of the war veterans, war widows and ex-servicemen. Based on this, Government directed<sup>21</sup> to change the name of “X’ Mas New Year Bumper 2012-13” as “X’ Mas New Year Bumper for Jawans” and to contribute the net proceeds from the lottery of that year to Sainik Welfare Department.

Audit observed that though the net proceeds from the lottery in 2012-13 was ₹ 12.97 crore, only ₹ two crore was transferred<sup>22</sup> to Sainik Welfare Department and ₹ 10.97 crore collected in the name of Jawans was kept in the Consolidated Fund.

Government stated (October 2017) that sales proceeds of X’mas New year Bumper for Jawan 2012-13 lottery was remitted to Government/treasury account as in the case of all other lotteries and ₹ two crore was so far been given by the Taxes Department to the Sainik Welfare Department on the basis of their request. No further requests was received from the Sainik Welfare Department.

The reply was not acceptable since the lottery was marketed in the name of Jawans and the net proceeds from its sale was kept in the Consolidated Fund without utilisation.

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<sup>20</sup> GO(MS)No. 38/2016/TD dated 19 February 2016.

<sup>21</sup> Letter No.10605/HI/2012/TD dated 12 October 2012.

<sup>22</sup> vide GO(Rt)No.6233/14/GAD dated 22 August 2014 and GO(Rt) No.7221/16/GAD dated 22 October 2016.



### 6.3.3 Karunya Benevolent Fund

#### 6.3.3.1 Introduction to Karunya Benevolent Fund

In January 2012, Government constituted<sup>23</sup> the Karunya Benevolent Fund (KBF) for providing financial assistance to the poor for the treatment of cancer, kidney, heart diseases and palliative care patients, by utilising the net proceeds from the draws of ‘Karunya’ and ‘Karunya Plus’ lotteries organised by DSL. The Taxes Department, Government of Kerala, issued detailed guidelines<sup>24</sup> for the implementation of KBF schemes. As per the guidelines, patients from BPL<sup>25</sup> families as also from APL<sup>26</sup> families whose annual income is less than ₹ three lakh are entitled to get a maximum financial assistance of ₹ two lakh. According to budget allocation, fund will be transferred to KBF by DSL, who is also the Administrator of KBF. The facility is available for treatment in all government hospitals in the State, including premier tertiary hospitals<sup>27</sup> with the treatment facility for diseases specified in the guidelines. Assistance is also given from KBF for treatment in the accredited private hospitals.

For the implementation of the scheme, two committees were constituted, one at District level, with the District Collector as Chairman, to examine the genuineness of the applications and an Apex Monitoring Committee at the State level, with the Minister (Finance) as the Chairman, to sanction the assistance on the basis of recommendations from the District level committees. Government vide orders<sup>28</sup> granted permission to the State Level Committee (SLC) for taking decisions in cases that warranted allowing of relaxation to the prescribed norms for assistance.

Claimants<sup>29</sup> shall submit applications in prescribed forms with necessary supporting documents to District Lottery Officer, who place the applications before the District level committee and the committee examines genuineness of the cases with the assistance of expert doctors from government hospitals and recommend the appropriate package to the State Level Committee, which shall consider the recommendations and pass orders for providing financial assistance, which shall be paid to the account of the government hospital concerned. On completion of treatment, the hospital concerned was to send the utilisation certificate along with a declaration from the patient to the effect that he had undergone treatment in the hospital and balance amount, if any, to be refunded to the KBF. In respect of private hospitals, the financial assistance as per the package rate will be remitted to the account of the hospital concerned on

<sup>23</sup> Vide GO (MS) No.07/TD dated 30 January 2012.

<sup>24</sup> Vide GO (MS) 26/12/TD dated 21 February 2012.

<sup>25</sup> Categorisation of families as “Below Poverty Line”.

<sup>26</sup> Categorisation of families as “Above Poverty Line”.

<sup>27</sup> Malabar Cancer Centre, Regional Cancer Centre, Sree Chitra Thirunal Institute for Medical Science and Technology.

<sup>28</sup> GO(MS)/No.830/2015/TD dated 9 November 2015.

<sup>29</sup> Patients who apply for assistance from KBF.

completion of treatment and submission of discharge summary and a declaration from the patient.

Net proceeds from Karunya lotteries and the funds transferred to KBF during the period 2011-12 to 2016-17 is given in **Table - 6.1**.

**Table - 6.1**  
**Details of funds received and expenditure from Karunya Lotteries**

(₹ in crore)

Year	Receipt							Expenditure		
	Net proceeds from Karunya lotteries	Budget provision/ fund allotted	Interest	Public contribution/ contribution from DSL	Total funds received	Refunds received	Total	Fund transferred to hospital	Establishment cost	Total
2011-12	38.96	15	0	0	15.00	0	15.00	0.17	0.02	0.19
2012-13	105.25	100	0.01	0	100.01	2.97	102.98	72.28	1.04	73.32
2013-14	132.02	210	0.24	0	210.24	7.78	218.02	183.08	1.00	184.08
2014-15	273.20	200	0.43	0.05	200.48	28.93	229.41	296.09	1.65	297.74
2015-16	303.55	250	0.59	0.50	251.09	34.33	285.42	157.64	1.60	159.24
2016-17	370.26	250	0.29	0	250.29	38.08	288.37	416.20	1.67	417.87
<b>Total</b>	<b>1,223.24</b>	<b>1,025</b>	<b>1.56</b>	<b>0.55</b>	<b>1,027.11</b>	<b>112.09</b>	<b>1,139.20</b>	<b>1,125.46</b>	<b>6.98</b>	<b>1,132.44</b>

Source : Data received from Director of State Lotteries and Karunya Benevolent Fund.

As on 31 March 2017, sanction was accorded to 1,23,553 patients, requiring an amount of ₹ 1,603.90 crore, for taking treatment in government hospitals and to 24,951 patients, requiring an amount of ₹ 235.75 crore, for taking treatment in private hospitals as shown in **Table - 6.2**.

**Table - 6.2**  
**Details of requirement of funds**

(₹ in crore)

Period	Government hospitals		Private hospitals	
	No. of patients	Required amount	No. of patients	Required amount
2011-12	20	0.17	0	0.00
2012-13	8,822	94.34	1,136	12.18
2013-14	22,579	280.72	5,274	57.42
2014-15	25,813	336.27	6,960	67.35
2015-16	32,812	432.60	6,159	51.69
2016-17	33,507	459.80	5,422	47.11
<b>Total</b>	<b>1,23,553</b>	<b>1,603.90</b>	<b>24,951</b>	<b>235.75</b>

Source : Data received from Karunya Benevolent Fund.



Out of 1,23,553 patients, 62,435 claims, requiring ₹ 611.47 crore, in government hospitals and out of 24,951 patients, 8,792 claims, requiring ₹ 20.53 crore, in private hospitals were pending for disbursement.

Government stated (October 2017) that since large number of applications were received under Karunya Scheme and also due to the shortage of budget provision, payment was pending to be disbursed to the government hospitals. With regard to the pendency of private hospitals, urgent steps are taken by engaging more employees to clear the arrears and the process was going fast to settle the pending claims.

### 6.3.3.2 Non-refund of assistance received that was not utilised or partially utilised

According to decision 11<sup>30</sup> of the Committee, headed by the Administrator and attended by other members of KBF, held on 9 August 2012 for finalising the process of implementation of KBF, the treatment of patients selected would start based on the pre-authorisation certificate issued by KBF to the patients and the fund for that would be transferred to the designated account of the hospitals. The sanction orders clearly mention the details of patients to whom the assistance were intended to. The hospitals were required to submit utilisation certificates for the amount received.

- **Non-refund of assistance received that was not at all utilised**

Audit scrutiny of utilisation of KBF by the test checked government hospitals revealed that 1,520 beneficiaries, out of 49,023 beneficiaries who were sanctioned assistance for taking treatment in six hospitals, did not take treatment in that hospital, as neither the treatment details of those patients were available in the hospitals nor any amount was expended on their account, and the amounts sanctioned for their treatment were kept in the account of the hospitals as shown in **Table - 6.3**.

**Table - 6.3**  
Details of unutilised amount

Sl. No.	Name of hospital	No. of cases	(₹ in crore)
			Amount remained unutilised
1	General Hospital, Ernakulam	89	0.92
2	Medical College Hospital (MCH), Kozhikode	260	3.49
3	Medical College Hospital (MCH), Thiruvananthapuram	264	3.01
4	Medical College Chest Hospital (MCCH), Thrissur	97	0.66
5	Regional Cancer Centre (RCC), Thiruvananthapuram	204	3.13

<sup>30</sup> Minutes of meeting held on 9 August 2012.

Sl. No.	Name of hospital	No. of cases	Amount remained unutilised
6	Sree Chitra Thirunal Institute for Medical Science and Technology (SCTIMST), Thiruvananthapuram	606	8.47
<b>Total</b>		<b>1,520</b>	<b>19.68</b>

Source: Data maintained by hospitals

These amounts were transferred to the hospitals from 2012 to 2016. As these patients did not undergo treatment, this amount should have been refunded to KBF.

On this being pointed out in Audit, Medical College Hospital, Kozhikode refunded (April 2017) ₹ 3.29 crore to KBF. Reply in respect of remaining cases was awaited by Audit.

- **Non-surrender of funds that remained partially utilised for a long period**

Test check of the cases in the following four government hospitals revealed that in 3,142 cases, out of 38,460 cases, utilisation was less than 20 *per cent* of amount transferred. Even after a lapse of two to five years of disbursement, the unutilised amount of ₹ 40.96 crore was kept in the KBF accounts of the hospitals as shown in **Table - 6.4**.

**Table - 6.4**  
**Details of partially utilised amount**

Sl. No.	Name of hospital	No. of cases	Amount transferred	Amount remained unutilised
1	MCH, Kozhikode	1,710	26.34	24.23
2	MCH, Thiruvananthapuram	76	0.86	0.77
3	MCCH, Thrissur	107	0.78	0.72
4	RCC, Thiruvananthapuram	1,249	16.86	15.24
<b>Total</b>		<b>3,142</b>	<b>44.84</b>	<b>40.96</b>

(₹ in crore)

Source: Data received from hospitals

The balance unutilised amount of ₹ 40.96 crore should have been refunded to KBF as per the guidelines. Audit observed that there was no system in the KBF to monitor the utilisation of fund, which resulted in unnecessary parking of funds in the account of hospitals.

Government stated (October 2017) that letters were issued to the Secretary Health/Taxes, all hospital authorities, Director of Health Services and Director of Medical Education for taking necessary action for the refund of amount and also to collect utilisation certificates. As per the decision of 28<sup>th</sup> State Level Committee, a committee including the Secretary, Taxes/Finance/Health was constituted to decide the amount to be released to government hospitals in lump sum without considering the patient wise details and the next instalment would be released only after the submission of utilisation certificate of the fund already released.

#### **6.3.3.3 Non-remittance of interest accrued in the KBF account into the Consolidated Fund**

According to Rule 6(2) (Section V) of Kerala Treasury Code, all moneys, that form part of Consolidated Fund, received shall be paid into treasury and moneys received as aforesaid shall not be appropriated to meet departmental expenditure nor otherwise kept apart from Government account.

Audit verified the bank account details of selected government hospitals and KBF account and observed that interest accrued to the tune of ₹ 14.35 crore<sup>31</sup> on the amount deposited by KBF was credited in the bank account as shown in **Appendix XLVII**. Since Government permitted to utilise only the net proceeds from Karunya lotteries for the treatments under KBF, the interest accrued should be credited to the Consolidated Fund. Moreover, all kind of tax and non-tax revenue are to be credited to the Consolidated Fund of the State and expenditure from this fund can be made through budget proposals. Audit observed that no guideline was issued by KBF to remit the interest accrued on its funds into the treasury, but permitted to utilise the interest accrued on the balance kept in the accounts to meet the expenditure on wages of clerical assistants posted in the hospitals for KBF related work. The permission given by KBF to utilise the interest for wages and the non-remittance of receipts on account of interest into Consolidated Fund of the State and meeting the expenditure from it without legislative approval was irregular.

Government stated (October 2017) that hospitals were directed to furnish the details of receipt and expenditure towards interest amount. After getting the same, the details of interest would be submitted before the State Level Committee for taking necessary action.

#### **6.3.3.4 Violation of agreements by the accredited private hospitals**

According to item 6.2 of KBF guidelines for the implementation of the scheme, private hospitals of good repute shall be accredited on the basis of norms fixed by the State Level Committee and Memorandum of understanding (MoU) entered with these hospitals for providing treatment as per the approved packages at the

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<sup>31</sup> ₹ 1.56 crore in the account of KBF and ₹ 12.79 crore in the KBF account of hospitals.

cost fixed by the committee. According to item 9 of Article 2 of MoU between KBF and the accredited hospitals, the accredited hospital shall undertake specified interventions/treatment to the beneficiaries as per the package rates mentioned in the schedule and as per item 2 and 3 of Article 6, no amount other than the agreed amount shall be charged.

Audit observed that out of the 11 accredited hospitals test checked, five private hospitals<sup>32</sup> charged amount in excess of the package rates and claimed the difference amount from the beneficiaries concerned. This was a violation of the agreement and against the intention of KBF scheme to give cashless treatment to small income groups. A few cases are illustrated in **Appendix XLVIII**.

Audit also observed that in EMS Memorial Co-operative Hospital & Research Centre, Perinthalmanna, most of the patients test checked had given undertakings to the effect that they needed additional facilities such as rooms, better quality stent, consumables, etc., and they were ready to pay for the same. KBF guidelines did not permit for getting payments for providing additional facilities. It was not ascertained whether such patients actually needed assistance from KBF, as they were capable and willing to pay these amounts.

Government stated (October 2017) that if any hospital had charged any additional amount from the patient, legal action would be taken against them. Direction was also issued to take action to avoid getting financial assistance for patients who actually do not need assistance from KBF as they are capable and willing to pay these amounts. It was further stated that directions were given to conduct audit on the accounts of accredited private hospital by the Internal Audit Wing.

In the circumstances, Audit recommends investigation for further appropriate action in the matter as per scheme objectives.

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<sup>32</sup> Amala Cancer Hospital and Research Centre, Thrissur; Baby Memorial Hospital, Kozhikode; Caritas Hospital, Kottayam; Lisie Hospital, Ernakulam and EMS Co-operative Hospital & Research Centre, Perinthalmanna.

### **6.3.4 Conclusion**

The Department did not pay charges for regulating the lotteries organised/ promoted in the State. Non-compliance of certain provisions in the statute leads to flaws in areas like printing/sales of tickets and disbursement of prizes. Department did not evolve an effective mechanism to wipe out the existence of fake lottery tickets. Non-reconciliation of funds transferred to government hospitals leads to accumulation of Karunya Benevolent Fund in the bank account of hospitals. Non-conduct of inspection in accredited private hospitals leads to violation of agreement by hospitals.

**Thiruvananthapuram,  
The**

**(K P ANAND)  
Accountant General  
(Economic and Revenue Sector Audit)  
Kerala**

**Countersigned**

**New Delhi,  
The**

**(RAJIV MEHRISHI)  
Comptroller and Auditor General of India**