



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

for the year ended 31 March 2017



Government of Rajasthan

Report No. 6 of the year 2017

Presented to the Legislature on 06.03.2018

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PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2017 has been prepared for submission to the Governor of Rajasthan under Article 151 of the Constitution of India.

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

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2016-17 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2016-17 have also been included, wherever necessary.

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

OVERVIEW

OVERVIEW

This Report contains 28 paragraphs involving ₹ 357.23 crore, including a Performance Audit on ‘Allotment and conversion of land under Rajasthan Land Revenue Act in the Revenue Department’. Some of the significant audit findings are mentioned below:

I. General

The total revenue receipts of the Government of Rajasthan during 2016-17 were ₹ 1,09,026 crore as against ₹ 1,00,285.12, crore for the year 2015-16. The revenue raised by the Government amounted to ₹ 55,987.23 crore comprising tax revenue of ₹ 44,371.66 crore and non-tax revenue of ₹ 11,615.57 crore. The receipts from the Government of India were ₹ 53,038.77 crore (State’s share of divisible Union taxes of ₹ 33,555.86 crore and grants-in-aid of ₹ 19,482.91 crore).

(Paragraph 1.1)

Inspection Reports (IRs) issued up to December 2016 disclosed that 8,691 paragraphs involving ₹ 2,877.01 crore relating to 2,961 IRs remained outstanding at the end of June 2017.

(Paragraph 1.6)

II. Taxes on Sales, Trade, etc.

Non-utilisation of information available on the departmental web-based application *RajVISTA* resulted in short/non-levy of tax of ₹ 26.27 crore.

(Paragraph 2.4)

Input tax credit was irregularly allowed by Assessing Authorities resulting in short realisation of revenue amounting to ₹ 3.78 crore.

(Paragraph 2.5)

Incorrect levy of tax and improper use of declaration forms resulted in non/short realisation of revenue of ₹ 23.11 crore under Central Sales Tax Act.

(Paragraph 2.6)

Test check of assessment records of three circles revealed that the Assessing Authorities incorrectly finalised assessments of dealers resulting in short assessment of tax and excess grant of subsidy of ₹ 46.35 lakh.

(Paragraph 2.7)

III. Taxes on Vehicles

A paragraph on ‘Implementation of High Security Registration Plate Scheme in Rajasthan’ disclosed the following:

- Transport Department had registered 1.36 crore vehicles upto 31 March 2016. However, High Security Registration Plates (HSRP) were affixed only on

36.43 lakh vehicles upto 31 March 2016 which was only 27 per cent of the total number of vehicles covered under the Scheme.

(Paragraph 3.4.5)

- Audit noticed that affixation work of HSRPs was not monitored by the RTOs/DTOs. A number of deficiencies in affixation of registration plate, sticker, replacement of HSRPs, publicity programme, network connectivity and verification of vehicles were noticed.
- No physical verification of vehicles was carried out by District Transport Officers or Inspectors/Sub-Inspectors to ensure that a particular HSRP was affixed on the vehicle for which it was meant.

(Paragraph 3.4.8.2)

Lump-sum tax of ₹ 18.08 crore in respect of 4,289 transport vehicles was either not paid or paid short.

(Paragraph 3.5)

Motor vehicle tax and special road tax of ₹ 16.13 crore in respect of 4,945 vehicles for the period between April 2013 and March 2016 were not paid.

(Paragraph 3.6)

Penalty of ₹ 1.59 crore was not realised on late deposit of special road tax and surcharge by Rajasthan State Road Transport Corporation.

(Paragraph 3.7)

IV. Land Revenue

A Performance Audit on '**Allotment and conversion of land under Rajasthan Land Revenue Act in the Revenue Department**' disclosed the following:

- Audit found that a policy had not been put in place by the Government for allotment of land. Procedure for allotment of Government land had not been codified by the State Government.
- The Department had not framed a manual to regulate and control the working of the Department. Absence of the manual had resulted in lack of monitoring in the allotment of land and ascertaining the responsibility at each stage involved in the allotment of the land.
- No system existed for recording the details of the sanctions of the allotment of land issued from time to time by the Government. No provision has been made by the Department in the Rules or by issue of orders for maintenance of registers for monitoring the receipts of applications, their disposal, sanctions received and allotment made by the District Collectors.

(Paragraph 4.4.7.1)

- Neither any time limit for disposal of applications received for allotment of land was fixed nor any instruction in this regard has been issued by the State Government. The absence of control over the process of allotment

provides scope for arbitrary action on the part of the allotting authorities.

(Paragraph 4.4.7.2)

- There was no system at District Collector level to monitor the use of land set apart for specific purposes. It was noticed that in 46 cases the land measuring 15,066.02 *bigha* was not utilised for the purpose it was allotted. In 13 cases, the land was reverted to Government while in 33 cases, despite a lapse of two to 27 years it was not reverted.

(Paragraph 4.4.7.4)

- Due to inadequate control and monitoring, Government's share amounting to ₹ 424.11 crore of the sale proceeds of Government land disposed by urban local bodies was not realised.

(Paragraph 4.4.7.5)

- Audit noticed that the Department had not recovered the cost of the land before allotment in eight cases measuring 714.69 *bigha*. This resulted in non/short realisation of cost of land amounting to ₹ 167.39 crore.

(Paragraph 4.4.7.6)

- The Department had not recovered the arrears on account of cost of land aggregating to ₹ 550.57 crore due from seven Departments/enterprises.

(Paragraph 4.4.7.8)

- Land measuring 600.26 *bigha* in 34 cases in 11 *Tehsils* was converted for industrial, residential colony, tourism and other purposes. The Land thus converted was neither used for the specified purpose nor was extension in validity applied for. The land records (*Jamabandi*) were left incomplete.

(Paragraph 4.4.8.1)

V. Stamp Duty and Registration Fee

Audit noticed that in three cases incorrect application of stamp duty (SD) resulted in short levy of SD, surcharge and registration fee (RF) of ₹ 1.56 crore.

(Paragraph 5.4.1)

The Sub-Registrar did not levy SD, surcharge and RF of ₹ 1.42 crore on the market value of ₹ 24.50 crore of the property of the demerged company.

(Paragraph 5.6.2)

Non-registration of partition deeds resulted in non-levy of SD, surcharge and RF of ₹ 1.23 crore on market value of ₹ 17.59 crore of the properties.

(Paragraph 5.9)

The documents for change of legal entity of partnership firms that had changed their legal status into companies under the Companies Act were not found registered. This resulted in non-levy of SD and surcharge of ₹ 5.91 crore on market value of ₹ 98.53 crore of the properties.

(Paragraph 5.10.1)

The Sub-Registrars assessed the market value of properties at lower rates. This resulted in short levy of SD, surcharge and RF of ₹ 4.80 crore.

(Paragraph 5.12)

Stamp duty on immovable properties worth ₹ 105.71 crore contributed as share contribution by the partners in the partnership firms was incorrectly charged ₹ 0.14 lakh instead of ₹ 6.34 crore in 24 cases.

(Paragraph 5.13.1.1)

Rajasthan State Industrial Development and Investment Corporation had allotted/sold plots valued at ₹ 36.45 crore to entrepreneurs through lease deeds. The lease deeds were not executed/registered resulting in non-levy of SD of ₹ 2.42 crore.

(Paragraph 5.13.3.2)

One concession agreement executed between the National Highway Authority of India and a concessionaire valued at ₹ 677.79 crore was stamped with ₹ 100 only instead of ₹ 2.40 crore.

(Paragraph 5.13.4)

VI. State Excise

A paragraph on 'Procurement and sale of Hemp (*Bhang*)' disclosed the following:

- Monitoring of the Department was weak. Audit found that inspection of warehouses/retail shops was not carried out for verification of quantity received and despatched. No records were maintained to check and monitor the procurement and sale of *bhang* by the licensees.

(Paragraph 6.4.4)

- The licence fees realised from five licensee groups during 2013-14 to 2015-16 increased significantly whereas sale of *bhang* decreased during the same period. The Department had not fixed any norm for fixing the licence fees of the groups.

(Paragraph 6.4.5.1)

Licence fee of ₹ 50 lakh for wholesale vend of Country Liquor (CL) under Rule 68(12)(a) on distilleries and bottling plants was not levied by the concerned DEOs.

(Paragraph 6.5)

Two units did not take 8,783.60 London Proof Litre (LPL) rectified spirit (RS) into their accounts. The concerned DEO, however, did not levy excise duty of ₹ 10.25 lakh at the rate of ₹ 116.67 per LPL prevailing at the time of consignment.

(Paragraph 6.6)

Chemical analysis reports of samples of Indian Made Foreign Liquor (IMFL) and CL disclosed that the strength of alcohol was less than the prescribed limit

for IMFL and CL. Due to lower alcohol content mentioned in the records, the Government lost revenue to the tune of ₹ 57.06 lakh.

(Paragraph 6.7)

Composite fee of ₹ 2.41 crore was to be determined for 17 composite shops/groups of peripheral area but the concerned DEOs determined and recovered only ₹ 0.87 crore.

(Paragraph 6.8)

VII. Non-Tax Receipts

A Paragraph on 'Levy and collection of royalty on minerals removed through permits' disclosed the following:

- In 46 cases contractors executed works amounting to ₹ 7.71 crore but had not applied for short term permits. Out of these in 35 cases final bills had been paid to them without recovering royalty and without obtaining no objection certificate from Mines Department.

(Paragraph 7.4.4.3)

- State Directorate of Revenue Intelligence informed Mines Department regarding unauthorised use of minerals during installation work of wind mills by three companies. Inaction on the part of Mines Department, however, resulted in non-recovery of ₹ 38.14 crore.

(Paragraph 7.4.4.7)

- In 48 cases, demand of ₹ 10.05 crore was short raised, as five ME offices initiated recovery of cost of mineral brick earth on the basis of bricks/brick earth found on the spot at the time of inspections instead of annual consumption capacity of the brick kilns.

(Paragraph 7.4.5.4)

CHAPTER-I

GENERAL

CHAPTER-I : GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Rajasthan during the year 2016-17, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding four years are mentioned in the Table 1.1.1.

Table 1.1.1

(₹ in crore)

Sl. no.	Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
1	Revenue raised by the State Government					
	• Tax revenue	30,502.65	33,477.70	38,672.87	42,712.92	44,371.66 ¹
	• Non-tax revenue	12,133.59	13,575.25	13,229.50	10,927.87	11,615.57 ²
	Total	42,636.24	47,052.95	51,902.37	53,640.79	55,987.23
2	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	17,102.85	18,673.07	19,817.04	27,915.93	33,555.86 ³
	• Grants-in-aid	7,173.92	8,744.35	19,607.50	18,728.40	19,482.91 ⁴
	Total	24,276.77	27,417.42	39,424.54	46,644.33	53,038.77
3	Total revenue receipts of the State Government (1 and 2)	66,913.01	74,470.37	91,326.91	1,00,285.12	1,09,026.00
4	Percentage of 1 to 3	64	63	57	53	51

The above table indicates that there was continuous increase in collection of revenue during the last five years. However, the revenue raised by State Government declined as compared to the total receipts of the State during the last five years. The revenue raised by the State Government (₹ 55,987.23 crore) was 51 *per cent* of the total revenue receipts (₹ 1,09,026.00 crore) during the year 2016-17. The balance 49 *per cent* of receipts during 2016-17 were from the Government of India by way of share of net proceeds of divisible Union taxes and duties and grants-in-aid.

¹ For details, please see table No. 1.1.2 of this chapter.

² For details, please see table No. 1.1.3 of this chapter.

³ For details, please see Statement No. 14 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Rajasthan for the year 2016-17. Figures under the head 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0022 - Taxes on agriculture income, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties and 0044 - Service tax and 0045 - other taxes and duties on commodities and services - share of net proceeds assigned to State booked in the Finance Accounts.

⁴ For details, please see Statement No. 14 of Finance Accounts of the Government of Rajasthan for the year 2016-17 (C) Head - 1601.

1.1.2 The details of the budget estimates (BE), revised estimates (RE) and the actual receipts in respect of the tax revenue raised during the period 2012-13 to 2016-17 are given in the table 1.1.2.

Table 1.1.2

(₹ in crore)

Sl. no.	Heads of revenue	BE RE Actual	2012-13	2013-14	2014-15	2015-16	2016-17	Percentage of increase (+) /decrease (-) in 2016-17 over 2015-16	
1	Taxes on sales, trade, etc.	BE	15,402.08	19,528.00	24,030.00	28,784.00	32,900.00		
		RE	17,237.00	20,300.00	24,120.00	27,635.00	27,767.60		
		Actual	17,214.34	19,834.72	22,644.89	24,878.67	27,151.54	(+) 9.14	
	Central sales tax	BE	1,147.92	1,522.00	1,595.00	1,716.00	1,615.00		
		RE	1,338.00	1,450.00	1,505.00	1,615.00	1,227.40		
		Actual	1,360.31	1,380.79	1,525.02	1,466.10	1,406.88	(-) 4.04	
2	State excise	BE	3,250.00	4,500.00	5,318.75	6,300.00	7,310.00		
		RE	3,875.00	4,625.00	5,330.00	6,350.00	7,600.00		
		Actual	3,987.83	4,981.59	5,585.77	6,712.94	7,053.68	(+) 5.08	
3	Stamp duty and registration Fee								
	Stamps-judicial	BE	60.14	105.40	172.08	172.08	110.00		
		RE	96.73	144.00	156.66	105.00	103.34		
		Actual	144.27	104.59	54.27	97.45	73.94	(-) 24.13	
	Stamps-non-judicial	BE	2,264.97	3,268.57	3,413.42	3,413.42	3,490.00		
		RE	2,723.27	2,706.00	2,823.35	2,785.00	2,701.00		
		Actual	2,693.13	2,577.76	2,705.10	2,574.88	2,502.86	(-) 2.80	
	Registration fee	BE	474.89	526.03	614.50	614.50	600.00		
		RE	480.00	500.00	520.00	560.00	445.66		
		Actual	497.47	442.98	429.52	561.67	476.45	(-) 15.17	
	4	Taxes on motor vehicles	BE	1,900.00	2,500.00	2,950.00	3,300.00	3,900.00	
			RE	2,225.00	2,550.00	2,800.00	3,300.00	3,650.00	
Actual			2,283.13	2,498.90	2,829.86	3,199.44	3,622.83	(+) 13.23	
5	Taxes and duties on electricity	BE	1,505.25	1,512.61	1,697.18	1,782.04	2,000.00		
		RE	1,596.65	1,406.63	1,697.18	2,000.00	2,172.00		
		Actual	1,570.06	948.93	1,534.51	1,921.29	738.24	(-) 61.58	
6	Land revenue	BE	196.06	185.51	400.76	400.00	400.01		
		RE	233.91	365.76	324.69	320.00	359.01		
		Actual	304.55	337.98	288.58	272.47	314.69	(+) 15.50	
7	Taxes on goods and passengers	BE	280.00	300.00	345.00	432.00	750.00		
		RE	250.00	300.00	360.00	800.00	750.00		
		Actual	248.57	287.92	956.52	847.72	803.28	(-) 5.24	
8	Other taxes and duties on commodities and services	BE	50.99	55.00	68.26	131.99	174.99		
		RE	50.09	55.01	99.99	171.79	200.00		
		Actual	48.47	68.46	113.68	170.96	220.08	(+) 28.73	
9	Other taxes ⁵ , etc.	BE	300.00	50.00	50.00	50.00	50.00		
		RE	100.00	50.00	50.17	50.20	10.00		
		Actual	150.52	13.08	5.15	9.32	7.19	(-) 22.85	
	Total	BE	26,832.30	34,053.12	40,654.95	47,096.03	53,300.00		
		RE	30,205.65	34,452.40	39,787.04	45,691.99	46,986.01		
		Actual	30,502.65	33,477.70	38,672.87	42,712.92	44,371.66	(+) 3.88	
	Percentage of increase of actual over previous year		20.19	9.75	15.52	10.45	3.88		

⁵ Other taxes include Taxes on income and expenditure (Taxes on professions, trades, callings and employments) and Taxes on immovable property other than agriculture land.

There had been a continuous increase in overall revenue collection of the tax during last five years but the collection for each year has been less than both the budget estimates and the revised estimates during the years 2013-14 to 2016-17. Further, the percentage of growth of revenue declined during the year 2016-17 in comparison to the year 2015-16.

The reasons for variation wherever found substantial though called for (between April 2017 and May 2017) have not been furnished by the respective departments (November 2017).

1.1.3 The details of the BE, RE and the actual receipts in respect of the non-tax revenue raised during the period 2012-13 to 2016-17 are given in the table 1.1.3.

Table 1.1.3

(₹ in crore)

Heads of revenue	<u>BE</u> <u>RE</u> Actual	2012-13	2013-14	2014-15	2015-16	2016-17	Percentage of increase (+)/ decrease (-) in 2016-17 over 2015-16
Non-ferrous mining and metallurgical industries	BE	2,500.00	3,210.00	3,860.00	4,135.00	5,200.00	
	RE	2,910.00	3,360.00	3,566.00	4,250.00	4,200.00	
	Actual	2,838.59	3,088.66	3,635.46	3,782.13	4,233.74	(+) 11.94
Interest receipts	BE	1,428.79	1,933.88	2,046.31	1,790.98	1,778.75	
	RE	2,074.82	2,109.36	1,959.83	1,860.58	2,002.97	
	Actual	2,067.00	2,142.49	2,065.39	1,982.39	1,933.37	(-) 2.47
Miscellaneous general services	BE	324.29	576.17	891.66	1,106.61	1,279.12	
	RE	667.80	743.37	920.88	885.72	859.39	
	Actual	686.10	846.36	963.85	700.90	660.70	(-) 5.74
Police	BE	165.00	170.48	220.10	220.10	220.15	
	RE	180.10	192.36	220.10	213.00	220.15	
	Actual	192.07	167.27	240.03	162.02	190.78	(+) 17.75
Other administrative services	BE	78.88	89.94	139.13	110.77	162.73	
	RE	80.00	126.66	107.19	162.44	222.35	
	Actual	85.50	147.38	133.21	161.98	210.51	(+) 29.96
Major and medium irrigation	BE	122.21	90.62	115.22	146.00	150.00	
	RE	116.34	97.55	90.90	112.50	129.79	
	Actual	87.21	80.62	67.08	68.72	112.77	(+) 64.10
Forestry and wild life	BE	56.05	66.67	87.44	97.92	103.54	
	RE	73.55	87.39	80.20	111.65	123.95	
	Actual	91.24	77.52	89.31	133.75	113.00	(-) 15.51
Public works	BE	75.75	65.00	74.76	77.36	82.02	
	RE	60.00	67.87	74.76	79.51	95.30	
	Actual	57.63	69.16	71.74	97.89	84.31	(-) 13.87
Medical and public health	BE	61.88	61.00	70.71	95.12	110.42	
	RE	99.33	72.86	105.07	108.99	115.74	
	Actual	96.04	65.61	116.43	119.21	125.39	(+) 5.18
Co-operation	BE	23.65	20.42	11.86	18.51	24.02	
	RE	23.00	17.83	16.52	14.52	41.25	
	Actual	22.02	18.80	16.88	14.64	44.10	(+) 201.23
Other non-tax receipts ⁶	BE	4,114.64	6,370.23	7,421.01	7,697.61	4,973.35	
	RE	5,909.06	6,631.79	6,327.04	4,072.75	4,458.43	
	Actual	5,910.19	6,871.38	5,830.12	3,704.24	3,906.90	(+) 5.47
Total	BE	8,951.14	12,654.41	14,938.27	15,495.98	14,084.10	
	RE	12,185.00	13,507.04	13,468.49	11,871.66	12,469.32	
	Actual	12,133.59	13,575.25	13,229.50	10,927.87	11,615.57	(+) 6.29
Percentage of increase of actual over previous year		32.24	11.88	(-)2.55	(-)17.40	6.29	

⁶ Other non-tax receipts constitute income from petroleum, public service commission, jails, housing, village and small industries, fisheries, dividends and profit, contribution and recoveries towards pension and other retirement benefits, etc.

Audit observed increase in the collection of non-tax revenue during the year 2016-17 as compared to previous year.

The reasons for variation wherever found substantial though called for (between April 2017 and May 2017) have not been furnished by the respective departments (November 2017).

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2017 relating to some principal heads of revenue amounted to ₹ 6,046.36 crore, out of which ₹ 1,984.19 crore was outstanding for more than five years as given in the Table 1.2.

Table 1.2

(₹ in crore)					
Sl. no.	Heads of revenue	Total amount outstanding as on 31 March 2016	Total amount outstanding as on 31 March 2017 and percentage of increase in comparison to previous year		Amount outstanding for more than five years as on 31 March 2017
1	Commercial taxes	6,763.32	4748.56	(-) 29.79	1,597.13
2	Transport	66.68	55.34	(-) 17.00	27.71
3	Land Revenue	607.04	593.57	(-) 2.22	72.39
4	Registration and Stamps	277.56	305.23	(+) 9.97	52.91
5	State excise	198.62	200.57	(+) 0.98	197.14
6	Mines, Geology and Petroleum	209.17	143.09	(-) 31.59	36.91
Total		8,122.39	6,046.36	(-) 25.56	1,984.19

Source: Furnished by the concerned Departments.

It would be also seen from the above table that recovery of ₹ 1,984.19 crore was pending for more than five years. The stages at which arrears were pending for collection, though called for, were not intimated by the Departments except Registration and Stamps Department (August 2017). The Registration and Stamps Department intimated that an amount of ₹ 179.39 crore could not be recovered as it was covered by various stay orders issued by appellate authorities and courts.

It is recommended that the Government may take appropriate action for early recovery of the arrears.

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the respective Departments in

respect of Commercial Taxes, Registration and Stamps and Mines, Geology and Petroleum are given in the Table 1.3.

Table 1.3

Name of the Department	Opening balance	New cases due for assessment during 2016-17	Total assessments due	Cases disposed of during 2016-17	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Commercial Taxes ⁷	1,75,838	4,15,590	5,91,428	5,91,425	3	99.99
Registration and Stamps	4,818	5,189	10,007	5,675	4,332	56.71
Mines, Geology and Petroleum	8,922	13,616	22,538	10,327	12,211	45.82

Source: Furnished by the concerned Departments.

It can be seen that Commercial Taxes Department has performed exceedingly well to clear all the cases including those under deemed assessment scheme. The disposal of cases was the lowest in Mines, Geology and Petroleum Department. The Department may take necessary action for speedy disposal of the cases.

1.4 Evasion of tax detected by the Department

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

Table 1.4

Head of revenue	Cases pending as on 31 March 2016	Cases detected during 2016-17	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Cases pending as on 31 March 2017
				Number of cases	Amount of demand (₹ in crore)	
Commercial taxes	513	2,310	2,823	2,050	307.54	773

Source: Furnished by the Commercial Taxes Department.

The Commercial Taxes Department has updated their figures as compared to closing balance shown in last year's Audit Report.

It would be seen from the above table that 72.62 per cent of the total cases were settled during the year 2016-17.

⁷ The Commercial Taxes Department has updated their figures as compared to closing balance shown in last year's Audit Report.

1.5 Pendency of refund cases

The number of refund cases pending at the beginning of the year 2016-17, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2016-17 as reported by the Departments is given in the Table 1.5.

Table 1.5

(₹ in crore)

Sl. no.	Particulars	Sales tax/VAT		Registration and stamps	
		Number of cases ⁸	Amount	Number of cases	Amount
1	Claims outstanding at the beginning of the year	1,285	201.16	1,143	7.82
2	Claims received during the year	10,182	638.73	1,980	12.15
3	(i) Refunds made during the year (ii) Rejected during year	6,667 3,899	629.68 7.29	1,839 -	11.61 -
4	Balance outstanding at the end of year	901	202.92	1,284	8.36

Source: Furnished by the concerned Departments.

It would be seen from the above that there had been increase in the number and amount of outstanding refund cases in Registration and Stamps Department while in Commercial Taxes Department (VAT) the number of outstanding refund cases had decreased though the amount had slightly increased. Necessary action may be taken by the Department for speedy disposal of the refund cases. This would not only benefit the claimants but would also save the Government from payment of interest on the delayed payment of refunds.

1.6 Response of the Government/Departments to Audit

The Accountant General (Economic and Revenue Sector Audit), Rajasthan, Jaipur conducts periodical inspection of the Government/Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed by Inspection Reports (IRs) which incorporate irregularities detected during the inspection and not settled on the spot. The IRs are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions. They have to report compliance through initial reply to the Accountant General within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Analysis of Inspection Reports issued upto December 2016 disclosed that 8,691 paragraphs involving ₹ 2,877.01 crore relating to 2,961 IRs remained outstanding at the end of June 2017. The figures as on June 2017 along with the

⁸ The Commercial Taxes Department has updated their figures as compared to closing balance shown in last year's Audit Report.

corresponding figures for the preceding two years are given in the Table 1.6.

Table 1.6

Particulars	June 2015	June 2016	June 2017
Number of IRs pending for settlement	2,932	3,127	2,961
Number of outstanding audit paragraphs	8,964	9,129	8,691
Amount of revenue involved (₹ in crore)	3,206.77	3,180.58	2,877.01

It would be seen from the above that the number of outstanding paragraphs and the amount of revenue involved therein have slightly decreased as compared to previous year. There is, however, still a need to speed up the compliance for timely settlement of audit paragraphs.

1.6.1 The Department-wise details of the IRs and audit paragraphs outstanding as on 30 June 2017 and the amounts involved are mentioned in Table 1.6.1.

Table 1.6.1

Sl. no.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit paragraphs	Amount involved (₹ in crore)
1	Commercial Taxes	Taxes on sales, trade, etc.	514	2,044	477.04
		Entertainment tax, luxury tax, etc.	20	23	7.10
2	Transport	Taxes on motor vehicles	461	1,439	80.84
3	Land Revenue	Land revenue	85	341	298.95
4	Registration and Stamps	Stamp duty and registration fee	1,412	3,342	363.58
5	State Excise	State excise	113	249	58.41
6	Mines, Geology and Petroleum	Non-ferrous mining and metallurgical industries	356	1,253	1,591.09
Total			2,961	8,691	2,877.01

Audit did not receive first replies from the heads of offices⁹ even after expiry of more than one month from the date of issue in respect of three IRs issued during 2016-17. The pendency of the IRs is indicative of the fact that the heads of offices and the Departments did not take adequate action to rectify the defects and irregularities pointed out by Audit through the IRs.

There was decrease in number of outstanding paragraphs and the amount involved therein as compared to preceding years, the Departments may continue their efforts for taking prompt actions for rectifying the defects and irregularities pointed out by Audit.

⁹ Sub Registrars: Mahwa (Dausa), Dungarpur and Aklera (Jhalawar).

1.6.2 Departmental Audit Committee Meetings

The Government constituted Audit Committees¹⁰ to monitor and expedite the progress of the settlement of the paragraphs in the IRs. The details of the Audit Committee meetings held during the year 2016-17 and the paragraphs settled are mentioned in the Table 1.6.2.

Table 1.6.2

Sl. no.	Name of the Department	Number of Audit Committee meetings held	Number of audit sub-committee meetings held	Number of paragraphs settled	Amount (₹ in crore)
1	Commercial Taxes	3	7	145	9.62
2	Land Revenue	3	13	51	20.91
3	Registration and Stamps	4	17	1,034	116.43
4	Mines, Geology and Petroleum	3	2	144	27.99
Total		13	39	1,374	174.95

It would be seen from the above that in audit sub-committee meetings held in respect of Commercial Taxes, Land Revenue, Registration and Stamps, Mines, Geology and Petroleum Departments 1,374 paragraphs involving ₹ 174.95 crore were settled.

In addition to above six Audit Committees were held in Transport (two) and State Excise (four) Department. But no Audit sub-committee was held in these two Departments and no paragraph was settled.

1.6.3 Response of the Departments to the draft audit paragraphs

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

40 draft paragraphs clubbed into 28 paragraphs including one Performance Audit were sent to the Principal Secretaries/Secretaries of the respective Department by name between April and October 2017. The Principal Secretaries/Secretaries of the Departments¹¹ did not send replies (15 November 2017) to five draft paragraphs and the same have been included in this Report without the response of the Department.

1.6.4 Follow-up on the Audit Reports - summarised position

The Rules and Procedures of the Public Accounts Committee (PAC) of the Rajasthan State Assembly framed in 1997 prescribe that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative

¹⁰ Audit Committees, *inter alia*, comprising of Secretary of concerned Departments and Accountant General/his representative, were formed as per Circular No. 1/2005 dated 18 January 2005 of Government of Rajasthan and decided that one Audit Committee meeting shall be held in each quarter. In addition to this, Audit sub-committees comprising of officers of the Departments and representative of Accountant General, are also formed.

¹¹ Department: Transport and Mines, Geology and Petroleum.

Assembly, the Departments shall initiate action on the audit paragraphs. The action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the PAC. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. One hundred and ninety five paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on Revenue Sector of the Government of Rajasthan for the years ended 31 March 2012, 2013, 2014, 2015 and 2016 were placed before the State Legislative Assembly between 27 August 2013 and 28 March 2017. The action taken explanatory notes from the concerned Departments on these paragraphs were received late with an average delay of 42 days in respect of each of these Audit Reports. The PAC discussed 92 selected paragraphs pertaining to the Audit Reports for the years from 2011-12 to 2014-15 and its recommendations on 22 paragraphs were incorporated in their six Reports¹² (2016-17).

1.7 Analysis of the mechanism for dealing with the issues raised by Audit in Transport Department

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

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

1.7.1 Position of inspection reports

The summarised position of the inspection reports pertaining to Transport Department issued during 2012-13 to 2016-17, paragraphs included in these reports and their status as on 31 July 2017 is tabulated in the Table 1.7.1.

Table 1.7.1

(₹ in crore)

Position upto year	Opening balance			Addition during the year			Clearance during the year			Closing balance at the end of the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2012-13	419	1,537	240.85	29	262	16.83	12	206	51.91	436	1,593	205.77
2013-14	436	1,593	205.77	15	141	16.33	20	242	37.94	431	1,492	184.16
2014-15	431	1,492	184.16	33	302	28.14	12	290	32.74	452	1,504	179.56
2015-16	452	1,504	179.56	27	231	27.70	15	278	25.41	464	1,457	181.85
2016-17 upto July 2017	464	1,457	181.85	7	64	10.94	10	82	111.95	461	1,439	80.84

The Government arranges audit sub-committee meetings between the Department and the Audit Office to settle the old paragraphs. However, during 2016-17 no audit sub-committee meeting was held. Although the Department has been

¹² Six Reports pertaining to: Commercial Taxes (1), State Excise (1), Motor Vehicle Tax (2) and Land Revenue (2).

making progress in settlement of old IRs/paragraphs, further effective and concrete steps are required to achieve substantial results.

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

The details of paragraphs relating to Transport Department included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned in the Table 1.7.2.

Table 1.7.2

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year 2016-17	Cumulative position of recovery of accepted cases as of 30 June 2017
2011-12	4	15.88	2	15.66	0.53	5.90
2012-13	3	10.66	3	10.26	1.15	5.01
2013-14	3	15.96	2	13.15	2.12	5.70
2014-15	6	35.66	4	20.64	2.97	7.44
2015-16	3	20.97	3	20.33	1.96	1.96
Total	19	99.13	14	80.04	8.73	26.01

The Department could recover an amount of ₹ 26.01 crore only during the period of five years against 19 paragraphs valuing ₹ 99.13 crore, out of which 14 paragraphs of ₹ 80.04 crore were already accepted by it. The recovery was just 32.50 per cent of the accepted amount of paragraphs.

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

1.8 Audit Planning

The unit offices working under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which, *inter-alia*, include critical issues in Government revenues and tax administration *i.e.* budget speech, white paper on State finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past, audit coverage and its impact during past, *etc.* During the year 2016-17, 442 units were planned and all units had been audited.

1.9 Results of audit

Position of local audit conducted during the year

Test check of the records of 442 units of Commercial Taxes, Transport, Land Revenue, Registration and Stamps, State Excise, Mining and other Departmental offices conducted during the year 2016-17 disclosed under assessments, short levy/loss of revenue, *etc.* aggregating to ₹ 779.41 crore in 30,175 cases. During the year, the concerned Departments accepted under assessments and other deficiencies in 19,402 cases involving Government revenue of ₹ 275.07 crore, of

which 8,290 cases involving ₹ 60.06 crore were pointed out in audit during 2016-17 and the rest in the earlier years. The Departments recovered ₹ 68.12 crore in 7,785 cases during 2016-17.

1.10 Coverage of this Report

This Report contains 28 paragraphs including one Performance Audit on 'Allotment and conversion of land under Rajasthan Land Revenue Act in the Revenue Department'. The total financial impact of the paragraphs is ₹ 357.23 crore, out of which the financial impact of the performance audit is ₹ 176.21 crore.

The Departments/Government have accepted audit observations involving ₹ 285.87 crore, out of which ₹ 6.04 crore had been recovered. The replies in the remaining cases have not been received. These are discussed in Chapters II to VII.

CHAPTER-II

TAXES ON SALES, TRADE, *etc.*

CHAPTER-II : TAXES ON SALES, TRADE, etc.

2.1 Tax administration

Entry Tax/Value Added Tax/Central Sales Tax laws and rules framed thereunder are administered at the Government level by the Principal Secretary (Finance). The Commissioner is the head of the Commercial Taxes Department (Department) and is assisted by 23 Additional Commissioners, 46 Deputy Commissioners (DC), 91 Assistant Commissioners (AC), 136 Commercial Taxes Officers (CTO), 405 Assistant Commercial Taxes Officers (ACTO) and a Financial Advisor (FA). They are assisted by Junior Commercial Taxes Officers (JCTO) and other allied staff for administering the relevant tax laws and rules.

The Rajasthan Value Added Tax (RVAT) Act, 2003, the Central Sales Tax (CST) Act, 1956, the Rajasthan Tax on Entry of Goods into Local Areas (RET) Act, 1999, Rules framed thereunder and notifications issued from time to time govern the levy and collection of value added tax, central sales tax and entry tax.

2.2 Internal audit

Financial Advisor is the head of the Internal Audit Wing. There were 17 internal audit parties each headed by Assistant Accounts Officer. Planning for internal audit of units is done on the basis of importance and revenue realisation.

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

Year	Pending units for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2012-13	66	384	450	267	183	41
2013-14	183	414	597	287	310	52
2014-15	310	413	723	471	252	35
2015-16	252	413	665	181	484	73
2016-17	484	468	952	426	526	55

There was shortfall in conducting internal audit ranging between 35 and 73 per cent during the years 2012-13 to 2016-17.

It was further noticed that 17,417 paragraphs of internal audit were outstanding at the end of the year 2016-17. The year-wise break up of outstanding paragraphs is as under:

Year	Up to 2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	Total
Paragraphs	11,677	1,276	1,152	942	1,382	988	17,417

Non-settlement of large number of outstanding paragraphs indicates lack of monitoring and effective follow up action by the Department on the observations raised by its own Internal Audit Wing.

2.3 Results of audit

In 2016-17, test check of records of 71 units relating to VAT/Central Sales Tax/Entry Tax assessment and other records showed underassessment of tax and other irregularities involving ₹ 103.87 crore in 1,698 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1	Underassessment of tax	461	68.71
2	Acceptance of defective statutory forms	31	3.00
3	Evasion of tax due to suppression of sales/ purchase	114	13.41
4	Irregular/incorrect/excess allowance of Input Tax Credit	183	11.53
5	Other irregularities relating to		
	(i) Revenue	823	7.03
	(ii) Expenditure	86	0.19
Total		1,698	103.87

During the year 2016-17, the Department accepted underassessment and other deficiencies of ₹ 36.05 crore in 426 cases, of which 72 cases involving ₹ 1.25 crore were pointed out in audit during the year 2016-17 and the rest in the earlier years. During the year 2016-17, the Department recovered/adjusted ₹ 1.33 crore in 48 cases, of which 6 cases involving ₹ 0.05 crore pertained to the year 2016-17 and the rest to earlier years.

In one case, the Department recovered ₹ 20.84 lakh after issue of factual statement to the Government as such this case has not been discussed in the Report.

A few illustrative cases involving ₹ 53.63 crore are discussed in the succeeding paragraphs.

2.4 Inadequate utilisation of *RajVISTA* for efficient revenue collection

The levy and collection of value added tax is governed by the Rajasthan Value Added Tax Act, 2003 and the rules made thereunder. The levy and collection of entry tax is governed by the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999 (RET Act) and Rajasthan Tax on Entry of Goods into Local Areas Rules, 1999 (RET Rules) and notifications issued thereunder. By issue of notification dated 9 March 2011, the State Government specified the tax payable by a dealer in respect of notified goods brought into any local area for consumption or use or sale therein. Besides, interest is also payable for delayed payment under the Act.

The Department had introduced a web-based application *RajVISTA* for the use of departmental authorities wherein various modules were provided to facilitate collection, assessment of the tax on sale and purchase of goods and thus safeguard the revenue collection system. The *RajVISTA*, however, did not indicate the name/TIN of the dealers who were liable to pay entry tax on the notified goods. Assessing Authorities (AAs) had also not utilised the system to trace out the dealers who were registered under the VAT Act but had not paid entry tax. A few evasion prone commodities were selected by the Audit for test check. Information regarding these commodities was collected from *RajVISTA* and two selling dealers of other States for the financial years 2012-13 and 2013-14. Audit cross checked this information with the assessment records available with the Department and found short levy of entry tax and VAT amounting to ₹ 26.27 crore as discussed in the following:

2.4.1 Results of cross check disclosed that 270 dealers had imported various goods *i.e.* air conditioners, explosives, furnace oil, tyre and tubes, petcoke, high speed diesel, computers and their accessories, electrical and electronic goods, generating sets, transformers, lubricant oil, weigh bridges, HDPE bags, hydraulic excavators, cranes and loader (earth moving and mining machinery) *etc.* valuing ₹ 1,926.75 crore during the period 2012-14. These dealers had not mentioned the sale of these goods in their respective VAT returns. This indicated that the goods were not sold by the purchasing dealers. The dealers had not paid the entry tax amounting to ₹ 19.38 crore on these goods. The dealers were also liable interest of ₹ 6.17 crore.

All the information regarding purchase of goods was available on the web based application *RajVISTA* and accessible to all AAs. The AAs, however, had not utilised the information to plug the revenue leakage and imposition of entry tax. This resulted in non-levy of entry tax and interest of ₹ 25.55 crore.

The omissions were pointed out to the Department (June 2016 to July 2017) and reported to the Government (May to July 2017). The Department accepted the audit observations in 65 cases and raised demand of ₹ 18.85 crore. Out of this ₹ 0.46 crore was recovered. Position of recovery and reply for the remaining cases is awaited.

2.4.2 Scrutiny of information available on *RajVISTA* disclosed that in Circle Special-VII, Jaipur a dealer had received goods¹ valued at ₹ 9.93 crore from outside the State against CST declaration forms 'F'². Cross check of the information with returns filed by the dealer disclosed (June 2016) that the dealer had shown goods valued at ₹ 8.18 crore as received in annual VAT return for the year 2012-13. Thus, there was a difference of ₹ 1.75 crore³ between the goods received against forms 'F' and as shown in the annual return. The AA, however, while finalising (November 2014) the assessment of the dealer, could not detect the short accounting of the goods. This resulted in short levy of VAT of ₹ 24.47 lakh on goods valuing ₹ 1.75 crore and interest of ₹ 10.28 lakh (March 2016).

The omission was reported to the Government (July 2017). The Government intimated (August 2017) that demand of ₹ 36.22 lakh (tax ₹ 24.47 lakh and interest ₹ 11.75 lakh) had been raised and tax of ₹ 2.45 lakh had been recovered. Further, progress was awaited (November 2017).

2.4.3 Information available on *RajVISTA* (dealer payment search report) disclosed (December 2016) that in Circle Special-II, Bhiwadi a dealer had deposited tax amounting to ₹ 2.56 crore for the year 2012-13. The AA, however, while finalising (June 2015) the assessment of the dealer allowed adjustment of tax of ₹ 2.82 crore. This resulted in excess adjustment of tax amounting to ₹ 25.76 lakh. Besides interest of ₹ 10.82 lakh was also leviable (March 2016).

The omission was reported to the Government (March 2017). The Government intimated (April 2017) that demand of ₹ 39.16 lakh (tax ₹ 25.76 lakh and interest ₹ 13.40 lakh) had been raised. It was also intimated (June and August 2017) that ₹ 13.05 lakh has been recovered from the dealer of which ₹ 12.67 lakh was adjusted against the ITC available with the dealer and ₹ 0.38 lakh has been recovered in cash. Further progress made for recovery of the remaining amount has not been received (November 2017).

2.5 Irregular allowance of input tax credit

As per Section 18 of RVAT Act, input tax credit (ITC) shall be allowed to registered dealers in respect of purchase of any taxable goods made within the State from a registered dealer to the extent and in such manner as may be prescribed. ITC shall be allowed only after verification of the deposit of tax payable by the selling dealer. Further, as per Section 61(2) (b) of the Act, where any dealer has availed ITC wrongly, the AA shall reverse such credit of input tax and shall impose on such dealer penalty equal to double the amount of such wrong credit.

¹ Safety razor blades taxable at the rate of 14 per cent.

² CST form F: F form is issued when a dealer who claims that he is not liable to pay tax under the CST Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his business or to his agent or principal.

³ ₹ 9.93 crore - ₹ 8.18 crore.

2.5.1 During test check of assessment records of three circles⁴, it was noticed (between August 2016 and October 2016) that five dealers (purchasing dealers) had purchased taxable goods from a selling dealer and availed ITC of ₹ 2.07 crore during the year 2012-13. The selling dealer had not deposited the tax payable despite a demand (₹ 2.70 crore) raised by the concerned AA of the selling dealer. It had intimated (June 2014) the AAs of purchasing dealers not to allow ITC to these purchasing dealers. The AAs of purchasing dealers, however, while finalising (between April 2015 to June 2015) assessment orders of the purchasing dealers, incorrectly allowed ITC amounting to ₹ 2.07 crore.

The omission was reported to the Government (July 2017). The Government intimated (September 2017) that a demand of ₹ 2.07 crore for tax and ₹ 1.10 crore for interest has been raised against the purchasing dealers. The position of recovery is awaited (November 2017).

2.5.2 Sub-section 1(e) and (g) of Section 18 of RVAT Act provides that ITC on purchase of raw material and capital goods used in manufacture of exempted goods shall not be allowed. During test check of assessment records for the year 2013-14 of Circle 'C' Jaipur, it was noticed (December 2016) that a dealer engaged in manufacture and sale of exempted goods, claimed ITC of ₹ 57.08 lakh⁵ for purchase of capital goods and raw material⁶.

Scrutiny of assessment record disclosed that the dealer used the raw material and capital goods in manufacturing of goods exempted under RVAT Act. The AA, while finalising (October 2015) the assessment of the dealer, irregularly allowed ITC instead of reversal of such wrong credit. This resulted in irregular allowance of ITC of ₹ 57.08 lakh. Besides penalty of ₹ 1.14 crore was also leviable.

The omission was reported to the Government (May 2017). The Government intimated (June 2017) that ITC of ₹ 57.08 lakh claimed by the dealer had been reversed. It was further intimated (September 2017) that a demand of ₹ 1.14 crore for penalty had been raised. The position of recovery is awaited (November 2017).

2.6 Non/short levy of tax under Central Sales Tax Act

As per Section 10 A read with Section 10 (c) of CST Act, if any person, not being a registered dealer, falsely represents when purchasing goods in the course of inter-State trade or commerce that he is a registered dealer, the authority who is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times of the tax⁷ on the goods. Various declaration forms are prescribed under CST Act for partial/full exemption from tax *i.e.* C, F, H, E-I

⁴ Circle: Special-III, Jaipur; Special-V, Jaipur and 'N', Jaipur.

⁵ ITC ₹ 57.08 lakh: ₹ 42.52 lakh on purchase of capital goods and ₹ 14.56 lakh for raw materials used in manufacturing of exempted goods.

⁶ The dealer dealt in building stone, grit and gitti as per the registration certificate which are exempted goods.

⁷ Tax which would have been levied under sub-section (2) of Section 8 in respect of the sale of the goods to the dealer if the sale had been a sale falling within that sub-section.

and E-II etc. However, if the dealer did not furnish required declaration forms partial/full exemption of tax would not be allowed.

Further as per sub-rule (20) of Rule 17 of CST (Rajasthan) Rules, 1957, read with Section 67 of RVAT Act, where any person knowingly prepares or produces false accounts, sales and purchase invoices, or knowingly furnishes false returns in relation to his business or in any declaration required to be filed under this Act he shall, on conviction by a Judicial Magistrate having jurisdiction, be punishable with simple imprisonment for a term which may extend up to six months and also be liable to fine.

2.6.1 As per Section 8 of the CST Act, every registered dealer who sells goods in the course of inter-State trade to another registered dealer shall pay tax at the concessional rate of two *per cent* with effect from 1 June 2008, provided that the sales are supported by declaration in form 'C'; otherwise tax is leviable at the rate applicable to the sale or purchase of such goods inside the State. As per RVAT Act, goods-'Bitumen' was chargeable at the rate of 14 *per cent*.

During test check of the records of Circle B, Bikaner, it was noticed (November 2016) that during the year 2013-14 a dealer sold/transferred Bitumen amounting to ₹ 5.73 crore in the course of inter-State trade without submitting mandatory CST declaration forms in support of the aforesaid transactions. The AA, however, while finalising (March 2016) the assessment of the dealer applied incorrect rate of tax at the rate of five *per cent* instead of 14 *per cent*. This resulted in underassessment of tax of ₹ 51.61 lakh, besides interest of ₹ 15.48 lakh (March 2016) as detailed below:

(₹ in crore)

Sl. No.	Type of sale under CST Act and name of required Form	Amount of transactions for which CST declarations forms were not submitted	Rate of tax applied by the AA	Rate of tax short applied	Under assessment of tax
1	Section 8(1) Form 'C'	1.13	5	9	0.10
2	Section 6(A) Form 'F'	0.18	5	9	0.02
3	Section 6(2) Form 'C' and 'E-I/II'	4.42	5	9	0.40
Total		5.73			0.52

The omission was reported to the Government (July 2017). The Government intimated (August 2017) that demand of ₹ 70.71 lakh (tax ₹ 51.61 lakh and interest ₹ 19.10 lakh) had been raised. The position of recovery is awaited (November 2017).

2.6.2 During test check of assessment records of two Circles⁸, it was noticed (September 2016 and January 2017) that eight dealers had shown

⁸ Circle: A Jaipur and C Jaipur.

purchases of goods amounting to ₹ 287.84 crore from 11 States against declaration forms 'C'. The dealers had generated these forms through official website of the Department. As per returns filed by seven dealers, the purchased goods valued at ₹ 277.73 crore against declaration form 'C' were shown transferred to their branches/agents situated out of State against declaration forms 'F'. No 'F' forms had been produced in support of transactions. In another case the dealer had generated 'C' forms for goods valued at ₹ 10.11 crore but had shown nil purchases and nil turnover in his return. The Department had conducted (November 2011 to June 2015) the investigation and had found that no business activities were being carried out at the business places of these dealers. The registration certificates of all these eight dealers were cancelled (between June 2015 and July 2016) with effect from their registration date.

Scrutiny of assessment records available on *RajVISTA* disclosed that the AAs had not assessed the liability of the dealers. Neither any action was taken to levy penalty of ₹ 22.44 crore nor action was initiated to prosecute the dealers under Section 67 of the Act.

The omission was reported to the Government (Between July and August 2017). The Government intimated (August and October 2017) that prosecution under Section 67 is being initiated in these cases.

2.7 Short realisation of revenue due to irregularities in assessments made by the Assessing Authorities

Test check of assessment records of three circles revealed that the AAs incorrectly finalised assessments of dealers resulting in short assessment of tax and excess grant of subsidy of ₹ 46.35 lakh and leviable interest of ₹ 0.20 lakh as discussed in the following table:

Sl. No.	Name of Circle	Relevant provisions	Observations
1	Special-II, Bhiwadi	Rules 40(2) and 5(a) of the RVAT Rules, 2006 provides that the amount deducted in lieu of tax shall be deposited by the awardee through a challan in the Government account. A monthly statement mentioning the details of tax deducted and deposited of each contractor shall be furnished to the concerned authority within one month from the date of such deposits.	A dealer, while making payment of ₹ 4.83 crore to seven contractors for works contract, deducted an amount of ₹ 14.49 lakh as tax deducted at source (TDS) during the year 2012-13. The dealer deposited (between June 2012 and May 2013) the TDS amount in Government account and submitted the statement to the AA. The AA while finalising (June 2015) the assessment of the dealer for the year 2012-13 did not assess the liability of the dealer as awardee and adjusted the TDS amount towards the liability of regular business of the dealer. This resulted in irregular adjustment of ₹ 14.49 lakh.
The omission was reported to the Government (June 2017). The Government intimated (August 2017) that demand of ₹ 14.49 lakh had been raised. Further progress for recovery is awaited (November 2017).			

Sl. No.	Name of Circle	Relevant provisions	Observations
2	Special-III, Jaipur	Section 2 (33) of RVAT Act provides that the ITC availed in contravention of provisions of Section 18 will be reversed. Further, as per Section 17(1) of RVAT Act, the net tax payable by a registered dealer, for a tax period shall be calculated as per the prescribed formula ⁹ .	A dealer had shown output tax of ₹ 9.53 lakh and reverse tax of ₹ 18.25 lakh in annual return for the year 2012-13. The AA, however, while finalising (June 2015) the assessment levied output tax and additional tax for non-submission of prescribed forms and raised a demand of ₹ 1.30 crore, however, omitted to levy reverse tax amounting to ₹ 18.25 lakh. This resulted in short raising of demand to that extent.
The omission was reported to the Government (June 2017). The Government accepted the facts and intimated (July 2017) that demand of ₹ 27.92 lakh (tax ₹ 18.25 lakh and interest ₹ 9.67 lakh) had been raised. The position of recovery is awaited (November 2017).			
3	Special-VII, Jaipur	As per clause 4E of Rajasthan Investment Promotion Scheme-2010 (RIPS), the amount of employment generation subsidy is ₹ 15,000/18,000 per employee ¹⁰ per year of completed service. Further, as per clause 11 of the RIPS, authority competent to disburse subsidy may rectify its order with a view to rectify any mistake apparent on the record in computation of amount of subsidy under the scheme and recover the excess amount, if any, along with interest at the rate of 18 per cent per annum from such enterprise.	A dealer claimed employment subsidy of ₹ 27.26 lakh for 293 working employees. Scrutiny of subsidy records revealed that only 90 employees (85 males and 5 female employees) had worked throughout the financial year. Subsidy should have been, therefore, sanctioned for 90 employees only. The AA, however, sanctioned and disbursed subsidy as claimed by the dealer for all 293 employees. This resulted in excess grant of employment subsidy of ₹ 13.61 lakh. Further, interest of ₹ 0.20 lakh (March 2016) was also leviable.
After the case was pointed out (June 2016), the Government intimated (September 2017) that demand of ₹ 16.59 lakh (excess subsidy ₹ 13.61 lakh and interest ₹ 2.98 lakh) had been raised and ₹ 8.97 lakh had been recovered. It was also intimated that the Rajasthan Tax Board, Ajmer had stayed the recovery of remaining demand. Further, progress is awaited (November 2017).			

⁹ $T = (O+R+P) - I$ where T is net tax payable; O is amount of output tax; R is amount of reverse tax; P is the amount of tax payable under sub-section (2) of Section 4 and I is the amount of input tax.

¹⁰ ₹ 15,000 for general employee and ₹ 18,000 for woman, SC/ST employee.

CHAPTER-III

TAXES ON VEHICLES

CHAPTER-III : Taxes on Vehicles

3.1 Tax administration

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

The Transport Department is headed by the Transport Commissioner and is assisted by five Additional Transport Commissioners and 12 Deputy Transport Commissioners. The entire State is divided into 12 regions, headed by Regional Transport Officers (RTO) cum *ex officio* Member, Regional Transport Authority. Besides, there are 51 vehicles registration cum taxation offices headed by District Transport Officers (DTO).

3.2 Internal audit

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

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

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2012-13	-	43	43	43	-	-
2013-14	-	43	43	39	4	9.30
2014-15	4	51	55	45	10	18.18
2015-16	10	57	67	66	1	1.50
2016-17	1	57	58	50	8	13.79

Source: Furnished by the concerned Department.

There was shortfall in conducting internal audit ranging between 1.50 and 18.18 *per cent* during the years 2013-14 to 2016-17. Department stated that short fall in conducting internal audit was due to vacant posts.

It was noticed that 6,580 paragraphs were outstanding at the end of 2016-17. The year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1993-94 to 2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	Total
Paragraphs	2,183	642	570	730	1,237	1,218	6,580

Source: Furnished by the concerned Department.

Out of 6,580 paragraphs, 2,183 paragraphs pertained to the period prior to 2012-13 which indicates that the Department needs to pay more attention

towards settlement of the observations particularly those that are pending for more than five years as with the passage of time, the chances of recovery would become bleak.

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

3.3 Results of audit

During test check of the records of 28 units during the year 2016-17, audit noticed irregularities in 11,007 cases involving ₹ 51.00 crore, which broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1	Paragraph on 'Implementation of High Security Registration Plate Scheme in Rajasthan'	1	--
2	Non/short payment of tax, penalty, interest and compounding fees, etc.	10,023	41.71
3	Non/short determination of tax, computation of motor vehicle tax/special road tax.	850	9.25
4	Other irregularities relating to		
	A- Revenue	69	0.01
	B- Expenditure	64	0.03
Total		11,007	51.00

During the year, the Department accepted underassessment and other irregularities of ₹ 45.51 crore in 5,259 cases, out of which 891 cases involving ₹ 4.21 crore were pointed out in audit during the year 2016-17 and the rest in earlier years. During the year 2016-17, an amount of ₹ 33.97 crore was recovered in 1,876 cases, out of which ₹ 0.43 crore in 101 cases were pointed out in 2016-17 and the rest in earlier years.

A paragraph on 'Implementation of High Security Registration Plate Scheme in Rajasthan' and few illustrative cases involving ₹ 35.80 crore are discussed in the succeeding paragraphs.

3.4 Implementation of High Security Registration Plate Scheme in Rajasthan

3.4.1 Introduction

Section 39 of the Motor Vehicles (MV) Act, 1988 provides that no person/owner of a motor vehicle shall cause or permit the vehicle to be driven in any place unless it is registered in accordance with the Act. Section 41 of the Act provides that the registering authority shall assign to the vehicle, a distinguishing mark called the registration mark. It consists of a group of letters followed by figures that are allotted to the State by the Central Government from time to time. This registration mark is displayed and shown on the motor vehicle in such form and in such manner as may be prescribed by the Central Government.

The Central Government amended Rule 50 of the Central Motor Vehicle Rules that prescribed the specification, form and manner of the registration on the motor vehicles. This amendment was done through 'The Motor Vehicles (New High Security Registration Plates) (HSRP) Order, 2001' dated 22 August 2001 published in the Gazette. As per the order, the work of supply and affixation of HSRP was to be started with effect from 28 September 2001 in case of new registered vehicles and in case of already registered vehicles, two years from the date of issue of order *i.e.* 22 August 2001.

A petition for non-compliance with the above provisions by various States was decided by the Supreme Court. The Supreme Court issued directions (7 February 2012) to all State Governments to fully implement the Scheme¹ of affixation of HSRP by 30 April 2012 in relation to new vehicles and 15 June 2012 for old vehicles. The Supreme Court of India (July 2016) directed the Central Government and the State Governments to strictly implement HSRP Scheme in all the States in a time bound manner.

An agreement was executed (16 May 2012) between Commissioner of Transport (CoT), Government of Rajasthan (GoR) and M/s Real Mazon (Rajasthan) Private Limited (RMRPL) to assemble, establish, procure technology, design, develop, produce, emboss, affix, distribute and create complete infrastructure for the implementation of the Scheme in the State of Rajasthan. The State Government *vide* order dated 28 June 2012 authorised RMRPL for supply and affixation of HSRP on all new and existing vehicles of the whole State for a period of five years and any other extended time permitted by CoT, if any, from the date of signing of agreement. The agreement expired on 15 May 2017. The contractor was granted extension twice (31 May 2017 and 14 August 2017) upto the period ending 31 August 2017. The terms and conditions regarding execution of the contract were mentioned in the tender document.

3.4.2 Objectives

The object of the new Scheme was to ensure public safety, security and to curb the increasing menace of vehicles' theft and their use in criminal and anti national activities. The audit of the Scheme was undertaken with a view

¹ The Motor Vehicles (New High Security Registration Plates) Scheme.

to ascertain the efficiency and effectiveness of the Transport Department in implementation of the Scheme.

3.4.3 Scope of Audit

The State of Rajasthan consists of seven administrative divisions comprising 52 transport units. Out of these, we selected eight units² (two from Jaipur division and one each from remaining six divisions) and the CoT office, covering the period from April 2012 to March 2016. Of these eight units, two units³ could not be audited because of upgradation of VAHAN software during the period of audit scrutiny.

Joint inspection of motor vehicle dealers⁴ and the HSRP stations established by the contractor for embossing and affixation of the plates was conducted by Audit alongwith the officials of the concerned RTO/DTO offices to ascertain that the implementation of the Scheme was done in accordance with the rules made in this regard.

3.4.4 Audit Criteria

The audit findings are based on criteria stipulated in the tender document, agreement, Motor Vehicles Act (MV Act), 1988, Central Motor Vehicles Rules, 1989, Rajasthan Motor Vehicles Taxation Act, 1951, The Rajasthan Motor Vehicles Taxation Rules, 1951, Rajasthan Motor Vehicles Rules, 1990, Motor Vehicles (New High Security Registration Plates) Order, 2001, High Security Registration Plates Operational Manual of the Transport Department, Government of Rajasthan and the Rajasthan General Financial and Accounts Rules.

Audit Findings

Scrutiny of the records/information related to the HSRP Scheme of selected units revealed the following:

3.4.5 Status of implementation of HSRP Scheme

As per the State Government's order dated 28 June 2012, HSRPs were required to be affixed on all vehicles. HSRP had to be affixed immediately after registration of the vehicles registered on or after 15 July 2012. In case of vehicles registered prior to 15 July 2012 the work relating to affixation of HSRP was required to be completed on or before 14 July 2014.

As per the statistical report published by the Transport Department for the year 2015-16, 1.36 crore vehicles were registered in the State upto 31 March 2016. The Department intimated (19 May 2017) that HSRPs were affixed on 36.43 lakh vehicles upto 31 March 2016. All these vehicles were registered after April 2012. Thus, only 27 *per cent* of the total population of vehicles was covered under the Scheme.

² RTO: Bikaner and Chittorgarh; DTO: Bhilwara, Bundi, Dudu, Karauli, Kotputli and Jaisalmer.

³ DTO: Bundi and Kotputli.

⁴ Those dealers who were authorised to act as registration authority.

3.4.5.1 HSRPs were not affixed on new registered vehicles

As per Clause 3.3 of the tender document, HSRPs were to be affixed on vehicles within two working days from the receipt of documentary evidence from the Registering Authority (RA). Further, as per order dated 3 May 2013 issued by the Department, Registration Certificate (RC) of the vehicles shall be issued after affixing HSRP.

Liquidated damages for non-affixation of HSRP on newly registered vehicles were required to be levied on RMRPL at the rate of 10 *per cent* of the amount of the cost of plates to be affixed.

As per the statistical report for the year 2015-16 published by the Department 35.60 lakh vehicles were registered by the Department during 2013-14 to 2015-16. The Department intimated (19 May 2017) that 35.56 lakh vehicles⁵ were affixed with HSRPs as detailed in following table:

Year	Number of vehicles registered (in lakh)	Number of vehicles fitted with HSRP (in lakh)	Variation (in lakh)
2013-14	11.12	10.90	(-) 0.22
2014-15	11.95	12.54	(+) 0.59
2015-16	12.53	12.12	(-) 0.41
Total	35.60	35.56	(-) 0.04

The above facts indicate that four thousand vehicles were running without HSRPs. The Department may investigate the matter and ensure affixation of HSRPs on all vehicles before issue of RCs.

Liquidated damages for non-affixation of HSRPs on newly registered vehicles may be considered to be imposed on the RMRPL.

3.4.5.2 HSRPs were not affixed on vehicles registered prior to 15 July 2012

The State Government *vide* order dated 28 June 2012 prescribed a period of two years for completion of affixing HSRPs on vehicles registered prior to 15 July 2012. Thus, HSRPs were required to be affixed on all such vehicles by 14 July 2014.

The Department, did not take any step for affixing the HSRPs on such vehicles. Thereafter, the Rajasthan High Court while deciding a public interest litigation on the subject had directed (25 February 2016) the CoT to issue an order prescribing calendar for HSRPs for all the vehicles registered prior to 15 July 2012. The court had directed that necessary orders for this purpose should be passed at the earliest and not later than one month from the date of receipt of copy of that order.

Test check of records of the offices of RTOs/DTOs revealed that the work of affixation of HSRP on vehicles registered prior to 15 July 2012 had not been started in five selected offices⁶. The DTO, Dudu intimated that HSRPs on 84 vehicles were affixed during 2014-16.

⁵ This does not include the figure of 2012-13 as the work started from 15 July 2012 and the information regarding the registration of the vehicles prior 15 July 2012 were not provided by the Department though called for.

⁶ RTO: Bikaner and Chittorgarh; DTO: Bhilwara, Jaisalmer and Karauli.

3.4.5.3 HSRPs were not affixed on renewal of registration certificates

Authorisation slip⁷ for affixing the HSRP on vehicle was required to be issued by the Transport Department to the vehicle owner to enable him to get the HSRP affixed on the vehicle. A format in this regard was prescribed in the tender document.

The RTOs/DTOs of the test checked units intimated that authorisation slip for affixing the HSRP on renewal of RC of vehicles *i.e.* vehicles whose life span of 15 years had expired under Section 41(7) of the MV Act, 1988, had not been issued. Thus, HSRP could not be affixed on the vehicles. The number of vehicles for which RCs were renewed but HSRPs not affixed thereon, however, was not made available to Audit by the Department.

3.4.5.4 Embossed HSRPs were not affixed on the vehicles

Audit called for the information regarding the HSRPs that were embossed but were not affixed on the vehicles.

As per the information provided (19 May 2017) by the Department, 6,005 embossed HSRPs in 35 RA Offices⁸ were lying with the contractor at the end of March 2016 for affixation. The period to which these embossed plates pertained was not furnished by the Department.

Of these, Audit test checked the records in two RAs (RTO Bikaner and Chittorgarh) and selected a sample of 57 vehicles registered by the RTOs during 2014-16 and found that in 46 vehicles, registration was done without affixation of HSRPs. Thus, possibilities of issuance of RCs, in other cases, without affixation of HSRPs cannot be ruled out.

The matter was pointed out to the Department (June 2017) and reported to the Government (August 2017). Their reply is awaited (November 2017).

3.4.6 Non-installation of laser cameras

To achieve the goals of the Scheme, laser detector cameras with Optical Character Readers were required to be installed on important roads and intersections to capture footage of speeding/over loadings/stolen vehicles through scanning of HSRP. These equipments were not found to have been installed anywhere in the State. The Department accepted the fact that it had not prepared any road map for installation of laser cameras. Thus, the purpose of affixation of HSRP on the vehicles could not be achieved.

The matter was pointed out to the Department (June 2017) and reported to the Government (August 2017). Their reply is awaited (November 2017).

3.4.7 Late commencement of new tendering process

The GoR *vide* order dated 28 June 2012 authorised the RMRPL for supply and affixation of HSRP on all new and existing vehicles. Though, the said agreement was expired on 15 May 2017, the Department invited tender for

⁷ It is a slip issued by the Department for authorising HSRP station for affixing the HSRP on the vehicle.

⁸ RTO: Alwar, Bharatpur, Bikaner, Jodhpur, Kota, Pali and Udaipur; DTO: Abu Road, Balotra, Banswara, Baran, Barmer, Beawar, Bhinmal, Bhilwara (Shahpura), Bhiwadi, Chomu, Dholpur, Didwana, Dungarpur, Dudu, Hanumangarh, Jaisalmer, Jalore, Jhalawar, Kekri, Kotputli, Phalodi, Pratapgarh, Nagaur, Nohar, Nokha, Rajsamand, Sawai Modhpur and Sirohi.

new contract on 30 May 2017 *i.e.* after 15 days from the date of expiry of previous contract.

Meanwhile, the old contractor was granted extension twice (31 May 2017 and 14 August 2017) upto the period ending 31 August 2017. Thereafter, no new agreement was executed for affixation of HSRPs in the State till September 2017. The Department did not intimate the arrangements made for affixing the HSRPs after 31 August 2017.

The matter was pointed out to the Department (June 2017) and reported to the Government (August 2017). Their replies are awaited (November 2017).

3.4.8 Non-compliance with provisions of the Motor Vehicles (New HSRPs) Order, 2001 and agreement for implementation of the Scheme

3.4.8.1 Deficiencies in affixation of HSRP

As per condition 4 (ix) of the Motor Vehicles (New HSRP) Order, 2001 no high security registration plate shall be affixed outside the premises of the RA. Further, clause 3.2 (a) of the tender document provides that the contractor shall set up individual embossing stations in or in proximity of the RA and Motor Vehicle Dealers authorised as registering authority by the State Government to ensure proper and easy availability of the HSRP.

- It was observed that three embossing and affixation stations⁹ were established two to five kilometers away from the RA premises. This was in violation of condition 4 (ix) of the Motor Vehicles (New HSRP) Order, 2001 which stipulated that no high security registration plate shall be affixed outside the premises of the RA.
- Nine RTOs/DTOs¹⁰ had informed the CoT that the RMRPL had shifted its office to another place without the permission of CoT. In all the cases, the contractor had not informed the concerned RTOs/DTOs about the shift. Though these RTOs/DTOs duly informed the CoT, no action was seen to have been taken. This was in violation of a Government Order dated 28 June 2012 which prescribed that the HSRP was required to be affixed on vehicles at the designated place.
- Schedule-I of agreement indicated the number of dealers authorised to affix HSRP in the jurisdiction of each registering authority. This schedule was revised from time to time. This schedule did not contain the name of dealers who were authorised to act as Registering Authorities. The RTO, Chittorgarh intimated that no dealer was authorised to act as registering authority for registration of the vehicles.

During joint inspection of a dealer of Chittorgarh district it was found that HSRPs were being affixed by a motor vehicle dealer. The team was informed that the dealer had obtained the necessary equipments alongwith the snaplocks from a HSRP station. It was further stated that embossed HSRPs were also being sent to their branch office situated at Badi Sadri, Nimbahera and Rawatbhata for affixation for HSRP. Joint Inspection team

⁹ DTO: Bhilwara, Dudu and Karauli.

¹⁰ RTO: Bharatpur; DTO: Balotra, Barmer, Bhilwara, Bhiwadi, Dausa, Hanumangarh, Karauli and Sawai Madhopur.

also observed that HSRPs were being affixed on old plates with nut-bolts instead of snaplocks. Thus, the safety of HSRPs could not be ensured.

The contractor informed the joint inspection team that embossed HSRPs were sent to the dealers for affixation of HSRP occasionally but the work of affixation was being done by them.

Thus, the fact indicates that HSRPs were being affixed at the places other than the designated ones.

3.4.8.2 Non-monitoring of HSRP affixing work

Audit noticed that affixing work of HSRPs was not monitored by the RTOs/DTOs which resulted in number of deficiencies in the affixation of HSRPs. A few are enumerated below:

- **Third Registration Plate Stickers were not affixed:** Condition 4 (vii) of the Motor Vehicles (New HSRP) Order, 2001 provides that the third registration plate in the form of a self-destructive type chromium based hologram sticker shall be affixed on the inner side of left hand corner of windshield of the vehicle. The details on the sticker shall include (i) name of registering authority, (ii) registration number of the vehicle, (iii) laser branded permanent identification number, (iv) engine number and (v) chassis number. The concerned RTOs, however, intimated that no third registration plate was affixed in all test checked offices.
- **Discrepancies in replacement of HSRP:** Condition 4 (xiii) of the Motor Vehicles (New HSRPs) Order, 2001 envisages that proper record of the registration plates issued by the manufacturer or the vendor, authorised by the State Government, should be maintained on a daily basis. These were to be tallied periodically with the records of the Transport Office. Further, clause 2.5.3 of tender document provides that replacement shall be done by charging cost as per item wise rates approved by the Department from the vehicle owner only upon receipt of documentary evidence in proof thereof issued by the registering authority.

During the joint inspections of selected six offices conducted with the departmental officials, the concerned RTOs/DTOs stated that they were not issuing authorisation slip for replacement of the HSRP. The team found that in one case the contractor himself replaced the HSRP. Joint Inspection team was also informed that HSRPs were replaced without issue of authorisation slips by the Department. The contractor had not intimated the Department about the replacement, hence necessary changes could not be carried out in software (VAHAN) by the Department. This would defeat the very purpose of the HSRP scheme as vehicles could not be traced in the system.

- **Delay in installation of Centralised Network Connectivity Terminal:** As per condition 6(v) of the agreement, ‘in addition to connectivity of embossing stations, affixation stations and RTO/DTO offices, one network connectivity terminal (centralised for the entire State) would be provided by the contractor to the Transport Department with access code at designated places to enable the Department to access the information, as may be required.’ Additional Commissioner, Transport Department *vide*

his letter dated 25 July 2012 allotted space in CoT office for establishment of centralised network connectivity terminal. But it was established in RTO Jaipur office on 4 January 2016 instead of the CoT office after a lapse of 43 months. This resulted in non-access to the data related to the Scheme for a long period. The Department could not monitor the progress of the Scheme on a real time basis.

- **Non-appointment of Auditor:** As per clause 3.11.3 of the tender document, the Department had the right to appoint independent auditor at the cost of the contractor for examination of books, premises and operations of the contractor. Further, as per the operational manual of the Transport Department, such auditor would audit the books and accounts of the contractor at least once in a year. It was observed that no auditor was appointed (29 May 2017).
- **Publicity programme:** Condition 17 of the agreement provides that information, education, communication and publicity programme as approved by transport authorities were to be undertaken for bringing to public attention, the law and necessity of affixation of HSRP. It was stated by the CoT that RMRPL neither got approval from the Department nor conducted any programme for publicity through local newspapers, local news channels, *etc.* This resulted in lack of awareness about the process, approved rates and other details of the Scheme.
- **Non-verification of vehicles:** As per the Operational Manual on HSRP issued by the Transport Department, the DTO or Inspector /Sub-Inspector was to ensure that a particular HSRP was affixed on the vehicle for which it was meant. He was required to carry out a physical verification of the vehicle in this regard. However, the concerned six RTOs/DTOs¹¹ test checked intimated that no verification of vehicles was carried out by DTO or Inspector /Sub-Inspector in this regard.
- **Inspection not conducted by RTO/DTO:** As per clause 3.11.2 of the tender document, RA reserves the right to inspect the embossing stations and other infrastructural arrangement of the contractor under its jurisdiction at any time.

The RTOs/DTOs of six selected offices intimated that inspections of HSRP stations were not regularly conducted during the period from 2012-13 to 2015-16. Thus, the RTOs/DTOs remained unaware of the deficiencies like affixation of HSRP on old plates, affixation of nut bolt in place of snaplock, replacement of old plates without any authority as mentioned in the earlier paragraphs.

The matter was pointed out to the Department (June 2017) and reported to the Government (August 2017). Their reply is awaited (November 2017).

¹¹ RTO: Bikaner and Chittorgarh; DTO: Bhilwara, Dudu, Karauli and Jaisalmer.

3.4.9 Deficiency in Public Grievances Redressal Mechanism

Condition 9 of the agreement prescribes that as the contract for installation and affixation of registration plates involves public at large on day to day basis, for the benefit of public and to give best services and obtain feedback, a public grievance redressal mechanism shall be operational at the respective district transport offices and the complaints received therein should be handled as far as possible by the CoT and contractor on recurring basis. Further, clause 4.15 of the tender document provides that the State Government shall have the right to terminate the contract if the contractor commits breach of any or all conditions of the contract.

Thus, as agreement, a grievance redressal mechanism in each RTO/DTO office was to be evolved to ensure solution of the problems on recurring basis. It was observed that no grievance redressal cell was evolved for looking after complaints. Even complaint register was not maintained in any of the selected offices. Adequate and proper platform was, therefore, not provided to the vehicle owners for lodging complaints. This resulted in non-monitoring of complaints at all levels of the Department. We found that complaints received were bundled up in volumes. The total number of volumes was not made available to Audit. Only two volumes of the complaints were made available by the CoT office to Audit. These complaints were lodged against the contractor on various issues to departmental authorities/agencies¹². A few are discussed in the following paragraphs:

3.4.9.1 Overcharging of rates

Condition 20 of the agreement prescribes that the rates charged by the contractor from the vehicle owners/customers shall in no case be more than the approved rates and the rates shall be in lump-sum of total cost towards goods, services, taxes (all), any other expenses and nothing extra shall be charged. The rates, however, were not circulated and the general public was not aware of the correct rates.

- It was noticed that complaints for overcharging of rates received in 29 RTO/DTO offices¹³ were forwarded to CoT office. Scrutiny of complaints revealed that the contractor was charging rates more than the

¹² DTOs/RTOs/CoT, Transport Minister as well as others District Collectors, Chief Minister, Governor, Anti-Corruption Bureau and also on online portals MORTH-online (Ministry of Road Transport and Highways), PMOPG-online (Prime Minister Office Public Grievances), Sampark Portal-online, *etc.*

¹³ RTO: Ajmer, Alwar, Bharatpur, Bikaner, Chittorgarh, Dausa, Jodhpur, Kota and Sikar; DTO: Balotra, Barmer, Baran, Beawar, Bhilwara, Bhiwadi, Dholpur, Hanumangarh, Jagatpura, Jaisalmer, Jalore, Jhalawar, Karauli, Nagaur, Nohar, Ramgunjmandi, Sri Ganganagar, Sawai Madhopur, Sujangarh and Tonk.

approved rates as stated below:

Item	Prescribed rates (₹)	Rates charged (₹) (Range)
Complete set of Registration Plates inclusive of Snap Lock and fixing for two-wheeler	75	100 to 350
Complete set of Registration Plates inclusive of Snap Lock, 3 rd Registration Plate and fixing for three-wheelers (Passenger and goods and invalid carriages)	96	250 to 350
Complete set of Registration Plates inclusive of Snap Lock, 3 rd Registration Plate and fixing for Light Motor Vehicles/Passenger Car (excluding tractors)	220	300 to 1,320
Complete set of Registration Plates inclusive of Snap Lock, 3 rd Registration Plate and fixing for tractor	90	100 to 400
Complete set of Registration Plates inclusive of Snap Lock, 3 rd Registration Plate and fixing for Medium Commercial Vehicles/Heavy Commercial Vehicles/ Trailer combination	232	300 to 800

Source: Rates charged have been taken from the complaints received while rates prescribed are mentioned in the agreement.

These complaints were also verified by the concerned RTOs/DTOs. No further action, however, was taken. A few instances are mentioned below:

Name of Office	Nature of complaint	Action taken by RTO/DTO
RTO, Ajmer	The contractor charged ₹ 1,220 in place of ₹ 220 from light motor vehicle (RJ 01 UA 7665) and gave receipt of ₹ 1,220 to the vehicle owner.	The complaint was investigated by the inspector of RTO Ajmer and he stated that the contractor charged ₹ 1,220 i.e. ₹ 1,000 more than the prescribed amount. The complaint was forwarded to the CoT.
DTO, Bhilwara	₹ 920 were charged in place of ₹ 220 and receipt for ₹ 920 was given to the vehicle owner in respect of light motor vehicle (RJ 06 CC 4417).	The complaint was forwarded to the CoT.

- A case (FIR No. 1/2015) was lodged by the Anti-Corruption Bureau, Tonk against the embossing station established at DTO Tonk for overcharging, subletting, unnecessary delay *etc.* Anti-Corruption Bureau confirmed the facts. The Superintendent of Police, Anti-Corruption Bureau intimated the Secretary cum Commissioner Transport Department that RMRPL was overcharging the rates for affixation of the HSRP and proposed for blacklisting the company. However, no action was taken by the Department.
- During the joint inspection done by Audit and departmental officials of a two wheeler dealer at DTO Jaisalmer, it was found that the contractor supplied the HSRPs from Jodhpur station and charged ₹ 92,315 for supply of 499 plates of this category (₹ 185 per plate) against ₹ 37,425 (₹ 75 per plate). Further, 100 plates were also supplied from the local embossing station at the rate of ₹ 225 per plate. Thus, the contractor was charging more amount than prescribed from the dealer responsible for registration of the vehicle.

3.4.9.2 Absence of rate list

As per condition 19 of the agreement, the contractor shall display the approved rates of HSRPs and replacement items at all affixation stations, visible to the public and shall charge strictly according to the rates as per agreement. During joint inspection, it was found that HSRP rates were not displayed at the HSRP stations at Bikaner and Karauli. Similarly, these were not displayed in all test checked eight affixation stations¹⁴ situated at dealers premises under the jurisdiction of selected offices. Further, complaints relating to non-display of rate lists at 13 embossing stations¹⁵ were also forwarded to the CoT office by the concerned RTOs/DTOs who had found the complaints true after verification. In absence of the rate list, the vehicle owners were not aware of the amount to be paid.

The matter was pointed out to the Department (June 2017) and reported to the Government (August 2017). Their reply is awaited (November 2017).

3.4.10 Delay in affixing of HSRP

As per clause 3.3 of the tender document, the time limit for affixation of HSRP is two working days from the receipt of documentary evidence from the RA. Further, condition 21(iii) of the agreement gives power to the Department for termination of contract and appointment of new agency in case of work remaining suspended for more than 48 hours without permission.

- During scrutiny of the complaint files, it was found that embossing stations established under the jurisdiction of five DTO offices¹⁶ remained closed for three to 30 days. The concerned transport authorities reported the facts to the CoT after inspection of the stations. No action was found taken in all five cases.
- It was observed that complaints relating to delay in affixation of HSRP were investigated in four HSRP stations established under the jurisdiction of four offices¹⁷. The facts were found correct and the delay ranged between 10 days to three months. The concerned RTOs/DTOs reported the fact to the CoT but no action was found taken against the contractor.

The matter was pointed out to the Department (June 2017) and reported to the Government (August 2017). Their reply is awaited (November 2017).

¹⁴ M/s Vinod Agency - Bhilwara, M/s Akashdeep Agency - Bhilwara, M/s Jagdamba Motors - Hindoncity Karauli, M/s Shriram Motors Agency-Jaisalmer, M/s Ganesh Motors- Dudu, M/s Bharat Tractors-Bikaner, M/s Rajaram Dharniya – Bikaner and M/s Audi Motors - Bikaner.

¹⁵ RTO: Ajmer, Bikaner and Sikar; DTO: Bhiwadi, Baran, Barmer, Karauli, Jalore, Jaisalmer, Ramgunjmandi, Sri Ganganagar, Sawai Madhopur and Sujangarh.

¹⁶ DTO: Hanumangarh, Jaisalmer, Karauli, Nohar and Sirohi.

¹⁷ RTO: Bikaner (10-20 days) and Jodhpur (three months); DTO: Barmer (22 days) and Dausa (22 days).

3.4.11 Irregular sub-letting of HSRP Stations

It was found during the scrutiny of the complaints that out of 52 HSRP stations¹⁸ in the State, complaints of sub-letting in respect of 12 stations¹⁹ were received by different RTOs/DTOs. The concerned RTOs/DTOs investigated the facts and forwarded the complaints to the CoT office for necessary action. The first complaint in this regard was forwarded by RTO Jodhpur on 6 December 2013. Further, the Anti-Corruption Bureau investigated the facts of sub-letting (FIR No. 1/2015 lodged in Tonk) and after confirmation of the facts, recommended to blacklist the firm and to take appropriate action against officer responsible for negligence. No action was found to have been taken.

The matter was pointed out to the Department (June 2017) and reported to the Government (August 2017). Their reply is awaited (November 2017).

3.4.12 Conclusion and Recommendations

The Department partially implemented HSRP Scheme in the State as HSRP was not affixed on vehicles registered prior to 15 July 2012. Third registration plate sticker was also not affixed. This resulted in limited success of the Scheme in the State. Laser detector cameras with Optical Character Readers were not installed on important roads and inter-sections to capture footage of speeding/overloading/stolen vehicles through scanning of HSRP. This defeated the purpose of affixation of HSRP on the vehicles. Grievance redressal cell was not set up for looking after complaints. This resulted in non-monitoring of complaints at all levels of the Department. Lack of publicity programmes and non-display of rate list resulted in lack of creating awareness in public about the process, approved rates and other details of the Scheme. There was lack of co-ordination between the Department and the Contractor in the cases of replacement of HSRP which resulted in non-matching of data in the system of the Department and the system of the contractor. Centralised Network Connectivity Terminal was installed after much delay which resulted in non-access to the data related to the HSRP Scheme for a long period and the Department could not monitor the progress of Scheme on a real time basis.

It is recommended that the Government may take necessary action to ensure affixation of HSRP on all vehicles and ensure compliance with provisions of the order, agreement and tender documents. The Government may also consider instituting a wide spread publicity programme about the HSRP Scheme and its objective through print and electronic media to increase public awareness about benefits and processes of the Scheme besides rates and other details. It may establish a specific portal for the redressal of grievances in a time bound manner; ensure proper co-ordination between the Department and the Contractor to avoid mismatch in data, ensure display of rate list at all affixation stations and install laser detector cameras.

¹⁸ RTO: Ajmer, Alwar, Bharatpur, Bikaner, Chittorgarh, Dausa, Jaipur, Jodhpur, Kota, Pali, Sikar and Udaipur; DTO: Abu Road, Balotra, Banswara, Baran, Barmer, Beawar, Bhilwara, Bhinmal, Bhiwadi, Bundi, Chomu, Churu, Didwana, Dholpur, Duda, Dungarpur, Sri Ganganagar, Hanumangarh, Jaipur- Jhalana, Jaipur- Jagatpura, Jaisalmer, Jalore, Jhalawar, Jhunjhunu, Karauli, Kekri, Kishangarh, Kotputali, Nagaur, Nohar, Nokha, Phalodi, Pratapgarh, Rajasmand, Ramgunjmandi, Sawai Modhpur, Shahpura (Jaipur), Shahpura (Bhilwara), Sirohi and Sujangarh.

¹⁹ RTO: Bikaner and Jodhpur; DTO: Beawar, Bhilwara, Dausa, Dholpur, Hanumangarh, Jaisalmer, Karauli, Kotputali, Sri Ganganagar and Tonk.

3.5 Non/short realisation of outstanding instalments of lump-sum tax

Under Section 4-C of the RMVT Act, 1951 and the Rules made thereunder, a lump-sum tax on transport vehicles shall be levied at the rates prescribed by notifications²⁰ issued from time to time by the State Government. The lump-sum tax payable may be paid at the option of vehicle owner either in full or in three equal instalments up to 13 July 2014 and in six equal instalments with effect from 14 July 2014 within a period of one year. Further, *vide* notification dated 9 March 2015, transport vehicles registered or assigned in the State on or after 1 April 2007 shall be required compulsorily to pay lump-sum tax with effect from 1 April 2015 and *vide* notification 9 March 2011, surcharge at the rate of 10 *per cent* on tax is also payable.

During test check of the records of 23 RTOs/DTOs²¹ for the period 2013-14 to 2015-16, it was noticed (between October 2016 and March 2017) that in respect of 4,289 transport vehicles, 378 vehicle owners opted for payment of lump-sum tax in instalments. These vehicle owners after paying first or second instalments had not paid the remaining instalments. Further, it was also observed that the remaining 3,911 vehicles owners had defaulted in payment of tax. There was nothing on record in VAHAN or in the tax ledger or registration record to indicate that any of the vehicle owners had exercised any option for payment of tax in instalment or the vehicles were transferred to other States. The taxation officer, however, did not initiate any action to realise the due tax. This resulted in non/short realisation of lump-sum tax amounting to ₹ 18.08 crore.

The cases were pointed out to the Department and reported to the Government (between November 2016 and June 2017); the Department stated (September 2017) that in respect of 314 vehicles, ₹ 1.45 crore had been recovered. Replies in respect of remaining vehicles are awaited (November 2017).

3.6 Taxes on motor vehicles not realised

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

During test check of the registration records, tax ledgers and general index registers of 9 RTOs²² and 14 DTOs²³ for the period 2013-14 to 2015-16, it was noticed (between October 2016 and March 2017) that in respect of 4,945 vehicles, tax for the period from April 2013 to March 2016 was not paid by the owners of these vehicles. There was no evidence on record to prove that

²⁰ Notifications: 22 dated 16 February 2006, 22-A dated 9 March 2007 and 22-C dated 14 July 2014.

²¹ RTOs: Ajmer, Alwar, Bikaner, Chittorgarh, Dausa, Jodhpur, Kota, Pali, and Udaipur; DTOs: Banswara, Barmer, Bhinmal, Churu, Duda (Jaipur), Dungarpur, Jhalawar, Jhunjhunu, Karauli, Kotputli, Nagaur, Rajasamand, Sri Ganganagar and Tonk.

²² RTOs: Ajmer, Alwar, Bikaner, Chittorgarh, Dausa, Jodhpur, Kota, Pali and Udaipur.

²³ DTOs: Banswara, Barmer, Churu, Duda, Dungarpur, Jaipur (stage carriage), Jhalawar, Jhunjhunu, Karauli, Kekri, Kotputli, Nagaur, Sri Ganganagar and Tonk.

the vehicles were off the road or were transferred to other District/States. The taxation officers, however, did not initiate any action to realise the tax due to the State Government. This resulted in non-realisation of tax and surcharge amounting to ₹ 16.13 crore as mentioned below:

Sl. No.	Category of vehicles	Number of vehicles	Period of tax	Amount (₹in crore)	Name of offices where irregularities noticed
1	Goods vehicles	1,290	April 2013 to March 2016	2.56	RTOs- Ajmer, Alwar, Bikaner, Chittorgarh, Dausa, Jodhpur, Kota and Udaipur. DTOs- Barmer, Karauli, Kotputli and Tonk.
2	Contract carriages (seating capacity upto 13 persons excluding driver)	1,675	April 2013 to March 2016	1.99	RTOs- Chittorgarh, Dausa, and Pali. DTOs- Banswara, Barmer, Dungarpur, Kotputli, Nagaur and Tonk.
3	Contract carriages (seating capacity more than 13 persons excluding driver)	100	April 2014 to March 2016	2.38	RTOs- Jodhpur, Pali and Udaipur. DTOs- Barmer, Jhunjhunu and Sri Ganganagar.
4	Stage carriages	482	April 2013 to March 2016	3.66	RTOs- Jodhpur and Udaipur. DTOs- Barmer, Churu, Duda, Jaipur (stage carriage), Jhunjhunu, Karauli, Nagaur and Sri Ganganagar.
5	Articulated goods vehicles	576	April 2014 to March 2016	1.81	RTOs- Ajmer, Bikaner, Chittorgarh, Jodhpur and Udaipur. DTOs- Barmer, Kekri and Kotputli.
6	Passenger vehicles kept without permits	58	April 2014 to March 2016	1.00	RTO- Jodhpur. DTOs- Barmer, Jaipur (stage carriage), Jhunjhunu and Kotputli.
7	Dumpers/tippers	764	April 2013 to March 2016	2.73	RTOs- Ajmer, Alwar, Bikaner, Chittorgarh, Jodhpur, Kota, Pali and Udaipur. DTOs- Barmer, Jhalawar, Jhunjhunu, Kotputli, Nagaur and Tonk.
Total		4,945		16.13	

The cases were pointed out to the Department and reported to the Government (between November 2016 and June 2017); the Department stated (September 2017) that in respect of 541 vehicles ₹ 1.30 crore had been recovered and in respect of 286 vehicles, ₹ 0.83 crore was not recoverable due to deposit of lump-sum tax *etc.* The reasons for not making the relevant entries

in the VAHAN or in the registers maintained for this purpose were not furnished to Audit. The report on progress of recovery in the remaining cases was awaited (November 2017).

3.7 Non-realisation of penalty on late deposit of special road tax and surcharge by fleet owner

Section 4 of the Rajasthan Motor Vehicles Tax (RMVT) Act, 1951, provides that all the taxes shall be payable in advance. In respect of fleet owner, special road tax (SRT) shall be paid on or before 14th day of each month. Further, Section 6 of RMVT Act stipulates that if the tax due in respect of a vehicle is not paid within the period allowed, the defaulter shall be liable to pay in addition to the tax due, a penalty at the rate of 1.5 *per cent* per month or part thereof for delayed payment.

During test check of records of RTO, Jaipur for the year 2015-16, it was noticed (January 2017) that the Rajasthan State Road Transport Corporation (RSRTC) deposited/adjusted tax and surcharge for the period from April 2015 to September 2015 amounting to ₹ 47.63 crore after a delay of two to three months. It was, therefore, liable to pay penalty on such delayed payment of tax and surcharge. RSRTC, however, had not paid the penalty amounting to ₹ 1.59 crore. Further, there was nothing on record to indicate that the RTO had initiated any action for imposition and recovery of the penalty.

The matter was pointed out to the Department and reported to the Government (between February 2017 and June 2017); the Department stated (September 2017) that efforts for recovery from RSRTC was being initiated.

CHAPTER-IV

LAND REVENUE

CHAPTER-IV: LAND REVENUE

4.1 Tax administration

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

The Revenue Department functions as the Administrative Department of the Government. The overall control of revenue related judicial matters along with supervision and monitoring over revenue officers vests with the Board of Revenue (BoR), Ajmer. The BoR is assisted by 33 Collectors at the district level, 289 Sub-Divisional Officers (SDOs) at the sub-division level and 314 *Tehsildars* at the *Tehsil* level.

4.2 Internal audit

The Financial Advisor, BoR is the head of the Internal Audit Wing. There were 18 internal audit parties. The position of number of units due for audit, number of units actually audited and number of units remaining unaudited during the period from 2012-13 to 2016-17 is as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2012-13	70	672	742	670	72	10
2013-14	72	672	744	586	158	21
2014-15	158	672	830	551	279	34
2015-16	279	809	1,088	883	205	19
2016-17	205	815	1,020	772	248	24

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

The Department stated that the arrear in audit was due to the shortage of posts and deployment of staff in disposal of outstanding audit paras raised by the Internal Audit Parties.

It was noticed that 20,937 paragraphs were outstanding at the end of 2016-17. Year-wise break up of outstanding paragraphs of Internal Audit Wing is as under:

Year	Upto 2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	Total
Paras	9,239	1,350	1,377	1,243	3,289	4,439	20,937

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

Out of 20,937 paragraphs, 9,239 paragraphs were outstanding for more than five years for want of compliance/corrective action. The reason given for slow pace of disposal of paras was the shortage of posts in various cadres.

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

4.3 Results of audit

During test check of records of 33 units of Land Revenue Department (Department) conducted during the year 2016-17, audit noticed non/short recovery of premium, lease rent, conversion charges, non-reversion of land and other irregularities amounting to ₹ 261.30 crore in 5,873 cases as detailed under:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1	Performance Audit on 'Allotment and conversion of land under Rajasthan Land Revenue Act in the Revenue Department'	1	176.21
2	Non-recovery/short recovery of premium and lease rent from State Government Departments	49	28.53
3	Non-recovery/short recovery of conversion charges from <i>khatedars</i> ¹	346	5.58
4	Non-reversion of land to Government	14	16.47
5	Other irregularities relating to:		
	(i) Revenue	5,151	0.02
	(ii) Expenditure	312	34.49
Total		5,873	261.30

During the year 2016-17, the Department accepted audit observation of ₹ 77.24 crore pertaining to 6,091 cases, of which 5,253 cases involving ₹ 22.94 crore were pointed out during the year 2016-17 and the rest in the earlier years. The Department recovered ₹ 10.16 crore in 452 cases during the year 2016-17, of which 27 cases involving ₹ 0.06 crore related to the year 2016-17 and rest of the earlier years.

The Department accepted and recovered the entire amount of ₹ 23.02 lakh pointed out by Audit after issue of a draft paragraph to the Government. This paragraph has not been discussed in the Report.

A Performance Audit on 'Allotment and conversion of land under Rajasthan Land Revenue Act in the Revenue Department' involving revenue of ₹ 176.21 crore is discussed in the following paragraphs.

¹ *Khatedars* are tenants on Government land to whom the land is given for agricultural purpose.

4.4 Performance Audit on 'Allotment and conversion of land under Rajasthan Land Revenue Act in the Revenue Department'

4.4.1 Introduction

Effective and efficient use of land, being a scarce and limited resource, leads to economic development of any society. Recognising that land is a source of wealth lies at the heart of effective public administration. Land Revenue Policies, therefore, need to be directed towards this objective. The Revenue Department is responsible for making policies for this sector. Allotment of land and assessment and collection of land revenue are governed under the Rajasthan Land Revenue Act, 1956 (LR Act) and rules framed thereunder. The land revenue mainly comprises receipts from sale of Government land, lease rent, premium and conversion charges.

Allotment of Government land: As per Section 102 of the LR Act the State Government shall have the power to allot land for purpose other than agriculture as well as on special terms to Individuals, Societies, Trusts, Institutions, Firms, Industries, Companies, Corporations and Government Departments. Such powers are exercised through the Rules framed for the purpose or by issuing orders. Under Section 92 of LR Act, the Collector may set apart land for any special purpose. Such land shall not be used otherwise than for the purpose it was specified without the previous sanction of the Collector.

Conversion of land: Any person desiring use of agricultural land for non-agricultural purpose shall apply for the requisite permission in the prescribed manner to the prescribed authority under Section 90-A of LR Act and rules made thereunder. The Collector at district level, Sub-Divisional Officer (SDO) at sub-division level and *Tehsildar* at *Tehsil* level are responsible for assessment and collection of conversion charges for the change of land use.

4.4.2 Organisational set up

The powers of Administrative Department are vested in the Revenue Department in the Government. The Revenue Department is headed by the Principal Secretary, Revenue. The Board of Revenue (BoR) controls revenue related judicial matters and is responsible for supervision and monitoring of the work of the revenue officers. The BoR is headed by a Chairman and consists of 20 members. The BoR is assisted by 33 Collectors at the district level, 289 SDOs at the sub-division level and 314 *Tehsildars* at the *Tehsil* level in all matters relating to assessment and collection of land revenue. The Collector at district level is responsible for issue of allotment orders, assessment and collection of cost of land, assessment/revision of lease rent and recovery of dues.

4.4.3 Audit objectives

The Performance Audit (PA) was carried out to examine:

- whether the process of allotment of Government land was transparent and was being done as per the provisions of the Act and Rules framed thereunder;
- whether the assessment and collection of lease rent, premium, cost of land, realisation of Government's share of sale proceeds of Government land by Urban Local Bodies (ULBs) and conversion charges were finalised according to the provisions of the Act/Rules and orders issued from time to time; and
- whether appropriate monitoring and control mechanism existed to keep watch on allotment, utilisation of land and recovery of revenue due to Government.

4.4.4 Scope and methodology of audit

The PA covers the working of the Department relating to allotment and conversion of land and recovery of dues for the period 2011-12 to 2015-16. Out of 33 districts, eight District Collector's offices² were selected³ for test check. The selection of districts was made through random statistical sampling. In addition, the relevant records at BoR and office of the Principal Secretary, Revenue were also examined. The Audit was conducted during October 2016 to May 2017.

ULBs have been authorised to dispose of the land falling under their jurisdiction. A portion of the amount (a fixed percentage of sale proceeds) received from sale is required to be deposited into the Government account as the share of the Government. Records relating to assessment and collection of Government share from sale proceeds of Government land of 11 ULBs⁴ in the selected districts were also scrutinised during the PA.

As per the records furnished, 1,148 sanctions were issued for allotment of Government land during the years 2011-12 to 2015-16. Out of these, 411 sanctions pertained to the eight districts selected by Audit. All these were scrutinised during the course of the audit.

4.4.5 Audit Criteria

The audit findings were bench marked against the criteria derived from the following Acts/Rules, *etc.*

- The Rajasthan Land Revenue Act, 1956 and the Rules framed thereunder;
- Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959;
- Rajasthan Land Revenue (Allotment of Land for Setting up of Power Plant based on Renewable Energy Sources) Rules, 2007;
- Rajasthan Land Revenue (Conversion of Agricultural Land for Non-agricultural purposes in Rural Areas) Rules, 2007 and
- Various Notifications/Circulars/Orders issued by the Government.

² Ajmer, Barmer, Bundi, Jaipur, Jaisalmer, Jodhpur, Pali and Sirohi.

³ Unit was selected on the basis of random statistical sampling.

⁴ Ajmer Development Authority; Jaipur Development Authority; Jodhpur Development Authority; Municipal Council: Barmer, Bundi, Jaisalmer, Pali and Sirohi; Nagar Nigam: Ajmer, Jaipur and Jodhpur.

4.4.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of Revenue Department in providing necessary information and records for audit. An Entry Conference was held on 10 March 2017 to explain the audit objectives and methodology. An Exit Conference was held on 6 October 2017 with the Additional Chief Secretary, Revenue Department and other officers to discuss the findings of the PA. The replies received during the Exit Conference and at other points of time have been appropriately considered in the relevant paragraphs.

4.4.7 Allotment of land

4.4.7.1 Deficiencies in allotment of land

A transparent procedure for allotment of Government land to individuals and organisations needs to be put in place. This should ensure timely utilisation of the land allotted for the stated purpose. The deficiencies noticed during the PA in allotment are discussed in the following paragraphs:

- **Absence of policy for allotment of land:** Audit found that no policy had been put in place by the Government for allotment of the land. The Department had neither issued any instructions for determining the eligibility criteria of the applicants who could apply for allotment of land nor had prescribed any system for processing the applications received for allotment of land. No advertisements through newspapers were made for allotment of land. When this was pointed out the Government accepted the fact that no advertisements were made for allotment of land through newspapers except in case of land allotted to tourism units where allotments are made through advertisements in the newspapers. Thus, the practice followed for allotment of the land was not uniform. A definite procedure for allotment need to be framed by the Government so as to ensure that the department's functioning are transparent and there exist a uniformity in the system of allotment of the land.
- **Absence of Departmental Manual:** The Department had not framed a manual to regulate and control the working of the Department. Absence of the manual had resulted in lack of monitoring in the allotment of land and ascertaining the responsibility at each stage involved in the allotment of the land. When this was pointed out to the Government accepted that no manual had been prepared and no procedure was prescribed for allotment of land. It further stated that a check list comprising of 27 points had been prepared for verification of the details regarding the allotment of land. However, the fact remains that the check list prepared cannot serve as a substitute for a manual. A definite procedure needs to be prescribed by framing a manual that may serve a guide for allotment of land.
- **Maintenance of records at Government level:** No system existed for recording the details of the sanctions of the allotment of land issued from time to time by the Government. Neither register in this regard for recording these sanctions nor their related files were maintained at secretariat level. A file containing the sanction orders issued by the Government called 'Guard File' was maintained. The Guard File(s) were

not page numbered and sanction orders were not kept serially. In absence of this, Audit could not ascertain whether the Guard files contained all the sanctions issued for allotment of land. No record regarding rejection of proposals received by the Government for allotment of land was maintained.

- **Non-maintenance of records at district level:** No provision has been made by the Department in the Rules or by issue of orders for maintenance of registers for monitoring the receipts of applications, their disposal, sanctioned received and allotment made by the District Collectors. Audit found that in Jaipur, Jodhpur and Jaisalmer districts, the Collectors had maintained registers but these were found incomplete *i.e.* date of receipt of applications was not mentioned. In Jaisalmer and Jodhpur registers were being maintained since 2012 and 2014 respectively, so disposal of applications received prior to this period could not be ascertained. In these districts applications received for land allotment for wind/solar power projects were not being entered in the register. Besides, in Jodhpur applications received for allotment of land on cost⁵ were not recorded. It was also observed that the register/information was not submitted periodically to the District Collector. In Ajmer and Bundi no such register was maintained.

This resulted in lack of monitoring of receipt and disposal of the applications of allotments in the Department. The Government may consider prescribing maintenance of a register to monitor receipt of applications and their timely disposal.

During the Exit Conference the Government while accepting the audit contention for the framing of policy for allotment of land stated that a procedure for allotment of Government land for ensuring transparency and a uniform procedure to be followed by all the District Collectors shall be prescribed. As regards the maintenance of records the Government stated that the registers would be maintained.

4.4.7.2 Status of applications for allotment of land

Analysis of the status of applications⁶ for allotment of Government land, in selected districts for the period from 2011-12 to 2015-16 provided by the

⁵ Land on cost: It is a term used by the Department and means the price of the Land recoverable as per DLC rates.

⁶ In Jaisalmer and Jodhpur applications received for land allotment for wind/solar projects were not being entered in the register. As such have not been included in the pending applications.

concerned District Collectors is mentioned in the following table:

Sl. No.	District Collector	Total number of applications received during 2011-12 to 2015-16	Number of pending applications (as on 31 March 2016)	Reason for pendency of applications
1	Jaipur	620	121	As per the information furnished 83 applications were pending out of 620 applications received during 2011-2016. In addition to these, 38 applications were pending from 2005 to 2010. Thus a total number of 121 applications were pending. The Department stated that these were pending due to non-submission of reports by the concerned SDOs/ <i>Tehsildars</i> .
2	Jaisalmer	127	118	As per the information furnished 39 applications were pending out of 127 applications received during 2011-2016. In addition to these, 79 applications received for tourism purpose were pending from 2003 to 2010. The Department stated that these were pending due to non-submission of reports by the concerned SDOs/ <i>Tehsildars</i> .
3	Jodhpur	439	15	Due to delay in submission of reports by the concerned SDOs/ <i>Tehsildars</i> .

Source: Information provided by the District Collectors.

The LR Act and Rules framed thereunder do not provide any time limit for disposal of applications received for allotment of land, nor has any instruction in this regard been issued by the State Government. There were 254 applications pending disposal in the above three districts. In absence of the maintenance of records in other districts, the total number of applications pending disposal could not be ascertained. The absence of control over the process of allotment provides scope for arbitrary action on the part of the allotting authorities. There is a need for strengthening the system for speedy disposal of the allotment cases and for making the process of allotment transparent.

During Exit Conference Government stated that it would look into the feasibility of prescribing time limit for disposal of applications at each level.

4.4.7.3 Computerisation of records

Maintenance of Digital Records: A Scheme 'Land Record Modernisation Programme' (LRMP) was initiated in 2008 by the Government of India. The LRMP was continued till it was merged with Prime Minister's 'Digital India Land Record Modernisation Programme' (DILRMP) in 2016-17. According to the programme Data Entry/Re-entry, establishment of *Tehsil* Computer Centers, providing connectivity among revenue offices, establishment of State Data Centre, digitilisation of Cadastral Maps⁷ and establishment of Modern Record Room works at each *Tehsil* was to be done by the BoR.

⁷ Cadastral map: A map showing the places of land with survey number.

Allotment and utilisation of funds for computerisation

The year wise budget allocation and expenditure under the LRMP/DILRMP was as follows:

(₹ in crore)				
Year	Budget	Expenditure	Savings	Per cent of unspent funds
2011-12	16.98	4.52	12.46	73.38
2012-13	10.25	1.87	8.38	81.76
2013-14	12.39	7.67	4.72	38.10
2014-15	56.80	5.16	51.64	90.92
2015-16	50.98	0.57	50.41	98.88
Total	147.40	19.79	127.61	86.57

The above table indicates that in five years from 2011-12 to 2015-16 the BoR incurred expenditure of only ₹ 19.79 crore against allocated funds of ₹ 147.40 crore which is only 13.43 per cent of total allocation. The work of computerisation had started in 2008, despite a lapse of more than nine years the work has not been completed.

Computerisation of Allotment and Conversion process

Audit further noticed that the process of allotment and conversion of land was not included in the computerisation scheme. This would have helped the Department for better monitoring and transparency in the allotments.

The Department stated (September 2017) that it had computerised the *Jamabandis* under Computerisation of Land Record (CLR) programme and digitilisation of cadastral maps was under progress. The work of computerisation could not be completed due to vacancy of post of *Patwaris*, doing the works of other departments and conducting of Revenue campaigns. Further, the Government accepted the audit contention for computerisation of allotment and conversion process.

4.4.7.4 Reversion of land to Government

It was noticed that in 46 cases the land measuring 15,066.02 *bigha*⁸ was not utilised for the purpose it was allotted. The Collector reverted the land in 13 cases and did not revert in 33 cases despite a lapse of 2 to 27 years. These are discussed in the following paragraphs:

Delayed reversion of land set apart for special purposes

As per Section 92 of LR Act, the Collector may set apart land for any special purpose and such land shall not be used otherwise without the previous sanction of the Collector.

Audit found that there was no system at the District Collectorate level to monitor the utilisation and reversion of the land set apart for specific purpose. No register was maintained to watch the timely and proper utilisation of the set apart land.

⁸ *Bigha*: A local Unit for measurement of land.

- In District Jaisalmer Government land measuring 287.85 *bigha* in *Tehsil* Jaisalmer was set apart (January 1990) for hotel and commercial purposes. Out of this land, 144.10 *bigha* land was allotted (between May 1993 and September 1994) to three companies for establishment of hotels within three years of allotment. The land, was not utilised by these companies even after lapse of 13 to 14 years due to which the allotments of land were cancelled by the Government. The details are mentioned in the following table:

Sl. No.	Name of company	Date of allotment	Area of allotted land (in <i>bigha</i>)	Date of cancellation of allotment
1	The Indian Hotel Company Limited (Taj Group)	1 May 1993	49.85	22 June 2007
2	Oberoi Associated Hotel Private Limited	8 September 1994	48.50	27 July 2009
3	I.T.C. Hotel Private Limited	19 May 1993	45.75	22 May 2006
Total			144.10	

The allotments of the set apart land(s) were cancelled after 13 to 14 years. The land is still vacant and has not been utilised even after a lapse of 27 years from the date it was set apart (January 1990). Thus, in absence of a register the status of land set apart could not be monitored. Consequently no attempt was made to seek applications from the other interested persons for the setting up of hotels/commercial establishments.

- Scrutiny of land allotment records of District Collector, Ajmer revealed that Government land measuring 21 *bigha* in village Makarwali in *Tehsil* Ajmer was set apart (October 2005) for *Anaj Mandi* purpose. The Government sanctioned (December 2005) allotment of the said land to a society at cost for establishment of satellite *mandi*. The District Collector, Ajmer issued a demand notice (29 May 2007) against the cost of land valued at ₹ 68.25 lakh but it was not deposited. Despite a delay of 11 years the sanction order had not been cancelled by the Government.

The allottee requested (April 2011) the District Collector for allotment of land stating that the society could not deposit the amount due to its poor economic condition. Thereafter, it had repeatedly requested the District Collector (February 2012 and September 2014) to revise the cost of the land (at the prevailing DLC rate) so that it can be deposited. The Department, however, did not take any action either to cancel the sanction order or raise a revised demand or to allot to other persons.

In absence of the Register for monitoring of the set apart land, status of the applications received for allotment of land set apart could not be ascertained. The Government may consider prescribing provisions regarding maintaining control registers for set apart land and introduce the practice of publicity through newspapers, *etc.* to seek applications from the interested persons. The Department may also make an attempt to review all the cases, cancel the allotments of land that have remained unutilised and seek applications from other interested persons for its allotment.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to all District Collectors for maintaining register of set apart land, to keep watch on the allotted land and to review all allotted land. Further, the Government also instructed all the District Collectors to take proper action for use of land for other purposes where the land was not used for prescribed purposes after a long period.

Non-reversion of land to Government

As per terms and conditions of the allotment, the allotted land shall be used strictly for the purpose for which it was allotted and the allottees shall within two years be liable to complete the construction of building and to put it in use for the purpose for which the land was allotted, failing which the land shall be reverted to the Government unless the period is extended by the allotting authorities due to valid reasons.

In the following cases land was allotted under Section 102 of LR Act, which stipulate for grant of land for the purpose desired by the applicants. Though the allotted land had not been utilised, it was not reverted to the Government.

- During review of land allotment records of six District Collectors⁹, it was noticed that in 31 cases, Government land measuring 3,214.63 *bigha* was allotted (between February 2006 and December 2014) for specified purpose to 31 institutions *i.e.* industries, educational/industrial training institutions, hostels, *krishi upaj mandi*, dance & music institutions, hospitals, solar photovoltaic and wind power projects, other buildings of public utilities, *etc.* As per terms and conditions of the allotment, the land was to be used within two years of the allotment. Scrutiny of *Mauka*¹⁰ reports provided by the concerned *Tehsildars* revealed that in 27 cases, the allottees had not started construction work on the land; there was nothing on the record to show that the allottees had applied for extension of time. Therefore, the allottees had neither used the allotted land for the intended purpose within the prescribed period nor applied for any extension. The land should have been reverted to the Government. In the remaining four cases, the construction was partially done and the land was partially utilised as detailed below:
- In one case, the land measuring 45 *bigha* at Ajmer was allotted for educational and hospital purposes, only ten rooms and boundary wall were constructed and it was being used for agriculture work as per *Mauka* Report furnished by *Tehsildar* in November 2016;
- In a case, land measuring 62.50 *bigha* at Ajmer was allotted for educational (school and college) purpose. The land was being used partially (only 0.29 *bigha* was used by the educational institution) as per the *Mauka* Report furnished by *Tehsildar* in November 2016;
- In a case, land measuring 21 *bigha* at Ajmer was allotted to *Krishi Upaj Mandi* for fruits and vegetable market (*Mandi*). Only boundary wall and a few tin sheds were constructed. The *Mandi* has not been in operation as per *Mauka* Report furnished by *Tehsildar* in November 2016 and

⁹ Ajmer, Dausa, Jaisalmer, Jodhpur, Pali and Sirohi.

¹⁰ *Mauka* reports: Site inspection report submitted by the competent authority.

- In a case, land measuring 2199.24 *bigha* (356.13 hectare) in village Dhudsar in *Tehsil* Pokran was allotted (February 2015) to an allottee for establishment of a 150 MW Solar Photovoltaic Power Project. As per provisions of Government of Rajasthan's order dated 27 January 2010, initially the land should have been allotted only for 50 MW capacity *i.e.* 733.08 *bigha* (118.37 hectare) and the land for the remaining capacity of 100 MW *i.e.* 1466.16 *bigha* (237.42 hectare) should have been kept reserved and allotted only after the full utilisation of previously allotted land for generation of 50 MW power. The Collector, however, allotted 2199.24 *bigha* (356.13 hectare) land for establishment of 150 MW Power Project at the initial stage itself. Further as per terms and conditions of allotment of land, renewable energy power plant was to be set up within a period of two years from the date of allotment of land, failing which the land would be reverted to the State Government unless the period was extended by the allotting authorities for valid reasons. There was nothing on record to indicate that the allottee had applied for or was granted any extension for establishment of power plant. Though the land was to be automatically resumed to the Government, the land was still recorded in the name of the allottee in the land record *i.e.* *Jamabandi* report after expiry of time. The District Collector, however, did not take any action to resume permission of the land due to non-fulfillment of terms and conditions of allotment.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions have been issued to District Collector, Jaisalmer for investigation/ regularisation of the case.

The Government may consider strengthening the mechanism for watching the utilisation of land as per the terms and conditions of the allotment failing which action may be taken as per the relevant Act/rules and entry in the land record *i.e.* *Jamabandi* may be reversed.

Case Study 1

Scrutiny of land allotment records of District Collector, Ajmer revealed that Government land measuring 250 *bigha* in *Tehsil* Sarwar was allotted (between November 1993 and May 2001) to an allottee for a period of 25 years for development of Government land as private forest. The allottee in its action plan had proposed plantation of 52,050 trees in the area. The *Mauka* report of the land disclosed that only 790 trees *i.e.* only 1.52 *per cent* of action plan were available in the allotted land.



The District Collector, however, neither took any step for cancellation of allotment nor was the land reverted to the Government due to non-plantation of trees as per action plan. Absence of system for monitoring by the Department resulted in non-utilisation of land by allottees and non-reversion of land to Government.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to all District Collectors to maintain register of allotment, to make a system of timely supervisions/review to keep watch on the compliance of the allotment conditions and to get a *Mauka* report from the subordinate officers to take immediate action for cancellation of allotment in case of breach of conditions of the allotment.

Delayed reversion of land allotted for renewable energy

Rule 7 of the Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959 and Rajasthan Land Revenue (Allotment of land for setting up of power plants based on Renewable Energy Sources) Rules, 2007, Government land can be allotted for setting up of renewable energy power plants. Further, the Rules provide that renewable energy power plant shall be set up within a period of two years from the date of allotment of land, failing which the land shall revert to the State Government unless the period of two years is extended by the allotting authorities for valid reasons.

Scrutiny of land allotment records of three District Collectors¹¹ revealed that Government land measuring 11,416.65 *bigha* was allotted (between January 2005 and October 2012) to ten wind/solar power developers for establishment of power plants based on renewable energy. The power plants were to be established (2007 to 2014) within two years of the allotment as per terms and conditions of the allotment of land. It was found that the Collectors reverted the land to the Government between March 2015 and March 2017 due to non-utilisation by the allottees. Thus there was delay of three to 10 years in reversion of land. In these three districts applications received for land allotment for wind/solar projects were not being recorded in any register. As such the applications in pipeline could not be ascertained. It was also noticed that no efforts were made for utilisation of the land by either seeking fresh applications or by granting the land application received earlier.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to the District Collectors to get a *Mauka* report of the land for ensuring the fulfillment of conditions of allotment, if conditions are not fulfilled the allotment may be cancelled. During Exit Conference the Government also agreed that monitoring mechanism would need to be improved to avoid any delay in reversion.

¹¹ Barmer, Jaisalmer and Jodhpur.

4.4.7.5 Lack of coordination between Department and urban local bodies and absence of system for timely realisation of share of sale proceeds of Government land

As per notification dated 8 December 2010, JDA, UIT or Municipal Corporation/Council, as the case may be, shall on disposal of the land through sale, allotment or regularization, have to deposit a portion of the amount so realised in the State Government account *i.e.* 20 *per cent* in case of Development Authority, 5 *per cent* in case of Urban Improvement Trust and 2.5 *per cent* in case of Municipal Corporation/Council.

Audit called for information from 11 ULBs regarding the deposit of share of sale proceeds of the land sold by them into the Government account. Five ULBs did not furnish the information, one ULB Municipal Council, Sirohi furnished nil information.

As per the information furnished, Government's share of ₹ 424.11 crore had not been deposited in Government's account after sale of the land by these five ULBs for the year 2011-12 to 2015-16 as discussed in following paragraph:

(₹ in crore)							
Name of Urban Local Body	2011-12	2012-13	2013-14	2014-15	2015-16	Total	Reasons for non-deposit
Ajmer Development Authority	0.88	2.49	0.54	1.30	1.27	6.48	Due to poor economic condition of the ULB.
Jaipur Development Authority	8.77	21.49	67.32	110.81	155.72	364.11	Reasons were not provided.
Municipal Council, Barmer	0	0	0.42	0.06	0	0.48	Due to poor economic condition of the ULB.
Jodhpur Development Authority	5.53	1.73	13.08	0	30.69	51.03	Due to poor economic condition of the ULB.
Nagar Nigam, Ajmer	0.52	0.23	0.14	0.69	0.43	2.01	Replied received is as follows.
<p>The Nagar Nigam, Ajmer stated that the share payable to State Government on the sale proceeds of the land was not clear. In some cases it was stated to be 60 <i>per cent</i> while it was stated to be 90 <i>per cent</i> in another cases.</p> <p>The reply is not tenable as the state share for cost of the land received from the sale, allotment and regularisation has been clearly notified by the Government of Rajasthan, Revenue Department <i>vide</i> their notification dated 8 December 2010. As per the notification the corporation has to pay 2.5 <i>per cent</i> of the amount realised through sale, allotment or regularisation of the land. Besides, the corporation had itself worked out the state share of the cost of land payable by them. In case of any doubt the matter could have been referred to the Government for clarification.</p>							
Total	15.70	25.94	81.50	112.86	188.11	424.11	

Source: Information provided by the concerned ULBs.

Scrutiny of sale proceeds records of Government land of eight District Collectors and information provided by the six ULBs disclosed that there was no exchange of information between the Department and the ULBs regarding revenue realisation, sale, allotment and regularisation of land by the ULBs. No register/files were maintained by the Department/BoR to ensure timely receipt of its share of sale proceeds of Government land. Internal audit of the District Collector's Office was not being conducted, therefore, an important ingredient of internal control was missing.

The Government may consider strengthening the mechanism for timely realisation of its dues from the sale of Government land by the ULBs. It may consider levying interest for late deposit of Government's share by the ULBs.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to the concerned District Collectors to examine the realisation of Government's share of sale proceeds of Government land disposed by ULBs.

4.4.7.6 Non/short recovery of cost of land

Cost of Government land allotted to various allottees for intended purposes was recoverable as per provisions of LR Act and Rules made thereunder. The irregularities noticed in five districts¹² out of selected districts are discussed below.

In terms of the LR Act, rules framed thereunder and the notification issued thereunder premium of the land allotted to Individuals, Societies, Trusts, Institutions, Firms, Industries, Companies, Corporations and Government Departments for industrial purpose, construction of schools, colleges, dispensaries, *dharmasalas* and other buildings of public utility *etc.* would be charged as per the rates decided by the concerned District Level Committee (DLC). In addition, annual lease rent at the rate of 10 *per cent* of the cost of land was also recoverable.

Audit noticed that the Department had not recovered the cost of the land before allotment in eight cases measuring 714.69 *bigha*. This resulted in non/short realisation of cost of land amounting to ₹ 167.39 crore. The land was allotted to the Government corporations and private institutes for industrial and educational purpose. It was found that in three cases the land was allotted at rates lesser than the DLC rates, in four cases it was allotted without any approval from the Revenue Department and in the remaining case possession of land given was without recovering the cost of the land and

¹² Ajmer, Barmer, Bundi, Jaipur and Pali.

allotment. These are discussed in the following table:

Name of the District Collector/Firm/Organisation	Nature of observation
Under valuation of the land	
District Collector, Pali M/s. Ambuja Cement Limited	The Government land measuring 58.85 <i>bigha</i> in various villages in <i>Tehsil</i> Jaitaran was allotted (July 2014) to an allottee through the Department of Industries for laying railway line. It was found that the Collector demanded and recovered only ₹ 16.02 lakh ¹³ from the allottee against the cost of 50.05 <i>bigha</i> land situated at village Ras-I at prevailing agriculture DLC rates. The <i>Mauka</i> report of <i>Tehsildar</i> Jaitaran revealed that the land was situated on National Highway (NH). The cost of land was ₹ 80.08 lakh ¹⁴ as per the DLC rates of land situated at NH. This resulted in short levy and recovery of ₹ 64.06 lakh.
M/s. Siddhi Vinayak Cement Limited	Government land measuring 139.35 <i>bigha</i> situated in various villages in <i>Tehsil</i> Jaitaran (Pali) was allotted (18 September 2013) to an allottee through the Department of Industries for establishing a cement plant. Scrutiny of allotment records revealed that the Collector demanded and recovered only ₹ 10.86 lakh ¹⁵ from the allottee. The land measuring 37.45 <i>bigha</i> land was located in village Sinla. The <i>Jamabandi</i> of the land and report of Mining Engineer showed that the said land was in probable mining area for which separate rates had been prescribed by the DLC. The cost of allotted land worked out to ₹ 34.08 lakh ¹⁶ . This resulted in short levy and recovery of ₹ 23.22 lakh.
The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collector, Pali to investigate the matter and to send a factual report.	
District Collector, Jaipur. M/s. PSL Limited, Mumbai	The District Collector, Jaipur allotted (25 March, 2010) Government land measuring 90 <i>bigha</i> in Village Gaduda, <i>Tehsil</i> Phagi to an allottee through the Department of Industries for manufacturing of steel pipes. It was found that the Collector demanded and recovered only ₹ 2.53 crore ¹⁷ from the allottee for the 90 <i>bigha</i> land at prevailing agriculture DLC rates. The <i>Mauka</i> report of <i>Tehsildar</i> Phagi revealed that the allotted land was 1.5 kilometre from Diggi-Malpura Road for which higher rates were fixed by the DLC. The cost of the allotted land worked out to ₹ 3.16 crore ¹⁸ . This resulted in short levy and recovery of ₹ 63 lakh.
The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collectors, Jaipur to investigate the matter and to send a factual report.	

¹³ ₹ 16.02 lakh: 50.05 X ₹ 0.32 lakh per *bigha* as per DLC rates.

¹⁴ ₹ 80.08 lakh: 50.05 X ₹ 1.60 lakh per *bigha* as per DLC rates effective from 1 October 2014.

¹⁵ ₹ 10.86 lakh: 37.45 *bigha* X ₹ 0.29 lakh per *bigha* as per DLC rates effective from 29 September 2011.

¹⁶ ₹ 34.08 lakh: 37.45 *bigha* X ₹ 0.91 lakh per *bigha* as per DLC rates effective from 29 September 2011.

¹⁷ ₹ 2.53 crore: (61.30 X ₹ 3.13 lakh per *bigha* as per DLC rates of irrigated agriculture land + 28.70 X ₹ 2.13 lakh per *bigha* as per DLC rates of un-irrigated agriculture land) effective from 28 August 2009.

¹⁸ ₹ 3.16 crore: (46.80 X ₹ 3.75 lakh per *bigha* as per DLC rates of irrigated agriculture land + 43.20 X ₹ 3.25 lakh per *bigha* as per DLC rates of un-irrigated agriculture land) effective from 28 August 2009.

<p>District Collector, Jaipur.</p> <p>Nirman Cheritable Trust, Sri Ganganagar</p>	<p>The Government land measuring 55.36 <i>bigha</i> (14 hectare) situated in village Jhar in <i>Tehsil</i> Bassi was allotted in October 2008. Distance of the land was 190 metres from the NH 14 as per <i>Mauka</i> report of <i>Tehsildar</i> Bassi. Out of 14 hectare, 4 hectare (15.81 <i>bigha</i>) was allotted free of cost for establishment of residential girls school to boost girl's education and the remaining 10 hectare (39.55 <i>bigha</i>) was allotted on cost for establishment of Technical University. The possession of the land was handed over to the allottee in December 2008. It was found that the allottee had not used the land for intended purpose. The original purpose (Technical University) of the land was changed to establishment of medical college and was allotted "land on cost". The change of land use was approved (April 2015) by the Government. The District Collector, Jaipur issued (June 2015) a demand notice of ₹ 6.58 crore by applying incorrect DLC rates instead of ₹ 11.49 crore¹⁹ applicable for land situated within 500 metres of NH. The cost of the allotted land was not deposited by the allottee even after lapse of two years. The possession of the said land was still with the allottee (June 2017). This resulted in short raising of demand of ₹ 4.91 crore. The institution has not paid any amount resulting in non realisation of ₹ 11.49 crore.</p>
<p>The matter was reported to the Government (August 2017). The Government accepted the fact that land measuring 10 hectare were allotted on recovery of cost of the land at the DLC rates. But allotment had not been issued as the matter regarding terms and conditions was still under the consideration of the Government. The reply is not correct as the Government had already issued sanction order of the land on payment of the cost of the land. The Collector should have issued the demand notice and made efforts to recover the cost of the land. The land continues to be under the possession of the institution without payment of the cost of the land.</p>	
<p>Allotment of the land without approval</p>	
<p>District Collector, Jaipur</p> <p>Rajasthan Cooperative Dairy Federation Limited, Jaipur</p>	<p>The Government land measuring 96 <i>bigha</i> in village Dhindol (Kishanpura) in <i>Tehsil</i> Bassi was in the possession of Animal Husbandry Department (AHD). The Principal Secretary, AHD issued an order (November 2009) that the Rajasthan Cooperative Dairy Federation Limited (RCDF) wanted to expand dairy, establish a plant for manufacturing of cattle feed and infrastructure development at the said land and, hence, the land allotted to AHD may be transferred to RCDF. The land was transferred (date not available) to the RCDF without the approval of the Revenue Department and without recovery of cost of land and lease rent. As per <i>Mauka</i> report of <i>Tehsildar</i> Bassi, the entire land was being utilised by the RCDF. The cost of the land (₹ 3.67 crore²⁰) and annual lease rent (₹ 36.66 lakh²¹) was recoverable as per applicable DLC rates of un-irrigated agriculture land for the year 2016-17. The Department, however, had not initiated any action for recovery of cost and lease rent of ₹ 4.04 crore.</p>
<p>The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collector, Jaipur to recover the cost of land from RCDF.</p>	
<p>District Collector, Ajmer</p> <p>Central Reserve Police Force (CRPF), Ajmer</p>	<p>The land measuring 241.76 <i>bigha</i> (39.15 hectare) was under the possession of CRPF since 1992 without any approval of the Government. The Sanction orders for allotment of land on cost was issued on 6 August 2015 <i>i.e.</i> after a lapse of 23 years. It was</p>

¹⁹ ₹ 11.49 crore: 55.36 X ₹ 20.75 lakh per *bigha* as per DLC rates effective from 1 October 2014.

²⁰ ₹ 3.67 crore: 96 x ₹ 3.82 lakh per *bigha* as per DLC rates effective from 6 October 2015.

²¹ ₹ 36.66 lakh: 10 per cent of ₹ 3.67 crore.

	stated that <i>khasra</i> numbers and <i>Jamabandi</i> report of the land was not provided by <i>Tehsildar</i> , Ajmer to the Collector resulting in delay in issue of sanction order. However, Audit noticed that no demand notice for deposit of the amount was issued to the CRPF. Consequently no allotment order was issued and the land valued at ₹ 113.78 crore continued to be under the possession of the CRPF without payment of the cost of the land.
District Collector, Barmer Border Security Force (BSF), Barmer	The land measuring 13.55 <i>bigha</i> (2.194 hectare) was under the possession of BSF since 1965 without any approval of the Government. The sanction order for allotment of land on cost was issued on 9 July 2015 <i>i.e.</i> after a lapse of 50 years. Demand of ₹ 27.86 crore was issued by the Collector on 16 October 2016. The amount has been not deposited by the BSF. Consequently no allotment order was issued and the land continued to be under the possession of the BSF without payment of the cost of the land.
District Collector, Ajmer Airport Authority of India (AAI)	The Government issued a sanctioned order for allotment of land measuring 19.82 <i>bigha</i> (3.21 hectare) to AAI on 13 April 2015. The possession of the land was given in 2017. Thereafter demand notice for recovery of the cost of the land had not been issued by Collector, Ajmer. Besides, no allotment order was issued and the land valued at ₹ 8.72 crore continued to be under the possession of the AAI without payment of the cost of the land.

During Exit Conference the Additional Chief Secretary stated that all these matters would be looked into.

4.4.7.7 Non-monitoring of lease rent

As per order dated 18 June 2007, the lease rent payable for the land allotted for setting up of Renewable Energy Power Plant shall be paid annually. Annual rent shall be charged at the rate of ₹ 2500 per hectare per year.

- Scrutiny of information provided by District Collector, Jodhpur revealed that ₹ 19.01 lakh lease rent was recoverable from the power producers/developers for the period 2011-12 to 2015-16. This was not demanded.
- Scrutiny of Demand-Collection and Balance report of District Collector, Jaisalmer revealed that ₹ 3.59 crore lease rent was recoverable in District Jaisalmer from the 14 power producers/developers. This was neither paid nor demanded resulting in non-recovery of lease rent aggregating to ₹ 3.59 crore.
- Scrutiny of allotment and lease rent records of District Collector, Sirohi revealed that Government land measuring 673.35 *bigha* (17,04,355.32 square metre) in *Tehsil* Pindwara was allotted (between July 1981 and February 1984) to an allottee for setting up of cement plant. The lease rent had to be revised²² after 30 years from the date of allotment of the land. It was found that the concerned Collector had not revised the lease rent though it was to be revised between 2011 and 2014. As a result, the lessee was paying the rent at the same rate it was fixed in the year of allotment. This resulted in short recovery of lease rent of ₹ 34.21 lakh²³.

²² As per Rule 5 of Rajasthan Land Revenue (Industrial Area Allotment) Rules, 1959, the Government by issue of notification dated 13 August, 2009 revised the rates of lease rent for villages, towns and cities.

²³ ₹ 34.21 lakhs: (510914.56 X ₹ 50 paise per square metre per year X 5 year) + (243063.80 X ₹ 50 paise per square metre per year X 2 year) + (950376.96 X ₹ 50 paise per square metre per year X 4 year).

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collectors, Jaisalmer and Jodhpur for recovery of lease rent and to send a factual report in the matter.

4.4.7.8 Recovery of arrears on account of cost of land

As per information provided by BoR, arrear of ₹ 607.04 crore pertaining to Land Revenue Department was outstanding as on 31 March 2016. The outstanding amount of arrear as on 1 April 2011 was ₹ 111.24 crore which increased to ₹ 607.04 crore as on 31 March 2016 i.e. an increase of 445.70 per cent in outstanding revenue.

Against the total outstanding amount of ₹ 607.04 crore, an amount of ₹ 550.57 crore (90.70 per cent) was due from seven Departments/Enterprises on account of cost of land. Of this, ₹ 13.96 crore pending against Railway, Udaipur was sub-judice in the Honorable High Court of Rajasthan. The breakup and the stages at which these are pending in respect of the remaining six cases involving ₹ 536.61 crore was as follows:

Name of the Departments/Enterprises	Nature of dues	Amount (₹ in crore)
Archeology Department, Chittorgarh	An amount of ₹ 3.10 crore was outstanding from Archeology Department, Chittorgarh. The department had applied for allotment of land free of cost on 06 December 2010. The Collector had sent write-off proposal to the Government in 2016. Further action taken has not been intimated.	3.10
Air Port Authority, Udaipur	An amount of ₹ 22.79 crore was outstanding from Air Port Authority, Udaipur. The authority had requested in September 2017 for allotment of land either free of cost or on the DLC rates prevailing in the year 1954 in which the land was allotted. Joint Secretary Civil Aviation had requested the State Government for exemption in dues in April 2017. Further action taken has not been intimated.	22.79
North Western Railway, Bikaner	An amount of ₹ 1.77 crore was outstanding from North Western Railway. The date of allotment was not available. However, the correspondence for payment for recovery of amount had started since 2013. It was stated that the Divisional Manager Railway had denied (April 2017) to pay the amount. However, BoR has shown it as recoverable and has sent the matter to the State Government in July 2017.	1.77
Nal Air Port, Bikaner.	An amount of ₹ 239.71 crore was outstanding from Nal Air Port, Bikaner. The Civil Aviation Department (CAD) had requested for allotment of land free of cost which was not agreed by the State Government. Later the CAD agreed (January 2017) to deposit the cost, however, the amount has not been deposited so far (September 2017). The date of allotment of land was not available.	239.71
Hindustan Petroleum Corporation Limited, Barmer	An amount of ₹ 193.91 crore was outstanding from Hindustan Petroleum Corporation Limited. The Department stated (August 2017) that this amount would be adjusted against the amount of ₹ 200.00 crore payable by the State Government as share capital to the Company. The matter was stated to be pending at Central Government level for further action.	193.91
Electricity Board	An amount of ₹ 75.33 crore was outstanding from Electricity Board of Rajasthan. The Department stated that the amount was being adjusted against the Government dues payable by the Government on account of assistance to the Board. This arrangement has been stopped since 11 April 2016 and the Board has been directed (March 2017) to pay the amount in cash by the Finance Department of Rajasthan.	75.33
Total		536.61

Thus, it would be seen from above that the Department had not recovered the amount before allotment of the land and with the passage of time these demands have almost become irrecoverable. A system need to be put in place to ensure that the amounts due to the Government are recovered before giving the possession of the land to the allottees. The details of remaining amount of ₹ 56.47 crore were not furnished.

During Exit Conference the Government stated that the matter would be looked into.

4.4.8 Conversion of Land

The Collector at district level is responsible for assessment and collection of conversion charges for the change of land used. Land used for non-agriculture purposes without permission may also be regularised by depositing four times conversion charges on prevailing market price of land by the applicant.

Scrutiny of records disclosed that land was being used for non-agriculture purposes without effecting change of land use. The reasons for not affecting the change were mainly as follows:

- *Patwari* did not record the fact about the change of land use from agriculture to non-agriculture and unauthorised use of land in the *Jamabandi*.
- No periodic inspections were prescribed for ensuring timely utilisation of converted land. No register was maintained at district level to watch whether the land was being used for the purpose for which it was converted and the use of the converted land had started within the prescribed period.
- There was no system to ensure that the extension in time was allowed for use of converted land by depositing the 25 per cent additional amount of conversion charges.

Audit noticed that conversion orders were to be withdrawn for land measuring 857.06 *bigha* where the *khatedars* could not fulfill the conditions of conversion orders in 35 cases. The land records of the Department were found incomplete and as a result the conversion orders that could not be implemented were not withdrawn as detailed below:

4.4.8.1 Non-withdrawal of conversion orders

In terms of the State Government's order dated 16 January 2012, converted land must be used for the specified purpose within a period of five years. The period of five years may be extended further by five years on submission of an application after depositing the 25 per cent additional amount of conversion charges by the applicant. If the land is not used for the specified purpose within such extended period, the conversion order shall be deemed to have been withdrawn.

Scrutiny of conversion records of five District Collectors²⁴ revealed that land measuring 600.26 *bigha* in 34 cases in 11 *Tehsils*²⁵ was converted (between May 2010 and December 2011) for industrial, residential colony, tourism and

²⁴ Ajmer, Jaipur, Pali, Sirohi and Jaisalmer.

²⁵ Sirohi, Revdar, Rohat, Chomu, Fulera, Bassi, Jamwa Ramgarh, Maujmad, Kishangarh, Jaisalmer and Fatehgarh.

other purposes. Cross verification of conversion orders collected from offices of District Collectors with *Mauka* report and *Jamabandi* reports collected from *Tehsils* revealed that neither the land was used for the specified purpose nor the time period had been extended by depositing the 25 per cent additional amount of conversion charges.

The conversion orders were deemed to have been withdrawn but suitable entries in the land records *i.e. Jamabandi* were not made. Thus, the conversion orders were not withdrawn in the Departmental records.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to concerned District Collectors for investigation of utilisation of land and to send factual reports in the matter.

Case Study 2

Land not vested with the State Government due to absence of suitable entries in the land records *i.e. Jamabandi*

As per Government's order dated 16 January 2012, if the Scheduled Caste/Scheduled Tribe (SC/ST) *khatedar*, after getting his land converted for non-agricultural purpose, has transferred the land to any person, who is not a member of SC/ST, and such land has not been used for non-agricultural purposes within a period of five years or extended period then such land shall vest with the State Government without any compensation.

Scrutiny of conversion records of District Collector, Ajmer revealed that *khatedari* land measuring 114.70 *bigha* belonging to SC community was converted for industrial purpose in May 2010. Thereafter, it was sold (February 2013) to a firm (non-SC partners). It was required to be used before May 2015. There was nothing on record to indicate that the Firm had applied or was granted any extension for establishment of industries by depositing additional amount of 25 per cent of the conversion charges. According to *Mauka* report (November 2016) furnished by *Tehsildar* Kishangarh, industry was not established on the land. The land was to be vested with the State Government without any compensation and suitable entries should have been made in the land records *i.e. Jamabandi*. In absence of these entries the land continued to be in the name of firm.

When this was pointed out (August 2017) the Government replied (October 2017) that instructions had been issued (August and September 2017) to District Collector, Ajmer to take proper action as per rule against the firm for non-utilisation of the land for industrial purpose within the stipulated period and to send a factual report in the matter.

Non-fulfillment of exemption condition of Ceiling Act

Scrutiny of conversion records of District Collector, Ajmer revealed that *khatedari* land measuring 256.80 *bigha* situated in village Churli, *Tehsil* Kishangarh was converted (March 2010) for development of industrial area. It was found that the land was held by a firm and was granted exemption (August 2008) under Rajasthan Imposition of Ceiling on Agriculture Holdings Act, 1973. Under this Act, 50 per cent exemption on conversion charges of ₹ 10.39 lakh was also allowed to the firm. The *Mauka* report of *Tehsildar* Kishangarh revealed that even six years after the conversion order, only

14 industries were in operation on 12.35 *bigha* (20,000 square metre). The constructed area was only 3.08 *per cent* of the total area. The rest of the area was vacant as on November 2016. As per condition of exemption of Ceiling Act, industries should have been established within three years failing which the exemption should have been withdrawn.

There was no system to monitor that the land converted for non-agriculture purpose had been utilised within the prescribed time frame or further extension in time had been granted after realisation of additional amount of conversion charges.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collector, Ajmer for recovery/investigation in the matter and to send a factual report.

Non/short recovery of conversion charges

Agriculture land used for non-agriculture purposes must be converted before its use. Conversion of agriculture land for non-agricultural purposes is being done under LR (Conversion of Agricultural Land for Non-agricultural purposes in Rural Areas) Rules, 2007. No review of records was done to ensure that conversions were made in accordance with the conditions prescribed in the rules. Scrutiny of conversion records of eight selected District Collectors disclosed that conversion charges of ₹ 4.51 crore in 71 cases were not recovered as mentioned in paragraph numbers 4.4.8.2 and 4.4.8.3.

4.4.8.2 Conversion charges due from Central Government Department/ Institution

As per circular dated 2 March 1987, if land is allotted to Central Government department/institution, then conversion charges for the part of land which would be used for residential purpose shall be chargeable at residential rate and for the part of land which would be used for commercial purpose would be chargeable at commercial rates provided for that area.

Scrutiny of allotment/conversion records of District Collector Sirohi and Barmer revealed that Government land measuring 8,03,541 square metre was allotted (between March 2015 and September 2015) to three Central Government Departments/Enterprises on cost. The concerned District Collector issued notice for deposit of the cost of the land. The conversion charges amounting to ₹ 3.08 crore, however, were not levied and recovered by the concerned District Collectors as detailed below:

Sl. No. Name of District	Date of allotment	Name of Department/ Enterprise	Purpose of allotment	Area of allotted land (in square metre)	Recoverable conversion charges (₹ in crore)
1 Sirohi	11 March 2015	Indian Container Nigam Limited	Logistic Hub	7,73,503	0.77 (at the rate of ₹ 10 per square metre)
2 Barmer	24 September 2015	Border Security Force, Barmer	Residential Colony	21,942	2.09 (at the rate of 7.5 per cent of sale value of ₹ 27.86 crore)
3 Barmer	11 June 2015	Raj West Power Limited, Badres	Residential Colony	8,096	0.22 (at the rate of 7.5 per cent of sale value of ₹ 2.96 crore)
Total				8,03,541	3.08

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collectors, Barmer and Sirohi for recovery/investigation in the matter and to send factual reports to the Government.

4.4.8.3 Short/non-levy/recovery of conversion charges

As per Rule 7 of Rajasthan Land Revenue (Conversion of Agricultural Land for non-agricultural purposes in Rural Areas) Rules, 2007, premium for conversion of agricultural land for non-agricultural purpose shall be charged at the rates²⁶ prescribed by the Government from time to time. Conversion charges are payable at DLC rate of agricultural land or the rate at which land was purchased (purchase rate) as mentioned in registered sale deed, if any, whichever is higher.

- **Land used for institutional purpose**

During test check (August 2016) of conversion records of District Collector, Pali, it was noticed that a *khatedari* land measuring 62,705 square metre (6.27 hectare) in village Jawali in Tehsil Rani (Pali) was converted (November 2015) for institutional purpose in favour of a *khatedar*. Audit noticed that the entire piece of land was used for institutional purpose as per *Mauka* report (2 August, 2015) of *Patwari*, Jawali. The Department, however, recovered ₹ 5.50 lakh as four time charges²⁷ only for constructed area (5,604 square metre) instead of ₹ 17.33 lakh²⁸ for total used area (62,705 square metre) for institutional purpose. This resulted in short recovery of ₹ 11.83 lakh.

The matter was reported to the Government (June 2017). The Government replied (August 2017) that process of recovery was under progress.

- **Industrial (brick kiln) purpose**

During test check (August 2016) of conversion records of District Collector, Sri Ganganagar, it was noticed that in seven cases, 86,780 square metre *khatedari* land was converted (between January 2013 and September 2015) from agricultural to industrial (brick kiln) purpose in favour of seven *khatedars*. The *khatedars* paid conversion charges of ₹ 4.34 lakh²⁹. *Mauka* reports (August 2016) of *Tehsildars* Shadulshahar and Sri Vijyanagar revealed that 1,50,490 square metre land was being used by the brick kiln owners for brick kiln purpose, though they had permission for 86,780 square metre land

²⁶ Residential Colony:	₹ 7.5 per square metre or 7.5 per cent amount of DLC rate of agricultural land or 7.5 per cent amount of the purchase rate of that agricultural land as mentioned in registered sale deed, if any, whichever is higher.
Commercial purpose:	₹ 10 per square metre or 10 per cent amount of concerned DLC rate of agricultural land or 10 per cent amount of the purchase rate of that agricultural land as mentioned in registered sale deed, if any, whichever is higher.
Institutional purpose:	₹ 5 per square metre or 10 per cent amount of DLC rate of agricultural land, or 10 per cent amount of the purchase rate of that agricultural land as mentioned in registered sale deed, if any, whichever is higher.
Industrial Purpose:	₹ 5 per square metre or 5 per cent amount of DLC rate of agricultural land or 5 per cent amount of the purchase rate of that agricultural land as mentioned in registered sale deed, if any, whichever is higher.

²⁷ As per Rule 13, if a person had used agricultural land for non-agricultural purpose without permission, he shall submit an application for regularisation of the conversion to the prescribed authority by depositing four times the conversion charges.

²⁸ ₹ 17.33 lakh: 62,705 X ₹ 6.91 per square metre as per DLC rates X 4 time.

²⁹ ₹ 4.34 lakh: 86,780 x ₹ 5 per square metre.

only. Thus, 63,710 square metre³⁰ land was being utilised irregularly. Therefore, four times the conversion charges of ₹ 12.74 lakh were to be levied and recoverable for the land which was utilised without regularisation.

The matter was pointed out to the Department and reported to the Government (June 2017). The Department replied (July 2017) that entire amount of ₹ 2.02 lakh had been recovered in two cases and investigation/recovery was under progress in five cases. During Exit Conference the Government stated that the matter would be looked into.

- **Residential/commercial purposes**

On scrutiny of information provided by the *Tehsildar* Pali (District Pali), it was noticed that a survey was conducted (between February 2015 and October 2015) by *Tehsildar* Pali and it was found that in 45 cases, *khatedari* land measuring 3,13,391 square metre was being used for non-agriculture purpose *i.e.* residential/commercial without change of land use. The Collector, however, had not issued any notice to the defaulters for depositing four times conversion charges amounting to ₹ 94.78 lakh for the land used without any authority.

(₹ in lakh)

Sl. No.	Nature of land use	Number of cases	Area of used land (in square metre)	Rate applicable (₹ per square metre)	Recoverable conversion charges (area x rate x 4)
1	Residential Colony	39	3,05,788	7.5	91.74
2	Commercial	6	7,603	10	3.04
Total		45	3,13,391		94.78

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collector, Pali for recovery/investigation in the matter and to send a factual report to the Government.

- **Application of incorrect rate of land**

During test check (between November 2015 and April 2016) of conversion records of three District Collectors³¹, it was noticed that *khatedari* land was converted (between July 2012 and August 2014) to industrial purposes in four cases and for institutional purpose in one case. Scrutiny of conversion orders revealed that the Department had not applied the purchase rates of the land for calculation of conversion charges and recovered only ₹ 11.09 lakh based on market rate of the land instead of ₹ 27.63 lakh based on purchase rate of the land. This resulted in short levy and recovery of ₹ 16.54 lakh.

During Exit Conference the Government stated that the matter would be looked into.

- **Non-recovery of rebate on conversion charges**

State Government had introduced (July 2010) 'Policy for Promotion of Agro-Processing and Agri-Business, 2010' (Policy). As per clause 11 of the Policy read with Rajasthan Investment Promotion Scheme (Scheme), 50 *per cent* concession would be available on the charges for conversion of

³⁰ 63,710 square metre: 1,50,490 square metre (-) 86,780 square metre.

³¹ Bikaner, Jaipur and Tonk.

land for industrial purpose if conversion of land is made for agro-processing and agri-business. Further, the benefits availed shall be withdrawn and recovered along with interest at the rate of 18 *per cent* per annum from the date from which the benefits have been availed in case of breach of any of the conditions for allotment of the land.

It was observed that no mechanism was in place to ensure compliance with the conditions of conversion orders. The Departmental authorities, therefore, remained unaware about the sale of the land by the beneficiaries without using it for the stated purposes.

Scrutiny of conversion records of District Collector Sirohi revealed that in 11 cases the *khatedars* had applied for conversion of their agriculture land for establishment of agro-processing and agro-business projects. The concerned SDO Sirohi and Revadar had issued orders (between December 2014 and March 2016) for conversion of land at 50 *per cent* of conversion charges prescribed for industrial purpose with condition that the beneficiaries would have to use the land for explicit purposes within five years. It was found that the beneficiaries had sold (between October 2015 and June 2016) the converted land within a period of four days to ten months after the conversion of the land without establishing agro-processing and agro-business projects. Thus rebate on conversion charges of ₹ 5.75 lakh besides interest of ₹ 0.56 lakh at the rate of 18 *per cent* availed by the beneficiaries was required to be withdrawn.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collector, Sirohi for recovery/investigation in the matter and to send a factual report.

4.4.8.4 Short levy/non-recovery of regularisation charges

In terms of notification dated 9 March 2015, rates of regularisation charges of land converted for industrial purpose or agricultural land being used for industrial purpose, shall be equal to two times of rates of agriculture land of that area.

As per Rule 13A of Land Revenue (Industrial Area Allotment) Rules 1959, any Government agricultural land which was used for industrial purpose without allotment up to 15 July 1994, could be regularised on the payment of prevalent market price of land in the neighborhood. In case the land was in towns/villages which were not covered under any municipality and had the population of more than eight thousand, there the penalty leviable could not be more than the prevailing market price of the land.

- Scrutiny of conversion records of District Collector, Jaipur, revealed that Government land measuring 4.39 *bigha* in village Basdi Ganeshpura *Tehsil* Shahpura was in the possession of a company. Scrutiny disclosed that a plant for washing of china clay was running from the year 1967-68 on the said land without regularisation. The land was regularised in June 2015. The Collector recovered (July 2015) ₹ 26.26 lakh³² as regularisation charges including penalty by applying one time DLC rate instead of ₹ 39.39 lakh³³ at twice the DLC rate. This resulted in short levy of regularisation charges of ₹ 13.13 lakh.

³² ₹ 26.26 lakh: Regularisation charges of ₹ 13.13 lakh (₹ 2.99 lakh per *bigha* X 4.39) + penalty of ₹ 13.13 lakh.

³³ ₹ 39.39 lakh: Regularisation charges of ₹ 26.26 lakh (₹ 2.99 lakh per *bigha* X 4.39 X 2) + penalty of ₹ 13.13 lakh.

- In another case, Government land measuring 3.95 *bigha* in village Shyampura *Tehsil* Bassi was in the possession of a Company. Scrutiny disclosed that a crusher plant was running prior to 15 July 1994 on the said land without regularisation. The land was regularized in March 2016. The Collector issued (May 2016) a notice of ₹ 1.66 crore³⁴ (for recovery of regularisation charges of ₹ 0.83 crore and penalty of ₹ 0.83 crore) instead of ₹ 2.49 crore³⁵ at twice the DLC rate including penalty of ₹ 0.83 crore. No amount had been recovered by the District Collector, Jaipur so far (February 2017). This resulted in non-recovery of regularisation charges of ₹ 2.49 crore.

The matter was reported to the Government (August 2017). The Government replied (October 2017) that instructions had been issued to District Collector, Jaipur for recovery/investigation in the matter and to send a factual report.

4.4.9 Conclusions and Recommendations

Procedure for allotment of Government land has not been codified by the State Government. Further, centralised record is not maintained for all the application received/decided at Government level.

Absence of provisions regarding time limit for disposal of applications received for allotment of land resulted in pendency of applications. Lack of mechanism to monitor the use of land set apart for specific purposes resulted in non-utilisation of set apart land for long period. In absence of monitoring mechanism, reversion of land was either not effected or was delayed. Lack of coordination with ULBs and absence of system for monitoring the timely receipt of Government's share from sale of Government land by the ULBs resulted in non-realisation of Government's share. Neither any system was established for periodic submission of returns nor any register was maintained at district level to watch the compliance of the terms and conditions of conversion orders. Non-compliance with the provisions of the rules resulted in irregular allotment of land; short/non-levy/recovery of cost of land and lease rent; application of incorrect DLC rates; non-recovery of conversion charges, etc.

The Government may consider:

- *prescribing a procedure to allot Government land to be followed by the District Collectors for ensuring transparency and uniformity;*
- *providing a time limit for disposal of applications for allotment of land;*
- *evolving a mechanism for timely review of the utilisation of set apart land and in case of non-utilisation changing the purpose of land for ensuring optimum utilisation;*
- *directing the ULBs to furnish details of sale proceeds of land to Revenue Department so that it can monitor the receipt of Government share; and*
- *strengthening mechanism to monitor compliance of the conditions of conversion orders and withdrawal of these orders in case of non-compliance.*

³⁴ ₹ 1.66 crore: Regularisation charges of ₹ 83.03 lakh (3.954 X ₹ 21.00 lakh per *bigha*) + penalty of ₹ 83.03 lakh.

³⁵ ₹ 2.49 crore: Regularisation charges of ₹ 1.66 crore (₹ 21.00 lakh per *bigha* X 3.954 X 2) + penalty of ₹ 0.83 crore.

CHAPTER-V

**STAMP DUTY AND
REGISTRATION FEE**

CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

5.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State are regulated under the Indian Stamp Act, 1899, the Registration Act, 1908, the Rajasthan Stamps (RS) Act, 1998 and the Rules made thereunder. The SD is leviable on execution of instruments and RF is payable on registration of instruments. Surcharge is also chargeable on SD with effect from 9 March 2011.

The Registration and Stamps Department (Department) functions under the administrative control of Finance Department. The Inspector General, Registration and Stamps (IGRS) is the head of the Department. He is assisted by two Additional Inspector Generals in administrative matters and by a Financial Adviser in financial matters. Besides, one Additional Inspector General, Jaipur is entrusted with the work of Chief Vigilance Officer. The entire State has been divided into 18 circles, headed by Deputy Inspector Generals (DIGs) (Stamps) and there are 114 Sub Registrars (SRs) and 413 *ex-officio* SRs¹.

5.2 Internal audit

The Department has an Internal Audit Wing under the charge of the Financial Advisor. There are six Internal Audit Parties. Planning for internal audit of units is made on the basis of importance and revenue realisation. The position of the internal audit conducted and units remaining unaudited during the years 2012-13 to 2016-17 was as under:

Year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2012-13	369	183	186	50.40
2013-14	369	117	252	68.29
2014-15	523	16	507	96.94
2015-16	523	125	398	76.10
2016-17	527	82	445	84.44

Source: Information provided by the IGRS.

The short fall in coverage of units due for audit ranged between 50 per cent and 97 per cent during 2012-13 to 2016-17. The Department stated that the short fall was due to shortage of manpower.

It was noticed that 11,117 paragraphs of internal audit reports were outstanding at the end of 2016-17. Year-wise breakup of outstanding paragraphs of internal audit reports is as under:

Year	Upto 2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	Total
Paras	7,747	1,154	711	120	787	598	11,117

* Source: Information provided by the IGRS.

¹ Tehsildars and Naib Tehsildars have been declared as *ex-officio* SRs.

Out of 11,117 paragraphs, 7,747 paragraphs were outstanding for more than five years. The huge outstanding position defeated the very purpose of internal audit.

The Government may consider advising the Department to focus its attention on addressing the shortcomings pointed out by internal audit as with the passage of time it would become difficult to settle the outstanding paragraphs.

5.3 Results of audit

During the year 2016-17, test check of records of 232 units of the Registration and Stamps Department disclosed short realisation of SD and RF of ₹ 67.98 crore in 2,401 cases, which broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	Number of Cases	Amount
1	Incorrect determination of market value of properties	1,969	24.37
2	Non/short levy of SD and RF	391	41.07
3	Other irregularities related to:		
	(i) Revenue	38	2.33
	(ii) Expenditure	3	0.21
Total		2,401	67.98

During the year 2016-17, the Department accepted under assessment and other deficiencies of ₹ 86.45 crore pertaining to 4,746 cases, of which 1,457 cases involving ₹ 20.23 crore were pointed out during the year 2016-17 and the rest in the earlier years. The Department recovered ₹ 11.86 crore in 3,376 cases during the year 2016-17, of which 87 cases involving ₹ 0.16 crore related to the year 2016-17 and the rest to the earlier years.

A few illustrative cases involving ₹ 36.20 crore are discussed in the succeeding paragraphs.

5.4 Short levy of Stamp Duty on registration of lease deeds

5.4.1 Lease deeds granted for more than 20 years

Article 33(a) (iii) of the Schedule to the RS Act prescribes that where rent is fixed and no premium is paid or delivered and where the lease purports to be for a term in excess of twenty years or in perpetuity or where the term is not mentioned, the SD² is chargeable as on conveyance on the market value of the property. Further, as per the explanation given under the Article, the term of a lease shall include not only the period stated in the document but shall be deemed to be the sum of such stated period along with all previous periods immediately preceding this without a break for which the lessee and lessor remained the same.

5.4.1.1 During test check (October 2016) of registration records of SR, Behror (Alwar), it was found that a lease deed was executed on 5 March 2013 between lessor and lessee for a term of 15 years. Thereafter, a new lease deed was executed on 7 October 2015 between the same executants for a term of 19 years and 11 months during the currency period. Thus, the lease deed executed was in perpetuity to the earlier lease deed and should have been treated as a continuous lease deed for more than 20 years. SD, therefore, was chargeable as on conveyance on the market value of the property. The SR, however, categorised the document as lease deed less than 20 years and irregularly charged SD of ₹ 0.21 lakh³ at the rate of five *per cent* of average rent of two years of ₹ 3.12 lakh instead of ₹ 67.14 lakh⁴ on the market value of ₹ 10.33 crore of the property. This resulted in short levy of SD, surcharge and RF of ₹ 66.93 lakh.

5.4.1.2 During test check (December 2016) of registration records of SR, Pokran (Jaisalmer), it was found that a lease deed was executed on 16 September 1997 between lessor and lessee for a term of 20 years. The lease deed was terminated on 11 April 2014 and a new lease deed was executed on the same day between the same executants for a term of 19 years. Thus, the lease deed executed was in perpetuity to the earlier lease deed and should have been treated as a continuous lease deed for more than 20 years. SD, therefore, was chargeable as on conveyance on the market value of the property. The SR, however, categorised the document as lease deed less than 20 years and irregularly charged SD of ₹ 0.23 lakh⁵ at the rate of five *per cent* of average rent of two years of ₹ 3.60 lakh instead of ₹ 78.18 lakh⁶ on the market value of ₹ 14.12 crore of the property. This resulted in short levy of SD, surcharge and RF of ₹ 77.95 lakh.

5.4.1.3 During test check (November 2016) of registration records of SR, Mangrol (Baran) a lease deed was executed on 17 March 2016 between lessor and lessee for a term of 30 years. The lease deed was executed for a term in excess of twenty years and SD, therefore, was chargeable as on conveyance on the market value of the property. The SR, however, categorised the document as lease deed less than 20 years and irregularly charged SD of ₹ 0.18 lakh⁷ at

² SD: At the rate of five *per cent* with effect from 8 July 2009.

³ ₹ 0.21 lakh: SD of ₹ 0.16 lakh, surcharge of ₹ 0.02 lakh and RF of ₹ 0.03 lakh.

⁴ ₹ 67.14 lakh: SD of ₹ 51.64 lakh, surcharge of ₹ 5.17 lakh and RF of ₹ 10.33 lakh.

⁵ ₹ 0.23 lakh: SD of ₹ 0.18 lakh, surcharge of ₹ 0.02 lakh and RF of ₹ 0.03 lakh.

⁶ ₹ 78.18 lakh: SD of ₹ 70.62 lakh, surcharge of ₹ 7.06 lakh and RF of ₹ 0.50 lakh.

⁷ ₹ 0.18 lakh: SD of ₹ 0.11 lakh, surcharge of ₹ 0.02 lakh and RF of ₹ 0.05 lakh.

the rate of two *per cent* of face value of ₹ 5.40 lakh of the document instead of ₹ 11.66 lakh⁸ at the rate of five *per cent* of market value of ₹ 1.67 crore of the property. This resulted in short levy of SD, surcharge and RF of ₹ 11.48 lakh.

These cases resulted in short levy of SD, surcharge and RF of ₹ 1.56 crore⁹.

The matter was reported to the Government (June 2017). The Government replied (August 2017) that cases had been registered with the DIG (Stamps).

5.4.2 Lease deeds granted for premium, etc. in addition to rent

As per notification dated 14 July 2014, where the lease is granted for a fine or premium or for money advanced or development charges advanced or securities charges advanced in addition to the rent reserved, but such money advanced or development charges advanced or securities charges advanced is refundable and the lease purports to be for a term of upto ten years, the SD shall be chargeable at one *per cent* of the rent for the entire period subject to a minimum of ₹ 5,000 in case of leases of properties other than residential properties.

During test check (November 2016) of registration records of SR, Nathdwara, it was found that a lease deed was executed (10 August 2015) in favour of a lessee for a total term of ten years for establishing a hotel. The lessee had agreed to deposit an interest-free refundable security of ₹ 18.00 lakh in advance and to pay monthly rent of ₹ 6.00 lakh, to be enhanced at 10 *per cent* after every three years. The SR had charged SD of ₹ 4.61 lakh¹⁰ at the rate of two *per cent* of average rent of two years of ₹ 1.44 crore instead of chargeable amount of ₹ 16.84 lakh¹¹ at the rate of one *per cent* of total rent of ₹ 8.02 crore payable in ten years. This resulted in short levy of SD, surcharge and RF of ₹ 12.23 lakh¹².

The matter was reported to the Government (June 2017). The Government replied (August 2017) that a case had been registered with the DIG (Stamps).

5.4.3 Lease deeds executed by Local Bodies

As per Article 21(i) of the Schedule to the RS Act, SD¹³ on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Further, the State Government notified (14 July 2014) that SD on lease deed executed by Local Bodies¹⁴ in respect of land allotted or sold by them, if the instrument is submitted for registration after eight months from the date of its execution, shall be chargeable on market value of the property or on 150 *per cent* of the amount of premium and other charges paid in consideration including interest or penalty, if any on such instrument and the average amount of the rent of two years, whichever is higher.

During test check (November 2016 and March 2017) of registration records of SR, Sanganer-II (Jaipur) and Bansur (Alwar), it was found that

⁸ ₹ 11.66 lakh: SD of ₹ 8.33 lakh, surcharge of ₹ 1.67 lakh and RF of ₹ 1.66 lakh.

⁹ ₹ 1.56 crore: (₹ 66.93 lakh + ₹ 77.95 lakh + ₹ 11.48 lakh).

¹⁰ ₹ 4.61 lakh: SD of ₹ 2.88 lakh, surcharge of ₹ 0.29 lakh and RF of ₹ 1.44 lakh.

¹¹ ₹ 16.84 lakh: SD of ₹ 8.02 lakh, surcharge of ₹ 0.80 lakh and RF of ₹ 8.02 lakh.

¹² ₹ 12.23 lakh: ₹ 16.84 lakh (-) ₹ 4.61 lakh.

¹³ At the rate of five *per cent* with effect from 8 July 2009.

¹⁴ Local Bodies *i.e.* Jaipur Development Authority (JDA), Urban Improvement Trusts (UITs), Gram Panchayats and Panchayat Samittees *etc.*

five instruments were executed (between July 2009 and October 2014) by Jaipur Development Authority (JDA) and *Gram Panchayats* (Bansur and Rampur) in favour of four executants for residential plots at Sanganer (Jaipur) and villages Bansur and Rampur (Alwar). These instruments were registered (between September 2015 and December 2015) as lease deed. The instruments were submitted to the SRs for registration after lapse of a period of more than eight months of execution of lease deeds. The SRs while registering the lease deeds ignored the delay and levied SD of ₹ 3.34 lakh¹⁵ on face value of ₹ 51.33 lakh of the instrument, in one case and in remaining four cases, only ₹ 1,050¹⁶ in each case was charged. SD of ₹ 36.51 lakh¹⁷ on market value of ₹ 6.01 crore of these properties, however, was to be charged as per the notification *ibid*. This resulted in short levy of SD, surcharge and RF of ₹ 33.13 lakh¹⁸.

The matter was reported to the Government (July 2017). The Government replied (September 2017) that in four documents, notices for recovery had been issued to the executants and in one document, a case had been registered with DIG (Stamps).

5.5 Short levy of Stamp Duty on registration of agriculture land upto 1,000 square metre

Notification dated 9 March 2015 provided that the market value of agricultural land having area upto 1,000 square metre was to be calculated at the rate of residential land of that area.

During test check (between October 2016 and February 2017) of registration records of four SRs¹⁹, it was found that 25 documents of agriculture land were registered (between April 2015 and March 2016) as sale deeds. Scrutiny of the recital of these sale deeds revealed that the saleable area of the lands in these sale deeds was upto 1,000 square metre. The SRs valued the land amounting to ₹ 90.78 lakh at agriculture rates instead of ₹ 8.71 crore at residential rates and levied SD, surcharge and RF of ₹ 5.74 lakh²⁰ instead of ₹ 56.68 lakh²¹. Undervaluation of agriculture land resulted in short levy of SD, surcharge and RF of ₹ 50.94 lakh.

The matter was reported to the Government (July 2017). The Government replied (September 2017) that in 12 documents, notices for recovery had been issued to the executants and in 13 documents, cases had been registered with DIG (Stamps).

5.6 Non/short levy of Stamp Duty on amalgamation/ demerger of companies

As per Article 21(iii) of the Schedule to the RS Act, an order under Section 394 of the Companies Act, 1956 in respect of amalgamation, demerger or reconstruction of a company is chargeable with SD subject to a maximum of ₹ 25 crore at the following rate:

¹⁵ ₹ 3.34 lakh: SD of ₹ 2.57 lakh, Surcharge of ₹ 0.26 lakh and RF of ₹ 0.51 lakh.

¹⁶ ₹ 1,050: SD of ₹ 500, Surcharge of ₹ 50 and RF of ₹ 500.

¹⁷ ₹ 36.51 lakh: SD of ₹ 27.73 lakh, Surcharge of ₹ 2.77 lakh and RF of ₹ 6.01 lakh.

¹⁸ ₹ 33.13 lakh: ₹ 36.51 lakh (-) ₹ 3.38 lakh (₹ 3.34 lakh + ₹ 0.04 lakh (1,050 x 4)).

¹⁹ Ganora (Banswara), Neemrana (Alwar), Ramgarh (Alwar) and Udaipur-I.

²⁰ ₹ 5.74 lakh: SD of ₹ 4.38 lakh, Surcharge of ₹ 0.45 lakh and RF of ₹ 0.91 lakh.

²¹ ₹ 56.68 lakh: SD of ₹ 43.53 lakh, Surcharge of ₹ 4.60 lakh and RF of ₹ 8.55 lakh.

- (i) an amount equal to four *per cent* of the aggregate amount comprising the market value of shares issued or allotted or cancelled in exchange of or otherwise, or on the face value of such shares, whichever is higher and the amount of consideration, if any, paid for such amalgamation, demerger or reconstruction, or
- (ii) an amount equal to four *per cent* of the market value of the immovable property situated in the State of Rajasthan of the transferor company, whichever is higher.

5.6.1 During test check (August 2016) of the registration records of SR, Jaipur-VIII, it was found that a document was registered (22 September 2015) as amended lease agreement between Rajasthan State Industrial Development and Investment Corporation Limited (RIICO), Export Promotion Industrial Park (EPIP) Sitapura, Jaipur and a company 'X' for industrial plots F-214 and G-215 measuring 4,467 square metre at EPIP, Sitapura.

Scrutiny of the recital of amended lease deed and attached documents revealed that the amended²² lease deed was registered for the purpose of transferring the assets from a company 'Y' (Transferor Company) to company 'X' (Transferee Company) on the basis of amalgamation order passed (29 May 2009) by the Rajasthan High Court under Section 394 of the Companies Act and the same was certified (16 July 2009) by the Registrar of Companies, Jaipur. As per para 2.1 of amalgamation order, the 'issued, subscribed and paid up capital' of the Transferor Company was ₹ 48.49 lakh as on 31 May 2008. The market value of the land was ₹ 2.68 crore²³ as per District Level Committee (DLC) rates. The SR, however, did not levy the SD, surcharge and RF of ₹ 14.47 lakh²⁴ at the rate of four *per cent* on the market value of ₹ 2.68 crore of the property which was higher and charged only ₹ 300²⁵ as SD and RF. This resulted in short levy of SD, surcharge and RF of ₹ 14.47 lakh.

The matter was reported to the Government (July 2017). The Government replied (September 2017) that a case had been registered with DIG (Stamps).

5.6.2 During test check (October 2016) of the registration records of SR, Behror (Alwar), it was found that an instrument was registered (20 October 2015) as amendment to lease deed executed between RIICO, Jaipur and a company 'A' for industrial land measuring 78,724 square metre²⁶ at RIICO industrial area, Behror (Alwar).

Scrutiny of recital of amendment to lease deed and attached documents revealed that a company 'B' (Demerged Company) demerged from company 'A' (Resulting Company) on the basis of the scheme of agreement of arrangement approved (16 July 2014) by the Guwahati High Court under the provisions of the Companies Act. As per para 2(i) of demerger approval, the 'issued, subscribed and paid up capital' of the Demerged Company was ₹ 12.07 crore²⁷ as on 30 September 2013. The market value of the land was

²² Lease deed was executed for transfer of property to Transferee Company held by Transferor Company.

²³ ₹ 2.68 crore: 4,467 square metre x ₹ 6,000 per square metre.

²⁴ ₹ 14.47 lakh: SD of ₹ 10.72 lakh, surcharge of ₹ 1.07 lakh and RF of ₹ 2.68 lakh.

²⁵ ₹ 300: ₹ 100 as SD and ₹ 200 as RF.

²⁶ 78,724 square metre: 49,244 square metre of plot number E-176 to 179 and UD-I(A) + 29,480 square metre of plot number SP-2, SP-182, G-180 (A&B) and G-180 (D&E).

²⁷ ₹ 12.07 crore: 2,41,36,374 equity shares of ₹ 5 each.

₹ 24.50 crore²⁸ as per DLC rates. The SR, however, did not levy the SD, surcharge and RF of ₹ 1.42 crore²⁹ at the rate of four *per cent* on the market value of ₹ 24.50 crore of the property which was higher. This resulted in non-levy of SD, surcharge and RF of ₹ 1.42 crore.

The matter was reported to the Government (July 2017). The Government replied (September 2017) that a case had been registered with DIG (Stamps).

5.7 Non/short levy of Stamp Duty on gift deeds

Section 17 of the Registration Act provides that other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or future, any right, title or interest whether vested or contingent, of the value of ₹ 100 and above to or in immovable property, are required to be compulsorily registered.

According to Article 31 of the Schedule to the RS Act, the SD on instrument of gift is chargeable as conveyance at the rate of five *per cent* on market value of the property, which is the subject matter of gift. The State Government *vide* notification dated 06 March 2013 prescribed that the SD chargeable on gift deed of immovable property executed in favour of relatives specified in the notification, shall be reduced to 2.5 *per cent*, one *per cent* or exempted as the case may be.

5.7.1 Case relating to Sub Registrar office

During test check (October 2016) of registration records of SR Udaipur-I, it was noticed that a gift deed of a residential land measuring area 9,11,296 square feet was executed (22 March 2016) in favour of an assignee by an assignor who was his natural brother. Scrutiny of the recital of the gift deed, however, revealed that the assignor was adopted by a person 'X' as his son before the execution of the gift deed. As the relation of natural brothers was terminated³⁰ after the adoption of assignor, reduced rate of SD was not applicable. The SR, however, charged SD of ₹ 45.11 lakh³¹ at the rate of 2.5 *per cent* instead of ₹ 90.22 lakh³² at the rate of five *per cent* of market value of ₹ 15.04 crore of the property. This resulted in short levy of SD and surcharge of ₹ 45.11 lakh.

The matter was reported to the Government (July 2017). The Government replied (August 2017) that a case had been registered with DIG (Stamps).

5.7.2 Case relating to public offices

On scrutiny of records of Registrar of Firms (RoF), Jaipur it was observed (May 2017) that one of the partners of a partnership firm had executed (11 February 2015) two gift deeds certified by notary public in favour of his wife and son. Through the gift deeds the partner transferred his entire

²⁸ ₹ 24.50 crore: ₹ 9.73 crore (29,480 square metre x ₹ 3,000 DLC rate + 10 *per cent* extra for corner plot) + ₹ 14.77 crore (49,244 square metre x ₹ 3,000 DLC rate).

²⁹ ₹ 1.42 crore: SD of ₹ 98.01 lakh, surcharge of ₹ 19.60 lakh and RF of ₹ 24.50 lakh.

³⁰ As per section 12 of Hindu Adoptions and maintenance Act, 1956, 'an adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by the those created by the adoption in the adoptive family'.

³¹ ₹ 45.11 lakh: SD of ₹ 37.59 lakh and Surcharge of ₹ 7.52 lakh.

³² ₹ 90.22 lakh: SD of ₹ 75.18 lakh and Surcharge of ₹ 15.04 lakh.

45 per cent share in the 54 bigha land situated at Ajmer road, Jaipur. As the full details of said land were not mentioned in the documents, Audit was unable to ascertain the market value of the land and SD payable thereon. These gift deeds were not registered.

Thus non-registration of gift deeds resulted in loss of revenue to the Government.

The matter was reported to the Government (August 2017). The Government replied (September 2017) that reply was awaited from the concerned DIG (Stamps).

5.8 Short/non-levy of Stamp Duty and Registration Fee on developer agreements

As per Article 5(e) of Schedule to the RS Act, SD was chargeable as on conveyance on the market value of the property where an agreement or memorandum of an agreement if relating to giving authority or power to a promoter or a developer by whatever name called for construction of or development of or sale or transfer of any immovable property. Thereafter, by issuing a notification (14 July 2014) the Government revised the rates of SD chargeable on agreement executed under the Article *ibid*. The revised rates are as under:

- (i) one per cent of market value of the land where developer or promoter is not given powers under the agreement or memorandum of an agreement or power of attorney to sell any part of the developed property;
- (ii) where developer or promoter under the agreement or memorandum of an agreement or power of attorney is given powers to sale any part of the developed property:
 - (a) two per cent of the market value of the proportionate part of the land under developed property agreed to be given to promoter or developer in consideration; and
 - (b) one per cent of the market value of the remaining proportionate part of the land.

5.8.1 Non-registration of developer agreement

Section 39 provides that no instrument chargeable with duty under this Act shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped. As per Section 3 of the RS Act, every instrument shall be chargeable with duty at the prescribed rates mentioned in the Schedule to the RS Act.

During test check (August 2016) of registration records of SR, Ahore (Jalore), it was found that a joint venture deed was enclosed with a sale deed executed on 30 June 2015. The joint venture deed was executed (15 November 2010) by 15 persons for development and promotion of their own land measuring 5,04,644 square feet in village Ahore. The joint venture deed was not registered but it was notarised on stamp paper of ₹ 525 in the state of Maharashtra.

The SR registered the sale deed on the basis of the unregistered joint venture deed which was incorrect. The sale deed should have been registered only after the joint venture deed was got registered. This was not done resulting in non-levy of SD and surcharge of ₹ 12.66 lakh³³ on consideration of ₹ 10.55 crore³⁴ of joint venture deed.

The matter was reported to the Government (July 2017). The Government replied (September 2017) that a case had been registered with DIG (Stamps).

5.8.2 Misclassification of developer agreement

As per Section 7 of the RS Act, an instrument so framed as to come within two or more of the descriptions in the Schedule shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties. The rates of stamp duty on development agreement was one *per cent* of market value of the land where developer or promoter was not given powers under the agreement or memorandum of an agreement or power of attorney to sale any part of the developed property.

During test check (March 2017) of registration records of SR, Kotputli (Jaipur), it was found that one document was registered (2 December 2015) as lease deed executed in favour of a lessee (developer) by a lessor (land owner) for land measuring 9,780 square yard at National Highway number 8 for 19 years. Scrutiny of the recitals of the lease deed revealed that the land was given on lease for 19 years to the lessee and as per terms and conditions of the lease, the lessee has to develop a hotel on the said land and after completion of lease period, the land with constructed hotel was to be handed over to the lessor. The expenditure on construction of hotel was to be adjusted in rent amount payable. As the hotel was to be developed by the lessee and to be handed over to the lessor after completion of lease period, the document was to be categorised as developer agreement. Thus the recitals of the document executed consisted of two distinct matters one relating to the developer agreement and the other relating to the lease deed. The stamp duty and registration fee payable on the developer agreement was ₹ 13.01 lakh³⁵ on the market value of the property valued at ₹ 11.37 crore. The SR, however, categorised the document as lease deed for the levy of stamp duty and levied at conveyance rates on consideration on value of the average rent of two years under Article 33(ii) of the Act. The SR thus incorrectly levied SD, surcharge and RF of ₹ 1.63 lakh³⁶ instead of ₹ 13.01 lakh³⁷. This resulted in short levy of SD, surcharge and RF of ₹ 11.38 lakh.

The matter was reported to the Government (July 2017). The Government replied (September 2017) that a case had been registered with DIG (Stamps).

5.9 Non-levy of Stamp Duty on partition deeds of immovable properties

Article 42 of the Schedule to the RS Act prescribes that SD on an instrument, where co-owners of any property divide or agree to divide such property in several parts, is leviable as a conveyance on the market value of the separated

³³ ₹ 12.66 lakh: SD of ₹ 10.55 lakh at the rate of one *per cent* of ₹ 10.55 crore and surcharge of ₹ 2.11 lakh.

³⁴ ₹ 10.55 crore: 5,04,644 square feet x ₹ 209 per square feet as per DLC rates.

³⁵ ₹ 13.01 lakh: SD of ₹ 11.37 lakh, surcharge of ₹ 1.14 lakh and RF of ₹ 0.50 lakh.

³⁶ ₹ 1.63 lakh: SD of ₹ 1.26 lakh, surcharge of ₹ 0.12 lakh and RF of ₹ 0.25 lakh.

³⁷ ₹ 13.01 lakh: SD of ₹ 11.37 lakh, surcharge of ₹ 1.14 lakh and RF of ₹ 0.50 lakh.

share or shares of the property. The largest share remaining after this property is partitioned (or if there are two or more shares of equal value, the one of such equal shares) shall be deemed as the one from which the other shares are separated.

During test check (between September 2016 and December 2016) of registration records of four SRs³⁸, it was noticed that seven documents of sale deeds of immovable properties were registered. Scrutiny of the recitals of these sale deeds revealed that the separated shares of the properties were sold by the co-owners, after they had partitioned their joint land. The facts about registration of partition deeds were neither mentioned in the sale deeds nor the copies of registered partition deeds enclosed with the sale deed for ready reference. Non-registration of partition deeds resulted in non-levy of SD, surcharge and RF of ₹ 1.23 crore³⁹ on market value of ₹ 17.59 crore of the properties.

The matter was reported to the Government (July 2017). The Government replied (September 2017) that in one document, notice for recovery had been issued to the executant and in remaining six documents, cases had been registered with DIG (Stamps).

5.10 Non-levy of Stamp Duty on transfer of lease by way of assignment

As per IGRS'S circular number 06/2009 an instrument executed for change in legal entity of firm/company is required to be chargeable with SD on market value of properties under Article 55 of the Schedule to the RS Act.

5.10.1 Registration of Partnership Firm to Company

Audit noticed in two documents of sale/lease deed there was change in legal entities of the firms. The concerned SRs did not consider the facts while registering the sale/lease deed. SD and surcharge of ₹ 5.91 crore⁴⁰ on market value of ₹ 98.53 crore⁴¹ of the properties was to be levied on documents executed for change of legal status. This resulted in non-levy of SD and surcharge of ₹ 5.91 crore as follows:

- During test check (September 2016) of registration records of SR, Jaipur-III it was found that a document was registered (January 2016) as lease deed. Scrutiny of the lease deed revealed that a Company (lessor) had leased its commercial property to a lessee (SSL). The recital of lease deed revealed that the leased property was purchased (18 November 2006) by a partnership firm (M/s KGR). The partnership firm had changed (18 November 2010) its legal status into a company (KGR Pvt. Ltd.). The fact about registration of change of legal entity from partnership firm to company was neither mentioned in the lease deed nor was a copy of registered document enclosed with the document. The concerned SRs did not consider the facts while registering the lease deed. The SD and surcharge of ₹ 4.97 crore was payable on market value of ₹ 82.78 crore.

³⁸ Chittorgarh, Luni (Jodhpur), Udaipur-I and Udaipur-II.

³⁹ ₹ 1.23 crore: SD of ₹ 87.93 lakh, surcharge of ₹ 17.59 lakh and RF of ₹ 17.59 lakh.

⁴⁰ ₹ 5.91 crore: SR, Jaipur-III: ₹ 4.97 crore (SD of ₹ 4.14 crore and Surcharge of ₹ 0.83 crore) + SR, Udaipur-I: ₹ 94.19 lakh (SD of ₹ 78.49 lakh and Surcharge of ₹ 15.70 lakh).

⁴¹ ₹ 98.53 crore: SR, Jaipur-III (document number 176/16): ₹ 82.83 crore (5,045.02 x ₹ 1,64,180 per square metre) + SR, Udaipur-I (document number 1332/15): ₹ 15.70 crore (56,651 x ₹ 2,771 per square feet).

- Similarly in another case of SR, Udaipur-I it was found (October 2016) that a document was registered (April 2015) as sale deed. Scrutiny of the sale deed revealed that a Company (seller) had sold its commercial property to an individual. The recital of sale deed revealed that the sold property was purchased (14 October 2009) by a partnership firm. The partnership firm had changed (1 April 2008) its legal status into a company (seller) under the Companies Act. The fact about registration of change of legal entity from partnership firm to company was neither mentioned in the sale deed nor was a copy of registered document enclosed with the document. The concerned SRs did not consider the facts while registering the sale deed. The SD and surcharge of ₹ 94.19 lakh was payable on market value of ₹ 15.70 crore.

The matter was reported to the Government (August 2017). The Government accepted the audit contention and stated (October 2017) that cases had been registered with DIG (Stamps).

5.10.2 Registration of Limited Liability Partnership

As per State Government's notification (March 2017), SD on the instrument executed on or after 31 March 2009 relating to conversion of partnership firm, private limited company or unlisted public limited company into Limited Liability Partnership (LLP) under LLP Act, 2008 shall be chargeable at the rate of 0.5 *per cent* of value of assets so transferred.

During test check (between January 2017 and February 2017) of registration records of four SRs⁴², it was found that seven instruments of immovable properties were registered (between May 2015 and March 2016) as sale deeds. Scrutiny of these sale deeds revealed that the land was allotted by JDA in favour of six private limited companies and one limited company registered under Companies Act. As per recital of these sale deeds, the companies had converted their legal entity into LLP after purchase of the land. The fact about registration of change in legal entity from company to LLP was neither mentioned in the sale deeds nor were copies enclosed. The concerned SRs did not consider the fact while registering the sale deeds on which SD and surcharge of ₹ 51.10 lakh⁴³ on value of assets of ₹ 85.17 crore so transferred was to be levied. This resulted in non-levy of SD and surcharge of ₹ 51.10 lakh.

The matter was reported to the Government (August 2017). The Government stated in October 2017 that in one document, notice for recovery had been issued to the executant and in six documents, cases had been registered with DIG (Stamps).

5.11 Irregular exemption of Stamp Duty under Rajasthan Investment Promotion Scheme

As per clause 5 of Rajasthan Investment Promotion Scheme (Scheme)⁴⁴, 2010, an enterprise to which entitlement certificate (EC) has been issued shall be eligible to claim 50 *per cent* exemption on the SD payable on the instrument executed for purchase or lease of land. Clause 3 stipulates that the Scheme

⁴² SR: Jaipur-I, II, IV and VI.

⁴³ ₹ 51.10 lakh: SD of ₹ 42.58 lakh and Surcharge of ₹ 8.52 lakh).

⁴⁴ A scheme to promote investment and employment opportunities in the State.

shall be applicable to new enterprise, sick industrial enterprise for its revival and existing enterprise making investment for modernisation/expansion/diversification subject to condition that the enterprise shall commence commercial production or operation during the operative period⁴⁵ of the Scheme. Further, clause 9 provides that in case of breach of any of the condition mentioned anywhere in the Scheme, the benefits availed under the Scheme, shall be withdrawn and recovered along with interest at the rate of 18 per cent per annum from the date from which the benefits have been availed.

During test check (July 2016) of records (lease deed and sale deed) of SR, Jaipur-V, it was found that a lease deed was executed (December 2010) by RIICO, Sitapura, Jaipur in favour of a Company for an industrial plot measuring 14,434 square metre situated in RIICO Industrial Area, Ramchandrapura, Sitapura Extension, Jaipur. The Company got 50 per cent exemption of ₹ 18.23 lakh on SD payable on registration (December 2010) of lease deed valuing ₹ 7.29 crore under the Scheme. The Company had sold (April 2015) the said property without commencement of commercial production during the operative period of the Scheme. Thus the benefit availed under the Scheme was recoverable alongwith interest as per clause 9 of the scheme. This resulted in non-recovery of SD of ₹ 35.69 lakh⁴⁶ including interest of ₹ 17.46 lakh.

The matter was reported to the Government (June 2017). The Government replied (August 2017) that a case had been registered with the DIG (Stamps).

5.12 Short levy of Stamp Duty and Registration Fee due to undervaluation of immovable properties

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

As per notification dated 14 July 2014, SD on lease deeds executed by Local Bodies in respect of land allotted or sold by them shall be chargeable on the amount of premium and other charges paid in consideration including interest or penalty, if any, on such instrument and the average amount of the rent of two years.

The State Government *vide* its' notification dated 9 March 2015 determined the rates of land:

- (i) converted for institutional purposes or agriculture land being used for institutional purposes outside RIICO industrial area, shall be equal to two times the rate of agriculture land of that area;
- (ii) for which patta/lease deed of mixed land use has been issued by Local Bodies, shall be equal to 75 per cent of the rate of commercial land of that area.

⁴⁵ The scheme came into effect from 25 August 2010 and shall remain in force upto 31 March 2018.

⁴⁶ ₹ 35.69 lakh: rebate on SD of ₹ 18.23 lakh and interest of ₹ 17.46 lakh.

During test check (between July 2016 and March 2017) of records of 13 SRs⁴⁷, it was noticed that 30 instruments were registered as sale deeds/developer agreements/power of attorney pertaining to agricultural/commercial/industrial/institutional/residential land. Scrutiny of the recitals of these instruments revealed that the concerned SRs had assessed the market value of properties on lower rates. Undervaluation of immovable properties resulted in short levy of SD, surcharge and RF of ₹ 4.80 crore as detailed below:

(₹ in crore)			
Sl. No.	Nature of observation and Rule position	SD leviable levied	Short levy of SD
1	<p>Rates applied were less than the market value of the properties:</p> <p>In 20 cases, the SRs applied agriculture DLC rates for valuation whereas the land was converted to residential in 14 cases and in six cases, the land was recorded as mining probable area, the DLC rates were applicable accordingly.</p> <p>In three cases, the SRs valued the properties at face value of the document whereas the land was converted to commercial in two cases and industrial in one case.</p> <p>In two cases, DLC rates of other area which was not related to the land were applied for valuation. (the seller had got approved township plan on the land situated at main road, hence, main road DLC rates were applicable)</p> <p>(Rule 58 of the RS Rules, 2004)</p>	<p><u>5.78</u> 3.26</p>	2.52
2	In one case , short assessment of SD as per DLC rates of agricultural land instead of twice of agriculture DLC rates as per notification dated 9 March 2015.	<p><u>0.74</u> 0.41</p>	0.33
3	In one case , short assessment of SD as interest and other charges were to be included while calculating market value of the land as per notification dated 14 July 2014.	<p><u>5.37</u> 5.26</p>	0.11
4	In three cases , short assessment of SD as the plots were to be used for mixed land use, valuation was to be taken at 75 per cent of commercial DLC rates as per notification dated 9 March 2015.	<p><u>3.12</u> 1.28</p>	1.84
Total		<p><u>15.01</u> 10.21</p>	4.80

The matter was reported to the Government (August 2017). The Government replied (September 2017) that in 20 documents, cases had been registered with DIGs (Stamps); in one document, Civil Writ Petition had been filed by the executant after registering the case; in eight cases, notices for recovery had been issued to the executants and reply regarding one case was awaited from the concerned DIG (Stamps).

5.13 Non/short levy of Stamp Duty on instruments presented or executed in Public Offices

Section 37 of the RS Act, provides that every person-in-charge of a Public Office⁴⁸ before whom any instrument chargeable with SD is produced or comes in the performance of his functions, shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed

⁴⁷ SR, Alwar-II, Amer, Bajju, Bansur, Bhilwara-I, Jaipur- II & V, Lalgah Jatan, Kotputli, Lalsot, Mukundgarh, Neemrana and Udaipur-II.

⁴⁸ Means any officer whom the State Government may, by notification in the official Gazette, appoint on this behalf.

as per sub-section 2 of Section 37 of the RS Act. When a person-in-charge of a Public Office, during the course of inspection or otherwise, detects from an instrument or copy thereof or when it appears therefrom to the person-in-charge that the instrument is not duly stamped, impound the same and forthwith make a reference under sub-section 4 of Section 37 of the RS Act to the Collector in that matter.

During scrutiny of records (between September 2016 and May 2017) of 16 Public Offices⁴⁹ of four districts⁵⁰ and nine Sub-Registrar (SR) offices⁵¹ covering the period 2012-13 to 2016-17, the following deficiencies relating to non/short levy of SD of ₹ 18.63 crore in 65 cases of 11 Public Offices⁵² and 14 cases of nine SR offices were noticed.

5.13.1 Contribution/transfer of immovable properties to Partnership firms/companies

As per Article 21 of the Schedule to the RS Act, in case of instrument of conveyance, the SD is chargeable at the rate of five *per cent* on the market value of the property. Further, as per Article 43(1) (c)⁵³ of the Schedule, an instrument of partnership where share contribution is brought in by way of immovable property the SD is chargeable as on conveyance on the market value of such property.

5.13.1.1 Cases relating to public offices

Scrutiny of records of four RoFs⁵⁴ disclosed (May 2017) that in 24 cases⁵⁵, immovable properties worth ₹ 105.71 crore⁵⁶ were contributed as share contribution by the partners in the partnership firms as their share capital during the period 2012-13 to 2016-17 through the deeds of partnership. The SD of ₹ 0.14 lakh was paid on these partnership deeds at the rate of ₹ 500 to 2,000 only on each document instead of ₹ 6.34 crore⁵⁷ at the rate of five *per cent* on market value of ₹ 105.71 crore of these properties. This resulted in short levy of SD of ₹ 6.34 crore.

The matter was pointed out to the Department and reported to the Government (August 2017). The Department stated in October 2017 that in one document, entire amount of ₹ 49.87 lakh had been recovered; in 21 documents, notices for recovery had been issued to the executants; in another document, a case had been registered with DIG (Stamps); and reply in the remaining case is awaited from the concerned DIG (Stamps). Revised reply of the Government is awaited (November 2017).

⁴⁹ Nagar Nigam: Kota and Udaipur; Nagar Parishad Bhilwara; National Highways Authority of India (NHAI) Regional office, Jaipur; RIICO: Bhilwara, Bais godam (Jaipur), Malviya Nagar (Jaipur), Kota and Udaipur; RoF: Bhilwara, Jaipur City, Kota and Udaipur; Urban Improvement Trust (UIT): Bhilwara, Kota and Udaipur.

⁵⁰ Bhilwara, Jaipur, Kota and Udaipur.

⁵¹ SR: Banswara, Barmer, Jaipur-I, Jodhpur-III, Jhunjhunu, Kotputli, Phagi, Sujangarh (Churu) and Udaipur-I.

⁵² Nagar Parishad: Bhilwara; NHAI Jaipur; RoF: Bhilwara, Jaipur, Kota and Udaipur; RIICO: Bais godam (Jaipur), Malviya nagar (Jaipur) and Kota; UIT: Bhilwara and Udaipur.

⁵³ Substituted by Rajasthan Finance Act, 2012 (Act number 18 of 2012) with effect from 26 March 2012.

⁵⁴ Bhilwara, Jaipur, Kota and Udaipur.

⁵⁵ 24 Cases: Bhilwara: 11 cases; Kota: 10 cases; Jaipur city: two cases and Udaipur: one case.

⁵⁶ As per DLC rates.

⁵⁷ ₹ 6.34 crore: SD of ₹ 5.28 crore and surcharge of ₹ 1.06 crore.

5.13.1.2 Cases relating to Sub-Registrar offices

During test check (between September 2016 and February 2017) of registration records of seven SRs⁵⁸, it was noticed from recital of sale deeds that in eight cases, land owned by individuals was transferred to partnership firms as their share in partnership firms and in one case, land owned by individuals was transferred to a company prior to 26 March 2012 as their share in the company. The individual owner/owners (assigners) had transferred (assigned) their lands to assignees (partnership firms/company), therefore, the assignees had become the sole owners of the said properties. The immovable properties valuing ₹ 42.94 crore possessed by the individuals were, therefore, transferred to the others on which SD of ₹ 3.01 crore⁵⁹ was leviable. The SRs while registering the sale deeds did not charge the same which resulted in non-levy of SD of ₹ 3.01 crore.

The matter was pointed out to the Department and reported to the Government (August 2017). The Department stated in October 2017 that in one document, notice for recovery had been issued to the executant; in six documents, cases had been registered with DIGs (Stamps) and in one document, ₹ 3.67 lakh had been recovered against the objected amount of ₹ 4.28 lakh. Regarding one case the Department disagreed with the audit observation with a view that there was no provision regarding levy of SD on conveyance on transfer of immovable properties prior to March 2012. Reply is not acceptable because as per Article 21 stamp duty was also payable on transfer of immovable properties prior to March 2012. In addition to this, the Government has already accepted the audit observation in two cases in which immovable properties were transferred prior to March 2012. Revised reply of the Government is awaited (November 2017).

5.13.2 Transfer of properties on retirement of a partner

As per Article 43(2) (a) of the Schedule to the RS Act an instrument of dissolution of the partnership or if on retirement of a partner, any property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in the partnership, the SD is chargeable as the conveyance on the market value of such property.

Scrutiny of records of RoF Jaipur, Kota, Udaipur and Nagar Parishad Bhilwara for the year 2012-13 to 2016-17 disclosed (May 2017) that in five cases of partnership firms, on retirement or joining of a partner/partners, immovable properties valued at ₹ 13.89 crore were taken (between May 2011 and August 2016) as their share by the partners other than the partners who brought in that property as their share of contribution in the partnership. The SD of ₹ 0.03 lakh was paid on these partnership deeds at the rate of ₹ 500 in each case instead of ₹ 83.37 lakh⁶⁰ at the rate of five *per cent* of market value of ₹ 13.89 crore of these properties. The concerned persons-in-charge of public offices, however, had not intimated the concerned Collector (Stamps) regarding short payment of SD. This resulted in short levy of SD of ₹ 83.34 lakh including surcharge of ₹ 13.89 lakh.

⁵⁸ SR: Banswara, Barmer, Jaipur-I, Jodhpur-III, Jhunjhunu, Sujangarh (Churu) and Udiapur-I.

⁵⁹ ₹ 3.01 crore: SD of ₹ 2.15 crore, Surcharge of ₹ 42.94 lakh and RF of ₹ 42.94 lakh.

⁶⁰ ₹ 83.37 lakh: SD of ₹ 69.48 lakh and Surcharge of ₹ 13.89 lakh.

The matter was pointed out to the Department and reported to the Government (August 2017). The Department stated in October 2017 that in three cases notices for recovery had been issued to the executants and reply of remaining two cases was awaited from the concerned DIG (Stamps). Reply of the Government is awaited (November 2017).

5.13.3 Non-execution/registration of lease deeds

As per notification dated 14 July 2014 SD is chargeable at the rate of five *per cent* on lease deeds or sale deeds executed by urban improvement trusts (UITs), RIICO and State Government in respect of land allotted or sold by them, on the amount of premium and other charges paid in consideration including interest or penalty, if any on such instruments and average amount of the rent of two years if an instrument is submitted for registration within two months from the date of its execution.

5.13.3.1 Scrutiny of records of two UITs (Bhilwara and Udaipur) for the years 2012-13 to 2016-17 disclosed (May 2017) that these UITs auctioned and allotted (March 2012 to January 2017) 24 plots⁶¹ to the successful bidders or purchasers. The purchasers deposited cost of the plots to the UITs. Scrutiny of the allotment records revealed that the purchasers did not execute the lease deeds with UITs. However, the persons-in-charge of UITs had neither intimated the Collectors (Stamps) under sub-section 4 of Section 37 about the sale of plots nor taken any action to execute the lease deeds. This resulted in non-levy of SD of ₹ 1.35 crore⁶² on the cost or consideration of ₹ 19.59 crore.

The matter was pointed out to the Department and reported to the Government (August 2017). The Department stated in October 2017 that in six cases entire amount of ₹ 18.14 lakh had been recovered; in one case, ₹ 19.97 lakh had been recovered against the objected amount of ₹ 21.37 lakh; in 14 cases, notices for recovery had been issued to the executants and reply of remaining three cases was awaited from the concerned DIG (Stamps). Reply of the Government is awaited (November 2017).

5.13.3.2 Scrutiny of the records of three offices⁶³ of RIICO disclosed (May 2017) that RIICO allotted or sold 11 plots⁶⁴ (between November 2012 and December 2016) to 11 entrepreneurs. These lease deeds of above plots, however, were not executed and registered by the purchasers. Persons-in-charge of RIICO offices neither took any action for execution of lease deeds nor intimated the concerned Collectors (Stamps). This resulted in non-levy of SD of ₹ 2.42 crore⁶⁵ on consideration of ₹ 36.45 crore of these plots.

The matter was reported to the Government (August 2017). The Government stated (September 2017) that notices for recovery had been issued to the executants in seven cases, in one document, a case had been registered with DIG (Stamps) while in the remaining three documents replies were awaited from the concerned DIG (Stamps).

⁶¹ Bhilwara three cases and Udaipur 21 cases.

⁶² ₹ 1.35 crore: SD of ₹ 96.04 lakh, Surcharge of ₹ 19.21 lakh and RF of ₹ 19.60 lakh.

⁶³ Bais Godam Jaipur, Kota and Malviya Nagar Jaipur.

⁶⁴ Three cases of Malviya nagar, Jaipur, two cases of Bais godam, Jaipur and six cases of Kota.

⁶⁵ ₹ 2.42 crore: SD of ₹ 1.82 crore, Surcharge of ₹ 36.45 lakh and RF of ₹ 23.47 lakh.

5.13.3.3 During scrutiny of records of Collector (Revenue) Jaipur it was noticed that in five cases Government land was allotted to the companies in *tehsil* Phagi and Kotputli at the cost as prescribed in allotment orders. The registered copies of lease deeds in respect of these allotments were not available in records of Collector (Revenue) Jaipur. The matter regarding registration of these lease deeds was taken up with SR Phagi and Kotputli (January 2017 and February 2017). The SR Kotputli stated (March 2017) that the lease deeds of these allotments were not registered in his office. SD of ₹ 2.28 crore⁶⁶, therefore, was chargeable on the cost of land valuing ₹ 32.65 crore. This resulted in non-levy of SD of ₹ 2.28 crore. Reply of SR, Phagi was not received.

The matter was reported to the Government (August 2017). The Government replied (September 2017) that recovery is pending in three cases and reply of two cases was awaited from the concerned DIG (Stamps).

5.13.4 Short levy of Stamp Duty on concession agreement

As per Article 20A⁶⁷ of the Schedule to the RS Act, an instrument of concession agreement⁶⁸ shall be chargeable with SD equal to the amount of ₹ two crore where the total capital investment exceeds ₹ 500 crore but does not exceed ₹ 1,000 crore. The Concession agreements executed prior to 14 July 2014 were to be stamped within 30 days of the commencement of the Finance Act, 2014.

Scrutiny of information available on website of NHAI, New Delhi disclosed (May 2017) that one concession agreement was executed on Design, Build, Finance, Operate and Transfer basis on 14 December 2012 between the NHAI and a concessionaire for a project⁶⁹ in the State of Rajasthan. The project cost was ₹ 677.79 crore. The concession agreement was stamped with ₹ 100 only instead of ₹ 2.40 crore including surcharge of ₹ 40 lakh. This result in short realisation of revenue amounting to ₹ 2.40 crore.

The matter was reported to the Government (August 2017). The Government replied (September 2017) that instructions for recovery had been issued.

⁶⁶ ₹ 2.28 crore: SD of ₹ 1.63 crore, Surcharge of ₹ 32.65 lakh and RF of ₹ 32.65 lakh.

⁶⁷ Inserted by Rajasthan Finance Act, 2014 with effect from 14 July 2014.

⁶⁸ Means an agreement involving a grant of rights, land or property by the State Government, local authority, public sector undertaking or other statutory entity to provide some services on commercial basis using such assets of the State Government or a local authority or a public sector undertaking, as the case may be, subject to certain conditions.

⁶⁹ Rajsamand-Bhilwara Section of NH-758 (from km 0.000 to km 87.250) under National Highways Development Project Phase-IV.

CHAPTER-VI
STATE EXCISE

CHAPTER-VI : STATE EXCISE

6.1 Tax administration

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

6.2 Internal audit

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

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

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remained unaudited	Percentage of units remaining unaudited
2012-13	7	41	48	41	7	15
2013-14	7	41	48	42	6	13
2014-15	6	41	47	47	0	0
2015-16	0	41	41	37	4	10
2016-17	4	41	45	40	5	12

Source: Furnished by the concerned Department.

It would be seen from the above that five units selected for internal audit had remained unaudited during 2016-17.

Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2011-12	2012-13	2013-14	2014-15	2015-16	Total
Paragraphs	119	51	118	150	287	725

Source: Furnished by the concerned Department.

It was noticed that 725 paragraphs were outstanding at the end of 2015-16 of which 119 paragraphs were outstanding for more than five years. The huge pendency of paragraphs defeated the very purpose of internal audit. The position of outstanding paragraphs for 2016-17 was not furnished to Audit despite being requested (May 2017).

The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

6.3 Results of audit

Test check of the records of 25 units of the State Excise Department conducted during the years 2016-17, disclosed non/short recovery of Excise Duty and Licence Fee, Vend fee, interest on security deposit/delayed payment and loss of Excise Duty on account of excess wastages of liquor and other irregularities involving ₹ 18.52 crore in 7,084 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1	A paragraph on 'Procurement and sale of Hemp (<i>Bhang</i>)'	1	-
2	Non/short realisation of Excise Duty and Licence Fee and Vend Fee.	3,485	14.44
3	Loss of Excise Duty on account of excess wastages of Liquor	843	1.23
4	Non-recovery of interest on security deposits	879	0.49
5	Other irregularities		
	(i) Revenue	1,832	2.31
	(ii) Expenditure	44	0.05
Total		7,084	18.52

The Department accepted deficiencies in 227 cases involving ₹ 1.22 crore, of which 84 cases involving ₹ 0.45 crore had been pointed out in audit during 2016-17 and the rest in earlier years. The Department recovered ₹ 1.20 crore in 227 cases of which 84 cases involving ₹ 0.45 crore had been pointed out in audit during the year 2016-17 and the rest in earlier years.

The Department accepted and recovered the entire amount of ₹ 22.11 lakh pointed out by Audit after issue of a particular draft paragraph to the Government. This paragraph has not been discussed in the Report.

A paragraph on 'Procurement and sale of Hemp (*Bhang*)' and few illustrative cases involving ₹ 2.86 crore are discussed in the succeeding paragraphs.

6.4 Procurement and sale of Hemp (*Bhang*)

6.4.1 Introduction

The hemp (*bhang*) plant, otherwise known as Cannabis Sativa, is a flowering plant or herb that has been cultivated for centuries for a multitude of purposes. It provides three products, namely, fibre from the stems, oil from the seeds and narcotic from the leaves and flowers. Three types of narcotics are produced from the Indian hemp plant, namely *bhang* or *hashish* from the dried leaves and flowering shoots of hemp plants, *ganja* which is the dried unfertilised female inflorescences of special varieties grown in India and *charas* which is the crude resin collected by rubbing the tops of the plant with the hands or beating it with a cloth. Prolonged consumption of hemp is harmful and can effect physical and mental health. If consumed for long time, it causes loss of appetite and gastric derangement. Hemp drugs act chiefly on the cerebrum wherein they resemble the action of alcohol or opium.

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 banned the production and sale of cannabis resin and flowers but permitted the use of the leaves (called *bhang*), allowing the States to regulate the production and consumption of *bhang*. Although NDPS Act, 1985 allows consumption of *bhang*, various States have made laws banning or restricting its use. In Rajasthan the production/cultivation of *bhang* plant is banned under Section 16 of the Rajasthan Excise Act, 1950 but its purchase, sale and consumption is allowed in the State. As a result, all hemp or hemp products must be imported or hemp products must be manufactured from imported hemp. The State has not framed any separate rules for regulating the consumption of *bhang* in the State.

Group-wise licences for retail sale of *bhang* (*bhang* leaves, *bhang* *ghota*, *majum bukani*, *gulkand* etc.) are issued by the EC. The licensees are allowed to import *bhang* directly from the licensed wholesalers of hemp producing States after obtaining a wholesale licence from the Department.

As per condition number 3 to 6 of the wholesale licence, the licensee can procure *bhang* from wholesale vendors of *bhang* situated in other States or within State under permit issued by the concerned DEO. *Bhang*, procured under wholesale licence, can be transferred/sold by the licensee to the shops of his own retail group, retail and wholesale licensees of other groups and pharmacies authorised for hemp made medicines in the State. A licensee can transfer/sell *bhang* from wholesale warehouse to retail shops under permit issued by DEOs after payment of permit fees prescribed as per rules.

6.4.2 Scope of audit

There were 29 licensee groups with 812 authorised retail shops of *bhang* in the State under the jurisdiction of 29 District Excise Officers (DEOs) at the end of the year 2015-16. Out of these, records for the year 2013-14 to 2015-16 of seven DEOs¹ along with the office of EC were test checked (February to

¹ Alwar, Jaisalmer, Jalore, Pali, Sirohi (top five units of which licence fees increased more than 100 per cent) Jodhpur and Udaipur (of which field study was conducted during regular audit).

May 2017) on the basis of revenue as well as increase in the licence fee from 2013-14 to 2015-16.

6.4.3 Revenue from Hemp

Revenue from *bhang* is derived mainly in the form of licence fee realised from wholesale and retail licensees and permit fee on the transportation of *bhang*. No excise duty is levied on the *bhang* separately. The revenue realised during 2013-14 to 2015-16 is shown below:

(₹ in crore)

Year	Total excise revenue collected	Revenue realised from <i>bhang</i>			Percentage of <i>bhang</i> revenue to total excise revenue
		Licence fee	Permit fee	Total	
2013-14	4,981.59	17.28	0.05	17.33	0.35
2014-15	5,585.77	19.01	0.09	19.10	0.34
2015-16	6,712.94	24.03	0.06	24.09	0.36

Source: Information furnished by the EC office.

Thus, the revenue from *bhang* was very low as compared to the total receipts of the State under Excise. However, *Bhang* is an intoxicating drug and its misuse (mixing with other highly intoxicating drugs) needs to be prevented. This topic was chosen for audit to ascertain whether procurement and sale of *bhang* was done in accordance with the provisions of the Act and if the internal control system in this regard was adequate.

6.4.4 Monitoring controls and maintenance of records

As per condition number 7 of the conditions of retail vend of *bhang* licence, licensees had to maintain inspection register and a daily account of receipt, sale and balance quantity of *bhang* in the prescribed register. The daily account has to be written at the time of closing of shop each day and report of the monthly receipt, sale and stock of *bhang* has to be furnished to the concerned Excise Inspector by 5th of the next month.

During test check of the records of selected units, the following deficiencies were noticed.

6.4.4.1 Non-maintenance of retail sale register/monthly report

Out of seven DEOs, the licensees of only three DEOs² maintained retail sale registers for the period 2014-15 and 2015-16. Entries made in the registers were, however, not verified by any excise authority. Scrutiny of these registers disclosed that inaccurate entries were made in the registers on various dates.

² Jalore, Jodhpur and Sirohi. The registers for the year 2013-14 was not made available to audit as such information in this regard could not be collected.

This resulted in incorrect stock position. A few instances are given below:

(Quantity of *bhang* in kilogram)

Sl. No	Name of licensee group	Name of retail shop	Date	Opening balance	Receipt of <i>bhang</i>	Sale of <i>bhang</i>	Actual closing balance (5+6-7)	Closing balance shown in register	Difference in closing balance (8-9)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Jalore	Jalore	21.7.2015	46.30	50.00	1.10	95.20	85.30	9.90
			8.1.2016	41.25	0.00	0.35	40.90	39.90	1.00
		Ahore	11.2.2016	32.50	0.00	1.50	31.00	30.00	1.00
			16.2.2016	27.55	50.00	1.00	76.55	66.45	10.10
2	Jodhpur	Gandhi Chowk	1.5.2015	83.00	0.00	0.50	82.50	87.50	(-) 5.00
			21.1.2016	101.00	0.00	2.00	99.00	98.00	1.00
		Jalori Gate	2.11.2015	36.00	0.00	2.00	34.00	35.00	(-) 1.00
			22.11.2015	10.00	0.00	2.00	8.00	9.00	(-) 1.00
3	Sirohi	Abu Road	2.12.2014	102.00	0.00	2.00	100.00	101.00	(-) 1.00
		Shiv Ganj	10.4.2015	593.00	0.00	5.00	588.00	543.00	45.00

Further, report of the monthly receipt, sale and stock of *bhang* at retail shops was not furnished to the concerned Excise Inspector in any of the selected DEOs. In absence of this, Excise Inspectors and DEOs could not check the actual procurement and sale of *bhang* at retail shops of the licensees.

After it was pointed out (August 2017), the Government replied (September 2017) that all DEOs had been directed (24 August 2017) to ensure maintenance of procurement and sale register at retail *bhang* shops and submission of monthly report regularly by the licensees.

6.4.4.2 Inspection of *bhang* shops

As per the paragraph 8.1 of the Excise Manual, the Excise Inspector is required to conduct inspections of all *bhang* shops as many times as possible but at least once in a month. Town and city shops should be inspected twice a month. DEOs are also required to conduct inspections of *bhang* shops as per paragraph 6.3 of the Excise Manual. Further, as per condition number 7 of the conditions of retail vend of *bhang* licence, the licensees have to maintain an inspection register. During test check of the records of selected units, it was noticed that no inspection register was maintained to indicate whether any inspection of the licensees was conducted by the excise authorities. There was nothing on record to show that inspections were conducted by them. When this lacuna was pointed out (August 2017), the Government replied (September 2017) that all DEOs had been directed (24 August 2017) to conduct inspection of retail *bhang* shops regularly by DEOs and Inspectors. They were also instructed to maintain inspection register at their own offices as well as at the shops of the licensees. Thus, the monitoring controls on the sale of *bhang* were weak and the system of inspections needed strengthening.

6.4.4.3 Monitoring of the procured quantity of *bhang* and maintenance of stock register

The format of the stock register has not been prescribed by the Department. It was maintained by all test checked DEOs and contained information regarding the quantity of *bhang* mentioned in the permits issued online but did not

contain the information regarding the quantity of *bhang* actually received against each permit. Audit noticed variation in figures of quantity of *bhang* for which permits were issued and actually received as mentioned in the following paragraphs.

- **Bhang procured was less than the permits issued:** The RE Act, 1950 defines *bhang* as an intoxicating drug which is an excisable article. No excisable article can be imported, exported and transported without a permit issued by an excise authority. All types of excise permits for transportation of excisable articles were issued online.

The Rajasthan Excise (RE) Rules, 1956 did not lay down any separate provision regarding issuance of *bhang* permit. As per procedure followed by the Department, permits for procurement of *bhang* were issued in quadruplicate. Original copy of the permit was for the licensee, the second copy was forwarded to the concerned Excise Officer of the State or district of export, the third copy was sent to the Excise Inspector of the circle and the fourth copy was retained by the DEO for record. Computerised information regarding issuance of *bhang* permits was available at the Department.

The information furnished by DEOs regarding procurement of *bhang* by the 29 licensee groups during the period 2013-14 to 2015-16 was cross checked with the permits issued online by DEOs. Audit noticed that there was variance in quantity of *bhang* received and the permits issued by DEOs as mentioned in the following table:

(Quantity of *bhang* in kilogram)

Year	Procurement of <i>bhang</i> from other States by all licensee groups			Transportation of <i>bhang</i> within State by all licensee groups		
	Quantity for which permits issued by DEOs online	Actual quantity shown as received by DEOs	Difference (2-3)	Quantity for which permits issued by DEOs online	Actual quantity shown as received by DEOs	Difference (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2013-14	46,000	39,500	6,500	31,198	17,215	13,983
2014-15	80,000	71,820	8,180	26,646	31,751	(-) 5,105
2015-16	59,500	44,955	14,545	17,250	22,810	(-) 5,560
Total	1,85,500	1,56,275	29,225	75,094	71,776	3,318

Source: Information furnished by the EC office.

The above table reveals that the licensees received *bhang* which was less by 29,225 kilograms from other States compared to the quantity shown in permits issued by the DEOs. Further, *bhang* transferred/sold within the State by licensee groups also varied between 5,105 and 13,983 kilogram when the information furnished by the DEOs was compared with that mentioned in issued permits.

- **Excess procurement of *bhang*:** Audit noticed that in one case of DEO, Udaipur, the licensee was permitted to import 4,000 kilogram *bhang* from Haridwar *vide* permit number BHN/UDR 000380 dated 25 June 2014 against which he imported 4,610 kilogram *bhang* as per weighment slip. This resulted in excess procurement of 610 kilogram *bhang*. The DEO did not detect the

excess procurement of *bhang* and showed 4,000 kilogram *bhang* in its stock register. The possibility that the licensees procured *bhang* illegally and from unauthorised sources cannot be ruled out.

There was no system in place to cross verify the departmental figures regarding quantity of *bhang* actually procured by the licensees.

The retail sale register and monthly report are bonafide records of retail shops reflecting legal transactions of *bhang*. In absence of these, Excise Inspectors and DEOs could not find out the quantity of procurement and sale of *bhang* at retail shops by the licensees. So the closing balance of *bhang* at the end of the licence period could not be assessed. It indicated that the Department restricted its role merely to granting of *bhang* licences and did not focus on controlling the operations of licensees.

After it was pointed out (August 2017), the Government replied (September 2017) that due to lack of verification of *bhang* procured by the licensees, inspection of shops and non-maintenance of proper records by the excise officials, such variance has occurred. Detail examination was being conducted in this regard. Further, explanation from DEO, Udaipur was being sought for excess procurement of *bhang* by the licensee in his jurisdiction.

6.4.5 Analysis of licence fees received from the *bhang* licensee groups and sale of *bhang* therefrom

6.4.5.1 Licences to the *bhang* licensee groups are allotted through open tender by fixing the minimum reserve price, also called licence fee of the groups. In case of renewal, a fixed percentage in licence fee is increased in accordance with the Excise Policy.

During test check of the records of selected units, it was noticed that the licence fee realised from five licensee groups during 2013-14 to 2015-16 increased significantly whereas sale of *bhang* shown by DEOs decreased during the same period.

Sl. No.	Name of licensee group	Licence fee of the licensee group (₹ in lakh)				Sale of <i>bhang</i> at retail shops of the licensee group (in kilogram)			
		2013-14	2015-16	Increase in licence fee (4-3)	Percentage of increase from 2013-14 to 2015-16	2013-14	2015-16	Decrease in sale of <i>bhang</i> (7-8)	Percentage of decrease from 2013-14 to 2015-16
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Alwar	19.85	47.51	27.66	139.35	214	115	99	46.26
2	Jaisalmer	8.57	23.63	15.06	175.73	2,250	1,800	450	20.00
3	Jalore	3.31	8.48	5.17	156.19	1,220	850	370	30.33
4	Jodhpur	57.45	91.01	33.56	58.42	4,350	1,920	2,430	55.86
5	Sirohi	8.94	22.80	13.86	155.03	1,060	800	260	24.53

Source: Information furnished by the EC office.

As seen from above, the licence fee increased by 58.42 to 175.73 per cent while sale of *bhang* decreased by 20.00 to 55.86 per cent. The per kilogram price of *bhang* that would have to be fixed to recover just the licence fee paid by the licensee group to the Department varied widely from district to district.

A few instances for the year 2015-16 are given below:

Sl. No.	Name of licensee group	Licence fee (₹ in lakh)	Sale of bhang at retail shops of the licensee group (in kilogram)	Per kilogram price of bhang to recover licence fee (in ₹)
1	Alwar	47.51	115	41,313
2	Bundi	291.33	2,195	13,272
3	Jaipur	336.08	2,810	11,960
4	Nagaur	8.00	2,190	365
5	Barmer	6.48	2,570	252

Source: Information furnished by the EC office.

There was huge variation in per kilogram price of *bhang* as compared to the licence fee of various groups. The Department had not fixed any norm for fixing the licence fee of the groups. It is unrealistic and possibly does not reflect the actual quantity sold by the licensees.

After it was pointed out (August 2017), the Government replied (September 2017) that the Department was considering rationalisation of the licence fee of *bhang* groups according to reserve amount and sale of *bhang* of the groups. In future, a committee will be constituted before issuance of next excise policy for rationalisation of reserve price of *bhang* groups as per their potential sale of *bhang*. Action will be taken as per the recommendation of the committee.

To further analyse the price and sale of *bhang* a Joint Inspection comprising departmental authorities and audit team was conducted for Alwar district group. The results of the Joint Inspections are mentioned in the following paragraphs:

- Licence for retail sale of bhang for Alwar district group was granted on 25 October 2017 through retendering at the rate of licence fee of ₹ 64.51 lakh for the period from 25 October 2017 to 31 March 2018. The earlier licensee who had got the licence in April 2017 for the whole year at the rate of ₹ 1.08 crore, failed to pay the monthly installment and his licence was cancelled in August 2017.
- The current licensee operated six shops in Alwar District (out of maximum 27 authorised shops by the Department) under the jurisdiction of DEO, Alwar. Joint Inspection of all the six operational retail bhang shops was conducted on 6 December 2017 and 7 December 2017 by officials of this office in presence of excise authorities.
- The licensee informed that the average purchase price of bhang from the wholesale licensee of the State was ₹ 250 per kilogram and from out of State was ₹ 100 per kilogram.
- Sale price of bhang leaves ranged between ₹ 1,000 per kilogram (at five shops) and ₹ 2,000 per kilogram (at one shop). Bhang Goli (*Majum bukani*) is prepared from Bhang leaves and was being sold at five retail shops. The salesmen at the shops informed that 100 to 125 Goli were made from one kilogram of Bhang leaves. Sale price of each Goli ranged between ₹ 10 (at three shops) and ₹ 15 (at two shops).
- Thus, based on this Joint Inspection exercise, one can say that the purchase price of bhang was ₹ 250 per kilogram and sale price of bhang ranged between ₹ 1,000 to ₹ 2,000 per kilogram in Alwar district.

- Thus, it can be seen that the sale price of Bhang varied from shop to shop in same district. It may be varying across the various licensees in the State also. Besides, the purchase price, sale price and licence fee of the Bhang mentioned above indicate that it is highly improbable for the licensee to recover the license fee paid by selling the *bhang* at the rates which were found during the Joint Inspection. The possibility of sale of *bhang* not accounted for cannot be ruled out.

The facts mentioned above indicate that there was lack of control by the Department in both fixing the licence fee as well as the selling price of the *bhang* and the levy of licence fees lacked transparency. The Department needed to take steps for bringing out transparency in the system. It may prescribe norms and fix criteria for levy of the licence fee of the *bhang* licensee groups.

6.4.5.2 Non-operation of retail shops of *bhang*

As per condition number 5 of the conditions of retail vend of *bhang* licence, a licensee can operate the retail *bhang* shops anywhere in his licenced area upto the number of shops prescribed for his group. The location of retail shops was, however, sanctioned by the concerned DEOs.

The details of total number of retail shops authorised by the EC and shops operated by the licensees under the jurisdiction of all 29 licensee groups were as under:

Particulars	2013-14	2014-15	2015-16
Total retail shops authorised by the EC	764	805	812
Number of shops operated by licensee groups	333	375	371
Percentage of operational shops	44	47	46

Source: Information furnished by the EC office.

It would be seen from the above that less than 50 *per cent* shops were operated by the licensees during the three years. The Department did not analyse the reasons for non-operation of retail shops.

6.4.5.3 Out of the seven DEOs, audit noticed in three DEOs that all the retail shops permitted under respective groups were not in operation. No permit of *bhang* was issued by the concerned DEOs during the year 2015-16 for:

- two³ out of six sanctioned shops in Sirohi;
- one⁴ out of four sanctioned shops in Jalore and
- 13⁵ out of 21 sanctioned shops in Udaipur.

These shops remained idle throughout the year without any sale of *bhang*. The DEOs did not analyse the reasons for non-operation of these shops during the entire year.

The Department did not analyse the reasons for such wide variation of license fee and had not adopted any control mechanism to ensure transparency in fixing the licence fees of licensee groups in view of variation in licence fees paid by licensees and sale of *bhang* therefrom.

³ Rohida and Bharja.

⁴ Sayla.

⁵ Gogunda, Kotda, Kheroda, Dabok, Jhadol, Savina, Fathepura, Mallatalai, Thokar, Reti Stand, Hiran Magri Sector-4, Delhi Gate and Jagdish Chowk.

After it was pointed out (August 2017), the Government stated (September 2017) that:

- the Department has directed (24 August 2017) all DEOs not to renew the licences of those shops where sale of *bhang* was nil.
- all DEOs have been directed (24 August 2017) to furnish the proposal for assessing the number of retail *bhang* shops in their jurisdiction on the basis of operational shops and sale of *bhang* therefrom during last year

6.4.6 Conclusions and recommendations

The Department did not adopt any mechanism to assess the actual procurement of *bhang* by the licensees. The excise authorities, therefore, failed to exercise proper checks and control over procurement and sale of *bhang* by the licensees in absence of verification of receipt and dispatch quantity, inspection of warehouses and retail shops and proper record keeping by the Department.

The licence fees realised from five licensee groups during 2013-14 to 2015-16 increased significantly whereas sale of *bhang* decreased during the same period. The price to be fixed per kilogram of *bhang* to recover just the licence fee paid to the Department varied widely. The Department had not adopted any control mechanism to ensure transparency in fixing the licence fee of the groups in view of variation in licence fee paid by licensees and sale of *bhang* therefrom.

Further, less than 50 *per cent* shops were operated by the licensees during the last three years. The DEOs sanctioned the location of *bhang* shops without ensuring their operation. Excise authorities were not aware about monthly report and initial record required to be maintained at retail shops by the licensees and thus were not in a position to monitor and control the procurement, sale and the balance quantity at the end of the licence period.

It was also noticed that entries made in the retail sale registers were, not verified by any excise authorities. Inaccurate entries were made by the licensees in the registers on various dates which resulted in increase or decrease of stock position without actual receipt or sale. There was nothing on record to show that inspections of *bhang* shops were conducted by excise authorities.

It is recommended that the Department should put in place an effective system for proper check and control over procurement and sale of bhang by the licensees, inspection of warehouses and retail shops and proper record keeping by the Department. It should adopt a suitable control mechanism to ensure transparency in fixing the licence fees of the bhang licensee groups in view of variation in licence fee paid by licensees and sale of bhang in the State. The Department should ensure that retail sale registers are maintained at retail shops and verified/checked by excise authorities on regular basis to ensure genuineness of the entries made therein. The Department should maintain a computerised database indicating the quantity of procurement and sale of bhang by wholesale licensees along with the retail shops for better monitoring of permits issued and sale of bhang in the State.

6.5 Non-levy of licence fee for wholesale vend of country liquor from bonded warehouse established at the place of manufacture

As per Rule 68(12)(a) of the Rajasthan Excise Rules, 1956 inserted *vide* notification of April 2011, licence fee at the rate of ₹ 5 lakh per year is to be levied for wholesale vend of Country Liquor (CL) from bonded warehouse established at the place of manufacture. This Rule was made in addition to Rule 68(13) that authorised levy of annual licence fee at prescribed rates for the wholesale vend by manufacturers of liquor to wholesale vendors. Licences for wholesale vend of Indian Made Foreign Liquor (IMFL)/Beer and CL were required to be issued separately to the units under Rule 68(13) and 68(12) (a) respectively. As per the conditions of the licence, no other liquor could be stored in the warehouse except for which the licence was granted.

During test check of licence files of distilleries and bottling plants under the jurisdiction of concerned DEOs, it was noticed (between August 2016 and December 2016) that three distilleries and six bottling plants were manufacturing and vending CL and IMFL in wholesale, from the place of manufacture. The Department levied licence fee under Rule 68(13) for the wholesale vend of IMFL. The licence fee for wholesale vend of CL under Rule 68(12) (a) was not levied as per details given below:

Sl. No.	Name of distillery/bottling plant	Concerned DEOs	Period	Licence fee recoverable (₹ in lakh)
A	Distilleries			
1	Globus Spirits Limited, Behror	Behror	2015-16	5.00
2	Hindustan Spirits Limited, Paniyala	Behror	2015-16	5.00
3	Vintage Distillers Limited, Alwar	Alwar	2015-16	5.00
B	Bottling Plants			
1	Golden Bottling Limited, Bhiwadi	Behror	2015-16	5.00
2	Ojas Industries Private Limited, Neemrana	Behror	2015-16	5.00
3	Ajanta Chemicals India Limited, Alwar	Alwar	2015-16	5.00
4	Vijeta Beverages Private Limited, Bindayaka	Jaipur City	2015-16	5.00
5	National Industrial Corporation Limited, Jaitpura	Jaipur Rural	2014-16	10.00
6	Rajwada Breweries and Bottling Private Limited, Kishangarh, Ajmer	Ajmer	2015-16	5.00
Total				50.00

This resulted in non-levy of licence fee of ₹ 50 lakh.

The matter was pointed out to the Department and reported to the Government (between October 2016 and June 2017). The Government accepted the audit observation and intimated (May 2017) that the Rule 68(13) was amended and made clear in view of licence fee for wholesale vend of IMFL/beer from 1 April 2017. It was further intimated (September 2017) that recovery of

₹ 10.00 lakh from one unit had been made and recovery would be made from the remaining units.

6.6 Non-levy of excise duty on excess wastage of rectified spirit transported under bond

Rule 5 of the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959 provides that an allowance would be made for the actual loss in transit due to leakage or evaporation of spirit transported in metal vessel under bond at the rate of 0.2 per cent to 0.4 per cent as per duration of journey. The loss has to be determined by deducting the quantity received at the place of destination from the quantity of spirit dispatched from the distillery. Both quantities were to be stated in terms of London Proof Litre⁶ (LPL) which were to be calculated on the strength of spirit dispatched and received.

During test check of the records of two units⁷ for the period 2014-16 under the jurisdiction of DEO Sriganganagar, it was found (November 2016) that 34.00 lakh LPL Rectified Spirit (RS) was shown as received at the units against dispatch of 34.15 lakh LPL RS from distilleries resulting in total wastage of 14,713.71 LPL RS during transit. The DEO verified transit wastage of only 5,930.11 LPL RS in the *Panchnamas* and accounts of the units. Thus, 8,783.60 LPL RS was not taken into accounts of the units. Excise duty of ₹ 10.25 lakh was, therefore, leviable at the rate of ₹ 116.67 per LPL prevailing at the time of consignment on this quantity. The DEO, however, did not demand the excise duty on such excess wastage.

The matter was pointed out to the Department and reported to the Government (between December 2016 and June 2017); the Government replied (September 2017) that the direction for recovery had been issued to the concerned DEO.

6.7 Non-levy of excise duty on excess alcohol used in production of Liquor

As per Rule 91 of the Rajasthan Distilleries Rules (the Rules), the distiller shall manufacture and bottle IMFL and CL, when authorised to do so of such varieties and such strength as may be prescribed and approved by the Excise Commissioner. The minimum strength⁸ for whisky, brandy and rum is 25 Under Proof⁹ (UP); gin is 35 UP; CL is 40/50 UP; rectified spirit is 60 Over Proof¹⁰ (OP) and denatured spirit is 50 OP.

Rule 106 of the Rules *ibid* stipulates that in proving spirit at fixed strengths of 25⁰, 35⁰ and 40⁰/50⁰ UP, it will be sufficient for the officer-in-charge to satisfy himself that the strength is within 0.5⁰ over the reputed strength. The issue of

⁶ London Proof Litre: Unit for showing strength of spirit.

⁷ (1) M/s H.H. Bottling Plant, Sri Ganganagar, (2) Reduction Centre of M/s Rajasthan State Ganganagar Sugar Mills Limited, Sri Ganganagar.

⁸ The proof spirit contains 49.24 per cent by weight of alcohol and 50.76 per cent of water or 57.06 per cent of alcohol by measure of volume.

⁹ When the strength of spirit is weaker than proof spirit, it is called Under Proof. Thus spirit of 25° or 25 UP contains 75 volumes of proof spirit and 25 volumes of water.

¹⁰ Over proof spirit is that which is stronger than proof spirit and is described according to number of measure of proof spirit that 100 volumes would yield when suitably diluted with water. Thus spirit of 66° or 66 OP contains 166 volumes of proof spirit.

spirit below the fixed strength is not permitted. This was also clarified by the Department *vide* circular issued in January 2015.

During scrutiny of the records of two¹¹ production units under the jurisdiction of DEO, Jaipur Rural and four¹² production units under the jurisdiction of DEO, Distillery Udaipur for the period 2014-16, it was noticed (between September 2016 and January 2017) that the samples of liquor were being sent to the Government laboratories or Government approved laboratories for ascertaining the strength of liquor. Scrutiny of chemical analysis reports of IMFL and CL revealed that the strength of liquor was less than the prescribed limit of 25⁰ UP in respect of IMFL and 40/50⁰ UP in respect of CL taken in accounts *i.e.* the alcoholic content in liquor was more than the prescribed limit. This resulted in short depiction of 35,966.07 LPL alcohol in the accounts depriving the Government of excise revenue of ₹ 57.06 lakh. In addition to loss of excise duty, the despatch of below strength liquor was in violation of Rules. No action was, however, taken against the distillers/bottlers by the concerned DEOs.

After this was pointed out (between October 2016 and June 2017); the Government replied (September 2017) that ₹ 35.54 lakh had been recovered from two units. Two units had taken stay from High Court and in remaining two units, action for recovery had been initiated.

6.8 Loss of revenue due to short determination of composite fee for shops in peripheral area

As per the Rajasthan Excise and Temperance Policy (Policy) 2014-15, settlement of country liquor shops was made on exclusive privilege amount (EPA) by inviting applications. For inviting district wise applications, the number of proposed country liquor shops/groups in the district with its EPA, composite fee, earnest money and application fee was circulated by the concerned DEOs. This information was also made available on the Departments' website. Licences for shops were granted through lottery system to the applicants. The selected applicants were liable to pay the EPA and composite fee as per the category of shop for which they had applied. In the rural areas, each shop was known by the name of *Gram Panchayat*. Further, licences of the year 2014-15 were renewed for the year 2015-16 as per the provisions of the Policy 2015-16.

According to the Policy, country liquor shops of rural area were classified in different categories. The country liquor shops of villages located within five kilometers radius from the municipal area were decided as 'composite shops of peripheral area'. The villages of such peripheral area were further categorised as 'A' and 'B'. The villages, in which country liquor shops had been operated as composite shops from 2005-06 to the previous year of allotment of the shop or shops situated on State/National Highway or shops whose peripheries were adjoining the periphery of concerned municipality, were classified in category 'A' and the rest in category 'B'. Composite fee for shops of category 'A' for the year 2014-15 and 2015-16 was to be fixed as

¹¹ M/s Pernod Ricard India (P) Limited, Kaladera, Chomu and M/s National Industrial Corporation Limited, Jaitpura.

¹² M/s United Spirits Limited, M/s Shree Mahamaya Liquor Industries and Bottling Plant, M/s Solkit Distillery and Brewery Pvt. Limited and reduction centre of M/s Rajasthan State Ganganagar Sugar Mills Limited.

equal to 3.5 per cent and 5 per cent respectively of annualised billing amount of Rajasthan State Beverage Corporation Limited (RSBCL) during previous year or annual licence fee prescribed for IMFL shop situated in concerned municipal area, whichever was higher. The composite fee for category 'B' shops for the year 2014-15 and 2015-16 was to be fixed as equal to 3.5 per cent and 5 per cent respectively of annualised billing amount of RSBCL during previous year or 50 per cent of annual licence fee prescribed for IMFL shop of concerned municipal area or ₹ 40,000 and ₹ 50,000 respectively, whichever was higher.

During test check of records of nine¹³ DEOs for the years 2014-15 and 2015-16, it was noticed (between May 2016 and February 2017) that 17 country liquor shops/groups were decided as shops of peripheral area by the Department. Scrutiny of licence fee files and relevant records disclosed that while issuing notices for inviting applications for allotment of shops, the concerned DEOs showed composite fee as either blank or a lesser amount than the composite fee payable for the shops of peripheral area. Further, a shop (Panchgaon, Dholpur) situated on State Highway was categorised as 'B' instead of category 'A'. Composite fee of ₹ 2.41 crore for 17 composite shops/groups of peripheral area was to be decided but the concerned DEOs decided and recovered ₹ 0.87 crore from these licensees. This resulted in loss of revenue amounting to ₹ 1.54 crore.

On being pointed out (between June 2016 and June 2017), the Government replied (July 2017) that in two cases of Dholpur recovery would be made, however, regarding other 15 cases it was informed that fee had been realised as per norms/rules. The reply is not tenable regarding 15 cases as the policy specified determination of composite fee according to categorisation of shops. Therefore, composite fee was to be decided in accordance with the categorisation of shops prior to applications being invited. However, in these cases composite fee was decided according to execution of the shops which was not according to the policy.

6.9 Short recovery of licence fee from Hotel Bars

As per the Rajasthan Excise (Grant of Hotel Bar/Club Bar licenses) Rules, 1973, for the purpose of hotel bar licences, hotels were broadly categorised in three categories *i.e.* luxury, heritage and others. Different rates of basic licence fee for hotel bar licence for a year or part thereof were prescribed for each category of hotels under Rule 3 *ibid*. Scrutiny of records of two DEOs¹⁴ disclosed short recovery of licence fee from hotel bars as discussed below:

Rule 2 (aa) of the rules *ibid*, inserted *vide* notification dated 31 January 2012, stipulates that 'Heritage Rajasthan Hotel' means any hotel recognised as Heritage Rajasthan Hotel by the State Government or by any other authority/committee authorised specifically for this purpose by the State Government. Heritage hotels are further classified into categories 'A', 'B' and 'C'. The basic licence fee for Heritage hotel category 'C' was prescribed as ₹ 3 lakh for the years 2011-12 to 2013-14 and ₹ 0.75 lakh for the years 2014-15 and 2015-16. In addition to the basic licence fee, minimum special vend fee of

¹³ DEOs: Ajmer, Alwar, Dhaulpur, Tonk, Shri Ganganagar, Udaipur. Jaipur city, Hanumangarh and Sirohi.

¹⁴ DEOs: Jodhpur and Pali.

₹ 0.25 lakh for the years 2011-12 to 2015-16 for Heritage hotels was also payable by the licensees.

During scrutiny of records of hotel bar licences under the jurisdiction of DEOs, Pali and Jodhpur, it was noticed (February and March 2017) that two hotel bars¹⁵ (DEO, Pali) were neither reclassified as Heritage hotels after 2011-12 by the Tourism Department, Government of India nor recognised as Heritage Rajasthan Hotel by the State Government. Similarly, one hotel bar¹⁶ (DEO, Jodhpur) was not reclassified as Heritage hotel after 2014-15. The Department, however, renewed the licences of two hotel bars (DEO, Pali) for the period 2012-13 to 2015-16 and one hotel bar (DEO, Jodhpur) for the period 2015-16 after taking licence fee of Heritage hotel category 'C' instead of licence fee recoverable under category of 'other hotels'. These licensees were liable to pay licence fee of ₹ 33 lakh (including minimum special vend fee) for the period mentioned above but the concerned DEOs raised and recovered licence fee of ₹ 18 lakh from these licensees. This resulted in loss of revenue amounting to ₹ 15 lakh.

The matter was pointed out to the Department and reported to the Government (between March 2017 and June 2017); the Government replied (July 2017) that notices for recovery from the Hotels under the Jurisdiction of DEO, Pali had been issued. In case of Hotel Fort Khejdala under DEO, Jodhpur, application for re-classification under heritage category was pending with Tourism Department from 2015-16. If the licensee would be unable to obtain the required permission, the difference amount of licence fee would be recovered as per rule.

¹⁵ Hotel Rawla Narlai and Hotel Maharani Bagh.

¹⁶ Hotel Fort Khejdala.

CHAPTER-VII

NON-TAX RECEIPTS

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Tax administration

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level, the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. The DMG is assisted by seven Additional Directors, Mines (ADM) and six Additional Directors, Geology (ADG) in administrative matters and by a Financial Advisor in financial matters. The ADMs exercise control through nine circles headed by Superintending Mining Engineer (SME).

There are 49 Mining Engineers (ME)/Assistant Mining Engineers (AME), who are responsible for assessment and collection of revenue and for prevention of illegal excavation and despatch of minerals from areas under their control. The Department has a separate vigilance wing headed by ADM (Vigilance) for prevention of illegal excavation and despatch of minerals.

7.2 Internal audit

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner and that subordinate offices are maintaining various records and registers properly and accurately besides taking adequate safeguards against non-collection, short collection or evasion of revenue.

Scrutiny of records of the DMG, Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit, the Departmental authorities were not aware of the areas of the weakness in the system which resulted in evasion or leakage of revenue. The matter is being pointed out continuously in the Comptroller and Auditor General's Audit Reports since 2011-12. Not a single unit out of 129 units was audited during the year 2016-17.

7.3 Results of audit

Test check of the records of 53 units out of 127 units of the Department of Mines and Geology and Directorate of Petroleum, conducted during the year 2016-17, revealed non-recovery/short recovery of revenue amounting to ₹ 285.56 crore in 2,112 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount	
1	Paragraph on 'Levy and collection of royalty on minerals removed through permits'	1	49.68	
2	Non-recovery/short recovery of cost of unauthorised excavated minerals	419	126.68	
3	Non-recovery/short recovery of dead rent and royalty	440	61.10	
4	Non-levy of penalty/interest	251	3.87	
5	Non-forfeiture of security deposit	37	38.98	
6	Non-recovery/short recovery of Environment Management Fund	185	1.71	
7	Other irregularities	Revenue	753	3.22
		Expenditure	26	0.32
Total		2,112	285.56	

During the year 2016-17, the Department accepted short realisation of revenue of ₹ 28.60 crore in 2,653 cases, of which 533 cases involving ₹ 10.98 crore were pointed out in audit during the year 2016-17 and rest in earlier years. The Department recovered ₹ 9.60 crore in 1,806 cases, out of which 41 cases involving ₹ 0.43 crore were of current year and the rest were of earlier years.

On being pointed out by audit, the Department accepted and recovered the entire amount of ₹ 52.03 lakh in seven cases. These cases have not been discussed in the Report.

A paragraph on 'Levy and collection of royalty on minerals removed through permits' involving ₹ 49.68 crore and a few illustrative cases involving ₹ 1.88 crore are discussed in the succeeding paragraphs.

7.4 Levy and collection of royalty on minerals removed through permits

7.4.1 Introduction

The State Government, in exercise of the powers conferred by Section 15 of the Mines and Minerals (Development and Regulation) Act 1957, made the Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 for regulating the grant of quarry licences, mining leases and other mineral concessions in respect of minor minerals. Minerals can be excavated and removed in addition to the mining leases through Short Term Permits (STPs) issued by the Department of Mines and Geology.

Short Term Permits: STPs are granted for excavation and removal of a specified quantity up to 500 Metric Ton (MT) within a specified period (up to four months) and for a specified area. For mineral like ordinary earth, masonry stone, sand, *murram*, gravel, ballast, *etc.* STPs can be granted under Rule 63 of the RMMC Rules, 1986.

STPs for more than 500 MT mineral and for period longer than four months can be granted to the work contractors working for State Government/Central Government /Autonomous Bodies /Government Undertakings on recommendations of concerned Work Department¹ for execution of works allotted by Work Department.

Brick Earth Permits (BEPs): The State Government on 10 June 1994 notified the procedure for grant of BEPs under Rule 65A of RMMC Rules, 1986. The excavation of brick earth and ordinary earth up to a depth of one and half metres from the adjoining ground level shall also be allowed under Rule 63-B but disposal of excavated mineral can only be done after obtaining a permission of ME/AME concerned.

7.4.2 Methodology for issue of STPs

The State Government prescribed the procedure for levy and collection of royalty on minerals to be used in execution of work by the contractors of Government Departments/Autonomous Bodies/Government undertakings. Concerned Work Department was required to submit a copy of each work order and 'G' Schedule² of the work along with details of minerals (cubic metres or MT) to be used in the allotted work to ME/AME having jurisdiction over the area.

Further, the contractor was required to submit one of the following options along with affidavit to the concerned ME/AME before execution of work:

- Deduction of royalty was to be made from the running bills by the concerned Work Department (Option 'A').
- Deposit royalty in advance with the concerned ME/AME office at the time of issue of STP (Option 'B').

¹ Work Department such as Public Works Department, Public Health and Engineering Department, Irrigation Department, Urban Improvement Trusts, Housing Board and Development Authorities, *etc.*

² It is a schedule of quantities and prices included in contract document.

- Purchase royalty paid minerals and submit records of the same to the concerned ME/AME office for assessment at the stage of first as well as on final bill (Option 'C').
- Jointly use option 'B' and 'C' *i.e.* excavate on his own a certain quantity of minerals after paying royalty in advance and purchase royalty paid minerals for the remaining required quantity (Option 'D').
- Use royalty paid minerals during execution of work. Further, an amount³ as royalty will also be deducted at the time of payment of final bill (Option 'E').

Source: circular dated 15 November 2011 and 9 January 2013.

7.4.3 Scope and objective of Audit

Test check of 'Levy and collection of royalty on minerals removed through permits' by the Department covering period from April 2013 to March 2016 was undertaken to examine whether the permits were issued in accordance with the rules, procedures, orders and circulars issued by the State Government or Department from time to time. The Department comprises 49 ME/AME offices. Of these, Audit selected seven ME offices⁴ for detailed check. In addition to this, deficiencies noticed during the year 2016-17 in the regular audit were also included.

Audit findings

7.4.4 Issue of short term permits

On scrutiny of records of STPs at 12 ME/AME offices⁵, the following shortcomings were noticed:

7.4.4.1 Maintenance of records

As per the circular dated 15 November 2011 issued by the State Government concerned Work Department was required to submit a copy of work order and 'G' Schedule of work containing details of minerals to be used (cubic metres or MT) for execution of work to the ME/AME having jurisdiction over the area. Further, the ME/AME concerned was required to ensure that the Work Department makes recovery of the royalty in accordance with the option submitted by the contractor. The Department had, however, not developed any system/mechanism to record/monitor the recovery of the royalty on the basis of options submitted by the contractors.

Scrutiny of records of selected ME offices, however, disclosed that four ME offices⁶ had maintained registers to record the options submitted by the contractors.

³ Three *per cent* of total cost of work in case of construction/widening of road, construction of building and one and half *per cent* in case of repairing and other work.

⁴ ME Offices: Ajmer, Bharatpur, Bhilwara, Jaipur, Jodhpur, Kota and Udaipur.

⁵ Seven selected ME Offices: Ajmer, Bharatpur, Bhilwara, Jaipur, Jodhpur, Kota, Udaipur and five regular Audit Offices: ME Alwar, Bikaner, Jaisalmer, Rajsamand-II and AME Jhalawar.

⁶ Ajmer, Bhilwara, Jodhpur and Kota.

The registers maintained by ME Jodhpur and Kota contained the details of 5,937 contractors who had applied for STP/submitted an option to the ME during April 2013 to March 2016. The register, however, had no details regarding actual date of work completion, details of mineral consumed, date of assessment and date of issue of 'no objection certificate'. In absence of these details, the MEs could not ensure correct assessment/ recovery of royalty.

At ME office Ajmer and Bhilwara details of contractors who had submitted option 'C' were not being entered in the register to monitor their receipts. The ME Bhilwara accepted the facts and assured (July 2017) to record all the necessary details in the register.

No register was maintained in the remaining three ME offices⁷. The details of contractors and option submitted by them were, therefore, not available with these offices to ensure that recovery of royalty from all liable contractors was made.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.2 Incomplete affidavits submitted by the contractors

Clause 2 of circular dated 15 November 2011 issued by the State Government stipulates that the work contractor was required to submit an option along with affidavit stating option under which he would pay royalty as per the procedure prescribed in circular *ibid*.

- Audit scrutiny of records at ME Udaipur disclosed that in 90 out of 96 cases the affidavits submitted by the work contractors were incomplete. The affidavits did not contain the name of work, work order number, *etc*.

In the remaining six cases the affidavits were found blank, even the signature of the contractors was not found but the concerned ME, Udaipur accepted them and considered these in option 'C' and intimated the Work Department accordingly.

- In addition to the above, audit scrutiny revealed that one contractor had applied (Between 26 December 2013 and 20 February 2014) for STPs for excavation of mineral ordinary earth at ME Bhilwara. But ME Bhilwara had not issued STP. These applications for issue of STPs were kept in the files without recording any reason. The quantity of the mineral applied for were 2.40 lakh MT of mineral ordinary earth. Non-issue of the permits resulted in loss of royalty of ₹ 6 lakh and permit fee of ₹ 1.20 lakh.

After this was pointed out the ME stated (July 2017) that permits were not issued as the firm got STPs issued for other places. The reply is not acceptable as the ME had to issue the STPs for the particular work for which the contractor had applied. Further, the ME had not enclosed documentary evidence in support of reply.

⁷ Bharatpur, Jaipur and Udaipur.

In 220 cases of two ME offices⁸ the affidavits were not found on record.

The above facts indicated that there is a need for prescribing a register that could contain all the necessary details relating to the issue of STPs and collection of royalty thereon.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.3 Lack of co-ordination between the departments

The circular dated 15 November 2011 stipulates that if the Work Department did not follow the procedure laid down in the circular or passed final bill of the work without 'no objection certificate' (NOC) of the Mines Department or the contractor had used illegally excavated minerals, then 10 times royalty of the used mineral would be recoverable and the concerned Work Department would be liable to deposit that amount.

It was noticed that there was lack of co-ordination between Work Departments and Mines Department to check the revenue leakage as discussed below:

- Scrutiny of agreement registers maintained in the office of the Executive Engineer, Public Works Department (PWD) District Division-II Udaipur, for the year 2013-14 to 2015-16 revealed that 46 contractors executed works amounting to ₹ 7.71 crore. These contractors, however, had not applied for STPs. These works were related to road renewals, patch repairs, construction of buildings, *etc.* which required use of minerals during execution of work. The contractors were, therefore, liable to pay royalty. The agreement registers revealed that in 35 cases, final bills had been paid to them without recovering royalty and without NOC of Mines Department. In remaining 11 cases, actual date of completion of work and payment of final bill was not recorded in the register.
- As per the circular dated 9 January 2013 contractors who were categorised under option 'E' were required to submit an affidavit to the Work Department. Further, a copy of the affidavit was to be endorsed to the Mines Department indicating that no illegally excavated mineral would be obtained by them for use in execution of work. According to this option the Work Department was required to deduct royalty (Three *per cent* of total cost of work in case of construction/widening of road, construction of building and one and half *per cent* in case of repairing and other work) from final bill of the work and deposit it with Mines Department.

Scrutiny of information provided by five offices⁹ revealed that 443 contractors who had executed works during April 2013 to March 2016 had submitted option 'E'. During cross verification of information with the records of concerned ME offices, it was noticed that endorsed copies of the affidavits of the contractors who were categorised under option 'E' had neither recorded the information nor information regarding recovery and deposit of royalty was received from concerned Divisions.

⁸ ME Kota-216 cases and ME Udaipur-4 cases.

⁹ Water Resources Division, Bharatpur; Water Resources Division-I, II, Bhilwara; PWD District Division-II, Udaipur and PWD City Division, Udaipur.

In absence of these records, it could not be ascertained whether royalty had been deducted in all these cases. The above facts indicated that there was lack of co-ordination between the concerned Work Departments and the Mines Department that needs to be strengthened in the interest of revenue.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.4 Pending assessments of minerals used in civil works

The procedure for recovery of royalty was prescribed in the circular dated 15 November 2011. According to the circular, the *rawanna*¹⁰ submitted by the contractor for assessment of royalty should be in his name only. Scrutiny of records of options submitted by the contractors for issue of STPs at nine ME/AME offices¹¹ disclosed the following shortcomings:

- As per the procedure prescribed vide circular *ibid*, in case of option ‘C’ and option ‘D’¹², first running bill of the work could only be passed after assessment of minerals used up to that stage and final bill could be passed after obtaining NOC from the concerned ME/AME office.

During audit it was noticed that in 896 cases work had been completed between April 2013 and March 2016, as per the date of completion mentioned in their work order. In 811 cases, assessment of royalty was neither done at the stage of first running bill nor at the stage of passing the final bill by the concerned MEs/AMEs. In remaining 85 cases, minerals used up to first running bill stage were assessed but assessments of the minerals used up to final bill stage were pending (July 2017). It was also noticed that the MEs had not pursued the concerned Work Departments to ensure that the contractors produced NOC of Mines Department before payment of final bill.

- As per circular dated 15 November 2011 the contractor who had submitted option ‘C’ and ‘D’ was required to produce bill/*rawanna*/royalty receipt issued in the name of the contractor and if the contractor had used illegally excavated minerals, then 10 times royalty of the used mineral would be recoverable.

In 14 cases¹³, the work contractors had submitted *rawannas*/royalty receipts which were issued in the name of persons other than the contractors. The MEs accepted these *rawannas*/royalty receipts and assessed the royalty despite the fact that *rawannas*/royalty receipts were not issued in favour of contractors. The excavation, here should be treated as illegal and 10 times royalty of the used minerals should have been recovered. The cost of illegally consumed mineral worked out to ₹ 20.88 lakh.

ME Udaipur replied (May 2017) that in small works, contractors had purchased minerals from the stockist available in the market and the name

¹⁰ *Rawanna* means delivery challan for removal or despatch of mineral from mines.

¹¹ Seven selected ME offices: Ajmer, Bharatpur, Bhilwara, Jaipur, Jodhpur, Kota, Udaipur and two regular Audit offices: ME Jaisalmer and AME Jhalawar.

¹² In respect of royalty paid minerals obtained.

¹³ ME Offices: Bharatpur-2, Jodhpur-5 and Udaipur-7 cases.

of stockist appeared on the submitted *rawannas*/royalty receipts. The reply is not tenable as the purchase bills of minerals from stockiest were neither available in the records nor a mention of the same was made in the assessment orders.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.5 Use of mineral ‘ordinary earth’ by work contractors without STP

Mineral ‘ordinary earth’, used for filling or leveling purposes in construction of embankments, roads, railways, buildings, *etc.* was also notified as minor mineral by the Government of India vide notification dated 8 February 2000. As no mining lease of mineral ‘ordinary earth’ was granted by the State Government, mineral ‘ordinary earth’ can only be obtained under STP on payment of advance royalty. The contractors who had submitted option ‘C’ were required to purchase royalty paid minerals, thereafter, they were required to submit records to the concerned MEs/AMEs regarding payment of royalty for assessment at the stage of first or final bill as the case may be.

- On scrutiny of records of ME Bharatpur and Jaipur, it was noticed that as per ‘G’ schedule 2.46 lakh MT (1.76 lakh cubic metres) of mineral ‘ordinary earth’ was required in the execution of 16 works where contractors had submitted option ‘C’. It was found that the Work Departments submitted consumption certificates to the concerned MEs regarding use of minerals in the works. The consumption certificates did not mention the use of mineral ‘ordinary earth’. The ‘G’ schedule, however, contained details regarding the requirement of mineral ‘ordinary earth’ for execution of work. This indicated that utilisation of the mineral was not checked as per ‘G’ schedule by the MEs. The possibility that the contractors could have illegally excavated and used mineral ‘ordinary earth’ could not be ruled out.

The final bills of these works though called for by Audit were not provided by the Work Departments. In absence of the final bills, actual quantity of the mineral used in the works could not be ascertained to work out the cost of the mineral.

- During scrutiny of records of ME Bhilwara, it was found that Executive Engineer, PWD Division, Bhilwara awarded (August 2012) work of widening and strengthening of a road in favour of a contractor. The ME issued (November 2012) STP for 2.17 lakh MT mineral ‘ordinary earth’ to be used in execution of work without recovery of royalty. The contractor deposited the permit fee only but did not deposit royalty of ₹ 5.41 lakh. The ME, however, while issuing (May 2014) no dues certificate incorrectly recorded that royalty had been paid. The omission on the part of ME resulted in non-realisation of the royalty of ₹ 5.41 lakh¹⁴.

¹⁴ Ordinary earth 2,16,515 MT X ₹ 2.50 (Royalty rate).

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.6 Issuance of STP in excess of quantity permitted in Consent to Operate

Rule 37T(1)(i) of RMMC Rules, 1986 prescribed that every holder of STP shall obtain Consent to Operate (CTO) from the Rajasthan State Pollution Control Board (RSPCB) prior to start of mining operations and implement the conditions of CTO strictly.

During audit of ME Jodhpur, it was noticed that a CTO was issued (23 December 2015) by RSPCB to a contractor for excavation of two lakh MT of mineral masonry stone for the period from 15 December 2015 to 30 November 2018 for execution of a work awarded by Chief Engineer, (NHDP-IVA) Ministry of Road Transport and Highways, New Delhi. Scrutiny of records revealed that ME Jodhpur issued STPs for 2.44 lakh MT of mineral masonry stone to the contractor instead of two lakh MT quantity permitted in CTO. The ME, therefore, issued STP for 0.44 lakh MT of mineral masonry stone in excess of quantity permitted in CTO which was irregular.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.7 Non-assessment and non-recovery of cost of mineral

Rule 48(1) of RMMC Rules, 1986 provided that no person shall undertake any mining operations except in accordance with the terms and conditions of the STP or any other permission granted under these Rules. Further, proviso to Rule 48(5) provided that where mineral so raised has already been despatched or consumed, the authorities may recover cost of the mineral which will be computed as 10 times the royalty payable at the prevalent rates.

During audit of records of ME Jaisalmer, it was noticed that State Directorate of Revenue Intelligence (SDRI), Jaipur informed Mines Department regarding unauthorised use of minerals during installation work of wind mills by three companies and proposed to recover cost of minerals of ₹ 28.28 crore.

In compliance with the proposal of the SDRI, the ME Jaisalmer issued (June 2016) notices to these companies to submit information of the installation work of wind mills executed by them along with details of source of minerals. It was mentioned therein that non-furnishing of desired information within 30 days would attract action for recovery of ₹ 25.61 crore. The executors did not furnish the desired information (March 2017). The ME, Jaisalmer neither took any action to calculate the quantities of minerals used by these companies nor recovered the cost of minerals as proposed by the SDRI.

Scrutiny of three applications submitted by two companies (other than the above mentioned companies) for issuance of STPs for execution of similar works at the office of ME Jaisalmer revealed that 1,120 MT of mineral 'murrum' was required for construction of 800 metre length of approach road for each wind mill. SDRI, however, calculated the required quantity of the minerals as 672 MT each of 'ordinary earth' and 'murrum' for the construction of 800 metre length of approach road for each wind mill as per

information available with them. SDRI, therefore, calculated the quantity of mineral *murram* less by 448 MT for construction of approach road of each wind mill. The amount of royalty of mineral '*murram*' assessed less by the SDRI worked out to ₹ 9.86 crore. Thus, inaction on the part of the Department resulted in non-recovery of ₹ 38.14 crore including ₹ 28.28 crore worked out by SDRI.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.8 Use of mineral by road work contractors

The circular dated 15 November 2011 issued by the State Government stipulated following provisions for work contractors including BOT¹⁵ contractors:

- After completion of work, the Work Department was required to provide the details of quantities of minerals actually utilised by the contractor to concerned ME/AME office.
- If the Work Department did not follow the procedure laid down in the circular or the contractor had used illegally excavated minerals, then 10 times royalty of the used mineral would be recoverable and the concerned Work Department would be liable to deposit that amount.

The State Government vide circular dated 18 October 2012 and 9 January 2013 instructed that 'Toll recovery authorisation' can only be issued to the BOT contractors after furnishing no dues certificate of Mines Department.

National Highway Authority of India (NHAI), Regional Office (Rajasthan), Jaipur vide their letter dated 23 June 2017 intimated that 33 road work projects of ₹ 16,957.52 crore were executed in Rajasthan during April 2013 to March 2017. Out of these four projects of ₹ 5,160.76 crore were executed within the jurisdiction of three selected ME offices¹⁶ on BOT basis. These four works were completed between July 2013 and December 2015 and toll was also levied on these roads. There was nothing on records to indicate that no dues certificates were issued or any assessment of the minerals used in the work was done by the Mines Department.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5 Issue of Brick Earth Permits

State Government notified (10 June 1994) the procedure for issuance of BEPs for use of mineral brick earth by the brick kilns in the interest of mineral development under Rule 65A of RMMC Rules, 1986. Accordingly, permits could be granted for a minimum period of one year and maximum period for five years. During the permit period, the permit holder can excavate and use mineral brick earth up to the permitted quantity at the specific kiln.

¹⁵ BOT: Build, operate and transfer.

¹⁶ ME office: Ajmer, Jaipur and Udaipur.

Rule 63-B of RMMC Rules, 1986 provided that the excavation of brick earth, ordinary earth and ordinary clay up to a depth of one and half metres from the adjoining ground level shall be allowed but brick earth, ordinary earth and ordinary clay so excavated shall be disposed of or consumed only after obtaining a permission from the concerned ME/AME on payment of the royalty and fee.

On scrutiny of records of BEPs at selected ME offices, the following shortcomings were noticed:

7.4.5.1 Disposal of applications of BEPs

No register for recording details of the applications of BEPs or their operational status was prescribed by the Department.

ME Jaipur, had maintained a register regarding the applications received for BEPs. As per the details of the register, 178 applications were received during the years 2013-14 to 2015-16 out of which 149 were sanctioned and 28 were rejected. Status of one application was not available. Reasons for rejection of 28 applications were not recorded in the register.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5.2 Non-recovery of Permit fee

According to Rule 63(4) of RMMC Rules, 1986 permit fee was required to be paid for a STP exceeding 500 MT of mineral at the rate of ₹ 200 and ₹ 50 for every additional 100 MT or part thereof.

During scrutiny of the records of three ME offices¹⁷, it was noticed that in 82 cases permission for excavation of brick earth was granted without recovery of permit fee of ₹ 4.15 lakh for excavation of 8.36 lakh MT of mineral brick earth. This resulted in loss of revenue of ₹ 4.15 lakh and granting of permissions were also irregular.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5.3 Irregular issuance of Brick Earth Permits

Hon'ble Rajasthan High Court, Jodhpur in its order dated 2 August 2014 in DB Civil Writ Petition number 1536/2003 directed the State Government to restore the catchment areas to their original shape. Thus, no permission for excavation could be granted in these areas.

At ME Ajmer, it was noticed that no register was maintained to record details of the BEP applications and their operating status. Scrutiny of BEP files revealed that a BEP¹⁸ was sanctioned in the catchment area of 'Foy-Sagar' lake. The Area Foreman of the office had inspected the site before grant of the permit. However, he did not mention the fact regarding catchment area in his report¹⁹. The area was again inspected by the Foreman

¹⁷ ME Office: Ajmer, Bharatpur and Bhilwara.

¹⁸ BEP number 147/13.2.2014 (9,975 MT/ Year), *khasra* number 1960, 1957 of village Hathikheda, district Ajmer. Permit holder excavated 11,068 MT mineral during 13 February 2014 to 24 March 2015.

¹⁹ The area of BEP number 147/13.2.2014 was inspected on 12 February 2014.

on 2 December 2014 and it was found that area of the BEP fell in the catchment area of the lake. ME cancelled the permit on 20 March 2015 on the grounds of outstanding dues and took the possession of the area on 25 March 2015. The Executive Engineer, Water Resource Division-II, Ajmer intimated (November 2015) that area of BEP was in the catchment area of 'Foy-Sagar' lake. In the meantime the BEP holder had excavated 11,068 MT mineral which was contradictory to the directions of the Hon'ble High Court.

- During scrutiny of BEP records of ME Jaipur, it was noticed that a BEP (4/2009) was issued for excavation of 14,700 MT brick earth per annum for five years with effect from 5 March 2009. It was noticed that 73,500 MT mineral had been excavated from the area under the BEP during the period March 2009 to March 2014.

According to the Rule 63-B of RMMC Rules, 1986 total 87,364 MT²⁰ mineral brick earth could only be excavated up to a depth of one and half metres from the adjoining ground level from an area of 16-09 *bigha* out of total area of a *khasra* (Number 8 of village Heerawala) of 20-09 *bigha*²¹.

As a result, new permit for excavation of 13,864 MT (87,364 MT– 73,500 MT) of mineral could only be issued. Scrutiny further revealed that a BEP (23/2014) was issued (March 2015) on the same area to excavate 14,700 MT of mineral brick earth. Thus, permission for excavation of 836 MT mineral (14,700 MT– 13,864 MT) was irregular.

It is pertinent to mention that the permit holder again applied (March 2016) for excavation of mineral 'brick earth' from the same area and the permission was granted (April 2016) by ME for excavation of 14,700 MT mineral for a period of one year from 28 April 2016 under BEP (52/2016). The ME, therefore, irregularly allowed the permit holder to excavate 15,536 MT (836 MT and 14,700 MT) of 'brick earth' in violation of the Rule 63-B.

The ME, Jaipur replied (April 2017) that the permits issued earlier were on the basis of availability of mineral and no restriction regarding depth was applicable at that time. The reply is not acceptable as the restriction was applicable at the time of issuance of BEPs (23/2014 and 52/2016).

- Rule 37(I)(1) of RMMC Rules, 1986 stipulated that every holder of a STP shall carry out mining operations in accordance with the approved simplified mining scheme (SMS)²².

At ME Jaipur, it was noticed that a BEP (18/2013) holder, in its approved SMS, mentioned that 26,810 MT of mineral brick earth was available on a particular site from where he desired to excavate the mineral brick earth while BEP was issued (May 2013) for 73,500 MT²³ quantity of mineral brick earth. The ME did not specify the

²⁰ 16.45 *bigha* X 2,529 (Square metre in one *bigha*) X 1.5 (Depth of area in metre) X 1.4 (Conversion factor).

²¹ As reported (28 January 2015) by the Mines Foreman in four *bigha* out of 20-09 *bigha* brick kiln was constructed.

²² Simplified mining scheme means a scheme prepared for the development of minor mineral deposits in the area.

²³ 14,700 MT per year for a period of five years effective from 4 April 2013.

place/source from where the remaining quantity of 46,690 MT of mineral brick earth could be excavated by the permit holder. The permit holder excavated 43,979 MT of mineral up to 31 March 2016. The permit holder thus, excavated 17,169 MT of mineral brick earth in violation of the provisions of Rule *ibid*. The ME, therefore, irregularly allowed the permit holder to excavate mineral worth ₹ 42.92 lakh²⁴.

The above facts indicate that the Department needs to be vigilant while issuing BE permissions and ensure that the permits are issued after a thorough investigation by the Department after considering the capacity of kiln and the availability of mineral at site from where excavation was proposed to be made.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5.4 Unauthorised excavation of mineral brick earth and ordinary earth

Brick making through the process of kiln is a continuous process and as per the procedure notified (10 June 1994) by the State Government, royalty is recoverable on the basis of annual consumption capacity of the kiln. In case the kiln is found running without permission, 10 times of royalty shall be recovered as per Rule 48 of RMMC Rules, 1986²⁵. Scrutiny of records related to illegal excavation and transportation of mineral brick earth and ordinary earth in seven ME offices²⁶ disclosed the following shortcomings:

- During audit of ME Rajsamand-II, it was intimated (March 2017) that no brick earth permit existed in office jurisdiction during 2015-16. The Collector and District Magistrate, Rajsamand, however, informed (March 2017) that in 263 cases (15-brick kilns and 248-‘*Ava Kajawas*²⁷’) bricks were being produced by the persons/firms. Loss of royalty to the State Government could not be calculated because the information provided by the Collector and District Magistrate, Rajsamand did not contain capacity of brick kilns/*bhatta*. This shows lack of monitoring by the Department where a huge quantity of mineral brick earth was being excavated illegally.
- In 48 cases, five ME offices²⁸ initiated recovery of cost of illegally excavated mineral brick earth on the basis of bricks/brick earth found on the spot at the time of inspections instead of annual consumption capacity of the brick kilns. This resulted in short raising of demand amounting to ₹ 10.05 crore. Further, in 29 cases the capacity of brick

²⁴ 17,169 MT X ₹ 25 per MT (Royalty rate) X 10.

²⁵ Rule 48 provided that no person shall undertake any mining operations except in accordance with the terms and conditions of the short term permit or any other permission granted under these rules. Further, sub-rule (5) and proviso provided that where mineral so raised has already been consumed or despatched, the authorities may recover cost of the mineral which will be computed as 10 times the royalty payable at the prevalent rates.

²⁶ Four selected offices: Bharatpur, Bhilwara, Jaipur and Udaipur and three regular Audit offices: Alwar, Bikaner and Rajsamand-II.

²⁷ Baking of bricks / kawelus in open non-continuous *bhattas* without using any form of chimney will be considered as baked through the process of *Ava and Kajawa*.

²⁸ Three selected offices: Bharatpur, Bhilwara and Jaipur and two regular Audit offices: Alwar and Bikaner.

kiln was not mentioned in the *panchnama* reports by two ME offices²⁹. In absence of the capacity of the brick kiln exact demand could not be calculated.

- At ME office Udaipur, out of 29 cases of illegal excavation and transportation of mineral brick earth and ordinary earth, in 17 cases penalty was recovered. In seven cases, FIRs were lodged with the Police Department. No further pursuance or follow-up of the FIRs, however, were found on records. Further, in five cases, neither recovery was initiated nor FIRs lodged.

When this was pointed out the Department raised a demand aggregating to ₹ 16.75 lakh in cases of Alwar and Bikaner, out of which, ₹ 2.08 lakh had been recovered. Final reply in the remaining cases has not been received (November 2017).

7.4.5.5 No action for recovery of royalty on bricks made through the process of 'Ava- Kajawa'

According to Rule 58(b) of RMMC Rules, 1986 excavation of clay used by the potters for making bricks and *kawelus* baked through the process of 'Ava-Kajawa' was exempted from payment of royalty. The Rule was amended (31 December 2012) and exemption was limited only to excavation of clay used by the potters for earthenware pots and *kawelus*. As a result of this amendment, royalty on excavation of clay used for making bricks through the process of 'Ava-Kajawa' was payable with effect from 1 January 2013. The Government by issue of an order (14 February 2013) stayed implementation of the amended rule. The Director Mines and Geology (DMG) was asked to intimate the royalty impact of the amendment. Rule, however, was again introduced with effect from 28 February 2017.

During scrutiny of records of ME Bhilwara, it was noticed that in 34 *bhattas* bricks were being made through the process of 'Ava-Kajawa' in 'Mandal' *tehsil* of district Bhilwara. No recovery of royalty could be done by the ME due to stay on the implementation on the amended rule. The ME did not intimate number of *bhattas* where bricks were being made through the process of 'Ava-Kajawa' in other *tehsils*. The royalty amount could not be worked out as the capacity of these *bhattas* were not available with the ME.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5.6 Excavation of mineral without CTO/in excess of CTO

Rule 37T(1)(i) of RMMC Rules, 1986 provided that every holder of permit shall obtain CTO from the RSPCB prior to start of mining operations and implement the conditions of CTO strictly.

During scrutiny of records of ME Jaipur, it was noticed that in nine BEPs (during April 2013 and March 2016), CTOs were not found in records.

²⁹ Jaipur-12 cases and Udaipur-17 cases.

Further, in nine cases of three ME offices³⁰, the BEP holders had excavated 1.45 lakh MT of mineral brick earth over and above the quantity permitted in CTOs. The issue of permits over and above the quantity permitted in CTOs was incorrect and the Department needs to ensure that such practice is stopped.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.6 Non/short recovery of District Mineral Foundation Trust amount

Rule 13(1) (iii) of the District Mineral Foundation Trust (DMFT) Rules, 2016 prescribed that 10 *per cent* of royalty amount paid for Minor Minerals was required to be paid by the permit holder towards the DMFT. It was required to be deposited in the account of trust. The Rule was effective from 12 January 2015.

- Scrutiny of records of ME Jaipur revealed that royalty of ₹ 7.14 crore was recovered on mineral brick earth during February 2015 to March 2016 but DMFT amount of ₹ 14.97 lakh only was paid by the permit holders resulting short recovery of DMFT amount of ₹ 56.45 lakh.
- Scrutiny of records at ME Ajmer and Jaipur revealed that 94 STPs (ME Ajmer-14 cases and ME Jaipur-80 cases) for mineral 'ordinary earth' were granted during 20 January 2015 to 31 March 2016 and royalty of ₹ 1.20 crore was paid by the permit holders but DMFT amount of ₹ 11.96 lakh was neither paid by the permit holders nor was demanded by the Department.

On being pointed out, ME Jaipur replied (April 2017) that the due amount of DMFT would be recovered.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.7 Conclusions and Recommendations

The Department could not monitor recovery of royalty by the Work Departments due to non-maintenance of registers/absence of desired information in the registers maintained by MEs/AMEs. Lack of co-ordination between departments resulted in payment of final bills to contractors without no objection certificates of the Mines Department and, therefore, realisation of royalty of the minerals used in execution of works could not be ensured. The concerned ME offices did not pursue the Work Departments to follow the procedure which resulted in non-assessment of royalty in cases of short term permits (STPs). In absence of proper scrutiny of 'G' schedules of the works, the MEs could not ascertain the requirement of mineral ordinary earth and thereby could not check the unauthorised use of mineral, if any. Cases were noticed where applications for brick earth permits were rejected without

³⁰ Ajmer, Bharatpur and Jaipur.

recording reasons. MEs had issued permits for the quantities which were more than the quantities available in the areas/permitted in Consent to Operates. Inaction of the Department resulted in non-recovery of royalty on bricks made through 'Ava-Kajawa' for the period from February 2013 to February 2017. Amount for District Mineral Foundation Trust was short paid by the permit holders.

Minor Minerals like sand, gravel, brick earth, *etc.* can be excavated and removed through short term permits and brick earth permits vide Rajasthan Minor Mineral Concession Rules, 1986 and Rule 65A notification of 1994 extant. Audit observed that the Department of Mines and Geology and its field formations did not maintain essential records. The Department did not properly monitor excavation, removal and disposal of the minor minerals; and manage the collection of royalty efficiently. This led to non-realisation of royalty amounting to ₹ 38.47 crore in case of STP and ₹ 10.52 crore in respect of Brick Earth Permits during the period from April 2013 to March 2016.

It is recommended that Department may put in place effective controls using dashboards to monitor the performance of short term permits/brick earth permits and manage collection of the ensuing royalty efficiently.

7.5 Short recovery of revenue due to incorrect revision of contract amount

Rule 32(3) of the RMMC Rules, 1986 provided that the amount to be paid annually by the royalty collection contractor/excess royalty collection contractor³¹ (RCC/ERCC) to the Government shall be determined in auction/e-auction or by tender/e-tender. Provided that in case of enhancement or reduction in the rate of royalty or permit fee/other charges:

(i) the 'royalty collection contractor' shall be liable to pay an increased or reduced amount of contract money, security amount and guarantee amount in proportion to the enhancement or reduction for the remaining period of contract from the date of such enhancement or reduction;

(ii) the 'excess royalty collection contractor' shall be liable to pay an enhanced or reduced amount of contract money, security amount and guarantee amount calculated according to the prescribed formula *i.e.* Revised contract amount = {(existing contract amount + total existing dead rent) X new royalty rate /existing royalty rate – total existing dead rent}.

Further as per Rule 37(U)(11) in case of mining leases where excess royalty collection contract is given, the contributions for Environment Management Fund (EMF) shall be recovered along with royalty through contractor.

7.5.1 The State Government vide notification dated 5 August 2014 revised the rate of royalty of mineral *bajri* from ₹ 20 per MT to ₹ 30 per MT³², mineral *murram* from ₹ 18 per MT to ₹ 25 per MT and mineral lime *kanker* from ₹ 15 per MT to ₹ 20 per MT.

During scrutiny of the records of office of the ME, Bikaner it was noticed (January 2017) that a royalty collection cum excess royalty collection contract was sanctioned (February 2014) for the period from 1 April 2014 to 31 March 2016 to a contractor for ₹ 29.39 crore³³ per annum. The contract³⁴ was for collection of royalty and permit fee on mineral *bajri*, *murram* and *kanker* obtained from the overburden of the major mineral leases³⁵ and excess royalty on *bajri* from the minor mineral leases.

The royalty rates were revised on 5 August 2014 for mineral *bajri*, *murram* and *kanker*. Thus, the contract amount was required to be enhanced. The ME Bikaner revised the contract amount to ₹ 35.52 crore *vide* order dated 8 August 2014. Audit scrutiny revealed incorrect revision of the contract amount as discussed in the following paragraph:

The contract amount comprised of royalty, permit fee and Environment Management Fund (EMF). The permit fee was equivalent to 33 *per cent* of the contract amount. For arriving at revised contract amount the EMF³⁶ of ₹ 5.88 crore was required to be deducted first from total amount of the

³¹ Royalty collection contractor/excess royalty collection contractor is a contractor authorised to collect the royalty for a certain period on payment of a lump sum amount.

³² In respect of Bikaner.

³³ The contract amount included royalty/ excess royalty, permit fee of ₹ 23.51 crore and ₹ 5.88 crore towards Environment Management Fund (EMF) amount.

³⁴ The area of contract was the revenue area of Bikaner (except city limits), *tehsil* Nokha, Lunkaransar and Kolayat.

³⁵ Major mineral clay which was notified as minor mineral *vide* Government of India notification dated 10 February 2015.

³⁶ The rate of EMF remained unchanged.

contract. This was not done instead it was deducted after the deduction of permit fee. This resulted in short revision of contract amount of ₹ 1.37 crore for the period from 5 August 2014 to 31 March 2016 as detailed in **Appendix-I**.

The matter was pointed out to the Department and reported to the Government (May 2017). The Government replied (September 2017) that demand notice had been issued (June 2017) for recovery of the amount against which the contractor had filed a civil writ petition in Hon'ble Rajasthan High Court, Jodhpur.

7.5.2 The State Government vide notification dated 5 August 2014 revised the rate of royalty of mineral granite (block having any dimension more than 70 centimetre) from ₹ 175 per MT to ₹ 235 per MT and mineral granite (block having dimension not more than 70 centimetre *i.e. khanda*) from ₹ 65 per MT to ₹ 90 per MT. The enhanced rate of royalty of mineral granite (block having any dimension more than 70 centimetre) was reduced to ₹ 215 per MT on 26 August 2014. The rate of dead rent³⁷ of mineral granite was ₹ 40 per 10 square metre or part thereof as notified by the State Government on 9 March 2010.

During scrutiny of the records of office of the ME, Jaisalmer, it was noticed (March 2017) that an excess royalty collection contract was sanctioned (March 2014) for a period from 1 April 2014 to 31 March 2016 to a contractor for ₹ 4.59 crore per annum. The contract³⁸ was for collection of excess royalty on mineral granite.

The royalty rate was revised on 5 August 2014 for mineral granite and accordingly the contract amount was required to be enhanced. The ME Jaisalmer revised the contract amount to ₹ 6.30 crore per annum (with effect from 5 August 2014) and ₹ 5.74 crore per annum (with effect from 26 August 2014) vide order dated 13 August 2014 and 28 August 2014 respectively. It was found that the revision done in the contract amount by the ME on both the instances was incorrect. The ME had incorrectly added dead rent of ₹ 0.64 crore in the formula due to arithmetic mistake in calculating the dead rent. Whereas the actual dead rent was ₹ 1.26 crore. This resulted in incorrect revision of contract amount and thereby short recovery of ₹ 24.39 lakh.

The matter was pointed out to the Department and reported to the Government (May 2017). The Government accepted the audit observation and replied (June 2017) that notice had been issued (May 2017) to the contractor for depositing the amount along with interest. It was, further, stated (September 2017) that action was being taken under LR Act for recovery of the amount.

7.6 Non-raising of demand of interest

Rule 33 D (2) read with Rule 37(A) (xvii) of the RMMC Rules, 1986 provided that the monthly/quarterly instalment of annual contract amount shall be paid in advance before the due date. In case the monthly/ quarterly instalment is not

³⁷ Dead Rent means the minimum guaranteed amount payable for mining lease.

³⁸ The area of contract was the revenue area of district Jaisalmer and district Barmer (except *tehsil* Siwana).

deposited by the due date then interest shall be payable at the rate of 15 per cent per annum from the due date on unpaid amount.

Rule 37T (5) inserted in RMMC Rules, 1986 vide notification dated 19 June 2012 provided that every lessee/licensee shall deposit contribution in Environment Management Fund (EMF) on despatch of mineral. Further, as per Rule 37(U)(11) (January 2013) in case of mining leases where excess royalty collection contract is given, the contributions for EMF shall be recovered along with royalty through contractor.

During test check of the records³⁹ of the ME, Jaipur, it was noticed (August 2016) that in seven excess royalty collection contracts, EMF amounting to ₹ 2.16 crore was collected by contractors but was deposited with delays ranging between 40 days and 511 days. The ME, however, did not raise the demand of interest of ₹ 27.09 lakh on delayed payments of EMF by the contractors.

The matter was pointed out to the Department and reported to the Government (April 2017). The Government replied (September 2017) that an amount of ₹ 3.36 lakh had been recovered in two cases and demand notices for recovery of interest had been again issued (August 2017) in remaining five cases.


(ANADI MISRA)

Accountant General

(Economic and Revenue Sector Audit), Rajasthan

JAIPUR
The 17 FEB 2018

Countersigned



(RAJIV MEHRISHI)

Comptroller and Auditor General of India

NEW DELHI
The 20 FEB 2018

³⁹ Demand registers of excess royalty collection contractors.

APPENDIX

Appendix-I

(Refer paragraph 7.5.1; page 114)

Details of short recovery of revenue due to incorrect revision of contract amount

Particulars	Contract amount revised by the Department (₹)	Contract amount which was to be revised (₹)
Total contract amount	29,39,39,939	29,39,39,939
Deduct EMF amount	NA	5,87,87,988
Contract amount after deduction of EMF amount	NA	23,51,51,951
Deduct Permit fees (33 per cent of contract amount) from contract amount	9,70,00,180	7,76,00,144
Contract amount after deduction of permit fee	19,69,39,759	15,75,51,807
Deduct EMF amount	5,87,87,988	NA
Contract amount after deduction of EMF amount and permit fee	13,81,51,771	15,75,51,807
Royalty amount from mineral <i>bajri</i> (50 per cent of contract amount)	6,90,75,886	7,87,75,904
Add Dead Rent of <i>bajri</i> leases	47,62,058	47,62,058
Amount after adding Dead Rent of <i>bajri</i> leases in <i>bajri</i> royalty amount	7,38,37,944	8,35,37,962
Revision of <i>bajri</i> royalty amount from 5.8.2014 (<i>Bajri</i> royalty amount + Dead Rent) x New Rate of <i>bajri</i> royalty/Old Rate of <i>bajri</i> royalty - Dead Rent	10,59,94,858	12,05,44,885
Royalty amount from mineral <i>murram</i> (17 per cent of contract amount)	2,34,85,801	2,67,83,807
Revision of <i>murram</i> royalty amount from 5.8.2014 (<i>Murram</i> royalty amount x New Rate of <i>murram</i> royalty/Old Rate of <i>murram</i> royalty)	3,26,19,168	3,71,99,732
Royalty amount from lime <i>kanker</i> (33 per cent of contract amount)	4,55,90,084	5,19,92,096
Revision of lime <i>kanker</i> royalty amount from 5.8.2014 (Lime <i>kanker</i> royalty amount x New rate of lime <i>kanker</i> royalty/Old rate of lime <i>kanker</i> royalty)	6,07,86,779	6,93,22,795
Revised contract amount (Revised royalty amount of <i>bajri</i> + <i>murram</i> + lime <i>kanker</i> + Permit Fee) without EMF amount	29,64,00,985	30,46,67,556
Revised contract amount with EMF amount	35,51,88,973	36,34,55,544
Short recovery of revenue due to incorrect revision of contract amount (per annum)		82,66,571
Short recovery of revenue due to incorrect revision of contract amount from 5.8.2014 to 31.03.2015 (239 days)		54,12,905
Short recovery of revenue due to incorrect revision of contract amount during the period from 5.8.2014 to 31.03.2016		1,36,79,476

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