

Chapter II

Compliance Audit Paragraphs of State Government Departments

Culture and Tourism Cluster

Directorate of Museums and Zoos

2.1 Non-achievement of intended benefits

Unfruitful investment of ₹1.02 crore for implementation of two projects.

The Government of Kerala (GoK) accorded Administrative Sanction to the Directorate of Museums and Zoos (Directorate) to implement two projects *viz.*, Digital Asset Management System (DAMS) and Zoo Management System (ZMS), in January 2013 and September 2013 respectively. The Directorate issued (January 2013/ December 2013) work orders for implementation of both the projects to Kerala Small Industries Development Corporation (SIDCO), a Public Sector Undertaking designated as Total Solution Provider³ by GoK. Details of the two projects are given in *Appendix 3*. Work orders for implementing DAMS and ZMS were issued to SIDCO in January 2013 and December 2013 for ₹63.21 lakh and ₹38.79 lakh respectively. The projects were not operational as of November 2021, though the Directorate paid (June 2014 and April 2014) the entire amount to SIDCO in respect of both the work orders.

Non-utilisation of the projects by the Directorate, despite release of full payment to SIDCO was pointed out by Audit in January 2017. Audit conducted a follow-up examination (April 2021) of further action taken in this regard. It was noticed that the Directorate did not take any action till July/ August 2017 by which time, the warranty/ AMC⁴ expired. A meeting held (October 2017) amongst SIDCO, the Directorate and the Department of Culture, GoK for operationalising the projects also did not bear fruit.

As a follow up to the observation made by Audit in January 2017, the Directorate ordered (January 2020) an enquiry into the implementation of the projects by its internal Vigilance Cell. The enquiry found (January 2021) that DAMS was not functional when the final payment was made to SIDCO in June 2014 due to non-availability of server password and non-completion of front-end of the software. The enquiry report of internal Vigilance Cell noted that release of full payment without ensuring completion was unjustified. In respect of ZMS, the

³ GoK designated certain agencies as Total Solution Providers (TSPs) for providing technical assistance to Government Departments/ Directorates in their computerisation efforts.

⁴ Though provided in the agreement with SIDCO, AMC was not entered into in the case of ZMS.

enquiry revealed that hardware components were not supplied, and software had not been installed. Further, the password and IP address of server, URL⁵ of the software, username, password *etc.*, of ZMS were not available in the Directorate. The release of full payment solely based on self-certification by SIDCO was a significant lapse on the part of the Directorate.

The enquiry report, therefore, revealed that the Directorate had not ensured receipt of all the hardware/ software components and completion of the projects as required by Rule 11.1 of the Stores Purchase Manual. It is also pertinent to note that though the internal enquiry report was received in January 2021, the same was forwarded to Government only in November 2021 and further action on the report was yet to be taken by the Directorate/ Government.

The Government replied (January 2022) that Kerala State IT Mission has been entrusted to conduct a detailed enquiry on the audit findings as part of taking corrective measures, including fixing of responsibility.

Recommendation: The Government may fix responsibility and make efforts to make the projects operational.

Environment, Science and Technology Cluster

Kerala Forests and Wildlife Department

2.2 Loss of ₹76.07 lakh due to failure to avail of Input Tax Credit

Failure to utilise the Input Tax Credit of Divisions to set off the tax liability on sale of timber by the Depots due to lapse in assessing the provisions of GST Act resulted in avoidable expenditure of ₹76.07 lakh.

As per Section 25(4) of The Central Goods and Services Tax Act, 2017 a person who has obtained or is required to obtain more than one registration, whether in one State or Union Territory or more than one State or Union Territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act. Section 2(62) of the Act states that “input tax” in relation to a registered person means the Central tax, State tax, Integrated tax or Union Territory tax charged on any supply of goods or services, or both made to him. Section 16(1) of the Act enables every registered person to take credit of the input tax he has already paid on inputs. Also, Input Tax Credit (ITC) cannot be claimed as per Section 16(4) of the Act after the due date for furnishing of return for the month of September following the end of concerned financial year or furnishing of annual return, whichever is earlier.

⁵ Uniform Resource Locator.

In Kerala Forests and Wildlife Department (KFWD), the activities of sale of timber are carried out by six Timber Sales Divisions (Thiruvananthapuram, Punalur, Kottayam, Perumbavoor, Palakkad and Kozhikode) through Timber Sales Depots and sale of sandalwood and sandal oil is carried out by Marayoor Sandal Division. For this, KFWD avails the services of MSTC Ltd. (MSTC), a Central Public Sector Undertaking for conducting e-auction of timber, sandalwood, and sandal oil. MSTC charges 0.8 *per cent* of the sale value of the items as service charge and raises bills on the Divisions against their GSTINs for the e-auction service.

Audit was conducted (April 2021 to May 2021) in three of the six Timber Sales Divisions and the Sandal Division and it was noticed that:

- i. In the case of sale of timber, the Timber Sales Divisions were eligible to claim and utilise input tax credit of ₹47.34 lakh earned on GST paid to MSTC as of March 2021 (*Appendix 4*). However, the Department did not take steps for utilising the input tax credit either by invoicing at Divisional level or Divisions registering themselves as Input Service Distributors (ISD) so that ITC could be distributed among Depots for utilisation. As a result, the input tax credit available with the Timber Sales Divisions could not be utilised and set off against the tax obligation of ₹6,298.16 lakh (*Appendix 5*) of the Sales Depots. Thus, the failure of the Department in adopting a prudent system of utilising input tax credit resulted in avoidable payment of GST amounting to ₹47.34 lakh.
- ii. The Sandal Division, Marayoor was eligible to claim and utilise input tax credit of ₹28.73 lakh as of March 2021 (*Appendix 6*) in respect of GST paid for the service provided by MSTC. The sale of sandalwood and sandal oil was conducted directly by the Sandal Division and the invoices were also issued by the Division itself. The GST of ₹3,765.65 lakh collected (*Appendix 7*) on sale of these items were remitted without setting off the eligible input tax credit of ₹28.73 lakh. This has resulted in avoidable payment of ₹28.73 lakh as GST by Sandal Division, Marayoor.

Due to the lapses in assessing the provisions of GST Act (as availability of ITC and collection and remittance of GST were at different points) in respect of the tax liability, the Department was not able to avail the eligible Input Tax Credit which resulted in avoidable expenditure of ₹76.07 lakh.

The matter was referred to Government (September 2021) and the Government replied (February 2022) that:

- i. Directions were issued to the Principal Chief Conservator of Forests (P&D) to take steps to take credit of the eligible input tax from September 2021 onwards; and

- ii. Decisions are taken to avail ITC from 2020-21 onwards by taking registration as a Seller by Sales Depots and MSTC to generate invoices claiming service charge as well as GST in the name of Timber Sales Depots instead of Divisions.

Science and Technology Department

2.3 Excess payment of Employer's contribution to the Employees' Provident Fund

Undue benefit of ₹11.86 crore to the employees by excess payment of Employer's contribution to the Employees' Provident Fund.

As per the Employees' Pension Scheme (EPS) created under Section 6A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act), the employer has to pay 12 *per cent* of the employee's pay as employer's contribution which consists of two components⁶ - eight and one-third *per cent* and three and two-third *per cent* of the employee's pay to be remitted into EPS and EPF (Employees' Provident Fund) respectively. As per the said scheme, the maximum pensionable pay was ₹15,000⁷ and contributions to the pension fund and provident fund were to be calculated on pay limited to that amount.

In order to bring propriety in the EPF related matters, the Government had issued guidelines (October 2011) for strict compliance by all PSUs/Autonomous Bodies/Grant-in-aid institutions, *etc.* The Government directed that the institutions which were following the irregular practice of making employer's contribution without any upper limit shall forthwith stop such practices and limit the contribution within the statutory limits. Thus, the maximum monthly contribution the employer was liable to pay is only ₹1,800 out of which ₹1,250 has to be remitted to EPS and ₹550 to EPF.

The Kerala State Council for Science, Technology and Environment (KSCSTE), an Autonomous Body under the Department of Science and Technology and its Research and Development (R&D) Centres were liable to implement the EPF scheme for their employees as they were fully funded by the State Government and were bound to comply with all the directions of the Government.

During audit (February 2021) of KSCSTE, the records relating to the remittance of contributions by the Autonomous Bodies under KSCSTE were scrutinised and it was noticed that the institutions remitted employer's contribution at 12 *per cent* of actual pay instead of restricting to the maximum pensionable pay of ₹15,000. Although the institutions remitted towards EPS at 8.33 *per cent* of the maximum pensionable pay (₹1,250 per month) but remitted towards

⁶ Eight and one-third *per cent* to employees' pension scheme and three and two-third *per cent* to Employees Provident Fund.

⁷ Initially this amount was ₹6,500 which was revised to ₹15,000 with effect from 01 September 2014 as per notification GSR-609 dated 22 August 2014.

EPF the remaining balance amount of 12 *per cent* of the actual pay, which was in excess of ₹550 per month for the period from April 2016 to December 2020. Non-compliance to the statutory provisions of the EPF Act resulted in excess expenditure of ₹11.86 crore towards employer's contribution to EPF in respect of KSCSTE and five R&D Centres (separate Autonomous Bodies) (*Appendix 8*).

Audit further noticed that KSCSTE had approached the Government (December 2018) and sought permission to remit the employer's EPF contribution without the ceiling limit as decided in its Executive Committee Meeting held in October 2018. The Government communicated (May 2019) that the proposal cannot be considered as KSCSTE was functioning with hundred *per cent* financial assistance from the Government and hence had to adhere to all the directions of the Government. KSCSTE was directed to limit employer's contribution to 12 *per cent* of ₹6,500 in respect of contributions payable up to 01 September 2014 and 12 *per cent* of ₹15,000 for the period thereafter. It was also directed to find out a solution to recover or adjust the excess amount remitted by the employer by ensuring the co-operation of the employees. KSCSTE neither took any action for adjustment of the excess contributions already made nor discontinued the practice of excess remittance of the EPF contribution.

The matter was referred to the Government (September 2021) and the Government (February 2022) replied that:

- i. KSCSTE Rule, Section II, Part 1, Clause 1.3. states that all employees shall be required to subscribe to the Employee's Provident Fund. The Employer's share of the provident fund shall be 12 *per cent* of Pay and DA and that of Employee's share of Provident Fund shall not be less than 12 *per cent* of Pay and DA. These rules were approved by State Council of KSCSTE chaired by the Hon'ble Chief Minister and are made applicable to all employees of KSCSTE and its R&D Centres;
- ii. Section 26 (6) of the EPF Act provides provision for the employer to decide the contribution over and above the minimum limit of 12 *per cent* of ₹15,000. The State Council of KSCSTE has approved the higher subscription of the employers and it is provided in the KSCSTE Service Rules and other Relevant Rules and Regulations as above. The decision taken by the State Council of KSCSTE cannot be interfered with by the Government and it amounts to violation of the contents in a Government Circular⁸ which stated that Government does not have direct control over the institutions/societies registered under Travancore-Cochin Literary Scientific and Charitable Societies Registration Act 1955.

⁸ Circular No.64068/Cdn.3/2006/GAD dated 11 April 2007.

The reply of the Government is not tenable for the following reasons:

- i. All establishments coming under the purview of the EPF Act and the Scheme are bound to comply with the provisions of the EPF Act and Scheme. Only the Parliament has the powers to amend the EPF Act or the scheme. The KSCSTE Rule therefore, cannot modify or overrule the provisions of the EPF Act or Scheme. The KSCSTE Rule is inconsistent with the EPF Act. Further, the claim in the Government reply that these rules were approved by State Council of KSCSTE chaired by the Hon'ble Chief Minister is incorrect as Audit noticed that in the 14th meeting held on 24/12/2019, the State Council had considered a proposal that EPF contribution may be made at the rate of 12 *per cent* on pay of an employee, which is not limited to any amount and decided to approach the Government with a proposal for approval. Meanwhile, in response to KSCSTE's request dated 06/12/2018, the Government had intimated (May 2019) that since KSCSTE was fully funded by the Government but failed to comply with Government directions, the proposal for remitting employer's contribution at 12 *per cent* without any limit, cannot be acceded to and also gave directions to comply with the specific provisions regarding the EPF Act regarding employer's contribution. The claim that KSCSTE was registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Act and hence Government does not have direct control over the institutions is untenable as the Act does not contain any specific provision which grants autonomy for governmental institutions/societies.
- ii. There is no Section 26 in the EPF Act. It appears that the reference is to Paragraph 26 of EPF Scheme. This paragraph relates to classes of employees entitled and required to join the fund. Sub-paragraph (6) of the paragraph allows an employee to contribute on pay more than ₹15,000 of his pay per month provided a joint request of himself and the employer is submitted to EPFO. The sub-paragraph enables only an employee to contribute on pay more than ₹15,000 and it does not require that the employer should also contribute on pay more than ₹15,000. Further, the reply of the Government is contradictory to its own reply of May 2019 given to KSCSTE.

Recommendation: Government may fix responsibility on those who were responsible for violating Government directions regarding EPF contribution by employers and continued to remit excess employer's contribution.

2.4 Delay in enrolment of employees and remittance of EPF contributions

Delay in enrolment of employees and consequent delay in remittance of EPF contributions by four Autonomous Bodies resulted in payment of interest and damages to the extent of ₹57.91 lakh.

The Employees Provident Fund and Miscellaneous Provisions Act, 1952 (EPF Act) is an Act to provide for the institution of Provident Funds (Pension

Fund and Deposit-Linked Insurance Fund) for employees in factories and other establishments. The employees of the Kerala State Council for Science, Technology and Environment (KSCSTE), an Autonomous Body under Government of Kerala and its Research and Development (R&D) Centres were liable to be enrolled in the EPF scheme as per the Act.

On a review of the records relating to the enrolment of employees to the fund and remittance of contributions by the autonomous bodies under KSCSTE, Audit noticed lapses in the following Autonomous Bodies:

- i. The Kerala Forest Research Institute (KFRI), Thrissur failed to enrol 35 employees appointed between April 2012 and May 2016 to the scheme. The institution did not pay the statutory contributions (both the employees' and employer's share) to the fund. The non-compliance to the provisions resulted in payment of damages and interest amounting to ₹28.78 lakh between March 2017 and March 2018.
- ii. The Jawaharlal Nehru Tropical Botanical Garden and Research Institute (JNTBGRI), Thiruvananthapuram deducted the requisite contributions from their employees, but did not remit the same along with its matching contribution to the fund in certain months during the years 2016-17 to 2019-20, for which the Institute paid ₹16.57 lakh as interest and damages between October 2016 and September 2019.
- iii. The Centre for Water Resources Development and Management (CWRDM) made delay in enrolment of three employees who joined the Centre during June 2011 to September 2017. The remittance of the contributions was made by CWRDM during the period May 2017 to March 2018, for which the EPF authorities demanded interest of ₹6.02 lakh and damages of ₹10.90 lakh. Against this, the Centre paid interest of ₹6.02 lakh and filed appeal before the Hon'ble Central Government Industrial Tribunal-cum-Labour Court (193/2018) for waiver of damages and the Hon'ble Tribunal ordered to reduce the damages to ₹6.54 lakh in January 2021. The institution paid the damages of ₹6.54 lakh in September 2021.
- iv. The Kerala School of Mathematics (KSoM), Kozhikode failed to enrol eight employees to EPF from the respective dates of their joining during March 2009 to February 2019. Later, an amount of ₹12.26 lakh was collected (May 2017 to February 2019) from the employees as arrears of contribution for the period from the date of their joining to the date of enrolment (March 2019) in the EPF. Even though the institution recovered the employee's share, the amount collected was parked in a Savings Bank account in Indian Bank and not transferred to the EPF (February 2022) as required. The delay in transfer of the remittance to EPF attracts interest and damages.

Thus, the delay in enrolling the employees to the EPF Scheme and delay in remittance of contributions led to avoidable expenditure on interest and damages of ₹0.58 crore. Besides, the employees were without social security measures during the period the contributions were not being credited.

The matter was referred to the Government in September 2021. The Government in its reply (February 2022) accepted the delay in enrolment of employees to EPF and the consequent payment of interest and damages due to insufficient non-plan grant, non-reporting of previous lien by employees to the EPF scheme and various unforeseen reasons.

Recommendation: Government may ensure that the Institutions follow the Statutory responsibilities under the EPF Act strictly in future and also fix responsibility for the delay and consequent payment of penalty and interest.

Public Works Cluster

Public Works Department

2.5 Delay in completion of bypass roads

Unfruitful expenditure of ₹54.08 crore on three incomplete bypass road works undertaken without ensuring availability of required land in violation of the provisions of PWD Manual.

The Section 2003 of the Kerala Public Works Department Manual (hereinafter referred to as “the Manual”), (Revised edition 2012) state that before bids are invited for a work, there should be 100 *per cent* possession of hindrance free land. However, in the case of road projects, bid can be invited with prior permission of Government, provided 60 *per cent* of land required is available and the balance land can be made available during the course of the construction.

As per the pre-revised Manual, all the land required for the work should have already been acquired or the steps taken for its acquisition should have reached a stage where there is reasonable prospect of land becoming available before the contractor starts the work. The Public Works Department (PWD) had issued circulars (October 2010 and July 2015) directing to strictly ensure availability of hindrance free land before tendering any work.

Audit examined (February 2021) records relating to the planning and execution of bypass road works undertaken by the PWD in the State since the year 2010. Audit noticed the following issues in respect of three works (**Table No. 2.1**) out of the total 17 works undertaken by PWD from the year 2010 onwards:

Table No. 2.1: Details showing the status of three bypass roads

Sl. No.	Road Works	Date of handing over of site	Scheduled Date of Completion of work after handing over	Status of the Road Works currently	Reason for non-completion of the Road Works
1	Kalmandapam Bypass	28/09/2015	9 months	Not Completed	Land corresponding to chainage km. 0/572 to 0/678 and 0/722 to 0/750 to be acquired
2	Nilambur Bypass	24/02/2016	18 months	Not Completed	Land corresponding to 2.527 kms to be acquired.
3	Thankalam Bypass				
(i)	Road work	08/01/2010	18 months	Work terminated on 26/10/2019	0.2589 ha ⁹ to be acquired
(ii)	Bridge work	27/10/2009		Work completed on 30/09/2011	-

In the proposal for the Administrative Sanction, the Department included cost of acquisition of land as a lump sum, which was not based on any realistic valuation carried out by the Revenue Department and the Government accepted the same. The extent of land required for the works was also not mentioned in the proposal and only the length of the road was given in the respective proposals. The Administrative Sanctions for the works were issued even before funds for land acquisition was provided in full and without assessing the availability of funds for completing the land acquisition. In the case of Thankalam Bypass, a major portion of the fund for land acquisition (₹7.46 crore out of ₹9.48 crore) was released in tranches during the period 2008-2015, after issue of the Administrative Sanction for the work. The fund of ₹35.20 crore was released in tranches between September 2013 and November 2016 for land acquisition of Nilambur Bypass work. No fund was released for Kalmandapam Bypass.

The total stretch of the Thankalam Bypass included a bridge, and the work of bridge was completed on 30 September 2011 at a cost of ₹183.03 lakh. The bridge had been idling for almost 10 years due to non-completion of land acquisition for the Thankalam Bypass Road.

⁹ Total land proposed for acquisition was 4.2263 ha which was arrived at by multiplying the length and breadth of the road (*i.e.*, 2,817.50 m x 15m). But this area includes purambok land and crossing with already existing roads for which land was already available. Hence, actual extent of land remaining to be acquired was only 0.2589 ha.

The failure of the Department to initiate timely action for acquisition of encumbrance free land and to synchronise the construction of road with the construction of the bridge resulted in unfruitful expenditure of ₹54.08 crore (₹7.57 crore for road works, ₹1.83 crore for bridge work and ₹44.68 crore for land acquisition) besides the cost overrun and time overrun of five years ten months to ten years eleven months (May 2022).

The matter was referred to the Government (September 2021) and the Government (January 2022) replied that:

- i. For the Kalmandapam Bypass, the land acquisition process by Palakkad Municipality is going on smoothly and the balance land required is expected to be handed over at an early date.
- ii. For the Nilambur Bypass Phase I, the delay in construction was due to the procedural delay from Revenue Department and there was no financial loss.
- iii. For the Thankalam to Kozhippilly Bypass Road, a small portion of the land belonging to Kothamangalam Municipality and Excise Department are to be acquired. The Municipality has not issued the NOC for the land transfer till date (January 2022). Further, the Excise Department was not willing to issue the NOC for land transfer.

The Government reply reinforces the Audit observation that the work was tendered and started without the unhindered possession of the required land, and it continues to be the main reason for the indefinite delay in completion of the work (January 2022).

Recommendation: Government may ensure that the conditions prescribed in the PWD Manual regarding tendering of road works as per Section 2003 is followed strictly. The Divisional authorities may be required to furnish an undertaking that the whole land required for the road works could be acquired before time of completion of the road works.

2.6 Avoidable payment of tax and interest

Payment of Goods and Services Taxes and interest amounting to ₹42.78 crore due to failure of the Department to analyse the impact of GST on the transactions of PWD.

As per the Kerala Public Works Department Manual, revised edition 2012 (Clause 2104 and Appendix 200B), bitumen shall be issued from the Public Works Department (PWD) for works costing up to ₹ one crore.

Consequent on the enactment of the Goods and Services Tax (GST) Act, Bharat Petroleum Corporation Limited (BPCL) apprised (July 2017) the Chief Engineer

(Roads and Bridges) (henceforth, CE) regarding the changes required in the billing pattern so that the Divisions could avail the eligible Input Tax Credit (ITC). The CE issued directions (August 2017) to the Divisions to comply with the provisions under the GST Act/ Rules. The CE requested the Administrative Department in September 2017 to issue necessary instructions regarding the new billing pattern proposed by BPCL in view of GST implementation. Accordingly, the Government directed (January 2018) all the establishments which undertake public works to take GST registration compulsorily.

Audit scrutiny of the records revealed that:

- i. The directions (August 2017) of the CE and the Government (January 2018) to take GST registration were not implemented by any of the 15 Roads Divisions during 2017-18. However, 13 Divisions took registration in the year 2018-19 and the remaining two Divisions took registration in 2019-20. As a result, BPCL continued to issue invoices in 'Business to Consumer' (B2C) format, considering the Divisions as an unregistered consumer.
- ii. The Roads Divisions under PWD purchased bitumen valuing ₹324.48 crore (cost ₹274.99 crore plus GST ₹49.49 crore) from BPCL during July 2017 to June 2019. Failure of the Department to obtain GST registration in time resulted in ineligibility to claim ITC for the period corresponding to these invoices. Four¹⁰ Divisions out of 15 commenced claiming and utilisation of their credit to set off their GST liability in the year 2017-18. Six¹¹ Divisions set off their credit against GST liability from 2018-19 and one Division (Thrissur) in 2019-20. The remaining four Divisions¹² failed to claim and utilise ITC to set off their GST liability.
- iii. The Director General of GST Intelligence (DGGSTI), Thiruvananthapuram after enquiry into the departmental supply of bitumen by PWD to contractors intimated (May 2020) that the Departmental supply was to be treated as sale as per Section 4 of Sale of Goods Act 1930 while PWD (post-GST) continued to treat the cost of bitumen supply to contractors as expenditure of the work. It was intimated that the GST at 18 *per cent* payable by the 15 Road Divisions for the period from July 2017 to June 2019 was estimated at ₹50.68 crore. However, PWD calculated the net liability of the 15 Divisions as ₹42.78¹³ crore (**Appendix 9**) after adjusting the amount paid voluntarily and eligible ITC.

¹⁰ Alappuzha, Ernakulam, Palakkad and Pathanamthitta.

¹¹ Kannur, Kasaragod, Kottayam, Kozhikode, Muvattupuzha, Thiruvananthapuram.

¹² Idukki, Kollam, Manjeri and Wayanad.

¹³ Inclusive of interest calculated for the period up to 31/03/2021 in respect of Pathanamthitta Division, 31/08/2020 in respect of Kasaragod Division and 31/07/2020 in respect of remaining Divisions.

In order to avoid the penalty and further accumulation of interest, the Administrative Department with the concurrence of the Finance Department sanctioned (November 2020, February 2021, November 2021) payment of ₹44.68 crore for 15 Divisions.

- iv. Due to the continuation of the earlier system of recovering the cost of bitumen as deduction from the Running Account Bill, the Department could not collect the GST from the contractors by raising GST invoice. Thus, the Department had to bear the GST liability of ₹42.78 crore on supply of bitumen.

The matter was referred to the Government (October 2021), and the Government (February 2022) replied that the PWD Divisions did not conceive the idea of issue of materials to work as a supply leviable to tax under GST. It was also stated that 'Handbook on Departments GST – things to do', the directions issued by the Chief Engineer (August 2017) and the Government Order (January 2018) were not very illuminating regarding the transactions in PWD. It was also stated that since PWD Divisions are Government entities, they did not possess PAN required for GST registration initially, besides many other factors led to procedural delay in obtaining the registration. Further, it was stated that the nature of departmental supply of bitumen to contractors were quite different from the commercial realm where the materials purchased can be freely used for further supply of goods and hence there was no irregularity but for a different interpretation by GST Department. The Government stopped¹⁴ the Departmental supply of bitumen when the principle of departmental supply was overlooked by the GST Department.

The reply is not acceptable as there was incorrect interpretation of the provisions of GST Act, Sale of Goods Act, 1930 and the 46th Constitutional amendment which brought transactions similar to the supply of departmental bitumen under the purview of sale. The Department also took GST registration belatedly as stated in the para (i) and the decision to stop the system of Departmental supply (2019) of bitumen for works, did not exempt the Government from the GST liability of ₹42.78 crore on supply of bitumen.

2.7 Idle investment

Idle investment of ₹24.22 crore for construction of the PWD Complex at Neriamangalam.

The Public Works Department (PWD) decided (October 2008) to construct a PWD Complex at Neriamangalam for the purpose of establishing a training centre for its engineering staff as the Department did not have a dedicated institution solely for providing training. The complex was planned to consist of three buildings (one each for Training Centre, Rest House and Convention Centre).

¹⁴ Government Order (Rt)No.1029/ 2019/ PWD dated 20/08/2019.

The construction was planned to be undertaken in three phases (*Appendix 10*). Later, in June 2013, the PWD planned to set up a Regional Quality Control Lab (RQCL) within the same compound.

The Government initially sanctioned (March 2009) ₹2.00 crore for Phase I of the project. This was later revised (March 2010) to ₹4.48 crore. Subsequently, the Government sanctioned ₹21.35 crore for Phases II (₹7 crore), III (₹ 10 crore) and III (Balance work) (₹4.35 crore) during March 2013 to January 2019. For the construction of RQCL, an amount of ₹0.67 crore was sanctioned in March 2013. The PWD completed the construction of the buildings for Training Centre, Rest House and RQCL in December 2016, December 2018 and March 2015 respectively by incurring an expenditure of ₹24.22 crore.

Examination of the records revealed the following lapses in this project:

- i. The Regional Quality Control Lab was not part of the original proposal for the PWD Complex and was also not included in the Master Architectural Plan. It was decided to set up the RQCL in the same compound of the PWD Complex in the year 2013 after commencement of construction of the buildings for the Complex. Further, after completion of the construction of building for the lab (March 2015), the PWD decided not to shift the Regional Laboratory to Neriamangalam¹⁵ from its original place of functioning at Kakkanad, citing logistic issues of remote location of the lab and proceeded to construct another building for the lab at Kakkanad at a cost of ₹1.11 crore (November 2017). This led to avoidable expenditure of ₹0.69 crore on the construction of building for RQCL at Neriamangalam;
- ii. The PWD installed and commissioned (between July 2018 and January 2020) electrical and electronic equipments, including generator and lift, and purchased furniture and accessories for kitchen at a total cost of ₹3.02 crore (*Appendix 11*). In February 2020, the PWD submitted an estimate of ₹0.93 crore to Chief Engineer (Electrical) for the Phase III of the construction, which included electrification of buildings, providing of air-conditioning and a 200 KVA transformer. The work of electrification is still under progress (May 2022), as a result of which the electrical equipment so installed, and the buildings constructed remained idle. Further, the Defect Liability Period¹⁶ in respect of the completed works expired (except in the case of Phase III Balance Work) even before the building was put to use (*Appendix 12*). The failure in synchronising the various activities like installation and commissioning of electrical and electronic equipment, purchasing of furniture and obtaining of power

¹⁵ Neriamangalam is a village under Ernakulam District (around 80 Kms from the city) and Kakkanad is the District Headquarters of Ernakulam (around eight Kms from the city).

¹⁶ The Defect Liability Period for Phase I was from 02/07/2013 to 01/07/2015, for Phase II was from 01/12/2016 to 30/11/2019, for Phase III was from 17/12/2018 to 16/12/2021 and for RQCL building was from 11/03/2015 to 10/03/2018.

supply connection and completion of the construction of the building, resulted in delays and consequent expiry of warranty periods of the procured items. This could also lead to avoidable expenditure on repairs and maintenance when they are put to use.

iii. The construction of Convention Centre was not taken up.

Due to the above lapses, the completed buildings (Training Centre and RQCL) constructed at a cost of ₹24.22 crore, including furniture and equipment procured for ₹3.02 crore, remained idle.

In their reply, the Government stated (February 2022) that for electrification of Training Centre a request for Administrative Sanction of an amount of ₹0.93 crore was submitted. Regarding warranty, it was stated that all switches have warranty of five years and service warranty for the project can be bought as third-party service after completing the installation procedure. The building for RQCL was constructed at Neriamangalam as no land was available for PWD near Ernakulam and the decision to set up the Regional Lab at Ernakulam for Zonal Office was due to the proximity of its jurisdictional districts. Further, it was stated that the RQCL building at Neriamangalam can be used for administrative functioning once the Training Centre starts functioning. The project was executed in a phased manner due to limitation of fund and hence more time was required to complete the project than a project with full fund in hand.

The reply of the Government is not acceptable as the reply does not address the reasons for the delay in approaching for A.S for electrification. One of the major reasons for not commencing the functioning of the Training Centre was the non-availability of power supply. Due to non- synchronisation of the activities, the benefit of major portion of warranty period was lost and buying the Service Warranty would entail additional cost. The abandoning of the newly constructed building of Regional Quality Control Lab at Neriamangalam and proceeding to construct a new Lab at Kakkanad on account of its remote location and to use the RQCL as an Administrative Wing for the Training Centre cannot be justified. The reason for delay in completing the project even after a period of 12 years is also not justifiable.

Recommendation: Government may ascertain the reasons for the delay and ensure that the requisite infrastructural amenities and services required for operationalisation of the completed building are addressed and completed at the earliest.

2.8 Undue favour to contractors

Undue benefit of ₹4.98 crore to contractors by way of Government decision to pay the price difference of bitumen over and above the agreed rates in violation of the contract conditions.

The Clause 3.3.8 of the Standard Bidding Document (SBD) for Public Works prescribes that the rates and prices quoted by a bidder shall remain firm during

the entire period of contract in the case of works for which the original time of completion does not exceed 18 months. The Government of Kerala ordered (November 2018)¹⁷ that the difference in price of bitumen between the date of closing of tender and the date of invoice, would be paid to the contractor on production of original invoice, for the actual quantity purchased on or after 1st November 2018, in the cases of ongoing works with effect from 1st November 2018. The Government modified (April 2020)¹⁸ the said order to the extent that the price difference of bitumen as on the date of agreement and the date of invoice (on or after 1st November 2018) would be paid/recovered. It was further clarified (September 2020)¹⁹ that, in the case of open tenders, the price difference of bitumen as on date of closing of tenders would be allowed and in the case of nomination, the price difference of bitumen as on the date of agreement and date of invoice (on or after 1st November 2018) would be payable.

Audit (February 2020-August 2021) of the nine²⁰ out of 15 Roads Divisions revealed that price difference of bitumen (difference of actual purchase price and market price prevailed on the last date of submission of tender for tendered works and date of execution of agreement for nomination works) was allowed in 44 works (*Appendix 13*). The price difference was allowed, despite the fact that the works were tendered on item rate basis, and as per the provision in the contract, the rates and prices quoted by a bidder would remain firm during the entire period of contract in the case of works, for which the original time of completion does not exceed 18 months. The Superintending Engineers, while accepting the bids, had reiterated that the rates once fixed would not be increased on any account.

The Government order issued in November 2018 and its subsequent modifications in general diluted the tenet of the tender system, since the tender/agreement in respect of 44 works were executed with completion stipulation within 18 months. The Clause 3.3.8 strictly applies, and the orders issued subsequently cannot be applied for those ongoing works. The order of Government rendered undue benefit of ₹4.98 crore to the contractors in 44 works, out of which, an amount of ₹3.10 crore was already paid and an amount of ₹1.88 crore was sanctioned but pending payment at various stages.

The matter was referred to Government of Kerala (October 2021), and Government (March 2022) replied that it was a policy decision to avoid stoppage of works in the whole State due to the steep increase in the cost of bitumen. It was also stated that the bitumen is manufactured and sold by Government Agencies only and hence no undue gain was made by any contractor or any private agency.

¹⁷ GO(Rt)No.9386/2018/Fin dated 13/11/2018.

¹⁸ GO(Rt)No.2816/2020/Fin dated 17/04/2020.

¹⁹ GO(Rt)No.5502/2020/Fin dated 25/09/2020.

²⁰ Thiruvananthapuram, Kottayam, Thrissur, Palakkad, Malappuram, Wayanad, Kozhikode, Kannur and Kasaragod.

Audit found the reply of the Government untenable as the contractors were bound to the terms and conditions of the contract and were to bear the increase in cost themselves. The Hon'ble High Court of Kerala had in WP(C) 23576 of 2021 observed that "subsequently issued Government Orders cannot alter the rights and liabilities of concluded commercial contracts". Further, the Government's stand that it was a policy decision is against the Standards of Propriety prescribed in Kerala Financial Code as it benefitted the contractors, and the increased cost of bitumen was borne by Government.

However, vide GO(P) No.96/2022/Fin dated 26/08/2022, Government ordered discontinuance of the provisions for allowing the price difference/recovery of the price reduction of bitumen ordered earlier vide Government Orders dated 13/11/2018 and its subsequent modifications, with prospective effect, for all future tenders. It indicates that the irregularity pointed out by Audit has been admitted by Government. But the corrective measure taken was insufficient because the order was given prospective effect only. In fact, the audit point was the irregular alteration of conditions of commercially concluded contracts with retrospective effect. By this latest order also, instead of a reversal, this irregularity is allowed to continue till the date of order (26/08/2022) which is against the financial interests of Government.

Recommendation: Government may reverse the orders granting the benefit of price difference to the contractors with retrospective effect and recover the loss as such a liability undertaken was outside of the contractual conditions.

2.9 Excess payment to contractors

Failure of the Department to recover the cost index of bitumen added to the cost of bitumen in the estimate of three works resulted in excess payment of ₹1.26 crore to the contractors during July 2016 to December 2019.

The Kerala Public Works Department tendered and arranged road works with provisions for departmental supply of bitumen in case of works costing up to rupee one crore. In all such works, the cost of departmental materials is compulsorily recovered from the contractor at the time of payment of Running Account Bills. The cost of departmental materials to be recovered is calculated at rates adopted for preparation of the Detailed Estimate.

In the case of departmental supply of bitumen for large works costing above the limit fixed by Government, an alternative system²¹ was that the contractor is authorised to purchase the bitumen from the supplier based on the indent issued by the Executive Engineer of the Division and he is reimbursed on the actual cost of the bitumen on furnishing the original invoice. The cost of bitumen purchased and used in the work is borne by the Department, and hence it was treated as departmental supply of bitumen. Contractors were allowed to purchase bitumen

²¹ Vide G.O(P)No.50/PWD/2003 dated 6/09/2003.

directly from M/s Bharat Petroleum Corporation Ltd., (BPCL) and submit invoices for reimbursement. The cost of the bitumen was then to be recovered from the contractor's Running Account Bills.

During the audit (February 2020) of the office of the Executive Engineer, PWD Roads, Kottayam for the period from July 2016 to December 2019, it was noticed that in three works executed by the Superintending Engineer, Roads and Bridges, South Circle, Thiruvananthapuram during 2014-15 and 2015-16, the estimates were prepared based on the data calculated by applying 34 *per cent* cost index on all items including bitumen. As per the Special Conditions in the agreement signed with the contractor, the cost of departmental bitumen was to be recovered at the rates plus cost index. But, in the aforesaid three works, cost of departmental bitumen was recovered at estimate rates excluding the element of cost index. Failure to include cost index in the cost of bitumen recovered resulted in excess payment of ₹1.26 crore to the contractors as detailed in *Appendix 14*.

As this was a test-audit of works in a selected Roads Division and the audit observation is of a nature that may reflect in other works not covered in the test-audit, the Department may examine the position in rest of the works with a view to ensure that steps were taken to recover the excess payments.

The matter was referred to Government of Kerala (October 2021), and the Government (February 2022) replied that:

- i. If cost index of 34 *per cent* is added towards cost of bitumen in recovery side, then same 34 *per cent* may be effected towards cost of bitumen purchased by the contractor;
- ii. For the work "NABARD-RIDF-XVIII-XIX – Improvements to Thekkemuri – Andoor – Padinjattinkara – Thamarakulam – Edanad Road" the closing of the bills without applying cost index was profitable to the Government.
- iii. For the work "Providing BM & BC to Mannanam – Kudamalloor Road Ch: 0/000 to 2/300 km", an amount of ₹3,04,851 was to be paid to the contractor towards difference in cost/cost escalation in price of bitumen;
- iv. For the work "Improvements to 1st reach of Kappilkunnu - Vilakkumaruthu-Palakkad – Kizhappayar road Ch: 0/000 to 9/000 km", an amount of ₹4,06,440 will be recovered shortly from the contractor towards excess payment.

The reply of Government is not acceptable as the calculations arrived at by adding Cost Index to the actual purchase cost of bitumen is incorrect and is in violation of the prescribed and established system of recovery of estimate of cost of bitumen and reimbursement of actual cost to the contractor as stipulated in para 10.3.8 of PWD Code.

Recommendation: Government may assure that the Department strictly adheres to the directions issued regarding recovery of cost of bitumen.

2.10 Irregular payment

Payment of ₹20.71 lakh to contractors by recording false measure of work by the Departmental Officer.

As per clause 2211.3 of the Kerala PWD Manual 2012, all payments to the contractors are governed by the measurements recorded either in Measurement Book or in Level Field Book. If false, incorrect or excess measurements are recorded, it leads to payment not due and Government money is misappropriated.

Audit test-checked (August 2020–November 2020) four out of 72 records in the Office of the Executive Engineer (Roads Division), Muvattupuzha under the Roads Central Circle, Aluva for the period March 2017 to July 2020 and noticed deficiencies in the following one road work.

Improvement to Cheranganal – Muthankuzhy - Chengara- Punnakkad - Avolichal Road (from chainage 0/000 to 25/000 km)

The Superintending Engineer (SE) (Roads), Central Circle, Aluva awarded (May 2016) the work for a contract value of ₹9.86 crore to the Contractor. The work was completed in May 2019 and the final payment was sanctioned in July 2020. The total cost of the work came to ₹8.32 crore. Audit scrutinised the measurements as recorded in the Measurement Book and Level Field Books and cross checked it with the Design/Drawings approved by SE for the work and noticed that for calculating the volume of work done, the initial levels reckoned were those taken in the year 2017. As per Measurement Book, the items of Granular Sub Base (GSB) and Wet Mix Macadam (WMM) were laid with the same thickness of 10 cm-15 cm²², after removing the road surface at a uniform depth of 15 cm²³. After execution of each item of work, viz., earthwork excavation²⁴, GSB²⁵ and WMM²⁶, the existing levels of the road would have raised correspondingly and the final level of WMM would be higher than the initial level of Bituminous Macadam (BM) as recorded in Level Field Book (*Appendix 15*). Hence, the final levels of BM recorded in Level Field Book in respect of the said reaches were not practical/feasible. The Department calculated the quantity of BM taking into account the final level of BM recorded in January 2019 and the initial levels taken in 2017 and thereby disregarded the other three items of work, viz. excavation and laying of GSB and WMM already executed. The excess quantity calculated based on the fictitious measurements recorded in the Measurement Book was 208.52m³ for BM and 24.27 m³ for Bituminous Concrete (BC) for which ₹20.71 lakh was paid.

²² Measurements recorded in pages 10 to 12 of the Measurement Book no. 678/13-14.

²³ Measurements recorded in pages 6 to 9 of Measurement Book no. 678/13-14.

²⁴ Measured on 26th and 28th November 2018.

²⁵ Measured on 3rd December 2018.

²⁶ Measured on 10th December 2018.

The matter was referred to the Government (October 2021) and the Government replied (February 2022) that the Audit observation that for calculating the volume of work done, the initial levels reckoned were the levels taken for the road in the year 2017 and that after executing each item of work the existing levels of the road would have raised correspondingly have no meaning.

The reply of the Government is not acceptable as Audit used the same method for calculation of levels of various layers of work as stated by the Government *i.e.*, at the start of road work, the top level of the existing road was measured in the year 2017 (Initial Level 2017) and this was the initial level for the road work. The road work was to be carried out by first excavating the existing road to a depth of 15 cms. and then the layers GSB at a thickness of 10 cms, WMM at a thickness of 10 cms, BM at a thickness of 5.5 cms, and BC at a thickness of 3 cms are laid one after the other in the order mentioned. The initial level of one layer would be the top level of the previous layer and the level of the new road under construction would rise in correspondence to the thickness of the layers laid. Audit observed that, after executing earth work excavation and laying of GSB and WMM, the level of the road would rise to five cms. above Initial Level 2017. However, as per the Measurement Book, BM was laid from the Initial Level 2017 which was below the level achieved after laying WMM. As BM can be laid only above WMM, this was not feasible. As a result, the quantity of BM executed increased due to the increased thickness recorded in the Measurement Book. Due to the fictitious measurements recorded in the Measurement Book, the excess quantity of BM and BC shown as executed were 208.52 m³ and 24.27 m³ respectively for which ₹20.71 lakh was paid.

Recommendation: The Department may take necessary disciplinary action to fix responsibility for the misappropriation of funds.

Transport Cluster

Motor Vehicles Department

2.11 Non and short levy of tax

Absence of basic checks of the records in the database by the officials at Regional/ Sub-Regional Transport Offices resulted in non and short levy of tax amounting to ₹3.94 crore.

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicles Acts and Rules made thereunder. The Transport Department functions under the administrative control of the Principal Secretary, Transport Department at the Government level and the Transport Commissioner at the department level. The levy and collection of tax in the State is governed by the Motor Vehicles Act, 1988, Central Motor Vehicles Rules, 1989, and the Kerala Motor Vehicles Taxation (KMVT) Act, 1976. The Motor

Vehicles Department fully automated its functions by implementing application software 'SMART MOVE', which was developed by National Informatics Centre in January 2007. It, *inter-alia*, included a Demand Collection module for watching the demand and collection of taxes.

There were 18 Regional Transport Offices (RTO) and 55 Sub Regional Transport Offices (SRTO) under Motor Vehicles Department. Test check of records of 17 RTOs and 29 SRTOs during 2019-20 revealed non-levy of Green Tax and short levy of motor vehicle tax and one-time tax. Audit pointed out some of the similar omissions in the earlier years also. Not only do these irregularities persist, but they also remain undetected till the next audit is conducted. A few illustrative audit observations involving ₹3.94 crore are mentioned in the succeeding paragraphs.

2.11.1 Non-levy of Green Tax

Section 3 A of the KMVT Act as amended by The Kerala Finance Act, 2016 stipulates that Green Tax shall be levied and collected, in addition to the tax levied under the Act, at the rate of ₹400 for every five years for non-transport vehicles having four or more wheels and completed 15 years from the date of its registration; at ₹200 for every year for light transport vehicles having four or more wheels and have completed 10 years from the date of its registration; at ₹300 for every year for medium transport vehicles which have completed 10 years from the date of its registration; and at ₹400 for every year for heavy transport vehicles which have completed 10 years from the date of its registration. As per circular issued (December 2016)²⁷ by the Transport Commissioner, payment of Green Tax was to be ensured at the time of fitness test in the case of transport vehicles and at the time of renewal of registration in the case of non-transport vehicles.

Audit noticed that 17²⁸ out of 18 Regional Transport Offices during 2018-19 and 29²⁹ out of 55 Sub Regional Transport Offices during 2017-19 did not collect Green Tax from 27,673 vehicles out of a total of 1,21,124 vehicles at the time of fitness test in the case of transport vehicles and renewal of registration in the case of non-transport vehicles. This resulted in non-collection of ₹87.70 lakh as shown in **Appendix 16**.

The Government replied (February 2022) that the RTOs/ SRTOs collected Green Tax amounting to ₹55.75 lakh out of ₹87.70 lakh pointed out by Audit. Further progress is awaited (May 2022). The Government may take necessary steps to collect the remaining amount of tax at the earliest to reduce the arrears of revenue.

²⁷ Vide Circular No. 31/2016 dated 23 December 2016.

²⁸ Alappuzha, Attingal, Ernakulam, Idukki, Kannur, Kasargod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Pathanamthitta, Thiruvananthapuram, Thrissur, Vadakara and Wayanad.

²⁹ Alathur, Chengannur, Cherthala, Devikulam, Guruvayoor, Kanjirappally, Kodungallur, Koilandy, Kothamangalam, Kuttanad, Mallappally, Mananthavady, Mannarkkad, Mattanchery, Mavelikkara, Nilambur, North Paravur, Ottappalam, Pala, Perinthalmanna, Perumbavoor, Ponnani, Ranni, Thaliparambu, Trippunithura, Udumbanchola, Uzhavoor, Vandiperiyar and Wadakkanchery.

2.11.2 Incorrect levy of one-time tax at the time of registration

As per second proviso to Section 3(1) of the KMVT Act, in respect of new motorcycles, motor cars and motor cabs, one-time tax from the date of purchase of the vehicle shall be levied at the rates specified in the Schedule of the Act at the time of first registration of the vehicle.

Applicable rate of one-time tax as per Schedule are:

- In respect of motorcycles, eight *per cent*, 10 *per cent* and 20 *per cent* of the purchase value of the vehicle having purchase value up to ₹1.00 lakh, above ₹1.00 lakh and up to ₹2.00 lakh and above ₹2.00 lakh respectively.
- In respect of motor cars, six *per cent*, eight *per cent*, 10 *per cent*, 15 *per cent* and 20 *per cent* of the purchase value of the vehicle having purchase value up to ₹5.00 lakh, more than ₹5.00 lakh and up to ₹10.00 lakh, more than ₹10.00 lakh and up to ₹15.00 lakh, more than ₹15.00 lakh and up to ₹20.00 lakh and more than ₹20.00 lakh respectively.
- In respect of motor cabs, six *per cent*, 20 *per cent*, 10 *per cent*, 15 *per cent* and 20 *per cent* of the purchase value of the vehicle having cubic capacity below 1,500 cc and purchase value up to ₹20.00 lakh, below 1,500 cc and purchase value more than ₹20.00 lakh, 1,500 cc and above having purchase value up to ₹15.00 lakh, 1,500 cc and above and having purchase value more than ₹15.00 lakh and up to ₹20.00 lakh and 1,500 cc and above and having purchase value of more than ₹20.00 lakh respectively.

Audit observed (2019-20) that tax at applicable rates were not levied in respect of 13 out of 77,361 vehicles registered during 2018-19 in the case of three RTOs and 19 out of 1,28,185 vehicles registered during 2017-19 in the case of seven SRTOs resulting in short collection of one-time tax of ₹19.40 lakh as detailed in *Appendix 17*.

The Government replied (February 2022) that the RTOs/ SRTOs collected ₹6.68 lakh out of ₹19.40 lakh pointed out by Audit. Further progress is awaited (May 2022). The Government may recover the balance amount of tax at the earliest and ensure that steps are taken to raise demand for tax from all the vehicles as and when the tax amount becomes due.

The issue still persists despite the fact that it was pointed out in the Reports of the Comptroller and Auditor General of India on Revenue Sector for the year ended March 2017 and March 2018.

2.11.3 Non-levy of one-time tax on reclassification of vehicles

Section 3(1) of KMVT Act states that in respect of motor cycles, three wheelers and motor cars which were registered on or after 01/04/2007 and motor cabs registered on or after 01/04/2014 which were reclassified from the category of transport vehicles to non-transport vehicles shall be levied one-time tax on percentage basis with respect to the age of the vehicles as specified in Part C and F of the Annexure I to the Act.

Audit reviewed (2019-20) the database of Motor Vehicles Department and noticed that 17 RTOs and 29 SRTOs did not collect one-time tax at the time of re-classification of 1,773 vehicles from transport vehicles to non-transport vehicles. This resulted in non-collection of one-time tax amounting to ₹2.81 crore during 2018-19 in the case of 17 RTOs and during 2017-19 in the case of 29 SRTOs as detailed in *Appendix 18*.

The Government replied (February 2022) that the RTOs and SRTOs collected ₹1.18 crore from the short collection of tax pointed out by Audit. There was no change in the percentage of tax even after reclassification of vehicles in respect of seven cases. Further, revenue recovery proceedings have been initiated in respect of nine cases. Progress in collection of tax in respect of the remaining cases were awaited (February 2022).

The reply of the Government mentioning that there was no change in the percentage of tax even after reclassification is not acceptable. The tax levied at the time of reclassification was applicable only for the remaining period of the life of the vehicle. The Act does not exempt the payment of proportionate one-time tax (at the rate applicable for reclassified vehicle) for the period from the date of first registration to the date of reclassification. Further, the Government may pursue to collect the balance of amount of tax at the earliest.

2.11.4 Non and short levy of tax in respect of transport vehicles

Motor vehicles tax in respect of transport vehicles are to be levied as per the provision of KMVT Act. Review of database of 11 RTOs/ SRTOs, however, revealed the following.

2.11.4.1 Non-levy of tax in respect of contract carriages

As per Section 3 (1) of KMVT Act, tax in respect of contract carriages shall be levied according to the number of passengers permitted to carry and type of seats at the rates in Schedule to the Act.

Scrutiny of database in SRTOs at Alathur, Mannarkad, Ottapalam, and Perumbavoor revealed that tax was not levied at rates specified in Schedule to the Act in respect of six out of 1,082 cases resulting in non-collection of tax amounting to ₹2.27 lakh.

2.11.4.2 Short levy of tax in respect of stage carriages

As per proviso 4 of Section 3 (1) of KMVT Act, tax in respect of new stage carriages registered or assigned new registration mark or altered from any category other than stage carriage shall be levied based on the floor area of the vehicle at the rate of ₹1,300 per sqm or part thereof for ordinary services other than city/ town services, ₹1,100 per sqm or part thereof for ordinary city/town services and ₹1,400 per sqm or part thereof for fast passenger and other higher class services with effect from 18/07/2016.

Prior to 18/07/2016, tax was to be levied based on the seating capacity and Kerala Motor Vehicle Rules 269 stipulates that minimum seating capacity of a stage carriage shall be directly proportionate to the wheelbase of the vehicle. The tax was to be levied at the rate of ₹600 per seat for seating capacity and ₹210 per seat for standing capacity³⁰.

Audit observed that in the case of six vehicles registered after 18/07/2016 at RTO, Kannur, tax was levied based on wheelbase instead of floor area of the vehicles. Similarly, in the case of three vehicles registered prior to 18/07/2016 at RTOs Vadakara and Muvattupuzha, tax was levied for a lesser number of seats which was not in proportion to the wheelbase of the vehicles. This led to short collection of tax amounting to ₹2.24 lakh in respect of nine out of 945 vehicles examined in audit.

2.11.4.3 Short levy of tax in respect of goods carriages

As per Section 3 (1) read with Schedule to the Act, the rate of tax for goods carriage with tipping mechanism and having gross weight more than 20,000 kg with effect from 1/4/2018 was ₹7,440 + ₹220 for every 250 kg or part thereof in excess of 20,000 kg.

Analysis of database in RTOs at Alappuzha, Kottayam and Vadakara and SRTO at Kanjirapally revealed that in 46 out of 1,095 cases, tax was not collected at the applicable rate which led to short levy of tax amounting to ₹1.04 lakh.

³⁰ For example, a stage carriage with wheelbase between 4,330 mm and 4,960 mm should have minimum 40 seats. Tax at the rate of ₹600 per seat will be levied for 36 seats (after deducting two seats for conductor and driver and two seats for stage carriage with separate entry and exit doors). Tax at the rate of ₹210 per seat will also be levied for standing capacity which is 25 per cent of seats on which tax is to be levied.

These led to short levy of tax amounting to ₹5.55 lakh in respect of 61 vehicles during 2018-19 in the case of RTOs and 2017-19 in the case of SRTOs.

The Government replied (February 2022) that the RTOs/ SRTOs collected ₹1.01 lakh out of ₹2.27 lakh in respect of contract carriages; ₹0.99 lakh out of ₹2.24 lakh in respect of stage carriages; and ₹0.52 lakh out of ₹1.04 lakh in respect of goods carriages. Progress in collection of tax in respect of the remaining cases were awaited (May 2022). The Government may take earnest steps to recover the balance amount of tax.

Recommendation: It is recommended that the Department may take steps to monitor the Demand Collection module of the SMART MOVE periodically so that non-realisation of revenue can be arrested.