CHAPTER VI

REVENUE RECEIPTS

CHAPTER VI : REVENUE RECEIPTS

6.1 General

6.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Meghalaya during the year 2006-07, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

Table 6.1

(Rupees in crore)

Sl. no.	Particulars	2002-03	2003-04	2004-05	2005-06	2006-07
I.	**Revenue raised by the State Government**					
	• Tax revenue[1]	144.87	177.68	207.73	252.67	304.74
	• Non-tax revenue	92.78	128.95	133.49	146.01	184.37
	Total I:	**237.65**	**306.63**	**341.22**	**398.68**	**489.11**
II.	**Receipts from Government of India**					
	• State's share of divisible Union taxes	176.11	225.08	269.04	350.57	447.18
	• Grants-in-aid	875.17	867.12	935.87	997.69	1,205.90
	Total II:	**1,051.28**	**1,092.20**	**1,204.91**	**1,348.26**	**1,653.08**
III.	**Total receipts of the State Government**	**1,288.93**	**1,398.83**	**1,546.13**	**1,746.94**	**2,142.19**
IV.	**Percentage of I to III**	**18.44**	**21.92**	**22.07**	**22.82**	**22.83**

The above table indicates that during the year 2006-07, the revenue raised by the State Government was 22.83 *per cent* of the total revenue receipts (Rs.2,142.19 crore) against 22.82 *per cent* in the preceding year. The balance 77.17 *per cent* of receipts during 2006-07 was from the Government of India.

6.1.2 The non-plan grants received by the State from the Government of India during 2002-03 to 2006-07 are mentioned below:

Table 6.2

(Rupees in crore)

Year	Amount of non-plan grants
2002-03	407.74
2003-04	329.33
2004-05	360.82
2005-06	406.03
2006-07	472.47

[1] Excluding share of net proceeds of taxes and duties assigned to the State.

The share of non-plan grants during 2006-07 was 39.18 *per cent* of the total grants-in-aid received from the Government of India. Compared to 2002-03, the non-plan grants of the State increased by 15.88 *per cent* mainly due to receipt of grants by the State for maintenance of roads and bridges on the recommendation of the Twelfth Finance Commission (Rs. 21.60 crore), backward regions (Rs. 15 crore), State specific needs (Rs. 12 crore) and maintenance of forests (Rs. 6 crore).

6.1.3 The following table presents the details of tax revenue raised during the period from 2002-03 to 2006-07:

Table 6.3

(Rupees in crore)

Sl. no.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1.	Sales tax	71.67	83.37	106.35	159.65	187.78	(+) 18
	Central sales tax	15.53	26.76	19.84	13.72	28.04	(+) 104
2.	State excise	44.95	52.80	62.70	59.16	53.95	(-) 9
3.	Stamp duty and registration fees	2.95	3.37	4.56	5.48	6.49	(+) 18
4.	Taxes and duties on electricity	0.02	0.03	0.03	0.04	0.03	(-) 25
5.	Taxes on vehicles	4.62	5.52	7.45	8.73	9.34	(+) 7
6.	Taxes on goods and passengers	1.63	2.02	2.66	2.76	2.79	(+) 1
7.	Other taxes on income and expenditure – taxes on professions, trades, callings and employments, *etc*.	0.92	0.97	1.02	1.17	9.52	(+) 714
8.	Other taxes and duties on commodities and services	2.26	2.35	2.83	1.63	1.22	(-) 25
9.	Land revenue	0.32	0.49	0.29	0.33	5.58	(+) 1,591
	Total	**144.87**	**177.68**	**207.73**	**252.67**	**304.74**	**(+) 21**

The concerned departments did not inform the reasons for variations despite being requested (February 2008).

6.1.4 The following table presents the details of major non-tax revenue raised during the period 2002-03 to 2006-07:

Table 6.4

(Rupees in crore)

Sl. no.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1.	Interest receipts	4.66	5.61	7.75	6.67	13.36	(+) 100
2.	Dairy development	1.09	1.18	1.25	0.79	0.13	(-) 84
3.	Forestry and wildlife	8.56	11.77	14.62	15.30	16.66	(+) 9
4.	Non ferrous mining and metallurgical industries	56.11	86.18	90.26	97.56	109.03	(+) 12
5.	Miscellaneous general services (including lottery receipts)	6.18	8.55	4.22	7.92	17.96	(+) 127
6.	Education, sports, arts and culture	0.76	0.80	0.45	0.55	0.91	(+) 65
7.	Medical and public health	0.55	0.62	0.61	0.70	1.08	(+) 54
8.	Co-operation	1.13	0.84	0.56	0.57	0.38	(-) 33
9.	Public works	3.63	3.66	5.10	4.33	5.11	(+) 18
10.	Police	1.53	1.42	2.26	3.65	3.54	(-) 3
11.	Other administrative services	3.41	0.91	0.75	1.21	8.91	(+) 636
12.	Other agricultural programmes	0.72	0.69	0.49	0.61	0.82	(+) 34
13.	Crop husbandry	1.40	1.57	1.76	1.99	2.21	(+) 11
14.	Animal husbandry	1.09	1.23	1.22	1.32	1.56	(+) 18
15.	Others	1.96	3.92	2.19	2.84	2.71	(-) 5
	Total	**92.78**	**128.95**	**133.49**	**146.01**	**184.37**	**(+) 26**

The following reasons for variations were reported by the concerned departments:

Interest receipts: The increase was attributed to realisation of more interest from investments.

Non-ferrous mining and metallurgical industries: The increase was attributed to increase in receipt under mineral concession fees, rents and royalties.

Miscellaneous general services (including lottery receipts): The increase was attributed to debt relief on repayment of loan given by the Government of India.

The other departments did not inform (February 2008) the reasons for variation, despite being requested (February 2008).

6.1.5 Variations between budget estimates and actuals

The variations between budget estimates and actuals of revenue receipts for the year 2006-07 in respect of the principal heads of tax and non-tax revenue are mentioned below:

Table 6.5

(Rupees in crore)

Sl. no.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Land revenue	0.48	5.58	(+) 5.10	1063
2.	Sales tax	180.00	215.82	(+) 35.82	20
3.	State excise	60.00	53.95	(-) 6.04	10
4.	Stamp duty and registration fees	5.50	6.49	(+) 0.99	18
5.	Taxes and duties on electricity	1.36	0.03	(-) 1.33	98
6.	Taxes on vehicles	8.50	9.34	(+) 0.84	10
7.	Forestry and wildlife	14.30	16.66	(+) 2.36	17
8.	Non-ferrous mining and metallurgical industries	105.00	109.03	(+) 4.03	4
9.	Taxes on goods and passengers	4.60	2.79	(-) 1.81	39

The concerned departments did not inform (February 2008) the reasons for variations despite being requested (February 2008).

6.1.6 Cost of collection

The gross collection in respect of principal revenue receipt heads, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2004-05 to 2006-07 along with the all India average percentage of expenditure on collection for 2005-06 are mentioned below:

Table 6.6

Sl no.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2005-06
1.	Sales tax	2004-05	126.28	2.73	2.16	0.91
		2005-06	173.37	3.22	1.85	
		2006-07	215.82	3.58	1.65	
2.	State excise[2]	2004-05	62.70	3.23	5.15	3.40
		2005-06	59.16	3.45	5.83	
		2006-07	53.96	3.95	7.32	
3.	Taxes on vehicles	2004-05	7.45	2.13	28.59	2.67
		2005-06	8.73	2.29	26.23	
		2006-07	9.34	2.41	25.80	
4.	Stamp duty and registration fees[2]	2004-05	4.56	0.40	8.77	2.87
		2005-06	5.48	0.47	8.57	
		2006-07	6.49	0.54	8.32	

Thus, the percentage of expenditure on collection during 2006-07 as compared to the all India average percentage for 2005-06 was higher in the case of sales tax, state excise, taxes on vehicles and stamp duty and registration fees which the Government needs to look into.

[2] Figure as furnished by the department.

6.1.7 Arrears in assessments

The details of assessments pending at the beginning of the year 2006-07, cases due for assessment during the year and cases disposed during the year and number of pending cases at the end of the year, as furnished by the department in respect of sales tax and taxes on motor spirits are mentioned below:

Table 6.7

Names of tax	Opening balance of cases pending assessment	Cases due for assessment during the year	Total assess-ment due	Cases finalised during the year	Balance cases pending at the end of the year	Percen-tage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales tax/Central sales tax/Luxury tax	1,36,073	71,942	2,08,015	4,754	2,03,261	2.29
Motor spirits tax	4,248	3,438	7,686	120	7,566	1.56
Total	**1,40,321**	**75,380**	**2,15,701**	**4,874**	**2,10,827**	**2.26**

Thus, the percentage of pending cases at the end of 2006-07 was 97.74. Immediate action needs to be taken by the Government to finalise the pending assessment cases.

6.1.8 Arrears of revenue

The arrears of revenue as on 31 March 2007 in respect of some principal heads of revenue amounted to Rs. 91.96 crore of which Rs. 27.47 crore was outstanding for more than five years as mentioned below:

Table 6.8

(Rupees in crore)

Sl. no.	Head of revenue	Amount outstanding as on 31 March 2007	Amount outstanding for more than five years as on 31 March 2007
1.	Sales tax	21.50	17.29
2.	Other taxes	2.64	2.31
3.	Motor spirits	0.30	0.07
4.	Value added tax	0.01	…
5.	Motor vehicles taxes	1.78	…
6.	Environment and forests	2.58	…
7	State excise	0.31	…
8.	Geology and mining	7.80	7.80
9.	State lottery	55.04	…
	Total	**91.96**	**27.47**

The position of arrears of revenue at the end of 2006-07 in respect of land revenue was not furnished, despite being requested (February 2008).

6.1.9 Results of audit

Test check of the records of sales tax, state excise, motor vehicles tax, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2006-07 revealed underassessment/short/non-levy/loss of revenue amounting to Rs. 317.49 crore in 175 cases. During the year, the departments

accepted assessments/short/non levy/loss of revenue of Rs. 19.04 crore in 38 cases pointed out during 2006-07 and in earlier years, and recovered Rs. 16.86 lakh. Reply has not been received in respect of the remaining cases (February 2008).

This chapter contains 37 paragraphs including three reviews involving Rs. 6,847.81 crore. The departments accepted audit observations involving Rs. 736.18 crore, of which Rs. 3.98 crore has been recovered. Audit observations with a total revenue effect of Rs. 4,993.98 crore have not been accepted by the departments, but their contention have been found to be at variance with the facts or legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (February 2008).

After issue of draft paragraphs, the department concerned recovered Rs. 5.25 lakh in one case in full.

6.1.10 Failure to enforce accountability and protect interest of the Government

The Principal Accountant General (Audit), Meghalaya and Arunachal Pradesh, Shillong conducts periodic inspection of the various offices of the Government departments to test check the correctness of assessments, levy and collection of tax and non-tax receipts, and verify the maintenance of accounts and records as per the Acts, Rules and procedures prescribed by the Government. These inspections are followed by inspection reports (IRs) issued to the heads of offices inspected with copies to the higher authorities. Serious irregularities noticed in audit are also brought to the notice of the Government/head of the department by the office of the Principal Accountant General (Audit), Meghalaya and Arunachal Pradesh, Shillong. A half yearly report regarding pending IRs is sent to the Secretaries of the concerned Government departments to facilitate monitoring and settlement of audit observations raised in these IRs through the intervention of the Government.

IRs issued upto December 2006 pertaining to the offices under sales tax, state excise, land revenue, motor vehicles tax, passengers and goods tax, other taxes, forest, stamps and registration, state lottery, geology and mining departments disclosed that 905 objections relating to 206 IRs involving money value of Rs. 1,299.04 crore remained unsettled at the end of June 2007. Of these, 80 IRs containing 179 observations involving money value of Rs. 18.93 crore had not been settled for more than five years.

In respect of 12 IRs involving money value of Rs. 9.37 crore issued upto March 2007, even the first reply required to be received from the department/Government has not been received (February 2008).

The report regarding position of old outstanding IRs/paragraphs was reported to the Government in July 2007; their reply has not been received (February 2008).

6.1.11 Response of the departments to draft paragraphs

The draft paragraphs are forwarded to the secretaries of the concerned departments through demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non receipt of replies from the departments is invariably indicated at the end of each such paragraph included in the Audit Report.

Out of 34 audit paragraphs and three reviews included in this chapter to which the replies of the secretaries to the Government were requested for by Audit between May and August 2007, they furnished replies to only 24 paragraphs and three reviews upto February 2008. The remaining 10 paragraphs have been included without the response of the Government.

6.1.12 Follow up on Audit Report – summarised position

To ensure accountability of the executive in respect of all the issues dealt with in the various Audit Reports, the Public Accounts Committee (PAC) issued instructions in July 1993 for submission of *suo motu* replies by the concerned departments from 1986-87 onwards. The PAC specified the time frame as six weeks upto 32nd Report and six months in the 33rd Report for submission of action taken notes (ATN) on the recommendations of the PAC.

A review of outstanding ATNs as of October 2007 on the paragraphs included in the Reports of the Comptroller and Auditor General of India disclosed as mentioned below:

The departments of the State Government had not submitted *suo motu* explanatory notes on 164 paragraphs of Audit Reports for the years from 1992-93 to 2005-06 in respect of revenue receipts as mentioned below:

Table 6.9

Year of Audit Report	Date of presentation of the Audit Report to the Legislature	Number of paragraphs/reviews included in the Audit Report		Number of paragraphs/reviews for which *suo motu* replies are awaited	
		Paragraphs	Reviews	Paragraphs	Reviews
1992-93	16 September 1994	6	…	6	…
1993-94	08 September 1995	8	…	…	…
1994-95	20 September 1996	10	…	4	…
1995-96	07 April 1997	14	2	3	2
1996-97	12 June 1998	21	1	17	1
1997-98	09 April 1999	8	1	1	…
1998-99	12 April 2000	8	1	8	1
1999-2000	07 December 2001	23	2	22	2
2000-01	01 April 2002	20	1	18	1
2001-02	20 June 2003	25	…	8	…
2002-03	11 June 2004	30	1	30	1
2003-04	14 October 2005	29	…	27	…
2004-05	27 March 2006	23	…	5	…
2005-06	19 April 2007	33	1	6	1
Total		**258**	**10**	**155**	**9**

The departments failed to submit ATN on 29 out of 30 paragraphs pertaining to revenue receipts for the years from 1982-83 to 1997-98 on which recommendations had been made by the PAC in their 16th to 33rd Reports presented before the State Legislature between December 1988 and June 2000, as mentioned below:

Table 6.10

Year of Audit Report	Number of paragraphs on which recommendations were made by the PAC but ATNs are awaited	Number of PAC Report in which recommendations were made
1982-83	2	16th
1984-85	9	26th 19th
1987-88	1	26th
1988-89	1	20th
1989-90	1	20th
1990-91	11	26th 20th
1991-92	3	26th 20th
1997-98	1	33rd
Total	**29**	

Thus, failure by the concerned departments to comply with the instructions of the PAC, defeated the objective of ensuring accountability of the executive.

SECTION 'A' : REVIEWS

EXCISE, REGISTRATION, TAXATION AND STAMPS DEPARTMENT

6.2 Receipts under State Lottery

Highlights

Arbitrary action of the Government to withdraw the safeguard/deterrent clause and failure to incorporate a penal clause in the amended agreement for online draws with the distributor led to undue financial aid and non-realisation of revenue of Rs. 900.07 crore.

(Paragraph 6.2.8)

Failure of the Government to obtain legal opinion prior to execution of the paper lottery agreement and being clear about the status of both online as well as paper schemes resulted in loss of revenue of Rs. 5,170.23 crore.

(Paragraph 6.2.9)

Irregular reduction of rate of weekly draws led to loss of revenue of Rs. 7.83 crore.

(Paragraph 6.2.13)

6.2.1 Introduction

Lottery schemes in Meghalaya are regulated under the Lotteries (Regulation) Act, 1998 and Meghalaya State Lottery Rules (MSLR), 2002. On 9 September 2001, the Government of Meghalaya accepted the proposal of a distributor to operationalise online lottery[1] for a period of 10 years. Accordingly, three agreements were signed between September 2001 and August 2002 stipulating, *inter alia*, that the distributor shall not organise less than 4,000 draws per year and pay to the State Government annual minimum guaranteed amount (MGA) of Rs. 12 crore to be paid in equal quarterly instalments within the first six weeks of each quarter.

[1] Online lottery means a lottery where tickets are sold via online computer terminals.

Thereafter, the Government of Meghalaya introduced paper lottery[2] in the year 2004 and executed agreements with five distributors between June 2004 and October 2004 for organising paper lottery to be sold in paper and demat format through computer terminals. MGA in this case was fixed at Rs. 1.85 crore per distributor per year.

A review of receipts under State lotteries was conducted. It revealed a number of system, compliance and other deficiencies which have been discussed in the succeeding paragraphs.

6.2.2 Organisational set-up

The lottery schemes in Meghalaya are administered by the Director of State Lotteries, Meghalaya under the overall supervision of the Secretary, Excise, Registration, Taxation and Stamps (ERTS) Department.

6.2.3 Audit objective

The review was conducted with a view to ascertain:

- efficiency and effectiveness of the system/mechanism for conducting the lottery schemes and collection of revenue therefrom;
- adequacy and effectiveness of the agreements drawn up with the distributors and
- adequacy and effectiveness of the internal control mechanism.

6.2.4 Scope of audit

The review was conducted between March and August 2007 through test check of the records of the Director of State Lotteries and Secretary, ERTS Department for the years 2002-03 to 2006-07. Emphasis was laid on the adequacy and effectiveness of the agreements made with the distributors in respect of online and paper lottery schemes and adherence of these by the distributors.

6.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Lottery Department in providing necessary information and records for audit. The audit findings were reported to the Government in August 2007 and discussed in the Audit Review Committee meeting in September 2007. Response of the Government to the audit observations have been appropriately incorporated in the review.

[2] In paper lottery tickets are sold in paper and demat format on computer terminals.

Audit findings

6.2.6 Trend of revenue

The amount of revenue realised by the department against targets set during the years 2002-03 to 2006-07 is mentioned below:

Table 6.11

(Rupees in crore)

Year	Target *	Revenue realised **	Excess (+) Less (-)	Percentage
2002-03	--	12	(+) 12.00	(+) 1200
2003-04	12	6	(-) 6.00	(-) 50
2004-05	11.95	3.56	(-) 8.39	(-) 70.21
2005-06	12	7.54	(-) 4.46	(-) 37.17
2006-07	18	2.04	(-) 15.96	(-) 88.67

* Only minimum guaranteed amount (MGA) was considered in the budget estimates.

** Figures as furnished by the department.

The shortfall in realisation during the years 2003-04 to 2006-07 ranged between 37.17 and 88.67 *per cent*. The reasons for shortfall of revenue collection with reference to the MGA were not stated. No target was fixed in 2002-03 though the State Government executed an agreement with a distributor for organising online lottery, fixing MGA as Rs. 12 crore. During 2005-06 and 2006-07, MGA should have been fixed at Rs. 21.25 crore per year as the Government had executed agreements with five paper lottery distributors fixing MGA of Rs. 1.85 crore per year in each case.

After the case was pointed out, the Government while admitting the facts stated in October 2007 that the shortfall in revenue collection was due to non-fulfilment of timely obligation in payment of dues, conflicting interpretation on adjustment/payment of dues out of one time deposit towards prize money, stoppage of draws by the distributors *etc*.

6.2.7 Discrepancy between revenue figures of the Finance Accounts and departmental records

The budget manual stipulates that the controlling officer should periodically reconcile the departmental figures of revenue with those booked by the Accountant General.

It was noticed that the department did not reconcile the revenue figures with those booked by the Accountant General. The extent of variation is as mentioned below:

Table 6.12

(Rupees in crore)

Year	Collection of revenue as per the Finance Accounts	Collection of revenue as per the departmental figures	Difference excess(+)/ less (-)
2002-03	6.18	12	(+) 5.82
2003-04	8.05	6	(-) 2.05
2004-05	5.01	3.56	(-) 2.45
2005-06	0.89	7.54	(+) 6.65
2006-07	2.44	2.04	(+) 0.40

After the case was pointed out, the Government in October 2007 confirmed that the reconciliation of revenue figures had never been carried out.

System deficiencies

6.2.8 Online lottery

In September 2001, the Government of Meghalaya signed a 10 year contract with a distributor for establishing, operationalising and conducting Meghalaya State computerised online lotteries. Accordingly, three agreements were signed on 7 September 2001, 23 April 2002 (amended agreement) and 21 August 2002 (supplementary agreement). As per clause 3 of the supplementary agreement, the distributor assured and guaranteed the State Government that he would organise not less than 4,000 lottery draws per year at the agreed rate of Rs. 30,000 per draw. The annual MGA of Rs. 12 crore was to be paid in equal quarterly instalments within the first six weeks of each quarter.

Clause 10 of the amended agreement, *inter alia*, fixed the yearwise target amount likely to accrue as revenue from the proceeds of online lottery to the State Government. Clauses 1 and 2 of the supplementary agreement laid down that the distributor shall endeavour to achieve and exceed the target amount likely to accrue as revenue to the State Government and under clause 4, to mutually review the progress and achievement of the computerised online lottery from time to time, at least once a year, and to take appropriate action to achieve the target amount as per the market conditions.

6.2.8.1 Undue financial benefits/concessions to the distributor

Clause 12 of the original agreement provided that the total amount of prize money shall be deposited with the State Government 30 days before the date of any draw failing which the draw shall be postponed by the Government and penal interest at 12 *per cent* per annum shall be charged on the defaulted amount. Clause 12 of the amended agreement, however, stipulated that the distributor shall make a one time deposit of the total taxable prize money with the State Government before the date of the first draw. Thereafter, the distributor shall deposit the taxable prize money of subsequent draws in accordance with and commensurate to the disbursement of taxable prize money against claims received by the State Government. Such deposits shall be made by the distributor within three days of receipt of demand from the State Government. Further, as per this clause, prize money for each draw shall not be less than 50 *per cent* of sale proceeds of tickets for each draw. Clause 21, *inter alia*, states that if any prize money is unclaimed or is otherwise not disbursed, it shall be the property of the State Government.

The safeguard/deterrent clause provided in the original agreement against non-deposit of prize money by the distributor was withdrawn in the amended agreement thereby benefiting the distributor and consequent loss to the exchequer as discussed below.

- Scrutiny of the records revealed that between December 2002 and November 2005, the first prize money for 1,698 draws in respect of four[3] online lottery schemes amounted to Rs. 778.81 crore out of which the distributor deposited Rs. 28.22 crore only with the Government. No demand as per the provisions of the amended agreement was placed by the Government to realise the remaining first prize money from the distributor. **Thus, due to withdrawal of the deterrent clause provided in the original agreement which enabled the Government to postpone any draw, the Government was not in a position to take any action against the distributor and consequently prize money of Rs. 750.59 crore remained out of the Government coffers.** In addition to this, other taxable prize money payable to the Government could not be ascertained in the absence of detailed accounts of the sale proceeds.

After the case was pointed out, the Government in October 2007 admitted the loss of Rs. 3.94 crore and stated that the remaining prize amounting to Rs. 746.65 crore had been transferred to the roll over prize scheme. The reply is not tenable as the Act, Rules and the agreement did not provide for such rolling over of the prize money. Further, the Government could have avoided the loss of revenue had the agreement not been amended in favour of the distributor.

- Test check of the records relating to 1,270 draws in respect of four schemes[4] revealed that in 508 draws, the total sale proceeds aggregated Rs. 66.17 crore. As per the amended agreement, prize money should not have been less than Rs. 33.09 crore against which the distributor disbursed Rs. 16.01 crore only as prize money. **As there was no provision in the amended agreement enabling the Government to compel the distributor to deposit the entire prize money, it failed to realise the entire prize money prior to the draws. Thus, failure of the Government to include any penal clause in the agreement to safeguard its interest not only resulted in non-forfeiture of balance prize money of Rs. 17.08 crore but also in undue financial aid to the distributor to that extent (Appendix 6.1).** Further, as the department failed to produce the sale proceeds of other schemes, total non-realisation of revenue could not be ascertained in audit.

- Scrutiny of the records revealed that the online lottery distributor deposited Rs. 14.02 crore as total prize money between 3 December 2002 and

3 **(Rupees in crore)**

Name of scheme	Total no. of draws	Period of draw	Total value of first prize	Deposit
Best Lotto	218	Between 02-12-02 and 22-06-03	436	14.38
Saturday Super Lotto	44	Between 24-07-04 and 21-05-05	88	9.46
Keno Plus	1,272	Between 02-02-04 and 30-11-05	254.40	4.00
Dhan Chowka	164	Between 06-10-03 and 09-01-04	0.41	0.38
Total	**1,698**		**778.81**	**28.22**

4 Best Lotto, Saturday Super Lotto, Megha-3 and Keno plus.

7 December 2002 against the Best Lotto lottery scheme. Inspite of repeated draws, there was no winner and the schemes were finally discontinued from 22 June 2003. As per the provision of the amended agreement, the undisbursed prize money was to be forfeited and deposited to the Government account. But, on a request from the distributor, the Government released Rs. 5 crore to him and adjusted Rs. 4 crore towards payment of the MGA from the total prize money of Rs. 14.02 crore. Thus, undue concession in violation of the provisions of the agreement led to loss of revenue of Rs. 9 crore.

After the case was pointed out, the Government while admitting the facts stated in October 2007 that action had been taken for recovery of Rs. 9 crore. The reply is, however, silent regarding the reasons for extending the undue favour to the distributor by granting refund of Rs. 5 crore and adjustment of Rs. 4 crore which was beyond the scope of the agreement.

6.2.8.2 Non-realisation/loss of Government revenue

Under Clause 4 of the amended agreement, the distributor may select and propose for approval of the State Government any trade name/scheme, but on approval the absolute right and title over these schemes shall rest in the State Government. As per clause 9 of the amended agreement, the State Government has the absolute right to terminate or cancel any distributor/ draw/scheme. **It was noticed that, the no penal clause was included in the amended agreement to safeguard the interest of the Government in case of non-payment of dues or postponement/termination of the lottery draws/operation by the distributor.**

- Scrutiny of the records revealed that the online distributor proposed 66 schemes for approval of the State Government on different dates between August 2002 and August 2004 which were also approved. It was, however, seen that 58 out of these 66 schemes were unilaterally postponed by the distributor between December 2002 and September 2005 after these schemes were operated for periods ranging between 11 and 315 days. **As there was no penal clause in the amended agreement to safeguard Government interest against such whimsical action of the distributor, the Government could not take any action against violation of the terms and conditions of the agreement by the distributor.** This resulted in stoppage of 24,108 draws and consequent loss of revenue of Rs. 72.32[5] crore.

- Scrutiny of the records revealed that the distributor suspended all draws with effect from 1 December 2005. However, during the four years of operation i.e. 2002-05, the distributor was liable to pay revenue of Rs. 54.08 crore against which Rs. 19 crore only was paid by him leaving an unpaid balance of Rs. 35.08 crore till the date of audit.

Besides this, such arbitrary action of the distributor also led to the loss of revenue of Rs. 16 crore[6] in the shape of MGA. **In the absence of any penal clause enabling the Government to recover the revenue loss due to such**

[5] 24,108 X Rs. 30,000=Rs. 72.32 crore.
[6] Calculated at proportionate MGA of Rs. 1 crore per month for 16 months.

arbitrary suspension of draws by the distributor, it was not in a position to take any action against the distributor to recover either the balance revenue of Rs. 35.08 crore or the MGA of Rs. 16 crore for the period from December 2005 to March 2007.

After the cases were pointed out, the Government in October 2007 while admitting that no penal clause was included in any of the agreements drawn up with the online distributor to safeguard against loss of Government revenue, stated that the matter relating to recovery of dues was an ongoing process and would be finally referred to an arbitrator under clause 30 of the amended agreement. The reply is not tenable as the Government should have safeguarded its revenue interest by providing a deterrent clause in the agreement. This would have also saved the department/Government from getting involved in unnecessary arbitration cases.

6.2.8.3 Non-conducting of periodic review

The position of revenue target fixed as per the agreements and achievement thereagainst is mentioned below:

Table 6.13

Year[7]	Revenue target fixed as per agreements (Rupees in crore)	Number of draws executed	MGA (Rupees in crore)	Revenue realisable against no. of draws/MGA (Rupees in crore)	Revenue realised (Rupees in crore)
1st year	37.50	1,473	12	12.00*	12[8]
2nd year	75.00	4,830	12	14.49	6
3rd year	150.00	8,196	12	24.59	1
4th year (upto November 2005)	165.00	437	3	3.00*	--
Total	**427.50**	**14,936**	**39**	**54.08**	**19**

* MGA

Thus, against the target of Rs. 427.50 crore, maximum revenue of Rs. 54.08 crore calculated on the number of draws/MGA was realisable from the distributor. Thus, the revenue realisable was only 12.65 *per cent* of the target fixed. Moreover, the amount paid by the distributor as revenue was Rs. 19 crore which was only 4.4 *per cent* of the target fixed. However, in spite of the abysmally low revenue realised/realisable against the target set, only two mutual reviews were held in March 2005 and October 2005 to monitor the progress and achievements of the online lottery. **Even after these reviews, no action was taken by the department to achieve the target as per the agreements in the interest of revenue.**

[7] Year in this case means a year from the date of first draw and is thus different from the financial year.

[8] Revenue realisable from the draws was less than MGA. Hence distributor paid MGA as per agreement.

Besides, cross verification of the target fixed as per the agreements with the budget estimates revealed that the department failed to draw up the budget estimates in conformity with the targets fixed. Instead of framing the budget estimates in accordance with the revenue target fixed as per the agreements, only the MGA realisable from the distributors was projected as the budget estimates. This resulted in incorrect projection of the budget estimates.

6.2.9 Paper lottery

Paper lottery was introduced in Meghalaya in the year 2004. The Government executed agreements between June and October 2004 with five distributors for organising paper lottery to be sold in paper and demat format through computer terminals and fixed the Government revenue at Rs. 600 per draw and the MGA at Rs. 1.85 crore per distributor per year.

It was, however, noticed that the Government having failed to differentiate the status of online and paper lottery schemes, sought the legal opinion of the Additional Solicitor General of India (ASG) in May 2005. The ASG in June 2005 opined that both online and paper lottery were operated through computer terminals and internet and, thus, were same in form and substance. **Thus, the Government executed the agreements without being clear about the status of both the lottery schemes. This resulted in loss of revenue as discussed below.**

6.2.9.1 Loss of revenue due to fixing of abnormally low draw rates

Scrutiny of the records revealed that between 2004-05 and 2006-07, the paper lottery distributors organised 3,32,378 weekly draws. **The Government without obtaining legal opinion about the status of online and paper lottery schemes went ahead with executing the agreements. Also, without having any idea about the form and substance of these schemes, it fixed the revenue per draw at the abnormally low rate of Rs. 600 instead of Rs. 30,000 per draw as applicable to the online lottery.** This resulted in a loss of revenue of Rs. 977.19 crore to the State exchequer.

After the case was pointed out, the Government in their reply in October 2007 contended that final decision in the matter rested with the court of law. However, even after the lapse of more than two years of obtaining the view of the ASG, the Government is still contemplating taking recourse to court of law. The reply is also silent regarding the reasons for not obtaining the legal opinion prior to execution of the agreements which would have not only saved the Government from losing substantial revenue but also from getting involved in unnecessary arbitration. Also, the basis for fixing the rate per draw at only 0.02 *per cent* of the rate for online lottery was not explained.

6.2.9.2 Non-forfeiture of undisbursed prize money due to faulty agreement

As per clause 9(3) of the paper lottery agreement, the distributors were to submit quarterly audited statements indicating *inter alia* the sale turnover, draw expenses, minimum guaranteed return, prize money paid, expenses

incurred and the margin of profit. Further, clause 18(ix) of the agreement stipulated that if any prize money is unclaimed or is otherwise not disbursed by way of prize, it shall be the property of the State Government. **The Government, however, did not include any clause stipulating advance deposit of prize money prior to the draws in the line with the original agreement governing online lottery scheme to pre-empt any scope of non-realisation/loss of revenue.**

Test check of the records revealed that only two out of five distributors submitted quarterly audited statements in prescribed proforma. **It was noticed that there was no system of monitoring of submission of quarterly statements by the distributors.** A scrutiny of the quarterly statements of these two distributors revealed that altogether 8,879 draws were organised by one distributor between 8 November 2004 and 7 November 2005 in respect of four[9] weekly lottery schemes. Prize money of Rs. 122.17 crore out of the total prize money of Rs. 4,315.21 crore was paid to the winners. The undisbursed prize money of Rs. 4,193.04 crore was neither deposited by the distributor nor recovered and forfeited to the Government account as per the agreement. **Thus, due to non-inclusion of a penal/deterrent clause in the agreement governing paper lottery schemes, the Government could not recover the undisbursed prize money and credit it to Government account. This resulted in non-realisation of revenue of Rs. 4,193.04 crore. Besides, due to the absence of a monitoring system in the department, no action could also be taken against the other three distributors who did not furnish quarterly audited statements**.

After the case was pointed out, the Government stated in October 2007 that paper lottery tickets were issued on "fully sold basis" to the distributors and hence computation of unsold tickets would not arise. The reply is not relevant as the audit observation is on non-forfeiture of undisbursed prize money of draws conducted by the distributor. Moreover, the reply is silent about the reasons for such defective agreement which led to non-forfeiture of undisbursed prize money of such a high magnitude.

6.2.9.3 Non-realisation of arrear revenue

As per clause 13(h) of the paper lottery agreement, the sale proceeds of each draw has to be deposited by the distributor(s) in such manner as the Government may direct. **The Government, however, did not include the due date of payment of sale proceeds in the agreement. There was also no provision in the agreement for imposition of penalty on the distributors in case of their failure to pay the Government dues on time.**

Scrutiny of the records revealed that five distributors of paper lottery paid Rs. 10.63 crore out of Rs. 30.59 crore payable upto 31 March 2007. The balance revenue of Rs. 19.96 crore remained unpaid till the date of audit. **Due to the failure on the part of the Government to stipulate the due date of payment of the sale proceeds and penal measure in case of default in**

[9] Subhalaxmi, Subhalaxmi A,B and C.

making such payment in the agreement, the Government could not realise the outstanding dues of Rs. 19.96 crore. Since all lottery draws were suspended by the distributors between February 2006 and February 2007, possibility of recovery of Rs. 19.96 crore is remote.

After the case was pointed out, the Government stated in October 2007 that Rs. 2.62 crore had been recovered from the two distributors. Reasons for omission to specify the due date of payment and non-inclusion of penal action in case of non-payment of Government dues, however, remained unanswered. A report on the recovery of the balance dues has not been received (February 2008).

The Government may take the following action:

- **immediately review the agreements that are under operation to safeguard the interest of the Government against non-realisation/loss of revenue;**
- **draw-up agreements that secure government interest in legally sound manner so as to avoid litigation;**
- **strictly enforce the terms of the agreements entered into with the distributors;**
- **specify the due dates of payment of MGA and other Government dues in respect of paper lottery schemes; and**
- **review the progress and achievement of the online lottery by the department and the distributor with a fixed periodicity.**

6.2.10 Internal control mechanism

Internal control system in the department was weak. As a result of this, non-payment/submission of revenue/prize money/returns continued unabated. The department did not have any control over the distributors. This resulted in arbitrary stoppage of lottery schemes by the distributors causing substantial loss of revenue to the State exchequer. Failure to enforce the clauses of the agreement governing both the lottery schemes resulted in non-realisation/loss of revenue.

The department did not have an internal audit wing. The internal audit organisation functioning under the Examiner of Local Accounts, responsible for conducting internal audit of State Government departments, did not conduct any internal examinations to evaluate the functioning of the schemes. This was partly responsible for the absence of initiatives by the department to take corrective action.

After this was pointed out, the Government stated in October 2007 that the Examiner of Local Accounts would be asked to conduct internal audit.

The Government may consider setting up of an independent internal audit wing and ensure compliance with the observations made by the wing.

Compliance deficiencies

Online lottery

6.2.11 Faulty clause in the agreement led to non-realisation of revenue

Clause 21 of the amended agreement governing online lottery stipulates that if any prize money is unclaimed or is otherwise not disbursed by way of prize money, it shall be the property of the State Government. As per the original agreement, the distributor was liable to deposit the entire prize money with the Government failing which the Government was empowered to postpone the draw of the lottery. However, as per the amended agreement, undisbursed prize money of less than Rs. 5,001 was to be deposited with the State Government by the distributor immediately after the last date for claiming prize money is over.

Scrutiny of the records revealed that a total prize money of Rs. 52 lakh in respect of Super Lotto scheme drawn on 19 occasions between 24 July and 27 November 2004 remained unclaimed after the last date for claiming of prizes were over. It was noticed that though the prize money was less than Rs. 5,001, yet no action was taken by the department to recover the undisbursed prize money and forfeit the same to the Government account. This resulted in non-realisation of Rs. 52 lakh.

6.2.12 Non-levy of interest for non-payment of prize money

As per clause 12 of the amended agreement, the online lottery distributor shall make a one time deposit of the total taxable prize money with the Government, before the date of first draw. The clause further states, that if such deposits are not made, a penal interest of 12 *per cent* per annum shall be charged on the differential amount.

Scrutiny of the records revealed that the online distributor held the first draw on 12 July 2004 in respect of Saturday Super Lotto where the total prize money was Rs. 2.50 crore. However, the distributor did not deposit the prize money with the Government as laid down in the agreement and instead cancelled the draw with effect from 28 May 2005 after the jackpot amount of Rs. 7.37 crore was won. Violation of the clause of the agreement attracted penal interest of Rs. 35 lakh[10] which was neither demanded nor paid.

[10] Prize money of Rs. 7.37 crore paid on 6 September 2005. Thus interest at 12 *per cent* per annum on Rs. 2.50 crore calculated from 12 July 2004 to 5 September 2005 i.e. 1 year 56 days.

After the case was pointed out, the Government admitted the lapse and stated in October 2007 that action would be taken to recover the penal interest. A report on recovery has not been received (February 2008).

Paper lottery

6.2.13 Irregular reduction of draw rate

As per the paper lottery agreement, the distributors are to pay revenue at Rs. 600 per draw and MGA at Rs. 1.85 crore per year. If the MGA of Rs. 1.85 crore is achieved prior to the date of expiry of one year, then the future MGA shall be fixed on pro-rata basis. The MGA is, therefore, payable by the distributor in case of failure to organise more than 30,834[11] draws in a year.

Scrutiny of the records revealed that one of the distributors launched the first draw on 23 November 2004 and conducted 94,958, 72,396 and 1,524 draws respectively during the first, second and third years. Since the distributor exceeded the minimum 30,834 draws on 15 March 2005 (before the expiry of one year from the date of first draw), the MGA was to be enhanced to Rs. 6.37 crore for second year on pro-rata basis as per schedule 1 of the agreement. However, instead of enhancing the MGA, the department reduced the rate from Rs. 600 to Rs. 250 per draw during the period from 16 March 2005 to 4 February 2007 as the distributor achieved the target within five months of the year. Thereafter, all draws were suspended by the distributor. Thus, the irregular reduction resulted in loss of revenue of Rs. 7.83[12] crore.

After the case was pointed out, the Government, *inter alia*, stated in October 2007 that pro-rata clause is an incentive given to a distributor during a particular year. The contention of the Government is not tenable as the incentive factor was not covered within the scope of the agreement.

6.2.14 Short accounting of draws

Scrutiny of the records revealed that a paper lottery distributor organised 2,11,807 draws from November 2004 to February 2007 and was thus liable to pay revenue of Rs. 12.71 crore. The department, however, accounted for 1,64,897 draws only for the same period which resulted in short accounting of 46,910 draws and corresponding loss of revenue of Rs. 2.81 crore.

After the case was pointed out, the Government stated in October 2007 that the case would be examined. Further reply has not been received (February 2008).

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[11] 30,384 draws x Rs. 600 per draw = Rs. 1.85 crore.

[12] 1st year: (94,958 X Rs. 600) – (1.85 + 64,124 X Rs. 250)=Rs. 2.25 crore
MGA for 2nd year: (Rs. 1.85 X 365)/106=Rs. 6.37 crore
2nd year :Rs. 6.37 crore-(72,395 X Rs. 250)=Rs. 4.56 crore
3rd year: Rs. 1.06 crore-(1,524 X Rs. 250)=Rs. 1.02 crore (two months)

6.2.15 Non-operation of other paper lottery schemes

As per schedule 1 to the paper lottery agreement, the Government fixed revenue of Rs. 20,000 per draw in respect of schemes other than weekly lotteries. Four distributors while submitting their tenders agreed to hold not less than 194 draws every year.

Scrutiny of the records revealed that the distributors did not organise any draw between 2004-05 and 2006-07 of the aforesaid schemes. The department also did not insist upon the distributors to organise these schemes. This resulted in the loss of revenue of Rs. 1.17 crore.

After the case was pointed out, the Government in October 2007 stated that they could not force the distributors to execute "market unfriendly" schemes. The contention is not tenable as it is contradictory to the offer of the distributors in their tender of holding not less than 194 draws every year.

6.2.16 Loss of annual revenue for unilaterally stopping paper lottery draws

Rule 16(4) of the MSLR states that the Government shall be competent to pass orders including the order of termination of Clause 6(B) of the agreement with a distributor for violation of any provision of agreement by him after he has been given an opportunity of being heard by the Principal Secretary, Finance Department. Clause 24 of the agreement drawn up for paper lotteries provides that an amendment or modification of the terms and conditions of the agreement may be made with the written consent of both the parties.

Scrutiny of the records revealed that the 'Samrat Sets Weekly Lottery' scheme with 55 paisa as face value of tickets, approved by the State Government, was operated between 21 February and 2 March 2005 by the distributor. As the distributor had violated clause 13(k) of the agreement, which stipulated that minimum retail price of each lottery shall be Re. 1, his draws were stopped by the Director of State Lotteries from 2 March 2005. As per the MSLR, only the Government is competent to pass orders for termination, and, hence, the action of the Director was irregular. Also, no attempts were made by the Government to mutually amend or modify the terms of the agreement as was done in the case of "Silver 50 Set" scheme which also had face value of 55 paisa and was organised by another distributor. Thus, arbitrary and unauthorised action by the Director resulted in a recurring annual loss of Rs. 1.10 crore [13] to the State exchequer.

6.2.17 Loss of revenue due to delay in organising the first draw

As per clause 19 of the paper lottery agreement, the distributor has to commence the operation of lottery schemes within 90 days from the date of signing of the agreement. Further, as per clause 6(b) of the agreement, the

[13] Samrat Sets of Weekly Lottery: 50 nos. of draw per day x 365 days x Rs. 600 per draw.

State Government is empowered to terminate the appointment on grounds of non-commencement of the operation within the stipulated period.

Scrutiny of the records revealed that three distributors organised the first draw of paper lottery after delays ranging between 131 and 163 days from the date of executing the agreements. The Government neither terminated the appointment nor realised MGA of Rs. 91 lakh from the distributors for non-commencement of the lottery within the stipulated period.

After the case was pointed out, the Government stated in October 2007 that since the non-commencement of draws within the specified period was not entirely due to the distributor, they had to condone the time limit specified in the agreement. The reply is not tenable as order of condonation was neither found on record nor was it produced to audit.

Other interesting cases

6.2.18 Loss of revenue due to non-observance of Government directive

During the finalisation of the proposal for conducting online lottery, the Government directed on 3 August 2001 that in the interest of revenue generation for the State, the lottery scheme should not be restricted to a single firm/distributor. However, in violation of the Government directive, clause 2 of the amended agreement laid down, *inter alia*, that during the term of 10 years (validity ending September 2012) no other party shall be appointed as distributor.

Scrutiny of the records revealed that the Lottery Department executed agreements between June and October 2004 with five firms for organising paper lottery to be sold in paper and demat format on computer terminal at the agreed rate of Rs. 600 per draw against Rs. 30,000 per draw in respect of online lottery. The sole online distributor in April 2005 objected to the appointment of other distributors as it violated the provisions of the agreement drawn up with him. He, however, agreed to an amicable solution for payment of draw money at par with the paper lottery distributors. There was no response on the matter from the Government. The online distributor closed down the scheme in December 2005 without paying arrear revenue of Rs. 35.08 crore to the Government. Thereafter, the Government constituted a negotiation committee in January 2006 which reduced the balance liability of the distributor from Rs. 35.08 crore to Rs. 25.81 crore[14].

Thus, amendment of the agreement in violation of the Government directive led to loss of revenue of Rs. 9.27 crore.

[14] The amount was reduced taking into consideration the date of introduction of paper lottery schemes in the State.

6.2.19 Loss of revenue due to the delay in amendment of the agreements

To discuss various aspects of lotteries, a meeting was convened by the Ministry of Home Affairs at New Delhi in April 2006. As agreed upon by the Secretaries of Finance Departments of all the States and based on the directive of the Supreme Court given in April 1994 that the owner of the lottery schemes should be the Government, it was, *inter alia*, proposed to amend the existing agreements with the lottery distributors in the State to provide specifically for payment of revenue by them on a percentage basis as against the existing practice of fixing a specific amount per draw. A committee set up by the Government in January 2007 i.e. after a lapse of almost nine months, proposed that the Government share of revenue should be one *per cent* of the sale proceeds of lottery tickets. Though the proposal was endorsed by the Law and Finance Departments of the Government of Meghalaya, yet it has not been approved by the Cabinet till the date of audit.

Scrutiny of the records revealed that the distributors organised 72 schemes per day during 2006-07 with minimum sale proceeds of Rs. 17.86 crore from the sale of lottery tickets. Thus, due to the inordinate delay in amending the agreements to provide payment of revenue on a percentage basis, the Government lost revenue of Rs. 17.86 lakh per day[15].

After the case was pointed out, the Government while admitting the audit observation stated in October 2007 that effective steps had already been taken to implement the directive of the Apex Court. The reply, however, did not explain the reasons for the agreements still not being amended which is resulting in recurring loss of revenue.

6.2.20 Uneven sharing of revenue between the Government and the distributor

Clause 7 of the agreement governing paper lottery schemes stipulated that the State Government and the distributor shall share the revenue in the manner laid down in consideration of selling the lottery tickets by the State Government.

Scrutiny of the records revealed that out of five distributors only two distributors submitted returns on the sale of lottery tickets. Test check of the returns of one distributor revealed that for holding 10,362 draws, from March 2005 to May 2006, the Government received Rs. 62 lakh as revenue which represented a meagre 0.09 *per cent* of sale price of Rs. 701.58 crore. The distributor/stockist, however, earned a profit of Rs. 67.18 crore which represented 9.58 *per cent*. Such uneven sharing of revenue between the State Government and the distributor shows that the agreement apparently benefited the distributor more than the State Government. The proposal of the committee to fix Government share at one *per cent* of the sale proceeds of lottery tickets also supports the audit contention.

[15] Calculated at the percentage (one *per cent*) proposed by the committee.

After the case was pointed out, the Government stated in October 2007 that the audit observation could not be accepted as expenses to be borne by the distributor was not taken into account while computing the share of revenue. The reply is not tenable as the share of revenue was computed on the basis of returns submitted by the distributor after deducting all the expenses relating to lottery draws.

6.2.21 Remittance/utilisation of sale proceeds of lottery tickets

Section 4(d) of the Lotteries (Regulation) Act emphasises that the sale proceeds of the lottery tickets shall be credited into the Public Account of the State. Further, the lottery agreements, *inter alia*, include that the funds generated by the sale of lottery tickets are to be utilised for good causes including education, child health, infrastructure and anti poverty schemes.

Scrutiny of the records, however, revealed that the Directorate of Lotteries, Meghalaya credited the sale proceeds of lottery tickets into the Consolidated Fund of the State and into bank accounts in contravention of the provisions of the Act. Crediting the receipts into the Consolidated Fund resulted in inflating the receipts of the State Government. In addition, the specific purpose for which these have been utilised cannot be ascertained in audit.

After the case was pointed out, the Government stated in October 2007 that all sale proceeds of lottery tickets had been credited in the Government account since 8 June 2005. The Government, however, failed to furnish any statistical data regarding utilisation of lottery funds (February 2008). The reply is not tenable as sale proceeds are to be directly credited into the Public Account.

6.2.22 Non-placement of the Rules in the State Legislature

Section 12(3) of the Lotteries (Regulation) Act, stipulates that every rule made by the State Government under Section 12 shall be laid as soon as may be after it is made, before the State Legislature. It was, however, noticed that the Rules made under Section 12 were never laid before the Legislature. Thus, the legal validity of the existing Lottery Rules is questionable.

After this was pointed out, the Government while admitting the facts stated in October 2007 that the Lottery Rules would be placed before the House in the forthcoming session.

6.2.23 Conclusion

The lottery schemes were introduced to augment the revenue of the State. This was frustrated due to lack of continuity in the lottery schemes and lacunae in the agreements governing the schemes. There were major loopholes in the agreements drawn up with the distributors which resulted in loss of revenue and undue financial benefit to the distributors. Safeguard/deterrent clause provided in the original agreement against non-deposit of prize money by the distributor was withdrawn in the amended agreement thereby benefiting the distributor. The Government executed paper lottery distributor without

being clear about the status of the lottery schemes which led to fixation of draw rates at abnormally low rates and consequent loss of revenue. Internal control systems were also weak as is evidenced by the lack of internal audit.

6.2.24 Summary of recommendations

The Government may consider taking the following actions for rectifying the system and other issues:

- immediately reviewing the agreements that are under operation to safeguard the interest of the Government against non-realisation/ loss of revenue;
- drawing up agreements that secure Government interest in legally sound manner so as to avoid litigation;
- strictly enforce the terms of the agreements entered into with the distributors;
- specify the due dates of payment of MGA and other Government dues in respect of paper lottery schemes;
- review the progress and achievement of the online lottery by the department and the distributor with a fixed periodicity; and
- setting up of an independent internal audit wing and ensuring compliance with the observations made by the wing.

TRANSPORT DEPARTMENT

6.3 Receipts under Motor Vehicles Taxes

Highlights

Lack of a system of monitoring led to vehicles being delivered to the purchasers without valid registration certificate. This also resulted in non-levy of a minimum fine of Rs. 5.78 lakh.

(Paragraph 6.3.8)

Failure of the DTOs to review the combined register resulted in follow up action to recover the dues not being initiated. This resulted in loss/ non-levy of revenue of Rs. 50.22 lakh.

(Paragraph 6.3.9)

Failure of the Enforcement Wing to detect 7,19,963 commercial trucks carrying load beyond maximum permissible limit led to non-levy of fine of Rs. 707.40 crore.

(Paragraph 6.3.12.1)

Out of Rs. 50.66 lakh collected as fine, Rs. 39.66 lakh was deposited and the balance revenue of Rs. 11 lakh was embezzled.

(Paragraph 6.3.13.1)

A weighbridge was not settled with the highest bidder leading to revenue loss of Rs. 2.70 crore.

(Paragraph 6.3.15.1)

Failure of the Enforcement Wing to detect plying of vehicles without pollution under control certificates led to non-levy and realisation of fees and fines of Rs. 2.32 crore.

(Paragraphs 6.3.16)

6.3.1 Introduction

The Motor Vehicle (MV) Act, 1988 and the Rules made thereunder as amended from time to time regulate registration and control of motor vehicles and also levy and collection of various types of fees and fines. The Transport Department is responsible for administering, regulating and controlling the motor vehicles in accordance with the provisions of the MV Act and the

Central Motor Vehicles (CMV) Rules, 1989. It also enforces Acts and Rules under the Assam Motor Vehicles Taxation (AMVT) Act and Rules, 1936 (as adopted and amended by Meghalaya).

A review of receipts from the motor vehicles taxes was conducted. The review revealed a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

6.3.2 Organisational set up

The Commissioner of Transport (CT) is the overall incharge of the department and is responsible for overseeing the functioning of the various wings of the department and implementation of the Acts and Rules governing the assessment, levy and collection of motor vehicles taxes, fees and fines. He is assisted by the Deputy Commissioner of Transport who is also the ex-officio secretary, State Transport Authority (STA). At the district level, there are seven offices, each headed by a district transport officer (DTO) who is also the ex-officio secretary, Regional Transport Authority (RTA). The Enforcement Wing of the department, headed by a DTO, is responsible for enforcing the provisions of the Acts and Rules and ensuring that a vehicle for which tax has not been paid, permit has not been issued/renewed or fitness certificate has not been obtained/renewed is not plying on the public road.

6.3.3 Audit objective

The review was conducted with a view to ascertain:

- the adequacy and effectiveness of the provisions of the AMVT Act and Rules;
- effectiveness and efficiency of the system/mechanism for proper assessment, levy and collection of taxes, fees, fines/penalty, *etc.* as prescribed in the Acts and Rules,
- compliance with the accounting standards laid down in the Act and Rules; and
- adequacy and effectiveness of the internal controls.

6.3.4 Scope of audit

The review on receipts from motor vehicles taxes was conducted for the period 2001-02 to 2005-06. The records of the CT and three[1] out of seven DTOs were test checked between August and December 2006.

[1] East Khasi Hills District, Jaintia Hills District and Ri-Bhoi District.

6.3.5 Audit methodology

The following methodologies were adopted in conducting the review:

- verification of records such as national permits (NP)/all India permits(AIP) and local permits, combined/vehicle registers, permit registers, inspection/fitness fee registers, authorisation fee register, composite fee register, register of valuables and revenue collection registers;

- scrutiny of tender settlement records, demand notices issued to defaulters and receipt books pertaining to the collection of road tax, fees, fines, *etc*;

- analysis of reports and returns submitted by various unit offices, weighbridges, lessees, *etc.*

- cross verification of the records of the Directorate of Mineral Resources (DMR), Meghalaya;

- revenue realised *vis-à-vis* the rates prescribed by the Acts and Rules and various Government notifications/orders issued from time to time; and

- proper accounting of revenue and its remittance into Government account.

6.3.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department in providing necessary information and records for audit. The audit findings from test check of the records were reported to the Government in February 2007 and discussed in the Audit Review Committee meeting held in June 2007. The responses of the Government to the audit observations have been appropriately incorporated in this report.

Audit findings

6.3.7 Trend of revenue

The budget manual of Meghalaya envisages that estimates of revenue and receipts should show the amount expected to be actually realised within the year. In estimating the revenue, the calculations should be based upon the actual demand including any arrears due and advance collections for the coming years.

The budget estimate *vis-à-vis* the revenue collected by the department in the form of taxes, fees and penalty *etc*. during the years 2001-02 to 2005-06 is mentioned below:

Table 6.14

(Rupees in crore)

Year	Budget estimates	Actual realisation	Variation of actual realisation from budget estimates	Percentage variation
2001-02	4.70	4.72	(+) 0.02	(+) 0.43
2002-03	5.39	4.62	(-) 0.77	(-) 14.29
2003-04	5.96	5.52	(-) 0.44	(-) 7.38
2004-05	6.30	7.45	(+) 1.15	(+) 18.25
2005-06	6.66	8.73	(+) 2.07	(+) 31.08

The large variations between the budget estimates and actual collection year after year except 2001-02 indicate the need for streamlining the budgeting process to make the budget estimates realistic.

After this was pointed out, the Government stated in February 2008 that in future budget estimates would be worked out as realistically as possible.

System deficiencies

6.3.8 Registration

Section 39 of the MV Act envisages that no person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered.

6.3.8.1 Irregular registration of vehicles

Under Rule 33 of the CMV Rules, for the purpose of the proviso to section 39 of the MV Act, a motor vehicle in possession of a dealer shall be exempted from the necessity of registration subject to the condition that he obtains a trade certificate from the registering authority. Rule 42 of the CMV Rules provides that no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration whether temporary or permanent. As per the section 192(1) of the MV Act, whosoever drives or causes or allows a motor vehicle to be driven in contravention of the provisions of section 39 is punishable for the first offence with fine which may extend to Rs. 5,000 but shall not be less than Rs. 2,000, and for any subsequent offence with fine which may extend to Rs. 10,000 but shall not be less than Rs. 5,000. **Audit noticed that there was no system of monitoring leading to vehicles being delivered to the purchasers without a valid registration certificate.**

Test check of the records of three DTOs revealed that in 289 cases, vehicles were sold by the dealers/firms to the purchasers without temporary/permanent registration. In all these cases, the vehicles were registered by the DTOs after delays ranging from 4 to 245 days from the date of delivery. **Despite specific provision prohibiting delivery of the vehicles without a valid registration, the dealers sold these vehicles which was in violation of the provisions of the MV Act and CMV Rules. In the absence of any system of monitoring, the DTOs failed to detect this violation at the time of registration of the vehicles.** This not only resulted in plying of these vehicles on public road

without a valid registration but also non-levy of a minimum fine of Rs. 5.78[2] lakh.

The Government may consider prescribing a system for monitoring the delivery of only those vehicles by the dealers which have valid registration.

6.3.9 Road tax

The MV Act and the AMVT Act and Rules made thereunder, lay down that every owner of a registered vehicle will pay road tax in advance either annually or quarterly in four equal instalments. Vehicles can go off road on submission of an application in form 'H' and surrender their licence and avail of exemption from payment of tax for the concurrent period. The DTOs are to review the combined registers/vehicle registers and licence registers at periodic intervals to ensure that tax is regularly paid. Prompt action should be taken to issue demand notices against the vehicle owners whose taxes are in arrears followed by suspension of the registration certificate (RC) of violators under **s**ection 53 of the MV Act. On failure of the departmental machinery to recover tax, the cases are to be forwarded to the certificate officer/*bakijai* officer[3] to realise the dues as arrears of land revenue under section 16 of the AMVT Act. **Audit noticed that the recovery of dues from the vehicle owners to whom demand notices have been issued, was not regularly monitored. This resulted in follow up action viz. issuing fresh demand notices or cancellation of RC and sending the cases to *bakijai* officer, not being initiated,**

6.3.9.1 Loss/non-realisation of revenue

- Test check of the records of two[4] DTOs revealed that demand notices were issued to 106 vehicle owners between June 2005 and May 2006 for payment of arrear tax amounting to Rs. 20.98 lakh, covering different periods between April 1992 and January 2006. Further scrutiny revealed that demand notices amounting to Rs. 18.50 lakh issued to 67 motor vehicle owners had been returned by the postal authorities to DTO, Jowai as the addressees could not be traced for want of sufficient/proper address. The tax outstanding against the remaining 39 vehicle owners on whom the demand notices failed to elicit any response was Rs 2.48 lakh. **The DTOs failed to regularly review the combined registers to monitor the outstanding dues. This resulted in the loss of revenue of Rs. 18.50 lakh. Chances of recovery of Rs. 2.48 lakh from the vehicle owners in the remaining cases who have not responded to the demand notices, appear to be remote.**

After the cases were pointed out, the Government stated in February 2008 that the DTOs had been directed to issue fresh demand notices after proper

[2] 289 cases x Rs. 2,000
[3] Arrear recovery officers
[4] East Khasi Hills District (period: 01 January 2002 to 31 December 2005), Jaintia Hills District (period: 01 April 1992 and 31 December 2006)

verification of address. A report on further development has not been received (February 2008).

- Test check of the records of three DTOs revealed that road tax amounting to Rs. 23.98 lakh was due from 310 vehicles for various periods from April 2001 to March 2006. **It was seen that the DTOs did not review the combined registers and issue demand notices to these vehicle owners.** Resultantly, these vehicles continued to ply in public places without payment of tax as there were no records of their withdrawal on the strength of form 'H' and surrender of licence. This resulted in non-realisation of tax of Rs. 23.98 lakh.

6.3.9.2 Non-recovery of road tax

Records of the DTO, Shillong revealed that arrear taxes of Rs. 60.81 lakh had accumulated against Meghalaya Transport Corporation (MTC) from April 1990 to March 2004[5]. Of this, Rs. 26.93 lakh was due against 163 vehicles operating under MTC between April 2001 and 31 March 2004. **Audit noticed that there was no system of periodical review of payment of arrears by the MTC authorities and consequently no demand notice was issued to them. Thus, due to apathy on the part of the DTO to monitor payment of dues by the MTC authorities, the vehicles of MTC continued to ply on public roads without payment of taxes.**

Further verification of the records of the MTC disclosed that 149 out of 163 vehicles had either been declared condemned or shut down during various periods. Of these, 50 vehicles had been condemned during April 2001 to April 2005. However, no report regarding the vehicles going off road had been furnished by the MTC nor had their licences been surrendered. There was remote possibility of the recovery of unpaid taxes of Rs. 5.26 lakh in respect of the 50 condemned vehicles alone.

After the cases were pointed out, the Government stated in February 2008 that instructions had been issued to the concerned DTOs to take appropriate action. The reply, however, did not explain the reasons for non-issue of demand notices against the MTC for the recovery of dues pending for over 16 years.

The Government may consider issuing orders to the DTOs making periodical review of combined registers and issuing demand notice to the defaulters, mandatory. In case of non-payment of dues despite notices, immediate steps need to be initiated for recovery of arrear revenue through certificate/*bakijai* proceedings. Appropriate follow up action also need to be taken up for expeditious recovery of the road tax from the MTC authorities.

[5] Records after March 2004 were not available at DTO. Shillong

6.3.10 Control of transport vehicles

Permits

Section 66 of the MV Act lays down that no owner of a motor vehicle shall use or permit the use of the vehicle or a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by the STA or an RTA. Further, section 81 of the Act states that validity of a permit in respect of national permit (NP) and all India permit (AIP) holders is five years and may be renewed on application made not less than 15 days before the date of expiry of the permit. Violation of the conditions of permits attracts minimum fine of Rs. 2,000 under section 192(A) of the MV Act.

6.3.10.1 Irregular grant of temporary permits

Rules 83 and 87 of the CMV Rules state that vehicles granted regular permits (NP/tourist) under the MV Act are to pay authorisation fee annually to the home state at the prescribed rates. Under section 87 of the MV Act, the STA and RTA may grant permits, which shall not in any case exceed four months, authorising the use of transport vehicles temporarily. The STA or RTA may also, under exceptional circumstances, and for reasons to be recorded in writing, grant a permit for a period exceeding four months but not exceeding a year. In case of temporary permits, no authorisation fee is charged. **Audit noticed that there was no system of monitoring or verification of the applications for temporary permits with the records of the STA. Due to this weak monitoring system, the vehicle owners applied repeatedly for temporary permits on the payment of authorisation fee instead of regular permits.**

Test check of the records of the CT revealed that in 1,645 cases, temporary permits were granted by the STA to the owners of tourist taxis, tourist maxi cabs, trucks, buses, stage carriers and public utility carriers. These permits were initially granted for four months and thereafter continuously extended, without any recorded reasons, in four month spells for periods spanning from two to five years. Thus, issue of temporary permits repeatedly exceeding the maximum permissible limit of one year was not only in violation of the provisions of the MV Act, but also led to loss of revenue of Rs. 27.04 lakh.

After the cases were pointed out, the Government accepted the observation and stated in February 2008 that strict compliance with the provisions of the Act would be ensured.

6.3.10.2 Non-levy of fine due to late renewal of permits

Test check of the records of the CT revealed that in 235 cases, permits issued by the STA were renewed belatedly on more than one occasion by 140 AIP holders and 95 NP holders. **Due to the lack of a system to verify the date(s) on which the existing permits expired before granting renewal, delay in renewal of the permits escaped notice of the CT.** Consequently, the

department did not levy a fine of Rs. 10.91 lakh under section 192(A) for violation of the provisions of the Act.

After the cases were pointed out, the Government while accepting the observation stated in February 2008 that compliance with the provisions of the Act would henceforth be ensured.

Fitness certificates

6.3.10.3 Non-realisation of inspection/fitness fee

Under the provisions of section 56 of the AMVT Act, a transport vehicle shall not be deemed to be validly registered for the purpose of section 39, unless it carries a certificate of fitness issued by the prescribed authority on realisation of the inspection fee. Further, as per section 192 (A) of the MV Act, whoever drives or allows a vehicle to be driven without registration is punishable with minimum fine of Rs. 2,000 for the first offence. The DTO is required to review the combined register periodically to ensure timely realisation of inspection fees. In addition, the Enforcement Wing is required to monitor the plying of vehicles with proper fitness certificate on realisation of fees. **Audit noticed that the DTOs/motor vehicles Inspectors (MVI) did not review the fitness registers periodically to detect non-renewal of fitness certificates. Due to this weak monitoring mechanism, non-renewal of the fitness certificates escaped the notice of the DTO/MVI.**

Scrutiny of the fitness registers/records of three DTOs revealed that in 464 cases the fitness certificates which had expired between June 1995 and March 2006 were not renewed. Reasons for non-renewal of fitness certificates were also not on record. This was not only fraught with the risk of plying of vehicles in public places without proper fitness but also resulted in non-realisation of fitness/inspection fees of Rs. 3.70 lakh and minimum fine of Rs. 9.28[6] lakh.

After the cases were pointed out, the Government accepted the observation and stated in February 2008 that it would be ensured that the said vehicles renewed their fitness certificates and paid the fine due. A report on further development has not been received (February 2008).

Application for permits should be reviewed with the records available in the CT's office to curb illegal plying and loss of revenue. Fitness registers should be periodically reviewed to pre-empt the chance of any transport vehicle plying without proper fitness certificates in public places.

6.3.11 Internal audit

Internal audit, also known as the control of all controls, is one of the tools of the internal control mechanism and functions as the 'eyes' and 'ears' of the management and evaluates the efficiency and effectiveness of the mechanism.

[6] Rs.2,000- X 464 cases

It also independently appraises whether the activities of the organisation/department are being conducted efficiently and cost effectively.

Audit noticed that the department has no internal audit wing. The internal audit wing functioning under Examiner of Local Accounts is responsible for conducting internal audit of the State Government departments. However, no internal audit had ever been conducted to evaluate the system of working of the department and suggest ways and means to plug the leakage of revenue.

After this was pointed out, the Government while accepting the observation stated in February 2008 that the matter of setting up of an internal audit wing would be looked into.

The Government should ensure that the prescribed internal controls are followed scrupulously to ensure control over plying of vehicles and realisation of tax, fees and fines from these. Internal audit wing should also be set up at the earliest to ensure strict compliance with the provisions of the Act and rules.

Compliance deficiencies

6.3.12 Carriage of excess load

Section 113 of the MV Act empowers the State Government to, *inter-alia,* prescribe the maximum weight to be carried by transport vehicles. Section 114 provides that vehicles suspected to be carrying more than the authorised weight can be weighed by a weighing device. In Meghalaya, all commercial trucks are registered by the DTO with maximum permissible load/carrying capacity of 10 metric tonnes (MT) on which road tax is payable under the AMVT Act. In terms of section 194 of the MV Act, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of sections 113 and 114 of the Act are punishable with a minimum fine of Rs. 2,000 and an additional amount of Rs. 1,000 per tonne of excess load. The Enforcement Wing as well as the check gates of the department are primarily responsible for enforcing the provisions of the Act.

6.3.12.1 Non-realisation of fine on trucks carrying excess load

Cross verification of the records pertaining to four[7] check gates of DMR, Meghalaya disclosed that 7.2 lakh commercial trucks carried 1.28 crore MT of coal, against the maximum permissible limit of 72 lakh MT, in different periods between April 2003 and March 2006. The excess load of 56.34 lakh[8] MT carried by these trucks escaped the notice of the Enforcement Wing of the Transport Department resulting in non-realisation of minimum fine of Rs. 707.40[9] crore.

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[7] Mookyndur, Umkiang, Dainadubi and Riangdo (upto 2003-04), Athiabari thereafter.
[8] 1,28,33,660 MT - 71,99,630 MT
[9] (719963 trucks X Rs. 2000) + (5634030 MT X Rs. 1000)

After the cases were pointed out, the Government in February 2008 admitted excess carrying of load by the trucks and attributed the reason to absence of fixed check gates. The Government also stated that the enforcement staff could not detect the overloaded trucks as they were deployed only from sunrise to sunset. The reply is not tenable as it is function of the department to judiciously deploy the enforcement staff to prevent the loss of revenue.

6.3.12.2 Short realisation of fine

Test check of the records of CT revealed that between July 2004 and March 2006, the enforcement staff detected 220 vehicles carrying 941 MT excess load and levied fine on the vehicle owners of the said vehicles under sections 113 and 114 of the MV Act. However, the enforcement staff instead of realising Rs. 11.47 lakh, realised Rs. 94,000 only at the rate of Rs. 100 per MT of excess load. This was in violation of section 194 of the Act and resulted in short realisation of fine of Rs. 10.59[10] lakh.

After the cases were pointed out, the Government accepted the observation and stated in February 2008 that such anomalies would be rectified. Action taken against the erring officials has, however, not been reported (February 2008).

6.3.13 Accounting of revenue

In terms of the provisions of the Meghalaya Treasury Rules, 1985, all moneys received by the Government on account of revenues or receipts or dues shall, without undue delay, be paid in full into the accredited bank for inclusion in the Government account. Further, Receipts and Payments Rules, 1983, provide that all receipts and payments/deposits are to be noted in the cash book as soon as they occur and attested by the head of the office in token of check. The same rules stipulate that details of bank drafts are to be entered in the register of valuables.

6.3.13.1 Embezzlement of Government money

The DTO in charge of the Enforcement Wing has been entrusted with the duty of levying and collecting fine from the violators of the Acts and Rules. For this purpose, receipt books are issued to him from time to time. After collection of fine through the receipt books, the amounts so collected are recorded in the subsidiary cash book to be maintained by the Enforcement Wing.

Audit scrutiny revealed that the subsidiary cash book had not been maintained by the Enforcement Wing from August 2004 onwards. Scrutiny of the receipt books relating to April 2003 to March 2006 used by the enforcement staff revealed that against Rs. 50.66 lakh collected as fine during the said period, only Rs. 39.66 lakh was deposited. Thus, Rs. 11 lakh has been embezzled which is attributable to the non-

[10] (Rs 4.40 lakh –Rs. 0.94 lakh) + Rs. 7.13 lakh.

maintenance of the subsidiary cash book and lapse of the DTO to monitor the functioning of the Enforcement Wing and deposit the revenue in the Government account.

After the case was pointed out, the Government while accepting the observation stated in February 2008 that Rs. 4.00 lakh had since been recovered and disciplinary action has been initiated against the official responsible for the embezzlement. Report on recovery of balance Government dues is still awaited (February 2008).

6.3.13.2 Unauthorised revenue retention

Scrutiny of records revealed that despite codal provisions prescribing remittance of Government revenue without undue delay in the Government account, revenue ranging from Rs. 2 lakh to Rs. 30.97 lakh was retained by the STA between October 2002 and June 2006 for periods ranging from 4 to 311 days instead of depositing it to the Government account. Reasons for such irregular retention of Government money were not on record.

After the case was pointed out, the Government while accepting the observation stated in February 2008 that timely deposit of Government revenue would be ensured.

6.3.13.3 Non-receipt of bank drafts sent for revalidation

Test check of the records of the STA, Meghalaya revealed that the register of valuables was not maintained to watch the receipt of bank drafts from the STAs of other States. It was further observed that the department did not deposit the bank drafts into the Government account in time. As a result, 174 bank drafts valuing Rs. 4.33 lakh pertaining to the period from December 2002 to January 2006 became time-barred. The department returned the bank drafts between August 2003 and September 2006 to the concerned STAs for re-validation. Of these, only three bank drafts totalling Rs. 15,000 were re-validated, returned and deposited in the Government account in December 2006. No follow up action was taken by the department in respect of the remaining 171 bank drafts, resulting in revenue of Rs. 4.18 lakh remaining out of the Government account.

After the cases were pointed out, the Government accepted the observation and stated in February 2008 that efforts were being made to get back the bank drafts after re-validation. Also, a register of valuables would be opened and maintained henceforth.

6.3.13.4 Excess outgo of revenue

The sixth schedule of the Constitution of India empowers the district council of an autonomous district to levy and collect taxes on vehicles plying within its territorial jurisdiction. However, under the said schedule, the power of administration of motor vehicles such as prescribing standard for their fitness, issue of permits, licences has not been vested with the council and these are

being executed by the Government agencies/Government. The Government of Assam (Meghalaya being formed in 1972), Tribal Areas and Development Department, Shillong enunciated on 16 March 1953, the broad principles to be followed while calculating the collection costs. One of the principles is that when a separate organisation is maintained by the Government exclusively for administration of the subject in respect of which revenues are to be credited to the district councils, the collection cost would comprise the total cost of administration of such subject. The CT**,** Government of Meghalaya, stated in February 1994 that payment of share to Garo and Jaintia Hills district councils would be cent *per cent* of the revenue collected after deduction of cost of collection and services rendered.

Test check of the records of the CT revealed that from 2001-02 to 2005-06, the DTO, Jaintia Hills, Jowai collected revenue of Rs. 1.70 crore from motor vehicles taxes. The CT paid the share of Rs. 89.63 lakh to the District Council, Jowai after deduction of the cost of collection of Rs. 87.35 lakh instead of the total cost of Rs. 95.67 lakh incurred during that period for administration of the DTO office at Jowai. This resulted in excess payment of Rs. 8.32[11] lakh.

Similarly, during the years 2001-02 to 2005-06, revenue of Rs. 3.81 crore was collected by three DTOs at Tura, Williamnagar and Baghmara and share of Rs. 2.01 crore paid to the District Council, Garo Hills after deduction of cost of collection of Rs. 1.80 crore instead of total cost of Rs. 1.97 crore incurred during that period for administration of the three DTO offices. This resulted in excess payment of Rs. 17.07[12] lakh.

Thus, non-adherence to the principle laid down for calculating actual revenue share to be paid to the district councils resulted in excess outgo of revenue of Rs. 25.39 lakh.

After the cases were pointed out, the Government stated in February 2008 that there were some discrepancies in the amount of shares reflected. This contention is not tenable as the report reflected the reconciled figures. Further reply has not been received (February 2008).

6.3.14 Short imposition of fine

6.3.14.1 Test check of the records of CT revealed that between March 2004 and March 2006, the enforcement staff levied fine under section 192(1) of the MV Act in 504 cases. It was, however, seen that instead of levying fine at the minimum rate i.e. Rs. 2,000 per case, it was levied at Rs. 1,000 in each case and revenue of Rs. 5.04 lakh was realised. Application of inappropriate rate resulted in short realisation of fine of Rs. 5.04 lakh.

After the case was pointed out, the Government stated in February 2008 that appropriate instructions would be issued to ensure levy and realisation of

[11] 89.63 lakh - (176.98 lakh - 95.67 lakh)

[12] 200.92 lakh – (380.56 lakh – 196.71 lakh)

penalty for delay in registration of vehicles. The reply is, however, silent about the action taken to recover the amount short realised.

6.3.14.2 Test check of the records of the CT revealed that the enforcement staff detected 775 vehicles plying in violation of the conditions of the permit and were therefore, punishable under section 192(A) of the MV Act. However, fine at the rate of Rs. 1,000 was levied instead of the minimum rate of Rs. 2,000 resulting in short levy of fine of Rs. 7.75 lakh.

After the case was pointed out, the Government stated in February 2008 that fine was realised as per the prescribed rate. The reply is not tenable as section 192(A) of the Act clearly stipulates levy of a minimum fine of Rs. 2,000 for any violation of conditions of permits.

6.3.15 Weighbridges

To ensure that goods carriage vehicles do not carry load beyond the prescribed limit, weighbridges have been installed at important locations under section 138 of the MV Act, for weighment of goods carriage vehicles. In Meghalaya, there are three[13] Government weighbridges of which two are non-functional. In addition, three[14] private weighbridges are in operation with the approval of the Government. Though all weighbridges are generally leased out through tender, the weighing charges for vehicles are notified by the Government from time to time. The Government of Meghalaya, Transport Department prescribed Rs. 30 as charges for weighing each loaded truck with effect from 14 March 2000.

6.3.15.1 Loss of revenue on settlement of weighbridge

The Government weighbridge at Mookynniang was settled on 11 February 2002 by the Government of Meghalaya with a bidder for Rs. 1.21 crore for one year. The allotment was subsequently cancelled by the Gauhati High Court (Shillong Bench) which directed the State Government to retender the weighbridge after reassessing value. A tender committee meeting was accordingly held on 30 May 2002 which opined that tender value of Rs. 2 crore per year would be reasonable. The Government in April 2002 invited fresh tenders against which 27 bids were received. The tender committee after analysis of all the bids recommended the highest bid of Rs. 1.75 crore per year for settlement for two years. The Government, however, turned down the recommendation without recording any reason and again invited tenders. The weighbridge was finally settled for Rs. 40.30 lakh per year for two years from 10 September 2002.

Thus, non-acceptance of the bid of Rs. 1.75 crore per year as per the recommendation of the tender committee by the Government and acceptance

[13] Mawiong at Shillong, Chasingre at Tura (non functional) and Mookynniang at Jaintia Hills (functional).

[14] Umling in Ri-Bhoi district, Dobu in East Garo Hills district and Gasuapara in South Garo Hills district.

of abnormally lower rate of Rs. 40.30 lakh per year, resulted in loss of revenue of Rs. 2.70 crore[15].

After the case was pointed out, the Government stated in February 2008 that the weighbridge was settled at a lower bid because of the ruling of the High Court. The reply is not tenable as the High Court had only directed the State Government to issue fresh tender notices after reassessing the value. The tender value of Rs. 1.75 crore per year recommended for acceptance was well below the value of Rs. 2 crore per year recommended by the tender committee. The circumstances under which the weighbridge was settled for two years at Rs. 40.30 lakh per year, i.e., a rate which was not only substantially lower than the bid of Rs. 1.75 crore received earlier but was also only 33 *per cent* of the bid accepted by the Government in February 2002, needs to be investigated thoroughly, responsibility fixed and appropriate administrative action taken against those responsible for the loss of revenue.

6.3.15.2 Non-realisation of annual fees

The Government of Meghalaya, in March 2004, accorded approval to a private individual for setting up of a weighbridge at Gasuapara for which he was to pay Rs. 15 lakh per year in lump sum at the beginning of the operation of the weighbridge. The weighbridge was completed in February 2005 but the individual, in April 2005, requested for payment of the fees in instalments. The Government in December 2005 conveyed approval for the payment of the fees in 10 equal instalments. The weighbridge started functioning in December 2005. It was, however, found that during the period from December 2005 to December 2006, the individual paid only one instalment of Rs. 1.50 lakh. The balance of Rs. 13.50 lakh remained unrealised as of September 2007. Thus, failure of the department to initiate effective follow up action resulted in non-realisation of annual fee.

It was also noticed during cross check of records of DMR, Shillong that during March 2005 to November 2005 a total of 3,029 loaded trucks crossed Gasuapara weighbridge. Thus, due to the delay of nine months in commencement of operation of the weighbridge, the Government sustained revenue loss of Rs. 91,000[16].

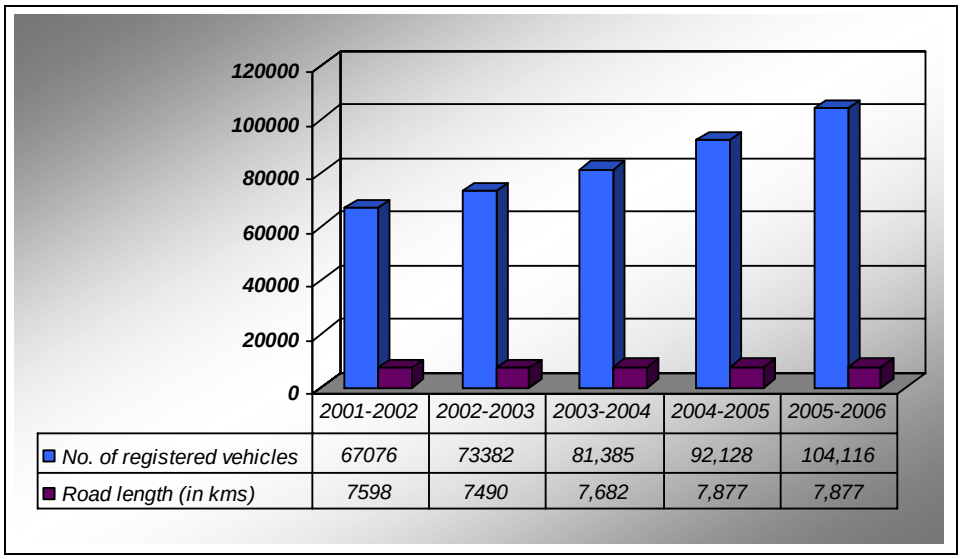
After the case was pointed out, the Government accepted the observation and stated in February 2008 that necessary steps had been taken to realise the unpaid annual fee. A report on recovery has not been received (February 2008).

6.3.16 Ineffective pollution control mechanism

In Meghalaya, vehicular emission is mainly responsible for air pollution. Due to the hilly terrain, vehicles are required to move at a moderate speed and at high gear thereby emitting hazardous gaseous matter. The problem gets

[15] Rs. 1.75 crore - Rs. 40.3 lakh = Rs. 1.35 crore (for 2 years) = Rs. 2.70 crore
[16] 3,029 trucks X Rs. 30

magnified as the vehicular density is high and is constantly on the increase whereas the road network/length is almost static. The narrow hilly tracks lead to frequent traffic jams and adds up to the problem of air pollution. The chart below depicts the ratio between vehicles registered and the road length in Meghalaya.



	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
No. of registered vehicles	67076	73382	81,385	92,128	104,116
Road length (in kms)	7598	7490	7,682	7,877	7,877

With a view to mitigating the menace of pollution, the Government of Meghalaya in a Cabinet meeting held on 11 August 2003, approved licensing of private parties for setting up testing centres for issue of pollution under control (PUC) certificates to the motor vehicles as required under Rule 115(7) of the CMV Rules. The fees for services rendered were fixed at different rates for different categories of vehicle tested. The PUC certificates were to be issued for a period of six months in the prescribed form to vehicles passing such test. Further, as per section 177 of the MV Act, whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder is punishable for the first offence with fine which may extend to Rs. 100.

The vehicle population in Meghalaya during the years 2004-05 and 2005-06 was 92,000 and 1.04 lakh respectively. The minimum revenue realisable as fees for the pollution test was Rs. 39.25 lakh[17] for these two years.

Test check of the records of the CT revealed that 334 and 3,130 vehicles comprising 0.36 and 3 *per cent* of the total vehicles were only tested and revenue of Rs. 68,000 was realised during 2004-05 and 2005-06. Thus, apart from the loss of revenue of Rs. 38.57 lakh on account of PUC fees, most of the vehicles remained outside the ambit of pollution control mechanism and posed

[17] 2004-05: No. of vehicles 92,128 x Rs 10 (being average Government dues) x 2 times = Rs. 18,42,560
2005-06: No. of vehicles 1,04,116 x Rs 10 (being average Government dues) x 2 times = Rs. 20,82,320

a major threat to the environment. The Enforcement Wing also failed to detect these vehicles plying without PUC and levy penalty of Rs. 1.93 crore.

Air pollution caused by vehicles not conforming to prescribed standards

After the case was pointed out, the Government stated in February 2008 that appropriate measures would be taken to create an effective control mechanism for air pollution caused by automobiles.

6.3.17 Conclusion

Audit noticed that the internal controls in the department were weak which had an adverse impact not only on the revenue but also on the environment. Lack of a system of Periodic review of combined/fitness registers by the concerned DTOs was not carried out. As a result, the department failed to check non-registration, non-payment of road tax *etc*. Failure of the Enforcement Wing to detect trucks carrying excess load resulted in non-realisation of fine. They also failed to detect vehicles plying without PUC. Internal audit was also not conducted which resulted in these deficiencies not being highlighted.

6.3.1 Summary of recommendations

The Government may consider taking the following action for rectifying the system and other issues:

- prescribing a system for delivery of only those vehicles by the dealers which have valid registration;

- issuing orders to the DTOs making periodical review of combined registers and issuing demand notice to the defaulters mandatory. In case of non-payment of dues despite notices, immediate steps need to

be initiated for recovery of arrear revenue through certificate/*bakijai* proceedings. Appropriate follow up action also needs to be taken up for expeditious recovery of the road tax from the MTC;

- reviewing the permits with the records available in the CT's office to curb illegal plying and loss of revenue. Fitness registers should be periodically reviewed to pre-empt the chance of any transport vehicle plying without proper fitness certificates in public places;

- ensuring that the prescribed internal controls are followed scrupulously to increase the control over plying of vehicles and realisation of tax, fees and fines from these. Internal audit wing should also be set up at the earliest to ensure strict compliance with the provisions of the Act and Rules.

TRANSPORT DEPARTMENT

6.4 Vehicle Registration System

Highlights

Lack of a time frame for implementation of the project resulted in computerisation taking over five years for completion.

(Paragraphs 6.4.7.1)

There were 346 sets of duplicate engine numbers involving 784 vehicles and four sets of duplicate chassis numbers involving eight vehicles. Cross verification revealed 94 and 127 vehicles registered with the DTO, Shillong shared common chassis/engine number with the vehicles registered with DTO, Aizawl.

(Paragraphs 6.4.8.1 & 6.4.8.2)

Out of 56,284 records, 21,909 records had no vehicle insurance detail rendering more than 39 *per cent* of the data redundant. There were a number of cases of registration of two or more vehicles with common insurance cover note number.

(Paragraph 6.4.8.3)

Data capture was partial in many cases resulting in incomplete database.

(Paragraph 6.4.8.6)

The department failed to detect registration of 9,158 vehicles beyond the mandatory period of seven days resulting in non-levy of fine.

(Paragraph 6.4.8.8)

Registering fee of Rs. 15.19 lakh and minimum fine of Rs. 1.82 crore from 9,087 non-transport vehicles whose registrations have expired was realisable.

(Paragraph 6.4.8.10)

The department failed to detect 9,829 transport vehicles plying without fitness certificate resulting in non-realisation of fees of Rs. 19.66 lakh and minimum fine of Rs. 1.97 crore.

(Paragraph 6.4.8.11)

There was no documentation of modifications made to the application software, user requirement specification, system design *etc*. Business continuity planning and training needs were not adequately addressed.

(Paragraph 6.4.9)

6.4.1 Introduction

In Meghalaya, the assessment, levy and collection of taxes, fees and fines on motor vehicles are governed under the provisions of the Motor Vehicle Act 1988 (MV Act) and the Rules made thereunder and the Assam Motor Vehicles Taxation Act and Rules, 1936 (as adapted and amended by Meghalaya) and various notifications issued by the Government from time to time. The Transport Department also controls, supervises and regulates the working and functioning of the State Transport Authority (STA) and the regional transport authorities (RTA).

In order to achieve faster and better services, transparency and better monitoring of State revenue generated from the implementation of the MV the Act and Rules, the Government of India provided a standardised software '*Vahan*', developed by the National Informatics Centre (NIC) to the Transport Department of Meghalaya. The department was also provided with technical assistance from the NIC, free of charge, for customisation and backend integration. The computerisation of District Transport Office, Shillong was taken up as a pilot project during 1996-97 and completed on 15 April 2002. The computerisation of the remaining DTOs is in progress (March 2007).

It was decided to conduct an information technology (IT) audit of the 'vehicle registration system' in Meghalaya. It revealed a number of deficiencies which have been discussed in the subsequent paragraphs.

6.4.2 Features of the application software

'*VAHAN*' package was upgraded and developed on Windows operating system using JAVA for the front end application program and Oracle 10G for the backend database. It automates management of information related to vehicle registration, identity of its owner and technical details of the vehicles. The system also manages information related to tax, fitness, permit, authorisation including interstate movement and insurance details.

6.4.3 Organisational setup

At the apex level, Commissioner and Secretary to the Government of Meghalaya, Transport Department is the administrative head of the department. He is assisted by the Commissioner of Transport (CT) who heads the Directorate of Transport. The CT is assisted by a Deputy Commissioner of Transport who is also the ex-officio secretary, STA. The Enforcement Wing is attached to the Directorate and is headed by a district transport officer (DTO). At the district level, there are seven offices each headed by a DTO who is also the ex-officio secretary, RTA.

6.4.4 Audit scope and methodology

The scope of the IT audit included the audit of system development and implementation and examination of controls in selected operational applications, *viz*. registration of vehicles and its allied activities and collection

of taxes, fees and fines for the period from the date of implementation upto March 2007.

An entry conference was conducted in July 2007 with the State Informatic Officer, DTO and resource persons of the NIC wherein the audit objectives, criteria and audit methodology were discussed. Audit was conducted during July and August 2007 through test check of the records of Commissioner of Transport at directorate level and the DTO, East Khasi Hills, Shillong.

6.4.5 Audit objectives

The IT Audit was conducted to examine

- whether the project was commissioned within a reasonable time;
- the accuracy and comprehensiveness of the data;
- whether adequate controls are in place; and
- whether the department has been able to effectively apply the software for the management of registration of vehicles and realisation of fees/road tax.

6.4.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department in providing the necessary information for the IT audit. The results of the IT audit were communicated to the department and the Government and were discussed in the Audit Review Committee (ARC) meeting in August 2007. The replies of the department/Government have been suitably incorporated in the respective paragraphs.

6.4.7 System development

6.4.7.1 No time frame was set resulting in delay in commissioning of the project

The project for computerising the vehicle registration system of the Transport Department, Government of Meghalaya was planned for completion during 1996-97 with the assistance of NIC, Shillong. For this purpose, *Vahan* software was installed at DTO, Shillong by the NIC, Shillong. The date on which the software was received by the department and installed by the NIC was, however, not on record. No time frame was set for completion of the project and hence it was commissioned only on 15 April 2002, i.e., five years after the due date.

Backlog data entry for DTO, Jowai had started from May 2005. However, the system was ready for implementation only in April 2007. In the remaining five

DTOs[1] the computerisation work has not yet started although fund of Rs. 40 lakh was sanctioned by the Government during March 2002 to October 2006. Works relating to site preparation is in progress.

The Government should consider setting a time frame to different stages of the computerisation and ensuring early completion of the project.

6.4.7.2 Partial utilisation of processing capabilities

Although *Vahan* system also manages information relating to permit and its validity including interstate permits, enforcement *etc*. these aspects have not been computerised. This has resulted in the department failing to fully utilise the processing capabilities available in the system.

Since complete utilisation of the processing capabilities will ensure greater transparency, the department should fully leverage the advantages offered by the application software.

6.4.7.3 Modification/change management procedures

The software received from the GOI was customised by the NIC, New Delhi to meet the needs of the State prior to its implementation. Thereafter, minor modifications were carried out by the NIC, Shillong from time to time as and when requested by the department. The changes/modifications carried out had, however, not been documented. This resulted in complete absence of trail as to whether the changes sought for had been carried out and approved.

The Government should consider maintaining a well documented change management procedure for ensuring transparency and effective internal controls.

6.4.8 Analysis of databases

To analyse the data pertaining to DTO, Shillong, assistance of departmental personnel and system engineers of the NIC was taken to download the data. The downloaded data was analysed using CAAT[2].

6.4.8.1 Duplicate engine/chassis number

Engine and chassis numbers are the unique identification marks of a vehicle which are essential for its registration under the provisions of the MV Act and Rules made thereunder.

Analysis of the database revealed that there were 346 sets of duplicate engine numbers involving 784 vehicles. The level of duplication in each set ranged from two to eight. Similarly, there were four sets of duplicate chassis numbers involving eight vehicles.

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[1] Nongpoh, Tura, Williamnagar, Baghmara, Nongstoin

[2] Computer assisted audit technique.

Verification of the basic record in the combined register of vehicles in respect of 297 out of the 784 vehicles, revealed existence of duplicate engine/chassis number in 45 sets involving 93 vehicles in such records as well.

This indicated lack of validation control in the system to ensure uniqueness of engine and chassis numbers. This irregular acceptance of same engine/chassis number on multiple occasions may lead to allotment of two or more registration certificates for the same vehicle, enabling stolen vehicles to be re-registered and committing various insurance irregularities.

It is recommended that strong validation controls be put in place to prevent such duplications.

6.4.8.2 Duplicate engine/chassis number registered in other DTOs

Cross verification of engine and chassis numbers of vehicles registered with the DTO, Shillong with those in the database of the DTO, Aizawl (Mizoram) revealed that chassis and engine numbers of 94 and 127 vehicles respectively registered with the DTO, Shillong were identical to those registered with the DTO, Aizawl. Scrutiny of the basic records maintained by the DTO, Shillong, *viz*., combined register, further revealed the following position in respect of 121 out of these 221 vehicles:

Vehicles having duplicate chassis numbers

- chassis numbers of 35 vehicles were identical to those of vehicles registered with the DTO, Aizawl;
- thirteen vehicles were transferred to/from the jurisdiction of DTO, Aizawl. But information was not captured in/deleted from the database;
- data entries were incorrect in case of three vehicles; and
- details of three vehicles were entered in the database, though the registration numbers[3] were not in use.

Vehicles having duplicate engine numbers

- Engine numbers of 44 vehicles were identical to those of vehicles registered with the DTO, Aizawl;
- eleven vehicles were transferred to/from the jurisdiction of DTO, Aizawl. But information was not captured in/deleted from the database;
- data entries were incorrect in case of one vehicle; and
- details of 11 vehicles[4] were entered in the database, though the registration numbers were not in use.

[3] (ML05-8826, ML05 D-8891 and ML05E-0910).

[4] (ML05-8826, ML05A-3481, ML05B-1559, ML05D-6895, ML05D-9627, ML05D-9993, ML05E-0910, ML05E-1221, ML05E-1576, ML05E-1687 and ML05E-2835).

The above position indicates that the register maintained by the DTO, Shillong was severely deficient. The possibility of the existence of stolen/lost vehicles in the register of the DTO, Shillong could not be ruled out.

The Government should consider strengthening the validation control at the time of data capture and also establishing links with the National/State Crime Record Bureau to pre-empt the scope for registration of stolen/lost vehicles. Besides, cases pointed out in audit require further verification with the records of the DTO, Aizawl.

6.4.8.3 Duplicate insurance certificate/cover note number

Under the provisions of the MV Act and Rules made thereunder, every vehicle has to be insured prior to registration.

Analysis of the vehicle insurance database revealed that out of 56,284 records, 21,909 records had no data regarding registration number, period of insurance, the insurance cover note number. Thus, more than 39 *per cent* of the data redundant. Further, analysis of 34,375 records revealed 1,723 duplicate cover note numbers indicating lack of validation controls in the system and poor authorisation controls. The level of duplication ranged from 2 to 255. Moreover, these common cover note numbers were found to be shared by different insurance companies.

Analysis of database revealed that 18,093 registered vehicles (including 158 Government vehicles) did not have any insurance details.

Similarly, although insurance details of 426 vehicles were captured in the vehicle insurance database, these vehicles were not listed in the vehicle owner database. These omissions indicate serious deficiency in validation/input controls within the system. Further, in view of the existence of large number of duplicate cover notes, fraudulent use of insurance cover note numbers cannot be ruled out.

It is recommended that the department should ensure that '*Vahan*' database contains information of only those vehicles which are available in the 'VT_Owner' table.

6.4.8.4 Registration of vehicles on Sundays/national holidays

Registration of vehicles is done only on working days. Audit, however, found that 553 vehicles were registered on Sunday, two vehicles on Republic day, five vehicles on Independence day, seven vehicles on Gandhi Jayanti and four vehicles were registered on Christmas Day which were either non-working days of the week or national holidays.

After this was pointed out, the DTO stated that there was no system to register the vehicles on Sundays/national holidays and that data rectification was being carried out.

The Government should consider generation of the data of data entry from the system and strengthening of input and processing controls to prevent entry of incorrect data into the system.

6.4.8.5 Data validation

Unusual and improbable data suggests unreliability of data. Audit detected that the data of registration of 1,748 vehicles as entered in the data base was prior to the date of purchase of the vehicles. The number of days the vehicles were shown as registered prior to their date of purchases ranged from 1 day to 100 years.

Further, as per the MV Act and Rules framed thereunder, the road worthiness/fitness of a vehicle and issue of fitness certificate is a pre-requisite for registration. In 4,088 cases, the next due date for fitness certification of the private vehicles was shown to be beyond 15 years after the due date. In one case the date was shown to be 75 years after the due date. **Such inaccurate data indicates violation of the provisions of the MV Act and Rules resulting from lack of process control.**

It is recommended that appropriate input and processing controls coupled with validation check be urgently incorporated within the system to prevent entry of incorrect data.

6.4.8.6 Incomplete database

As per the CMV Rules, form 20 has been prescribed for the registration of vehicles which seek information about the vehicles in 34 fields. The *'Vahan'* package provides for capture of all the information.

Analysis of database, however, revealed that data capture was partial even in crucial fields. Data entry pertaining to mandatory fields such as date of purchase of the vehicle, father's name of registered owner, address, vehicle maker's name, vehicle model, engine number, seating capacity, horse power, unladen weight, month and year of manufacture, *etc*. have not been captured in many cases.

It is recommended that the system may be revisited to make data entry in all the fields mandatory as required under the CMV Rules.

6.4.8.7 Incorrect data relating to seating capacity

The seating capacity in some cases has been incorrectly entered. For example, seating capacity of two wheelers had been shown to be between 3 to 259, light motor vehicles between 4 to 259, Palio ED as 985, Maruti Gypsy as 87 seater. These revealed lack of validation control. Since road tax is charged in case of transport vehicles depending on their seating capacity, wrong data capture of seating capacity would have adverse impact on the tax assessment.

Since the function relating to permit is still being managed manually by the department, there is no immediate impact. However, these data errors need to be rectified in order to ensure system readiness for switching over to computerised application.

It is recommended that appropriate processing and output controls be put in place for ensuring data processing conforming to the provisio of MV Act and Rules.

6.4.8.8 Non-levy of fine for delay in registration

CMV Rules provide that an application for registration of motor vehicle shall be made within a period of seven days from the date of taking delivery of the vehicle. Driving of unregistered vehicle attracts a minimum fine of Rs. 2,000 under section 192(1) of the MV Act.

Scrutiny of the database revealed that 9,158 vehicles were registered beyond the mandatory period of seven days (excluding grace period of two days provided for intervening Saturday and Sunday). However, as per the information available in the database, no fine was collected from the defaulters for delay in applying for new registration for delayed registration.

6.4.8.9 Road Tax

The AMVT Act and Rules read with the MV Act, lay down that every owner of a registered vehicle shall pay road tax in advance either annually or quarterly in four equal instalments. Vehicles can go 'off road' on submission of an application in form 'H' and surrender of their licence and not pay tax for the concurrent period.

Analysis of the database revealed that 10,809 transport vehicles have not paid road tax amounting to Rs. 10.23 crore[5] (upto March 2007) even though they have not surrendered their licences or gone off road. This may not be the actual position of realisation of road tax but the computerised data showed such large extent of non-realisation.

Further, out of 59,418 registered vehicles, the database contains no information about the tax paid by 861 transport vehicles. Assuming that these transport vehicles have not paid their road tax only for a period of one year, a minimum road tax of Rs. 15.99 lakh is realisable along with penalty for delayed payment. The number of vehicles and the amount of road tax and penalty, however, stand qualified to the extent of correctness of data.

6.4.8.10 Plying of vehicles with lapsed registration

As per the MV Act, a certificate of registration in respect of a motor vehicle, other than a transport vehicle, is valid only for a period of 15 years from the

[5] Tax has been calculated as under: HMV at Rs. 3,840 per annum; MGV at Rs. 600 per annum & LGV at Rs. 240 per annum.

date of issue of such certificate. No vehicle can be used in any public place until its certificate of registration is renewed. In case of default, a minimum fine for driving without registration at Rs. 2,000 for the first offence and Rs. 5,000 for each subsequent offence is leviable.

Analysis of the database revealed that as on 31 March 2007, registrations in respect of 9,087 non-transport vehicles had expired. Neither had the vehicles been re-registered nor had they surrendered their registration certificate. As such, registration fee of Rs. 15.19 lakh and minimum fine of Rs. 1.82 crore[6] for using unregistered vehicle is realisable. The number of vehicles and the amount of registration fee and fine, however, stand qualified to the extent of correctness of data.

6.4.8.11 Plying of vehicles without fitness certificate

The MV Act provides that a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness issued by the competent authority. A minimum fine of Rs. 2,000 for the first offence and Rs. 5,000 each for subsequent offences is leviable for driving a vehicle without registration fitness certificate.

Scrutiny of the database revealed that as of March 2007 certificates of fitness of 9,829 transport vehicles of different categories had expired but were not renewed. The enforcement staff of the department, however, failed to utilise the information available with them resulting in minimum fine of Rs. 1.97 crore[7] remaining unrealised. Besides, calculated at the minimum rate of Rs. 200 per vehicle, the department has also failed to realise inspection fees for issue of fitness certificate amounting to Rs. 19.66 lakh in respect of these 9,829 vehicles. The exact amount could not be worked out due to non-capture of data indicating the type of vehicle. Beside the number of vehicles, the amount of fee and fine also stand qualified to the extent of correctness of data.

The Government should consider making generation of exception reports at regular intervals to identify vehicles violating the MV Act and Rules.

6.4.8.12 Lack of continuity of registration numbers

In a single series, 9,999 vehicles i.e., upto four digits can be awarded registration numbers. These numbers should be awarded in a sequence to monitor the year of registration of the vehicle.

Analysis of the database revealed that at DTO, Shillong registration in a subsequent series was started before the ongoing series was exhausted. The number of registration numbers missing in the six series checked is as mentioned below:

[6] Rs. 2000 x 9,087 = Rs. 1,81,74,000

[7] Rs. 2000 x 9,829 = Rs. 1,96,58,000

Table 6.15

Series	Number of registration numbers found missing in the series
ML05	3644
ML05A	1761
ML05B	943
ML05C	567
ML05D	10
ML05E	122

Test check of the information available in the database with the basic record (combined register) showed that the database contained information of 42 registered vehicles whose number were unused as per the combined register. Conversely, audit also detected eight cases where the vehicles were registered but the information had not been captured in the database resulting in incomplete computerisation.

It is recommended that the department take steps to ensure methodical and systematic allotment of registration numbers and capture of information of all registered vehicles.

6.4.9 General controls

General controls create an environment in which the application systems and application controls operate e.g., IT policies, standards and guidelines pertaining to IT security and information protection. The observations on the adequacy of general controls are mentioned below:

6.4.9.1 Lack of documentation

A proper system analysis requires that each module of the system proposed to be developed is properly documented. The department does not have a written and authenticated documentation of the modules developed for '*Vahan*' and implemented so far. No documents such as the 'user requirement specification', 'system design document', *etc.* were available with the department. Hence, the system is not user friendly as it lacks details of installation procedure, input and output files, linkages of files, details of files and tables created, description of the columns thereof, *etc*.

The Government should consider preparation and maintenance of system documentation and manuals including training manuals.

6.4.9.2 Business continuity planning

Business continuity planning is necessary for recovering key business processes in the event of disaster. The objective is to reduce downtime and minimise loss to the business.

Scrutiny of the vehicle registration system revealed that the department has no methodology of backing-up data. On enquiry, the System Engineer (SE) from NIC stated that NIC regularly took back-up and stored the data at NIC,

Shillong. The SE also stated that mock trial of system recovery was also done regularly to ensure uninterrupted functioning in the event of a system crash. However, no records were maintained by the department to indicate the date(s) on which the back-up were taken, the date(s) on which the mock trials were conducted. There was no provision for off-site storage of back-up data. The department also has no formal arrangement with the NIC, Shillong to ensure that back-up are taken regularly by the NIC. Lack of formal agreement places the department at the risk of not having regular back-up.

6.4.9.3 Lack of security policy

In view of the inadequacy of the controls pointed out above, it is important to put in place security practices to protect its assets and data and to ensure confidentiality, integrity and availability of the system that stores and processes data. The department has, however, not yet framed its IT security policy.

The Government should consider drawing up an IT security policy with adequate documentation with a credible threat assessment mechanism and disaster recovery and business continuity plan for harnessing optimum output from the system.

6.4.10 Monitoring and supervision

Involvement of senior management in implementation of the project was found to be deficient. There has been over reliance on the NIC for system maintenance, administration and back-up. There is no monitoring of data entry as has been evidenced by large number of incorrect/improbable data.

The department may consider putting in place a system for ensuring adequate supervision of the data entered in the system and drawing up a structured training programme for its IT staff.

6.4.11 Conclusion

There has been delay in commissioning the project. Even after a lapse of five years from the date, all the modules are not yet operational and some of the applications are still being done manually. There is a lack of in-house expertise for running the system. Involvement of top level management in the system development and its functioning was inadequate. Lack of adequate supervision has resulted in erroneous data capture thereby resulting in data redundancy. The department has not been able to extract useful information from the system regarding defaulters and has thus failed to exploit the full potential of the system.

6.4.12 Summary of recommendations

The Government should consider

- setting a time frame for different stages of the computerisation and ensuring early completion of the project;
- maintaining a well documented change management procedure for ensuring transparency and effective internal controls;
- strengthening the validation control at the time of data capture and also establishing links with the State/National Crime Record Bureau to pre-empt the scope for registration of stolen/lost vehicles;
- generation of the data of data entry from the system and strengthening of input and processing controls to prevent entry of incorrect data into the system;
- making generation of exception reports at regular intervals mandatory to identify vehicles violating the MV Act and Rules;
- preparation and maintenance of system documentation and manuals including training manuals; and
- drawing up an IT security policy with adequate documentation with a credible threat assessment mechanism and disaster recovery and business continuity plan for harassing optimum output from the system.

The matter was reported to the Government in August 2007. Government while admitting the audit points, stated (February 2008) that necessary action would be taken as recommended by Audit and also assured that remedial action would be taken wherever necessary.

SECTION 'B' : PARAGRAPHS

ENVIRONMENT AND FOREST DEPARTMENT

6.5 Loss of revenue

Failure of the department to deduct collection charges from the royalty paid to the district councils resulted in loss of revenue of Rs. 2.71 crore.

Under Schedule VI of the Constitution of India, share of royalties accruing each year from the extraction of minerals granted by the State Government in respect of any area within an autonomous district as may be agreed upon between the State Government and the district council (DC), is to be handed over to the council. In Meghalaya, royalty collected on minor minerals is to be apportioned between the Forest Department and each DC in the ratio of 40:60 after deducting the cost of collection as per the prescribed formula.

Test check of the records of the divisional forest offices (DFOs) of Khasi and Jaintia hills division in October and November 2006 revealed that the divisions collected royalty of Rs. 19.03 crore on minor minerals for the period from April 2002 to March 2006 and incurred an expenditure of Rs. 4.52 crore towards collection of charges. The State Government, however, released 60 *per cent* royalty amounting to Rs. 11.41 crore instead of Rs. 8.70 crore without deducting proportionate collection charges. This resulted in loss of revenue of Rs. 2.71 crore.

After the case was pointed out, the DFO Khasi hills division stated in May 2007 that the Principal Chief Conservator of Forest (PCCF) had been requested to take up the matter with the Government for clarification. A report on further development has not been received (February 2008).

The matter was reported to the Government in December 2006 and March 2007; their reply has not been received (February 2008).

6.6 Short realisation of royalty

Incorrect application of rate led to short realisation of royalty of Rs. 1.40 crore.

The Government of Meghalaya, Environment and Forest Department in its notification of 12 November 1998 revised the rate of royalty on earth, sand, stone and squared stone from Rs. 16, Rs. 20, Rs. 40 and Rs. 40 to Rs. 32, Rs. 30, Rs. 80 and Rs. 95 per cubic metre (cum) respectively with immediate effect.

Cross check of the records of seven user agencies* with those of DFOs Jowai and Shillong disclosed that 30,805.2754 cum of earth, 51,878.8213 cum of sand, 3,23,242.0631 cum of stone and 1,380.7037 cum of squared stone were extracted and utilised in works by the contractors between November 2003 and December 2005. However, the user agencies realised royalty of Rs. 1.45 crore at the pre-revised rate from the contractors instead of Rs. 2.85 crore worked out at the revised rate. The differential royalty was neither collected by the user agencies nor was any action initiated by the DFOs to recover the same. This resulted in short realisation of royalty of Rs. 1.40 crore.

After this was pointed out, the Government while admitting the facts stated in November 2007 that steps had already been taken for realisation of outstanding royalty from the user agencies. Report on recovery had not been intimated (February 2008).

6.7 Loss of revenue due to non-settlement of *mahal*

Loss of revenue of Rs. 80 lakh as a *mahal* remained inoperative due to delay in receipt of settlement orders from the Government.

As per the Assam Settlement of Forest Coupes and *Mahals*[1] by Tender System Rules, 1967 (as adopted by the Government of Meghalaya) *mahals* are to be settled by inviting tenders. Sand/stone in a river bed is in constant process of accumulation and depletion due to river current and if a *mahal* is left unsettled during a specified working period, the sand/stone is carried away by the river current resulting in loss of revenue.

Test check of the records of the DFO, Khasi Hills forest division, Shillong in October 2006 revealed that the tharia 'B' *mahal* was offered for sale in September 2002 for the working period 2002-04 with a stipulated quantity of 11,000 cum of sand/stone. The highest offered price of Rs. 80 lakh was forwarded in September 2002 to the PCCF for obtaining the Government approval. After a lapse of 18 months, the Government conveyed approval in March 2004 for the settlement of the *mahal* with the highest bidder. As the working period of the *mahal* had already expired in March 2004, the PCCF asked the bidder to operate it for the period 2004-05 and 2005-06 at the original bid value of Rs. 80 lakh which was turned down by the bidder. Thus, apathy on the part of the Government to settle the *mahal* in time resulted in loss of revenue of Rs. 80 lakh for the working period 2002-04.

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* Executive Engineer (EE) PWD (Roads) South Jowai Division, EE PWD (Roads) North Jowai Division, EE PWD (Roads) NEC Division, EE (Irrigation) Jaintia Hills Division, EE PWD (Roads) NH Bye Pass Division, EE PWD (Roads) Nongpoh Division, EE PWD (Roads) Mairang Division.

1 A defined geographic area wherefrom certain types of forest produce are sold on condition of their removal within a specified period.

The case was reported to the department and the Government in December 2006 and March 2007; their reply has not been received (February 2008).

6.8 Loss of revenue

Loss of revenue of Rs. 28.13 lakh due to non settlement of *mahal* at the risk of the *mahaldar*.

Under Rule 17 of the Assam Settlement of Forest Coupes and Mahals by Tender System Rules, 1967 (as adopted by the Government of Meghalaya), if a tenderer whose tender has been accepted, fails to pay the instalments on due dates, the *mahal* shall be liable to be cancelled and resettled for the remaining part of the settlement period at the risk and cost of the tenderer.

Test check of the records of the DFO, Khasi hills forest division, Shillong in October 2006 revealed that the tharia *mahal* 'A' was settled with a *mahaldar* in November 2002 against his bid value of Rs. 37.51 lakh for the working period from November 2002 to November 2004 with the stipulated quantity of 12,500 cum of boulder. The *mahaldar* was allowed to pay the bid value in eight quarterly instalments of Rs. 4.69 lakh each. The *mahaldar* paid only the first two instalments of Rs. 9.38 lakh and defaulted in payment of the remaining six instalments totalling Rs. 28.13 lakh. The department did not take any action either to cancel the settlement or resell the *mahal* at the risk of the *mahaldar*. The settlement of the *mahal* was belatedly cancelled in June 2006 after one and a half years of the expiry of the working period. Thus, inaction on the part of the department to effect immediate cancellation of settlement and resell the *mahal* at the risk of the *mahaldar* resulted in loss of revenue of Rs. 28.13 lakh.

The case was reported to the department and the Government between December 2006 and March 2007; their reply has not been received (February 2008).

6.9 Unauthorised lifting of timber

Timber was unauthorisedly allowed to be lifted by the Meghalaya Forest Development Corporation on part payment of Rs. 1.64 lakh against the royalty of Rs. 14.29 lakh.

Under the Assam Forest Regulations, 1891 (as adopted by Meghalaya) no forest produce shall be extracted/lifted from forest area unless the prescribed royalty is paid in full.

Test check of the records of the DFO, Khasi hills forest division, Shillong in January 2006 revealed that between December 2001 and July 2004, the Forest Development Corporation of Meghalaya (FDCM) was allowed to lift timber of mixed species measuring 509.204 cum on part payment of royalty of Rs. 1.64 lakh against the due royalty of Rs. 14.29 lakh. The balance royalty of Rs. 12.65 lakh was neither paid by FDCM nor was any action initiated by the Forest Department to realise it till March 2007. This led to unauthorised lifting of timber coupled with non-realisation of balance royalty of Rs. 12.65 lakh.

The case was reported to the department and the Government in March 2006; their reply has not been received (February 2008).

6.10 Illicit felling and removal of timber

Illicit felling and removal of timber from the State reserve forests led to loss of revenue of Rs. 9.76 lakh.

Under the provisions of the Assam Forest Regulation (AFR), 1891 and rules framed thereunder (as adopted by the Government of Meghalaya), felling and removal of trees from the reserve forest areas without a valid pass constitute a forest offence, punishable with fine. The forest produce felled/removed illegally is also liable to be seized by the Forest Department. To prevent such illegal felling/removal of forest produce, deployment of the forest protection force and erection of forest check gates at all the vital points is the primary responsibility of the Forest Department.

Test check of the records of DFO, Garo hills forest division in May 2006 revealed that 271.431 cum of timber of different species were illegally felled by the miscreants from the reserve forest under three ranges of the division between April 2005 and March 2006. The divisional authority could, however, recover only 67.502 cum timber and the balance 203.929 cum timber involving royalty of Rs. 9.76 lakh was removed by miscreants. Illegal felling and removal of such a large quantity of timber indicates poor surveillance of forest resources resulting in loss of revenue of Rs. 9.76 lakh.

After the case was pointed out, the DFO while admitting the facts in August 2006 stated that illegal felling of trees was done by the villagers living in the reserve forest and efforts were being made to ensure that the villagers abide by the rules in future. The reply is not tenable as all the miscreants apprehended in cases where timber was recovered were not from the village.

The matter was reported to the Government in July 2006 and March 2007; their reply has not been received (February 2008).

6.11 Loss of revenue

Failure to bring seized logs to safe custody led to loss of revenue of Rs. 7.42 lakh.

Under the provision of AFR (as adopted by the Government of Meghalaya), seized timber shall be brought to the safe custody of the Forest Department after proper marking and reported to the appropriate court for trial as well as to the higher authority for disposal. Protection of timber from damage, theft or loss is the primary responsibility of the department.

Test check of the records of the DFO, Garo hills forest division, Tura in May 2006 revealed that between April 2003 and March 2005, the Range Officer, Southern Range, Baghmara seized 2,817 sal and teak logs measuring 289.909 cum valued as Rs. 7.42 lakh. These logs were neither disposed nor transported to the nearest forest depot for safe custody but were stacked on the roadside which was a flood prone area. These logs were subsequently washed away by flood in July 2005. Thus, failure on the part of the division to bring the seized logs to a safe location resulted in loss of revenue of Rs. 7.42 lakh.

After this case was pointed out, the DFO while admitting the loss stated in August 2006 that the logs had to be stacked on the roadside due to lack of space within the range office compound. The reply is not tenable as the AFR provides for storage of seized forest produce in safe custody which includes any safe place and not necessarily the divisional/range office compound only. Moreover, stacking of seized logs in flood prone area was a definite lapse on the part of the department which eventually led to loss of revenue.

The matter was reported to the Government in August 2006 and March 2007; their reply has not been received (February 2008).

EXCISE DEPARTMENT

6.12 Non-realisation of excise duty on liquor

Non-realisation of excise duty of Rs. 3.36 crore on 67,111 cases of liquor imported for use in the manufacture of brandy, whisky, *etc*. by two bottling plants.

Under the Assam Excise Act (as adopted by the Government of Meghalaya), excise duty is realisable at the rate of Rs. 500 per case of India made foreign liquor (IMFL), rectified spirit indented for the manufacture of brandy, whisky, *etc*. and similar potable alcoholic products. The State Excise Department in their notification of 31 August 2005 exempted excise duty on the aforesaid items with immediate effect.

Test check of the records of the Commissioner of Excise (CE), Meghalaya in July 2006 revealed that two bottling plants imported 66,667 cases of extra neutral alcohol (ENA) and 444 cases of malt spirit between April 2004 and August 2005 for use in the manufacture of brandy, whisky, *etc*. Excise duty of Rs. 3.36 crore payable in these cases was neither paid by the bottling plants, nor was any action taken by the department to realise it. This resulted in non-realisation of revenue of Rs. 3.36 crore.

After the cases were pointed out, the CE while admitting the audit observation stated in December 2006 that both the proprietors had been asked to deposit the excise duty and one of them prayed for grant of exemption from payment of excise duty. A report on recovery in the other case has not been received (October 2007).

The matter was reported to the Government in July 2006 and March 2007; their reply has not been received (February 2008).

6.13 Non-realisation of establishment charges

Establishment charges of Rs. 31.55 lakh in respect of excise officials posted in different bonded warehouses were not realised.

Under the Assam Bonded Warehouse Rules, 1965 (as adopted by the Government of Meghalaya), the CE shall appoint excise officers and fix establishment charges of the bonded warehouses. The licensees of the bonded warehouses shall pay to the State Government at the end of each calendar month such establishment charges as may be determined by the CE. The cost of establishment shall include the pay and allowances as well as leave salary and pension contributions.

Test check of the records of the CE, Shillong in May 2006 revealed that 31 excise officials were posted in the bonded warehouses at Shillong, Nongpoh, Jowai, Tura, Williamnagar and Khliehriat. The establishment charges as worked out by audit for these officials for the period from April 2005 to March 2006 amounted to Rs. 31.55 lakh. However, the department had neither worked out the establishment charges nor submitted any demand to the bonded warehouses for payment of the establishment charges. This resulted in non-realisation of establishment charges of Rs. 31.55 lakh.

After the cases were pointed out, the CE while admitting the audit observation, stated in December 2006 that the department had requested the Government to amend the rule and exempt bonded warehouses from the payment of the establishment charges. The decision of the Government is still awaited (October 2007).

The matter was reported to the Government in June 2006 and March 2007; their reply has not been received (February 2008).

6.14 Non-levy of import pass fee

Loss of revenue of Rs. 21.88 lakh due to irregular grant of exemption from payment of import pass fee on import of IMFL/beer by defence services organisations.

Under the provisions of the Meghalaya Excise Rules (MER), for importing IMFL and beer from outside the State, import pass fee is leviable at the rate of Rs. 54 per case and Rs. 31.20 per case respectively. No exemption from the payment of import pass fee, has been granted to the defence services organisations, paramilitary forces including canteen store department.

Test check of the records of the Superintendent of Excise (SE), Shillong and Nongpoh in May 2006 revealed that between April 2005 and March 2006, 36,900 cases of IMFL and 6,258 cases of beer were imported from outside the State by different defence and paramilitary organisations on the basis of import permits issued by the concerned SE. It was observed that no import pass fee was levied while issuing these permits which resulted in non-levy of import pass fee of Rs. 21.88 lakh.

After this was pointed out, the Government stated in February 2008 that import pass fee was not levied as the drawal of consignment was not made from a bonded warehouse within the State. The reply is not tenable as import pass fee is leviable when IMFL and beer are imported from outside the State.

6.15 Irregular grant of exemption

A manufacturer of oleo resin was irregularly granted exemption from payment of import pass fee of Rs. 7.92 lakh on import of rectified spirit for industrial purposes.

Under Rule 27 of the MER, import of foreign liquor shall be covered by a pass and the State Government is empowered to grant exemption from payment of pass fee for the import of denatured spirit only. Under Rule 370, a pass fee of Rs. 6 per bulk litre (BL) is leviable on liquor imported into Meghalaya.

Test check of the records of the CE Meghalaya, Shillong in May 2006 revealed that a manufacturer of oleo resin imported 1.32 lakh BL of rectified spirit during 2004-05 and was exempted from payment of import pass fee. The exemption granted was irregular as only denatured spirit was permitted to be exempt from the payment of pass fee. This resulted in irregular exemption of Rs. 7.92 lakh.

After this was pointed out, the Government stated in February 2008 that the manufacturer imported spirit for industrial purpose was exempted from payment of pass fee under Rule 27 of MER. The reply is not tenable as the note below Rule *ibid* specifically bars the exemption of import pass fee on rectified spirit.

MINING AND GEOLOGY DEPARTMENT

6.16 Short realisation of royalty

There was short realisation of royalty on coal by Rs. 7.55 crore.

Section 9(2) of the Mines and Minerals (Development and Regulation) Act, (MMDR Act) 1957, lays down that every licensee or permit holder or lessee shall pay the prescribed royalty in respect of any mineral removed or consumed by him from the mining area. Royalty on coal was fixed as Rs.165 per tonne with effect from 16 August 2002.

Test check of the records of the Directorate of Mineral Resources (DMR), Meghalaya in February 2007 revealed that 53.45 lakh tonne of coal was extracted and removed by the permit holders between April 2004 and March 2005. The royalty realisable was Rs. 88.20 crore against which the department realised only Rs. 80.65 crore, resulting in short realisation of royalty of Rs. 7.55 crore.

After this was pointed out, the Government stated in February 2008 that investigation was being carried out regarding quantities of coal extracted and removed during the year. Further reply is awaited (February 2008).

6.17 Short/non-realisation of royalty and dead rent

Royalty of Rs. 5.09 crore short paid and unpaid dead rent of Rs. 17.82 lakh were not realised resulting in non-recovery of Rs. 5.58 crore including interest.

Under the provisions of the MMDR Act, a lessee is liable to pay either the prescribed royalty on any mineral removed/consumed or dead rent in respect of the leased area, whichever is higher. Rule 64A of the Mineral Concession (MC) Rules provides that if the dues payable by the lessee are not paid within the time specified for such payment, simple interest at the rate of 24 *per cent* per annum may be charged on any amount remaining unpaid from the sixtieth day of the expiry of the date fixed for the payment of such dues. With effect from October 2004, the minimum rate of royalty on limestone was fixed as Rs. 45 per tonne and in case of shale siltstone royalty was 10 *per cent* of the sale price. Further, with effect from 14 October 2004, the rate of dead rent was fixed as Rs. 100 per hectare per annum for first two years of lease and Rs. 400 per hectare per annum for the subsequent years.

6.17.1 Test check of the records of DMR, Meghalaya in February 2007 revealed that three lessees extracted 16.14 lakh tonnes of limestone and 1.07 lakh tonnes of shale during the period from July 2005 to December 2006 and paid royalty of Rs. 2.18 crore instead of Rs. 7.27 crore. The department also

did not initiate any action to recover the balance royalty. Thus, there was short realisation of royalty of Rs. 5.09 crore. In addition, interest of Rs. 29.16 lakh was also leviable.

After this was pointed out, the Government stated in February 2008 that one of the lessees paid royalty to Forest Department and royalty from other two lessees had been recovered. The reply is not tenable as one of the two lessees paid Rs. 1.27 crore out of balance dues of Rs. 2.52 crore. Besides, interest of Rs.22.89 lakh was also not recovered from the two lessees. In case of another lessee, the Government even failed to furnish amount of royalty actually paid to Forest Department.

6.17.2 Test check of the records of DMR, Shillong in February 2007 revealed that three lessees did not extract any minerals from 2,970 hectares of leased area between July 2005 and December 2006 and were, thus, liable to pay dead rent of Rs. 17.82 lakh. Though the lessees did not pay dead rent, no action was initiated by the department to levy and recover it for the aforesaid period. This resulted in non-realisation of dead rent of Rs. 17.82 lakh. Further, interest of Rs. 1.66 lakh was also leviable for non-payment of dead rent.

After this was pointed out, the Government stated in February 2008 that demand notices were issued to the lessees for expeditious payment of dead rent. Report of recovery is awaited (February 2008).

6.18 Short realisation of cess on limestone

No action was taken to recover cess of Rs. 46.80 lakh that was short paid.

Under the provisions of the Meghalaya Minerals Cess Act, 1988, cess on minerals shall be levied and collected from any person who extracts or removes the minerals from any mine or quarry within the State. The rate of cess on limestone was fixed as Rs.5 per tonne with effect from April 1992.

Test check of the records of DMR, Shillong in February 2007 revealed that two lessees extracted 14.12 lakh tonnes of limestone during the period from July 2005 to December 2006 and paid cess of Rs. 23.82 lakh instead of Rs. 70.62 lakh. The lessees neither paid the balance cess nor was any action taken by the department to review the returns of the lessees and recover the balance amount. This resulted in short realisation of cess of Rs. 46.80 lakh.

After this was pointed out, the Government stated in February 2008 that the differential amount of cess had since been recovered. The reply is not tenable as payment of cess in respect of one lessee did not relate to the period of report and in respect of other lessee payment particulars could not be furnished.

6.19 Short levy of penalty

Penalty of Rs. 19.68 lakh was short levied on coal despatched through mines and minerals check gate without payment of advance royalty.

In September 1995, the DMR, Meghalaya, notified that with effect from October 1995, if any coal trader fails to pay full royalty in advance on the quantity of coal transported in his carrier, penalty at rates varying from 25 to 100 *per cent* should be collected at the mineral check gate in addition to royalty on the quantity of coal on which advance royalty of coal was not paid. The coal traders should possess valid coal transport challans (CTC) on advance payment of royalty on the quantity of coal transported to avoid payment of penalty at the check gate.

Test check of the records of the DMR, Meghalaya in February 2007 revealed that 4.47 lakh tonnes of coal were transported during 2004-05 without valid CTC through Mookyndur check gate. Though the check gate authorities collected royalty of Rs. 7.37 crore from the local traders, yet they imposed penalty of Rs. 1.65 crore only instead of Rs. 1.84 crore calculated at the minimum rate of 25 *per cent.* This resulted in short realisation of penalty of Rs. 19.68 lakh.

After this was pointed out, the Government stated in February2008 that there was no short levy of penalty as penalty of Rs.18.61 lakh was inadvertently shown as payment of royalty and corrected figure of payment of royalty and penalty would be Rs.7.18 crore and Rs. 1.83 crore respectively. The reply is not tenable as 446697 MT of coal in excess of 15 MT was transported during the period on which collection of royalty would be Rs. 7.37 crore and not Rs. 7.18 crore as contended.

STAMPS AND REGISTRATION DEPARTMENT

6.20 Short levy of stamp duty

Stamp duty was short levied by Rs. 73.55 lakh.

Under the provision of the Indian Stamp (IS) Act 1899, for the lease of a mine in which royalty is received as rent or part of the rent, it shall be sufficient to have estimated such royalty for the purpose of stamp duty. Clause 35 (a) (iv) (lease) of the IS (Meghalaya Amendment) Act, 1993, lays down that stamp duty on lease, where the lease purports to be for a term exceeding 10 years but not exceeding 20 years, shall be calculated at the rate of Rs. 99 per 1,000 for a consideration equal to two times the amount or value of the average annual rent reserved.

Test check of the records of the Sub Registrar (SR), Khliehriat in March 2007 revealed that the Government of Meghalaya executed five lease agreements with the lessees for a period of 20 years for extraction of limestone between April 2002 and June 2006. For the purpose of stamp duty, the anticipated annual rent on limestone from the demised land was determined as Rs. 4.41 crore. The SR levied and realised stamp duty of Rs. 13.77 lakh instead of Rs. 87.32 lakh leviable on Rs. 8.82 crore (two times the average annual rent). This resulted in short realisation of stamp duty of Rs. 73.55 lakh.

After this was pointed out, the Government stated in February 2008 that the stamp duty payable was calculated on rent specified in Mining Lease Agreement. The reply is not tenable as stamp duty was to be paid on Rs. 8.82 crore as specified in five lease agreements.

6.21 Incorrect exemption of stamp duty

Incorrect exemption from the levy of stamp duty led to short realisation of stamp duty by Rs. 2.40 lakh.

Under the IS Act, stamp duty for the registration of conveyance deed for the transfer of ownership of land shall be paid by the purchaser in the absence of any agreement between the purchaser and the seller. The Government of Meghalaya, Stamps and Registration Department in its notification of July 1983, exempted 50 *per cent* of actual stamp duty payable in respect of all instruments of conveyance executed by or in favour of the members of scheduled castes/tribes (SC/ST).

Test check of the records of the SR, Khliehriat in March 2007 revealed that between January 2004 and September 2005 five plots of land were purchased by various companies from persons belonging to the scheduled tribes without any agreement. The conveyance deeds for the transfer of ownership of these plots of land were registered in favour of the purchasers on realisation of 50 *per cent* of stamp duty. Since these companies did not fall under the category of SC/ST, exemption allowed was incorrect and resulted in short realisation of stamp duty of Rs. 2.40 lakh.

The cases were reported to the department/Government in March 2007; their reply has not been received (February 2008).

TAXATION DEPARTMENT

6.22 Concealment of turnover

Thirty three registered dealers concealed turnover of Rs. 62.44 crore and evaded tax of Rs. 5.07 crore including interest on which maximum penalty of Rs. 7.55 crore was also leviable.

6.22.1 Under the Meghalaya Sales Tax (MST) Act, if any dealer conceals the particulars of his turnover or evades in any way the liability to pay tax, he shall be liable to pay a penalty in addition to the tax, a sum not exceeding one and a half times of the tax due. The provision of the Act applies *mutatis mutandis* in the case of assessment and reassessment under the Central Sales Tax (CST) Act, 1956. Further, the sale of declared goods in the course of interstate trade is taxable at the concessional rate of four *per cent* if such sale is supported by declaration in form 'C'. Otherwise, such sale is taxable at the rate of eight *per cent*. The Commissioner of Taxes (COT), Meghalaya in his notification of March 2002 fixed the rate of advance tax as Rs.1,800 per 15 metric tonne (MT) of coal based on the prevailing market price ranging between Rs. 1,400 to Rs. 1,500 per MT.

6.22.1.1 Test check of the assessment records of the Superintendent of Tax (ST), Circle - V, Shillong, Jowai and Tura between February and May 2006, revealed that 24 registered dealers sold 10.20 lakh MT of coal in the course of interstate trade between April and September 2003. The dealers, however, disclosed the turnover of Rs. 88.28 crore in their returns for the aforesaid period instead of Rs.142.79 crore calculated at the minimum rate of Rs. 1,400 per MT. The AOs while completing the assessments between June 2004 and October 2005 also ignored the rate fixed by the COT. This resulted in concealment of turnover of Rs. 54.51 crore and evasion of tax of Rs. 4.36 crore. Besides, penalty of Rs. 6.54 crore was also leviable for the concealment of turnover.

After this was pointed out, the Government stated in February 2008 that the sales turnover was determined as per the books of accounts of the concerned dealers. The reply is not tenable as minimum turnover should have been determined based on the minimum market price of Rs. 1,400 per tonne of coal as intimated by the COT.

6.22.1.2 Cross check of the records of the DMR, Shillong, with those of the ST, circle V, Shillong in February 2006 revealed that as per DMR records, a dealer sold 52,875 MT of coal in the course of interstate trade during the period between April 2004 and March 2005. The dealer, however, disclosed sales of only 30,286 MT of coal in his sales tax returns for the aforesaid period and the AO assessed the dealer accordingly between December 2004 and June 2005. The dealer, thus, concealed sale of 22,589 MT coal valued as Rs. 3.16 crore and evaded tax of Rs. 25.30 lakh. Maximum penalty of Rs. 37.95 lakh was also leviable.

After this was pointed out, the Government stated in February 2008 that sales turnover was determined as per the books of accounts of the dealer. The reply is not tenable as the audit observation relates to concealment of sale of 22,589 MT of coal which escaped the notice of the AO.

6.22.1.3 Test check of the assessment records of the ST, Jowai in May 2006 revealed that two dealers sold coal valued as Rs. 8.29 crore to a dealer of West Bengal during October 2004 to March 2005. The turnover was supported by declaration in form 'C' and the dealers were assessed accordingly between July and August 2005 at a concessional rate of four *per cent*. Further scrutiny of records revealed that the dealers had also sold 20,816 MT of coal valued as Rs. 2.91 crore which was despatched through Umkhiang check gate located at the exit point of Meghalaya on road connecting states like Assam (Cachar district), Manipur, Mizoram and Tripura during the aforesaid period. Although the records of despatch of coal were forwarded to the ST by the officer incharge of taxation check gate, the AO did not include the turnover while finalising the assessments. Thus, failure of the AO to ensure proper assessment by verifying all the concerned records available with him led to evasion of tax of Rs. 23.31 lakh. Maximum penalty of Rs. 34.97 lakh was also leviable for concealment of turnover.

After this was pointed out, the Government while admitting the facts stated in February 2008 that the dealers were asked to reproduce books of accounts in respect of despatch of coal through the aforesaid taxation check gate. Further reply is awaited (February 2008).

6.22.2 Under the provisions of the MPT and MFST Acts, if the COT is satisfied that any dealer has evaded in any way the liability to pay tax, he may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him, a sum not exceeding one and half times of that amount. The provisions of the State Act apply *mutatis mutandis* in the case of assessment or reassessment under the CST Act. Further, if the dealer fails to pay the full amount of tax by the due date, he shall be liable to pay interest at the prescribed rates for the period of default on the amount by which tax paid falls short.

6.22.2.1 Test check of the records of the ST, PT circle in March 2006 revealed that five dealers sold broom, *tezpatta*, *dhuplakkri*, *etc*. between April 2002 and March 2004 and disclosed gross turnover of Rs. 3.42 crore which was duly assessed by the AO between July 2005 and February 2006. Verification of records of the Byrnihat check gate, however, revealed that these dealers actually sold goods valued as Rs. 4.70 crore and thus, concealed turnover of Rs. 1.28 crore. This resulted in evasion of tax of Rs. 11.64 lakh, besides penalty of Rs. 17.46 lakh.

After this was pointed out, the Government while admitting the facts, stated in February 2008 that assessments in respect of four dealers had been rectified and demand notice for payment of tax of Rs. 10.40 lakh had been issued. Report on recovery of tax of Rs. 10.40 lakh and assessment in respect of another dealer is awaited (February 2008).

6.22.2.2 Test check of the records of the ST, Circle III, Shillong in March 2006 revealed that a dealer imported motor vehicles[1] valued as Rs.3.94 crore from outside the state during the period from April 2002 to March 2003 and had closing stock of Rs. 52 lakh as on 31 March 2003. The dealer, thus, sold motor vehicles atleast of Rs. 3.42 crore but disclosed turnover of Rs. 2.84 crore in his return which was accepted by the assessing officer (AO) and was assessed accordingly in May 2005. The dealer thereby, concealed minimum turnover of Rs. 58 lakh and evaded tax of Rs. 6.96 lakh. Tax effect would be more if opening stock as on 1 April 2002 and element of profit could be ascertained. Besides, interest of Rs. 3.78 lakh and penalty not exceeding Rs. 10.44 lakh was also leviable.

After the cases were pointed out, the Government while admitting the facts stated in July 2007 that the case was reopened and assessment was completed accordingly. Report on recovery of tax has not been received (February 2008).

6.23 Evasion of tax by utilising fake declaration forms

Twenty one dealers fraudulently utilised C/F forms not issued by the purchasing/importing dealers and evaded tax of Rs. 3.71 crore on which penalty of Rs. 5.57 crore was additionally leviable.

6.23.1 Under the provisions of the CST Act, tax is leviable at a concessional rate of four *per cent* on interstate sale of goods to registered dealers, if such sales are supported by declaration in form 'C' duly filled and signed by the registered dealer to whom the goods are sold. Interstate sale of declared goods, not covered by declaration in form 'C' is taxable at twice the rate applicable to the sale of such goods inside the appropriate State. Further, under the MST Act, if any dealer evades in any way the liability to pay tax, he shall be liable to pay penalty, in addition to the tax payable by him, a sum not exceeding one and a half times the amount of tax due.

6.23.1.1 Test check of the assessment records of the ST, Jowai in June 2006 revealed that seven dealers sold coal in the course of interstate trade valued as Rs 47.47 crore for the period from October 2001 to March 2005 to a dealer in Durgapur, West Bengal and produced declarations in form 'C' issued by the purchasing dealer. The AO also accepted the declarations and assessed the dealers accordingly between June 2002 and September 2005.

Cross verification of the records of the Assistant Commissioner of Sales Tax, Durgapur, West Bengal, however, revealed that the purchasing dealer was neither registered nor was any declaration form issued to him. Thus, the declaration forms submitted by the dealers were fake and tax should have been levied at the rate of eight instead of four *per cent*. This resulted in evasion of tax of Rs. 1.90 crore. In addition, maximum penalty of Rs. 2.85 crore was also leviable for deliberate evasion of tax by fraudulent method.

[1] Motor vehicle is taxable at the rate of 12 *per cent* at the stage of first sale within the state.

After the case was pointed out, the Government stated in February 2008 that COT had taken up the matter with the concerned Sales Tax Authority for verification of forms. Result of verification is awaited (February 2008).

6.23.1.2 Test check of the assessment records of the ST circle – V, Shillong in February 2006 revealed that nine dealers sold coal amounting to Rs. 27.18 crore to the registered dealers in course of interstate trade during the period from October 2003 to September 2005. The turnover of sales were supported by 16 declarations in form 'C' received from dealers of different States other than Assam, and the dealers were accordingly assessed between December 2004 and October 2005 at a concessional rate of four *per cent*. Verification of the records of Byrnihat taxation checkgate revealed that all these dealers sold coal only to Assam based dealers during the aforesaid period. The dealers, thus, procured 'C' forms by fraudulent means to avail of concessional rate of tax. This resulted in evasion of tax of Rs. 1.05 crore. Besides, maximum penalty of Rs. 1.58 crore was also leviable.

After this was pointed out, the Government stated in February 2008 that the declarations made in the taxation check gate were not properly filled up by the dealers and, therefore, could not be treated as authentic. The reply is not tenable as every person transporting goods has to furnish a correct and complete declaration of goods and the officer incharge of the checkgate shall countersign the declaration on being satisfied about the correctness of entries made in the declaration.

6.23.1.3 Test check of the records of the ST, Jowai in May 2005 revealed that three dealers sold coal in the course of interstate trade valued as Rs. 5.75 crore during the period between September 2002 and September 2003 to a dealer in Asansol, West Bengal and produced nine declarations in form 'C' issued by the purchasing dealer. The AO accepted the declaration forms and assessed the dealers accordingly. Cross verification of the records of the Assistant Commissioner of Commercial Taxes, Asansol Charge, West Bengal, however, revealed that these 'C' forms were not issued to the dealer in Asansol. Thus, the dealer in Meghalaya acquired the declaration forms fraudulently and utilised them to avail of concessional rate of tax. This resulted in underassessment of tax of Rs. 23.01 lakh calculated at the differential rate of four *per cent*. Besides, penalty of Rs. 34.52 lakh was also leviable.

After this was pointed out, the Government stated in February 2008 that the COT had taken up the matter with the concerned Sales Tax Authority for verification of forms. Result of verification is awaited (February 2008).

6.23.2 Under the provisions of the CST Act, if any dealer who claims that he is not liable to pay tax 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 to any other place of his business or to his agent or principal and not by reason of sale, shall substantiate his claim by declarations in form 'F' issued by the transferee/consignee along with other evidence of despatch of goods. If the dealer fails to furnish such declaration, then the

movement of such goods shall be deemed to have been occasioned as a result of sale.

Test check of the assessment records of the ST, Jowai in May 2006 revealed that two dealers claimed to have despatched coal by way of transfer of stock valued as Rs. 6.59 crore during the period from April 2005 to March 2006 to their agent in Burdwan, West Bengal and furnished three declarations in form 'F' in support of exemption from payment of tax. The AO accepted the forms and assessed the dealers accordingly between December 2005 and May 2006. Cross verification with the records of the Commissioner of Commercial tax, West Bengal, however, revealed that those declaration forms had not been issued by the Commercial Taxes Department, West Bengal. Thus, 'F' forms furnished by the dealers were fake and invalid and tax should have been levied at the rate of eight *per cent* by treating the movement of such goods as result of sale. Failure of the AO to detect the fake declaration forms resulted in the loss of revenue of Rs. 52.72 lakh. In addition, maximum penalty of Rs. 79.08 lakh was also leviable for deliberate evasion of tax.

After the cases were pointed out, the Government stated in February 2008 that the matter had been taken up with the Commissioner of Commercial Taxes, West Bengal for verification of forms. Result of verification is awaited (February 2008).

6.24 Loss of revenue due to failure to levy tax on closing stock

Failure of the ST to levy tax on the closing stock of two companies at the time of their closure led to the loss of revenue of Rs. 61.36 lakh.

Under the MST Act, when the certificate of registration of a dealer is cancelled, the dealer shall be liable to pay tax on his stock of goods remaining unsold at the time of cancellation of the certificate.

Test check of the assessment records of the ST, Circle V, Shillong, conducted in February 2006 revealed that two companies dealing in coal closed down their business between October 2004 and September 2005. Cross verification with the records of the Registrar of Companies (ROC), Shillong, however, revealed that the two companies continued their business during 2005-06 and sold coal valued as Rs. 7.67 crore from their closing stock which escaped the notice of the ST and thereby the two companies evaded tax of Rs. 61.36 lakh. Thus, failure of the ST to levy tax on closing stock of the two companies at the time of their closure resulted in loss of revenue of Rs. 61.36 lakh.

The cases were reported to the department/Government in July 2006; their reply has not been received (February 2008).

6.25 Evasion of tax by owners of unregistered motor vehicles

Failure to register 618 taxable vehicles under the MPGT Act led to evasion of tax of Rs. 61.31 lakh.

Rule 37 of the Meghalaya Passengers and Goods Taxation (MPGT) Rules envisages that any owner of a taxable vehicle carrying goods or passengers shall apply to the prescribed authority for registration under the MPGT Act. The owner is also required to file his return to the AO within 10 days of the close of each month along with a copy of treasury challan showing payment of taxes as per the rates prescribed by the Government from time to time. Such tax is assessed and collected by the ST in respect of vehicles registered in his office.

Cross verification of the records of three[*] STs with those of the concerned district transport officers (DTO) revealed that 618 owners of taxable vehicles of different categories[**] were registered between April 2001 and June 2004 under the Motor Vehicle (MV) Act, 1988 and MV tax in respect of these vehicles was realised accordingly. The owners of these vehicles neither applied for registration under the MPGT Act nor was any action initiated by the STs to register them. This resulted in the evasion of tax of Rs. 61.31 lakh.

After this was pointed out, the Government stated in February 2008 that the AOs were instructed to conduct an enquiry with the concerned District Transport Officers. Result of enquiry is awaited (February 2008).

6.26 Loss of revenue

Failure of the officer incharge of the taxation check gate to detect excess load of coal led to the loss of revenue of Rs. 47.93 lakh.

The COT, Meghalaya in September 2003 notified that all coal traders carrying coal in excess of 15 MT per truck in the course of interstate trade or commerce shall pay at the check gate, additional security at the rate of Rs. 120 per MT for the excess load so carried. This additional security was in addition to the advance tax of Rs. 1,800 per truck carrying coal 15 MT coal.

Test check of the records of the taxation check gate at Umkiang in August 2006 revealed that during the period between August 2005 and July 2006, 36,729 commercial trucks carried 38,706 MT of coal in excess of the permissible limit of 15 MT and paid Rs. 46.45 lakh at the check gate as advance tax in the form of additional security.

[*] Shillong, Tura and Williamnagar.

[**] Goods carrying vehicle: 430, Sumo: 128, Bus: 60.

Cross verification with the records of the DMR check gate located at the same station, however, revealed that these 36,887 commercial trucks actually carried 78,647 MT of coal in excess of the permissible limit and accordingly, paid royalty at the DMR check gate. Thus, 39,941 MT of excess load of coal escaped notice of the taxation check gate authorities leading to the loss of revenue of Rs. 47.93 lakh.

After this was pointed out, the Government while admitting the facts stated in February 2008 that action had been initiated to check under-weighment by the concerned weighbridge. The reply is, however, silent regarding steps taken to recover the revenue.

6.27 Loss of revenue due to non/short deduction of tax at source

Failure to register the dealers dealing in taxable goods and deduct tax at the prescribed rate led to loss of revenue of Rs. 42.88 lakh.

Under the provisions of the Meghalaya Finance (Sales Tax) (MFST) Act, no dealer shall carry on business in taxable goods unless he is registered and possesses a certificate of registration. If the dealer fails to apply for registration, the COT shall register the dealer within a specified time after allowing him a reasonable opportunity of being heard. As a measure of control, the Government of Meghalaya, Taxation Department instructed in January 1995 that the buying department should deduct tax at source at the prescribed rate while making payment to the supplier and deposit it in Government account.

6.27.1 Cross verification of the records of M/s Mawmluh Cherra Cement Limited (a State Government cement manufacturing company) with those of the ST, circle V, Shillong in March 2006 revealed that the company purchased coal valued as Rs. 18.49 crore during 2001-02 to 2004-05 from unregistered dealers on which tax of Rs. 30.93 lakh instead of Rs. 71.12 lakh was deducted at source and deposited into Government account. The ST did not initiate any action to register these dealers and realise the tax due. Thus, failure of the company to deduct the tax at source and the AO to register the dealers resulted in loss of revenue of Rs. 40.19 lakh.

6.27.2 Cross verification of the records of the block development officer (BDO), Mairang with the records of the ST, circle II, Shillong in February 2005 revealed that a dealer sold CGI* sheet, GI ridging, *etc*. valued as Rs. 67.20 lakh between December 2000 and November 2002 to the BDO who did not deduct the tax at source while making payment. The dealer neither applied for registration nor was any action taken by the ST to register the dealer and recover the tax due. This resulted in loss of revenue of Rs. 2.69 lakh.

* corrugated galvanised iron

After the cases were pointed out, the Government stated in July 2007 that action had already been initiated in the light of the audit observation for registration of dealers and realisation of tax. Report of recovery has not been received (February 2008).

6.28 Loss of revenue due to non-completion of assessment

Delay in completion of assessments of two dealers led to loss of revenue of Rs. 19.82 lakh.

Under Section 8 of the MFST Act and rules made thereunder, every dealer is required to submit a return along with the proof of payment of the admitted tax within 30 days of the close of each six monthly period. If a dealer fails to submit returns or, after submission of returns, fails to produce the books of accounts despite notices, the AO shall complete the assessments on best judgment basis. It was judicially held* by the Supreme Court that the AO is bound to make assessment to the best of his judgment if the dealer fails to submit returns and produce books of accounts.

Test check of the assessment records of the ST, Circle IV, Shillong in March 2006 revealed that two dealers 'A' and 'B' imported taxable goods valued as Rs. 2.01 crore (A: Rs. 39.74 lakh; B: Rs. 1.61 crore) during 2002-03 and 2004-05 respectively as per the road permit register maintained by the circle. Dealer 'A' was assessed to tax upto March 2002 and 'B' upto March 2003. Thereafter, the dealers failed to submit returns. The AO also did not initiate any action either to issue notice for submission of return or to assess the dealers on best judgment basis. Further scrutiny revealed that both the dealers had closed down their business as they did not apply for registration under the Value Added Tax Act which came into force from 1 May 2005. Thus, failure of the AO to initiate timely action to assess the dealers on best judgment basis led to the loss of revenue of Rs. 19.82 lakh (A: Rs. 4.77 lakh; B: Rs. 15.05 lakh).

After this was pointed out, the Government in February 2008 stated that both cases were under scrutiny.

* CIT Vs Segu Buchiah Setty (1970) 77I TR 539 SC

6.29 Loss of revenue due to loss in transit of case records

Revenue of Rs. 18.64 lakh was lost due to the loss in transit of case records of a dealer.

Under Section 11 of the MFST Act, if the COT is satisfied that any taxable turnover has escaped assessment during any return period, he may, at any time within eight years of the end of the aforesaid period, proceed to assess the dealer in respect of such period.

Cross verification of the records of the ST, Ribhoi district, Nongpoh with those of the ST, circle III, Shillong in May 2006 revealed that the case records of a dealer registered in circle III, Shillong was transferred on 9 September 2004 to Nongpoh office but the records were not received by the ST, Nongpoh till the date of audit. The dealer, however, imported soap, bricks, packaged foods, *etc*. valued as Rs. 1.57 crore from outside the State but neither paid any tax nor was the turnover assessed by either of the AOs. The assessment records were also not traceable. This resulted in loss of revenue of Rs. 18.64 lakh.

After this was pointed out, the Government stated in February 2008 that the case was under investigation. Report of investigation is awaited (February 2008).

6.30 Underassessment of tax due to mistake in computation

There was underassessment of tax of Rs. 16.84 lakh due to mistake in computation of tax.

Under the provisions of the MPT Act, the authority which made an assessment or passed an order on appeal or revision may, at any time within three years from the date of such assessment or order and of his own motion, rectify any mistake apparent from the record of the case. The provision of the State Act applies *mutatis mutandis* in case of assessment/reassessment under the CST Act.

Test check of the assessment records of the ST, Purchase Tax (PT) Circle in January 2007 revealed that a manufacturer sold processed lime valued as Rs. 10.85 crore to a registered dealer of Assam in the course of interstate trade between April 2002 and March 2003. The dealer claimed exempted sale of Rs. 3.86 crore under the Meghalaya Industries (Sales Tax Exemption) Schemes, 2001 and declared sale of Rs. 6.99 crore taxable at four *per cent*. The AO, however, assessed the dealer on the entire turnover of Rs. 10.85 crore and levied tax accordingly. On the dealer preferring an appeal, the appellate authority in October 2006 ordered the turnover of Rs. 3.86 crore as exempted sale but erroneously determined the remaining taxable turnover as Rs. 2.78

crore instead of Rs. 6.99 crore and directed the AO to revise the assessment. The AO instead of pointing out the mistake apparent from the records to the appellate authority for rectification, completed the assessment in October 2006 accordingly. Thus, due to the erroneous order, turnover of Rs. 4.21 crore escaped assessment resulting in underassessment of tax of Rs. 16.84 lakh.

After the case was pointed out, the Government while admitting the facts stated in February 2008 that the COT had directed the Appellate Authority to rectify the mistake. Further report is awaited (February 2008).

6.31 Non-levy of penalty on misuse of 'C' form

Penalty of Rs. 15.77 lakh was not levied for the misuse of 'C' form on the purchase of goods at a concessional rate of tax.

Under Section 8 of the CST Act, a registered dealer may purchase goods from a registered dealer of another State at a concessional rate of tax by furnishing prescribed declaration in form 'C'. Further, under Section 10(d) of the Act, if any person after purchasing goods for any of the purposes specified in the declaration form, fails to make use of the goods for any such purpose, he is liable to pay penalty not exceeding one and half times the amount of tax which would have been levied in lieu of prosecution. It was judicially held[*] by the Supreme Court that 'building material' cannot be regarded as raw material in the manufacture or processing of goods.

Test check of the records of the ST, Jowai in April 2007 revealed that a manufacturer of cement completed the construction of the plant and started commercial production from April 2006. The unit imported 'building material' valuing Rs. 2.07 crore between May 2006 and March 2007 against declaration in form 'C' for use as raw material in the manufacture of cement. Since it has been judicially held that building material cannot be regarded as raw material in the manufacture of cement, the dealer was liable to pay maximum penalty of Rs.15.77 lakh for the misuse of 'C' forms. However, this was not levied.

After this was pointed out, the Government stated in February 2008 that the dealer purchased goods for use as raw materials in manufacturing except few items of building materials and therefore penalty could not be imposed. The reply is not tenable as the entire purchase of the dealer was building materials as per utilisation statement of 'C' forms furnished.

[*] J.K. Cotton Spinning & Weaving Mills vs The STO Kanpur (1965)16 STC 563 (SC)

6.32 Non-forfeiture of tax

Loss of revenue of Rs. 14.83 lakh due to non-forfeiture of irregular collection of tax on exempted goods.

Under the sales tax laws of Meghalaya, if any dealer collects any sum by way of tax in respect of sale of any goods on which no tax is payable, the tax so collected shall be forfeited to the Government. Further, clause 4(iii) of the Meghalaya Industries (Sale Tax Exemption) Scheme, 2001 provides for total exemption on the sale of finished products in the course of interstate trade.

Test check of the records of ST, PT circle, Shillong in January 2007 revealed that a sales tax exempted manufacturing unit under the Industrial Scheme 2001, sold finished goods valued as Rs. 3.86 crore between April 2002 and March 2003 and collected tax of Rs. 14.83 lakh on the sale of such exempted goods. The AO instead of forfeiting the tax of Rs. 14.83 lakh so collected, carried forward the amount to be adjusted against the tax liability of subsequent periods. This irregular assessment resulted in non-forfeiture of tax of Rs. 14.83 lakh.

After this was pointed out, the Government stated in February 2008 that the assessment of the dealer was based on the orders of the Appellate Authority (AA) and the AO had no power to set aside the order of the AA. The reply is not tenable as the COT can exercise his *suo motu* power of revision in case any order passed by the AA is prejudicial to the interest of revenue.

6.33 Loss of revenue due to irregular registration

The grant of registration certificate without proper verification led to the loss of revenue of Rs. 9.39 lakh.

Under Section 7(1) of the CST Act and rules made thereunder, every dealer liable to pay tax under this Act shall make an application for registration not later than 30 days from the date on which the dealer becomes liable to pay tax under the Act. If the registering authority (RA) is satisfied that the particulars contained in the application are correct and complete, he shall register the applicant and grant him a certificate of registration fixing the date of liability to pay tax.

Test check of the records of the ST, Jowai in April 2007 revealed that a coal dealer had applied for registration on 30 January 2007 under the CST Act and the RA asked the area Inspector of Taxes (IT) on 8 February 2007 to conduct an inquiry regarding the correctness of the particulars furnished by the dealer in the application. The IT submitted his report on the same day and the RA accordingly granted the dealer registration certificate on 8 February 2007, fixing the date of liability to pay the tax with effect from 1 February 2007.

Cross check of the records of the Umkiang Taxation checkgate under the jurisdiction of ST Jowai, however, revealed that the dealer sold 8,384.50 tonnes of coal valued as Rs. 1.17 crore during April 2005 to March 2006 which had escaped the notice of the IT and RA. Thus, grant of registration certificate without proper inquiry resulted in loss of revenue of Rs. 9.39 lakh calculated at the rate of eight *per cent*.

After this was pointed out, the Government stated in February 2008 that the aforesaid quantity of coal was despatched by another dealer who was registered and therefore there was no loss of revenue. The reply is not tenable as the officer in charge of the checkgate reported transportation of coal by the dealer who was not registered during the period April 2005 to March 2006.

6.34 Underassessment of tax due to incorrect deduction

Underassessment of tax of Rs. 6.03 lakh due to irregular allowance of deduction of Rs. 69.40 lakh.

Under the taxation laws of Meghalaya, in determining the taxable turnover of a dealer, a deduction on account of tax collected by him is allowable from the aggregate of sales turnover in accordance with the prescribed formula.

Test check of the assessment records of the ST, Circle III and IV, Shillong in March 2006 revealed that two dealers disclosed net taxable turnover of Rs. 10.55 crore in their returns for the year 2003-04 and 2004-05. Though the element of tax was not included in the turnover, Rs. 69.40 lakh was deducted from the taxable turnover by the AO while completing assessments between August 2004 and June 2005. Such inadmissible deduction resulted in underassessment of tax of Rs. 6.03 lakh.

After the cases were pointed out, the Government while admitting the facts in respect of the dealer registered in circle-III, stated in July 2007 that reassessment was made and the dealer was asked to pay the balance tax. Report on recovery has not been received (February 2008).

In respect of the dealer of circle IV, the Government stated that the claim of deduction was correct and admissible as the sale price was inclusive of tax. The reply is not tenable as the turnover assessed was the cost of material consumed in the works contract and not the sale price of material as contended.

6.35 Evasion of tax by fraudulent means

Intrastate sales of Rs. 1.45 crore were fraudulently shown as interstate sales resulting in evasion of tax of Rs. 6.03 lakh.

Under the CST Act, a sale or purchase of goods shall be deemed to have taken place in the course of interstate trade if the sale or purchase occasions the movement of goods from one State to another.

Test check of the records of the ST, circle III Shillong in March 2005 revealed that a dealer disclosed sale of soap valued as Rs. 1.45 crore to a dealer in Nagaland during the period from April 2001 to March 2004 in the course of interstate trade and produced three declarations in form 'C' in the support of such sales. The dealer was accordingly assessed to tax of Rs. 5.59 lakh calculated at a concessional rate of four *per cent.* Cross verification with the records of the Byrnihat taxation check gate revealed that no vehicles carrying goods sold by the dealer passed the check gate during the aforesaid period. Moreover, the dealer of Nagaland which issued the declaration forms, had already closed down his business in 1995. Since sale of goods did not involve interstate movement, such sales were to be treated as sales within the State and tax of Rs. 11.62 lakh was to be levied. Omission to do so resulted in evasion of tax of Rs. 6.03 lakh.

After the case was pointed, the AO stated in February 2007 that the dealer had paid tax of Rs. 5.59 lakh though he was not liable to pay tax as the sale was covered under Section 6(2) of the CST Act. The reply is not tenable as the dealer of Nagaland who had issued the declaration forms was not in existence during the period and it is thus evident that those declaration forms were fraudulently acquired by the Shillong based dealer to avail of concessional rate of tax.

The Government in February 2008 endorsed the reply of the AO and further stated that COT had taken up the matter with the COT, Nagaland. Further report is awaited (February 2008).

6.36 Irregular assessment at concessional rate

Tax was underassessed by Rs. 5.35 lakh due to irregular acceptance of certificate in form D issued by three autonomous bodies.

Under the provisions of the CST Act, every dealer who in the course of interstate trade sells any good to a Government department, shall be liable to pay tax at the rate of four *per cent* of his turnover, if supported by form 'D'. Otherwise such sale is taxable at 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the appropriate State whichever is higher. In Meghalaya, 'motor vehicle' is taxable at the rate of 12 *per cent.*

Test check of the assessment records of the ST, circle IV, Shillong in November 2006 revealed that a registered dealer sold motor vehicles valued as Rs. 66.90 lakh to three non-Government departments[*] in the course of interstate trade during the period November 2001 to February 2004. The dealer was assessed in November 2006 at a concessional rate of four *per cent* against certificates in form 'D'. Acceptance of form 'D' in support of the above transactions was not in order as these certificates were furnished by autonomous bodies which are not Government departments. Thus, irregular acceptance of certificates in form 'D' resulted in underassessment of tax of Rs. 5.35 lakh.

After this was pointed out, the Government while admitting the facts, stated, in February 2008, that show cause notice had been issued to the dealer for reassessment. Report of assessment and recovery of tax is awaited (February 2008).

6.37 Evasion of tax by unregistered dealers

Failure of the department to register seven dealers led to evasion of tax of Rs. 5 lakh.

Under the CST Act, every dealer who is liable to pay tax, is to be registered under Section 7(1) of the Act. Further, interstate sale of goods not covered by declaration in form 'C' is taxable at the rate of 10 *per cent* or at the rate applicable under the State Act whichever is higher. In Meghalaya, bamboo is taxable at the rate of four *per cent* from May 2005.

Cross verification of the records of the ST, Williamnagar and Tura with those of DFO, Tura in June 2006 revealed that seven unregistered dealers sold bamboo valued as Rs. 49.97 lakh in the course of interstate trade between June 2005 and March 2006 and were liable to pay tax of Rs. 5 lakh. But the dealers neither applied for registration under the CST Act nor paid the due tax. The Taxation Department also failed to get these dealers registered leading to evasion of tax of Rs. 5 lakh.

After this was pointed out, the Government while admitting the facts stated in February 2008 that sanction to erect a check post in March 2008 had been accorded to arrest evasion of tax by unscrupulous dealers. The reply is however silent regarding action taken to register and recovery the tax from the unregistered dealers.

[*] Central Muga Eri Research & Training, Institute, Jorhat; National Institute of Technology, Silchar; Project Director, Society for Implementation of Assam Area Project.

6.38 Non-levy of interest

Non-levy of interest of Rs. 4.18 lakh for default in payment of tax.

Under the provisions of MFST Act, if any registered dealer fails to pay the full amount of tax by the due date, he is to be liable to pay interest at prescribed rates varying between 6 and 24 *per cent* per annum for the period of default on the amount by which tax paid falls short.

Test check of the assessment records of the ST, circle III Shillong in March 2006 revealed that a registered dealer was assessed to tax of Rs. 1.09 crore in May 2005 for the period from April 2003 to March 2004. The dealer, however, paid Rs. 24.09 lakh on the due dates and Rs. 72.20 lakh belatedly leaving a balance of Rs. 12.21 lakh unpaid till the date of audit. For belated/non-payment of tax, interest of Rs. 4.18 lakh was leviable but was not levied by the AO.

After the case was pointed out, the Government while admitting the facts stated in July 2007 that interest had been levied and a notice of demand issued to the dealer for payment. The report on recovery has not been received (February 2008).