

PREFACE

This Report for the year ended 31 March 2009 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, state excise, motor vehicles tax, passengers and goods tax, forest receipts and other tax receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test check of records during the year 2008-09 as well as which were noticed in earlier years but could not be included in previous years' reports.

OVERVIEW

This report contains 39 paragraphs including three reviews relating to non/short levy of taxes, duties, royalty, fees, interest and penalty etc., involving Rs. 182.02 crore. Some of the major findings are mentioned below:

1. General

- The total receipts of the Government for the year 2008-09 were Rs. 9,307.99 crore. The revenue raised by the State Government during the year was Rs. 3,998.73 crore comprising tax revenue of Rs. 2,242.49 crore and non-tax revenue of Rs. 1,756.24 crore. The State Government also received Rs. 837.49 crore as State's share of divisible Union taxes and Rs. 4,471.77 crore as grants-in-aid from the Government of India.

(Paragraph 1.1)

- The arrears of revenue at the end of the year 2008-09 as reported by some departments were Rs. 568.60 crore. Of this, Rs. 167.83 crore was recoverable on account of taxes and duties on electricity from Himachal Pradesh State Electricity Board.

(Paragraph 1.5)

- Test check of the records of sales tax, state excise, taxes on vehicles, goods and passengers, forest receipts and other tax and non-tax receipts conducted during the year 2008-09, revealed under assessments/short levy/loss of revenue aggregating Rs. 267.04 crore, in 1,001 cases. During the course of the year 2008-09, the concerned departments accepted under assessments etc., of Rs. 38.78 crore in 385 cases.

(Paragraph 1.14)

2. Taxes on Sales, Trade/VAT etc.

A review of “**Transition from sales tax to value added tax**” revealed as under:

- Non-payment of VAT on rental charges on account of electric meters and service lines collected from consumers by Himachal Pradesh State Electricity Board resulted in non-realisation of revenue of Rs. 14.05 crore including interest.

(Paragraph 2.2.8.3)

- In the absence of any mechanism for cross verification of tax paid by 134 selling dealers, the Assessing Authorities could not ensure the genuineness of Input Tax Credit of Rs. 15.33 crore claimed by the dealers.

(Paragraph 2.2.11.1)

- Excess allowance of input tax credit to 69 dealers on the entire branch transfer/local purchases of Rs. 314.35 crore, instead of on proportionate basis, resulted in loss of revenue of Rs. 2.23 crore.

(Paragraph 2.2.11.2)

- Deficient provisions for cross verification of local purchases exceeding rupees one lakh made from a single dealer in a year, resulted in non-verification of genuineness of Input Tax Credit of Rs. 6.06 crore, allowed to the dealers.

(Paragraph 2.2.13.1)

- Deficient provisions for deduction of tax at source on hire charges involved in execution of works contract, resulted in non-recovery of revenue of Rs. 56.58 lakh.

(Paragraph 2.2.14.1)

- Non-payment of value added tax on the sale of SIM cards and irregular allowance of deduction of material from gross turnover in the case of 34 dealers resulted in non-recovery of revenue of Rs. 4.52 crore.

(Paragraph 2.2.19.1 and 2.2.19.2)

- Acceptance of defective/incomplete statutory forms by the assessing authorities and allowing exemption/concessional rate of tax in case of 28 industrial units resulted in short levy of tax of Rs. 10.03 crore in seven districts.

(Paragraph 2.4)

- Non/short disclosure of sales of Rs. 2.91 crore by 16 dealers of four districts who sold *khairwood* to a dealer of Sirmour district, resulted in evasion of tax of Rs. 87.40 lakh.

(Paragraph 2.6)

3. State Excise

A review of “**Collection of duties and fees on working of distilleries in Himachal Pradesh**” revealed as under:

- Allowance of inadmissible wastage to a brewery licensee in Solan district without provisions in the Act resulted in loss of excise duty of Rs. 1.97 crore.

(Paragraph 3.2.9)

- Low yield of spirit from molasses in two distilleries in Solan and Una district resulted in short collection of excise duty of Rs. 4.31 crore.

(Paragraph 3.2.14)

- Non-application of distillery rules resulted in non-recovery of license fee of Rs. 2.86 crore on the production of 425.80 quarts of country liquor in five distilleries.

(Paragraph 3.2.15)

- In AETC Mandi, 1,05,723.662 proof litres of country liquor and 52,513.188 proof litres of Indian made foreign liquor surrendered by the outgoing licensees. The license fee of Rs. 2.21 crore recoverable from incoming licensees of 2007-08, was not recovered.

(Paragraph 3.4.1.1)

4. Taxes on Vehicles, Goods and Passengers

- Token tax and penalty of Rs. 1.68 crore for the year 2006-07 to 2007-08 was neither paid by 2,574 vehicle owners nor recovered by 19 registering and licensing authorities.

(Paragraph 4.3.1)

- In seven regional transport authorities, non/short payment of special road tax and non-levy of penalty resulted in non-recovery of Government dues of Rs. 3.23 crore.

(Paragraph 4.3.4 and 4.3.5)

- In RLA, Shimla (Urban), Rs. 20.05 lakh collected during April 2007 to August 2007, November 2007, January 2008 and February 2008 on account of fees and taxes etc. was neither entered in the Cash Book nor found deposited in the Government account. This resulted in embezzlement/misappropriation of Government money.

(Paragraph 4.6)

5. Forest Receipts

- Non/short charging of costs of 8,329 trees of different species falling in the alignment area of projects/transmission lines etc. resulted in non/short recovery of revenue of Rs. 2.15 crore in eight forest divisions.

(Paragraph 5.3.1)

- In six forest divisions, royalty of Rs. 3.28 crore in respect of 53 lots handed over for exploitation were paid late by the Himachal Pradesh State Forest Corporation, on which interest of Rs. 98.97 lakh was not levied by the department.

(Paragraph 5.3.2)

6. Other Tax and Non-Tax Receipts

A review of “Assessment and collection of water charges including *abiana* charges” revealed as under:

- Against Rs. 74.61 crore due for assessment on account of water charges, the department assessed Rs. 72.87 crore, resulting in short assessment of Rs. 1.74 crore during the years 2003-04 to 2007-08.

(Paragraph 6.2.9.1)

- Due to non-installation of meters and levy of water charges on flat rates, the Government suffered a revenue loss of Rs. 4.73 crore (calculated on average basis) in 35,847 cases during 2005-06 to 2007-08 in 27 sub divisions.

(Paragraph 6.2.15.2)

- Non-levy of surcharge on delayed payments of water charges for bulk supply of water to the committees/municipal corporation resulted in loss of revenue of Rs. 4.03 crore during 2003-04 to 2007-08.

(Paragraph 6.2.20)

- Non-deposit of electricity duty of Rs. 102.41 crore by the Himachal Pradesh State Electricity Board resulted in non-recovery of revenue to that extent.

(Paragraph 6.4)

- In 34 sub registrars, incorrect determination of the market value of property resulted in short realisation of stamp duty and registration fee of Rs. 1.81 crore in 489 cases.

(Paragraph 6.5)

CHAPTER-1 : GENERAL

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Himachal Pradesh during the year 2008-09, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sr. No.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
I.	Revenue raised by the State Government					
	• Tax revenue	1,251.88	1,497.02	1,656.38	1,958.18	2,242.49
	• Non tax revenue	610.77	689.67	1,336.85	1,822.43	1,756.24
	Total	1,862.65	2,186.69	2,993.23	3,780.61	3,998.73
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	537.32	493.26	629.16	793.64	837.49
	• Grants-in-aid	2,234.54	3,878.67	4,212.83	4,567.29	4,471.77
	Total	2,771.86	4,371.93	4,841.99	5,360.93	5,309.26
III.	Total receipts of the State (I to II)	4,634.51	6,558.62	7,835.22	9,141.54	9,307.99¹
IV.	Percentage of I to III	40	33	38	41	43

The above table indicates that during the year 2008-09, the revenue raised by the State Government was 43 *per cent* of the total revenue receipts (Rs. 9,307.99 crore) against 41 *per cent* in the preceding year. The balance 57 *per cent* of the receipts during 2008-09 was from the Government of India.

¹ For details, please see "Statement No. 11- Detailed accounts of revenue by minor heads" in the Finance Accounts of the Government of Himachal Pradesh for the year 2008-09. Figures under the head "0020-Corporation tax"; "0021-Taxes on income other than corporation tax"; "0032-Taxes on wealth"; "0037-Customs"; "0038-Union excise duties" and "0044-Service tax' booked in the Finance Accounts under A-tax revenue have been excluded from the revenue raised by the State Government and included in State's share of divisible Union taxes

1.1.1 The following table presents the details of tax revenue raised during the period 2004-05 to 2008-09:

(Rupees in crore)

Sr. No.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+) or decrease (-) in 2008-09 over 2007-08
1.	Taxes on sales, trade etc.	542.37	726.98	914.45	1,092.16	1,246.31	(+) 14
2.	State excise	299.90	328.97	341.86	389.57	431.83	(+) 11
3.	Stamps and registration fees	75.34	82.43	92.47	86.99	98.33	(+) 13
4.	Taxes and duties on electricity	88.00	89.29	30.43	81.57	78.83	(-) 3
5.	Taxes on vehicles	107.82	101.51	106.35	113.72	135.53	(+) 19
6.	Taxes on goods and passengers	38.32	42.61	50.22	55.12	62.39	(+) 13
7.	Other taxes and duties on commodities and services ²	97.54	124.10	118.65	137.13	168.99	(+) 23
8.	Land revenue	2.30	1.09	1.91	1.89	20.28	(+) 973
Total		1,251.59	1,496.98	1,656.34	1,958.15	2,242.49	(+) 15

The reasons for increase/decrease in receipts during 2008-09 over those of 2007-08 though called for in June 2009 from the concerned departments were not received (September 2009) except the departments mentioned below:

Taxes on sales, trade etc: The increase was stated to be due to impact of frequent checking/inspections by field/barriers staff/flying squad under value added tax and more recovery of arrears.

State excise: The increase was stated to be due to increase in application fee, annual license fee on country liquor/India made foreign liquor, area wise annual bar license fee and increase in number of liquor vends.

Taxes on vehicles: The increase was stated to be due to more collection of revenue and increase in vehicle population.

Taxes on goods and passengers: The increase was stated to be due to more receipt on account of transportation of iron, steel and plastic goods, increase in number of vehicles and increase in the rate of additional goods tax on all type of yarn.

Other taxes and duties on commodities and services: The increase was stated to be due to increase in the rate of tax on cement and clinker under the Himachal Pradesh Taxation (on certain goods carried by road) Act, toll income by auction and more transportation of goods.

² The figures relating to years 2004-05: Rs. (-) 29 lakh, 2005-06: Rs. (-) 4 lakh, 2006-07: Rs. (-) 4 lakh and 2007-08: Rs. (-) 3 lakh on account of share of net proceeds assigned to the state

1.1.2 The following table presents the details of major non-tax revenue raised during the period 2004-05 to 2008-09:

(Rupees in crore)							
Sr. No.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+) or decrease (-) in 2008-09 over 2007-08
1.	Interest receipts	42.77	49.29	87.18	66.90	77.97	(+) 17
2.	Other non-tax receipts	89.59	151.41	122.84	125.15	222.75	(+) 78
3.	Forestry and wild life	102.17	149.63	45.55	53.60	55.40	(+) 3
4.	Non-ferrous, mining and metallurgical industries	38.42	42.90	48.39	56.59	76.57	(+) 35
5.	Miscellaneous general services (including lottery receipts)	1.86	2.13	73.86	47.51	5.25	(-) 89
6.	Power	284.71	251.47	910.08	1,414.52	1,255.43	(-) 11
7.	Major and medium irrigation	0.09	0.44	0.21	0.22	0.17	(-) 23
8.	Medical and public health	3.70	5.31	5.38	7.68	8.19	(+) 7
9.	Co-operation	1.64	1.68	7.28	4.93	2.80	(-) 43
10.	Public works	9.08	12.07	16.50	20.38	22.59	(+) 11
11.	Police	7.74	8.98	8.45	12.31	15.05	(+) 22
12.	Other administrative services	29.00	14.36	11.13	12.64	14.07	(+) 11
Total		610.77	689.67	1,336.85	1,822.43	1,756.24	(-) 4

The reasons for increase/decrease in receipts during 2008-09 over those of 2007-08 though called for in June 2009 from the concerned departments were not received (September 2009) except the departments mentioned below:

Co-operation: The decrease was stated to be due to less reimbursement of share from Co-operative Societies to State Government and less reimbursement of grant-in-aid from National Co-operative Development Corporation New Delhi.

Public works: The increase was stated to be due to recovery on account of departmental charges on deposit works.

Police: The increase was stated to be due to receipt of outstanding dues from other organisations on account of police forces deployed with them, receipt on account of sale of arms and ammunitions to the state of Madhya Pradesh, deposit of permit fee on account of passes issued for restricted road and more receipt from auction of unserviceable items of the department.

1.2 Variations between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sr. No.	Head of revenue	Budget estimates	Actual receipts	Variations excess(+) or shortfall (-)	Percentage of variation
1.	Taxes on sales, trade etc.	1,336.81	1,246.31	(-) 90.50	(-) 7
2.	State excise	428.61	431.83	(+) 3.22	(+) 1
3.	Taxes on goods and passengers	68.67	62.39	(-) 6.28	(-) 9
4.	Taxes on vehicles	136.49	135.53	(-) 0.96	(-) 1
5.	Other taxes and duties on commodities and services	142.69	168.99	(+) 26.30	(+) 18
6.	Stamps and registration fees	95.42	98.33	(+) 2.91	(+) 3
7.	Taxes and duties on electricity	90.32	78.83	(-) 11.49	(-) 13
8.	Land revenue	1.85	20.28	(+) 18.43	(+) 996
9.	Industries	10.10	8.55	(-) 1.55	(-) 15
10.	Forestry and wild life	46.94	55.40	(+) 8.46	(+) 18
11.	Interest receipts	63.58	77.97	(+) 14.39	(+) 23
12.	Education, sports, art and culture	49.67	56.84	(+) 7.17	(+) 14
13.	Crop husbandry (including horticulture)	4.92	5.40	(+) 0.48	(+) 10
14.	Non -ferrous, mining and metallurgical industries	54.53	76.57	(+) 22.04	(+) 40
15.	Housing	2.34	2.05	(-) 0.29	(-) 12
16.	Fisheries	1.05	1.24	(+) 0.19	(+) 18
17.	Water supply and sanitation	18.27	18.18	(-) 0.09	(-) 1
18.	Police	12.62	15.05	(+) 2.43	(+) 19
19.	Medical and public health	6.81	8.19	(+) 1.38	(+) 20
20.	Stationery and printing	4.46	5.64	(+) 1.18	(+) 26
21.	Public works	16.61	22.59	(+) 5.98	(+) 36
22.	Social security and welfare	1.84	3.55	(+) 1.71	(+) 93
23.	Animal husbandry	0.42	0.51	(+) 0.09	(+) 21
24.	Power	886.00	1,255.43	(+) 369.43	(+) 42

The reasons for variations though called for in June 2009 were not furnished (September 2009) by the concerned department except the departments mentioned below:

Taxes and duties on electricity: The decrease was stated to be mainly due to non-deposit of electricity duty in time during the year by the Himachal Pradesh State Electricity Board.

Land revenue: The increase was stated to be more receipts on account of sale of Government properties, receipts of rent for water mill and other receipts.

Industries: The decrease was stated to be due to less receipts of license fees, revenue from industrial areas and less receipts from unserviceable material/ other miscellaneous receipts.

Forestry and wild life: The increase was stated to be due to receipts from other organisation/department on account of sale of wood and other forest produce.

Non-ferrous, mining and metallurgical industries: The increase was stated to be due to receipt of lump-sum amount from a company under other miscellaneous receipts and excessive exploitation/utilisation of minerals.

Fisheries: The increase was stated to be due to increase in production of fish in Gobindsagar and issue of more fisheries license during the year.

Stationery and printing: The increase was stated to be due to more receipts on account of sale of stationery articles, unserviceable materials and printing charges including recoveries of previous years.

1.3 Analysis of collection

The breakup of the total collections at pre assessment stage and after regular assessment of state excise, taxes on sales and trade, passengers and goods tax and other taxes and duties on commodities and services during the year 2008-09 and the corresponding figures for the preceding two years, as furnished by the Excise and Taxation Department is mentioned below:

(Rupees in crore)

Sr. No.	Head of revenue/ Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
1	2	3	4	5	6	7	8
1.	State excise						
	2006-07	341.33	--	1.62	1.09	341.86	100
	2007-08	388.53	--	1.19	0.15	389.57	100
	2008-09	428.04	2.57	1.63	0.41	431.83	99
2.	Taxes on sales, trade etc.						
	2006-07	898.73	9.28	6.74	0.30	914.45	98
	2007-08	1,059.01	18.64	16.20	1.69	1,092.16	97
	2008-09	1,228.57	12.36	6.28	0.90	1,246.31	99
3.	Taxes on goods and passengers						
	2006-07	47.76	1.04	1.42	-- ³	50.52	95
	2007-08	52.83	1.20	1.09	--	55.12	96
	2008-09	58.66	1.85	1.89	0.01	62.39	94
4.	Other taxes and duties on commodities and services						
	2006-07	118.06	0.69	0.03	0.09	118.65 ⁴	99
	2007-08	136.54	0.64	0.06	0.08	137.13 ⁵	100
	2008-09	168.36	0.56	0.08	0.01	168.99	100

³ Rs. 35,463 only

⁴ excludes Rs. (-) 4 lakh on account of share of net proceeds assigned to the state

⁵ excludes Rs. (-) 3 lakh on account of share of net proceeds assigned to the state

The above table shows that collection of revenue at the pre-assessment stage ranged between 94 and 100 *per cent* during the years 2006-07 to 2008-09.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2006-07, 2007-08 and 2008-09 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2007-08 were as follows:

(Rupees in crore)

Sr. No.	Head of revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of collection for the year 2007-08
1.	Taxes on sales, trade etc.	2006-07	914.45	10.33	1.13	0.83
		2007-08	1,092.16	11.35	1.04	
		2008-09	1,246.31	12.88	1.03	
2.	State excise	2006-07	341.86	3.86	1.13	3.27
		2007-08	389.57	4.05	1.04	
		2008-09	431.83	4.46	1.03	
3.	Taxes on vehicles, goods and passengers	2006-07	156.57	1.90	1.21	2.58
		2007-08	168.84	2.73	1.62	
		2008-09	197.92	1.75	1.00	
4.	Stamp duty and registration fee	2006-07	92.47	2.24	2.42	2.09
		2007-08	86.99	1.01	1.16	
		2008-09	98.33	1.23	1.25	

The above table indicates that percentage of expenditure on gross collection in respect of taxes on sales, trade etc. was higher than the all India average.

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue amounted to Rs. 568.60 crore of which Rs. 159.39 crore were outstanding for more than five years, as mentioned below:

(Rupees in crore)

Sr. No.	Head of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than five years as on 31 March 2009	Remarks
1.	Taxes on sales, trade/vat etc.	120.38	53.77	Arrears pertained to the years 1968-69 and onwards. Demands for Rs. 43.51 crore had been certified as arrears of land revenue. Recoveries amounting to Rs. 3.66 crore were stayed by the High Court/other judicial authorities. Demands for Rs. 4.27 crore were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 68.94 crore has not been intimated (September 2009).

2.	Forestry and wild life	61.57	18.20	Arrears pertained to the years 1949-50 and onwards. The outstanding amounts relate to contractor agency: Rs. 3.84 crore; Himachal Pradesh State Forest Corporation: Rs. 57.59 crore and the balance Rs. 14 lakh relates to other Government departments. Specific action taken to effect the recovery has not been intimated (September 2009).
3.	Taxes and duties on electricity	167.83	Nil	The arrears were recoverable from Himachal Pradesh State Electricity Board.
4.	Taxes on vehicles	109.10	56.53	The arrears pertained to the year 1977 and onwards. Specific action taken to effect the recovery has not been intimated (September 2009).
5.	Taxes on goods and passengers	13.21	11.14	Arrears pertained to the year 1969-70 and onwards. Demands for Rs. 2.87 crore had been certified as recovery of land revenue. Demands for Rs. 2 lakh were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 10.32 crore has not been intimated (September 2009).
6.	Police	10.67	3.50	Arrears pertained to the years 1990-91 and onwards. The outstanding amounts relate to Bhakra and Beas Management Board: Rs. 2.66 crore; Satluz Jal Vidyut Nigam Ltd. Authorities: Rs. 1.79 crore; Railway Authorities: Rs. 1.96 crore; Civil Aviation Authority: Rs. 1.01 crore; Yamuna Hydrel Project Khodri Majri and Cement Corporation of India, Rajban: Rs. 56 lakh and National Hydro Electric Power Corporation: Rs. 1.62 crore. The remaining Rs. 1.07 crore relates to other ⁶ departments/institutions. For recovery of arrears pertaining to the National Hydro Electric Power Corporation, case had been filed under Land Revenue Act. However efforts were being made to recover the outstanding amount. Further report has not been received (September 2009).
7.	Water supply, sanitation and minor irrigation	64.59	8.36	Arrears pertained to the years 1963-64 and onwards. Rs. 60.43 crore relates to Municipal Corporation, Shimla, Municipalities and Notified Area Committees. The remaining arrears relating to minor irrigation and housing (Rs. 4.16 crore) were recoverable through Deputy Commissioners of the districts and Superintending Engineers respectively. Specific action taken to effect the recovery has not been intimated (September 2009).

⁶ All India Radio, Intelligence Bureau, United Commercial Bank, Shimla and Rohru, Punjab National Bank, Shimla, Mandi, Kinnaur and Punjab State Electricity Board, Patiala

8.	State excise	7.87	4.22	Arrears pertained to the year 1972-73 and onwards. Demands for Rs. 5.52 crore had been certified as arrears of land revenue. Recoveries amounting to Rs. 1 lakh were stayed by the High Court and other judicial authorities. Demands for Rs. 5 lakh were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 2.29 crore has not been intimated (September 2009).
9.	Other taxes and duties on commodities and services	5.40	1.56	Arrears pertained to the years 1989-90 and onwards. Demands for Rs. 2.88 crore had been certified as arrears of land revenue. Specific action taken in respect of the remaining arrears of Rs. 2.52 crore has not been intimated (September 2009).
10.	Industries (including village and small scale industries).	5.78	1.51	Arrears pertained to the years 1979-80 and onwards. Specific action taken to effect the recovery has not been intimated (September 2009).
11.	Non-ferrous, mining and metallurgical industries	0.89	0.17	Arrears pertained to the years 1970-71 and onwards. Specific action taken to effect the recovery has not been intimated (September 2009).
12.	Land revenue	1.03	0.43	Arrears pertained to the year 1975-76 and onwards. Specific action taken to effect the recovery has not been intimated (September 2009).
13.	Public works	0.28	Awaited	Period to which the arrears pertained and specific action taken to effect the recovery has not been intimated (September 2009).
Total		568.60	159.39	

1.6 Arrears in assessments

The number of cases pending assessment at the beginning of the year 2008-09, becoming due during the year, disposed during the year and pending at the end of each year during 2004-05 to 2008-09 as furnished by the Excise and Taxation Department in respect of taxes on sales, trade/vat etc; are as mentioned below:

Year	Opening balance	Cases which become due for assessment during 2008-09	Total assessments due	Cases disposed during 2008-09	Cases remaining at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
2004-05	1,06,169	61,266	1,67,435	55,733	1,11,702	33
2005-06	1,11,702	65,968	1,77,670	76,491	1,01,179	43
2006-07	1,01,179	32,832	1,34,011	61,251	72,760	46
2007-08	72,760	36,675	1,09,435	45,361	64,074	41
2008-09	64,074 VAT: 38,319	38,760 49,452	1,02,834 87,771	32,592 24,581	70,242 63,190	30

The above table indicates that the percentage of assessment completed during the year 2004-05 to 2008-09 ranged between 30 and 46 *per cent*. As of 31 March 2009, arrears in assessment under this head were 1,33,432 cases (GST: 4,220, CST: 66,022 and VAT: 63,190). The department needs to complete the pending assessments in a time bound manner.

1.7 Evasion of tax

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and demand for additional tax raised during 2008-09 are mentioned below:

Sr. No.	Head of revenue	Cases pending as on 31 March 2008	Cases detected during 2008-09	Total cases	Cases in which assessments/ investigations completed and additional demand including penalty etc. raised		Number of cases pending as on 31 March 2009
					Number of cases	Amount of demand (Rupees in lakh)	
1.	Taxes on sales, trade etc.	50	5,812	5,862	5,765	391.27	97
2.	State excise	4	384	388	388	7.51	-
3.	Passengers and goods tax	300	2,184	2,484	2,210	58.39	274
4.	Other taxes and duties on commodities and services	7	593	600	592	23.29	8
Total		361	8,973	9,334	8,955	480.46	379

It is necessary to finalise these cases at the earliest to minimize the risk of loss of revenue

1.8 Refunds

The number of refund cases pending at the beginning of the year 2008-09, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2008-09 as reported by the Excise and Taxation Department are mentioned below:

Sr. No.	Particulars	Sales tax		State excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	29	0.74	--	--
2.	Claims received during the year	20	0.77	33	0.40
3.	Refunds made during the year	26	0.90	33	0.40
4.	Balance outstanding at the end of year	23	0.61	--	--

(Rupees in crore)

Himachal Pradesh General Sales Tax Act and HPVAT Act provide for payment of interest, at the rate of one *per cent* per month, if the excess amount is not refunded to the dealer within 90 days from the date of the order and thereafter at the rate of 1.5 *per cent* per month till the refund is made.

The pending refund cases need attention to avoid mandatory payment of interest.

1.9 Failure of the senior officials to enforce accountability and protect the interests of the Government

Principal Accountant General (Audit), Himachal Pradesh arranges to conduct periodical inspection of Government departments to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). When important irregularities etc., detected during inspection are not settled on the spot, IRs are issued to the heads of the offices inspected with a copy to the next higher authority. The financial rules/orders of the Government provide for prompt response by the executive to the IRs issued by the audit to ensure corrective action in compliance of the prescribed rules and procedures and accountability for the deficiencies, lapses, etc., noticed during inspection. The heads of offices and the next higher authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the audit. Serious irregularities are also brought to the notice of the head of the department by the audit. A half yearly report of pending reports is sent to the Financial Commissioner-cum-Secretary (Finance) in respect of the pending IRs to facilitate monitoring of audit observations in the pending IRs.

The number of IRs and audit observations relating to revenue receipts upto 31 December 2008, which were pending settlement by the departments as on 30 June 2007, 30 June 2008 and 30 June 2009 are mentioned below:

Particulars	Position as on 30 June		
	2007	2008	2009
Number of IRs pending for settlement	3,209	3,377	3,375
Number of outstanding audit observations	7,586	8,085	7,975
Amount of revenue involved (Rupees in crore)	334.72	403.75	470.48

The increase in the outstanding audit observations is indicative of non-compliance with the Government instructions to send replies to the audit observations and report on further action taken thereon within the stipulated time.

The department wise breakup of the IRs and audit observations outstanding as on 30 June 2009 is mentioned below:

Sr. No.	Department	Number of outstanding		Amount of audit observations raised (Rupees in crore)	Year to which observations relate	Number of IRs to which even first replies not received
		IRs	Audit observations			
1.	Revenue	831	1,409	13.67	1977-78 to 2007-08	67
2.	Forest Farming and Conservation	573	1,658	266.57	1970-71 to 2007-08	7
3.	Excise and Taxation	730	2,020	110.21	1973-74 to 2007-08	18
4.	Transport	603	1,807	26.33	1972-73 to 2007-08	17
5.	Other departments (Irrigation –cum-Public Health, Public Works, Agriculture, Barrier, Horticulture, Co- operation, Food and Civil Supplies and Mining)	638	1,081	53.70	1976-77 to 2007-08	22
Total		3,375	7,975	470.48		131

The issue of outstanding IRs was brought to the notice of the Chief Secretary to the Government in August 2009. It is recommended that the Government may look into the matter to ensure that replies to IRs/paragraphs are sent as per the prescribed time schedule, recovery of loss/under assessment is effected in a time bound manner and the system of response to audit observations in the department is revamped.

1.10 Departmental audit committees meetings

In order to expedite the settlement of outstanding audit observations contained in the IRs on revenue receipts of the Government of Himachal Pradesh, the departmental audit committees were to be constituted by the Government, on the recommendations of the Finance Department. These committees were to be chaired by the Special Secretary/Additional/Joint Secretary of the concerned Administrative Department and attended by the head of the department/other concerned officer and the Deputy Accountant General from the office of the Pr. AG.

For expeditious clearance of the outstanding audit observations, it is necessary that the audit committees meet annually and ensure that final action is taken on all outstanding audit observations. For the year 2008-09, five out of 10 Government departments relating to revenue receipts, convened meetings of the audit committees. (The matter relating to annual meeting in respect of the remaining departments was under correspondence). This indicates that the Government/departments had not taken initiative to use the machinery created for expeditious settlement of the outstanding audit observations. In the meetings, 120 paras were settled.

1.11 Response of the State Government to draft audit paragraphs

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

Thirty nine draft paragraphs including three reviews proposed to be included in the Report for the year ended 31 March 2009 were sent to the Principal Secretaries/Secretaries of the respective departments by name between March and May 2009. The Principal Secretaries/Secretaries of the departments did not send replies to the draft paragraphs except reviews and two draft paragraphs of state excise, despite issue of reminders (June 2009). These paragraphs have been included in this report without the response of the Principal Secretaries/Secretaries of the departments.

1.12 Follow up on Audit Reports-summarised position

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Vidhan Sabha, the departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by Government within three months of tabling the Report, for the consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Report(s) were being delayed inordinately. Out of 117 paragraphs (including reviews) included in the Reports of the Comptroller and Auditor General of India on revenue receipts of the Government of Himachal Pradesh for the years ended 31 March 2004, 2005, 2006 and 2007, action taken explanatory notes had not been received upto 31 July 2009 in respect of 10 paragraphs from four departments⁷ although these Audit Reports were placed before the Legislature Assembly between 8 April 2005 and 10 April 2008.

1.13 Compliance with the earlier Audit Reports

In respect of paragraphs featured in the Audit Reports 2003-04 to 2007-08, the departments/Government accepted audit observations involving Rs. 124.87 crore of which only Rs. 35.48 crore had been recovered till 31 March 2009 as mentioned below:

⁷ 2005-06: Irrigation-cum-Public Health, Revenue and Public Works Departments
2006-07: Revenue and Industries Departments

(Rupees in crore)			
Year of Audit Report	Total money value	Accepted money value	Recovery made
2003-04	107.31	38.20	1.59
2004-05	54.39	7.11	1.89
2005-06	58.32	12.32	0.28
2006-07	82.38	61.28	30.71
2007-08	105.05	5.96	1.01
Total	407.45	124.87	35.48

1.14 Results of audit

Test check of the records of taxes on sale, trade, state excise, taxes on vehicles, goods and passengers, forest receipts, other tax and non-tax receipts conducted during 2008-09 revealed underassessments/short levy/loss of revenue and other observations amounting to Rs. 267.04 crore in 1,001 cases. During the year, the departments accepted under assessment of Rs. 38.78 crore in 385 cases pointed out in 2008-09. No replies have been received in respect of the remaining cases.

This report contains 39 paragraphs including three reviews relating to non/short levy of tax, royalty, fees, interest and penalty etc. involving Rs. 182.02 crore. The department/Government accepted audit observations involving Rs. 126.33 crore of which Rs. 38.92 crore had been recovered upto August 2009. These are discussed in succeeding chapter-II to VI.

CHAPTER - II: TAXES ON SALES, TRADE/VAT ETC.

2.1 Results of audit

Test check of the records of sales tax assessments and other records, conducted during the year 2008-09 revealed non/short levy of tax due to acceptance of defective statutory forms, underassessment of tax, evasion of tax due to suppression of sales/purchases and other irregularities amounting to Rs. 36.36 crore in 167 cases, which fall under the following categories:

(Rupees in crore)

Sr. No.	Particulars	Number of cases	Amount
1.	Transition from sales tax to Value Added Tax (a review)	1	19.71
2.	Non/short levy of tax due to acceptance of defective statutory forms	53	10.30
3.	Underassessment of tax	44	3.20
4.	Evasion of tax due to suppression of sales/purchases	27	1.26
5.	Other irregularities	42	1.89
Total		167	36.36

During 2008-09, the department accepted under assessments of Rs. 23 lakh involved in 18 cases which had been pointed out in audit in earlier years.

A few illustrative audit observations involving Rs. 11.81 crore and a review on **Transition from sales tax to Value Added Tax** involving **Rs. 19.71 crore** are mentioned in the succeeding paragraphs.

2.2 Review of “Transition from Sales tax to Value added tax”

Highlights

- Non-payment of VAT on rental charges on account of electric meters and service lines collected from consumers by Himachal Pradesh State Electricity Board resulted in non-realisation of revenue of Rs. 14.05 crore including interest.

(Paragraph 2.2.8.3)

- In absence of mechanism for cross verification of tax paid by 134 selling dealers, the Assessing Authorities could not ensure the genuineness of ITC of Rs. 15.33 crore claimed by the dealers.

(Paragraph 2.2.11.1)

- Excess allowance of input tax credit to 69 dealers on the entire branch transfer/local purchases of Rs. 314.35 crore, instead of on proportionate basis, by the Assessing Authorities resulted in loss of revenue of Rs. 2.23 crore.

(Paragraph 2.2.11.2)

- Deficient provisions for cross verification of local purchases exceeding rupees one lakh made from a single VAT dealer in a year, resulted in non-verification of genuineness of ITC of Rs. 6.06 crore, allowed to the dealers.

(Paragraph 2.2.13.1)

- Deficient provisions for deduction of tax at source on hire charges involved in execution of works contract, resulted in non-recovery of revenue of Rs. 56.58 lakh.

(Paragraph 2.2.14.1)

- Non-payment of VAT on the sale of SIM cards and irregular allowance of deduction of material from gross turnover in the case of 34 dealers resulted in non-recovery of revenue of Rs. 4.52 crore.

(Paragraph 2.2.19.1 and 2.2.19.2)

2.2.1 Introduction

The Government of India (GOI) in the meeting of Empowered Committee (EC) held on 23 January 2002 unanimously decided to implement Value Added Tax (VAT). The introduction of VAT has been considered to be a major step in the sphere of indirect tax system in India. The advantages of VAT system are that it is simple, transparent and eliminates cascading effect of existing sales tax system by setting off the tax paid earlier at every stage of sales.

The Government of Himachal Pradesh repealed Himachal Pradesh General Sales Tax (HPGST) Act, 1968 and enacted the Himachal Pradesh Value Added Tax (HPVAT) Act, 2005 (Act No. 12 of 2005) for implementation with effect from 1 April 2005. A dealer registered under the repealed Act and who

continued to be so registered on or immediately before 1 April 2005 and liable to pay tax, was deemed to be registered under the HPVAT Act.

The main differences between (HPGST) Act, 1968 and VAT are that VAT is multipoint tax system while sales tax was a single point tax system. VAT system relies more on the dealers to pay the tax willfully alongwith returns. They are deemed to have been self assessed on the basis of the returns filed by them if they are complete in all material particular, whereas in the Sales Tax Act, cent *per cent* cases are assessed and supporting documents are required to be submitted with the returns. VAT system reduces the control of the executives on the dealers while many other taxes are there in sales tax.

Under the HPVAT Act, a registered dealer (other than the dealer who imports the goods from outside the State and the dealer dealing in medicines) shall have the option to pay presumptive lump sum tax in equal installments, by way of composition whereas no such benefit existed under the repealed Act.

2.2.2 Organisational set up

Value Added Tax law and rules framed thereunder are administered at Government level by the State Principal Secretary (Excise and Taxation). The Excise and Taxation Commissioner (ETC) is the head of the Excise and Taxation Department (HOD) who is assisted by one Additional ETC, one Joint ETC, eight Deputy ETC, 13 Assistant Excise and Taxation Commissioners (AETCs) and 69 Excise and Taxation Officers (ETOs). They are assisted by Excise and Taxation Inspectors (ETIs) and other allied staff for administering the relevant tax laws and rules.

2.2.3 Audit objectives

The review was aimed at checking the status of implementation of VAT system as it has been in place for four years now. The review was conducted with a view to ascertain whether:

- planning for implementation and the transition from repealed HPGST Act to HPVAT Act and rules made thereunder were effected in a timely and efficient manner;
- organisational structure was adequate and effective;
- provisions of the HPVAT Act and the Rules made thereunder were adequate and were enforced properly to safeguard the revenue of the State;
- internal control mechanism existed in the Department and was adequate and effective to prevent leakage of revenue;
- computerisation of the checkgates and linking these with the Commissionerate and Assessing Authorities was completed; and
- VAT fraud task force exists to prevent early detection of dubious dealers.

2.2.4 Scope and methodology of audit

The review of the efficacy of the system of transition from sales tax to VAT for the period 2005-06 to 2007-08 was conducted between April and July 2009 in six districts¹ out of the 12 districts of the State. The selection of districts was made on the basis of stratified random sampling and revenue involved. Selection of assessment files was on the basis of the turnover of the dealers as under:

- Hundred *per cent* assessed cases where gross turnover was Rs. one crore and above;
- Fifty *per cent* assessed cases where gross turnover was above Rs. 50 lakh and below Rs. one crore; and
- Twenty five *per cent* assessed cases where gross turnover was above Rs. 10 lakh and below Rs. 50 lakh.

2.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of the State Excise and Taxation Department in providing necessary information and records for audit. An entry conference was held in May 2009 with the department and the scope and methodology for conducting the review were discussed. The draft review was forwarded to the department and to the Government in August 2009 and was discussed in the exit conference held in October 2009. The Principal Secretary (Excise and Taxation) represented the Government while the ETC represented the department. Replies of the Government (October 2009) received during the exit conference and at other times have been appropriately incorporated in the relevant paragraphs.

Audit findings

2.2.6 Pre-VAT and post-VAT collection

The comparative position of pre-VAT sales tax collection (2002-03 to 2004-05) and post-VAT (2005-06 to 2007-08) tax collection including VAT and growth rate in each of the years is furnished below:

(Rupees in crore)

Pre VAT			Post VAT		
Year	Actual collection	Percentage of growth	Year	Actual collection	Percentage of growth
2002-03	383.34	8	2005-06	726.98	34
2003-04	436.75	14	2006-07	914.45	26
2004-05	542.37	24	2007-08	1,092.16	19

The average growth during 2002-03 to 2004-05 was 15 *per cent* while the average growth rate during 2005-06 to 2007-08 was 26 *per cent*. Thus, the average growth rate in the post VAT period registered an increase of 11 *per cent*. This is due to the fact that more number of dealers were brought into the

¹ Kangra, Mandi, Shimla, Sirmour, Solan and Una

tax net. However, there was a decreasing trend in the percentage of growth rate during 2005-06 to 2007-08.

The Government stated that revenue collection had registered a considerable increase after the introduction of HPVAT Act. However, the percentage of growth rate showed a decreasing trend during 2005-06 to 2007-08, as it was not expected to remain as constant.

2.2.7 Preparedness and transitional process

The model VAT Bill prepared by the EC was circulated for the consideration of authorities in the State. This formed the basis for preparation of the HPVAT Act. The bill was finalised after detailed deliberations held in regular meetings with the officers of the concerned departments. The concept of VAT was studied analytically by the Institute of Public Finance and Policy at Delhi, where regular training was imparted to the departmental officers.

2.2.7.1 Analysis of staff requirement and reorganisation of the Taxation Department

Manpower is a key factor for smooth and efficient working of a department. With the introduction of new system, the duties of the staff have changed, the number of dealers has increased and assessments have also increased.

In this context, audit noticed total of that vacancy in different cadres increased from 148 to 159. Audit also noticed that till 2007-08, the department was handling both HPGST and HPVAT assessments. Shortage of manpower had, therefore, affected the transition from sales tax to VAT system as well as the smooth functioning of tax administration as can be seen from the observation of non-implementation of VAT made in the subsequent paragraphs.

2.2.7.2 Completion of sales tax/central sales tax assessments under repealed Act

Besides, shortage of manpower, the department was also overburdened with assessment of quite a number of cases, under the repealed Act. The year wise number of cases pending assessment at the beginning of the year, assessment due during the year, assessment disposed during the year and pending at the end of each year during 2005-06 to 2008-09 were as under:

Year	Opening balance	Cases due for assessment during 2008-09	Total assessments due	Cases disposed of during 2008-09	Cases outstanding at the end of the year
2005-06	1,11,702	65,968	1,77,670	76,491	1,01,179
2006-07	1,01,179	32,832	1,34,011	61,251	72,760
2007-08	72,760	36,675	1,09,435	45,361	64,074
2008-09	64,074	36,821	1,00,895	30,911	69,984

The cases remaining outstanding at the end of 31 March 2009 were inclusive of GST and CST. Assessments of 69,984 cases were still pending finalisation at the end of March 2009 under HPGST and CST Act. As per ETC instructions of July 2007, all AETCs were directed that unless cases for the year 2003-04 were finalised, no Assessing Authority (AA) would finalise assessments for the year

2004-05. The time limit for cases outstanding up to 2003-04 was extended for the last time up to 31 March 2009 for disposal. It was further stated that all cases up to 2004-05 under HPGST Act may be disposed of on priority basis by 31 March 2009 positively. Though the 1,11,702 cases were outstanding on March 2005, the department did not take effective steps for speedy disposal of the cases to allow smooth transition to VAT.

The Government while accepting the facts, stated that the pendency of assessments was due to shortage of staff at field level. However, AA's had been directed to finalise the GST pendency by 31.12.2009.

2.2.7.3 Collection of arrears of taxes due under repealed Act

The total amount of dues in respect of HPGST, CST and VAT amounting to Rs. 113.28 crore remained unrealised as on 31 March 2008. Reasons for non-recovery of the arrear was attributed to most of the defaulting firms closing down their business and were non-existent. Non-submission of statutory forms also contributed to huge amount of arrears. Besides, shortage of staff in field offices had adversely affected the recovery process.

2.2.7.4 Non-allotment of Tax Identification Number to the dealers

Eleven digits Tax Identification Number (TIN) under VAT regime is required to be issued to all the dealers on registration. The first two digits will stand for abbreviated name of the State. The second two digits stand for identification number of charge. The next four digits are the real identification number for the manufacturer/ dealer. The one digit is for the tax law, the remaining two are for the correctional code.

During review it was noticed that even after four years of implementation of VAT Act, the department had not allotted TIN to the dealers.

On this being pointed out, the ETC stated (July 2009) that TIN could not be issued due to non-computerisation of the department and that the process of computerisation has now been started. Thus, the objective of issuing unique TIN for better tax administration has not been achieved so far.

The Government assured that this would be done during this financial year.

2.2.8 Registration and database of the dealers

There were 34,602 registered dealers before commencement of VAT in the State which increased to 48,691 (41 *per cent*) at the end of the year 2007-08.

The deficiencies noticed in registration & maintenance of database of dealers is discussed in succeeding paragraphs.

2.2.8.1 Creation of database of dealers

No database in respect of dealers has been created as the computerisation was yet to be started in the State. The department stated (July 2009) that process of computerisation is on and shortly the software/hardware would be available according to need.

The Government while admitting the facts stated that this work had been started.

2.2.8.2 Detection of unregistered dealers

Survey is an important tool in the hands of the department for identifying unregistered dealers liable to pay tax under HPVAT Act/rules. Departmental instructions of April 1978, provide for carrying out, every year, a comprehensive survey in first two months of the financial year. Test check of the records of six AETCs revealed that survey for the years 2005-06 to 2007-08 was not conducted by the Inspectorate staff at all in respect of five AETCs² and information regarding conducting of survey in Sirmour district was still awaited. Incharge of the districts also failed to ensure conducting of survey.

The importance of survey assumes greater significance under the HPVAT Act as tax is leviable at various stages and a number of new dealers will now come into tax net. To prevent escapement of tax on value addition at each point of sale, it is necessary to register such dealers under the Act. Non-conducting of survey could result in tax evasion by dealers who were liable to be registered. Instance of non-registration and non-payment of tax is cited below.

The Government stated that detailed guidelines were being issued on system of survey.

2.2.8.3 Non-registration of Himachal Pradesh State Electricity Board

The Himachal Pradesh State Electricity Board (Board) supplies electric meters and service lines to the consumers for supplying electric energy for which it collects rental charges. Supplying of electric meters and service lines is transfer of right to use the goods within the meaning of sale under section 2(v)(iv) of the HPVAT Act. Board is, therefore, a dealer under section 2(g) of Act *ibid*. For non-payment of tax interest at the prescribed rate was also leviable.

Information collected from Board relating to 12 circles, revealed that rental charges of Rs. 84.11 crore were collected by the Board for electric meters and service lines, during the years 2005-06 to 2007-08, for supplying electric energy to the consumers. Neither the Board applied for registration under HPVAT Act and paid VAT on rental charges nor had the department taken any action to levy the same. Non-levy of tax on this account resulted in non-recovery of VAT of Rs. 14.05 crore including interest as mentioned below:

(Rupees in lakh)				
Year	Rental charges collected on meter and service line	VAT at general rate of 12.5 per cent	Interest leviable upto March 2009	Total tax effect
2005-06	2,702.11	337.76	175.64	513.40
2006-07	2,824.13	353.02	120.03	473.05
2007-08	2,884.94	360.61	57.69	418.30
Total	8,411.18	1,051.39	353.36	1,404.75

² Kangra, Mandi, Shimla, Solan and Una

The Government was informed that the rental charges were liable to tax under the Act in light of the Supreme Court decision³ dated 2 March 2006. After this was brought to the notice of the department, it stated (October 2009) that this aspect would be examined in the light of said decision.

2.2.8.4 Determination of opening stock under the VAT Act

Under HPVAT Act and rules, Input Tax Credit (ITC) shall be available to a registered dealer in respect of stock of any taxable goods, purchased by him during the year 2004-05 for which he had to submit statement in the prescribed form to the appropriate AA, within four months of the commencement of the Act alongwith a certificate in form ST- XXV prescribed under repealed Act proving specifically the amount of tax paid.

Test check of the records of four AETCs⁴ revealed that the AAs while finalising (between October 2006 and May 2009) assessments for the year 2005-06, allowed ITC of Rs. 47.44 lakh on the opening stock of Rs. 9.89 crore held by 77 dealers as on 1st April 2005. The AAs did not have any mechanism of verifying the opening stock disclosed by these dealers to establish that the stock held by the dealers actually pertained to the purchases, made during 2004-05 or in earlier years. Commodity wise details of purchases were also not found recorded in ST XXV forms. In absence of necessary details the AAs has no mechanism to verify the correctness of ITC of Rs. 47.44 lakh allowed on the opening stock.

The Government stated that all cases pointed out by audit would be examined.

Deficiencies in the Act and the Rules

The review revealed a number of deficiencies in the provision of the HPVAT Act and rules framed thereunder which persisted during the period covered under the review. Some of the important deficiencies are discussed below:

2.2.9 Returns

2.2.9.1 Non-existence of provision for submission of annual audited accounts

Under HPVAT Rules, every registered dealer shall furnish an annual return on or before 31st October for the preceding year in form VAT XV-A. However, HPVAT Act and rules made thereunder, do not provide for furnishing of annual audited accounts by the dealers whose annual gross turnover (GTO) exceeds Rs. 40 lakh in a year.

Test check of the records revealed that 79 dealers, whose annual GTO during 2005-06 to 2007-08 exceeded Rs. 40 lakh in a year did not furnish annual audited accounts alongwith their annual returns. The GTO in these cases were between Rs. 40.28 lakh and Rs. 15.12 crore respectively involving tax effect of

³ M/s Bharat Sanchar Nigam Ltd. and other Vs Union of India

⁴ Kangra, Mandi, Shimla and Una

Rs. 8.08 crore. The department has no mechanism to verify the correctness of accounts furnished by the dealer.

The Government stated that submission of audited/certified accounts in the cases where annual turnover exceeds Rs. 40 lakh, would be considered.

2.2.9.2 Non-furnishing of annual returns

Rule 40(5) of HPVAT Rules provides that every registered dealer shall furnish an annual return for the preceding year in the prescribed form on or before 31st October next accompanying therewith a copy of final accounts including balance sheet, profit and loss account cum manufacturing/trading account for the year. A statement reconciling the difference between such accounts and turnover reported in the annual return, shall also be furnished.

Test check of the records in three districts, out of six districts test checked, revealed that during 2005-06 to 2007-08 percentage of defaulters increased from 43 per cent to 58 per cent, as mentioned below:

District	2005-06			2006-07			2007-08		
	Total No. of dealers	No. of defaulters	Per cent age	Total No. of dealers	No. of defaulters	Per cent age	Total No. of dealers	No. of defaulters	Per cent age
Sirmour	2,530	1,357	54	2,713	1,339	49	3,023	1,580	52
Solan	4,619	2,133	46	5,435	3,187	59	6,096	4,082	67
Una	3,111	925	30	3,042	1,482	49	3,302	1,564	47
Total	10,260	4,415	43	11,190	6,008	54	12,421	7,226	58

No steps were taken by the department to initiate follow up action.

The Government stated that a penalty of Rs. 5,000 had been fixed for non-filing of annual returns by the prescribed date by amending the HPVAT Act vide notification dated 19.9.2009.

2.2.9.3 Incomplete documentation furnished alongwith the returns by the dealers

Return filed by the dealers is the most important element in the enforcement strategy of VAT administration. Under HPVAT rules, every return furnished by the dealer is incomplete unless accompanied with purchase, sale lists, annual returns statement, declaration certificates and documents mentioned therein. The return is required to be signed by *Karta* or a partner/ whole time employee authorised by *Karta*/partner as the case may be. A return, list, statement which is unsigned is to be treated as no return.

Test check of the annual returns of all the audited six districts, revealed that AAs had accepted incomplete returns in 136 cases having turnover of Rs. 566.19 crore with tax effect of Rs. 16.57 crore, as mentioned below:

(Rupees in crore)

District	No. of cases	GTO	Period of return/ Date of assessment (DOA)	Nature of irregularity	Tax effect
Kangra	55	76.31	<u>2005-06 to 2007-08</u> Between November 2006 to March 2009	Unsigned annual returns, non-submission of list of purchases, sales (LP1, LS1) and commodity wise details (Form XVB) with returns.	5.08
Mandi	23	48.73	<u>2005-06 to 2007-08</u> Between October 2007 and December 2008	-do-	3.55
Shimla	9	27.86	<u>2005-06 to 2007-08</u> Between March 2007 and April 2009	Particulars of purchase, import and receipt of goods, computation of tax paid on purchases made in the State, details of tax deposited and LP1 and LS1 were not furnished.	1.50
Sirmour	12	19.03	<u>2005-06 to 2007-08</u> Between September 2008 and March 2009	-do-	0.95
Solan	11	353.30	<u>2005-06 to 2007-08</u> Between May 2008 and March 2009	-do-	4.07
Una	26	40.96	<u>2005-06 to 2007-08</u> Between April 2006 and May 2009	Unsigned annual returns, non-submission of list of purchases, sales (LP1, LS1) and commodity wise details (Form XVB) with returns.	1.42
Total	136	566.19			16.57

The Government stated that instructions had been issued directing that AAs concerned would be held personally responsible in case they receive incomplete returns/documents.

2.2.10 Tax audit

2.2.10.1 Non-selection of dealers for tax audit

Under HPVAT rules, the returns furnished by a dealer under section 16 of HPVAT Act, shall be duly acknowledged in the prescribed manner. It is required to be seen that all the returns relating to a financial year have been filed and are complete in all material particulars. Rule 66 (x) further provides that from the returns furnished, the Commissioner shall take up the cases for scrutiny at random basis.

Test check of the record of all the audited six districts revealed that Commissioner had not selected any case for scrutiny at random basis.

On this being pointed out, the department stated (July 2009) that cases covered under rule 66 were being compulsory assessed and no case was taken up for scrutiny so far.

The Government stated that though selection of cases for tax audit was discretionary yet this would be ensured in future.

2.2.10.2 Acceptance of cases without scrutiny

Under HPVAT Rules, category of cases where annual GTO is exceeding Rupees one crore, cases of industrial units availing concession of tax and cases where GTO has decreased as compared to previous year, are required to be scrutinised. No time frame for scrutiny of returns was fixed.

Test check of the records of two AETC's⁵, between April 2009 and June 2009, revealed that in 25 cases GTO was exceeding Rupees one crore, in six cases, GTO had decreased as compared to previous year and in one case, the dealer was availing concession in tax. These were, however, not scrutinised and were accepted as deemed to have been assessed. Thus, provisions of rules were not followed by the AAs.

2.2.11 Input Tax credit

2.2.11.1 Absence of mechanism to verify the tax paid before allowing input tax credit

Under the HPVAT Act, a registered dealer is entitled to claim benefit of ITC to the extent of amount of tax paid by him to the local VAT dealers. The Act does not provide for submission of tax invoices alongwith the returns. List of purchases (LP1) furnished with the return does not contain details like bank draft/pay order or treasury challan number and date of deposit of tax in the treasury by the selling dealer.

Test check of assessment records of all the six audited AETCs, revealed that 134 dealers purchased goods valued at Rs. 236.77 crore from the local registered dealers during 2005-06 to 2007-08 and claimed the benefit of ITC. The AAs while finalising the assessments, between December 2006 and May 2009, allowed benefit of ITC of Rs. 15.33 crore on the basis of LP-1. Non-existence of any mechanism for verification of particulars of tax deposited by the selling dealer, the AAs could not ensure the genuineness of ITC claimed by the dealers.

The Government while admitting the facts stated that instructions for verifying the ITCs would be reiterated.

2.2.11.2 Excess allowance of input tax credit

(a) Under HPVAT Act, the ITC is allowed to the extent of the amount of input tax paid by the purchasing dealer on the purchase of taxable goods by him in the State, from a registered dealer holding a valid certificate of registration. If the goods so purchased are used partially for the purpose specified in the Act,

⁵ Kangra: 14 cases and Una: 18 cases

the ITC shall be allowed proportionate to the extent these are used. On goods sent outside the State otherwise than by way of sale as branch transfer or consignment sale in the course of inter state trade or commerce, the ITC shall be allowed only to the extent by which amount of input tax paid in the State exceeds four *per cent* on the purchase of goods.

Test check of the records of four AETC's revealed that during the years 2005-06 to 2007-08, 24 dealers had made branch transfer of goods valued at Rs. 214.95 crore. The AAs, while finalising (between April 2007 to April 2009) assessments of these dealers, incorrectly allowed ITC of Rs. 8.39 crore as claimed by them on the entire taxable purchases locally made instead of allowing it at proportionate basis. This resulted in excess allowance of ITC of Rs. 1.69 crore⁶.

(b) Section 11(1) of HPVAT Act, as amended in May 2007, provides that the benefit of ITC to a purchasing dealer shall be allowed to the extent of input tax paid by him on the turnover of purchases as have been sold during the tax period.

Test check of the records of five AETCs revealed that in the case of 45 dealers, the AAs while finalising (between December 2008 and April 2009) the assessments for the year 2007-08, erroneously allowed ITC on entire local purchases of Rs. 99.40 crore instead of allowing it on proportionate basis on the purchases actually sold by them during tax period. This resulted in excess allowance of ITC of Rs. 53.84 lakh⁷.

The Government assured to examine all the cases pointed out by the audit.

2.2.12 Provisions for grant of exemption to certain class of dealers

2.2.12.1 Incorrect allowance of concession

Notification of August 2005 issued by the Excise and Taxation Department provided that any dealer who was enjoying the benefit of any incentive on the sale of manufactured goods under repealed Act and would have continued to avail of that benefit under VAT, was required to apply to the AETC/ETO incharge of the district, for issuance of entitlement certificate.

Test check of the records of four AETCs revealed that the AAs while finalising (between October 2006 and February 2009) assessments for the years 2005-06 to 2007-08, erroneously allowed concession/incentive to 13 dealers who were not issued entitlement certificate till July 2009. Incorrect allowance of concession resulted in under assessment of tax of Rs. 84.91 lakh as mentioned below:

⁶ Kangra: 5 dealers: Rs. 66.32 crore; Shimla: 1 dealer: Rs. 0.11 crore; Sirmour: 3 dealers: Rs. 59.37 crore and Solan: 15 dealers: Rs. 43.19 crore

⁷ Mandi: 6 dealers: Rs. 1.86 lakh; Shimla: 13 dealers: Rs. 27.19 lakh; Sirmour: 6 dealers: Rs. 5.53 lakh; Solan: 15 dealers: Rs. 9.70 lakh and Una: 5 dealers: Rs. 9.56 lakh

(Rupees in lakh)

District/ No. of dealers	Year/DOA	GTO	VAT turnover	Rate of tax levied/ leviable	Tax effect
Kangra/1	2005-06/ May 2007	1,306.86	282.58	0/4	11.30
3	2005-06 to 2007-08 / Between October 2006 and October 2007	190.93	153.07	1/4	4.59
2	2006-07/ November 2007	28.58	21.85	3.125/12.5	2.04
Mandi/1	2005-06 to 2007-08/ Between November 2008 and February 2009	81.37	79.86	3.125/12.5	7.49
Shimla/2	2005-06 to 2006-07/ Between July 2007 and May 2008	69.44	62.92	2/12.5	6.60
2	2005-06 to 2006-07/ Between May 2007, January 2008	168.14	168.14	1/12.5	19.33
Una/1	2005-06 to 2007-08/ September 2008	207.46	206.79	1 & 2/12.5	22.93
1	2005-06 to 2006-07/ November 2008	121.31	113.36	3.125/12.5	10.63
Total/13		2,174.09	1,088.57	-	84.91

The Government stated that the cases would be examined.

2.2.13 Provisions for cross verification

2.2.13.1 Deficiency in provisions for cross verification of local purchases

Under HPVAT Act, if a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or has concealed any particulars of his sales or purchases or has furnished account, return or information which is false or incorrect, the AA may direct him to pay by way of penalty in addition to the tax to which he is assessed, an amount not less than 25 per cent, which shall not, however, exceed one and half times of the amount of tax so assessed. However, there exists no provisions in the Act/rules for cross verification of purchases exceeding a particular limit from a single VAT dealer in a year for detection of evasion of VAT by claiming fraudulent ITC.

Test check of assessment records of all the six audited AETCs, revealed that purchases aggregating Rs. 64.17 crore exceeding rupees one lakh and above were made by 67 dealers from a single VAT dealer during 2005-06 to 2007-08. The AAs, while finalising the assessments, between December 2006 to May 2009, allowed ITC of Rs. 6.06 crore on these purchases. However, cross verification of purchases made within the State was not done by the AAs. Non-existence of any mechanism for cross verification of purchases, the chances of evasion of VAT can not be ruled out.

The Government stated that the cases would be examined.

2.2.14 Provisions governing tax deducted at source

2.2.14.1 Deficiency in provision for deduction of tax at source on hire charges

Provisions of section 2(V)(iv) of HPVAT Act, provide that transfer of right to use any goods for any purpose for cash, deferred payment or other valuable consideration shall deem to be a sale of goods by the person making the transfer. No provisions exist in the VAT Act/ rules for deducting tax at source in respect of transfer of right to use goods for any purpose as applicable in the case of transfer of property in goods (whether as goods or in other form) involved in execution of works contract.

Test check of the records of four AETCs revealed that 22 dealers had paid Rs. 3.13 crore during 2005-06 to 2007-08 towards hire charges of plant and machinery etc. which was a transfer of right to use the goods. The AAs while finalising the assessments of the dealers for these years, allowed deduction of hire charges to that extent, without verifying the fact that tax on hire charges was paid by the dealers. Non-existence of provisions in the Act/rules resulted in non-recovery of tax at source of Rs. 56.58 lakh, as detailed below:

(Rupees in lakh)

District/No. of dealers	Year/DOA	Hire charges paid	Rate of tax (per cent)	VAT/Interest	Total tax effect
Mandi/1	2005-06/ September 2008	40.74	12.5	5.09/2.83	7.92
Shimla/5	2005-06 and 2006-07/ Between July 2007 and January 2009	22.17	12.5	2.77/1.31	4.08
Sirmour/1	2006-07 and 2007-08/ February 2009	5.07	12.5	0.63/0.21	0.84
Solan/15	2005-06 to 2007-08 /Between April 2007 and May 2008	245.34	12.5	30.67/13.07	43.74
Total/22		313.32	12.5	39.16/17.42	56.58

The Government stated that the cases pointed out by audit would be examined.

2.2.15 Acceptance and disposal of appeal cases

Under the HPVAT Act, no appeal shall be entertained unless it is filed within sixty days from the date of communication of the order appealed against or such longer period as the Appellate Authority may allow, for reasons to be recorded in writing. However, no time limit for disposal of appeal cases has been framed.

The Government admitted that no time frame had been fixed being quasi judicial matter. However, administrative instructions for speedy disposal of appeal cases were being issued from time to time.

2.2.16 Deterrent measures

2.2.16.1 Absence of provisions of specific penalty for subsequent default

Provisions under different sections of HPVAT Act provide for levy of penalty for maintaining false or incorrect account done with a view to suppressing of

sales, purchases etc. However, the Act does not prescribe levy of penalty for the subsequent willful default.

On this being pointed out, the ETC stated (July 2009) that no such instruction had been issued by the department.

The Government stated that this aspect would be considered.

2.2.17 Internal controls

2.2.17.1 Non-reconciliation with treasury

Rule 39 of HPVAT Rules provides that a daily collection register in Form VAT-XIV showing particulars of every challan received in proof of payment of tax or penalty or any other amount due under the Act, is required to be maintained. In the first week of each month Treasury Officer (TO) shall send to the district Excise and Taxation office, a statement of the amounts credited in the treasury during the preceding month. The AETC or the ETO incharge of each district shall, in the first week of each month, prepare a statement showing collection of various amounts paid under the Act or rules and shall forward it to the TO of his district for verification. If any discrepancy is discovered at the time of verification, the officer incharge of the district shall reconcile the same.

Test check of the records of all the six audited AETCs revealed that neither the daily collection register was maintained nor the departmental receipts worth Rs. 993.55 crore⁸ under the head "0040-VAT" for the year 2007-08 were reconciled with the treasury by the department. The Audit could not also authenticate the total receipts and their accountal to the proper head of account.

The Government stated that instructions in this regard had been issued to all the AAs.

2.2.18 Internal audit

2.2.18.1 Non-conducting of prescribed internal audit

The Excise and Taxation Department introduced internal audit system for checking the records related to sales tax. For this purpose, the Commissioner issued instructions in February 1987, which provided annual audit of all units within 20 days from completing of financial year and furnishing of first annotated replies by concerned units within two months from issuance of audit findings.

Information collected from the Internal Audit Wing (IAW) of the department revealed that during the year 2006-07, 11 units were required to be audited. Out of these, only five units were audited. In 2007-08 and 2008-09, 22 units which were required to be audited were not audited at all. Shortage of staff was the reason advanced by the IAW for short/non-conducting of audit. There were 91 Inspection Reports (IRs) and 657 paras outstanding at the beginning of 2005-06 which rose to 94 IRs and 731 paras at the end of 2008-09.

⁸ Kangra: Rs. 216.68 crore; Mandi: Rs. 42.51 crore; Shimla: Rs. 115.53 crore; Sirmour: Rs. 68.45 crore; Solan: Rs. 509.19 crore and Una: Rs. 41.19 crore

The Government admitted that due to shortage of staff, the internal audit could not be conducted. However, this would be taken care of in future.

2.2.19 Other irregularities

2.2.19.1 Non-payment of VAT

VAT provides for levy of tax on SIM cards.

Test check of the records of Central Excise of Shimla range revealed that a dealer had paid sales tax/ VAT up to March 2006 on the sale of SIM cards. Thereafter, it stopped paying VAT on SIM cards on the plea that it was rendering telephone service to the subscribers. In spite of the provision for levy of the tax the same was neither levied nor demanded by the department. The omission resulted in non-payment of VAT of Rs. 10.54 lakh for the period 2006-07 to 2007-08 on the turnover of Rs. 2.63 crore.

The Government while admitting the facts stated that notice had been issued to the dealer for re-assessment.

2.2.19.2 Underassessment due to wrong deduction of material

Under HPVAT Act, sale includes any transfer of property in goods (whether as goods or in some other form) for cash or deferred payment or any other valuable consideration involved in execution of works contract. As per departmental instruction of December 2008, AAs were not to allow deduction of material from the GTO.

Test check of the records revealed that the Government departments had supplied material valued at Rs. 15.10 crore to 33 dealers, engaged in execution of works contract. The AAs while assessing the assessments of these dealers, allowed deduction of material to that extent. The action was contrary to the instructions of December 2008, which resulted in underassessment of tax of Rs. 1.89 crore as mentioned below:

(Rupees in lakh)				
District	No. of dealers	Year/DOA	Value of material supplied/ deduction allowed	Tax leviable at 12.5 per cent
Kangra	13	2005-06 to 2007-08 Between December 2006 and March 2009	286.00	35.75
Kinnaur	2	2005-06 to 2007-08 January 2009	39.00	4.88
Mandi	2	2005-06/ Between June 2008 and September 2008	341.30	42.66
Shimla	9	2005-06 to 2007-08 Between March 2007 and June 2009	744.89	93.11
Solan	1	2005-06 to 2006-07 March 2009	8.91	1.11
Una	6	2005-06 to 2007-08 February 2008 and March 2009	90.30	11.29
Total	33		1,510.40	188.80

The Government stated that cases would be referred to the concerned AAs for re-assessment.

2.2.20 Conclusion

The transition from sales tax to VAT regime had suffered due to transition process, shortage of man power, non-allotment of TIN, inadequate conducting of survey, non-computerisation of department and engagement of existing manpower in finalisation of cases under the repealed Act. Besides, non-existence of instructions/provisions in the Act/rules also contributed to the non-implementing of various provisions of the Act effectively. Audit noticed that no case was selected by the commissioner at random basis and instructions/provisions for selection of cases for scrutiny were also not followed.

2.2.21 Recommendations

The State Government may consider:

- prescribing a provision in the Act/rules for furnishing of audited annual accounts by the dealers having annual gross turnover of more than specific amount in a year;
- insisting on the dealers providing of essential details like particulars of goods sold, amount of tax deposited, number date and of treasury challan/bank draft/cheque etc. in the list of purchases as well as furnishing of tax invoices along with the returns;
- introducing a system of cross verification of all local purchases exceeding rupees one lakh from a single VAT dealer in a year and periodical reporting thereof by assessing authorities to superior authorities about the result of cross verification;
- prescribing a provision in the Act/rules for deducting tax at source in the case of valuable consideration payable on transfer of right to use goods for any purpose; and
- prescribing a provision in the Act/rules for levy of penalty on the defaulter for committing subsequent and willful offence.

2.3 Other Audit observations

Scrutiny of assessment records of sales tax/value added tax (VAT) revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax/penalty/interest/acceptance of defective statutory forms/suppression of sales/irregular concession/incorrect application of rate of tax/etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of Assessing Authorities (AAs) are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

2.4 Evasion of tax due to acceptance of defective statutory forms

The AA while finalising the assessments, accepted defective/incomplete declaration forms allowed concession/exemption without production of prescribed forms which resulted in short/non-levy of tax of Rs. 10.03 crore.

The Central Sales Tax (CST) Act, 1956 and the rules framed there under, provide for concessional rate of tax in respect of interstate sales of declared goods and exemption from tax in respect of branch transfers and export sales. These concessions/exemptions are subject to furnishing of declarations in the prescribed forms viz. "C", "F" and "H" respectively. Failure to furnish the declarations or declaration forms found defective or incomplete will make the transaction liable to tax under CST Act 1956.

Test check of the records of seven Assistant Excise and Taxation Commissioners (AETCs) between September 2008 and March 2009 revealed that acceptance of defective/photocopy/incomplete declaration forms resulted in non/short levy of tax of Rs. 10.03 crore including interest of Rs. 4.19 crore leviable on the tax due, as mentioned below:

(Rupees in crore)

Sr. No.	Name of AETC No. of industrial units	Assessment year/month	Nature of irregularities	Total turnover short levy
1.	Shimla and Solan 2	2005-06 to 2006-07 July 2007 to March 2008	Declaration in form 'F' and 'H' not containing essential details like description of goods dispatched, quantity or weight, goods receipts, railway receipts, name of airlines, ships, date on which delivery was taken by the transferee required to be rejected were accepted for allowing exemption by the AAs.	<u>1.71</u> 0.30
2.	Bilaspur, Kangra, Mandi, Shimla, Solan and Una 14	2001-02 to 2006-07 July 2004 to April 2008	Declarations in original were required to be furnished for claiming tax concessions and exemptions of tax. However, the AAs allowed tax concessions, exemptions on duplicate/ photocopy of 'C' and 'F' forms.	<u>37.33</u> 5.78

3.	Mandi, Sirmour and <u>Solan</u> 5	2003-04 to <u>2005-06</u> March 2007 to March 2008	Exemption from tax on 'F' forms covering transactions for transfer of goods effected during a period of more than one calendar month though not admissible under the Act was incorrectly allowed.	<u>20.08</u> 3.36
4.	Kangra and <u>Una</u> 4	2003-04 to <u>2006-07</u> August 2007 to January 2008	Though the submission of declarations was mandatory. Tax concession/exemption were allowed without production of "C" & "F" forms.	<u>1.00</u> 0.09
5.	Solan and <u>Una</u> 3	2001-02 to <u>2005-06</u> July 2006 to August 2007	The dealers can make branch transfers to the branches mentioned in their registration certificate. However, though the goods were transferred to places not specified in the registration certificate the exemption from tax was incorrectly allowed.	<u>2.69</u> 0.50
Total				<u>62.81</u> 10.03

The matter was reported to the department and the Government between October 2008 and April 2009; their reply has not been received (September 2009).

2.5 Non-observance of provisions of the Acts/Rules

The HPGST Act/HPVAT and rules provide for:

- (i) levy of tax and interest at the prescribed rate;
- (ii) exemption/concessional rate of tax in respect of industrial units subject to prescribed conditions;
- (iii) set-off of tax on purchase made as raw material in the manufacture of finished goods;
- (iv) correct determination of turnover.

The AA while finalising the assessment did not observe some of the above provisions in some cases as mentioned in the paragraphs 2.5.1 to 2.5.7. This resulted in non/short levy/non-realisation of tax/interest/penalty of Rs. 90.61 lakh.

2.5.1 Short levy of tax

Khairwood covered under the definition of a timber as per section 2(II) of HPGST Act, is taxed at 12 per cent upto 19 April 2002 and eight per cent thereafter. Further, timber is not covered as raw material in the sales tax concession of one per cent given for use of raw material as per amended notification of February 1992.

Test check of the records of four AETCs (Bilaspur, Kangra, Sirmour and Solan) between August 2008 and January 2009 revealed that five dealers had sold *khairwood* valued at Rs. 88.90 lakh as raw material to a firm during the years 1999-2000 to 2001-02. Audit scrutiny revealed that the AAs while finalising the assessments of the dealers for these years, levied concessional rate of tax of

one *per cent* instead of 12 *per cent* on the sale of *khairwood*. Incorrect allowance of concessional rate of tax resulted in short levy of tax of Rs. 22.93 lakh including interest of Rs. 13.15 lakh.

The matter was reported to the department and the Government between December 2008 and February 2009; their reply has not been received (September 2009).

2.5.2 Incorrect application of rate of tax

Taxes on goods are leviable in accordance with the rates prescribed in schedules attached to the HPGST Act and HPVAT Act. If a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the prescribed rates.

Test check of the records of three AETCs between September 2008 and January 2009 revealed that incorrect application of rate of tax by the AAs resulted in short realisation of tax of Rs. 16.74 lakh including interest as mentioned below:

(Rupees in lakh)

Sr. No.	Name of the district Goods	Period involved/DOA	Nature of irregularities	Amount
				Tax Interest
1.	Bilaspur Installation of hand pumps, Rolling shutters, grills, gates etc.	2005-06 September 2008	A dealer was finalised under HPVAT Act and sale of Rs. 1.69 crore to Government departments was taxed at the rate of two <i>per cent</i> instead of four <i>per cent</i> by the AA.	3.38 1.55
		2005-06 December 2007	Rolling shutters, grills, gates etc. are taxable at the rate of 12.5 <i>per cent</i> . But AA applied incorrect rate of tax of four <i>per cent</i> on the turnover of Rs. 20.79 lakh of a dealer.	1.77 0.81
2.	Shimla Steel fabrication (gate, grills, shutter etc.)	2002-03 to 2004-05 Between October 2005 and February 2006	The dealer started its commercial production with effect from 19.2.2003 and was eligible for concessional rate of 25 <i>per cent</i> of the eight <i>per cent</i> . AA while finalising the assessments incorrectly levied tax at the rate of one <i>per cent</i> instead of two <i>per cent</i> (i.e. 25 <i>per cent</i> of eight <i>per cent</i>) on the turnover of Rs. 60.76 lakh of a dealer.	0.61 0.41
3.	Una Scrap	2003-04 October 2007	As per schedule 10 of the balance sheet, the dealer had made inter state sales of scrap valuing Rs. 1.48 crore. AA while finalising the assessment of a dealer levied tax at the rate of one <i>per cent</i> instead of four <i>per cent</i> on this sales by treating it as sales of cylinders against 'C' forms.	4.44 3.77
Total				16.74

After this was pointed out between October 2008 and February 2009, the department stated in June 2009 that in the case of each dealer of Bilaspur and Una districts, an additional demand of Rs. 2.39 lakh and Rs. 8.06 lakh had been created respectively. In respect of case of Shimla district, Rs. 29,000 had been

recovered out of additional demand of Rs. 1.13 lakh created against him. Further report on recovery has not been received (September 2009).

The matter was reported to the Government between October 2008 and February 2009; their reply has not been received (September 2009).

2.5.3 Incorrect allowance of concessional rate of tax

As per notification of August 2005 issued under Himachal Pradesh Value Added Tax (HPVAT) Act, 2005, any dealer who was enjoying the benefit of any incentive of sales tax under the HPGST Act and would have continued to be eligible for such incentive on the date of commencement of this Act, is to be allowed the benefit of such exemption for the unexpired period of such incentive. Under section 16 of HPVAT Act, a dealer is required to furnish a return to the AA indicating thereon the taxable turnover and the amount of tax payable by him. Further, in accordance with the rule 64 of HPVAT Rules, 2005, the AA shall acknowledge the return and where such returns are complete in material particulars, he shall be deemed to have been assessed for that year.

Test check of the records of AETC Hamirpur in July 2008 revealed that a dealer had furnished a return of taxable turnover of Rs. 62.83 lakh and paid tax of Rs. 1.99 lakh at concessional rate of 3.16 *per cent* for the year 2006-07. The AA in October 2007 acknowledged the return and allowed concessional rate of tax even though his annual turnover exceeded the prescribed limit of Rs. 60 lakh. The dealer was liable to pay a tax of Rs. 7.85 lakh at the rate of 12.5 *per cent*. This resulted in short levy of tax of Rs. 7.15 lakh including interest of Rs. 1.29 lakh.

After this was pointed out in audit, the Additional Excise and Taxation Commissioner, Shimla stated in January 2009 that the case of the dealer had been reassessed and the AETC had been asked to furnish the reassessment order/treasury challans. Further reply and report on recovery has not been received (September 2009).

The matter was reported to the Government in July 2008; their reply has not been received (September 2009).

2.5.4 Irregular concession

As per the notification of July 1999, sales tax at the rate of 25 *per cent* of the rates notified under section 6 of the HPGST Act, was to be levied in respect of goods manufactured by the dealers running new village industries and new tiny industries, subject to the condition that annual turnover of the unit did not exceed Rs. 60 lakh in respect of a unit located in an industrially backward area and Rs. 45 lakh in respect of industrially developing areas. Further, if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the prescribed rates.

Test check of the records of two AETCs between December 2008 and January 2009 revealed that irregular grant of concession resulted in short levy of sales tax of Rs. 11.08 lakh including interest as mentioned below:

(Rupees in lakh)

Sr. No.	Name of the district Unit	Assessment year DOA	Nature of irregularity	Tax effect
1.	<u>Sirmour</u> M/s Black Gold Rubber Ltd., Paonta Sahib	2002-03 and <u>2003-04</u> November 2008	The unit was located in industrially developing area. The annual turnover of the dealer exceeded the prescribed limit of Rs. 45 lakh during the years 2002-03 (Rs. 56.88 lakh) and 2003-04 (Rs. 68.11 lakh) as such the unit was not entitled to any concessional rate of tax. However, AA while finalising the assessments incorrectly levied concessional rate of tax of two <i>per cent</i> (25 <i>per cent</i> of eight) upto Rs. 45 lakh and eight <i>per cent</i> thereafter.	5.19
2.	<u>Una</u> M/s Mahesh Tea House, Industrial Area, Tahliwal	<u>2004-05</u> January 2008	The unit was located in industrially backward area. The annual turnover of the dealer exceeded the prescribed limit of Rs. 60 lakh during 2004-05 (Rs. 1.45 crore) as such the unit was not entitled to any concessional rate of tax. However, AA while finalising the assessment incorrectly levied concessional rate of tax of two <i>per cent</i> (25 <i>per cent</i> of eight) upto Rs. 60 lakh and eight <i>per cent</i> thereafter.	5.89
Total				11.08

The matter was reported to the department and the Government in February 2009; their reply has not been received (September 2009).

2.5.5 Non-withdrawal of concession

As per the notification of December 1994 and January 1997, issued under the HPGST Act, small scale industrial units located in 'A' and 'B' category of industrial block are entitled for concessional rate of tax at one *per cent* for a period of nine years from the date of commencement of commercial production and for a period of six years in 'C' category of industrial block. Further under section 14(1A) of the Act, any dealer whose taxable turnover has been assessed under the self assessment scheme, is found to have evaded the tax, the AA shall after affording a reasonable opportunity of being heard, direct him to pay by way of penalty, in addition to the amount of tax assessed, a sum which shall not be less than one hundred *per cent* but which shall not exceed one and a half times of the amount of tax found to have been evaded and assessed. If a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the prescribed rates.

Test check of the records of three AETCs between August 2008 and February 2009 revealed irregular allowance of concession of sales tax of Rs. 10.39 lakh including interest and penalty, as mentioned below:

(Rupees in lakh)

Sr. No.	Name of district Goods	Assessment year DOA	Nature of Irregularity	Short levy tax including interest & penalty
1.	Kangra/ Rolling shutters and gate grills	2004-05 August 2005	The assessment of the dealer was finalised/deemed to have been finalised under self assessment scheme. The dealer was entitled to concessional rate of tax of two <i>per cent</i> from 28.4.1995 to 27.4.2004. Thereafter, the dealer was liable to pay tax of eight <i>per cent</i> . But the dealer's claim was incorrectly allowed concessional rate of tax upto March 2005 on his taxable turnover of Rs. 9.56 lakh.	1.51
2.	Mandi/ Haldi powder/spices	2003-04 to 2005-06 December 2006 and February 2008	The dealer was entitled to concessional rate of tax of one <i>per cent</i> from 19.6.1994 to 18.6.2003. Thereafter, the dealer was liable to pay tax of four <i>per cent</i> . But the dealer's claim was incorrectly allowed concessional rate of tax upto March 2006 on his taxable turnover of Rs. 1.27 crore.	6.37
3.	Solan/ Atta, maida and suji etc.	2004-05 August 2007	The dealer was entitled to concessional rate of tax of one <i>per cent</i> from 9.2.1997 to 8.2.2003. Thereafter, the dealer was liable to pay tax of 3.5 <i>per cent</i> . But the dealer's claim was incorrectly allowed concessional rate of tax upto March 2005 on his taxable turnover of Rs. 61.90 lakh.	2.51
Total				10.39

The matter was reported to the department and the Government in December 2008 and March 2009; their reply has not been received (September 2009).

2.5.6 Underassessment due to irregular set off

Under section 42 C of the HPGST Act, a dealer is entitled to set off of tax on the sale of final product equal to the amount of tax already paid on the purchase of raw materials used by him in the manufacture of finished goods. There is no provision under the CST Act to allow set off of tax, as is applicable under the HPGST Act.

Test check of the records of two AETCs⁹ between November 2008 and January 2009 revealed that the AAs while finalising between October 2007 and March 2008, assessments of three dealers for the years 2002-03 to 2004-05 incorrectly allowed adjustment of set off of tax of Rs. 7.42 lakh on the inter state sales under the CST Act. This resulted in underassessment of tax of Rs. 13.12 lakh including interest of Rs. 5.70 lakh.

The matter was reported to the department and the Government between December 2008 and February 2009; their reply has not been received (September 2009).

⁹ Solan: One: Rs. 7.91 lakh and Una: Two: Rs. 5.21 lakh

2.5.7 Incorrect determination of turnover

The HPGST Act governs the sales tax leviable within the State. Under rule 31 (xii) of HPGST Rules, a registered dealer for arriving at his taxable turnover, may deduct purchase value of goods used by him in the manufacture of finished goods which have already suffered tax under the Act *ibid*. The inter state sales are governed by the CST Act where there is no provision to allow benefit of deduction as is applicable under the HPGST Act/Rules.

Test check of the records of AETC Sirmour in January 2009 revealed that AA while finalising assessments for the period 1998-99 to 2003-04 of three industrial units, incorrectly allowed deduction of purchase value of tax paid goods of Rs. 88.69 lakh from the inter state sales worth Rs. 5.93 crore. Incorrect allowance of deduction resulted in underassessment of tax of Rs. 9.20 lakh including interest.

The matter was reported to the department and the Government in February 2009; their reply has not been received (September 2009).

2.6 Evasion of tax due to suppression of sales

Lack of co-ordination between the AA within the department resulted in evasion of tax of Rs. 87.40 lakh.

The Himachal Pradesh General Sales Tax (HPGST) Act does not provide for cross verification of information regarding sales and purchases with other sales tax or Government departments. However, as per departmental instructions of April 1978, the assessing authority at the time of finalising the assessment is required to check the accounts of the dealer to satisfy himself that all purchases and sales made by him have been properly accounted for. Besides, under section 12 (7) of the Act *ibid*, if a dealer has maintained false or incorrect accounts with a view to suppress his sales, purchases or has concealed any particulars of his sales or purchases, he is liable to pay by way of penalty (in addition to the tax to which he is assessed), an amount not less than 25 *per cent* but not more than one and a half times the amount of his tax liability. If a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month and at the rate of one and a half *per cent* per month thereafter, till the default continues.

Test check of the records of AETC Sirmour at Nahan in October 2007 revealed that a firm¹⁰ had purchased *khairwood* valued as Rs. 3.67 crore from 16 dealers of Bilaspur, Kangra, Solan and Una districts during the year 2000-01 and 2001-02. Cross verification by audit between October 2008 and January 2009 of the said information with the records of 16 dealers in four AETCs revealed that nine dealers¹¹ had not disclosed sales of Rs. 2.09 crore in their returns whereas seven dealers¹² had disclosed only Rs. 76.19 lakh instead of Rs. 1.58 crore in their returns. Thus taxable turnover of Rs. 2.91 crore escaped

¹⁰ M/s Sagar Katha Udyog, Kala Amb

¹¹ Bilaspur: three: Rs. 24.42 lakh; Solan: one: Rs. 53.64 lakh and Una: five: Rs. 1.31 crore

¹² Bilaspur: five: Rs. 62.60 lakh; Kangra: one: Rs. 6.06 lakh and Una: one: Rs. 7.53 lakh

assessment. The assessing authorities (AAs) while finalising (between October 2003 and June 2008) the assessments of the dealers for the years 2000-01 and 2001-02 did not cross verify the information available with other AETCs and thus had failed to detect the suppression. This resulted in evasion of tax of Rs. 87.40¹³ lakh including interest of Rs. 43.83 lakh and minimum penalty of Rs. 8.71 lakh.

After the cases were pointed out in audit, the AETC Bilaspur intimated in March 2009 that three dealers had been reassessed (between January and March 2009) and additional demand of Rs. 13.06 lakh had been created whereas in remaining cases, notices had been issued to the concerned parties. Report of recovery and reply from remaining AETCs has not been received (September 2009).

The matter was reported to the department and the Government between December 2008 and February 2009; their reply has not been received (September 2009).

¹³ Bilaspur: eight: Rs. 24.09 lakh; Kangra: one: Rs. 2.86 lakh; Solan: one: Rs. 16.43 lakh and Una: six: Rs. 44.02 lakh

CHAPTER-III: STATE EXCISE

3.1 Results of audit

Test check of the records of state excise, conducted during the year 2008-09, revealed non/short realisation of license fee/penalty and other irregularities amounting to Rs. 37.61 crore in 30 cases, which fall under the following categories:

(Rupees in crore)

Sr. No.	Particulars	Number of cases	Amount
1.	“Collection of duties and fees on working of distilleries in Himachal Pradesh” (a review)	01	8.29
2.	Non/short realisation of license fee/penalty	18	4.61
3.	Other irregularities	11	24.71
Total		30	37.61

During 2008-09, the department accepted under assessments of Rs. 1.35 crore involved in nine cases which had been pointed out in audit in earlier years.

A few illustrative audit observations involving Rs. 2.36 crore and a review of **Collection of duties and fees on working of distilleries in Himachal Pradesh** involving Rs. 8.29 crore are mentioned in the succeeding paragraphs.

3.2 Review of Collection of duties and fees on working of distilleries in Himachal Pradesh

3.2.1 Highlights

- Allowance of inadmissible wastage to a brewery licensee in Solan district without provisions in the Act resulted in loss of excise duty of Rs. 1.97 crore.

(Paragraph 3.2.9)

- Low yield of spirit from molasses in two distilleries in Solan and Una district resulted in short collection of excise duty of Rs. 4.31 crore.

(Paragraph 3.2.14)

- Non-application of distillery rules resulted in non-recovery of license fee of Rs. 2.86 crore on the production of 425.80 quarts of country liquor in five distilleries.

(Paragraph 3.2.15)

3.2.2 Introduction

A distillery is a licensed unit where spirits are obtained by distillation of molasses, grains and malt. It includes units where such spirits are redistilled, compounded, blended and diluted to produce different kinds of Indian liquor, which are then bottled for sale.

Levy and collection of duties and fees on production, manufacture, possession, storage, transport, purchase and sale of liquor by distilleries/breweries, bonded warehouses, bottling plants are governed by the Punjab Excise Act, 1914 (Act) and rules framed thereunder, as applicable to Himachal Pradesh with amendments.

Excise and Taxation Department is responsible for collection of excise duty, license fee, brand fee, import/export fee, overtime fee, interest and penalty. Excise duty forms major part of receipts from the distilleries¹ and breweries.

3.2.3 Organisational set up

Principal Secretary (Excise and Taxation) is the administrative head at Government level. The department is headed by Excise and Taxation Commissioner (ETC), who is empowered with the task of superintendence and administration of various fiscal measures, in addition to quasi-judicial as appellate and revisional authority under Excise laws. The department has been divided in three Zones² which are headed by Additional ETC (South Zone), Deputy ETC of North Zone and Central Zone. Besides, 22 Excise and Taxation

¹ includes bonded warehouses and bottling plants

² South Zone (Shimla, Solan, Sirmour, Kinnaur and Spiti area)

North Zone (Chamba, Kangra and Una)

Central Zone (Bilaspur, Hamirpur, Kullu, Lahaul area and Mandi)

Inspectors (ETI) under the control of Assistant Excise and Taxation Commissioner (AETC) of the respective districts, are posted at the site of distilleries/breweries to oversee and regulate levy/collection of excise duties and allied levies.

Audit reviewed the system of levy and collection of duties and fees on distilleries and breweries in the State and noticed a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

3.2.4 Scope of audit

There are four³ distilleries, two⁴ breweries and 11⁵ bottling plants located in five districts⁶ of the State. Test check of the records of all distilleries, breweries, bottling plants situated in these districts relating to the period 2003-04 to 2007-08 was conducted between July 2008 and March 2009, except for one distillery in Kangra district which was closed since 17.4.2006 and the records were in the custody of Police department in a court case.

3.2.5 Audit objectives

The review was conducted with a view to ascertain whether:

- the provisions of the Act/rules and instructions issued thereunder are adequate to ensure that the duties and fees that are due in the process of manufacture in distilleries, are levied and collected;
- adequate norms exist for validating the claims of manufacturers about the production of alcohol from raw materials; and
- effective internal control mechanism exist in the department to monitor the levy and collection of Government revenue.

3.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Excise and Taxation Department in providing necessary information and records for audit. An entry conference was held in August 2008 with the Principal Secretary (Excise) to the Government of Himachal Pradesh who represented both the Government and the department. The scope and methodology for conducting the review were discussed. The draft review report was forwarded to the department and the Government in May 2009 and was discussed in the exit conference held in July 2009. The Principal Secretary (Excise) represented the Government, while the ETC represented the department. Views of the Government/department have been incorporated in the relevant paragraphs.

³ Three in Solan and one in Una

⁴ One each in Sirmour and Solan

⁵ Kangra (two), Mandi (one), Sirmour (two), Solan (five) and Una (one)

⁶ Kangra, Mandi, Sirmour, Solan and Una

Audit findings

3.2.7 Trend of revenue

Provisions of Himachal Pradesh Budget Manual (HPBM) lay down that the actuals of previous years and the revised estimates ordinarily afford the best guide in framing the budget estimates (BEs). A continuance of any growth or decline in income indicated by them, may in the absence of definite reasons to the contrary, properly be assumed in all cases in which the proportionate estimates can be usefully employed. But special attention should be paid to new sources of revenue of which account has not been taken in previous years. The reasons which led to the adoption of the figures for the BEs should be briefly and clearly explained. A comparison of BEs with the actuals realised from distilleries, during the years 2003-04 to 2007-08, is given below:

(Rupees in crore)

Year	Receipt from distilleries			
	BEs	Actual	Variation (+) increase or (-) decrease	Percentage of variation
2003-04	4.22	3.31	(-) 0.91	(-) 22
2004-05	4.22	4.21	(-) 0.01	---
2005-06	4.77	5.73	(+) 0.96	(+) 20
2006-07	5.54	6.53	(+) 0.99	(+) 18
2007-08	7.04	5.84	(-) 1.20	(-) 17

Except for the year 2004-05, during 2003-04 and 2007-08, actual realisation from distilleries declined by 22 *per cent* to 17 *per cent* whereas during 2005-06 and 2006-07 it increased by 20 *per cent* and 18 *per cent* respectively. This indicates that the estimation during these years were arbitrary and were not prepared on realistic basis. The department stated in April 2009 that the Government fixed target/BEs to be achieved by the department under state excise which included receipts from the distilleries. The above facts revealed that the department had not followed the provisions of HPBM while framing the BEs, which led to variation.

Monitoring and internal checks

3.2.8 Internal control

Internal control comprises of two mechanisms i.e. internal audit and departmental inspections.

3.2.8.1 Internal audit

Internal audit (IA) wing has been functioning in the department since 1987. Manual regulating functioning of internal auditors had not been finalised as yet. However, norms for annual audit of district/units under excise head had been prescribed in the guidelines regulating the functioning of audit wing. None of the test checked manufacturing units located in the State were audited by internal auditors during the period under review. Reasons advanced by the department were insufficient staff and absence of specific manual defining the duties of internal auditors.

3.2.8.2 Departmental inspections

Financial Commissioner (FC) (Excise) fixed norms for inspections of distilleries/breweries in the State by various departmental officers which were to be carried out in July every year by rotation. The inspections required and actually conducted during the years 2003-04 to 2007-08 are mentioned below:

Year	Inspections required	Inspections done	Shortfall	% age of shortfall
2003-04	10	3	7	70
2004-05	15	1	14	93
2005-06	12	7	5	42
2006-07	11	4	7	64
2007-08	13	4	9	69
Total	61	19	42	69

The shortfall in departmental inspections ranged between 42 and 93 *per cent*.

The Government stated that due to finalisation of important matter the target could not be achieved and efforts would be made to achieve the target fixed. It was observed that no follow up action has been taken on inspections.

System deficiencies

3.2.9 Loss of duty on inadmissible wastages

Punjab Brewery Rules (PBR), 1932 as applicable to Himachal Pradesh provided for levy of duty on beer at the prescribed rate on the total quantity actually brewed as entered in the brewing book or as ascertained by the ETI whichever is higher, less an allowance of 10 *per cent* for wastage. This rule was struck down by the Hon'ble Supreme Court of India, in November⁷ 1996 on the plea that excise duty was exigible to duty at the time when the finished product i.e. beer was received in bottling tanks or the finished product is removed from the place of storage or warehouse etc. No rule since then has been framed for allowing the wastage.

Test check revealed that 298.21 lakh bulk litres (Bl) of finished beer were received in bottling tanks of a brewery in Solan district during the period 2003-04 to 2007-08. Out of this, wastage of 20.56 lakh Bls of beer was claimed and allowed by the department after the beer with required alcoholic strength reached the stage of bottling tanks. Allowance of wastage without any provision in the Act was incorrect and resulted in loss of excise duty of Rs. 1.97 crore.

3.2.10 Non/improper maintenance of record

Rule 10.16 of PBR stipulates that an inspector or any other officer authorised by the Collector can take samples of material used in any stage of the manufacture of beer. The reports of the chemical analyst on these samples would determine the strength of the beer. The excise announcements/allotments issued from time to time provide for different rates of excise duty for different kind of strengths of beer. For levy of excise duty at varying rates, strength wise separate stock

⁷ No. 1996 (9) in the case of M/s Mohan Meakin Ltd. Solan V/s ETC, HP and others

accounts of beer were to be maintained on the basis of these sample reports. However, no register for record of sample taken was prescribed under PBR though maintenance of such register is prescribed under PBR, 1956.

A brewery in Solan district is engaged in manufacture of beer of two strength i.e. upto five *per cent* alcoholic contents and above five *per cent* upto 8.25 *per cent* alcoholic contents. No record of strength wise stock of beer was maintained in the brewery, in absence of which, the correctness of the strength of 16.32 lakh Bls of beer involving difference in duty of Rs. 75.07 lakh, sold within the state during 2003-04 to 2007-08 could not be ascertained by Audit.

The department stated that sample register was not prescribed under PBR as such not maintained. However, for proper levy of excise duty on the strength of beer, sample register may be maintained.

3.2.10.1 To monitor the movement of in-bond⁸ consignments, a register in form L-36 containing 16 columns, has been prescribed to be maintained at district level. Column 1 to 10 is to be filled up at the time of issue of authorisation and column 11 to 16, on follow up of these consignments.

Test check of the records of Solan district, revealed that 3,825 sanctions of export in-bond were issued in favour of three distilleries between 2003-04 and 2007-08, by recording necessary entries in column 1 to 10 of the prescribed register at the time of issue of sanctions. Follow up of these in-bond consignments, required to be recorded in column 11 to 16 had not been filled up. Resultantly, it could not be verified by Audit whether all consignments had reached the destination in full and any shortages or non-receipts had also been charged to duty. Particulars of discharge of bonds was also not recorded. This proved that monitoring part was lacking at district level.

The Government stated that necessary instructions in this regard were being issued. Follow up action was awaited.

3.2.11 Non-recovery of revenue on samples not taken back

Punjab Distillery Rules (PDR), 1932 provide that samples of liquor shall be taken in three bottles of 750 mls each by the ETI incharge. One sample shall be handed over to the licensee, second shall be sent for analysis and the third to be retained by the excise officer concerned, pending disposal of the case. The licensee shall keep a regular account of the disposal of such duty free spirit. All spirit which becomes waste in the laboratory and does not by the addition of any chemicals or otherwise, become deleterious, shall be returned to the distillery for redistillation. However, no time limit had been prescribed for the return.

Test check of the records revealed that during 2003-04 to 2007-08, 7,528 and 9,974 samples of country liquor (CL) and Indian Made Foreign Liquor (IMFL) respectively were drawn from nine distilleries⁹ from their blended brands.

⁸ Authority for export of spirit without payment of duty

⁹ M/s Mohan Meakin Ltd. Brewery, Solan; M/s K.M. Distillery, Parwanoo; M/s United Spirit Ltd. Baddi; M/s Himalayan Gold Beverages Pvt. Ltd. Nalagarh; M/s Sabacchus Distillery Ltd., Nalagarh; M/s Tiloksans Brewery and Distillery, Manthapal; M/s Yamuna Beverages (P) Ltd. Nariwal; M/s VRV Foods Ltd. Sansarpur Terrace, Kangra and M/s Basandrai Bottlers Pvt. Ltd. Nerchowk, Mandi

Except one sample as sent to the chemical analyst, two samples each of 750 mls aggregating to 1,882 and 3,602 Pls of CL and IMFL were required to be taken back for redistillation. These were, however, not returned to stock which resulted in non-realisation of excise duty and license fee of Rs. 1.15 lakh.

The department accepted the audit observation and stated in February 2009 that Rs. 34,000 had been recovered from two distilleries. Further report on recovery has not been received.

3.2.12 Irregular/inadmissible allowance of wastage in maturation process

The scale of wastage in maturation of malt spirit for Kasauli distillery had been prescribed by ETC in 1965. In case of excess wastage, the recovery of excise duty was to be made at stipulated rates. No such notification was issued in favour of other distillery in Himachal Pradesh.

Test check of the records of a distillery revealed that the department incorrectly applied the rates of wastage norms of Kasauli distillery to Una distillery which came into existence in 1979. This resulted in irregular allowance of wastage of 16,316.89 Pls of spirits in maturation process during 2003-04 to 2007-08 involving excise duty of Rs. 3.99 lakh.

The Government stated (July 2009) that there was a need to prescribe a scale of wastage for the State as a whole under the PDR, for future.

However, further action taken has not been intimated (September 2009).

3.2.13 Non-fixation/adherence of norms

Norms of yield of spirit from various carbon sources such as grains, waste sugar, liquid flour slurry and grain flour, being used in producing spirits, had not been fixed. Yield as disclosed by the licensee was taken for granted. The department had so far not made any studies on this count.

The Government stated (July 2009) that norms of yield would be fixed after getting the analytic work from Chemical Analyst. Further report was awaited.

Compliance deficiencies

3.2.14 Low yield of spirit from molasses

Rule 9.37 of PDR provides that one mound (0.37 quintals) of molasses shall be considered equal to 3.5 London Proof Gallons (15.89 Pls) of country spirit.

Two distilleries in Solan and Una districts put in 13,44,416 maunds (4,97,433.90 quintals) of molasses for manufacture of rectified spirit (RS) during 2003-04 to 2007-08. Against the yield of 213.63 lakh Pls, the actual yield was shown as 170.53 lakh Pls of RS. Thus, 43.10 lakh¹⁰ Pls of RS,

10

Quantity in quintals	Quantity in maund	Production as per norms (Pls)	Actual production (Pls)	Short production (Pls)	Excise duty leviable @ Rs. 10/- PPls
4,97,433.90	13,44,415.94	2,13,62,770	1,70,52,629.67	43,10,140	4,31,01,400

involving excise duty of Rs. 4.31 crore was short produced, for which no reasons were investigated/on record.

After this was pointed out, the Government stated (July 2009) that it was not possible to adhere to the norms of yield fixed under PDR, because of changed circumstances. However, steps were being taken to refix the norms as per present realities. Since this had resulted in a constant source of loss of revenue to the State exchequer, this could have been foreseen and examined by the department earlier and norms got refixed.

3.2.15 Non-application of distillery rules

Rule 5AA read with rule 5(3) of PDR provide that a D-2A¹¹ license shall be granted/renewed on deposit of license fee of Rs. 75,000. Further, the license fee at the rate of 70 paise per quart of 750 mls of CL shall be charged on production basis quarterly subject to first adjustment of Rs. 75,000 paid at the time of grant/renewal of license.

Test check of the records revealed that five distilleries¹² had been granted D-2A license on payment of fee of Rs. 75,000, thereafter fee payable at each quart was not paid. This resulted in non-recovery of Rs. 2.86 crore on production of 4.26 crore quarts during the year 2003-04 to 2007-08.

After this was pointed out, the Government stated (July 2009) that D-2A license was granted only for double distillation of spirit but no bottling was done under this license and license fee on production basis was not chargeable.

Fact remains that rule 5(3) of PDR which stipulates payment of license fee on quart basis. Here the licensees had only paid the license fee of Rs. 75,000 and fee at the prescribed rates required to be payable quarterly on the quarts produced, after adjustment of Rs. 75,000, had not been paid.

3.2.16 Non-renewal of bonded warehouse license

Under rule 5(3) of Himachal Pradesh Bonded Ware House (HPBWH) Rules 1987, license fee for annual license on BWH-2 has been prescribed as Rs. 75,000 at the time of grant/renewal of license. Further, license fee at the rate of 70 paise per quart of 750 mls on production of CL is also required to be recovered within seven days after the expiry of each quarter. The license is required to be renewed at least 90 days before its expiry.

A bottling plant in Parwanoo engaged in in-bond import of RS, its receipt, storage, reduction, blending and bottling of CL was granted Bonded Warehouse license on form BWH-2 upto the year ending 31.3.2007. Thereafter, the license was not renewed though the plant is still continuing the storing and other activities. Non-renewal of license due for renewal in December 2006 and December 2007 for the period for 2007-08 and 2008-09 resulted in non-recovery of Rs. 9.09 lakh in addition to renewal fee at the rate of Rs. 75,000 each for these years.

¹¹ Establishment of still for redistillation of spirit

¹² M/s HPGIC Parwanoo; M/s K.M. Distillery Parwanoo; M/s Patiala Distillers and Manufactures Ltd. Baddi; M/s Yamuna Beverages Pvt. Ltd. Sirmour and M/s VRV Foods Ltd. Sansarpur Terrace, Kangra

After this was pointed out in audit, the Government stated (July 2009) that recovery of renewal fee of Rs. 1.50 lakh was being made from the licensee. As regards recovery of Rs. 9.09 lakh, it was stated that the same had already been recovered. Fact remains that as recoveries already made pertained to D-2A license of the licensee. Moreover, in the absence of this license, quarterly recoveries against it were without justification.

3.2.17 Non-invoking of provisions of bond

Rule 21 of HPBWH Rules provide that liquor may be removed from a warehouse (1) under bond and (2) on payment of duty within the State or outside the State. In case of issue of liquor under bond, the licensee shall execute a bond in form L-37 to deliver the spirit at a particular place or destination and shall furnish proof of his having done so in form L-38, within a period of 30 days or as specified in the bond, before the bond can be discharged. If the proof is not produced within the specified period, unless the omission is satisfactorily explained, the Collector shall call upon the manager to deposit the amount specified in the bond executed by him in respect of the consignments.

During May 2004 and October 2007 to March 2008, 22 sanctions authorising export in-bond of 87,201 Pls of IMFL and 91 sanctions of 5.06 lakh Bls of beer were granted in favour of two distilleries and one brewery¹³ on execution of a bond in form 37. The licensee was required to furnish certificates in form L-38 of arrival of IMFL/beer at specified destination within specified time limit, which had expired during June 2004 and November 2007 to April 2008. The certificates in form L-38 were awaited and the provisions of the bond were not invoked till January 2009, despite the fact that limitation period for procuring certificate of arrival had already expired. This resulted in non-recovery of excise duty amounting to Rs. 81 lakh.

The Government stated (July 2009) that the Collector of the zone was being directed to take action immediately. Further report on recovery was awaited (September 2009).

3.2.17.1 Non-levy of penalty in delayed submission of L-38 Form

The certificates of arrival of IMFL/Beer in form L-38 are required to be furnished to the Collector (DETC) within the prescribed period. Section 68 of the Act provides for a fine which may extend upto one thousand rupees for every such act or omission contravening the provisions of the Act or any rule.

Test check of the records of a distillery in Una district revealed that 257 export in-bond sanctions were issued during 2007-08. Out of these, in 244 cases L-38 were received late. The delay ranged between 27 days to five months. None of these cases were sent to the Collector till January 2009, for levy of penalty for violation of the provisions of the bond. The codal provisions were therefore, violated by the department itself.

¹³ M/s Himalayan Gold Beverages Pvt. Ltd. Nalagarh, M/s Ranger Brewery Ltd. Mehatpur and M/s South Asia Brewery Tokion

The Government stated (July 2009) that Collector of the zone was being directed to take action immediately. Further report was awaited (September 2009).

3.2.18 Non-furnishing of prescribed returns

Rule 9.37 of PDR provides that a licensee shall on the 1st and 15th day of each month report to the ETI, the quantity in stock of grain, molasses and empty bottles, labels, corks etc. in gross numbers and shall permit the ETI to verify the quantity, if he desires to do so.

Test check of records of 16 licensed distilleries/breweries revealed that the above reports were neither called for by the department nor the licensees were furnishing the report to the inspector filing such returns. This aspect had also been overlooked by departmental officers entrusted with the periodical inspections.

Scrutiny of detail of bottles, labels and corks received, used, wastage and balance of a distillery for the year 2007-08, further revealed in audit that against consumption of 38.03 lakh labels of different quantity for equal number of bottles filled, 40.93 lakh labels were shown as consumed including wastage of 67,000 labels as claimed by the management. The excess consumption of 2.23 lakh labels was sufficient enough to bottle 96,000 Pls of CL involving excise duty of Rs. 4.82 lakh.

The Government stated (July 2009) that necessary instructions were being issued. Further report was awaited.

3.2.19 Non-levy of duty on excess wastage in manufacture of Extra Neutral Alcohol

PDR provide 1.5 *per cent* wastage allowance in redistillation of spirit. Wastage of spirit over and above the prescribed limit would be charged to excise duty.

A distillery in Una district manufactured 9.71 lakh Pls of extra neutral alcohol (ENA) through the process of redistillation of 10.12 lakh Pls of RS during 2003-04 and 2004-05. The loss in the process was 40,817 Pls of ENA against the permissible wastage allowance of 15,180 Pls. Excise duty of Rs. 6.90 lakh for the excess wastage of 25,637 Pls was not recovered from the licensee.

3.2.20 Non-recovery of interest on late deposit of license fee

PDR provide for levy of interest at the rate of 12 *per cent* per annum up to one month and at 18 *per cent* per annum thereafter in case of late payment of license fee or part thereof. However, no such provisions had been made in the rules for late deposit of overtime fee.

Test check of the records revealed that three distilleries in Solan and Sirmour districts deposited the quarterly license fee late ranging between three and 476 days. Interest amounting to Rs. 2 lakh was neither demanded by the AETCs nor paid by the licensees resulting in non-recovery of interest to that extent.

After this was pointed out in audit, the department/Government stated (July 2009) that between February and July 2009, Rs. 27,000 had been recovered

from two distilleries and efforts were being made to recover the balance amount. Further report on recovery was awaited (September 2009).

3.2.21 Non-recovery of duty on spirits short transferred

PDR prescribe for maintenance of various control registers such as spirit store room (D-14) (SSR), blending and bottling operations (D-13B) involved in the manufacturing process of liquor. Spirits transferred from one SSR/Vat to another through the pilfer proof fitted pipes involves no transitory wastages. As such quantity issued from one Vat to another should be the same.

Test check of D-14 and D-13B registers revealed the following irregularities:

- A distillery in Mandi district issued 14,630.17 Pls of spirits from D-14 to D-13B on 5th and 30 April 2007. This quantity was not accounted for in D-13B.

The Government stated (July 2009) that 7,243.42 Pls of spirits transferred on 5th April were accounted for on 7th April. However, no reply was furnished for remaining quantity of 7,386.75 Pls of spirits involving excise duty of Rs. 1.70 lakh, transferred on 30th April.

- Another distillery of Solan district issued 6,90,481.14 Pls of spirits/ENA from D-14 during May 2004, October 2004 and February 2005. Against this, quantity 6,26,119.93 Pls were shown as accounted for in D-13B. The short accountal of 64,361 Pls involved excise duty of Rs. 17.38 lakh.

The cases were pointed out in August 2008, neither the reconciled accounts were shown to audit nor the recovery of excise duty was affected.

The Government stated (July 2009) that as per report of ETI, there was no short accountal and nothing was outstanding against the distillery. However, in view of the variations noticed by audit in the records maintained by the distillery there is a need for investigation of the matter by the departmental officers.

3.2.21.1 Test check of D-14 register of a distillery in Solan district revealed that against 3,929.28 Pls of spirits of a brand of liquor, 3,046.3 Pls only were dispatched to another distillery in the same district as per excise pass number 213515 dated 24.4.2004. But the entire quantity was shown as transferred from D-14 of the licensee. Thus, 883.58 Pls of spirits involving excise duty of Rs. 24,000 was short transferred, for which no reasons were on record.

After this was pointed out, the Government stated (July 2009) that the matter was being enquired into. Further reply was awaited (September 2009).

3.2.22 Non-payment of license fee for bottling of CL

Condition No. 7 of the D-2/D-2A license stipulate that if the licensee infringes, or causes or permit any person to infringe, any of the condition of the license, the FC may forthwith revoke and determine the license. Under condition No. 8 of the license, the licensee is required to pay regularly and by due dates all payment which may due to Government. Under rule 5 of PDR, the license fee is required to be paid by seventh of the next month of the completed quarter.

Test check of the records of two distilleries in Sirmour district revealed that Rs. 15.45 lakh was outstanding as on 31.3.2008 on account of license fee for the year 2007-08. No action was taken for revocation and determination of licenses of these defaulters. Instead, the licenses were renewed for the year 2008-09 also.

The Government stated (July 2009) that an amount of Rs. 8.86 lakh out of Rs. 10.03 lakh had been recovered from a licensee. Further report on recovery and reply from another licensee was awaited (September 2009).

3.2.23 Ineffective control through excise barriers

In order to curbing inter state smuggling of liquor and illicit distillation in the State, ETC issued instructions in 1998 wherein excise staff posted in all multipurpose barriers were directed to maintain "Excise Check Registers" (ECR) containing full particulars of the consignments of liquor passing through these barriers.

ECR maintained by a barrier in Solan district revealed that the register had been maintained haphazardly without entering full particulars of the consignments. It was also noticed that the ECR had not been checked by any departmental officers entrusted with barrier inspection. Test check further revealed that a bottling plant in same district exported in-bond 243 consignments during 2007-08 containing 9.84 lakh Pls of IMFL through multipurpose barrier, Baddi, as recorded on the excise passes issued by the inspector Incharge of the plant. Out of this, only 206 consignments containing 8.34 lakh Pls of IMFL were found entered in the ECR maintained at Baddi barrier. The remaining 37 consignments containing 1.50 lakh Pls of IMFL involving excise duty of Rs. 34.47 lakh were not entered in the register. No periodical return to higher authority had been prescribed in the rules to make a correlation of entries in the register with consignments actually dispatched on sanctions so issued. Hence, the control through excise barrier had proved ineffective.

The Government stated (July 2009) that necessary instructions in this regard were being issued. Further reply was awaited (September 2009).

3.2.24 Non-levy of penalty for late deposit of overtime fee

Rule 9.32 (1) of PDR provides that a distillery may remain open for work on public holiday or on any other day being a holiday in Government offices provided a written approval of Excise and Taxation Officer (ETO), incharge of the distillery or in his absence approval of the ETI of the distillery, has been duly obtained atleast 24 hours before the holiday. For this purpose, a fee of Rs. 500 per day and in cases where the distillery remain open after normal working hours in any day, a fee of Rs. 100 per hour or part thereof shall be payable within seven days of the closure of the month concerned. Section 68 of the Act, provides for a fine which may extend upto one thousand rupees for contravening the provisions of the Act/Rules.

Test check of the records revealed that three distilleries deposited overtime fee of Rs. 1.23 lakh late by two to 108 days in 37 cases, no penalty was imposed.

The Government stated (July 2009) that concerned ETO/ETI had been directed to send the cases of late deposit of overtime fee for penal action. Further report was awaited (September 2009).

3.2.25 Non-authentication and maintenance of control registers

PDR provide for maintenance of various control registers through which the department could exercise checks on the receipt and disposal of spirits and liquors.

- Control registers such as D-12A¹⁴, D-13A¹⁵, D-13B¹⁶, D-14¹⁷ and D-14A¹⁸ prescribed in the PDR had not been maintained/authenticated for the period 2003-04 to 2007-08 by ETI incharge of distilleries one each in Solan, Sirmour, Una, Kangra and Mandi districts.
- Wastage registers such as D-26¹⁹, D-27²⁰, D-28²¹, D-29²² showing loss of spirits at various stages of manufacturing of liquor had not been maintained by four distilleries in Solan, Sirmour, Kangra and Mandi districts.
- D-24, a sample register showing samples drawn for chemical analysis had not been maintained by a distillery in Sirmour district.

Prescribed checks were thus not exercised as required under rules. In the absence of prescribed control registers, correctness of receipt and disposal of spirits/liquors could not be verified in Audit.

The Government stated (July 2009) that necessary instructions in this regard were being issued. Report on follow up action was awaited (September 2009).

3.2.26 Conclusion

Excise receipt is an important source of revenue of the state Government. The Government has not yet specified norms for the production of spirits from grain and other carbon sources to regulate production of spirits. The department did not exercise control over the working of distilleries/breweries through inbuilt control mechanisms. The monitoring mechanism to watch and control collection of excise revenue on in-bond consignments was ineffective and needs to be strengthened. The Punjab Excise Act, 1914 (Act) is applicable in the State, there is a need for an Excise Act and legislation which is applicable uniformly to the entire State.

14 Redistillation of RS
 15 Spirit received
 16 Bottling operation
 17 SSR
 18 Bottled spirit store room
 19 Wastage in SSR
 20 Wastage in bottling operation
 21 Wastage in BSSR
 22 Wastage in redistillation

3.2.27 Recommendations

In order to plug loopholes and enforce control over working of distilleries, the Government may consider:

- strengthening of internal audit system of the department by clearly defining the duties of internal auditor;
- prescribing a sample register containing strength wise stock of beer under the rule;
- prescribing norms of yield of spirit from molasses and other carbon sources; and
- bringing out its own Act and legislation on the levy and collection of state excise duties and fees.

3.3 Other Audit observations

Scrutiny of records in the offices of Excise and Taxation Department relating to revenue received revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of license fee and fees as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided.

3.4 Non-compliance of provisions of Act/Rules

The Himachal Pradesh Liquor License Rules, 1986 provide:

- (i) *levy of license fee;*
- (ii) *levy of fixed fee at prescribed rate.*

The AETC did not observe some of the above provisions in cases mentioned in paragraphs 3.4 and 3.5 which resulted in non/short levy of license/fixed fee of Rs. 235.84 lakh.

3.4.1 Non/short recovery of license fee on the closing stock

Rule 35(16) of Himachal Pradesh Liquor License Rules, 1986, as amended from time to time, stipulates that entire quota of liquor lifted by the licensee during the year shall have to be sold during the validity of his license and the licensee shall not be permitted to sell it after expiry of the license. Rule 37(32) provides that if any person who had been granted license under these rules and had in his possession any stock which he was not in a position to dispose of till 31 March, shall surrender the same to the Collector, who shall make over the surrendered stock to the incoming licensee. As per para 5(b) of Excise Allotments (EAs) for the year 2007-08, the license fee based on the lifting of quota, was Rs. 130 and Rs. 160 per proof litre (Pl) for CL and IMFL and Rs. 15 per bulk litre for Beer.

3.4.1.1 Test check of the records of AETC Mandi in March 2009 revealed that 1,05,723.662 proof litres of country liquor and 52,513.188 Pls of IMFL were surrendered on 31 March 2007 by the outgoing licensees, on which license fee of Rs. 2.21 crore was recoverable from incoming licensees of 2007-08. This was not recovered resulting in non-recovery of license fee of Rs. 2.21 crore.

After this was pointed out in audit, the Government stated in July 2009 that an amount of Rs. 12.20 lakh had been recovered on account of surrendered stock of country liquor and IMFL and nothing is due for recovery now. Reply of the department is not correct as the department had recovered the license fee only on 1,496.315 proof litres of country liquor and 6,406.324 Pls of IMFL whereas the outgoing licensees as on 31 March 2007 surrendered 1,05,723.662 proof litres of country liquor and 52,513.188 Pls of IMFL.

3.4.1.2 In AETC Solan, scrutiny of records between June and August 2008 revealed that 10,986.967 proof litres of country liquor/IMFL (liquor) and 3,528.460 bulk litres of Beer were lying unsold on 31 March 2007. The

department was required to recover the license fee of Rs. 17.38 lakh from the concerned licensees against which it recovered Rs. 8.81 lakh on the quantity of 5,833.640 Pls of liquor and 148.20 Bls of beer only. This resulted in short recovery of license fee of Rs. 8.57 lakh.

After this was pointed out in audit, the Government stated in July 2009 that AETC had directed the ETI to recover the amount of Rs. 8.57 lakh from the licensees. Further report on recovery has not been received (September 2009).

3.5 Short recovery of fixed fees

As per Announcements of EAs for the year 2007-08, "Fixed fees" for L-1B license in respect of wholesale vend of foreign liquor, had been prescribed as Rs. 1 per Pl subject to minimum of Rs. 25,000 whereas for beer, wine and cider, it was 30 paise per Bl subject to minimum of Rs. 15,000.

Test check of the records of AETC Kangra at Dharamsala in February 2009 revealed that "Fixed fees" from two licensees²³ had not been realised at the prescribed rates on the quantity of 20.52 lakh Bls of beer and 52,000 Pls of IMFL, imported by them during 2007-08. Against the payable amount of Rs. 6.67 lakh, the department had recovered the minimum "Fixed fees" of Rs. 40,000 only. This resulted in short recovery of fees of Rs. 6.27 lakh. The AETC did not take any action to recover the fees short realised.

After this was pointed out in audit, the Government stated in July 2009 that fixed fees of Rs. 6.15 lakh had been recovered and action for recovery of balance amount of Rs. 12,000 was being taken. Further report on recovery has not been received (September 2009).

²³ M/s Devans Modern Breweries, Dhangupir: Rs. 6 lakh and M/s Pioneer Industry Ltd., Damtal: Rs. 27,000

CHAPTER- IV:
TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1 Results of audit

Test check of the records of the motor vehicles, goods and passengers tax, conducted during the year 2008-09, revealed evasion, non/short realisation of tax and other irregularities amounting to Rs. 14.87 crore in 276 cases, which fall under the following categories:

(Rupees in crore)

Sr. No.	Particulars	Number of cases	Amount
1.	Evasion of <ul style="list-style-type: none"> • Token tax • Passenger and goods tax 	112 5	2.13 0.33
2.	Non/short realisation of <ul style="list-style-type: none"> • Token tax and composite fee • Passenger and goods tax 	37 14	0.64 0.40
3.	Other irregularities <ul style="list-style-type: none"> • Vehicles tax • Passenger and goods tax 	88 20	10.95 0.42
Total		276	14.87

During 2008-09, the department accepted under assessments of Rs. 5.06 crore involved in 89 cases which had been pointed out in audit in earlier years.

A few illustrative audit observations involving Rs. 6.62 crore are mentioned in the succeeding paragraphs.

4.2 Audit observations

Scrutiny of records in the offices of Transport Department relating to revenue received from taxes on vehicles, taxes on goods and passengers revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty/token tax and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to consider directing the Department to improve the internal control system including strengthening internal audit so that such omission can be avoided, detected and corrected.

4.3 Non-observance of the provisions of Acts/Rules

The Himachal Pradesh Motor Vehicles Taxation Act (HPMVT), 1972 and Rule provide for:

- (i) payment of motor vehicles tax/token tax by the owner of vehicles at the prescribed rate;*
- (ii) token tax to be paid in advance and within the prescribed period; and*
- (iii) payment of special road tax, composite fee/registration fee at prescribed rate.*

The Transport Department did not observe some of the provisions of the Act/Rules in cases as mentioned in the paragraph 4.3.1 to 4.3.7 for levy and collection of token tax, special road tax, etc. which resulted in non/short realisation of tax/permit fee of Rs. 5.47 crore.

4.3.1 Non/short realisation of token tax

Under the Himachal Pradesh Motor Vehicles Taxation (HPMVT) Act, 1972, and Rules made thereunder, token tax is payable by the owners of vehicles in advance quarterly or annually in the prescribed manner. The vehicles that have been declared off the road and registration certificate (RC) of which have been deposited with the concerned Registering and Licensing Authority (RLA), shall be exempted from payment of tax for that period. Further, the State Government directed (20 March 2002) the Director Transport, all District Magistrates and RLAs to recommend cases for exemption from payment of token tax by the owners of tractor-trailors on the undertaking/production of documents prescribed to the effect that the tractor-trailor, were not being used for commercial activities. If an owner of motor vehicle fails to pay the tax due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay penalty at the rate of 25 per cent per annum of the tax due to be calculated in the manner prescribed in the HPMVT (First Amendment) Rules, 2006.

4.3.1.1 Test check of the records between June 2008 and February 2009 of 19 RLAs¹ and seven Regional Transport Officers² (RTOs), revealed that for 2,574 vehicles, token tax amounting to Rs. 1.33 crore for the years 2006-07 to 2007-08, was neither deposited by the vehicle owners nor had the taxation authorities taken any action to recover it. There was nothing on record to show that any of these vehicles were in the exempt category. Scrutiny also revealed that token tax registers of four RLAs³ were incomplete and in such circumstances, monitoring of collection of tax by RLAs could not be ascertained. Thus, failure to take action as per the rules/instructions by the concerned taxation authorities resulted in non-recovery of token tax of Rs. 1.33 crore. Besides, penalty of Rs. 35.39 lakh at the prescribed rate was also leviable for non-payment of tax.

After the cases were pointed out, the Additional Commissioner Transport, Shimla intimated between December 2008 and July 2009 that a sum of Rs. 7.01 lakh had been recovered from 164 vehicles of RLA Paonta Sahib and three RTO's⁴ and efforts were being made to recover the balance amount. Further report on recovery and reply from the remaining taxation authorities has not been received (September 2009).

The matter was reported to the department and the Government between July 2008 and March 2009; their reply has not been received (September 2009).

4.3.1.2 Test check of the records of eight RLAs⁵, between June 2008 and February 2009, revealed that token tax payable for 257 vehicles, for the years 2006-07 to 2007-08, amounted to Rs. 21.92 lakh. Against this the owners of the vehicles paid Rs. 11.24 lakh only. No action had been taken by the taxation authorities to recover the amount of Rs. 10.68 lakh short realised.

After the cases were pointed out between June 2008 and February 2009, the Additional Commissioner Transport, Shimla intimated in June 2009 that in case of RLA Shimla (Urban) Rs. 76,000 had been recovered from seven vehicles. Reply from the remaining RLAs has not been received (September 2009).

The matter was reported to the department and the Government between July 2008 and March 2009; their reply has not been received (September 2009).

4.3.2 Short levy of token tax due to incorrect application of rates

According to Transport Department notification of December 2003, token tax in the case of construction equipment vehicles (based on maximum prescribed mass) were leviable at the rate of Rs. 6,000 (light), Rs. 9,000 (medium) and Rs. 12,000 (heavy) per annum with effect from 1 January 2004. These rates were revised by the Transport Department to Rs. 8,000 (light), Rs. 11,000 (medium) and Rs. 14,000 (heavy) per annum with effect from 11 June 2007.

¹ Bharmour, Chamba, Churah, Dalhousie, Dharamsala, Jaisinghpur, Kangra, Kullu, Manali, Nurpur, Palampur, Paonta Sahib, Parwanoo, Rampur, Rohru, Shimla (Urban), Shimla (Rural), Theog and Una

² Bilaspur, Chamba, Dharamsala, Hamirpur, Kullu, Shimla (including flying squad) and Solan

³ Dharamsala, Kangra, Nurpur and Rohru

⁴ Chamba, Hamirpur and Kullu

⁵ Bharmour, Chamba, Churah, Dalhousie, Manali, Parwanoo, Shimla (Urban) and Una

The token tax in respect of recovery van having mass upto 7.5 tonnes is leviable at the rate of Rs. 5,000 per annum.

Test check of the records of three RLAs⁶ and RTO, Chamba, between August 2008 and February 2009 revealed that token tax of Rs. 18.14 lakh was payable by 118 construction equipment vehicles owners for the period January 2004 to March 2008, against which only Rs. 11.86 lakh was paid at pre revised rates. Further, it was noticed in two RLAs⁷, that owners of 15 vehicles had not paid tax of Rs. 1.48 lakh that was due from 1.1.2004. The department did not detect the mistake. This resulted in short levy of token tax of Rs. 7.76 lakh.

After the cases were pointed out between August 2008 and February 2009, the Additional Commissioner Transport, Shimla intimated between April and August 2009 that a sum of Rs. 1.08 lakh (RTO Chamba: Rs. 69,000 and RLA Shimla Urban: Rs. 39,000) had been recovered from 36 vehicles and efforts were being made to recover the balance amount. Further report on recovery and reply from the remaining RLAs has not been received (September 2009).

The matter was reported to the department and the Government between September 2008 and March 2009; their reply has not been received (September 2009).

4.3.3 Short realisation of one time tax

As per Transport Department notification dated 11 June 2007, issued under the HPMVT Act 1972, one time tax was leviable on personal motor vehicles and motor cycle/scooters used or kept for use in Himachal Pradesh. One time tax was leviable at prescribed rate on the price of vehicles based on engine capacity.

Test check of the records of nine RLAs⁸, between June 2008 and February 2009, revealed that in the case of 388 personal vehicles registered between 11 June 2007 and 29 December 2007, one time token tax was not realised at the prescribed rates. Against the leviable tax of Rs. 12.67 lakh, the RLAs charged Rs. 9.40 lakh only. This resulted in short realisation of one time tax of Rs. 3.27 lakh.

After this was pointed out between June 2008 and February 2009, the Additional Commissioner Transport, Shimla intimated between July and August 2009 that a sum of Rs. 65,000 (RLA Dharamsala: Rs. 38,000 and Nurpur: Rs. 27,000) had been recovered from 77 vehicles and efforts were being made to recover the balance amount. Further report on recovery and reply from the remaining RLAs has not been received (September 2009).

The cases were reported to the department and the Government between July 2008 and March 2009; their reply has not been received (September 2009).

⁶ Shimla (Rural), Shimla (Urban) and Una

⁷ Shimla (Rural) and Shimla (Urban)

⁸ Churah: 15 cases: Rs. 19,000; Dharamsala: 47 cases: Rs. 38,000; Hamirpur: 67 cases: Rs. 47,000; Kangra: 52 cases: Rs. 34,000; Kullu: 45 cases: Rs. 77,000; Nurpur: 71 cases: Rs. 47,000; Rampur: 6 cases: Rs. 8,000; Rohru: 20 cases: Rs. 30,000 and Una: 65 cases: Rs. 27,000

4.3.4 Non/short payment of special road tax

As per the HPMVT (Amendment) Act, 1999, there shall be levied, charged and paid to the State Government, a special road tax (SRT) on all transport vehicles used or kept for use in Himachal Pradesh. According to the Transport Department notification dated 22 March 2002, SRT is payable in advance on the 15th of every month. The rates are based on the classification of routes on which vehicles are plying such as national highways, state highways, rural roads and local buses/mini buses operating within a radius of 30 kilometers. The Transport Department had fixed (January 2006) the rates of SRT for the above routes as Rs. 6.04, Rs. 5.03 and Rs. 4.03 per seat per kilometer respectively effective from 1 April 2005. For failure to pay the SRT within the prescribed period, penalty at the rate of 25 *per cent* per annum of the tax due as prescribed in the Transport Department notification dated 26 July 2006, is also to be levied.

4.3.4.1 Test check of the records of seven RTOs, between August 2008 and January 2009, revealed that in 173 cases, SRT amounting to Rs. 1.46 crore for the period 2007-08 was not paid by the owners of the vehicles. The RTOs had not initiated any action for the recovery of SRT due. Besides non-realisation of SRT, penalty of Rs. 36.50 lakh at the prescribed rate was also leviable for non-payment of tax.

After the cases were pointed out between August 2008 and January 2009, the Additional Commissioner Transport, Shimla intimated between January 2009 and March 2009 that in the case of RTOs Chamba, Hamirpur and Nahan, a sum of Rs. 30.50 lakh had been recovered from 57 vehicles owners and efforts were being made to recover the balance amount. Further report on recovery and reply from the remaining RTOs has not been received (September 2009).

The matter was reported to the department and the Government between September 2008 and February 2009; their reply has not been received (September 2009).

4.3.4.2 Test check of the records of five RTOs⁹, between August 2008 and February 2009, revealed that in 83 cases, SRT of Rs. 43.61 lakh for the period January 2006 to March 2008 was assessed short by RTOs due to incorrect classification of routes/application of rates. Thus the owners of the vehicles deposited the SRT short by Rs. 43.61 lakh.

The matter was reported to the department and the Government between September 2008 and March 2009; their reply has not been received (September 2009).

4.3.5 Non-levy of penalty for late payment of special road tax

Under Section 3-A of HPMVT Act, 1972, as amended from time to time, there shall be levied, charged and paid to the State Government, monthly SRT on all transport vehicles used or kept for use in the State. SRT is payable in advance on the 15th of every month. As per Transport Department notification dated 26

⁹ Bilaspur: 13 cases: Rs. 2.03 lakh; Dharamsala: 8 cases: Rs. 1.22 lakh; Nahan: 12 cases: Rs. 10.16 lakh; Shimla: 37 cases: Rs. 24.93 lakh and Una: 13 cases: Rs. 5.27 lakh

July 2006 deemed to have come into force on 31 July 2002, if the owner of a vehicle fails to pay the tax due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay the penalty at the rate of 25 *per cent* per annum of the tax due. The penalty so levied shall be calculated/computed proportionately on day to day basis in case the delay is less than one year and shall not exceed the sum of tax due from such owner.

Test check of the records of nine RTOs¹⁰, between June 2008 and February 2009, revealed that SRT amounting to Rs. 9.96 crore for the period December 2006 to March 2008 was not paid by the Himachal Road Transport Corporation (HRTC) within the prescribed period. The delay in payment of SRT ranged between 16 and 362 days for which penalty of Rs. 97.47 lakh though leviable was not levied by the RTOs concerned.

The matter was reported to the department and the Government between July 2008 and March 2009; their reply has not been received (September 2009).

4.3.6 Short realisation of composite fee

Under Rule 69-A of the Himachal Pradesh Motor Vehicles (First Amendment) Rules, 2005, there shall be levied, charged and paid to the State Government, a composite fee at the rate of Rs. 5,000 in lump sum to be paid in advance at the time of issue of national permit, in respect of each goods carriages, authorised to ply in the State of Himachal Pradesh, under a national permit granted by an appropriate authority of any other State. The validity of national permit is one year from the date of issue of permit.

Test check of the records of RTO Una in February 2009 revealed that in the case of 1,202 goods carriages, composite fee was paid/collected at pre revised rate of Rs. 2,500 per vehicle instead of Rs. 5,000 per vehicle for the period 2007-08 in two barriers¹¹ under the control of RTO Una. This resulted in short realisation of composite fee of Rs. 30.05 lakh.

The cases were reported to the department and the Government in March 2009; their reply has not been received (September 2009).

4.3.7 Non-levy of special registration fee

Under the Himachal Pradesh Motor Vehicles (Amendment) Rules, 2001, special registration fee for the allotment of registration numbers from 0001 to 9999 was leviable with effect from 10 August 2001 at the prescribed rates. These rates were revised in June 2002. The Transport Department further clarified (23 December 2003) that registration numbers from 0001 to 0100 shall not be allotted to the Government vehicles in future but shall be left open to private individuals. In case these numbers had been allotted to the Government vehicles, notices were to be issued to the department/officer concerned to surrender these numbers.

¹⁰ Bilaspur: Rs. 1.29 lakh; Chamba: Rs. 1.19 lakh; Dharamsala: Rs. 62.71 lakh; Kullu: Rs. 2.84 lakh; Mandi: Rs. 3.11 lakh; Nahan: Rs. 10.15 lakh; Shimla: Rs. 3.86 lakh; Solan: Rs. 1.35 lakh and Una: Rs. 10.97 lakh

¹¹ Mehatpur: 880 vehicles: Rs. 22 lakh and Gagret: 322 vehicles: Rs. 8.05 lakh

Test check of the records of three RLAs¹², between September 2008 and January 2009, revealed that in 91 cases, special registration fee of Rs. 2.28 lakh, on allotment of special registration numbers falling between 0001 and 9999, was not realised from the owners of personal vehicles, for the period September 2001 to January 2008. Further, in RLA Una, it was noticed in February 2009 that special registration numbers in four cases from the series 0001 to 0100 were allotted to the Government vehicles between May 2003 and August 2003. The RLAs did not issue notices to the concerned department/officers for surrendering the registration numbers resulting in non-realisation of Rs. 90,000. Thus, total non-realisation of special registration fee was Rs. 3.18 lakh.

After the cases were pointed out between September 2008 and January 2009, the Additional Commissioner Transport, Shimla intimated in August 2009 that in the case of RLA Paonta Sahib, Rs. 35,000 had been recovered from 14 vehicles and efforts were being made to recover the balance amount. Further report on recovery and reply from the remaining RLAs has not been received (September 2009).

The cases were reported to the department and the Government between October 2008 and March 2009; their reply has not been received (September 2009).

4.4 Non-realisation of passenger and goods tax

The Himachal Pradesh Passengers and Goods Taxation Act/Rules provide for levy of passengers tax at the prescribed rate.

While the owners of the vehicles did not pay the tax, the Department also did not issue the demand notice as required mentioned in the paragraph. This resulted in non/short realisation of tax of Rs. 50.88 lakh.

Under the Himachal Pradesh Passengers and Goods Taxation (HPPGT) Act, 1955 and the rules made thereunder, owners of passenger and goods vehicles are required to pay tax, etc. at the prescribed rates either monthly or quarterly. However, if the owner of the vehicle fails to pay the tax due, the taxation authority may direct him to deposit the tax due alongwith a penalty not exceeding five times of the amount of tax so assessed subject to minimum of Rs. 500.

Test check of the demand and collection registers maintained in eight Assistant Excise and Taxation Commissioners¹³ (AETCs), revealed between July 2008 and February 2009 that passenger and goods tax amounting to Rs. 45.98 lakh for 980 vehicles¹⁴, for the period April 2007 to March 2008, was not paid by the owners of the vehicles. The assessing authorities did not issue demand notices to the owners of the vehicles. This resulted in non-realisation of tax of Rs. 45.98 lakh besides minimum penalty of Rs. 4.90 lakh.

The matter was reported to the department and the Government between August 2008 and March 2009; their reply has not been received (September 2009).

¹² Paonta Sahib, Parwanoo and Theog

¹³ Chamba, Hamirpur, Kangra, Mandi, Nahan, Shimla, Solan and Una

¹⁴ Passenger vehicles: 501: Rs. 28.95 lakh and Goods vehicles: 479: Rs. 17.03 lakh

4.5 Vehicles not registered with the Excise and Taxation Department

Under the HPPGT Act and rules made thereunder, owners of stage/contract carriages and goods carriers are required to register their vehicles with the concerned excise and taxation officers and pay passenger tax and goods tax at the prescribed rates. Administrative instructions issued in December 1984 also stipulate that Excise and Taxation Department shall take suitable measures to ensure registration of all vehicles under the HPPGT Act and for that purpose maintain close co-ordination with the RLAs. For failure to apply for registration, penalty not exceeding five times the amount of tax so assessed, subject to a minimum of Rs. 500 is also leviable.

Cross verification of the records of 12 RLAs and eight RTOs with eight AETCs¹⁵, between July 2008 and February 2009, revealed that 1,333¹⁶ vehicles registered with concerned RLAs and RTOs during 2007-08 were not registered with the Excise and Taxation Department under the HPPGT Act. As a result, tax amounting to Rs. 37.40 lakh for the period 2007-08 was not realised from the owners of the vehicles. There was no co-ordination between the RLAs/RTOs and AETCs to ensure the registration of the vehicles. A minimum penalty of Rs. 6.67 lakh was also leviable.

After this was pointed out between July 2008 and February 2009 in audit, the Additional ETC, Shimla intimated in December 2008 that Rs. 1.05 lakh had been recovered from 54 vehicles of Solan district and the AETC had also been directed to recover the balance amount. Further report on recovery of balance amount and reply from the remaining AETCs has not been received (September 2009).

The cases were reported to the Government between August 2008 and March 2009; their reply has not been received (September 2009).

4.6 Embezzlement/temporary misappropriation of Government money

Non-compliance of provisions of the Himachal Pradesh Financial Rules, 1971 by the RLA, Shimla (Urban) resulted in embezzlement/temporary misappropriation of Government money.

Under the Himachal Pradesh Financial Rules, 1971, every Government servant is personally responsible for the prompt record of receipts and payments in the relevant account as well as for the correctness of the account in every respect. It further stipulates that all departmental receipts collected during the day should be credited into the treasury on the same day or latest by the morning of the next working day. Every officer receiving money on behalf of Government should maintain a cash book in the prescribed form and close it regularly after it is completely checked. All monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the office or the officer authorised in

¹⁵ Chamba, Hamirpur, Kangra, Mandi, Nahan, Shimla, Solan and Una

¹⁶ Passenger vehicles: 357 : Rs. 12.92 lakh and Goods vehicles : 976 : Rs. 24.48 lakh

this behalf, in token of check. Before attesting the cash book, he should satisfy himself that the amounts have been actually credited into the treasury or the Bank. To provide different kinds of service under one roof, a Sugam Centre at Shimla was inaugurated in May 2007. An Assistant deployed from RLA Shimla (Urban) in the said centre, collects the cash on account of token tax and other fees daily and deposits it into the Government treasury.

4.6.1 Test check of the records of RLA, Shimla (Urban) in November 2008 revealed that cash received as per record generated from the computer with the treasury account (TA-2) supplied by the District Treasury Officer, revealed that Rs. 20.05 lakh collected during April 2007 to August 2007 and November 2007, January 2008 and February 2008 on account of fees and taxes etc. was neither entered in cash book nor found deposited in the Government account. The RLA could not produce the treasury challans in support of having deposited the amount or trace remittance details in the treasury account. Scrutiny further revealed that entries in the cash book were also not attested by the head of office nor by any other officer authorised in this behalf and no reconciliation was carried out. This resulted in embezzlement of Government money of Rs. 20.05 lakh.

4.6.2 Test check of RLA Shimla further revealed that Rs. 20.91 lakh collected on account of token tax, fees etc. during April 2007 to May 2007, though entered in the cash book were not deposited in the treasury within the prescribed period. The delay in deposit of Government money ranged between 26 and 99 days. The department, however, did not exercise the prescribed checks and ensure that Government receipts collected during the day were promptly deposited in the treasury latest by the morning of the next working day. This resulted in temporary misappropriation of Government money of Rs. 20.91 lakh.

After the case was pointed out in November 2008, the Additional Commissioner Transport, Shimla intimated in August 2009 that the official had been placed under suspension by the Deputy Commissioner, Shimla and that the case had also been entrusted to the vigilance department for detailed investigation. Further reply has not been received (September 2009).

The matter was reported to the Government in December 2008; their reply has not been received (September 2009).

CHAPTER-V: FOREST RECEIPTS

5.1 Results of audit

Test check of the records of forest receipts, conducted during the year 2008-09, revealed non/short recovery of royalty, non-levy of interest/extension fee and other irregularities amounting to Rs. 105.83 crore in 165 cases, which fall under the following categories:

(Rupees in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Non/short recovery of royalty	20	2.25
2.	Non-levy of interest	25	2.02
3.	Non-levy of extension fee	07	0.03
4.	Other irregularities	113	101.53
Total		165	105.83

During 2008-09, the department accepted under assessments of Rs. 24.86 crore involved in 120 cases which had been pointed out in audit in the earlier years.

A few illustrative audit observations involving Rs. 5.13 crore are mentioned in the succeeding paragraphs.

5.2 Audit observations

Scrutiny of records in the offices of forest department relating to revenue received revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty/interest and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

5.3 Non-observance of instructions of the Government

The instructions issued under Indian Forest Act, 1927 by the Government/department provide for:

- (i) recovery of cost of trees standing on forest land allotted to user agencies;*
- (ii) charging of market value of all trees including sapling;*
- (iii) marking of trees falling on road alignment;*
- (iv) joint inspection for disposal of unfit trees and rebate of royalty thereof;*
- (v) payment of interest for delay in payment of royalty by HPSFC;*
- (vi) levy of royalty on volume factor of the trees and faction on Grade IA and ID of trees of deodar was to be applied to kail species;*
- (vii) for tapping of resin from the trees of a prescribed diameter and height;*
- (viii) district forest officers to compound the cases at the rates prescribed from time to time;*
- (ix) firm to refill the pits made during digging of stumps failing which the firms was required to bear the cost of refilling.*

Non-compliance to the instruction in some cases as mentioned in the following paragraphs 5.3.1 to 5.3.9 resulted in non-realisation of Government revenue of Rs. 5.09 crore.

5.3.1 Non/short recovery of revenue

The standing trees coming in the alignment of a project are marked and handed over to the Himachal Pradesh State Forest Corporation (HPSFC) for exploitation. The cost of trees are, however, recovered from the user agency in whose favour the Government of India had accorded its approval for transfer of the forest land. The State Government had fixed the market rates of green standing trees of various species for the year 1992-93 on 15 May 1993. Thereafter, the rates were charged after taking 10 per cent increase each year over the market rates of 1992-93. This practice was prevailing in the department until the Government revised the market rates in December 2006

and authorised the Principal Chief Conservator of Forests (PCCF) to fix the market rates till next five years.

Test check of the records between May 2008 and March 2009 revealed that in three Divisional Forest Officers¹ (DFOs), Rs. 1.06 crore being the cost of 4,015 trees having standing volume of 669.574 cu.m was not claimed by the divisions nor was it paid by the user agencies. As a result, revenue to that extent was not recovered. Further, in five other DFOs², the cost of 4,314 trees having standing volume of 5,471.007 cu.m was charged between 1999-2000 and 2005-06 without taking into consideration the increase of 10 *per cent* each year. This resulted in short realisation of revenue of Rs. 1.09 crore.

Thus, total non/short recovery worked out to Rs. 2.15 crore including sales tax/value added tax (VAT).

The matter was reported to the department and the Government between June 2008 and April 2009; their reply has not been received (September 2009).

5.3.2 Non-levy of interest on delayed payment of royalty

The HPSFC is entrusted with the responsibility of exploitation of all forest lots and is required to deposit instalments of royalty of forest lots by due dates, as fixed by the State Government. In case royalty is not paid within 90 days after the due date, interest at the rate of 11.5 *per cent* and nine *per cent* per annum is chargeable with effect from Ist April 2001 and Ist April 2004 respectively. However, as per the decision of the Pricing Committee dated August 2008, no interest was to be charged from the HPSFC for one year on all pending payments as on 29 May 2007.

Test check of the records of six DFOs³, between May 2008 and December 2008, revealed that 53 lots were handed over to the HPSFC for exploitation during the year 2001-02, 2002-03, 2005-06 and 2006-07. Royalty of Rs. 3.28 crore payable between March 2003 and November 2006, was, however, paid late between June 2007 and June 2008. The delay in payment of royalty ranged between 180 and 1,539 days, after excluding the exemption period of one year i.e. 29-05-2007 to 28-05-2008. Interest of Rs. 98.97 lakh though leviable was not levied by the department for belated deposit of royalty.

The cases were reported to the department and the Government between June 2008 and February 2009; their reply has not been received (September 2009).

5.3.3 Short charging of cost of saplings

PCCF in his letter of September 1991 directed all DFOs to charge market value of all trees including saplings from the project authorities/user agencies. For working out cost, each sapling was to be treated as a Vth⁴ class tree.

¹ Dharamsala: 418 trees: 96.370 cu.m: Rs. 10.89 lakh; Nachan: 3,397 trees: 460.521 cu.m: Rs. 82.98 lakh and Palampur: 200 trees: 112.683 cu.m: Rs. 12.33 lakh

² Chamba: 146 trees: 89.497 cu.m: Rs. 8.43 lakh; Churah: 240 trees: 192.33 cu.m: Rs. 2.82 lakh; Kinnaur: 543 trees: 1,295.13 cu.m: Rs. 29.82 lakh; Seraj: 1,313 trees: 1,382.56 cu.m: Rs. 18.56 lakh and Rohru: 2,072 trees: 2,511.49 cu.m: Rs. 49.48 lakh

³ Ani, Bharmour, Chamba, Kotgarh, Kullu and Recong Peo

⁴ Trees with dia at breast height of 10 to 20 cm

Test check of the records of two DFOs, between June and September 2008, revealed that 14,002 saplings having standing volume of 840.12 cu.m were handed over to two national projects. These were required to be treated as Vth class trees and cost thereof was to be recovered at the rates prescribed by the Government from time to time. However, these saplings were charged at the rate of Rs. 100/215 per sapling which was much less than the prescribed rate. This resulted in short realisation of Rs. 62.51 lakh (including sales tax/VAT) as per details given below:

(Rupees in lakh)

Name of division	Saplings		Rate leviable per cu.m (Rs.)	Total amount	Amount levied @ Rs. 100/215 per sapling	Amount levied short	Sales tax/VAT	Amount realised short
	Specie	No cu.m						
Seraj at Banjar	Deo	858 51.48	24,762	12.75	0.86	11.89	3.57	15.46
	Kail	1,019 61.14	21,969	13.43	1.02	12.41	3.72	16.13
	Chil	4,600 276	9,023	24.90	4.60	20.30	6.09	26.39
Solan	Kokat	7,525 451.50	4,476	20.21	16.18	4.03	0.50	4.53
	Total	14,002 840.12 cu.m	-	71.29	22.66	48.63	13.88	62.51

The matter was reported to the department and the Government between July and October 2008; their reply has not been received (September 2009).

5.3.4 Loss of revenue due to administrative failure

As per departmental instructions of May 1995, trees coming in any road alignment are required to be marked in lots before handing over to HPSFC for exploitation. Further, instructions issued by PCCF in July 1993 and reiterated in July 2004 provided that Range Officer (RO) must make it a point to check minimum of 25 per cent, Assistant Conservator of Forests (ACF) 15 per cent, DFO 10 per cent and the Conservator of Forests (CF) two per cent of markings of trees before these are handed over to the HPSFC.

Test check of the records of DFO Ani in August 2008 revealed that as per the enumeration list prepared in July 2004, 241 trees were coming in road alignment of Gugra-Kutwa road. The DFO ordered in June 2007 for inspection and verification of facts. The RO confirmed the details of 231 trees in the marking list. There was overall difference of 10 trees, between the two lists prepared by Forest and Public Works Departments jointly. Audit analysis of two lists revealed that there was difference of 57 trees of high market value species as under:

Detailed in enumeration list as on July 2004			Detailed in marking list as on July 2007		Variation	
Species	No.	Volume (in cu.m)	No.	Volume (in cu.m)	No.	Volume (in cu.m)
Deodar	185	371.82	151	229.68	(-)34	(-) 142.14
Kail	25	44.15	13	24.90	(-)12	(-) 19.25
Chil	16	17.53	40	32.35	24	14.82
Khanor	2	17.60	0	0	(-) 2	(-) 17.60
Walnut	0	0	1	0.20	1	0.20
Ban	0	0	5	17.578	5	17.578
Brass	4	2.40	7	5.384	3	2.984
Ailanthus	9	8.888	0	0	(-) 9	(-) 8.888
OBL	0	0	14	7.883	14	7.883
Total	241	462.388	231	317.975	(-) 57	(-) 187.878

Audit observed that 57 trees of *deodar*, *kail* and OBL having market value of Rs. 55.11 lakh enumerated earlier were excluded from the marking list handed over to the HPSFC for exploitation. The removal of 57 trees of high market value and addition of 47 trees of low market value resulted in loss of Rs. 61.84 lakh including VAT of Rs. 6.87 lakh during the year 2007-08. Audit observed that if prescribed checking of marking was carried out by the concerned ACF/DFO/CF as required, the pilferage could have been avoided.

The matter was reported to the department and the Government in September 2008; their reply has not been received (September 2009).

5.3.5 Short realisation of royalty due to application of incorrect volume factor

Royalty is payable on the standing volume of trees determined on the basis of volume factor fixed by the Forest Department in the approved working plan. As per the working plan of Bharmour forest division prepared for the years 2002-03 to 2016-17 and made applicable from 2004-05 to 2018-19, volume factor prescribed for IA to ID⁵ class of trees of *deodar* specie was to be applied for *kail* specie.

5.3.5.1 Test check of the records of DFO Bharmour in December 2008 revealed that the volume factor for IA to ID class of 619 *kail* trees in 15 lots⁶ handed over to the HPSFC for exploitation during the year 2007-09 was taken as 3.89 cu.m per tree against the applicable volume factor of *deodar* prescribed⁷ in the working plan. The standing volume of these trees aggregated to 2,865.45 cu.m against which the division claimed 2,407.91 cu.m of volume. Application of incorrect volume factor resulted in short claiming of standing volume of 457.54 cu.m in respect of *kail* trees involving Rs. 12.29 lakh on account of royalty at the rate of Rs. 2,388 per cu.m including VAT.

5.3.5.2 As per the revised working plan for Shimla and Theog forest divisions for the year 1996-2011, the volume factor of ID class of *deodar* trees was fixed as 7.882 cu.m per tree.

⁵ It is classification of a tree according to the diameter

⁶ 2007-09: 15 lots: 15 December 2006

⁷ 1A: 4.11 cu.m; 1B: 5.38 cu.m; 1C: 6.80 cu.m and 1D: 8.50 cu.m

In Theog forest division, it was noticed in May 2008 that while handing over lot no. 7/2007-08 to the HPSFC, the division had incorrectly calculated the standing volume of four *deodar* trees of ID class as 7.882 cu.m instead of 31.528 cu.m. Thus, volume of 23.646 cu.m of three *deodar* trees was claimed short from the HPSFC. This resulted in short realisation of royalty of Rs. 1.15 lakh at the rate of Rs. 4,315 per cu.m including VAT.

The matter was reported to the department and the Government between June 2008 and January 2009; their reply has not been received (September 2009).

5.3.6 Irregular grant of rebate in royalty

The Pricing Committee prescribed certain conditions for grant of concessional rate of royalty for trees declared unfit after being marked for exploitation. For this purpose if the volume of rotten (unfit) trees is more than five *percent* of the total marked volume, a joint inspection is required to be conducted by Sub Divisional Manager (SDM) and ACF within a period of two months after felling of trees. These officers would certify that unfit trees would not yield any sound log/pole of specified size. These were required to be deleted from the marking lists and no royalty was to be paid for the same. The PCCF also clarified in September 2004 that it should be certified in the joint inspection that a tree cannot yield one sound pole/log of specified size and no tree be shown as unfit in the marking list/abstract which is to be determined after felling.

Test check of the records of three DFOs⁸, between January and February 2009, revealed that 28 lots having standing volume of 5,898.33 cu.m and containing trees of *deodar*, *fir*, *chil* and broad leaved species were handed over to the HPSFC for exploitation during 2006-07 and 2007-08. Of these, in two divisions⁹, though joint inspections of 285 trees of six lots having standing volume of 1,139.80 cu.m were conducted, but in the inspection reports, it was not certified that the tree did not yield any sound log/pole of specified size. In one division¹⁰, 341 trees of 22 lots having standing volume of 351.30 cu.m were shown unfit in marking lists without joint inspection which was to be done within two months after felling and for which the HPSFC paid royalty of Rs. 14,000 instead of Rs. 1.51 lakh. Therefore, rebate in royalty amounting to Rs. 10.57 lakh including VAT of Rs. 1.17 lakh allowed by the divisions, was irregular.

The cases were reported to the department and the Government between February and March 2009; their reply has not been received (September 2009).

5.3.7 Loss of revenue due to non-tapping of resin blazes

As per the instructions dated 24 September 2001 of the PCCF, the minimum diameter for resin tapping was raised to 35 cm dia breast height (dbh) from 30 cm dbh, applicable from 2002 resin tapping season, in respect of trees to be tapped for the first time. However, for the old lots which were already under tapping or trees which had been tapped earlier but left out for enumeration and could be tapped now, the tappable diameter would continue to be 30 cm dbh.

⁸ Dalhousie, Dehra and Nurpur

⁹ Dalhousie and Dehra (Marked volume : 3,208.929 cu.m)

¹⁰ Nurpur (Marked volume : 2,689.40 cu.m)

Further, according to the instructions issued in May 2000, prior approval of the CF was required to be obtained well before the commencement of the tapping season for deletion of blazes.

Test check of the records of six DFOs, between June 2008 and February 2009, revealed that 1,11,665 *chil* trees having diameter of 35 cm and above were not handed over to the HPSFC for resin tapping for the tapping season between 2007 and 2008 as per details given below:

(Rupees in lakh)

Sr. No.	Name of division	No. of <i>chil</i> trees (resin blazes)	Nature of irregularity	Amount of royalty involved
1.	Churah Dalhousie Parvati Rajgarh	44,902 16,562 17,300 <u>5,539</u> <u>84,303</u>	84,303 <i>chil</i> trees were neither handed over to the HPSFC for tapping nor approval of CF for deletion of the blazes from lots were obtained. Further, in Churah division, DFO had directed (August 2007) ROs, Chakoli and Bhalei to enumerate <i>chil</i> trees for the tapping season 2008. However, this was not done.	22.93 ¹¹
2.	Mandi	16,612	Lot No. 17/2008 containing 16,612 resin blazes were handed over to the HPSFC in March 2008 for tapping but the HPSFC requested the DFO to take back the lot as it was not possible for them to work on the lot at the belated stage. Accordingly, DFO deleted the blazes from the enumeration list without seeking approval of CF.	4.98
3.	Nalagarh	10,750	Approval of CF for deletion of resin blazes though sought for in April 2008 but was not accorded. Hence, deletion of blazes without approval was irregular. These were required to be tapped which was not done.	3.23
Total		1,11,665		31.14

Thus, non-enumeration/deletion of blazes without approval of the CFs had deprived the Government of revenue of Rs. 31.14 lakh on account of royalty. The matter was reported to the department and the Government between July 2008 and March 2009; their reply has not been received (September 2009).

5.3.8 Under assessment of compensation

In accordance with section 68 of the Indian Forest Act, 1927, DFO Bilaspur fixed (May 2007) the rates of compensation for compounding of various forest offences in the division. The rate of compensation for unauthorised muck dumping/excavation of material etc. on forest land was Rs. 75 per cu.m. However, for second and subsequent offence during the calendar year, double rate was to be charged.

¹¹ Churah: Rs. 12.11 lakh; Dalhousie: Rs. 4.97 lakh; Parvati: Rs. 4.58 lakh and Rajgarh: Rs. 1.27 lakh

Test check of the records of DFO Bilaspur in December 2008 revealed that Power Grid Corporation (PGC) had committed three forest offences of unauthorised excavation/dumping of soil between October and December 2007. Scrutiny revealed that the offences committed by the PGC during November and December 2007 were second and subsequent offence, for which double the rate of compensation was chargeable. The PGC was liable to pay Rs. 5.51 lakh on account of compensation against which the division recovered only Rs. 2.76 lakh resulting in short realisation of revenue of Rs. 2.75 lakh.

The matter was reported to the department and the Government in January 2009; their reply has not been received (September 2009).

5.3.9 Non-realisation of revenue due to cases becoming time barred

As per the Criminal Procedure Code, no court shall take cognizance of forest offence cases after the expiry of the period of limitation. The period of limitation ranges from six months to three years and is determined with reference to the offence committed. As per the departmental instructions of February 1985, the DFOs were required to ensure that no case became time barred for issuing challan and were required to take prompt action for disposal of the forest offence cases, as delay in taking action could result in acquittals of offenders in courts and compounding of offence cases also would become difficult.

Test check of the records of DFO Theog in May 2008 revealed that seven damage reports involving 38 trees of *deodar* and *kail* species having standing volume of 41.481 cu.m, were issued during 2003-04 and 2004-05, against offenders for illicit felling of trees. The department neither compounded these cases nor took them to the court of law within the prescribed period. Thus, inaction on the part of the department resulted in non-realisation of revenue of Rs. 13.05 lakh.

The cases were reported to the department and the Government in June 2008; their reply has not been received (September 2009).

5.4 Non-recovery of cost of filling pits and plantation

As per the Agreement deed executed by the Government with a firm was required to refill the pits made during digging of stumps failing which the firm was required to bear the cost of refilling.

The DFO Karsog did not recover the cost of refilling of pits mentioned in the following paragraph.

Under clause 22 of agreement deed executed (May 1997) between the State Government and a firm¹² for the supply of *deodar* stumps for extraction of *deodar* oil, the firm was required to refill the pits made during digging of stumps, consolidate the surface to natural slope and to do plantation at its own cost. If the firm fails to fill up the pits within 30 days of its digging, the DFO has the right to refill the pits departmentally at the cost not exceeding Rs. 40 per

¹² M/s Valley Extraction Pvt. Ltd.

pit to be borne by the firm. Besides, the cost of plants was also recoverable at the rate of rupees seven per plant from the firm.

Test check of the records of DFO Karsog in August 2008 revealed that 9,345 *deodar* stumps were handed over to the firm between January 2005 and May 2007. As per the agreement deed, the firm was required to refill 9,345 pits besides undertaking plantation on them. However, the firm did not fulfill the terms of the agreement and the department had to refill the pits and to carry out the plantation on its own. The cost of refilling pits and plantation worked out to Rs. 3.83 lakh and was not recovered from the firm leading to a loss of revenue to that extent.

The matter was reported to the department and the Government in September 2008; their reply has not been received (September 2009).

CHAPTER-VI: OTHER TAX AND NON-TAX RECEIPTS

6.1 Results of audit

Test check of the records of Irrigation cum public health, revenue, industries, public works departments conducted during the year 2008-09, revealed non/short recovery of water and *abiana* charges, incorrect determination of market value of property/exemption on housing loan, non/short levy of stamp duty and registration fee, non/short realisation of royalty, dead rent etc., non deposit of tax deducted from the contractor's bills and other irregularities amounting to Rs. 72.37 crore in 363 cases, which broadly fall under the following categories:

(Rupees in crore)

Sr. No.	Particulars	Number of cases	Amount
1.	Assessment and collection of water charges including <i>abiana</i> charges (a review)	01	23.23
2.	Non/short recovery of water and <i>abiana</i> charges	46	27.85
3.	Incorrect determination of market value of property/exemption on housing loan	113	2.58
4.	Non/short levy of stamp duty and registration fee	17	0.33
5.	Non/short realisation of royalty, dead rent etc.	14	0.45
6.	Non-deposit of tax deducted from the contractor's bills	04	0.36
7.	Other irregularities	168	17.57
Total		363	72.37

During 2008-09, the departments accepted under assessments of Rs. 7.28 crore involved in 149 cases which had been pointed out in audit in earlier years.

After issue of audit observation stating that water charges of Rs. 9.95 lakh collected by the water works clerks between February 2003 and November 2008 were neither accounted for in the cash book nor deposited in Government account, the department intimated that Rs. 9.95 lakh had been recovered upto April 2009.

A few illustrative audit observations involving Rs. 104.78 crore and a review of **Assessment and collection of water charges including *abiana* charges** involving Rs. 23.23 crore are mentioned in the succeeding paragraphs.

A. IRRIGATION CUM PUBLIC HEALTH DEPARTMENT

6.2 Review of “Assessment and collection of water charges including *abiana*¹ charges”

6.2.1 Highlights

- Against Rs. 74.61 crore due for assessment on account of water charges, the department assessed Rs. 72.87 crore only resulting in short assessment of Rs. 1.74 crore during the years 2003-04 to 2007-08.

(Paragraph 6.2.9.1)

- Non-installation of meters and levy of water charges at flat rates the Government suffered a revenue loss of Rs. 4.73 crore (calculated on average basis) in 35,847 cases during 2005-06 to 2007-08 in 27 sub divisions.

(Paragraph 6.2.15.2)

- Non-levy of surcharge on delayed payments of water charges for bulk supply of water to the committees/municipal corporation resulted in loss of revenue of Rs. 4.03 crore during 2003-04 to 2007-08.

(Paragraph 6.2.20)

6.2.2 Introduction

The Irrigation cum Public Health (IPH) Department is responsible for supply of drinking water to the public in rural and urban areas and water to farmers of the State for irrigation purposes. The assessment and collection of water charges (WC) for drinking water supplied to a consumer is governed by the Himachal Pradesh Water Supply (HPWS) Act, 1968 read with HPWS Rules, 1989. The Act provides that the State Government shall levy WC for water supplied to a consumer at the rates as may be specified by the Government from time to time. The water rate levied shall, if not paid when due, be recovered as if it was an arrear of land revenue.

The supply of drinking water has been categorised in three sectors. “Rural Water Supply Sector”, “Urban Water Supply Sector” (areas falling in Nagar Panchayats and Municipal Committees except Solan, Palampur and Municipal Corporation (MC) Shimla) and bulk supply sector (Solan, Palampur and MC Shimla). Domestic consumers in the rural water supply sector are charged at flat rates whereas urban water supply sector are charged on the basis of meters. In both sectors different rates have been prescribed for commercial consumers. The WC are recovered from bulk users at prescribed rates.

The Himachal Pradesh Minor Canals (HPMC) Act, 1976 read with HPMC Rules, 1977 provide that the Government may supply water of a canal to

¹ Means canal water charges levied for water supplied for irrigation

farmers for the purpose of irrigation at rates to be determined from time to time based on the class of crop, area irrigated and the mode of supply (lift or flow).

6.2.3 Organisational set up

Principal Secretary (IPH) is the administrative head while Engineer-in-chief is the head of department (HOD), who is assisted by four Chief Engineers (CE). To exercise effective control over the assessment and collection of WC and *abiana* charges, the State has been divided into 13 circles each headed by a Superintending Engineer (SE) which are further divided into 52 Divisions each headed by an Executive Engineer/Divisional Officer (EE/DO). The EE/DO are assisted by 188 Assistant Engineers/Sub Divisional Officers (AEs/SDOs), Sub divisional clerks and water work clerks (WWC) for assessment and collection of WC.

Audit reviewed the system of assessment and collection of WC including *abiana* charges and noticed a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

6.2.4 Scope of audit and methodology

The review of the system of assessment and collection of WC and *abiana* charges for the period 2003-04 to 2007-08, was conducted in the offices of Engineer-in-chief and 22 IPH Divisions² out of 52 Divisions, between July 2008 and March 2009. Besides, the records relating to bulk supply of water made by IPH Division No. II, Shimla to MC Shimla were also test checked. Records relating to levy, assessment and collection of *abiana* was checked in five Divisions³ containing 20 sub-divisions.

6.2.5 Audit objectives

The review was conducted with a view to assess the:

- budgeting and accounting of the WC and *abiana* charges;
- efficiency and effectiveness of the system of assessment, levy and collection of WC and *abiana* charges; and
- internal control mechanism that existed to monitor proper realisation of WC and *abiana* charges.

6.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the IPH Department in providing necessary information and records for audit. An entry conference was held in June 2008 with the Engineer-in-chief (IPH) and the scope and the methodology for conducting the review were discussed.

² South Zone: Arki, Nalagarh and Solan
Central Zone: Baggi, Barsar, Bilaspur, Ghumarwin, Hamirpur, No. I Kullu, No. II Kullu, Mandi, Padhar, Sundernagar and Sarkaghat
North Zone: Dehra, Dharamsala, Jawali, Palampur, Shahpur, Thural, No. I Una and No. II Una

³ Dehra, Jawali, Nalagarh, No. I Una and No. II Una

The individual objections noticed during review were also discussed with the respective EEs in charge of the Division. The draft review report was forwarded to the department and the Government in May 2009 and was discussed in the exit conference held in July 2009. The Special Secretary (IPH) represented the Government while the Engineer-in-chief represented the department. Views of the Government (July 2009) have been incorporated in the relevant paragraphs.

Audit findings

System deficiencies

6.2.7 Framing of budget estimates

Provisions of Himachal Pradesh Budget Manual (HPBM) lay down that the actuals of previous years and the revised estimates should be taken as the best guide in framing the budget estimates (BEs) and a continuance of any growth or decline in income indicated by them, may, in the absence of definite reasons to the contrary, properly be assumed in all cases in which the proportionate estimates can be usefully employed. Provisions also suggest that special attention should be paid to new source of revenue of which account has not been taken in previous years. The reasons which led to the adoption of the figures for the BEs should be briefly and clearly explained.

Water charges

(Rupees in crore)

Year	BEs	Actual receipts as per finance account	Variation with reference to finance account (col. 3-2)	Total connections available in 23 divisions test checked	WC due on account of connections of 23 divisions	Variations (+) increase (-) decrease (col 6 –col 3)
1	2	3	4	5	6	7
2003-04	8.23	7.83	(-) 0.40	2,58,690	9.36	(-) 1.53
2004-05	6.80	7.78	(+) 0.98	2,77,822	9.65	(-) 1.87
2005-06	8.09	10.51	(+) 2.42	2,93,130	15.13	(-) 4.62
2006-07	13.79	9.96	(-) 3.83	3,15,145	18.92	(-) 8.96
2007-08	14.86	11.35	(-) 3.51	3,37,997	21.55	(-) 10.20
Total	51.77	47.43	(-) 4.34	--	74.61	(-) 27.18

A comparison of the BEs and actual receipts of WC credited to major head "0215 water supply and sanitation" during the years 2003-04 to 2007-08 revealed that budget exercise is arbitrary and not as per HPBM provisions. Neither are the estimates based on actual collection nor on the amount actually due. In fact the amount due was far more than the BEs as can be seen from the fact that amount due in 23 Divisions test checked is more than the BEs prepared by the State as a whole. If the data of all 52 Divisions are taken into account, the figures of WC due would be on much higher side.

The Government while admitting the facts that BEs were not being framed on the basis of actual connections and bulk supply of water, stated (July 2009) that instructions would be issued to field units to prepare the BEs in future after taking into account this aspect.

Abiana charges

Budget preparation exercise in respect of *abiana* charges was also arbitrary as can be seen from the variation between BEs and the actual receipts of *abiana* credited to major head "0702 minor irrigation" and shown in the table below:

(Rupees in lakh)

Year	BEs	Actual receipts as per finance account	Variation with reference to finance account	Variation (per cent)
1	2	3	4	5
2003-04	30.30	24.14	(-) 6.16	(-) 20
2004-05	31.82	36.44	(+) 4.62	(+) 15
2005-06	37.70	54.11	(+) 16.41	(+) 44
2006-07	42.45	48.03	(+) 5.58	(-) 13
2007-08	75.30	45.48	(-) 29.82	(-) 40
Total	217.57	208.20	(-) 9.37	-

6.2.8 Assessment of dues

The budgeting exercise can be a meaningful one only if the department has a proper system of accounting total dues recoverable from the consumers.

As per information furnished to Audit, Rs. 47.22 crore were pending collection as on 31.03.2008 as shown below:

(Rupees in crore)

Year	Opening balance as on 1 st April	Demand raised	Total amount	Amount realised during the year	Closing balance as on 31 st March
2003-04	22.49	11.30	33.79	24.08	9.71
2004-05	9.71	11.49	21.20	7.29	13.91
2005-06	13.91	17.47	31.38	8.71	22.67
2006-07	22.67	21.27	43.94	9.77	34.17
2007-08	34.17	24.63	58.80	11.58	47.22
Total	-	86.16	-	61.43	-

Audit however, found that the figures are incorrect and unreliable. This is clear from the fact that the Finance Accounts figures of actual collection shown in the table under para 6.2.7 are at variance to the figures of realised amount shown in the departmental records/return. Over the five years period, Finance Accounts showed Rs. 47.43 crore as realised whereas the departmental figures shows Rs. 61.43 crore.

In a similar manner the figures relating to WC due are also completely unreliable. While the HOD intimated in July 2008 that arrears of Rs. 47.22 crore are pending collection as on 31.03.2008 for the State as a whole, figures obtained by Audit from the Divisional level indicated a completely different picture. The information provided by the Divisional authorities in respect of 23 test checked Divisions, revealed that arrears pending as on 31.03.2008 amounted to Rs. 47.30 crore which is more than the entire State figures that the HOD has with him from just 23 out of the 52 Divisions test checked. Yearwise position in respect of these divisions is mentioned below:

(Rupees in crore)

Year	Opening balance as on 1 st April	Demand raised by department	Total amount	Amount realised during the year	Closing balance as on 31 st March
2003-04	5.48	9.03	14.51	5.35	9.16
2004-05	9.16	9.69	18.85	5.10	13.75
2005-06	13.75	15.01	28.76	6.00	22.76
2006-07	22.76	18.19	40.95	6.74	34.21
2007-08	34.21	20.95	55.16	7.86	47.30
Total	-	72.87	-	31.05	-

In this context it may be mentioned that a “quarterly progress report” (QPR) of revenue has been prescribed by the department to be sent by each Division to the HOD showing details of opening balance, WC and *abiana* due during the quarter, total due for collection, amount collected and balance amount outstanding at the end of the quarter.

Test check of the records revealed that no detailed scrutiny such as correctness of assessment, recovery etc. could be made at apex level as essential details/information like total number of users of water, new connection allotted, new meters installed and assessment made were not available in the QPR.

It can be inferred that the QPR were not scrutinised at any level resulting in non-detection of the mistakes mentioned in the succeeding paragraphs. Thus there is no monitoring system in the department to compile, check and verify the details of QPR, which will show correctness of arrears.

The Government stated (July 2009) that this issue would be reviewed and suitable action taken accordingly.

6.2.9 Short assessment of water charges

6.2.9.1 Test check of the consumer’s ledgers of the 23 Divisions by Audit revealed that during the years 2003-04 to 2007-08, Rs. 74.61 crore (table under para 6.2.7) was due for assessment on account of WC. Against this, the department assessed Rs. 72.87 crore (table under para 6.2.8) resulting in short assessment of WC amounting to Rs. 1.74 crore.

After this was pointed out (March-April 2009) in audit, EEs stated that due to shortage of staff WC were not assessed timely at sub-division level.

6.2.9.2 Test check of the records (bill register) revealed that an amount of Rs. 49,000 on account of surcharge to be payable by municipal committee Solan for the period December 2003 and January 2004 was not included in the total of outstanding WC. This resulted in understating of arrears to that extent.

Reasons for non-inclusion of the surcharge in outstanding WC though called for from Solan Division in May 2009, were not received (September 2009).

The Government stated (July 2009) that reply would be sent on receipt of the same from concerned Divisions. Further report on recovery was awaited (September 2009).

6.2.10 Non-assessment and collection of *abiana* charges

The *abiana* charges are to be assessed on the basis of *Jamabandi*⁴ /*Girdawari*⁵ prepared by the *Patwari*. The *Khataunies*⁶ are required to be prepared and submitted to *Ziladar*⁷ for approval. After the approval of *khataunies*, *naksha 33-C*⁸ are to be sent to revenue department for collection.

Audit observed that no time period has been framed for preparation of *khataunies* to assess and collect the *abiana* charges.

Based on scrutiny of records and information supplied by 20 sub divisions⁹, it was noticed that *abiana* charges amounting to Rs. 32.28 lakh were due for assessment and collection from the farmers as on 31.03.2008. The department however, assessed *abiana* charges of Rs. 7.49 lakh only against which Rs. 3.19 lakh was collected as detailed below:

(Rupees in lakh)

Year	LIS and FIS existed as on 31st March	Irrigated area (acre)	Abiana charges		
			Due	Assessed	Collected
2003-04	466	39,620	4.45	2.30	0.79
2004-05	475	44,216	4.89	1.97	0.40
2005-06	489	47,086	6.90	1.24	0.81
2006-07	511	46,521	7.58	1.21	0.66
2007-08	527	47,267	8.46	0.77	0.53
Total	527	2,24,710¹⁰	32.28	7.49	3.19

Audit observed that in four sub divisions¹¹ of Nalagarh Division, no *abiana* charges were assessed after 1993-94. However, on the basis of irrigated area, *abiana* charges of Rs. 12.03 lakh were due in these sub divisions during 2003-04 to 2007-08. While sub division Haroli under Division No. I Una had prepared *Khataunies* for Rs. 4.89 lakh and sent for approval of the *Ziladar*, the same was not received by the Division till date. In 15 sub divisions as per crop wise irrigated area, *abiana* charges of Rs. 15.36 lakh were due from the farmers for the period 2003-04 to 2007-08. Of these, *Khataunies* for Rs. 7.87 lakh was not prepared and assessment for Rs. 7.49 lakh was approved.

After this was pointed out (March 2009) in audit, EE Nalagarh Division stated (March 2009) that no *abiana* charges had been assessed after 1993-94 as no regular *patwari* had been provided. The other EEs stated (March-April 2009) that due to shortage of staff, this could not be assessed and collected.

⁴ Statement of land holdings of owners

⁵ Details of standing crops

⁶ Land holding slip in prescribed proforma

⁷ Tehsildar/Naib Tehsildar posted in circle

⁸ Statement showing scheme wise total irrigated area and *abiana* charges due for collection

⁹ Baddi, Bangana, Bharwain, Dadasiba, Dehra, Fatehpur, Gagret, Haripur, Haroli, Jawali, Khundian, Mehatpur, Nagrota Surian, Nalagarh, (Tubewell) Nalagarh, Ramshahar, Santokhgarh, Sunhet, No. I Una and No. II Una

¹⁰ Kharif: 43,625 acre and Rabi:1,81,085 acre

¹¹ Baddi, Nalagarh, (Tubewell) Nalagarh and Ramshahar

Absence of a time period for assessment and collection of *abiana* charges resulted in non-assessment/realisation of Government dues of Rs. 24.79 lakh for the use of water.

The Government while admitting the facts stated (July 2009) that due to shortage of staff particularly *patwari*, work for proper assessment/realisation was hampered. However, efforts were being made to assess/collect *abiana* charges.

6.2.11 Non-recovery of *abiana* charges

Under section 62 of HPMC Act, all charges of *abiana* due, if not paid, is recoverable as if the same were arrears of land revenue (ALR). The Act is silent about prescribing any time limit during which period the cases are to be referred as ALR.

The yearwise position of recovery of *abiana* charges in the State as a whole, for the years 2003-04 to 2007-08, as furnished by the department, was as under:

(Rupees in lakh)

Year	Opening balance as on 1st April	Demand raised	Total amount	Realisation during the year	Closing balance as on 31 st March
1	2	3	4	5	6
2003-04	75.89	11.51	87.40	5.01	82.39
2004-05	82.39	12.50	94.89	10.50	84.39
2005-06	84.39	12.18	96.57	5.16	91.41
2006-07	91.41	11.22	102.63	8.03	94.60
2007-08	94.60	12.25	106.85	8.88	97.97
Total	-	59.66	-	37.58	-

It was seen from the above that the realisation of *abiana* charges during the year 2003-04 to 2007-08 was less than the demand raised resulting in accumulation of *abiana* charges to the tune of Rs. 97.97 lakh as on 31.03.2008. No case has been referred for recovery as ALR as prescribed in the Act.

The Government while confirming the facts stated (July 2009) that matter would be taken up with the Divisions for recovery of *abiana* charges.

6.2.12 Non-defining of commercial connections

The IPH Minister in its meeting held in July 2006, directed that commercial establishments should ensure that they have water meter connection and non-compliance thereof would attract disconnection. The Engineer-in-Chief (IPH) vide letter dated 12.7.2006 directed all CEs/SEs/EEs that all commercial establishments in rural and urban areas should be metered by 31.7.2006.

Audit scrutiny revealed that commercial establishment has not been defined in the Act/Rules. In the absence of clear definition of commercial establishment in the Act/Rules, Audit could not ascertain whether all commercial establishments were provided with a meter or not and whether there was any revenue loss.

The Government while admitting the facts stated (July 2009) that commercial activities would be defined and got approved. Further report on recovery was awaited (September 2009).

6.2.13 Non-maintenance of records of public taps

Test check of the records in 16 sub divisions¹² revealed that public taps were installed in the rural sector on the basis of public demand and recommendation of Gram Panchayat. Neither any record of installation (except estimate of public taps) were maintained at any level nor any proforma had been prescribed to update the record of public taps.

In the absence of necessary details/records, justification for installation and utilisation of public taps could not be verified in Audit.

The Government stated (July 2009) that public taps were installed as per provisions in WSS Scheme and no separate records were maintained by field staff. However, necessary instructions would be issued to field units for maintaining division wise records of public taps and submission of its status to higher authorities.

Internal control mechanism

6.2.14 Internal audit

An independent and effective internal audit (IA) under the control of the HOD is essential for ensuring compliance with rules and procedures, prompt assessment and collection of receipts on account of WC and *abiana* charges, proper accounting thereof as well as monitoring the overall functioning of the department.

No IA system existed in the department. In the absence of IA, the department had no means of knowing the areas of malfunctioning of system in assessment and collection of WC and *abiana* charges.

The Government stated (July 2009) that no IA system existed in the department. However, annual inspection of sub divisions/Divisions was being conducted by the departmental officers. The reply is not satisfactory since annual inspection can not replace the IA system which has wider scope of scrutiny.

Compliance deficiencies

6.2.15 Non-installation of meters for water supply

HPWS Rules provide that for supply of water in urban areas, private connections may be given by the authorised officer not below the rank of SE, after installation of meters. The State Government further notified in February 2001 that meters shall be installed and maintained by the consumers to the satisfaction of the department.

The Government in February 2001 prescribed different water rates for supply of water in Rural/Urban areas. The rates were to be based on meter in respect of urban area and flat rates for rural area. In June 2005, the Government revised the rates. As per these orders, the metered rates for urban areas were enhanced to the extent of double and instructions were issued for allotting metered connections for all private users.

¹² Bangana, Bharwain, Dadasiba, Dehra, Fatehpur, Gagret, Haripur, Haroli, Jawali, Khundian, Mehatpur, Nagrota Surian, Santokhgarh, Sunhet, No. I Una and No. II Una

6.2.15.1 Test check of the records of 29 sub divisions¹³ revealed that 52,413 connections were provided in the urban area as on 31.3.2008, of which only 17,624 meters were installed and 34,789 connections remained unmetered. Thus there was 66 per cent shortfall in the installation of meters as detailed below:

Year	Unmetered connection at the beginning of the year	Connections allotted in the year	Meters installed during the year	Connections where meters not installed	Total unmetered connections at the end of the year
1	2	3	4	5	6
2004-05	31,083	15,156	13,992	1,164	32,247
2005-06	32,247	15,886	14,880	1,006	33,253
2006-07	33,253	17,207	16,297	910	34,163
2007-08	34,163	18,250	17,624	626	34,789

After this was pointed out in audit, the concerned EEs/AEs stated (August 2008- March 2009) that the meters were to be installed by the consumers themselves, who did not do so despite repeated requests. The AE Gagret stated (March 2009) that the consumers were also not interested in installing the meters as in the absence of meter, flat rates were charged which was lesser than the metered rates.

The reply indicates that the department was hand in glove with the consumers in denying the WC due to the Government. The reply of AE Gagret also suggested complicity of the department.

The Government while admitting the facts stated that all connections in urban area were to be metered and instructions to all field units have been issued on 24.6.2009 directing them that all new connections should be provided only after installation of meters. As regards old cases, consumers would be asked to install the meters.

The reply is not satisfactory as leaving the installation of meters to the consumers has so far only resulted in evasion. Therefore, department should ensure installation of meters in respect of all unmetered connections.

6.2.15.2 Test check of the records of 29 sub divisions revealed that WC for 35,847 (34,789 unmetered and 1,058 defective) connections were charged at flat rate applicable for an older period of 2001, for the period June 2005 to 2007-08. Application of flat rates resulted in a loss of revenue in these sub divisions which could not be quantified. However, Audit tried to estimate the loss by adopting the average metered connections available in 18 sub divisions¹⁴ and

¹³ Arki, Baddi, Banjar, Bhota, No. II Bilaspur, Dehra, Dharamsala, Gagret, Ghumarwin, Hamirpur, Jogindernagar, Kalol, Kangra, Kullu, Manali, No. I Mandi, Mehatpur, Nadaun, Nagrota Bagwan, Nalagarh, Rewalsar, Sarkaghat, Santokhgarh, Shamshi, Solan, Sujanpur, Sundernagar, Swarghat and No. I Una

¹⁴ Banjar, Bhota, No. II Bilaspur, Dehra, Dharamsala, Ghumarwin, Hamirpur, Jogindernagar, Kangra, Kullu, Mandi I, Mehatpur, Rewalsar, Sarkaghat, Santokhgarh, Shamshi, Sundernagar and No. I Una
 Average metered consumption
 Total connections of 18 sub divisions = 20,483
 WC recovery = Rs. 1,53,32,896
 Average = $\frac{1,53,32,896 \times 34,115}{20,483}$ = Rs. 2.56 crore

found that WC during June 2005 to 2007-08 amounted to Rs. 10.35 crore against which Rs. 5.62 crore only were charged. This resulted in loss of revenue of Rs. 4.73 crore as detailed below:

(Rupees in crore)

Year	Number of sub-divisions	Total unmetered connection for which loss worked out	WC due as per average consumption of metered connection	WC charged on flat rates	Loss of WC on average consumption of metered connection
2005-06	27 ¹⁵	34,115	2.56	1.49	1.07
2006-07	27	35,070	3.89	1.95	1.94
2007-08	27	35,847	3.90	2.18	1.72
Total	27	35,847	10.35	5.62	4.73

After this was pointed out (August 2008) in audit, no definite reply was furnished by the department. However, in November 2008 the HOD stated that the reason behind not revising rates might be that unmetered connections were being used by general public to whom water is supplied free of cost. Reply indicates that departmental officials themselves are not aware of rules and are not serious about the implementation.

6.2.16 Underassessment of water charges

Bulk supply of the water is being made by the department to MC Shimla, for which separate rates of WC has been fixed. The quantity of bulk supply made is based on the meter reading installed by the department.

6.2.16.1 Test check of the records of sub division Dhalli, under the control of Division No. II Shimla, revealed that as per meter reading of Dhalli pumping station, 12.43 lakh KL of water was supplied to MC Shimla during the period 1.4.2003 to 20.5.2005. The department, however, raised the demand of WC for only 8.29 lakh KL of water for this period. Less raising of demand resulted in underassessment of WC of Rs. 16.57 lakh¹⁶.

After this was pointed out in audit, EE intimated in August 2008 that matter was being investigated. Further reply was awaited (September 2009).

6.2.16.2 A comparison of "Pumping Register" (Chirod and Jagroti WSS) of Dhalli sub division with monthly water supply details maintained in Division No. II Shimla revealed that 145.57 lakh gallon of water was supplied to the MC during 1.1.2007 to 12.1.2007 whereas the division raised the demand for 1.18 crore gallon of water due to arithmetic mistake in conversion of litre into gallon which resulted in underassessment of WC of Rs. 1.09 lakh.

After this was pointed out in audit, the Division while confirming the facts stated (August 2008) that the wrong conversion of litre into gallon was due to oversight.

¹⁵ In two sub-divisions in Manali and Solan all connections were metered, hence details of 27 sub divisions only given

¹⁶ 4,14,330 KL x Rs. 4 per KL = Rs. 16,57,320 or Rs. 16.57 lakh

The Government while admitting the facts stated (July 2009) that Shimla Division No. II should have raised the bills of water charges for total bulk supply of water made during 1.4.2003 to 20.5.2005. However, matter regarding underassessment and wrong conversion of litre into gallon would be got investigated. Further report on recovery was awaited (September 2009).

6.2.17 Incorrect application of water rates

Incorrect application of water rates resulted in short realisation of WC of Rs. 12.70 lakh in eight sub divisions¹⁷ as tabulated below:

Sr. No.	Connections	Period	Rate charged (Rs.)	Rate chargeable (Rs.)	Financial effect (Rs. in lakh)
1.	16 rural commercial	Between June 2005 and February 2008	50 per connection per month or 8.00 per KL	8.00 per KL or minimum 100 per connection per month	0.17
2.	9,694 urban domestic/commercial	Between April 2006 and March 2008	40 and 44 flat rate per connection per month, 8.80 per KL as metered rate	10 per cent increase in rates not given	8.38
3.	Bulk supply to municipal committee, Solan	Between April and June 2006, October 2006	8.00 per KL, 8.40 per KL	8.80 per KL	3.77 (+) 0.38 (10 per cent surcharge)
Total					12.70

After this was pointed out in audit, EEs (Ghumarwin, Hamirpur, No. II Kullu) while confirming the facts stated (September 2008 and March 2009) that as notification revising the rates were not received/available, recovery could not be made. However, recovery would be effected from the concerned consumers. EE Barsar stated that the recovery could not be made due to oversight while EE No. I Una instructed the sub divisions to effect the recovery. AEs Jhandutta and Larji intimated (June 2009) that Rs. 17,000 had been recovered from concerned consumers. Further progress on recovery from remaining six sub divisions and reply from EE Solan was awaited (September 2009).

The Government while admitting the facts stated (July 2009) that instructions would be issued to the concerned field units for raising the revised demand in time and to recover the arrears of WC.

6.2.18 Delay in raising of demand

Under HPWS Rules, the bill for consumption of water and other charges, if any, shall be presented as regularly as possible. The rates for the bulk water supply for MC Shimla were enhanced vide letter dated 12.07.2006 to Rs. 8.80 per KL with effect from 1.4.2006 and to Rs. 9.68 per KL from 1.4.2007 vide letter dated 19.4.2007.

Test check of the records of Division No. II Shimla, revealed that demand of Rs. 1.12 crore on account of enhanced rates for the period 1.4.2006 to 29.02.2008 was raised by the department after a delay ranging between two and 24 months as detailed below:

¹⁷ Bhota, Hamirpur, Jhandutta, Larji, Mehatpur, Nadaun, Solan and No. I Una

- Rs. 20.66 lakh for the period from April 2006 to June 2006 was raised in May 2008.
- Rs. 91.36 lakh for the period from April 2007 to February 2008 was raised in March 2008 and May 2008.

After this was pointed out (July 2008) in audit, the department while confirming the facts stated (August 2008) that short billing in the first instance was due to oversight. The explanation is not satisfactory.

The Government while admitting the facts stated (July 2009) that reply would be submitted on receipt of reply from the Division. Further report on recovery was awaited (September 2009).

6.2.19 Temporary misappropriation of Government money

Rule 2.4 of Himachal Pradesh Financial Rules, 1971 Vol. I (HPFR) provides that at the close of the day while signing the cash book, the head of the office should see that the departmental receipts collected during the day are credited into the treasury on the same day or on the morning of the next day at the latest and that there is corresponding entry on the payment side of the cash book.

Test check of the records of 23 Divisions revealed that in 20 Divisions¹⁸, an amount of Rs. 4.36 crore realised as WC for the years 2003-04 to 2007-08, was deposited late in the treasuries. Out of this, Rs. 4.34 crore was deposited after a delay ranging from six to 55 days. The remaining Rs. 2.04 lakh relating to Bhota sub division under Barsar Division, received between January 2001 and July 2007, was deposited between December 2007 and February 2008. The delay ranged between five months to seven years. This resulted in temporary misappropriation of Government money.

After this was pointed out in audit, EEs while admitting the facts stated (between July 2008 and March 2009) that instructions would be issued to field staff for strict compliance of financial rules. In the case of Bhota sub division, the Principal Secretary (IPH) directed (January 2009) the concerned CE to investigate the matter. A report on further progress made has not been received (September 2009).

The Government while admitting the facts stated (July 2009) that all CEs/SEs have been directed on 24.6.2009 to stop this practice in future and adhere to strict compliance of financial rules. In the case of Bhota sub division, CE was directed to investigate the matter and fix responsibility.

6.2.20 Non-imposing of surcharge for delayed payment of water charges

Provisions of HPWS Rules provide that the bills for the consumption of water, rent of meter and other charges, if any, shall be presented as regularly as possible. The interval between two successive bills being one month to three months in case of urban water supply scheme and two to six months in case of

¹⁸ Arki, Baggi, Barsar, Bilaspur, Dehra, Dharamsala, Ghumarwin, Jawali, Hamirpur, No. I Kullu, No. II Kullu, Nalagarh, Padhar, Palampur, Sarkaghat, Shahpur, Sundernagar, Thural, No. I Una and No. II Una

rural water supply scheme. The payment thereof shall be made by the consumer within 15 days of the day of issue of bills. If the payment is not made within the stipulated period, a surcharge of 10 *per cent* shall be imposed extra.

Test check of the records of two Divisions¹⁹ revealed that against monthly bills raised in 2003-04 to 2007-08 against municipal committee Palampur and MC Shimla on account of bulk supply of water by the department, payment was not made within the prescribed period of 15 days. For non-payment of WC, surcharge of Rs. 4.03 crore was leviable by these Divisions as mentioned below, which was not done.

(Rupees in crore)					
Year	Opening balance	Amount of WC claimed by the division	Total WC due	Closing balance as on 31 st March	Surcharge due on WC claimed
Outstanding WC as on 1.4.2003	3.08	--	3.08	3.08	0.31
2003-04	3.08	4.06	7.14	7.14	0.41
2004-05	7.14	4.07	11.21	11.21	0.41
2005-06	11.21	7.71	18.92	18.92	0.77
2006-07	18.92	10.14	29.06	29.06	1.01
2007-08	29.06	11.16	40.22	40.22	1.12
Total	40.22	37.14	-	40.22	4.03

After this was pointed out (March 2009) in audit, Palampur Division, imposed (May 2009) surcharge of Rs. 9.80 lakh (inclusive of Rs. 6.89 lakh) on total WC outstanding as on 31.3.2009 whereas Division No. II Shimla stated in May 2009 that there is no provision for levying the surcharge at the rate of 10 *per cent*. The reply of Division No. II Shimla is not correct as provision of Rule 8 (iii) of HPWS rules provide for imposing 10 *per cent* surcharge.

The Government while admitting the facts stated (July 2009) that necessary instructions were being issued to the field units for levying 10 *per cent* surcharge on delayed payment.

6.2.21 Irregular utilisation of departmental receipts towards expenditure

Under the provision of HPFR, utilisation of departmental receipts towards expenditure is strictly prohibited.

Test check of the records of Division No. II Shimla, revealed that grant-in-aid amounting to Rs. 17.13 crore was released to the department by the Urban Development, Himachal Pradesh, Shimla through bank draft No. 843114 dated 29.03.2003 to liquidate the arrear on account of WC against 11 urban local bodies including Rs. 16.47 crore for MC Shimla. Though the above grant was debited to the arrears pending collection against the local bodies, it was not credited to the revenue head. Instead it was utilised for the payment of energy charges which was against the provision of the financial rules. As a result revenue to that extent was understated.

¹⁹ Palampur: Rs. 6.89 lakh and Shimla: Rs. 3.96 crore

After this was pointed out (July 2008) in audit, EE while confirming the facts, stated (August 2008) that the revenue receipt was not credited to the receipt head “0215-water supply” as per the direction of the Himachal Pradesh Government (Finance Department) letter dated 29.03.2003.

The Government while admitting the facts stated (July 2009) that reply would be given after investigation and assured that the advice of audit would be kept in view in future.

6.2.22 Improper maintenance of records

Para 6.7 of Central Public Works Account (CPWA) Code as applicable to Himachal Pradesh provides that receipt books (Form-3) and cash memo books (Form-3A) required for use in the divisional/sub divisional offices should be obtained from the Central Forms Stores, Calcutta by the divisional officers/sub divisional officers. The divisional office should also keep a record of the receipt and cash memo books received and those issued to the divisional office and sub divisional offices.

Test check of the records of 22 Divisions revealed irregularities in 17 Divisions²⁰ as discussed below:

- The bill/receipts books were got printed from the private firms instead of procuring the same from Government stores. A certificate of count was also not recorded on the fly leaf by divisional or sub divisional officer.
- The bill/receipt books were required to be entered in the stock register. However, in 876 cases the stock entry was not made in the stock register.
- The date of issue of bill/receipt books to the sub divisions was also not recorded in the stock register of the Division.

After this was pointed out in audit, EEs while admitting the facts stated (between August 2008 and April 2009) that due to rush of work, the required instructions could not be followed.

The Government while admitting the facts stated (July 2009) that all SEs have been directed to follow the prescribed procedure in future to avoid misappropriation/ non-accountal etc.

6.2.23 Non-production of receipts books

Under CPWA Code, the divisional officer is required to keep a record of receipt books received and those issued to the divisional/sub divisional offices. The receipt books used for the collection of WC are required to be produced for Audit scrutiny.

6.2.23.1 In sub division No. I Una, the stock register of receipt books for the period from 2003-04 to 2007-08 was not produced for Audit scrutiny. During test check of “consumer ledgers” with cash book of water charges, Audit

²⁰ Arki, Baggi, Barsar, Bilaspur, Dharamsala, Ghumarwin, Hamirpur, Jawali, Kullu, Mandi, Palampur, Sarkaghat, Shahpur, Solan, Thural, No. I Una and No. II Una

noticed that 12 receipts of nine different series for the period from May 2003 to April 2007 involving Rs. 5,208 were found posted in the consumer ledger, the amount was not accounted for in the cash book of WC.

After this was pointed out (March 2009) in audit, EE intimated in July 2009 that a demand of Rs. 2.27 lakh had been raised in respect of above series of receipt books and AE had been directed to deposit the amount. No reply for non-production of stock register of receipt books was, however, furnished.

6.2.23.2 Test check of the records of sub division No. II Una revealed that 21 receipt books (50 leaves each) were issued to the WWC between 20.9.2004 and 6.8.2008 for collection of WC. Neither the consumer ledgers nor the receipt books used/left blank were produced to Audit.

After this was pointed out (March 2009) in audit, EE of the Division stated that receipt books were being located and would be produced to Audit.

The Government stated (July 2009) that reply would be sent on receipt of report from SE Una. Further report on recovery was awaited (September 2009).

6.2.24 Conclusion

The department had not taken into consideration the new sources of revenue such as old and new water connections, bulk supply while framing the BEs as provided in HPBM. The instructions for installation of meters in Urban areas were not followed strictly at the time of providing new connections which led to loss of revenue. 10 *per cent* surcharge was also not claimed against bulk supply where payment was not made within 15 days. The prescribed QPR did not contain necessary information i.e. total number of users of water, new connection allotted, new meters installed and assessment made etc. resulting in non-scrutiny of QPR at apex level as well as incorrectness of arrears. No IA system existed and in the absence of IA the department had no means of knowing the areas of malfunctioning of system in assessment and collection of WC and *abiana* charges. In the Act/Rules, no time period had been framed for the preparation of *Khataunies*, assessment and collection of *abiana* charges and reporting the cases as ALR which led to accumulation of arrears.

6.2.25 Recommendations

The State Government may consider:

- introducing essential details/information like total number of user of water, new connections allotted, new meter installed etc. in the QPR to monitor the accuracy of figures of WC;
- framing a time limit for preparation of *Khataunies* for timely raising of demand and collection of *abiana* charges. Besides, it also needs to frame a time period for reporting the cases as ALR to avoid non-recovery/accumulation of Government dues;

- defining the commercial establishments in the Act/Rules which shall fall under commercial activities for determining domestic/commercial connection; and
- setting up of IA system to monitor the assessment and correctness of WC and *abiana* charges paid.

6.3 Other Audit observations

Scrutiny of records in the offices of Power, Revenue, Stamp duty and registration departments revealed cases of non-recovery, short recovery, non-deposit and incorrect determination of market value etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

B. MULTIPURPOSE PROJECTS AND POWER DEPARTMENT

6.4 Non-recovery of electricity duty

According to the Himachal Pradesh Electricity (Duty) Act, 1975 and the Rules made thereunder, electricity duty (ED) was leviable on electrical energy supplied by the Himachal Pradesh State Electricity Board (Board) to consumers. The duty collected by the Board in monthly bills for the energy supplied shall be deposited into Government account half yearly i.e. in April and October every year.

Information collected from the office of Chief Electrical Inspector (CEI) Himachal Pradesh, Shimla revealed (April 2009) that out of ED of Rs. 115.96 crore payable as on 31.3.2008, Rs. 70.00 crore had been deposited by the Board leaving thereby a balance of Rs. 45.96 crore. Besides, ED of Rs. 64.41 crore realised by the Board during the period April 2008 to September 2008 required to be deposited in October 2008, had not been deposited. It was, however, noticed that out of total unpaid amount of ED of Rs. 110.37 crore, the Board deposited Rs. 7.96 crore only on 30 March 2009. Thus, balance of Rs. 102.41 crore on account of ED had not been deposited by the Board till March 2009 and revenue to that extent remained out of Government account. Further, it was noticed that the State Government had borrowed loan from the open market during the year 2008-09. The rate of interest on the borrowing of such loan ranged between 6.10 *per cent* and 8.82 *per cent* per annum respectively. Even if, interest of 6.10 *per cent* is applied, the State Government would have saved Rs. 6.25 crore on the borrowing, had the amount of ED of Rs. 102.41 crore been paid by the Board to the Government.

After this was pointed out, CEI intimated that ED of Rs. 38 crore had been deposited by the board on 25 May 2009. Further report on recovery for the remaining amount was awaited (September 2009).

The matter was reported to the Government in April 2009; their reply has not been received (September 2009).

C. REVENUE DEPARTMENT

6.5 Incorrect determination of market value of property

Under the Himachal Pradesh Land Record Manual, 1992 (Appendix-XXI), the *patwaris* are responsible for preparation of *partas*²¹. As per the clarifications issued by the Inspector General Registration (IGR) in June 1998 and October 2004, valuation of land is to be done on the basis of the kind of land mentioned in the revenue records. Further, the average price is based on the consideration amount or market value (MV), whichever is higher on mutation done during the preceding 12 months in respect of a sale deed. The registering officer is also required to verify the consideration shown in the sale deeds with *partas* prepared. If the registering officer has reasons to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer it to the collector for determination of the value of consideration and the proper duty payable.

Test check of the records of 34 Sub Registrars²² (SRs), between May 2008 and March 2009, revealed that consideration of properties set forth in 489 documents registered during 2006 and 2007, was much below the average price shown in the *partas* prepared by the concerned *patwaris* of the localities. Against the market value of Rs. 53.33 crore, the value set forth in the deeds was Rs. 27.22 crore. The registering authorities, while registering the documents failed to correlate the consideration with that of the *partas* and refer the cases to the collector for determination of the value of consideration to realise proper stamp duty. This resulted in short realisation of stamp duty of Rs. 1.63 crore and registration fee of Rs. 18.04 lakh.

After the cases were pointed out between May 2008 and March 2009, the IGR intimated in February 2009 that out of Rs. 3.69 lakh, in respect of SR Manali, an amount of Rs. 1.34 lakh had been recovered and efforts were being made to recover the balance amount. Further report on realisation and reply from remaining SRs has not been received (September 2009).

The matter was reported to the Government between June 2008 and April 2009; their reply has not been received (September 2009).

6.6 Short recovery of stamp duty and registration fee on lease deed

Article 35 of schedule-I of Indian Stamp Act, 1899 provides that where a lease is granted for premium, the same duty as applicable to conveyance (Article 23), is chargeable. Under the Indian Stamp (Himachal Pradesh Amendment) Act 1970, where the lease purports to be for a term not exceeding 100 years, stamp duty is chargeable at the rate of three *per cent*. Besides stamp duty, registration fee at the rate of two *per cent* subject to maximum of Rs. 25,000, is also

²¹ It is a valuation report of the land prepared by the *Patwari*

²² Amb, Baijnath, Baldwara, Bhoranj, Dadahu, Dehra, Dharamsala, Harchakiya, Indora, Jhandutta, Jaswan Kotla, Jawali, Jubbal, Kangra, Kandaghat, Kasauli, Keylong, Kotkhai, Kullu, Manali, Mandi, Nadaun, Nahan, Nalagarh, Palampur, Paonta Sahib, Rajgarh, Shahpur, Shimla (Urban), Shimla (Rural), Sihuntta, Solan, Sundernagar and Una

leviable in terms of Government of Himachal Pradesh, Department of Revenue notification dated 18.3.2002. The Industries Department of the State had fixed in April 2007, the rates of premium (per square meter) of plots falling in the industrial area of the respective districts in the State.

Test check of the records of five SRs²³, between November 2008 and March 2009, revealed that in 19 cases, land measuring 23,606 square meters falling in the industrial area of five districts, were leased out during 2007 for the period ranging from 10 to 99 years. Scrutiny of records further revealed that SRs while registering the documents, did not levy the stamp duty and registration fee on the consideration amount of premium, fixed by the Industries Department. Consequently, 19 lease deeds executed in 2007 were registered at lower consideration of premium of Rs. 68.83 lakh instead of Rs. 2.11 crore. Thus as against stamp duty and registration fee of Rs. 9.04 lakh, Rs. 3.20 lakh was collected, resulting in short realisation of stamp duty and registration fee of Rs. 5.84 lakh.

The matter was reported to the department and the Government between December 2008 and March 2009; their reply has not been received (September 2009).

D. INDUSTRIES DEPARTMENT

6.7 Short recovery of royalty due to application of incorrect rates

Rule 21 of the Himachal Pradesh Minor Mineral (Concession) Revised Rules, 1971 provides that the lessee shall pay the royalty in advance for the material to be removed from the leased area. Royalty for sand, stone etc. is to be charged at the rate of Rs. 10 per tonne from 25.06.1999 to 7.10.2007 and at the rate of Rs. 20 per tonne thereafter, in terms of notification dated 8.10.2007, issued by the Department of Industries, Government of Himachal Pradesh.

Test check of the records of Mining Officer (MO) Kullu in June 2008, revealed that a lessee²⁴ engaged in construction of Parbati Hydro Electric Project stage-III in the district had entrusted civil and hydro mechanical works of the project to 25 sub-contractors. Audit scrutiny revealed that the MO had recovered between April 2005 and March 2008, royalty of Rs. 13.69 lakh from these contractors at the rate of Rs. 6/10 per tonne instead of the correct rate of Rs. 10/20 per tonne on 1.80 lakh tonnes of sand, stone and aggregate²⁵ removed. This resulted in short recovery of royalty of Rs. 13.74 lakh.

After this was pointed out (June 2008) in audit, the department stated in June 2009 that an amount of Rs. 10.72 lakh had been recovered and that lessee had been directed to deposit the balance amount. Further report on recovery has not been received (September 2009).

The matter was reported to the Government in July 2008; their reply has not been received (September 2009).

²³ Amb, Indora, Nadaun, Nahan and Naina Devi

²⁴ M/s NHPC Ltd, Nagwain, Distt. Mandi

²⁵ crushed stone

E. PUBLIC WORKS DEPARTMENT

6.8 Non-deposit of tax deducted from the contractor's bills

Rule 38 of HPVAT Rules, 2005 provides for deduction of tax at the rate of two *per cent* at source from the bills of works contractor and the person making such deduction is responsible to pay into the Government treasury all the amounts deducted by him during a month, within 15 days of the close of each month. In the event of non-deposit of collected tax, the prescribed authority shall, after giving an opportunity of being heard, by an order, in writing, direct that such person shall pay by way of penalty, a sum not exceeding twice the amount of tax deductible.

Test check of the records of four public works divisions²⁶ (PWDs), between May 2008 and January 2009, revealed that the divisions had deducted tax of Rs. 36.03 lakh at source from the contractor's bills for the period falling between July 2007 and December 2008. Audit observed that the amount which was required to be deposited under the revenue head of account was kept under "public works deposits" head of account and unauthorisedly utilised for payment of ongoing works. For non-deposit of tax, the divisions were also liable to pay penalty.

The matter was reported to the department and the Government between June 2008 and February 2009; their reply has not been received (September 2009).

Shimla
The

(GEETALI TARE)
Accountant General (Audit)
Himachal Pradesh

Countersigned

New Delhi
The

(VINOD RAI)
Comptroller and Auditor General of India

²⁶ Karsog, Kullu-I, Nahan and Rohru