

Preface

This Report for the year ended 31 March 2010 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 tax on sales, trade etc., taxes on agricultural income, stamp duty and registration fee, taxes on vehicles, land revenue and building tax, other tax receipts and non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2009-10 as well as those which came to notice in earlier years but could not be included in previous Reports.

Overview

This Report contains two reviews on Levy and collection of Motor Vehicles Tax and Working of Co-operation department and 52 paragraphs relating to non/short levy/loss of tax involving ₹ 1,048.55 crore. Some of the major findings are mentioned below:

I. General

- Total revenue receipts of the State Government for the year 2009-10 amounted to ₹ 26,109.40 crore against ₹ 24,512.18 crore for the previous year. 75 per cent of this was raised by the State through tax revenue (₹ 17,625.02 crore) and non-tax revenue (₹ 1,852.22 crore). The balance 25 per cent was receipt from the Government of India as State's share of divisible Union taxes (₹ 4,398.78 crore) and grants-in-aid (₹ 2,233.38 crore).

(Paragraph 1.1.1)

- During 2009-10, 14,003 tax assessments relating to 122 offices were not made available to audit. In 4,109 cases tax involved was ₹ 1,331.41 crore and in remaining cases the tax effect was not available with the assessing authorities.

(Paragraph 1.2.3)

II. Tax on sales, trade etc.

- Approximately 40 per cent of revenue generated from commercial taxes could not be audited every year due to delay in completion of assessment.

(Paragraph 2.3)

- We detected short levy of tax and interest of ₹ 322.06 crore in eight works contract assessments. Department revised assessment in one case creating an additional demand of ₹ 274.24 crore.

(Paragraph 2.12.1)

- The department failed to detect incorrect exemption claimed by the assesseees in seven cases which resulted in short levy of ₹ 164.50 crore.

(Paragraph 2.12.2)

- Tax was short levied by ₹ 14.03 crore due to application of incorrect rate of tax in four works contract assessments.

(Paragraph 2.12.3)

- Incorrect classification of five works contract assessments resulted in short levy of tax and interest of ₹ 11.24 crore.

(Paragraph 2.12.4)

- Six dealers availed excess input tax credit which resulted in short levy of ₹ 7.60 crore.

(Paragraph 2.12.6)

- The assessing authority granted exemption of ₹ 75.86 crore while finalising two sales tax assessments resulting in short levy of ₹ 2.52 crore.

(Paragraph 2.12.17)

III. Taxes on Agricultural Income

- We noticed short levy of ₹ 65.45 lakh in three cases due to income escaping assessment.

(Paragraph 3.8.1)

IV. Stamp Duty and Registration Fees

- We detected several cases of non-registration of lease deeds with tax effect of ₹ 3.18 crore.

(Paragraph 4.7.1)

- Incorrect decision by the Commissioner of Land Revenue resulted in short levy of ₹ 1.19 crore.

(Paragraph 4.7.2)

V. Taxes on Vehicles

A review on “Levy and collection of Motor Vehicles Tax” revealed the following:

- Automatic renewal of licences to drive non-transport vehicles at the time of renewal of badge had resulted in non-levy of renewal fee of ₹ 3.76 crore.

(Paragraph 5.8.8)

- Rent payable by the department to the KSRTC was adjusted against tax due from the KSRTC leading to diversion of funds of ₹ 41.54 lakh.

(Paragraph 5.8.9)

- The enforcement wing in the department is weak and was not able to collect ₹ 2.91 crore leviable from operators of transport vehicles plying without fitness certificates.

(Paragraph 5.8.10)

- The department failed to collect fee of ₹ 5.61 crore for exhibiting advertisements in transport vehicles

(Paragraph 5.8.11.2)

- The computers and servers have neither bios password nor windows password.

(Paragraph 5.8.12.5)

- Resources like the Queue Management System, stock entry module, finger print biometric devices were not used/partially used.
(Paragraph 5.8.13)
- Revenue is understated by ₹ 36.34 crore due to non-inclusion of old arrears in the computerised DCB.
(Paragraph 5.8.15.2)
- Absence of a system to monitor collection of bank drafts and revalidation of time barred bank drafts led to revenue loss of ₹ 1.67 crore.
(Paragraph 5.8.17.1)
- Surcharge of ₹ 158.15 crore was not levied from the KSRTC.
(Paragraph 5.8.18.1)
- Additional tax of ₹ 186.62 crore was not levied for non-payment of tax.
(Paragraph 5.8.18.2)
- Non-compliance of Central Government direction in the case of educational institution buses resulted in short levy of ₹ 3.69 lakh.
(Paragraph 5.8.18.3)

VI. Land Revenue and Building Tax

- The department failed to levy lease rent of ₹ 3.24 crore on an Arts and Science college.
(Paragraph 6.7.1)
- Our cross verification of the records of 14 *taluk* offices with those of the corresponding village offices/municipalities revealed non-assessment of building tax of ₹ 1.75 crore in 357 cases.
(Paragraph 6.7.2)

VII. Other Tax Receipts

A – State Excise

- Excise officer did not raise demand for realisation of gallowage fee of ₹ 26 lakh.
(Paragraph 7.8.1)

B – Luxury Tax

- Assessing officer failed to assess amenities provided in a hotel resulting in short levy of ₹ 11.51 lakh.
(Paragraph 7.11)

VIII. Non-Tax Receipts

A review on “Working of Co-operation Department” revealed the following:

- Non-recovery of interest of ₹ 47.51 crore and non-recovery of loan amount of ₹ 150.21 crore repaid to NCDC by Government.

(Paragraph 8.5.10.1)

- 45 per cent of the total assistance was extended to a single beneficiary, from whom nothing has been recovered so far.

(Paragraph 8.5.10.2)

- Non-recovery of dues of ₹ 2.91 crore and locking up of ₹ 6.80 crore due to lack of diligence in sanctioning loan.

(Paragraph 8.5.10.3)

- Loss of revenue of ₹ 44.06 crore by way of interest due to accumulation of plan/borrowed fund at private party's TP account.

(Paragraph 8.5.10.4)

- Non-levy of interest of ₹ 7.09 crore and penal interest of ₹ 5.96 crore.

(Paragraph 8.5.10.5)

- Non-levy of penal interest of ₹ 5.80 crore on belated repayment of share capital contribution assistance in three cases.

(Paragraph 8.5.11)

- Non-recovery of declared dividend amounting to ₹ 1.50 crore which was subsequently converted as share capital.

(Paragraph 8.5.12)

- Non-recovery of ₹ 80 lakh from a society due to lapses in finalisation of revenue recovery proceedings.

(Paragraph 8.5.15.2)

- Short levy of interest of ₹ 1.37 crore and penal interest of ₹ 29.11 lakh in 2 cases due to failure to appropriate payment towards interest first.

(Paragraph 8.5.20)

A – Forest Receipts

- Plantation Corporation of Kerala Ltd. did not pay lease rent of ₹ 27.95 crore.

(Paragraph 8.7)

- Lease rent of ₹ 23.28 crore was not levied due to non-execution of lease agreement with Kerala State Electricity Board.

(Paragraph 8.8)

- Lack of co-ordination between forest department and M/s Malabar Cements Ltd. resulted in loss of revenue of ₹ 7 crore.

(Paragraph 8.10)

B – Legal Metrology

- The department did not conduct verification and stamping of auto/taxi meters which resulted in non-levy of fee of ₹ 16.68 crore.

(Paragraph 8.13)

- Non-registration and non-stamping of water meter resulted in non-levy of ₹ 13.24 crore.

(Paragraph 8.14)

C – Education Department

- Lease rent of ₹ 4.19 crore was not levied on land and building allotted to KBPS.

(Paragraph 8.15)

D – Police Department

- Police department did not levy fees at the revised rates for services rendered by it resulting in loss of revenue of ₹ 3.20 crore.

(Paragraph 8.16)

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Kerala during the year 2009-10, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1.	Revenue raised by the State Government					
	• Tax revenue	9,778.62	1,1941.82	13,668.95	15,990.18	17,625.02
	• Non-tax revenue ¹	936.78 (863.79)	937.57 (844.51)	1,209.55 (1,078.00)	1,559.29 (1,390.00)	1,852.22 (1,633.22)
	Total	10,715.40 (10,642.41)	12,879.39 (12,786.33)	14,878.50 (14,746.95)	17,549.47 (17,380.18)	19,477.24 (19,258.24)
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	2,518.20	3,212.04	4,051.70	4,275.52	4,398.78
	• Grants-in-aid	2,060.93	2,095.19	2,176.59	2,687.19	2,233.38
	Total	4,579.13	5,307.23	6,228.29	6,962.71	6,632.16
3.	Total revenue receipts of the State Government (1 and 2)	15,294.53 (15,221.54)	18,186.62 (18,093.56)	21,106.79 (20,975.24)	24,512.18 (24,342.89)	26,109.40 ² (25,890.40)
4.	Percentage of 1 to 3	70	71	70	72	75

The above table indicates that during the year 2009-10, the revenue raised by the State Government (₹ 19,477.24 crore) was 75 per cent of the total revenue receipts against 72 per cent in the preceding year. The balance 25 per cent of receipts during 2009-10 was from the Government of India.

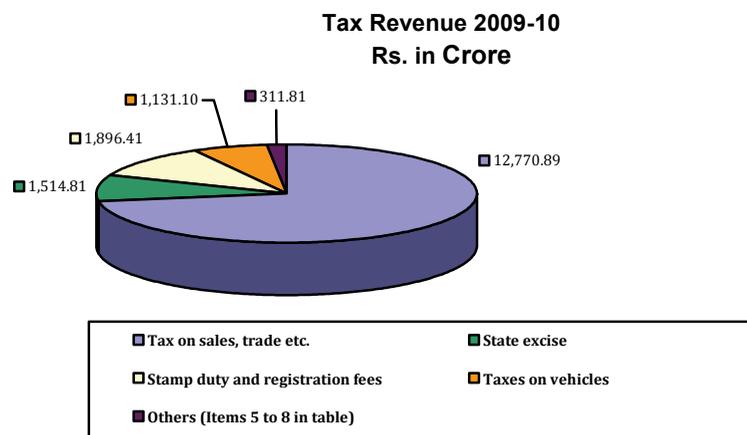
¹ The figures shown in brackets represent the figures net of expenditure on prize winning tickets of lotteries conducted by the Government.

² For details please see Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of Kerala for the year 2009-10. Figures under the major heads 0020 – Corporation tax, 0021 – Taxes on income other than corporation tax, 0028 – Other taxes on income and expenditure, 0032 – Taxes on wealth, 0037 – Customs, 0038 – Union excise duties, 0044 – Service tax and 0045 – Other taxes and duties on commodities and services – Share of net proceeds assigned to states booked in the Finance Accounts under A – Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of the tax revenue raised during the period 2005-06 to 2009-10:

(Rupees in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage ³
1.	Tax on sales, trade etc.	7,037.97	8,563.31	9,371.76	11,377.13	12,770.89	(+) 12.25
2.	State excise	841.00	953.07	1,169.25	1,397.64	1,514.81	(+) 8.38
3.	Stamp duty and registration fees						
	• Stamps - judicial	53.39	49.20	81.89	71.25	83.52	(+)17.22
	• Stamps – non-judicial	852.51	1,213.36	1,607.85	1,580.94	1,495.26	(-) 5.42
	• Registration fees	195.51	257.37	338.23	350.81	317.63	(-) 9.45
4.	Taxes on vehicles	628.51	707.74	853.17	937.45	1,131.10	(+) 20.66
5.	Taxes and duties on electricity	31.52	31.78	39.04	56.00	24.78	(-) 55.75
6.	Taxes on agricultural income	6.15	9.63	22.05	11.97	27.73	(+)131.66
7.	Land revenue	43.88	47.00	47.21	47.56	53.93	(+) 13.39
8.	Others	88.18	109.36	138.50	159.43	205.37	(+) 28.82
	Total	9,778.62	11,941.82	13,668.95	15,990.18	17,625.02	(+) 10.22



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

Tax on sales, trade etc.: The increase was due to hike in price of diesel and petrol.

Stamps and registration fees: The variation was due to decrease in the number of documents registered and decrease in the number of documents having higher consideration due to economic recession.

³ Percentage of increase (+)/decrease (-) in 2009-10 over 2008-09.

Taxes on vehicles: The variation was due to increase in the vehicle population.

Taxes and duties on electricity: The decrease was due to the fact that some of the licensees had paid duties only upto November 2009 and non-payment of dues of KSEB.

Taxes on agricultural income: The increase was due to the implementation of the amnesty scheme.

Land revenue: The increase was due to collection of arrears, collection of basic tax and other taxes.

The other departments did not inform (December 2010) the reasons for variation, despite being requested (April 2010).

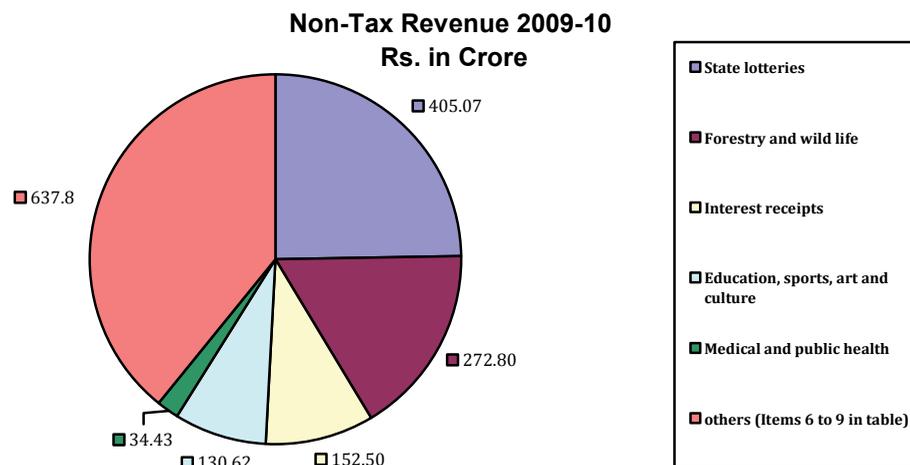
1.1.3 The following table presents the details of the non-tax revenue raised during the period 2005-06 to 2009-10:

(Rupees in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage ⁴
1.	State lotteries ⁵	156.58	142.93	193.70	312.10	405.07	(+) 29.79
2.	Forestry and wild life	189.63	174.56	154.45	223.71	272.80	(+) 21.94
3.	Interest receipts	46.36	44.63	69.65	83.69	152.50	(+) 82.22
4.	Education, sports, art and culture	82.09	99.91	100.89	130.24	130.62	(+) 0.29
5.	Medical and public health	29.80	32.99	20.02	38.58	34.43	(-) 10.75
6.	Crop husbandry	13.74	12.33	10.91	15.04	7.88	(-) 47.60
7.	Animal husbandry	5.68	6.43	5.26	2.96	3.11	(+) 5.06
8.	Public works	2.68	2.56	3.28	3.80	6.54	(+) 72.10
9.	Others	337.23	328.17	519.84	579.88	620.27	(+) 6.97
Total		863.79	844.51	1,078.00	1,390.00	1,633.22	(+) 17.50

⁴ Percentage of increase (+)/decrease (-) in 2009-10 over 2008-09.

⁵ From gross receipts, expenditure on prize winning tickets has been deducted, but expenditure on commission to agents and establishment expenses have not been deducted. For 2009-10, from gross receipts of ₹ 624.07 crore, expenditure of ₹ 219 crore on prize winning tickets has been deducted, but expenditure of ₹ 222.54 crore on commission to agents and establishment expenses of ₹ 60.26 crore have not been deducted.



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

State lotteries: The variation was due to increase in the cost of some weekly and bi-weekly lottery tickets and sale of tickets increased due to introduction of the new structure.

Forest receipts: The variation was due to increased quantity of timber available for sale.

Crop husbandry: The decrease was due to transfer of major portion of receipts such as sale of farm produce and seedlings to the District *Panchayat*.

Public works: The variation was due to the increase in the cost of tender forms and also due to crediting of several lapsed deposits to revenue.

The other departments did not inform (December 2010) the reasons for variation, despite being requested (April 2010).

1.2 Response of the departments/Government towards audit

1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

The Accountant General (WF&RA), Kerala (AG) conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the head of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The head of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. We report serious financial irregularities to the head of the departments and the Government.

We noticed that out of the inspection reports issued upto December 2009, 15,052 paragraphs involving ₹ 1,426.98 crore relating to 2,581 IRs remained outstanding at the end of June 2010. A table containing figures for the current year and preceding two years is given below:

	June 2008	June 2009	June 2010
Number of outstanding IRs	2,566	2,897	2,581
Number of outstanding audit observations	13,695	15,284	15,052
Amount involved (Rupees in crore)	1,005.99	1,133.31	1,426.98

The department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amounts involved are mentioned below:

Sl. No.	Name of the Departments	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (Rupees in crore)
1.	Taxes	Tax on sales, trade etc	1,044	10,117	1,129.38
		Taxes on agricultural income	132	676	39.69
2.	Excise	State excise	357	686	151.31
3.	Revenue	Land revenue	246	1,030	16.35
4.	Transport	Taxes on vehicles	225	1,018	11.84
5.	Stamps and registration	Stamps and registration fees	307	797	10.66
6.	Forest and environment	Forestry and wild life	231	622	33.31
7.	Power	Taxes and duties on electricity	23	80	31.05
8.	Lotteries	Lotteries	16	26	3.39
Total			2,581	15,052	1,426.98

Even the first replies required to be received from the head of offices within one month from the date of issue of IRs were not received for 339 IRs issued upto December 2009. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the head of offices and head of the departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

It is recommended that the Government may design effective procedures to ensure prompt and appropriate response to audit observations. Government may also institute systems for taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedule and who fail to take action to recover loss/outstanding demand in a time bound manner.

1.2.2 Departmental audit committee meetings

The Government set up the audit committees to monitor and expedite the progress of the settlement of the IRs and the paragraphs of the IRs. We conducted 25 audit committee meetings with various departments and cleared

1,665 Paragraphs out of 17,799 (9.35 per cent) during the year 2009-10. The details of paragraphs settled are mentioned below:

Head of revenue	Number of meetings held	paragraphs settled		Amount of settled Paragraphs (Rs. in crore)	Number of paragraphs outstanding and percentage of settlement
		Year	Number		
Tax on sales, trade etc.	4	2000-01	102	166.78	<u>11,149</u> 3.81
		2001-02	85		
		2002-03	62		
		2003-04	72		
		2004-05	104		
		Total	425		
Agricultural income tax	5	2000-01	1	2.86	<u>754</u> 30.10
		2001-02	9		
		2002-03	43		
		2003-04	15		
		2004-05	18		
		2005-06	49		
		2006-07	56		
		2007-08	25		
		2008-09	11		
Total	227				
Stamp duty and registration fees	6	Upto 2003-04	38	0.23	<u>1,353</u> 11.16
		2004-05	8		
		2005-06	15		
		2006-07	11		
		2007-08	28		
		2008-09	33		
		2009-10	18		
		Total	151		
State excise	3	2000-01	18	0.32	<u>1,083</u> 17.45
		2001-02	20		
		2002-03	18		
		2003-04	21		
		2004-05	19		
		2005-06	27		
		2006-07	28		
		2007-08	21		
		2008-09	13		
		2009-10	4		
		Total	189		
Taxes on vehicles	3	2004-05	32	2.06	<u>1,440</u> 34.93
		2005-06	42		
		2006-07	61		
		2007-08	139		

Head of revenue	Number of meetings held	paragraphs settled		Amount of settled Paragraphs (Rs. in crore)	Number of paragraphs outstanding and percentage of settlement
		Year	Number		
		2008-09	182		
		2009-10	47		
		Total	503		
Land revenue	1	Upto 2000-01	1	0	<u>1,186</u> 2.11
		2003-04	2		
		2004-05	2		
		2005-06	2		
		2006-07	3		
		2007-08	6		
		2008-09	1		
		2009-10	8		
		Total	25		
Forestry and Wildlife	2	Upto 1999-00	4	8.10	834 14.03
		2000-01	6		
		2001-02	3		
		2002-03	4		
		2003-04	7		
		2004-05	9		
		2005-06	19		
		2006-07	30		
		2007-08	23		
		2008-09	12		
		Total	117		
State Lotteries	1	Upto 2000-01	1	0.66	
		2002-03	1		
		2003-04	3		
		2004-05	1		
		2005-06	3		
		2006-07	11		
		2007-08	2		
		2008-09	6		
		Total	28		
Grand total	25		1,665	181.01	<u>17,799</u> 9.35

We appreciate the efforts of Commercial Taxes department and Motor vehicle department in achieving clearance of 30 per cent and 35 per cent on AIT and Taxes on vehicles respectively.

We urge the Commercial Taxes department and the Land revenue department to make earnest efforts to see that the clearance is at least more than 10 per cent.

1.2.3 Non-production of records to Audit for scrutiny

We prepare the programme of local audit of Commercial Tax Offices sufficiently in advance. We intimate the programme to the department usually one month before the commencement of audit, to enable them to keep the relevant records ready for audit scrutiny.

During 2009-10, 14,003 tax assessment records relating to 122 Offices were not made available to us. In 4,109 cases, tax involved was ₹ 1,331.41 crore and in the remaining cases the tax effect was not available with the assessing authorities. Of the 14,003 cases, 2,824 assessments pertained to 14 special circles where assessments of major dealers are dealt with. Year-wise breakup of such cases, are given below:

Name of Office	Year in which it was to be audited	Number of assessment cases not audited		Number of cases in which revenue involved could be ascertained	Revenue involved (Rupees in crore)
		KGST	VAT		
AC Spl. Circle, II Ernakulam	Upto 2009-10	266	60	142	793.48
Spl. Circle HP, Mattancherry	„	287	-	35	112.65
AC Spl. Circle, III Ernakulam	„	223	-	102	85.86
Spl. Circle, II Kozhikode	„	138	19	76	81.80
Spl. Circle, Thrissur	„	268	-	154	39.89
AC Spl. Circle, Kollam	„	360	76	262	27.27
Spl. Circle, I Kozhikode	„	196	20	66	27.16
Spl. Circle, Kannur	„	311	10	247	23.66
AC Spl. Circle, Kottayam	„	86	145	52	10.32
Spl. Circle, Mattancherry	„	132	3	92	4.29
AC Spl. Circle, Thiruvananthapuram	„	317	123	-	-
Spl. Circle, Palakkad	„	208	56	-	-
AC Spl. Circle, Alappuzha	„	8	45	-	-
AC Spl. Circle, I Ernakulam	„	24	380	-	-
Total		2,824	937	1,228	1,206.38

Non-production of large number of records involving substantial revenue seriously hampers us in discharging our constitutional responsibility and deprives the State of additional revenue that may accrue due to our audit.

The department may consider the following steps to ensure production of the records by:-

- constituting a special mechanism to clear the arrears and produce these files to special audit teams which can be constituted for the purpose;
- Ensuring availability of these files at the time of audit and instructing officers accordingly; and

- proposing punitive action against officers who are defaulting regularly.

1.2.4 Position of Inspection Reports

The summarised position of inspection reports issued on revenue receipts relating to various departments during the last five years, paragraphs included in these reports and their status as on 31 March 2010 are tabulated below:

(Rupees in crore)

Year	Opening balance		Addition during the year		Clearance during the year		Closing balance during the year	
	IRs/ paragraphs	Money value	IRs/ paragraphs	Money value	IRs/ paragraphs	Money value	IRs/ paragraphs	Money value
2005-06	2,386	391.89	702	181.58	481	38.85	2,607	534.62
	12,570		3,697		2,780		13,487	
2006-07	2,607	534.62	751	318.54	621	160.98	2,737	692.18
	13,487		3,988		3,061		14,414	
2007-08	2,737	692.18	673	700.88	358	273.57	3,052	1,119.49
	14,414		3,697		2,319		15,792	
2008-09	3,052	1,119.49	692	199.98	485	133.84	3,259	1,185.63
	15,792		5,133		2,967		17,958	
2009-10	3,259	1,185.63	779	688.97	1,187	346.94	2,851	1,527.66
	17,958		7,205		7,996		17,167	

During the five year period, the departments concerned conducted 100 audit committee meetings and cleared 5,627 paragraphs. We are happy to observe that during 2009-10 for the first time in the last five years, clearance of IRs and paragraphs has exceeded additions resulting in reduction of the outstanding IRs and paragraphs. We recommend that the departments should sustain the good work and further reduce the outstanding IRs and paragraphs.

We mention with concern that the departments had not furnished their initial replies to the IRs within the prescribed period of one month of receipt of the IRs in any of the cases tabulated above.

We recommend the Government to reiterate instructions on response to the IRs and monitor clearance of the outstanding cases closely.

1.2.5 Response of the departments to the draft audit paragraphs

We forward draft paragraphs/reviews proposed for inclusion in the Audit Report to the Secretary of the departments concerned through demi-official letters. All departments are required to furnish their remarks on the draft paragraphs/reviews within six weeks of their receipt as per the instructions issued in 1965 by the Government. We had indicated the fact of non-receipt of replies from the Government at the end of each such paragraph included in the Audit Report.

We had forwarded 150 draft paragraphs (clubbed into 52 paragraphs including two reviews) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2010 to the Secretary to the Government concerned and copies were endorsed to the concerned head of the departments. We have not received replies/response to 101 draft paragraphs (out of 150 paragraphs) (December 2010).

1.2.6 Follow up on Audit Reports – summarised position

The Government had issued instructions from time to time for timely follow-up action on the Audit Reports which stipulate submission of action taken notes (ATNs) on paragraphs and reviews included in the Audit Report indicating the remedial action taken or proposed to be taken, within two months from the date of presentation of the Audit Report to the legislature without waiting for any notice or call from the Committee on Public Accounts.

Our review of the outstanding ATNs on paragraphs included in 14 Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31 March 1995 to 31 March 2008 disclosed that the departments had submitted remedial ATNs on all paragraphs.

Out of 533 audit paragraphs included in the above 14 Audit Reports, the departments submitted remedial ATNs on 533 paragraphs. However, none of the ATNs were furnished within the prescribed period of two months.

The Audit Report for the year ended 31 March 2009 was laid on the table of the legislature on 1 March 2010. The departments had not submitted ATNs on the paragraphs included in the above Audit Report (December 2010) although the prescribed time period was over in May 2010. This indicates that the executive failed to take prompt action on the important issues highlighted in the Audit Reports that involved unrealised revenue.

1.2.7 Compliance with the earlier Audit Reports

During the years between 2004-05 and 2008-09, the department/Government accepted audit observations involving revenue of ₹ 53.04 crore out of which an amount of ₹ 42.72 crore was recovered till July 2010 as mentioned below:

(Rupees in crore)

Sl No.	Year	Total money value	Money value of accepted cases	Amount recovered
1.	2004-05	55.49	0.12	0.09
2.	2005-06	29.23	0.02	0.02
3.	2006-07	279.90	7.75	1.75
4.	2007-08	276.21	1.25	0.29
5.	2008-09	675.44	43.90	40.57
Total		1,316.27	53.04	42.72

1.3 Status of assurances by the department/Government on the issues highlighted in the Audit Reports

Registration Department

The succeeding paragraphs discuss the performance of the Registration department in dealing with the cases detected in the course of local audit conducted during the last 10 years and also cases included in the Audit Reports for the years 1999-2000 to 2008-09.

1.3.1 Inspection Reports

During the ten year period, we issued 1,953 Inspection Reports (IRs) with 5,154 paragraphs involving ₹ 184.22 crore. We conducted 33 audit committee meetings with the department and cleared 1,119 paragraphs involving ₹ 19.60 crore. Besides, we interacted persistently with the department through correspondence and were able to clear 4,627 paragraphs with money value of ₹ 179.02 crore.

Majority of the audit objections in the IRs relate to undervaluation of the documents. We feel that the absence of a system of fixing fair value of the land was the main reason for large number of undervaluation cases leading to leakage of revenue. The Government published a notification containing a fair value of land from 5 January 2004 which was immediately withdrawn on 18 February 2004 as the notification contained many anomalies. We find that the failure to prescribe a scientific and acceptable yardstick for evaluation of land prices and collection of stamp duty resulted in subjective judgements in land valuation.

Other main objections pertain to incorrect exemption, misclassification of documents etc.

1.3.2 Paragraphs included in the Audit Reports

During the period, 11 paragraphs involving money value of ₹ 1.86 crore were included in various Audit Reports, of which ₹ 15.83 lakh was collected. The Government had accepted six cases involving ₹ 22.76 lakh. In other cases the department had not accepted the audit observations.

We recommend that the Government may initiate expeditious action to recover stamp duty in the accepted cases in the interest of revenue.

1.3.3 Reviews included in the Audit Reports

We conducted two reviews during the 10 year period in the Registration department on 'The purchase and sale of stamp' and 'Undervaluation cases in the Registration department'.

The review on purchase and sale of stamps was incorporated in the Audit Report for the year ending March 2004. The review was discussed by the Public Accounts Committee. However, we have not received the Action Taken Notes from the department relating to the review.

The review on undervaluation cases in the Registration Department was included in the Audit report 2005. In paragraph 5.2.10 of the report, an analysis of the Compounding Scheme 2002 was also incorporated. The department raised an additional demand of ₹ 94.39 crore based on the review report in 5,90,080 cases out of which ₹ 13.70 crore involved in 94,991 cases were realised. After the expiry of scheme of compounding, ₹ 268.96 crore had to be collected in 4,85,089 cases for which no follow up action was initiated. ₹ 9.03 crore collectible as deficit duty from 18,403 cases under DR Ernakulam, Kasaragod and Pathanamthitta was not effectively pursued.

As a part of the review we had recommended the Government to consider:-

- issuing of notification to prescribe fair value of lands as required under Section 28A of the Kerala Stamp Act at the earliest;
- prescribing a specific time limit for disposal of the undervaluation cases;
- fixing responsibility for pursuance of arrear cases under the RR Act on a time bound basis; and
- providing adequate infrastructure for preservation of undervaluation case files etc.

We noticed that the Government had not considered any of these recommendations so far.

1.3.4 Impact of audit

1.3.4.1 Recoveries at the instance of audit based on inspection reports

Based on observations brought out by us, the Department had accepted 214 cases involving ₹ 3.40 crore and collected ₹ 6.16 lakh in 106 cases.

1.3.4.2 Amendment effected at the instance of audit

Paragraph 7.4 of AR for the year ended 31 March 1999, deals with short levy of stamp duty due to undervaluation of the document where the value of a building was undervalued. On the basis of our Audit paragraph, Kerala Stamp (Prevention of undervaluation of Instruments) Rules 1968 was amended, by which details/particulars of building was to be included in Form 1 B as Annexure to the instrument to avoid undervaluation.

Conclusion

An analysis of the audit objection raised during the period would indicate that the department was not able to solve the problem of undervaluation. 388 IRs with 1,053 paragraphs involving monetary effect of ₹ 12.23 crore is outstanding for want of proper action on the part of the department is a clear indication that the department is not taking corrective measures promptly.

1.4 Planning for audit during 2009-10

We categorised unit offices under various departments into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. We prepared the annual audit plan on the basis of risk analysis which *inter alia* include critical issues in Government revenues and tax administration i.e. budget speech, white paper on State finance, reports of the finance commission (State and Central), recommendation of the taxation reforms committee, statistical analysis of the revenue earnings during the past 5 years, feature's of the tax administration, audit coverage and its impact during past 5 years etc.

During the year 2009-10, the audit universe comprised of 1,038 auditable units of which 660 units were planned for audit and 616 were audited during the year 2009-10 which is 93 *per cent* of the planned units.

We conducted two performance reviews besides the compliance audit mentioned above to examine the efficacy of the tax administration of these receipts.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

We test checked the records of 683 units of commercial tax, motor vehicles, State excise, forest and other departmental offices during the year 2009-10. We noticed underassessments/short levy/loss of revenue aggregating ₹ 1,659.93 crore in 5,369 cases. During the course of the year the departments concerned accepted underassessments and other deficiencies of ₹ 295.27 crore involved in 1,284 cases of which 494 cases involving ₹ 285.21 crore were pointed out in audit during 2009-10 and the rest in the earlier years. The departments collected ₹ 7.53 crore in 1,165 cases during 2009-10.

1.5.2 Material included in this report

This Report contains 52 paragraphs (selected from the audit observations made during the local audit referred to above and during earlier years which could not be included in earlier reports). It also includes two performance reviews on 'Levy and collection of Motor Vehicles Tax' and 'Working of Co-operation Department' and paragraphs relating to short/non-levy of tax, duty and interest, penalty etc., involving ₹ 1,048.55 crore. The departments/ Government have accepted audit observations involving ₹ 313.33 crore. The replies in the remaining cases have not been received (December 2010). These are discussed in succeeding chapters II to VIII.

CHAPTER-II: TAX ON SALES, TRADE ETC.

2.1 Tax administration

Department of Commercial Taxes is under the control of the Principal Secretary, Taxes at the Government level and collection of tax under the KGST, KVAT and CST Acts is governed by the Commissioner of Commercial Taxes (CCT). Levy and collection is administered at grass root level by Commercial Tax Officers and Assistant Commissioners. Movement of goods into the territory of the State is regulated through check posts established at the border. Audit wing of the department conducts internal audit of KVAT returns and assessments under the KGST.

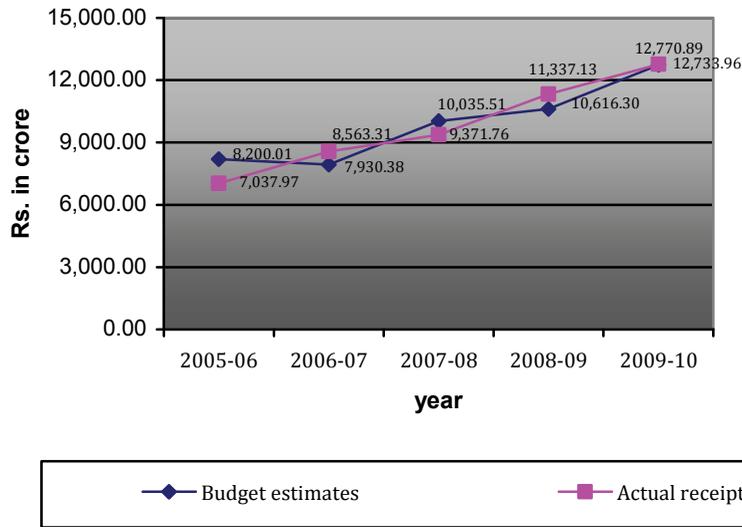
2.2 Trend of receipts

Actual receipts from tax on sales, trade etc. during the last five years (2005-06 to 2009-10) along with the budget estimates during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth rate
2005-06	8,200.01	7,037.97	(-) 1,162.04	(-) 14.17	9,778.62	71.97	-
2006-07	7,930.38	8,563.31	(+) 633.93	(+) 7.98	11,941.82	71.71	21.67
2007-08	10,035.51	9,371.76	(-) 663.75	(-) 6.61	13,668.95	68.56	9.44
2008-09	10,616.39	11,377.13	(+) 760.74	(+) 7.17	15,990.18	71.15	21.39
2009-10	12,733.94	12,770.89	(+) 36.95	(+) 0.29	17,625.02	72.46	12.25

Budget estimates and Actual receipts



We noticed that the growth rate of tax on sales, trade etc. declined during 2007-08 and 2009-10, compared to 2006-07 and 2008-09.

2.3 Assessee profile

The number of dealers registered as at the end of 2008-09 and 2009-10 are shown below:

2008-09	1,59,207
2009-10	1,59,665

The increase in the number of dealers during 2009-10 was marginal. The VAT collection from 50 top dealers in the State was ₹ 1,566 crore which is 21.50 per cent of the total collection. Out of the total dealers, 23,818 dealers constituting 14.92 per cent were paying tax at 0.5 per cent under the category of presumptive tax payers.

The assessment in respect of five major assesseees of KGST are pending from 2004-05 onwards and hence we could not audit these files and ensure the correctness of the returns filed. This implies that approximately 40 per cent of revenue generated from commercial taxes (KVAT + KGST) could not be audited by us every year due to delay in completion of assessment.

2.4 Receipt of VAT per assessee

The receipt of VAT and sales tax per assessee during 2009-10 was ₹ 7.79 lakh which was higher than the previous year's receipt of ₹ 7.15 lakh by ₹ 0.64 lakh.

2.5 Arrears in sales tax assessment

The department furnished the position of arrears under sales tax which is as shown below:

		(Number of cases)
Opening balance		14,254
Addition during 2009-10 including remanded cases		4,345
Total		18,599
No. of assessments completed		9,332
Arrear cases	8,048	
Current cases	1,095	
Remanded cases	189	
Closing balance		9,267

Department completed 9,332 assessments under the KGST. We noticed that there was practically no revenue collection due to completion of the above assessments.

We recommend the Government to undertake a detailed review of these completed assessments.

2.6 Cost of collection

The gross collection of revenue receipts under the head, tax on sales, trade etc., expenditure incurred on collection and the percentage of expenditure to gross collection during 2005-06 to 2009-10 alongwith the all India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage
	(Rupees in crore)			
2005-06	7,037.97	60.96	0.87	0.91
2006-07	8,563.31	78.21	0.91	0.82
2007-08	9,371.76	89.75	0.96	0.83
2008-09	11,377.13	102.59	0.90	0.88
2009-10	12,770.89	126.01	0.99	Not available

We noticed that the expenditure on collection was higher than the all India average except in the year 2005-06.

We recommend the Government to examine the reasons for such high costs of collection and take corrective measures.

2.7 Analysis of collection

Tax revenue collected on tax on sales, trade etc. during last two years as recorded in the books of the Accountant General (A&E) Kerala is given below:

(Rupees in crore)		
Revenue head	2008-09	2009-10
Sales Tax	5,881.97	5,212.92
VAT	5,035.19	7,235.26
CST	425.38	292.94

The above table indicates that during 2009-10 collection of sales tax decreased by ₹ 669.05 crore and VAT collection increased by ₹ 2,200.07 crore. Tax collection from the KGST was ₹ 5,212.92 crore as per the finance account prepared by the Accountant General (A&E). However, our analysis of the details furnished by assessing authorities reveal that five major dealers alone had paid ₹ 5,249.61 crore during 2009-10. As per the data collected from the department, the collection of sales tax and VAT during 2009-10 are ₹ 6,249.59 crore and ₹ 6,950.60 crore respectively which implies misclassification of receipts. We recommend immediate action to reconcile the differences. The entire collection under sales tax and under VAT represents voluntary payments by dealers.

2.8 Impact of audit

Revenue impact

During the last four years, we pointed out non/short levy, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax etc., with revenue implication of ₹ 1,448.26 crore in 5,195 paragraphs. Of these, the department/Government accepted audit observations involving ₹ 647.99 crore and had since recovered ₹ 15.46 crore. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	954	50.37	558	6.29	48	0.42
2006-07	1,004	309.17	179	250.50	108	3.18
2007-08	1,055	334.37	299	241.50	181	2.46
2008-09 Vol. I	2,181	459.11	341	32.77	203	9.40
2008-09 Vol. II	1	295.24	1	116.93	--	--
Total	5,195	1,448.26	1,378	647.99	540	15.46

We noticed that the Government failed to recover even the amount it has accepted.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

2.9 Working of internal audit wing

The internal audit wing (IAW) in the Commercial Taxes department was constituted in May 2009. The wing is headed by a Deputy Commissioner, three Assistant Commissioners and four Commercial Tax Officers. The IAW commenced functioning from 1 June 2009. The department has not prepared a separate internal audit manual. IAW covered eight out of 14 districts during June 2009 to February 2010 and 262 audit paragraphs were raised by them. However, as the reports were not finalised, we are unable to make any comment about the effectiveness of their performance.

2.10 Results of audit

We test checked the records of 163 units relating to KGST and VAT. We detected underassessment of tax and other irregularities involving ₹ 1,122.54 crore in 4,451 cases which fall under the following categories:

Sl. No.	Categories	No. of cases	Amount (Rupees in crore)
A. Value Added Tax			
1.	Turnover escaping assessment	791	92.57
2.	Grant of irregular exemption	660	70.47
3.	Application of incorrect rate of tax	342	28.05
4.	Incorrect grant of concessional rate of tax	87	26.75
5.	Grant of excess input tax credit	599	10.35
6.	Non/short levy of interest	81	6.63
7.	Other lapses	1,491	327.05
8.	Works contract	13	517.00
B. Kerala General Sales Tax			
9.	Grant of irregular exemption	74	19.20
10.	Turnover escaping assessment	102	8.24
11.	Application of incorrect rate of tax	54	2.28
12.	Non/short levy of interest	22	0.60
13.	Other lapses	135	13.35
Total		4,451	1,122.54

The department accepted underassessment and other deficiencies of ₹ 281.51 crore in 642 cases, of which 251 cases involving ₹ 276.55 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 5.02 crore was realised in 588 cases during the year 2009-10.

A few illustrative audit observations involving ₹ 463.59 crore are mentioned in the following paragraphs.

2.11 Audit observations

We scrutinised assessment records of sales tax/value added tax (VAT) in Commercial Taxes department and found several cases of non-observance of provisions of the Acts/Rules, non/short levy of tax/penalty/interest, incorrect determination/classification of turnover 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 on the part of assessing authorities (AA) 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 the internal audit to ensure that such omissions are detected and rectified.

2.12 Non-observance of provisions of Acts/Rules

The Kerala General Sales Tax/Kerala Value Added Tax/Central Sales Tax Acts and Rules made thereunder provide for:

- (i) levy of tax/interest/penalty at the prescribed rate;*
- (ii) allowing exemption of turnover subject to fulfilment of the prescribed conditions; and*
- (iii) allowance of input tax credit as admissible.*

We noticed that the AAs while finalising the assessment did not observe some of the provisions which resulted in non/short levy/non-realisation of tax/interest/penalty of ₹ 463.59 crore as mentioned in the paragraphs 2.12.1 to 2.12.20.

Works contract

2.12.1 Short levy due to turnover escaping assessment

2.12.1.1 (CTO, special circle, Thiruvananthapuram; February 2010).

Rule 9 of the KVAT Rules provides that where in a works contract, the awarder supplies a portion of the goods involved in the execution of the works contract and deducts the value of the material from the payment made to the contractor, the turnover of the goods so supplied shall form part of the total turnover of the awarder as well as the contractor.

An assessee who is the awarder of various work contracts, supplied materials to the contractors for execution in the works contract. The value of materials so supplied was deducted from the bill of the contractor. However, we found that the value of materials which was

recovered from the bill of the contractor amounting to ₹ 1,871.61 crore supplied by the assessee for the years 2005-06 to 2008-09 was not subjected to tax by the assessee. This defect was not detected by the assessing authority which resulted in short levy of tax and interest of ₹ 274.24 crore.

We pointed out the matter to the department and reported to the Government in May 2010. We have not received any further information (December 2010). However, we noticed subsequently that the assessments were revised in May 2010 creating an additional demand of ₹ 284.53 crore.

2.12.1.2 (CTOs, Works Contract, Ernakulam and Thrissur; November 2009 to January 2010)

Section 22 of the KVAT Act provides that where the return submitted by a dealer is with incorrect particulars, the assessing authority shall, after recording its reasons, reject the return with due notice to the dealer. The Act also stipulates that if any dealer files incorrect return and fails to file a fresh return, the assessing authority shall estimate the turnover of the return period and complete the assessment to the best of its judgement.

We verified the annual return with the annual accounts of nine assesseees in CTOs Works Contract, Ernakulam and Thrissur and found that the assesseees had returned considerably lesser turnover in their annual return than that disclosed in annual accounts. Further, the assesseees did not limit

the exemption claimed to the eligible limits. These defects were not detected by the assessing authorities which resulted in short levy of tax and interest of ₹ 17.22 crore.

After we pointed out the defects, the assessing authority stated in one case⁶ that the difference in turnover was due to the land value. The reply is not acceptable as the assessee had opted for compounding and hence tax is to be paid on the whole contract amount.

We pointed out the matter to the department and reported to the Government in May 2010. We have not received their replies (December 2010).

• (CTO, Works Contract, Ernakulam; January 2010)

An assessee executed works contract valued at ₹ 91.77 crore for the year 2006-07 on turnkey basis. However, the assessee disclosed a turnover of ₹ 10.93 crore as labour element in the annual return and claimed exemption on that turnover, resulting in underassessment of turnover of ₹ 80.84 crore. This mistake was not detected by the assessing authority which resulted in short levy of tax and interest of ₹ 13.34 crore.

We pointed out the matter to the department and the Government in May 2010. We have not received their replies (December 2010).

⁶ M/s. Yasoram Builders, Ernakulam.

2.12.1.3 (CTO, Works Contract, Ernakulam; November 2009)

The proviso to KVAT Rule 10 (2) (a) provides that when the turnover arrived at after deducting the eligible deduction, falls below the cost of goods transferred in the execution of works contract, an amount equal to the cost of goods transferred in the execution of works contract with profit, if any, shall be the taxable turnover in respect of such works contract. Further, Section 6(1) (f) of the KVAT Act prescribes that the liability to pay tax shall be, in the case of transfer of goods involved in the execution of works contract, where the transfer is not in the form of goods, but in some other form at the rate of 12.5 *per cent*. Subsequently, it has been provided in the Act from April 2008 that the tax payable in respect of transfer of declared goods not in the form of goods but in some other form shall be at the rate prescribed under the respective schedules.

An assessee, engaged in works contract, claimed exemption under Rule 10 (2) (a) of the KVAT Rules from the total turnover of contract receipts and paid tax on the balance taxable turnover for the years 2007-08 and 2008-09. We found that the cost of goods transferred in the execution of works contract alongwith the profit element is considerably higher than the turnover that the assessee returned. As such, the assessee is liable to pay tax on the cost of goods transferred in the works contract instead of on the

conceded taxable turnover. This defect was not detected by the assessing authorities which resulted in short levy of tax and interest of ₹ 16.91 crore.

After we pointed out the defect, the assessing authority stated (November 2009) that the cost of goods transferred to works contract includes goods purchased interstate which had already suffered tax and hence is eligible for exemption. The reply is not acceptable as the goods purchased interstate is used in the works contract at a different State and hence is exigible to tax. The High Court of Tamil Nadu had held⁷ that the materials brought from outside the State and used in the execution of works contract within the State is exigible to tax in the State. We found that the assessing authority issued notice to the assessee in December 2009.

We reported the matter to the department and to the Government in May 2010. We have not received their replies (December 2010).

⁷ JDP Associates Vs TNTST and others 2004-05 (10) TNCTJ-165 Mad as cited in the AR(RR) for Tamil Nadu for the year ended 31 March 2008 (Para 2.10.1.5).

2.12.1.4 (CTO, (WC<), Thrissur; September 2009)

As per Section 8(a) (ii) of the KVAT Act, any works contractor having CST registration, may opt to pay tax at four *per cent* of the whole contract amount. Rule 9(1) (c) of the KVAT rules further provides that the total turnover of a dealer shall be the aggregate of contract amount received or receivable.

The taxable turnover of a works contract dealer paying compounded tax at the rate of four *per cent* for the year 2006-07 was determined by audit assessment wing as ₹ 10.49 crore even though the assessee had a contract receipt of ₹ 13.38 crore as per the certified accounts. This

resulted in short levy of tax of ₹ 11.55 lakh.

We pointed out the case to the department in October 2009 and reported to the Government in April 2010. We have not received their replies (December 2010).

• (CTO, (WC<), Thrissur; September 2009)

An assessee engaged in works contract conceded a total turnover of ₹ 2.23 crore in the annual return even though he had a contract receipt of ₹ 4.55 crore as per the certified P&L account for the year 2007-08. This resulted in escape of turnover of ₹ 2.32 crore and consequent short levy of tax and interest of ₹ 10.78 lakh.

We pointed out this case to the department in October 2009 and reported to the Government in April 2010. We have not received their replies (December 2010).

2.12.1.5 (CTO, special circle, Thiruvananthapuram; January 2010)

The CCT had instructed that the assessing authorities should cross check the details available in the returns filed by the assessee to ensure that there was no evasion of tax by the dealer.

An assessee who is engaged in the execution of Japan Bank for International Co-operation (JBIC) assisted water supply

scheme for Kerala Water Authority (KWA) opted for compounding and paid tax on ₹ 15.33 crore for 2007-08. We cross verified the payments made to the assessee with the records of JBIC available with KWA and noticed that the assessee was paid ₹ 17.12 crore. The discrepancy in turnover was not detected by the assessing authority which resulted in short levy of tax and interest of ₹ 8.60 lakh.

We pointed out the matter to the department and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.1.6 (CTO (Works Contract), Thiruvananthapuram; March 2009)

Where the return submitted under sub-section (1) of the Section 20 is not in the prescribed manner, the assessing authority shall reject the return as per the KVAT Act. The Act also stipulates that if any dealer fails to submit a fresh return, the assessing authority shall estimate the turnover of the return period and complete the assessment to the best of its judgment.

A dealer assessed tax for the year 2006-07 on a conceded turnover of ₹ 1.90 crore as per the annual return. However, we found on scrutiny of the assessment records that the audited accounts of the assessee revealed a turnover of ₹ 2.11 crore. This mistake was not detected by the AA which resulted in short levy of tax and

interest of ₹ 3.36 lakh.

We pointed out the case to the department in March 2009 and reported to the Government in July 2009. The Government stated in January 2010 that the assessment had been revised creating an additional demand of ₹ 2.42 lakh towards tax and ₹ 82,000 towards interest. We have not received further information from the Government (December 2010).

2.12.2 Short levy due to incorrect exemption

2.12.2.1

- (CTOs : Special circle II, Ernakulam and Works Contract Mattancherry; November 2009)

The taxable turnover in relation to works contract in which transfer of property takes place not in the form of goods but in some other form shall be arrived at after deducting the amount in respect of labour charges etc., as per Rule 10(2)(a) of the KVAT Rules. Further, where the actual turnover in relation to works contract is not ascertainable from the books of accounts, the turnover shall be computed after deducting labour and other charges as given in the table below Rule 10(2) (b).

We noticed in CTOs, special circle II, Ernakulam and works contract Mattancherry that four dealers had assessed turnover in respect of works contract after deducting expenses much higher than that referred in the Table, even though the actual expenses in respect of labour and other charges were not ascertainable from their accounts. This mistake was not detected by

the assessing authorities and rectified which resulted in short levy of tax and interest of ₹ 68.29 crore.

We reported the matter to the department and to the Government in May 2010. We have not received their replies (December 2010).

- (CTO (WC<), Thiruvananthapuram; March 2009)

An assessee, engaged in the business of interior decoration, incorrectly availed exemption of ₹ 3.13 crore and ₹ 3.82 crore from the total turnover for the years 2005-06 and 2006-07, instead of availing exemption in respect of labour and other charges at the specified rate of 25 *per cent*, as these items were not separately ascertainable from the accounts. This resulted in short levy of tax of ₹ 47.34 lakh.

We pointed out this defect to the department in April 2009 and reported to the Government in July 2009. We have not received their replies (December 2010).

2.12.2.2 (CTO, special circle II, Ernakulam; November 2009)

Section 5(1) of the CST Act stipulates that a sale or purchase of goods shall be deemed to take place in the course of the export of the goods out of the territory of India, only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India.

An assessee claimed sale of ships as export sales. As per the terms and conditions, the ships/vessels are delivered at the Shipyard at Cochin and the title, risk, ownership etc over the vessel were transferred to the buyer and the buyer takes possession of the vessel immediately upon delivery. Hence, the sale falls within the definition of sale under KVAT Act. Since none of the conditions

stipulated in the CST Act is fulfilled in this transaction, the exemption amounting to ₹ 1,148.09 crore for the period from 2005-06 to 2008-09 given is not in order resulting in short levy of tax and interest of ₹ 54.70 crore.

We reported the matter to the department and to the Government in May 2010. We have not received their replies (December 2010).

2.12.2.3 (CTOs: Special Circle II, Ernakulam and Works Contract, Ernakulam; November and December 2009)

Section 10 of the KVAT Act provides for deduction of tax from every payment, including advance payment to any works contractor in relation to any works contract awarded. The Act also stipulates that for the above purpose, the contractor may produce a liability certificate in relation to such works contract from the assessing authorities showing the tax liability or tax remittance, as the case may be, of the contractor in relation to the work and the amount to be deducted from the contract amount is 10 *per cent* in the case of unregistered contractor.

We observed in CTOs Special Circle II, Ernakulam and Works Contract, Ernakulam that four assesseees awarded sub-contracts valued at ₹ 267.22 crore and claimed exemption for the same. The exemption claimed is not allowable as the condition that liability certificate in relation to such works contract from the assessing authorities showing the tax liability or tax remittance has

not been fulfilled. The assessing authorities did not detect this mistake, which resulted in short levy of tax and interest of ₹ 32.74 crore.

We pointed out the matter to the department and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.2.4 (CTO, Works Contract, Ernakulam; January 2010)

Section 22 of the KVAT Act stipulates that, where the return submitted is with incorrect particulars, the assessing authorities shall, after recording its reasons, reject the return with due notice to the dealer. The Act also provides that if any dealer files incorrect return and fails to file a fresh return, the assessing authority shall estimate the turnover of the return period and complete the assessment to the best of its judgement.

An assessee who is engaged in works contract disclosed for the year 2008-09, a total turnover of works contract of ₹ 87.16 crore. However, the assessee returned a taxable turnover of ₹ 2.45 crore after claiming exemption for ₹ 84.71 crore (i.e. 97.19 per cent) on the contention that he received payment of ₹ 2.45 crore only for that year. We found that the assessee had received payment amounting to ₹ 60.70

crore from the awarders of contract. As such the assessee is liable to pay tax at least on the contract amount received of ₹ 60.70 crore after allowing deductions as per Rule 10(2) (b) of the KVAT Rules, as the element of labour and other charges are not separately ascertainable from the records. This defect was not detected by the assessing authority which resulted in short levy of tax and interest of ₹ 6.70 crore.

We reported the matter to the department and to the Government in May 2010. We have not received their replies (December 2010).

2.12.2.5 (CTO, Works Contract, Mattancherry; November 2009)

The whole of the contract amount in respect of works contract referred in Section 8 shall not include amount paid to sub-contractors for the execution of the portion of works contract if the sub-contractor is a registered dealer liable to tax under sub-section (1) or (1A) of Section 6 and the contractor claiming deduction in respect of such amount furnishes a certificate in the prescribed manner.

A dealer who had opted to pay tax at the compounded rates claimed deduction in respect of sub-contract awarded for the years 2006-07 to 2008-09. We found that the sub-contract was purely labour contract and hence the sub-

contractors were not liable to tax. Further we found that the materials for the works were issued by the awarder and hence the liability rests with the awarder itself. The incorrect claim of exemption had resulted in short levy of tax and interest of ₹ 1.56 crore.

We pointed out the matter to the department and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.2.6 (CTO, Works Contract, Thiruvananthapuram; March 2009)

Rule 9 of the KVAT Rules provides that in a works contract in which the transfer of property takes place not as goods but in some other form, the taxable amount shall be the whole amount payable to the dealer for carrying out such contract less the labour charges not incurred in relation to the goods involved in the works contract and other charges. Further, interest at 12 *per cent per annum* is leviable for default in payment of tax within the due date.

An assessee engaged in works contract for the year 2006-07, availed exemption of ₹ 1.52 crore towards labour and other charges as per the annual return against an eligible exemption of ₹ 1.25 crore on the total turnover of ₹ 2.68 crore as disclosed in the P&L Accounts. This resulted in short levy of tax and interest of ₹ 4.20 lakh.

We pointed out the matter to the department in April 2009 and reported to the Government in July 2009. The Government stated in November 2009 that the assessment was revised and an additional demand of ₹ 4.88 lakh was created. We have not received a report on recovery (December 2010).

2.12.3 Application of incorrect rate of tax

2.12.3.1 (CTOs, Works Contract, Ernakulam and Mattancherry; November 2009)

Section 6(1) (f) of KVAT Act as amended from 1 July 2006, stipulates that in the case of transfer of goods involved in execution of works contract, where the transfer is not in the form of goods, but in some other form, tax is leviable at the rate of 12.5 *per cent* and when transfer is in the form of goods, tax is leviable at the rates prescribed under the respective schedule. Further, Rule 10(2) (a) of KVAT Rules prescribes that in relation to works contract in which transfer of property takes place not in the form of goods but in some other form, the taxable turnover in respect of the transfer of property involved in the execution of works contract shall be arrived at after deducting labour and other charges from the total amount received or receivable by the dealer for the execution of the works contract.

In case of two contractors who were engaged in works contract for the years 2006-07 and 2007-08, where transfer of property took place not in the form of goods but in some other form, the taxable turnover was arrived at after deducting expenses much higher than that allowable under the Rule. Further, tax was assessed at various rates ranging from four to 20 *per cent*, instead of at the correct rate of 12.5 *per cent*. The assessing authorities did not detect these mistakes which resulted in short levy of tax and interest of ₹ 9.21 crore.

We pointed out the matter to the department and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.3.2 (Three CTOs⁸ : April 2008)

Section 7(5) of the CST Act stipulates that a registered dealer may apply in the prescribed manner not later than six months before the end of a year to the authority which granted his certificate for cancellation of such registration, and the authority shall unless the dealer is liable to pay tax under this Act, cancel the registration accordingly and where he does so, the cancellation shall take effect from the end of the year. The rate of tax for the year 2008-09 as per Section 8(a) (i) of the KVAT Act for a dealer without CST registration was at the rate of three *per cent* and as per Section 8(a) (ii) of the KVAT Act, for a dealer with CST registration, was eight *per cent*.

We observed in CTOs works contract, Ernakulam, Kozhikode and Thiruvananthapuram, that 18 dealers had applied for cancellation of CST registration in April 2008 and the assessing authorities granted permission to cancel the CST registration in April 2008 itself. This allowed the dealers to pay tax at reduced rate for the year 2008-09 in violation of the provisions of the Act, resulting in short levy of tax of ₹ 4.66 crore.

After we pointed out the matter, the assessing authority stated that the provisions contained in Section 6(5) of the KVAT Act enables the dealer to cancel the registration and opt to pay tax under Section 6(5) in that year itself. The reply is not tenable as Section 6(5) relates to presumptive tax and is not relevant to the case. Further, explanation 2 under Section 8 enables dealers who had opted for cancellation of CST registration prior to 31 March 2008 for payment of tax under Section 8.

We pointed out the matter to the department and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.3.3 (Three⁹ CTOs (WC & LT); July 2009 to September 2009)

Any works contractor not registered under the CST Act may opt to pay tax at two *per cent* of the whole contract amount as per Section 8(a) of the KVAT Act. The works contractor, not falling under the above clause may pay tax at four *per cent*.

Three assesseees in works contract having CST registration opted to pay compounded tax for the years 2005-06 and 2007-08 on the contract receipt of ₹ 6.63 crore at the rate of two *per cent*

instead of at four *per cent*. This resulted in short levy of tax and interest of ₹ 13.31 lakh.

⁸ CTOs: Works Contract, Ernakulam, Kozhikode and Thiruvananthapuram.

⁹ Alappuzha, Kottayam and Malappuram.

After we pointed out the cases in August 2009 and October 2009, the department stated in December 2009 and January 2010 that in one¹⁰ case action was initiated to realise the short levy and in another¹¹ case assessment had been completed in November 2009 creating an additional demand of ₹ 2.35 lakh. Reports on recovery have not been received (December 2010).

We reported the cases to the Government between December 2009 and February 2010. We have not received their replies (December 2010).

2.12.3.4 (CTO Works Contract, Thiruvananthapuram; March 2009)

Section 8(a) of the KVAT Act prescribes that any works contractor, other than those engaged in the installation of plant and machinery may, opt to pay tax at four *per cent* of the whole contract amount. The Act further stipulates that in the case of transfer of goods involved in execution of works contract, where the transfer is not in the form of goods, but in some other form, the rate of tax applicable is 12.5 *per cent*. Further, under Rule 9 of the KVAT Rules, deduction admissible towards labour and other charges in respect of contract receipts for installation of plant and machinery is at the rate of 15 *per cent*. Interest is also leviable at the prescribed rates as specified under the Act for default in payment of tax within the due dates.

An assessee who executed the works contract of supply and installation of medical gas system, with vacuum plant and suction unit with regulator, in various hospitals, incorrectly assessed tax at the compounded rate of four *per cent* on the gross contract receipts of ₹ 39.92 lakh for the year 2006-07 instead of assessing the contract receipts at the rate of 12.5 *per cent* after deducting 15 *per cent* towards labour and other charges. This resulted in short levy of tax and interest of ₹ 3.25 lakh.

We pointed out the matter to the department in April 2009 and reported to the Government in July 2009. The Government stated in November 2009 that the assessment was revised with an additional demand of ₹ 3.32 lakh. We have not received further report on the recovery (December 2010).

¹⁰ CTO (WC<), Kottayam.

¹¹ CTO (WC<), Malappuram.

2.12.4 Short levy due to incorrect classification

(Three CTOs¹²: November 2009 to January 2010)

The Supreme Court had held {M/s. Kone Elevator (India) Ltd. Vs State of Andhra Pradesh in 140 STC 22 (SC)} that sale, erection and commissioning of a lift is sale and not works contract. In addition to output tax leviable at appropriate rates, cess at the rate of one *per cent* is leviable on the output tax payable from 2008-09.

We noticed that five assesseees in CTOs Special Circle II, Ernakulam, Works Contract, Ernakulam and Works Contract, Thiruvananthapuram incorrectly assessed the turnover for sale, erection and commissioning of lifts for the years 2005-06 to 2008-09 as works contract and claimed exemption in relation to the turnover on labour charges incurred. We noticed that the assessing authorities did not detect this mistake which resulted in short levy of tax and interest of ₹ 11.24 crore.

After we pointed out these mistakes the assessing authorities stated that the Supreme Court decision pointed out in audit had been challenged by the dealer and had been referred to the constitution bench of the Supreme Court. The reply is not acceptable as the decision of the Supreme Court is still valid as it has not been stayed by the Court. Moreover, the court order produced by the assessee does not prevent the assessing authorities from making any assessments in this regard but only restricts them from taking any coercive steps to recover tax.

We pointed out the matter to the department and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.5 Short levy due to incorrect computation of tax

(CTO (WC<), Kozhikode; May 2010)

Section 8(a) (ii) of the KVAT Act prescribes that, any works contractor having CST registration may opt to pay tax at four *per cent* on the whole contract amount.

resulted in short levy of tax of ₹ 8.81 lakh.

After we pointed out the case to the department in June 2009, the department stated in November 2009 that notice had been issued to the dealer. We have not received further report on the recovery (December 2010).

We reported the matter to the Government in January 2010. We have not received their reply (December 2010).

An assessee who had opted to pay compounded tax was having total contract receipt of ₹ 20.58 crore. He paid tax of ₹ 73.50 lakh instead of ₹ 82.31 lakh. This

¹² CTOs: Special Circle II, Ernakulam, Works Contract, Ernakulam and Works Contract, Thiruvananthapuram.

Value Added Tax

2.12.6 Short levy due to excess availing of input tax credit

2.12.6.1 (CTO, special circle II, Ernakulam; November 2009)

Where any goods purchased in the State are subsequently sent outside the State or used in the manufacture of goods and the same are sent outside the State otherwise than by way of sale in the course of interstate trade or export or where the sale in the course of interstate trade is exempted from tax, input tax credit shall be limited to the amount of input tax paid in excess of the rate specified under the CST Act on the purchase turnover of such goods sent outside the State as per the proviso to section 11(3) of KVAT Act. The rate of tax applicable under the CST Act was three *per cent* during 2007-08. Section 11 (7) of the Act further stipulates that, if goods in respect of which input tax credit has been availed are subsequently used, fully or partly, for purposes in relation to which no input tax credit is allowable under the section, the input tax credit availed of in respect of such goods shall be reversed.

An assessee stock transferred raw materials valued at ₹ 3.44 crore and 90.30 *per cent* of their finished products for the year 2007-08. However, while limiting input tax credit to that extent by assessing reverse tax, it was assessed as ₹ 24.05 crore instead of ₹ 27.32 crore. This resulted in short levy of tax and interest of ₹ 3.85 crore.

We pointed out the mistake to the department in December 2009 and reported to the Government in June 2010. We have not received their replies (December 2010).

2.12.6.2 (CTO, special circle II, Ernakulam; November 2009)

Input tax credit (ITC) shall not be allowed to any amount illegally collected by way of tax as per proviso to Section 11(3) of the KVAT Act.

A dealer availed ITC of ₹ 35.75 crore on local purchases of goods valued at ₹ 828.35 crore as against the eligible claim of ₹ 33.13 crore for the year 2007-08 which was

not detected by the assessing officer. This resulted in short levy of tax and interest of ₹ 3.11 crore.

We pointed out the mistake to the department in December 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

- (IAC, Kattappana; November 2009)

A dealer availed input tax credit of ₹ 2.60 crore for the years 2005-06 to 2007-08 against the eligible credit of ₹ 2.57 crore due to mistake in computation

which was not detected by the assessing officer. This resulted in short levy of tax and interest of ₹ 4.53 lakh.

We pointed out the mistake to the department in January 2010 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.6.3 (CTO, special circle, Malappuram; March 2009)

During 2005-06 and 2006-07, the rate of tax under the CST Act was four *per cent*.

A dealer who effected interstate stock transfer of ayurvedic products for ₹ 16.38 crore and ₹ 19.02 crore during 2005-06

and 2006-07 respectively, claimed the entire input tax credit without limiting it to tax paid in excess of four *per cent* on stock transfer outside the State which was not detected by the assessing officer. This resulted in short levy of tax and interest of ₹ 41.69 lakh.

We pointed out the mistake to the department in April 2009 and reported to the Government in December 2009. We have not received their replies (December 2010).

2.12.6.4 (CTO, special circle, Mattancherry at Aluva; September 2009)

Input tax credit shall not be allowed as per Section 11(5) of the KVAT Act for the purchase of goods which are used in the manufacture, processing or packing of goods specified in the first schedule to the Act. Coconut oil and coconut oil cake are included in first schedule with effect from 1 May 2007.

A dealer who used copra purchased by him for manufacture of coconut oil and coconut oil cake for the year 2007-08 availed input tax credit of ₹ 8.41 lakh for the month of May and June 2007 on the purchase turnover of copra. This resulted in excess availing of ITC of ₹ 8.41 lakh and consequent short levy of tax and interest of

₹ 9.92 lakh.

We pointed out the mistake to the department in October 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

• (CTO, special circle, Kasaragod; August 2009)

A dealer claimed input tax credit for the entire purchase turnover of cashew nut for the year 2007-08. Even though 35.15 *per cent* of the total sales turnover relates to consignment and stock transfer, the input tax credit availed corresponding to this turnover was not deducted and the assessing officer had not detected this mistake. This resulted in short levy of tax of ₹ 6.69 lakh.

After we pointed out the mistake to the department in September 2009; the department stated in December 2009 that notice had been issued to the assessee. We have not received further reply from the department (December 2010).

We reported the defect to the Government in May 2010. We have not received their reply (December 2010).

2.12.7 Application of incorrect rate of tax

2.12.7.1 (19¹³ CTOs; August 2008 to November 2009)

The KVAT Act provides that batteries and parts thereof, petroleum bitumen (upto 30 June 2006), lead oxide, mansion polish, harpic, lizol, biscuits of all varieties and pickles sold under a brand name, speakers etc., handloom cotton tapes, medicated toothpowder and toothpaste, epoxy powder, *supari*, black and red oxide, dettol, detergents, doors, windows and their frames and thresholds for doors of aluminium and plastic, prickly heat powder and similar medicated body powder, adhesive tape and cosmetics are taxable at the rate of 12.5 *per cent* and branded soft drinks excluding soda and refrigerators and their spare parts are taxable at the rate of 20 *per cent* from July 2006 to March 2007. The Act also stipulates that expeller variety of sesame oil cake and frozen marine products are taxable at the rate of four *per cent*. The Act further prescribes that where sale is to or by military, air force or NCC canteen and canteen stores department, the tax payable shall be at half the rate applicable to such goods as per proviso to Section 6(1) of the KVAT Act. The High Court of Kerala had held that Nycil prickly heat powder is medicated talcum powder and not a drug or medicine and that, purchase of vehicles through CSD is not eligible for the concessional rate of tax as motor vehicles are sold not to CSD but to defence personnel. Further, interest at 12 *per cent per annum* is leviable for default in payment of taxes within the due dates.

We found during scrutiny of the records of 19 offices that 24 dealers had applied incorrect rate of tax on various commodities having a total taxable turnover of ₹ 23.66 crore. In spite of the specific provisions in the Act, these mistakes were not detected by the AAs which resulted in short levy of tax and interest of ₹ 2.40 crore as detailed below:

¹³ AIT & CTO Alappuzha, Special circles: I Ernakulam, II Ernakulam, Kasaragod and Palakkad CTOs: Chalakudy, First circle Changanacherry, Chittur, First circle Kannur, Third circle Kannur, Koothuparamba, First circle Kozhikode, Second circle Kozhikode, Fourth circle Kozhikode, Manjeri, Neyyattinkara, Payyannur, First circle Thiruvananthapuram and Second circle Thiruvananthapuram.

Audit Report (Revenue Receipts) for the year ended 31 March 2010

Sl. No.	Assessment circles Month of audit	Commodity Assessment year	Rate applicable Rate applied	Turnover (₹)	Short levy (₹)
1.	CTO, Special circle, Palakkad March 2009	Battery 2005-06 and 2006-07	12.5 4	6.69 crore	72.34 lakh
	After we pointed out the case to the department in May 2009, the department stated in June 2009 that notice under Section 25 (1) had been issued in June 2009. We reported the defect to the Government in February 2010. We have not received their reply (December 2010).				
2.	CTO, Special circle, Kasaragod August 2009	Petroleum bitumen 2005-06 and 2006-07	12.5 4	2.69 crore	31.45 lakh
	After we pointed out the case in September 2009, the department stated in December 2009 that the assessment had been revised based on audit observation. We reported the matter to the Government in March 2010. We have not received their reply (December 2010).				
3.	CTO, Special circle II, Ernakulam March 2009	Motor Vehicles 2005-06 and 2006-07	12.5 6.25	1.61 crore	12.89 lakh
	We pointed out the mistake to the department in April 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).				
4.	CTO, First circle, Changanacherry December 2008	Lead Oxide 2005-06 and 2006-07	12.5 4	1.21 crore	12.87 lakh
	We pointed out the case to the department in January 2009 and reported to the Government in February 2010. We have not received their replies (December 2010).				
5.	CTO, Special circle I, Ernakulam April 2009	Nycil prickly heat powder 2005-06	12.5 4	1.07 crore	12.42 lakh
	We pointed out the mistake to the department in May 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).				
6.	AIT & CTO, Alappuzha June 2009	Cotton tape 2005-06 and 2006-07	12.5 0	97.87 lakh	12.23 lakh
	After we pointed out the case in July 2009, the department stated in September 2009 that the assessments were revised. Report on recovery has not been received. We reported the case to the Government in January 2010. We have not received their reply (December 2010).				
7.	CTO, Chittur August 2009	Medicated tooth powder and tooth paste 2005-06 to 2007-08	12.5 4	78.06 lakh	8.90 lakh
	We pointed out the case to the department in September 2009 and reported to the Government in March 2010. We have not received their replies (December 2010).				
8.	CTO, Second circle, Thiruvananthapuram February 2009	Branded Soft drinks 2006-07	20 12.5	75.10 lakh	6.87 lakh

Sl. No.	Assessment circles Month of audit	Commodity Assessment year	Rate applicable Rate applied	Turnover (₹)	Short levy (₹)
	After we pointed out the case, the department stated in October 2009 that the assessment had been revised in September 2009. We reported the matter to the Government in March 2010. We have not received their reply (December 2010).				
9.	CTO, First circle, Kannur August 2009	Epoxy powder 2005-06 to 2007-08	12.5 4	76.67 lakh	6.52 lakh
	After we pointed out the case in September 2009, the department stated in November 2009 that notice had been issued to the assessee. We reported the matter to the Government in February 2010. We have not received their reply (December 2010).				
10.	CTO, Fourth circle, Kozhikode November 2009	Doors, windows and their frames and thresholds for doors of aluminium, plastics etc. 2007-08	12.5 4	57.76 lakh	5.89 lakh
	We pointed out the case to the department in December 2009 and reported to the Government in February 2010. We have not received their replies (December 2010).				
11.	CTO, First circle, Changanacherry December 2008	Mansion polish, <i>harpic, lizol,</i> shoe polish & <i>brasso</i> 2005-06 and 2006-07	12.5 4	51.97 lakh	5.81 lakh
	We pointed out the case to the department in January 2009 and reported to the Government in February 2010. We have not received their replies (December 2010).				
12.	CTO, Second circle, Kozhikode June 2009	Adhesive Tape 2005-06 to 2007-08	12.5 4	56.27 lakh	5.55 lakh
	We pointed out the mistake to the department in July 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).				
13.	CTO, Second circle, Thiruvananthapuram February 2009	Biscuits sold under brand name 2005-06 and 2006-07	12.5 4	53.91 lakh	5.34 lakh
	After we pointed out the case in March 2009, the department stated in October 2009 that the assessments for the years have been revised. We reported the matter to the Government in March 2010. We have not received their reply (December 2010).				
14.	CTO, Neyyattinkara December 2008	Expeller variety of sesame oil cake 2005-06 to 2006-07	4 0	97.43 lakh	4.85 lakh
	We pointed out the mistake to the department in January 2009 and reported to the Government in November 2009. We have not received their replies (December 2010).				

Audit Report (Revenue Receipts) for the year ended 31 March 2010

Sl. No.	Assessment circles Month of audit	Commodity Assessment year	Rate applicable Rate applied	Turnover (₹)	Short levy (₹)
15.	CTO, Koothuparamba June 2009	<i>Supari</i> (Betel nut) 2005-06	12.5 4	40.88 lakh	4.83 lakh
After we pointed out the case in July 2009, the department stated in September 2009 that notice had been issued to the assessee. We have not received further information. We reported the matter to the Government in January 2010. We have not received their reply (December 2010).					
16.	CTO, third circle, Kannur June 2009	Oxides 2005-06	12.5 4	33.98 lakh	3.98 lakh
After we pointed out the case in July 2009, the department stated in August 2009 that notice had been issued to the assessee. After we reported the case to the Government, we have not received their reply (December 2010).					
17.	CTO, First circle, Kozhikode August 2009	<i>Dettol</i> 2007-08	12.5 4	50.92 lakh	3.82 lakh
After we pointed out the defect to the department in September 2009 and reported to the Government in February 2010, we have not received their replies (December 2010).					
18.	CTO, Payyannur, August 2009	Cosmetics 2005-06	12.5 0	21.31 lakh	3.73 lakh
After we pointed out the mistake to the department in October 2009, the department stated in February 2010 that assessment was revised u/s. 25(1) and tax determined as Rs. 2.72 lakh. We have not received further report on recovery from the department (December 2010). We reported the mistake to the Government in May 2010. We have not received their replies (December 2010).					
19.	CTO, Manjeri August 2008	Pickles sold under a brand name 2005-06 and 2006-07	12.5 4	43.61 lakh	3.71 lakh
After we pointed out the case to the department in October 2008 and reported to the Government in December 2008, the Government stated in November 2009 that the assessments were revised in May 2009 and an additional demand of ₹ 3.71 lakh created. We have not received further report on recovery (December 2010).					
20.	CTO, First circle, Thiruvananthapuram January 2009	Speakers 2005-06	12.5 4	29.31 lakh	3.31 lakh
After we pointed out the case to the department in March 2009 and reported to the Government in July 2009, the Government stated in October 2009 that assessment had been reopened under Section 25 of the Act and additional demand created was demanded from the dealer. We have not received further report on recovery (December 2010).					
21.	CTO, Special circle II, Ernakulam October 2009	Frozen Marine products 2007-08	4 0	67.19 lakh	3.17 lakh

Sl. No.	Assessment circles Month of audit	Commodity Assessment year	Rate applicable Rate applied	Turnover (₹)	Short levy (₹)
	We pointed out the mistake to the department in December 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).				
22.	CTO, First circle, Thiruvananthapuram January 2009	Refrigerator and spares 2006-07	20 12.5	32.29 lakh	2.93 lakh
	We pointed out the mistake to the department in March 2009 and reported to the Government in July 2009. The Government stated in October 2009 that the assessment had been revised in May 2009 and balance tax and interest of ₹ 4.72 lakh demanded out of which the assessee had remitted an amount of ₹ 80,000. We have not received further report on recovery of balance amount (December 2010).				
23.	CTO, Chalakudy March 2009	Batteries and detergents 2006-07	12.5 4	28.07 lakh	2.93 lakh
	We pointed out the case to the department in March 2009 and reported to the Government in December 2009. We have not received their replies (December 2010).				
24.	CTO, Special circle I, Ernakulam March 2009	Motor Vehicles 2005-06 and 2006-07	12.5 6.25	46.89 lakh	2.93 lakh
	After we pointed out the mistake in March 2009, the assessing authority stated that the assessee had sold the goods to CSD and all the sale bills were raised in the name of CSD. The reply is not correct in view of the judicial pronouncement as vehicles are sold in the names of personnel and not in the name of CSDs as CSDs cannot take registration in their name. We pointed out the mistake to the department in May 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).				

2.12.7.2 (CTO, special circle, Mattancherry at Aluva; September 2009)

High Court of Kerala had held (MP Agencies Vs State of Kerala reported in 18 KTR 82) that *ujala* supreme and *ujala* stiff and shine are not industrial raw materials coming under list A of third schedule to the KVAT Act but are commodities taxable at 12.5 per cent under the Act. Further, sales to canteen stores department are taxable at half the rate applicable under proviso to Section 6(1) of the KVAT Act.

A dealer assessed tax for the year 2007-08 on the sales turnover of *ujala* supreme valued at ₹ 2.36 crore at the rate of four per cent and the sales turnover of *ujala* stiff and shine valued at ₹ 9.43 lakh to canteen stores department at two per cent instead of at the correct rate of 12.5 per cent and 6.25 per cent respectively. This resulted in short levy of tax and interest of ₹ 23.94 lakh.

We pointed out the mistake to the department in October 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.8 Short levy due to excess availing of special rebate

2.12.8.1 (CTO, Special circle, Ernakulam; March 2009)

Where the goods in respect of which tax under Section 6(2) of the Act has been paid, are sent outside the State or used in the manufacture of goods and the same are sent outside the State, otherwise than by way of sale in the course of interstate trade or export or where the sale in the course of interstate trade is exempted from tax, the special rebate under this section shall be limited to the amount of such tax paid in excess of four *per cent* as per proviso to Section 12 of KVAT Act.

An assessee who effected interstate stock transfer of gold ornaments valued at ₹ 151.04 crore for the year 2006-07 availed special rebate for the entire purchase instead of limiting it to the eligible limit. This resulted in short levy of tax and interest of ₹ 1.67 crore.

We pointed out the mistake to the department in May 2009 and reported to the Government in June 2010. We have not received their replies

(December 2010).

- (CTO, Special circle (produce), Mattanchery; July 2009)

An assessee effected interstate stock transfer of tea manufactured by him valued at ₹ 29.88 crore during 2006-07. However, the assessee did not limit special rebate to that extent. This resulted in short levy of tax and interest of ₹ 5.96 lakh.

We pointed out the mistake to the department in August 2009 and reported to the Government in June 2010. We have not received their replies (December 2010).

2.12.8.2 (CTO, Special circle II, Ernakulam; November 2009)

As per Section 12 (1) (a) of the KVAT Act, in calculating the net tax payable, special rebate equal to the tax paid under Section 6(2) of the KVAT Act shall be deducted.

An assessee who had not disclosed purchases from unregistered dealers, availed special rebate of ₹ 7.46 lakh for the year 2007-08. This resulted in short levy of tax

and interest of ₹ 8.87 lakh.

We pointed out the mistake to the department in December 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

- (CTO, Special circle, Kasaragod; August 2009)

A dealer claimed special rebate relating to the purchase tax paid during the year 2006-07 valued at ₹ 6.49 lakh for the year 2007-08. However, the assessee had already claimed the entire special rebate for the year 2006-07 in that year itself which was not detected by the assessing officer. This resulted in short levy of tax of ₹ 6.49 lakh.

After we pointed out the defect to the department in September 2009, the department stated in December 2009 that notice had been issued to the assessee. We have not received further report on recovery (December 2010).

We reported the mistake to the Government in May 2010. We have not received their reply (December 2010).

2.12.9 Short levy of output tax

2.12.9.1 (CTO, Special circle I, Ernakulam; May 2009)

Where any dealer detects any omission or mistake in the annual return submitted by him with reference to the audited figure, he shall file revised annual return rectifying the mistake or omission alongwith the audit certificate as per Section 42(2) of the KVAT Act. Where, as a result of such revision, the tax liability increases, the revised return shall be accompanied by proof of payment of tax, interest due thereon and penal interest, calculated at twice the rate of interest.

A dealer availed input tax credit of ₹ 32.97 lakh on purchase for the year 2006-07 valued at ₹ 3.97 crore. However, as per the certified accounts, the purchases from the VAT dealers were valued at ₹ 15.06 lakh. In spite of this, no action was taken by the assessing officer to get the return revised or to disallow the excess input tax

credit and realise the differential tax. This resulted in short levy of tax, interest and penal interest of ₹ 53.61 lakh.

We pointed out the mistake to the department in May 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.9.2 (CTO, Special circle I, Ernakulam; April 2009)

A dealer assessed output tax on sales turnover of ₹ 112.37 crore as conceded in the return for the year 2006-07, even though local sale as per the certified accounts for that year was ₹ 113.37 crore. However, no action was taken to revise the return and pay differential tax. This resulted in short levy of tax, interest and penal interest of ₹ 24.05 lakh.

We pointed out the mistake to the department in May 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.9.3 (CTO, special circle, Mattancherry at Aluva; September 2009)

A dealer in steel availed input tax credit of ₹ 57.06 lakh for the year 2007-08 on the purchase turnover of ₹ 14.19 crore as conceded in the annual return. However, as per the certified accounts, the assessee was eligible for an input tax credit of ₹ 49.30 lakh only on the purchase turnover of ₹ 12.26 crore. This resulted in short levy of tax, interest and penal interest of ₹ 11.73 lakh.

We pointed out the mistake to the department in October 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.9.4 (CTO, special circle (produce), Mattancherry; June 2009)

A dealer failed to assess tax on DEPB licence for the years 2005-06 to 2007-08, valued at ₹ 1.57 crore. Even though this fact was available in the audited accounts, the AA failed to detect it and levy tax during scrutiny of the return. This resulted in short levy of tax, interest and penal interest of ₹ 10.55 lakh.

After we pointed out the mistake the assessing officer stated in July 2009 that the assessee remitted ₹ 6.30 lakh in July 2009 of which ₹ 1.42 lakh was adjusted against interest and the balance against tax (December 2010).

We reported the mistake to the Government in May 2010. We have not received their reply (December 2010).

2.12.9.5 (CTO, Special circle II, Ernakulam; March 2009)

A dealer availed input tax credit of ₹ 51.55 lakh for the year 2006-07 on the local purchases valued at ₹ 7.23 crore. However, the certified accounts revealed a local purchase turnover of ₹ 6.04 crore only which was not detected by the assessing officer and the excess claim disallowed. This resulted in short levy of tax, interest and penal interest of ₹ 8.03 lakh.

We pointed out the mistake to the department in April 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.10 Short levy due to incorrect allowance of discount

2.12.10.1 (CTO, Special circle, Mattancherry; January 2009)

Explanation III (ii) under Section 2(lii) of the KVAT Act stipulates that any discount on the price allowed in respect of any sale where such discount is shown separately in the tax invoice and the buyer pays only the amount reduced by such discount; or any amount refunded in respect of goods returned by customers shall not be included in the turnover.

An assessee incorrectly excluded from the turnover, discount amounting to ₹ 12.37 crore and ₹ 1.17 crore for the years 2005-06 and 2006-07 respectively which were not shown in the invoices raised by the

dealer. This resulted in short levy of tax of ₹ 54.18 lakh.

We pointed out the matter to the department in February 2009 and reported to the Government in April 2010. We have not received their replies (December 2010).

• (CTO, Special circle I, Ernakulam; November 2009)

A dealer collected tax on the entire invoice price for the years 2005-06 and 2006-07 and subsequently allowed discount through credit notes and excluded the discount from taxable turnover which was not detected by the assessing officer and the discount thus claimed was not disallowed. This resulted in short levy of tax of ₹ 39.66 lakh.

We pointed out the mistake to the department in March 2010 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.10.2 (CTO, Nedumkandam; May 2009)

Input tax credit shall not be available in respect of the tax paid on the turnover subsequently allowed as discount as per proviso to Section 11(3) of the KVAT Act.

A dealer in cement and Asbestos Cement sheet received an amount of ₹ 24.83 lakh for the years 2006-07 and 2007-08 as discount subsequent to sale, but availed

input tax credit on the entire purchase turnover instead of limiting it to that extent. This resulted in excess availing of input tax credit of ₹ 3.10 lakh.

After we pointed out the mistake to the department in June 2009 and reported it to the Government in January 2010, the Government stated in March 2010 that notice had been issued to the dealer to revise the assessment. We have not received their further reply (December 2010).

2.12.11 Short levy due to incorrect computation

2.12.11.1 (CTO, special circle II, Ernakulam; November 2009)

Where the return submitted is with incorrect particulars, the assessing officer shall, after recording reasons, reject the return with due notice to the dealer, as per Section 22 of the KVAT Act. The AA shall estimate the turnover of return period and complete the assessment to the best of its judgement.

A dealer incorrectly computed the tax eligible for set off for the year 2007-08 as ₹ 43.33 crore instead of as ₹ 42.98 crore. However, the return was not rejected by the assessing authority. This resulted in short levy of tax and interest of ₹ 41.65 lakh.

We pointed out the mistake to the department in December 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.11.2 (CTO, Special circle I, Ernakulam; March 2009)

Gold, silver and platinum ornaments are taxable at the rate of one *per cent* upto 30 June 2006 and thereafter at the rate of four *per cent* as per schedules II and III to the KVAT Act.

A dealer assessed output tax on the sales turnover of gold ornaments valued at ₹ 343.63 crore for the year 2006-07 as ₹ 10.50 crore instead of ₹ 10.64 crore which was not detected by the assessing officer. This resulted in short levy of tax and

interest of ₹ 17.18 lakh.

We pointed out the mistake to the department in May 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.11.3 (CTO, Tirur; April 2009)

Section 8(f) of the KVAT Act stipulates that a dealer in ornaments of gold, who has commenced business during the period from 1 October 2006 to 28 February 2007, may opt to pay tax for that year at one hundred and fifty *per cent* of average monthly tax. Further, the compounded tax payable for the year 2007-08 by a dealer who exercised option for compounding under this clause between 1 December 2006 and 15 March 2007 shall be one hundred and fifteen *per cent* of the compounded tax fixed for the year 2006-07 or tax collected as per accounts, whichever is higher. Section 22(2) of the Act further stipulates that a dealer whose return is rejected may file a fresh return curing the defects together with proof of payment of tax and interest on the tax payable at the rate of 12 *per cent per annum* for the period from the due date of filing of return till the date of filing of fresh return.

The compounded tax for the year 2006-07 of a dealer in gold ornaments who commenced business on 18 February 2007, was fixed incorrectly by the AA due to reckoning of turnover from the period 18 February 2007 to 28 February 2007 as the turnover for one month instead of taking this turnover as that for 11 days and accordingly arriving at the turnover for one month. This resulted in short assessment of tax and interest of ₹ 10.12 lakh for the year 2006-07 and 2007-08.

We pointed out the case to the department in June 2009 and reported to the

Government in November 2009. The Government stated in February 2010 that the self assessment returns filed by the dealer had been revised based on the audit objection creating an additional demand of ₹ 8.91 lakh towards tax and ₹ 1.47 lakh towards interest and advised for revenue recovery. We have not received further report on recovery (December 2010).

2.12.11.4 (CTO, special circle I, Ernakulam; April 2009)

Interstate sales turnover not covered by declaration in Form C is taxable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher as per Section 8(2) (b) of the CST Act.

A dealer self assessed tax on the interstate sales turnover of ₹ 1 crore as disclosed in the annual return, even though the certified accounts reflected an interstate sales turnover of ₹ 2 crore. This resulted in short levy of tax of ₹ 10.07 lakh.

We pointed out the mistake to the department in April 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.12 Short levy due to turnover escaping assessment

2.12.12.1 (CTO, special circle, Palakkad; February 2010)

Sale price includes excise duty also as per Section 2 (xliv) of the KVAT Act.

A manufacturer and dealer in tread rubber, did not assess the turnover relating to excise duty and cess amounting to ₹ 12.08

crore collected for the year 2006-07. This resulted in short levy of tax and interest of ₹ 64.76 lakh.

We pointed out the mistake to the department in April 2010 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.12.2 (IAC, Kattappana; November 2009)

Transfer of right to use any goods for any purpose, whether or not for a specified period, is liable to tax at four *per cent* at all points of such transfer as per Section 6(1) (c) of the KVAT Act. High Court of Kerala had held (M/s. Kreem Foods Private Limited Vs State of Kerala reported in [2009] 24 VST 333) that royalty received in transfer of right to use trade mark is liable to tax at the rate of four *per cent*.

A dealer in *hawai chappals*, umbrella and school bags received royalty valued at ₹ 1.36 crore for the years 2005-06 to 2007-08 in respect of transfer of right to use their trade mark, which was not assessed to tax. This resulted in short levy of tax and interest of ₹ 7.27 lakh.

We pointed out the mistake to the department in January 2010 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.13 Short levy due to application of incorrect rate of input tax credit

Collection of tax at a rate higher than that applicable to such goods is illegal and no input tax credit shall be allowed to any amount illegally collected by way of tax as per proviso to sub Section 3 of Section 11 read with Section 30(3) (a) (ii) of the KVAT Act.

We found in the scrutiny of records in six offices¹⁴ that six assesseees availed input tax credit for the year 2005-06 to 2007-08 at incorrect rates of tax on

the purchase turnover of various commodities valued at ₹ 4.41 crore. This resulted in short levy of tax and interest of ₹ 44.61 lakh as detailed below.

¹⁴ CTOs: Special Circle I and Special Circle II, Kozhikode, Special Circle Malappuram, Special Circle Mattancherry, Second circle Kottayam and Attingal.

Audit Report (Revenue Receipts) for the year ended 31 March 2010

Sl. No.	Assessment circles Month of audit	Commodity Assessment year	Rate of tax claimed Rate of tax eligible	Turnover (₹)	Short levy (₹)
1.	CTO, Spl Circle I, Kozhikode; September 2009	Pacemaker, stents 2005-06 and 2006-07	12.5 4	1.33 crore	14.79 lakh
<p>After we pointed out the case in September 2009, the assessing authority stated in October 2009 that notice had been issued to the assessee. We have not received further report on recovery (December 2010).</p> <p>We pointed out the case to the department in December 2009 and to the Government in April 2010. We have not received their replies (December 2010).</p>					
2.	CTO Spl. Circle II, Kozhikode; January 2009	Plastic compound 2006-07	12.5 4	1.07 crore	11 lakh
<p>We pointed out the case to the department in March 2009 and reported to the Government in January 2010. We have not received their replies (December 2010).</p>					
3.	CTO, Spl. Circle, Malappuram; February 2009	<i>Eva</i> compound (Plastic compound) 2006-07	12.5 4	94.92 lakh	9.84 lakh
<p>We pointed out the matter to the department in April 2009 and reported to the Government in December 2009. We have not received their replies (December 2010).</p>					
4.	CTO, Second circle, Kottayam; May 2009	Rubber wood 2006-07 and 2007-08	12.5 4	52.40 lakh	4.45 lakh
<p>We pointed out the matter to the department in June 2009 and reported to the Government in November 2009. We have not received their replies (December 2010).</p>					
5.	CTO, Special circle, Mattancherry; January 2009	Flax seed oil/linseed oil 2005-06 and 2006-07	12.5 4	26.87 lakh	2.28 lakh
<p>We pointed out the matter to the department in February 2009 and reported to the Government in April 2010. We have not received their replies (December 2010).</p>					
6.	CTO, Attingal; September 2008	Sodium silicate 2005-06	12.5 4	26.50 lakh	2.25 lakh
<p>After we pointed out the matter in October 2008, the department stated in November 2009 that the excess input tax claim was demanded in February 2009. We have not received further report on recovery (December 2010).</p> <p>We pointed out the matter to the Government in April 2010. We have not received their reply (December 2010).</p>					

2.12.14 Non-levy of reverse tax

- (CTO, special circle, Malappuram; March 2009)

If goods in respect of which input tax credit has been availed are subsequently used, fully or partly, for purposes in relation to which no input tax credit is allowable under the section, the input tax credit availed of in respect of such goods shall be reversed and reverse tax shall be deemed to be an amount due under Section 11(7) of the KVAT Act.

A dealer had effected free sale of medicine for ₹ 3.51 crore and ₹ 4.05 crore during 2005-06 and 2006-07 respectively and exempted sale to special economic zone for ₹ 62.04 lakh in 2006-07. However, proportionate input tax and special rebate in respect to the above has not been assessed as reverse tax.

This resulted in short levy of tax and interest of ₹ 15.06 lakh.

We pointed out the mistake to the department in April 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

- (CTO, Tirurangadi; October 2009)

An assessee who had shown a purchase of ₹ 20.65 lakh as per the certified accounts of 2006-07, conceded a reverse tax of ₹ 17,743 only instead of ₹ 2.35 lakh. This resulted in short levy of tax, interest and penal interest of ₹ 4.14 lakh.

We pointed out the matter to the department in November 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.15 Short levy due to excess grant of input tax credit

- 2.12.15.1 (CTO, second circle, Kottayam; May 2009)

As per Section 11 (3) of the KVAT Act where any goods purchased in the State are subsequently sent outside the State or used in the manufacture of goods and the same are sent outside the State otherwise than by way of sale in the course of interstate trade or export or where the sale in the course of interstate trade is exempted from tax, input tax credit shall be limited to the amount of input tax paid in excess of the rate specified under the CST Act. The rate of tax applicable under the CST Act was four *per cent* during 2006-07 and three *per cent* during 2007-08.

An assessee claimed input tax credit for the entire purchases for the years 2006-07 and 2007-08, even though 53 *per cent* of the goods manufactured were sent outside the State otherwise than by way of sale. The input tax credit availed corresponding to the stock transfer was not disallowed. This resulted in short levy of tax of ₹ 11.88 lakh.

We pointed out the matter to the department in June 2009 and reported to the Government in November 2009. We have not received their replies (December 2010).

2.12.15.2 (CTO, special circle I, Kozhikode; September 2009)

A dealer claimed input tax credit for the entire purchases for the year 2007-08, even though 8.40 *per cent* of the total sales turnover relates to consignment sale. The input tax credit availed corresponding to this turnover was not disallowed. This resulted in short levy of tax and interest of ₹ 3.82 lakh.

After we pointed out the case in September 2009, the assessing authority stated that notice was issued to the dealer. We have not received a report on recovery (December 2010).

We reported the matter to the department in October 2009 and to the Government in April 2010. We have not received their replies (December 2010).

2.12.16 Incorrect computation of presumptive tax

(CTO, second circle, Thiruvananthapuram; February 2009)

As per Section 6(5) of the KVAT Act, a dealer whose total turnover for a year is below ₹ 50 lakh, may pay presumptive tax at the rate of half *per cent* of the turnover of taxable goods instead of paying tax under sub-section(1) of Section 6. However, as per Rule 17(31) of the KVAT Rules, where a dealer who has opted for payment of presumptive tax is likely to become ineligible for the payment of such tax, such dealer shall intimate the facts to the registering authority and he shall be liable for payment of tax in accordance with the provisions of sub-section (1) and (2) of Section 6 from the day following the day on which he has become ineligible.

A dealer irregularly paid presumptive tax for the entire sales turnover of ₹ 77.20 lakh for the year 2006-07 instead of paying presumptive tax for the turnover upto ₹ 50 lakh and at the specified rate for the balance turnover of ₹ 27.20 lakh. This resulted in short levy of tax of ₹ 4.45 lakh.

After we pointed out the matter in March 2009, the department stated in October 2009 that the assessment was revised

with an additional demand of ₹ 4.45 lakh and the assessee had paid an amount of ₹ 94,976.

After we reported the matter to the Government in March 2010, we have not received their replies (December 2010).

Sales Tax

2.12.17 Short levy of tax due to incorrect exemption

2.12.17.1 (CTO, special circle II, Ernakulam; November 2009)

Tea sold under brand name registered under the Trade and Merchandise Marks Act, 1958 is liable to be taxed at the rate of eight *per cent* as per Section 5 (1) of the KGST Act. However, the tax payable on branded tea under this item shall be reduced by the amount of tax paid on unbranded tea in the State.

An assessing officer finalised the assessments of a dealer engaged in public distribution of provision, consumables etc., for the years 2001-02 to 2004-05 in December 2008, exempting the sales turnover of tea sold under the brand name 'Sabari' valued at ₹ 72.92 crore. This mistake resulted in short levy of tax of ₹ 2.39 crore.

After we pointed out the mistake in November 2009, the assessing officer stated that Section 5 (2) of the Act specifically excludes manufactured tea from requirement of treating sale by brand name holder, as first sale in the State. The reply is not tenable as tea manufactured and sold under brand name is specifically excluded from Section 5(2) and hence is governed by Section 5(1) of the Act.

We pointed out the matter to the department in December 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.17.2 (CTO, Haripad; March 2009)

Where a sale of any goods in the course of interstate trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to the Government/registered dealer shall be exempted from tax under Section 6(2) of the CST Act.

The AA finalised the assessment of a dealer in paper for the year 2004-05, exempting the sales turnover of paper to Government departments for an amount of ₹ 2.94 crore treating it as sale in transit. However, we found that the sales to the Government department were not effected during the

movement of goods from one State to another. This resulted in short levy of tax of ₹ 13.39 lakh.

After we pointed out the matter to the department in April 2009, the department stated in January 2010 that permission of the CCT to reopen the assessment had been requested. We have not received further reply (December 2010).

After we reported the matter to the Government in November 2009, we have not received their reply (December 2010).

2.12.18 Application of incorrect rate of tax

2.12.18.1 (CTO, special circle, Palakkad; February 2009)

Tax payable by a dealer on the interstate sales turnover of declared goods, not supported by declaration in Form C shall be calculated at twice the rate applicable to the sale or purchase of such goods inside the State as per Section 8(2) (a) of the CST Act. The rate of tax applicable on the sale of cotton yarn was two *per cent* plus AST at 15 *per cent* as per the KGST Act.

A dealer in cotton yarn disclosed the interstate sales turnover of cotton yarn not covered by Form 'C' valued at ₹ 6.32 crore and ₹ 1.36 crore for the years 2002-03 and 2003-04 respectively in his annual returns. However, the AA finalised the assessments applying the incorrect rate of tax at two *per cent* and one *per cent* respectively instead of four *per cent* plus AST. This mistake resulted in short levy of tax of ₹ 21.33 lakh.

After we pointed out the mistake in May 2009, the department stated in August 2009 that the assessment would be re-opened after obtaining permission from the Commissioner of Commercial Taxes. We reported the case to the Government in February 2010. We have not received their replies (December 2010).

2.12.18.2 (CTO, special circle, Kannur; September 2009)

Umbrella and parts thereof, oil palm kernels and water are taxable at the rate of eight *per cent* as per Schedule I to the KGST Act.

An assessing officer finalised the assessment in January 2009, of a dealer in umbrella etc. for the years 2003-04 and 2004-05 assessing the sales turnover of umbrella valued at ₹ 1.37 crore at the rate of four *per cent*

instead of at the correct rate of eight *per cent*. This resulted in short levy of tax and interest of ₹ 7.35 lakh.

We pointed out the matter to the department in October 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

- **(CTO, special circle, Kottayam; November 2008)**

An assessing officer finalised the assessment of a dealer for the year 2002-03 assessing the sales turnover of oil palm kernels for ₹ 59.28 lakh at the rate of four *per cent* instead of at the correct rate of eight *per cent*. This resulted in short levy of tax of ₹ 2.73 lakh.

We pointed out the matter to the department in February 2009 and reported to the Government in September 2009. We have not received their replies (December 2010).

- (CTO, special circle, Mattancherry; December 2008)

The assessing officer finalised the assessments of a manufacturer for the years 2003-04 and 2004-05, levying tax on the turnover of water purchased from unregistered dealers at the rate of five *per cent* instead of at the correct rate of eight *per cent*. This mistake resulted in short levy of tax of ₹ 2.30 lakh.

We pointed out the mistake to the department in February 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.18.3 (CTO, special circle, Mattancherry at Aluva; December 2008)

Interstate sales turnover not covered by declaration in Form C is taxable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher as per Section 8 (2) (b) of the CST Act. Spices oil and essences are liable to be taxed at 12 *per cent* plus AST as per Schedule I to the KGST Act.

The fast track team¹⁵ finalised the CST assessment of a dealer for the year 2004-05 in November 2007, incorrectly assessing the interstate sales turnover of spices oil and essence not covered by declaration in Form C at the rate of 10 *per cent* instead of at the correct rate of 12 *per cent* plus AST. This resulted in short levy of tax of ₹ 2.68 lakh.

We pointed out the mistake to the department in February 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

2.12.19 Short levy due to incorrect computation

(CTO, special circle, Kannur; September 2009)

The assessing officer shall check all calculations and credits given in an assessment as per the instruction issued by the erstwhile Board of Revenue.

An assessing officer finalised the assessment of a dealer in rubber for the years 2002-03 to 2004-05 in September and October 2008 and incorrectly computed the purchase turnover of latex used in the conversion of field latex to centrifuged latex, valued as ₹ 2.71 crore instead of ₹ 4.02 crore. This resulted in short levy of tax and interest of ₹ 28.16 lakh.

We pointed out the mistake to the department in October 2009 and reported to the Government in May 2010. We have not received their replies (December 2010).

¹⁵ A team of assessing officers constituted by the CCT under Section 17 (D) of the KGST Act.

2.12.20 Turnover escaping assessment

(CTO, special circle, Kottayam; November 2008)

Scrap rubber is taxable at 12 *per cent* as per Schedule I to the KGST Act. However, tax at six *per cent* is leviable on rubber purchased by rubber based industrial units in the State.

The fast track authorities finalised the assessments of two dealers engaged in the manufacture and sale of rubber products for the years 2003-04 and 2004-05 in May 2007. We noticed that they did not levy tax

on the intrastate purchase turnover of scrap rubber valued at ₹ 97.13 lakh. This resulted in short levy of tax of ₹ 6.70 lakh.

We pointed out the matter to the department in February 2009 and reported to the Government in July 2009. The Government stated in November 2009 that the assessments were revised in October 2009.

CHAPTER-III: TAXES ON AGRICULTURAL INCOME

3.1 Tax administration

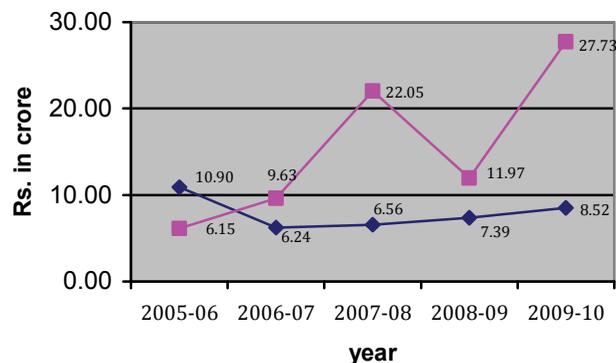
The Department of Commercial Taxes is under the control of Principal Secretary, Taxes at the Government level and collection of tax under Kerala Agricultural Income Tax (KAIT) Act is administered by the Commissioner of Commercial Taxes (CCT). The KAIT Act governs the levy and collection of tax on agricultural income.

3.2 Trend of receipts

Actual receipts from Agricultural income tax during the last five years (2005-06 to 2009-10) along with the budget estimates during the same period are exhibited in the following table and graph.

(Rupees in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	10.90	6.15	(-) 4.75	(-) 43.58	9,778.62	0.06
2006-07	6.24	9.63	(+) 3.39	(+) 54.33	11,941.82	0.08
2007-08	6.56	22.05	(+) 15.49	(+) 236.13	13,668.95	0.16
2008-09	7.39	11.97	(+) 4.58	(+) 61.98	15,990.18	0.07
2009-10	8.52	27.73	(+) 19.21	(+) 225.47	17,625.02	0.16

Budget estimates and Actual receipts



The large variations between budget estimates and actual receipts indicate the need for streamlining the budgeting process to make the budget estimates realistic.

3.3 Arrears in AIT assessment

The department furnished the position of arrears in assessment under agricultural income tax which is as shown below:

		(Number of cases)
Opening balance		6,998
Addition during 2009-10 including remanded cases		2,992
Total		9,990
No. of assessments completed		3,676
Arrear cases	2,346	
Current cases	1,330	
Closing balance		6,314

The above table shows that the department completed only 36.80 *per cent* of the assessment due for completion under agricultural income tax during 2009-10.

3.4 Impact of audit

Revenue impact

During the last three years, we pointed out inadmissible expenses, income escaping assessment, incorrect computation of income, underassessment due to assignment of incorrect status etc., with revenue implication of ₹ 36.96 crore in 160 paragraphs. Of these, the department/Government accepted audit observations involving ₹ 2.19 crore and had since recovered ₹ 35 lakh. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2006-07	50	4.61	29	1.72	8	0.24
2007-08	43	3.69	17	0.35	10	-
2008-09 Vol. I	67	28.66	9	0.12	4	0.11
Total	160	36.96	55	2.19	22	0.35

We noticed that the Government failed to recover even the amount it has accepted.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

3.5 Working of internal audit wing

The internal audit wing (IAW) in the Commercial Taxes department was constituted in May 2009. The wing is administered by a Deputy Commissioner and assisted by three Assistant Commissioners and four Commercial Tax Officers. The IAW commenced functioning from 1 June 2009. The department has not prepared a separate internal audit manual. IAW covered eight out of 14 districts during June 2009 to February 2010. However, as the reports were not finalised we are unable to make any comment about the effectiveness of their performance.

3.6 Results of audit

We test checked the records of 18 units relating to agricultural income tax. We noticed underassessment of tax and other irregularities involving ₹ 5.57 crore in 39 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Inadmissible expenses	15	2.80
2.	Income escaping assessment	13	1.79
3.	Other lapses	11	0.98
Total		39	5.57

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 53.72 lakh in 16 cases, pointed out in earlier years. The department realised an amount of ₹ 11.92 lakh in 11 cases during the year 2009-10. A few illustrative audit observations involving ₹ 1.04 crore are mentioned in the succeeding paragraphs.

3.7 Audit observations

We scrutinised the assessment records of agricultural income tax in Commercial Taxes Department and it revealed several cases of non-observance of provisions of Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowances 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 on the part of the 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 the internal audit.

3.8 Non-observance of provisions of Act/Rules

The KAIT Act and Rules made thereunder provide for completing assessments observing the following aspects:

- i) levy of tax at the prescribed rate on the agricultural income derived by the assessee;*
- ii) allowance of deductions on income derived subject to certain conditions; and*
- iii) levy of interest on the balance tax payable.*

We observed that the AAs while finalising the assessments, did not observe some of the provisions of the Act/Rules resulting in short levy of tax and interest of ₹ 1.04 crore as mentioned in the paragraphs 3.8.1 to 3.8.3.

3.8.1 Income escaped assessment

3.8.1.1 (IAC (CT), Kottayam; December 2008)

As per the Act, when an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or liability incurred by the assessee; and where the assessee has obtained, either in cash or in any other manner any amount in respect of such loss, expenditure or some benefit in respect of such liability during the previous year, the amount obtained by him or the value of benefit accrued to him shall be deemed to be agricultural income received in the previous year.

We noticed that while finalising the assessment of a public limited company for the assessment year 2006-07, the department did not consider, for arriving at the taxable income, an amount of ₹ 82.36 lakh relating to reversal of the excess provision for gratuity which was credited to P & L account for 2005-06. The AA already allowed this amount as deduction during

the previous year and hence the amount should have been treated as deemed income. The omission to assess the amount as deemed income resulted in escape of income and consequent short levy of tax of ₹ 41.18 lakh.

After we pointed out the case in January 2010 the assessing authority stated that the short or excess provision of gratuity subsequently adjusted had no significance while computing the assessable income. The reply of department is not tenable in view of the provision in the Act.

We reported the matter to Government in March 2010. We have not received further information from them (December 2010).

3.8.1.2 (IAC (AIT & CT), Kottayam; January 2010)

Amount received by an assessee in respect of loss or liability for which the AA allowed deduction in previous year is agricultural income taxable under the Act.

The AA finalised the assessment of a public limited company for the year 2006-07 fixing net income of ₹ 4.28 crore without considering an amount of ₹ 43.75 lakh received by the assessee on account of excess tax paid in plantation tax assessment for the period from 1989-90 to 1997-98. The omission to consider the amount in assessment resulted in escape of income of ₹ 43.75 lakh and consequent short levy of tax of ₹ 21.88 lakh.

After we pointed out the omission in January 2010, the AA stated that notice has been issued under Section 41 in December 2009. The notice stated to be issued was not applicable to the case as the same related to disallowance of re-plantation allowance. The department stated that assessee had not received refund of excess payment of plantation tax but only decided to adjust the amount against future liability. The remarks of the department are not tenable as the assessee had found that the plantation tax claimed in earlier years was in excess of the actual and hence there was surplus fund available with the assessee to the extent of ₹ 43.75 lakh, which can be treated as deemed income.

We pointed out the matter to Government in March 2010; we have not received further information (December 2010).

3.8.1.3 (IAC (AIT & ST) Thiruvananthapuram; July 2009)

The Act stipulates that the total agricultural income of the previous year of any person comprises of all agricultural income derived from land situated within the State. As per Section 41 of the Act, if agricultural income chargeable to tax has escaped assessment in any financial year, the assessing officer may serve notice on the assessee and proceed to assess or reassess such income.

We noticed that the AA finalised the assessment of a charitable trust for the assessment years 2004-05 to 2007-08 recording the demand as nil accepting the loss of ₹ 11.80 lakh returned by the assessee. We found that the assessment was finalised without considering the net income of ₹ 21.64 lakh from sale of rubber even though the assessee filed the details of agricultural income along with the statement of computation of income. The omission to include the net income of ₹ 21.64 lakh in taxable income resulted in escape of

income from the assessment. After deducting the net loss of ₹ 11.80 lakh, the tax and surcharge (due on the escaped income of ₹ 9.84 lakh) works out to ₹ 2.39 lakh.

After we pointed out the matter in July 2009, the department stated that the assessment had been revised. We have not received a report on recovery from the department (December 2010).

We reported the matter to Government in March 2010. We have not received further information from them (December 2010).

3.8.2 Short levy due to inadmissible deductions

3.8.2.1 (Office of IAC, Kottayam; January 2010)

Agricultural income chargeable shall be computed in accordance with the method of accounting regularly employed as per the KAIT Act. Where the accounts are correct and complete to the satisfaction of the Agricultural Income Tax Officer (AITO) but the method employed is such that the income cannot be properly deducted therefrom, then the computation shall be made upon such basis and in such manner as the AITO may determine as per Section 40 of the Act.

The AA finalised the assessment of a domestic company for the assessment year 2006-07, without assessing to tax the income derived from pepper for ₹ 29.82 lakh in 2006-07. The omission to reckon the income from pepper had resulted in short levy of tax of ₹ 14.91 lakh.

After we pointed out the omission, the AA replied

that though there was income from pepper during the period, it was kept as closing stock and hence could not be taken into account owing to the fact that the assessee was following cash system of accounting wherein expense incurred would be allowed and receipts would be taken into account as and when it is realised. The remark of the AA was not tenable as the dealer had a closing stock of pepper for ₹ 12.18 lakh in 2004-05 and ₹ 29.82 lakh in 2005-06 and the accounts indicated that there had been no sale of pepper since 2003-04. The reasoning that the entire quantity is kept on stock lacks conviction as normally any 'hill produce' would perish after keeping it for long period.

Further, the closing stock of pepper had been increasing from 2003-04 onwards steadily and the assessee was showing loss in the accounts every year. If the value of closing stock was also considered, there would have been profit, which was assessable to tax.

After we pointed out the matter to Government in March 2010 we have not received any further information (December 2010).

3.8.2.2 (IAC (AIT & CTO), Thiruvananthapuram; July 2009)

The provisions of the Act stipulate that the agricultural income of an assessee shall be computed after allowing the deduction of any sum paid to the employees as bonus and such deductions shall be allowed in the year in which actual payment is made irrespective of the method of accounting employed.

We noticed that the AA assessed a public limited company for the assessment year 1999-2000, fixing a net income of ₹ 14.88 lakh. The AA disallowed an amount of ₹ 17.92 lakh as the amount of bonus was not actually paid. On the basis of an appellate

order assessment was revised by fixing net loss of ₹ 81.48 lakh. While revising the assessment (October 2008) on the basis of the appellate order, the AA allowed full amount of ₹ 30 lakh pertaining to bonus as deduction even though the assessee did not pay ₹ 17.92 lakh as bonus during the year as stated in the original assessment order. The inadmissible deduction allowed resulted in excess computation of loss of ₹ 17.92 lakh with potential tax of ₹ 10.75 lakh.

After we pointed out the matter in July 2009 the department revised the assessment (August 2009). We have not received further development on the matter (December 2010).

We reported the matter to Government in March 2010. We have not received further information from them (December 2010).

3.8.2.3 (IAC (CTO), Kottarakkara; March 2009)

The KAIT Act stipulates that the total agricultural income comprises of all agricultural income received by an assessee from land situated within the State. Such income is computed after allowing deductions prescribed in the Act which includes gratuity actually paid or provisions made for it.

We noticed that the department finalised the assessment of a domestic company for the year 2000-01 allowing a claim of ₹ 21.50 lakh under gratuity. Our scrutiny revealed that the assessee had claimed exemption on a provision for gratuity of ₹ 15.85 lakh and actual payment of ₹ 5.65 lakh. As per the Act

either the amount incurred or provision made was allowable. As the assessee claimed the actual expenditure, the provision should have been disallowed. The allowance of expense in excess of the actual payment resulted in short levy of tax of ₹ 9.51 lakh.

After we pointed out the matter in March 2009 the assessing authority revised the assessment creating an additional demand of ₹ 9.51 lakh. We have not received a report on recovery (December 2010).

We reported the matter to the Government in March 2010. We have not received further information from them (December 2010).

3.8.3 Excess carry forward of loss

3.8.3.1 (IAC, (AIT&CTO), Thiruvananthapuram; July 2009)

Income derived from property held by trust and utilised for charitable purpose, is eligible for deduction while computing agricultural income as per the KAIT Act.

We noticed that the AA allowed inadmissible deductions in respect of charitable trust in excess of agricultural income derived in the assessments from 2006-07 to 2008-09 resulting in excess carry forward loss of ₹ 39.44 lakh having potential tax effect of ₹ 12.79 lakh.

After we pointed out the matter, the AA revised the assessments fixing the carry forward loss as nil as against the excess carry forward loss of ₹ 39.44 lakh pointed out.

We reported the matter to the Government in March 2010. We have not received any further information from them (December 2010).

3.8.3.2 (IAC (AIT&CTO), Thiruvananthapuram; July 2009)

The Act stipulates that in computing the total agricultural income of an assessee there shall be deducted any sum not exceeding 20 *per cent* of the total agricultural income deposited in the Investment Deposit Scheme. As per paragraph 14 of the scheme, any deposit made in any year shall be adjusted against the re-plantation allowance deductible for the year and if it cannot be so set off in that year the balance amount, along with any deposit made during the subsequent year or years shall be set off against the re-plantation allowance deductible for the subsequent year.

We noticed that while revising the original assessment of a domestic company for the year 1997-98, the AA allowed re-plantation allowance of ₹ 15.53 lakh. The AA overlooked the re-plantation allowance of ₹ 9.16 lakh granted in the revised assessment for 1996-97 and did not limit the allowance to ₹ 6.37 lakh (₹ 15.53 lakh – ₹ 9.16 lakh). The allowance of expense twice resulted in computation of loss to the extent of ₹ 9.16 lakh with

potential tax effect of ₹ 5.95 lakh.

After we pointed out the case in July 2009, the department stated that AA revised the assessment (August 2009) assessing the escaped income of ₹ 9.16 lakh. We have not received a report on recovery from the department (December 2010).

We reported the matter to Government in March 2010. We have not received further information from them (December 2010).

CHAPTER-IV: STAMP DUTY AND REGISTRATION FEES

4.1 Tax administration

Registration department is under the control of Principal Secretary, Taxes at Government level and the Inspector General of Registration is the head of the Department. Instruments affecting immovable property are to be presented for registration in the office of Sub Registrar within whose jurisdiction the whole or some portion of the property is situated.

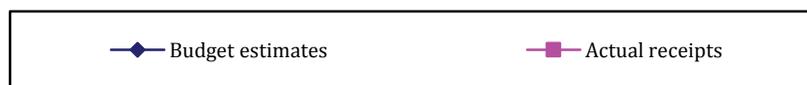
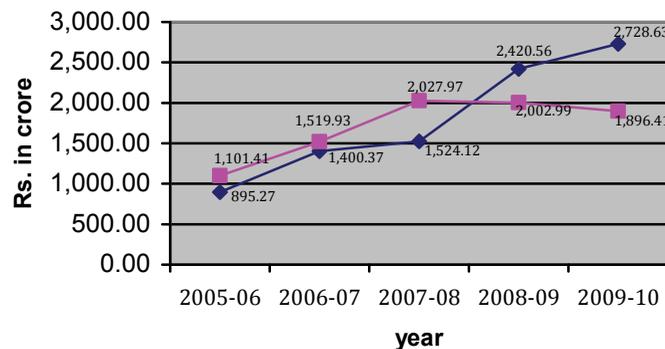
4.2 Trend of receipts

Actual receipts from Stamp duty and Registration fee during the last five years (2005-06 to 2009-10) along with the budget estimates during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	895.27	1,101.41	(+) 206.14	(+) 23.03	9,778.62	11.26
2006-07	1,400.37	1,519.93	(+) 119.56	(+) 8.54	11,941.82	12.73
2007-08	1,524.12	2,027.97	(+) 503.85	(+) 33.06	13,668.95	14.84
2008-09	2,420.56	2,002.99	(-) 417.57	(-) 17.25	15,990.18	12.53
2009-10	2,728.63	1,896.41	(-) 832.22	(-) 30.50	17,625.02	10.76

Budget estimates and Actual receipts



We noticed that except in 2006-07 there was significant variation between budget estimates and actual receipts.

We recommend the department to streamline the budgeting process to make more realistic budget estimates.

4.3 Cost of collection

The gross collection of revenue receipts under the head Stamps and registration fees, expenditure incurred on collection and the percentage of expenditure to gross collection during 2005-06 to 2009-10 alongwith the all India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage
	(Rupees in crore)			
2005-06	1,048.03	46.81	4.47	2.87
2006-07	1470.73	59.06	4.02	2.33
2007-08	1,946.08	77.64	3.99	2.09
2008-09	1,931.75	82.97	4.30	2.77
2009-10	1,812.89	100.70	5.55	Not available

We noticed that the expenditure on collection in respect of stamp duty and registration fees was higher than the all India average.

We recommend the Government to examine the reasons for such high costs of collection and make efforts to bring it down.

4.4 Working of internal audit wing

Internal audit wing at the zone and district level is working under the Inspector General of Registration (IGR). The District Registrar (DR) (Audit) is in charge of internal audit in Sub Registry level. The department has not prepared a separate internal audit manual. The Finance Officer monitors the internal audit wing with the assistance of seven staff at headquarters level and 14 DRs (Audit) with two staff at each district. During the year 2009-10, inspection of 14 DROs and 14 SROs were fixed as target for the IGR and DR (Audit) respectively.

The Kerala Registration Manual stipulates inspection of SROs by the Registrar twice a year. Considering the total number of 14 DROs and 309 SROs in Kerala, the target fixed for inspection was much lower. As per the information given by the department, 5,172 paragraphs involving ₹ 1.02 crore relating to 1,819 internal audit inspection reports remained outstanding at the end of March 2010.

During 2009-10, IAW had issued 464 inspection reports involving money value of ₹ 29.30 lakh which is very low compared to revenue of ₹ 1,896.41 crore generated. Remedial action and the amount, if any collected based on the performance of internal audit wing are not available.

4.5 Results of audit

We test checked the records of 161 units relating to registration department. We detected underassessment of tax and other irregularities involving ₹ 9.04 crore in 258 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Undervaluation of documents	228	4.27
2.	Short levy due to non-registration of lease deeds	1	3.18
3.	Other lapses	29	1.59
	Total	258	9.04

The department accepted undervaluation and other deficiencies of ₹ 3.02 crore in 176 cases, of which 72 cases involving ₹ 1.72 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 3.29 lakh was realised in 54 cases during the year 2009-10. A few illustrative observations involving ₹ 4.37 crore are mentioned in the succeeding paragraphs.

4.6 Audit observations

We scrutinised the records of various registration offices and found several cases of non-compliance of the provisions of the Indian Stamp Act 1899 and Kerala Stamp Act 1959 (KS Act) 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 on the part of the Sub-Registrars (SRs) 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 the internal audit.

4.7 Non-compliance of provisions of Act/Rules

The provisions of the KS Act and Registration Rules require:-

- i) initiating action in cases where documents were undervalued; and*
- ii) correct classification of documents.*

We noticed that the SRs did not observe some of the above provisions at the time of registration of the documents. This resulted in short levy/evasion of stamp duty of ₹4.37 crore as mentioned in the succeeding paragraphs.

4.7.1 Short levy due to non-registration of lease deeds

(PWD (NH) and Roads and Bridges Development Corporation of Kerala (RBDCK), Greater Cochin Development Authority (GCDA) and Kannur Municipality; March 2010)

Registration of documents relating to leases of immovable property is compulsory as per Section 17(d) of Registration Act, 1985. Lease of immovable property including instruments by which tolls of any description are let would come under lease as defined in the Indian Stamp Act/Kerala Stamp Act. Stamp duty and registration fees are leviable on the premium received as well as amount of average annual rent.

We conducted scrutiny of records of 28 contract agreements in the above offices in March 2010 for collection of tolls from year to year. We found that the documents were executed on non-judicial stamp paper of ₹ 50/100. These agreements were covered by the Registration Act and should have been registered with the Sub-Registry Offices. The non-registration of the lease agreements by the offices of PWD/RBDCK/ GCDA/municipality

had resulted in short levy of stamp duty and registration fees of ₹ 3.18 crore.

We brought the matter to the attention of the Principal Secretary to the Government and Chief Engineer (NH) in March 2010. We have not received any reply so far (December 2010).

4.7.2 Loss of revenue due to erroneous order

(District Registrar, Thrissur; November 2009)

Non-testamentary instruments which purport or operate, to create, declare, assign, limit or extinguish whether in present or in future any right, title or interest, whether vested or contingent, of the value of one hundred rupees and above shall compulsorily be registered as per Section 17(1) (b) of the Registration Act, 1908. Any instrument comprising or relating to formal distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments each comprising or relating to one of such matters, would be charged under the Act as per Section 5 of the Kerala Stamp Act.

We observed the following facts in respect of an impounded document viz. P1/2007. Vendor (i) who was the absolute owner of 1.3842 hectares of property executed an unregistered agreement in February 2007 for sale of this property to vendor (ii) within the validity period of July 2007. Before this transaction of sale materialised, vendor (i) and vendor (ii), jointly executed a sale deed vide document number P1/2007

of SRO, Ayyanthole for a consideration of ₹ 21.37 crore. The consideration was apportioned between vendor (i) for ₹ 13.67 crore and vendor (ii) for ₹ 7.69 crore. When this sale deed was presented for registration in June 2007, the Sub-Registrar, Ayyanthole impounded the document on the opinion that an earlier hidden transaction of making vendor (ii) a co-owner in the property with share value of ₹ 7.69 crore was evident from the recital of the document which attracted stamp duty at 13.5 *per cent* of that value. The matter finally came up before the Commissioner of Land Revenue for a final decision after the decision of District Registrars in favour of revenue. The Commissioner of Land Revenue had concluded that vendor (ii) had got possession of the property described in the document as he had made developments in the property and the agreement dated 1 February 2007 can be treated as a conveyance of value ₹ 7.69 crore. Further he had decided that the deemed sale value involved in the transfer of right by vendor (i) to vendor (ii) shall also be included in the final transaction conducted in this document. But contrary to the above conclusion, he ordered that adequate consideration is depicted in the document and the stamp duty paid is sufficient. This ruling is erroneous as it was contrary to his own findings and against provisions of Section 17(1) (b) of Registration Act and Section 5 of Kerala Stamp Act referred earlier. This resulted in short levy of stamp duty and registration fee of ₹ 1.19 crore.

We pointed out the matter to the department in November 2009 and reported to the Government in February 2010. We have not received their reply so far (December 2010).

4.7.3 Undervaluation of property to avoid payment of stamp duty and registration fee

4.7.3.1 (SRO, Trikakara; December 2009)

Section 45 B of the KS Act stipulates that SR may refer to District Collector those instruments in which the executant has not truly set forth the consideration. Further the Collector may, *suo motu*, call for any instruments and determine the consideration and duty payable, within two years of registration. As the Government has not fixed any fair value for land in the State, wide scale undervaluation of documents is taking place all along the State.

We noticed that a builder had acquired 34.246 cents of land for ₹ 30.64 lakh in October 2008 and sold the same property without improvement with in one month for ₹ 5.48 crore. Thus, the first document was undervalued to avoid payment of stamp duty and registration fee. The extent to which the same was undervalued could not be established due to non-fixation of fair value of land by the Government. The SR also did not report the case to the

higher authorities as undervaluation case.

We also noticed such cases of undervaluation in other SR offices as mentioned in paragraphs 4.7.3.2 to 4.7.3.5 discussed below.

4.7.3.2 (SRO, Thalayolaparambu; October 2009)

We noticed that of 72.99 *are* of land purchased for ₹ 54 lakh by paying stamp duty and registration fee of ₹ 6.48 lakh in November 2007 was sold for ₹ 1.50 crore in February 2008.

4.7.3.3 (SRO, Kondotty; December 2009)

We noticed that an executant sold 58.12 cents of land for a consideration of ₹ 30.50 lakh in May 2008. But on the same day the executant sold another plot measuring 16 cents adjacent to the above property having common boundary for ₹ 27 lakh.

4.7.3.4 (SRO, Rajapuram; March 2009)

We noticed that the details of four sale deeds of landed property lying in the same survey number and adjacent to one another are as given below:

Document No.	Date of sale deed	Area (cent)	Consideration in ₹	Rate per cent ¹⁶
2872/06	22 December 2006	300	7 lakh	2,333.33
2873/06	22 December 2006	316	7.5 lakh	2,373.42
2935/06	22 December 2006	190	9.7 lakh	5,105.26
2645/07	12 December 2007	373	7.6 lakh	2,037.53

¹⁶ Cent denotes the measurement of land equal to 435.6 sq.ft.

As such the executant undervalued the properties in the document nos. 2872/06, 2873/06 and 2645/07 when compared to document number 2935/06 to the extent of ₹ 28.89 lakh.

After we pointed out the mistake, the department stated (between July 2009 and March 2010) that the document number 2935 comprising of 190 cents of landed property with a small house contains rubber and coconut trees with better yield and hence the price of this property cannot be compared to that of the undervalued properties and that the transaction having highest value is not a reference for valuing other transactions. The reply is not tenable as there is no mention in the document about rubber trees and coconut trees as well as their yield. Moreover, the value of the house was valued separately in the document. We have not received any further information from the department (December 2010).

4.7.3.5 (SRO, Malayinkizhu; December 2009)

A sale deed for 12.11 *are* of land was registered vide a document in April 2008 for a consideration of ₹ 2.70 lakh. However, we found that 11.34 *are* of land of the above property was sold in June 2008 vide two other documents for a consideration of ₹ 22.40 lakh.

We pointed out these cases to the department between November 2009 and January 2010, we have not received their reply except in case at paragraph 4.3.7.4 above. We reported these cases to the Government between February 2009 and April 2010. We have not received their reply (December 2010).

We have pointed out such cases in our earlier Audit Reports. However, the Government is yet to fix the fair value of the land.

We recommend that the Government may fix the fair value of land to avoid loss of revenue.

CHAPTER-V: TAXES ON VEHICLES

5.1 Tax administration

Transport department is under the control of Secretary (Transport) at Government level and the Transport Commissioner is the head of the department. The levy and collection of tax and fee in the State are governed by the Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules 1989 and the Kerala Motor Vehicles Taxation (KMVT) Act, 1976. The activities of the department include registration of motor vehicles, levy and collection of motor vehicle tax, grant of driving licence and road permits.

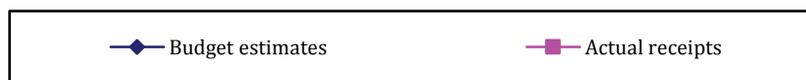
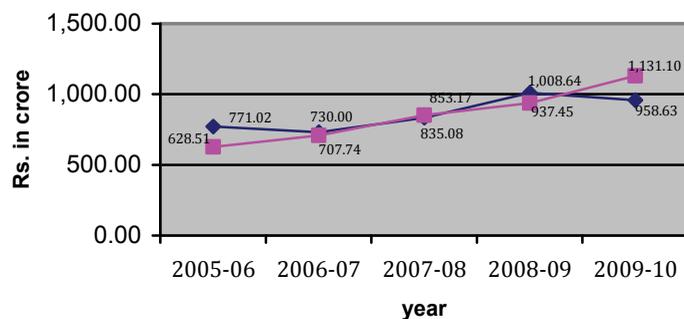
5.2 Trend of receipts

Actual receipts from the taxes on motor vehicles during the years 2005-06 to 2009-10 along with the budget estimates during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	771.02	628.51	(-) 142.51	(-) 18.48	9,778.62	6.43
2006-07	730.00	707.74	(-) 22.26	(-) 3.05	11,941.82	5.93
2007-08	835.08	853.17	(+) 18.09	(+) 2.17	13,668.95	6.24
2008-09	1,008.64	937.45	(-) 71.19	(-) 7.06	15,990.18	5.86
2009-10	958.63	1,131.10	(+)172.47	(+) 18.00	17,625.02	6.42

Budget estimates and Actual receipts



We noticed that except during 2005-06 and 2009-10 the variation between budget estimates and actual receipts was less than 10 *per cent*.

5.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounts to ₹ 684.46 crore of which ₹ 388.89 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10.

(Rupees in crore)					
Year	Opening balance of arrears	Additions	Amount collected during the year	Closing balance of arrears	Trend of revenue
2005-06	388.89	91.07	10.07	469.89	628.51
2006-07	469.89	85.24	9.93	545.21	707.74
2007-08	545.21	87.70	10.07	622.84	853.17
2008-09	622.84	72.02	10.40	684.46	937.45
2009-10	684.46	-	Not available	Not available	Not available

The above table shows that the total collection during the period from 2005-06 to 2008-09 was only ₹ 40.47 crore as compared to the addition in the demand of ₹ 336.03 crore during the period. As compared to the accumulated arrears of ₹ 684.46 crore as on March 2009, the collection was only ₹ 40.47 crore during the four years.

We recommend the department to start a special drive to collect the mounting arrears.

5.4 Cost of collection

The gross collection of revenue receipts under the head Taxes on vehicles, expenditure incurred on collection and the percentage of expenditure to gross collection during 2005-06 to 2009-10 alongwith the all India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage
	(Rupees in crore)			
2005-06	628.51	17.73	2.82	2.67
2006-07	707.74	21.61	3.05	2.47
2007-08	853.17	26.00	3.05	2.58
2008-09	937.45	30.05	3.21	2.93
2009-10	1,131.10	33.96	3.00	Not available

We noticed that the expenditure on collection in respect of taxes on vehicles was higher than the all India average.

We recommend the Government to examine the reasons for such high costs of collection.

5.5 Impact of audit

Revenue impact

During the last four years, we pointed out short/non-levy of tax, incorrect classification, irregular exemption etc., with revenue implication of ₹ 11.74 crore in 899 paragraphs. Of these, the department/Government accepted audit observations involving ₹ 13.13 crore and had since recovered ₹ 1.21 crore. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	188	271.00	37	37.66	156	22.89
2006-07	159	299.00	184	399.24	35	7.45
2007-08	148	206.00	162	271.43	25	13.07
2008-09 Vol I	404	398.00	138	604.64	131	77.66
Total	899	1,174.00	521	1,312.97	347	121.07

We noticed that the Government failed to recover even the amount it has accepted.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

5.6 Working of internal audit wing

Finance Officer attached to the office of the Transport Commissioner conducts annual audit of RTOs and the office of the Deputy TC conducts internal audit of Sub RTOs. The internal audit team at Commissioner's office comprises one Accounts Officer, one Senior Superintendent and three Clerks and the team at each of four DTC zones in the State has a strength of one Senior Superintendent and one Clerk for internal audit of the respective zones. The periodicity of audit of all offices is once a year but the department could not achieve the target due to shortage of staff. Against the target of 66 units, 27 units have been audited during 2009-10. The department has not prepared a separate Internal Audit Manual. 868 paragraphs involving ₹ 86.31 lakh relating to 221 IRs remained outstanding at the end of March 2010.

We recommend that the IAW may be strengthened so that they are able to achieve their planned audit target. Besides, a mechanism needs to be installed for timely settlement of the audit observations raised by the IAW.

5.7 Results of audit

We test checked the records of 63 units relating to motor vehicles department. We detected underassessment of tax and other irregularities involving ₹ 371.49 crore in 453 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Levy and collection of Motor Vehicles Tax (A review)	1	362.37
2.	Short/non-levy of tax	207	3.21
3.	Incorrect classification	58	0.37
4.	Irregular exemption	24	0.17
5.	Other lapses	163	5.37
Total		453	371.49

The department accepted underassessment and other deficiencies of ₹ 4.16 crore in 369 cases, of which 164 cases involving ₹ 2.26 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 1.13 crore was realised in 432 cases during the year 2009-10.

A review on 'Levy and collection of Motor Vehicles Tax' with financial impact of ₹ 362.37 crore and a few illustrative audit observations involving ₹ 41.67 lakh are mentioned in the following paragraphs.

5.8 Levy and collection of Motor Vehicles Tax

5.8.1 Highlights

- Automatic renewal of licences to drive non-transport vehicles at the time of renewal of badge had resulted in non-levy of renewal fee of ₹ 3.76 crore.

(Paragraph 5.8.8)

- Rent payable by the department to the KSRTC was adjusted against tax due from the KSRTC leading to diversion of funds of ₹ 41.54 lakh.

(Paragraph 5.8.9)

- The enforcement wing in the department is weak and was not able to collect ₹ 2.91 crore leviable from operators of transport vehicles plying without fitness certificates.

(Paragraph 5.8.10)

- The department failed to collect fee of ₹ 5.61 crore for exhibiting advertisements in transport vehicles.

(Paragraph 5.8.11.2)

- The computers and servers have neither bios password nor windows password.

(Paragraph 5.8.12.5)

- Resources like the Queue Management System, stock entry module, finger print biometric devices were not used/partially used.

(Paragraph 5.8.13)

- Revenue is understated by ₹ 36.34 crore due to non-inclusion of old arrears in the computerised DCB.

(Paragraph 5.8.15.2)

- Absence of a system to monitor collection of bank drafts and revalidation of time barred bank drafts led to revenue loss of ₹ 1.67 crore.

(Paragraph 5.8.17.1)

- Surcharge of ₹ 158.15 crore was not levied from the KSRTC.

(Paragraph 5.8.18.1)

- Additional tax of ₹ 186.62 crore was not levied for non-payment of tax.

(Paragraph 5.8.18.2)

- Non-compliance of Central Government direction in the case of educational institution buses resulted in short levy of ₹ 3.69 lakh.

(Paragraph 5.8.18.3)

5.8.2 Introduction

The functioning of the Motor Vehicles Department (MVD) and the levy and collection of tax and fee in the State are governed by the Motor Vehicles (MV) Act, 1988, the Central Motor Vehicles (CMV) Rules, 1989 and the Kerala Motor Vehicles Taxation (KMVT) Act, 1976. Major activities of the MVD include registration of motor vehicles, levy and collection of motor vehicle taxes, grant of driving licence and road permits and monitoring the transport system in the State. The main source of revenue in the department comprises tax/additional tax on the motor vehicles and fee for registration, grant of driving licences and issue of road permits etc., apart from fines and penalty for default.

The Motor vehicles Department which administers the provisions of the MV Acts and Rules in the State is one of the major revenue earning departments of the State. MVD had undertaken computerisation of all its major operations such as registration of vehicles, collection of road tax, issue of permits, driving licence, fitness certificates, conductor licence etc. Taxes on transport vehicles except motor cabs and *auto-rickshaws* are levied and collected quarterly and that of motor cabs and *auto-rickshaws* are levied and collected annually. One time tax for fifteen years is levied and collected in respect of newly registered non-transport vehicles (NTVs). In respect of NTVs more than 15 years old, tax is levied and collected biennially.

We conducted a review on ‘Levy and collection of Motor Vehicles Tax’ in the State of Kerala which revealed a number of system and compliance deficiencies as discussed in the succeeding paragraphs.

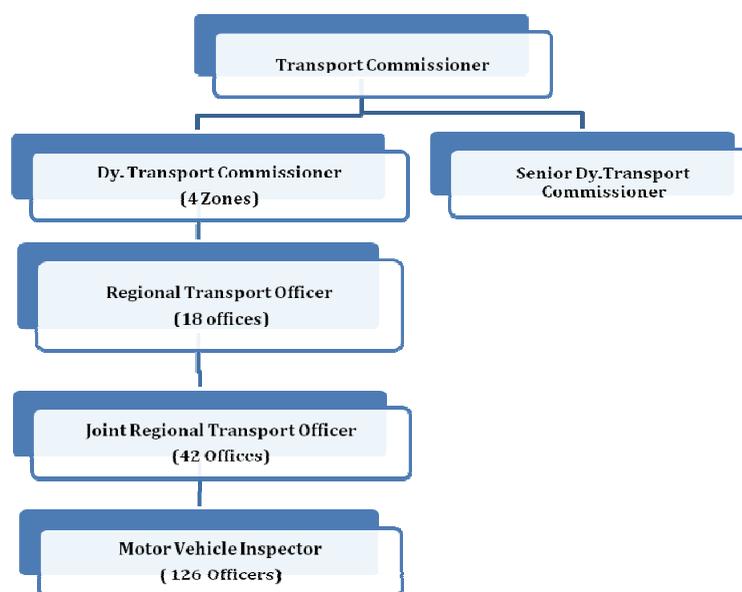
5.8.3 Organisational set up

The Transport Commissioner is the head of the MVD. A Senior Deputy Transport Commissioner is the State Transport Authority.

The Transport Commissioner is assisted by the Deputy Transport Commissioners at the zonal level and under them there are Regional Transport Officers.

The organisational setup is explained below:

- Eighteen Regional Transport Offices (RTOs) under the Regional Transport Officers, of which one RTO has State-wide jurisdiction exclusively for nationalised sector.
- Forty two Sub-Regional Transport Offices (SRTOs) under the Joint Regional Transport Officers.
- In addition there are seventeen motor vehicle border check posts headed by Motor Vehicle Inspectors.



5.8.4 Audit objectives

We conducted the review to ascertain whether:

- the provisions of the MV Act 1988/KMVT Act 1976 and rules/orders made thereunder governing assessment, levy and collection of tax and fees are enforced effectively;
- an efficient and effective public service system was set up in the department;
- implementation of computerisation was efficient and covered all functions of the department and adequate IT controls are in place; and
- effective internal control mechanism exists in the department.

5.8.5 Scope and methodology of audit

We conducted the audit during the period from February to May 2010 covering the period 2004-09. Apart from the office of the Transport Commissioner we collected data from 42 field offices spread all over Kerala. For selection of offices, 81 field offices were divided into four clusters; cluster I consisting of four DTC Offices, cluster II consisting of 18 RTOs, cluster III consisting of 42 SRTOs and cluster IV consisting of 17 motor vehicle check posts. One DTC (25 per cent) from cluster I, 13 RTOs (72 per cent) from cluster II, 13 SRTOs (31 per cent) from cluster III and 13 check posts (75 per cent) from cluster IV were selected by using Probability Proportional to Size Sampling Without Replacement (PPSWOR) method. In addition, RTO Vadakara and SRTO Thalasserry were selected at the request of Transport Commissioner during the entry conference. Audit observations of similar nature, which we noticed during previous audits have also been incorporated in the review.

5.8.6 Acknowledgement

We acknowledge the co-operation extended by the MVD in providing necessary information and records for audit. We held an entry conference on 5 March 2010 with the Secretary to Government and Transport Commissioner wherein the scope and methodologies of audit were explained. As suggested by the Transport Commissioner, examination of the implementation of the Citizen Charter was also included in the scope of audit. The draft review report was forwarded to the department on 8 June 2010 with the request for their response. We held an exit conference on 13 July 2010 to discuss the audit findings and recommendations with the Secretary to Government, Transport Department. The Government accepted most of our findings and recommendations and assured that steps will be taken to implement them. The specific replies received during the exit conference and at other times have been appropriately included under the respective paragraphs.

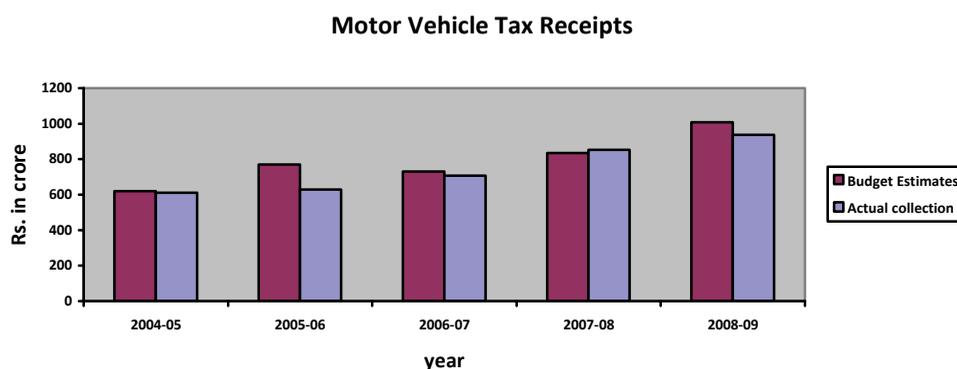
Audit findings

5.8.7 Trend of revenue

The Budget estimates and actuals are as shown below:

Year	Budget estimates	Actual collection				Percentage of collection to budget estimates
		Tax	Fee	Other receipts	Total	
2004-05	620.00	507.07	95.79	7.62	610.48	98.46
2005-06	771.02	531.76	95.58	1.17	628.51	81.52
2006-07	730.00	579.83	120.44	7.47	707.74	96.95
2007-08	835.08	730.18	117.06	5.93	853.17	102.17
2008-09	1,008.64	793.38	123.07	21.00	937.45	92.94

The Motor Vehicle Tax (MVT) collection in the State showed regular increase during the period 2004-09. The percentage of collection to budget estimates was above 90 during the last five years except in 2005-06.



5.8.8 Loss of revenue due to automatic renewal of licence to drive non-transport vehicles at the time of renewal of badge

According to Section 15 (1) and 15 (4), a driving licence shall be renewed only with effect from its date of expiry even if the application was made prior to its date of expiry.

A driving licence issued or renewed shall, in case of a licence to drive a transport vehicle (Badge) be effective for a period of three years and in case of any other licence, for a period of 20 years from the date of issue or renewal or until the licence holder attains the age of 50 years, whichever is earlier. After attaining the age of 50 years it shall be renewed for a period of five years. A fee of ₹ 250 is also prescribed in Rule 32 of the CMV Rules for renewal. The Transport Commissioner clarified¹⁷ that separate validity shall be assigned to licences to drive transport vehicle and non-transport vehicle.

We observed from data in respect of renewal of driving licences in the system database in 26 RTOs/SRTOs¹⁸ covered that at the time of renewal of driving licences to drive transport vehicle (Badge) the system automatically renewed the period of validity of the licences to drive non-transport vehicle also from the date of renewal of badge for a period upto 20 years or five years even beyond the period of validity of the badge issued irrespective of whether the licence holder had attained the age of fifty years, even in cases where the validity to drive the non-transport vehicle had not expired. In the instant cases all the renewals were effected as on the date of renewal of badge and not from the date of expiry of the non-transport licence. In certain cases automatic renewal had happened even beyond the age of 50 years, even though the validity of the badge issued was for the period less than the age of 50 years. We observed in 2,347 cases non-transport driving licences were automatically renewed beyond the age of 50 years. CMV Rules provide production of medical certificate for renewal of driving licence for persons who attained the age of 50 years. Automatic renewal of driving licence beyond 50 years without medical certificate may cause hazards to the general public. We had already mentioned about the automatic renewal of driving licence in the Report of the Comptroller and Auditor General of India for the year ending 31 March 2009 (Revenue Receipts).

The erroneous renewal of non-transport driving licences beyond the validity of badge without an application and payment of prescribed fee of ₹ 250 in each case had given undue benefit of extended validity to licence holders in 1,50,341 cases and resulted in loss of revenue of ₹ 3.76 crore.

5.8.9 Short remittance of Government receipts

Kerala Financial Code and Kerala Treasury Rules prescribe that money received

¹⁷ Circular Number 5/98 dated 21.2.1998.

¹⁸ RTOs Alappuzha, Ernakulam, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Thiruvananthapuram, Thrissur, Vada-kara and SRTOs, Aluva, Changanacherry, Chertala, Irinjalakuda, Kanjangad, Karunagapally, Neyyattinkara, Ottappalam, Quilandy, Thalassery, Taliparamba, Tirur and Tiruvalla.

by or on behalf of Government either as dues of Government or deposit, remittance or otherwise shall be remitted to treasury and brought into Government account without undue delay. There is no provision to meet any expenditure from the departmental receipts.

Sanction was accorded to occupy the second floor of the Transport Bhavan, Thiruvananthapuram owned by the KSRTC for the accommodation of the Transport Commissioner's Office at a monthly rent of ₹ 30,100. The rent for the above building payable by the TC to the KSRTC was adjusted from the motor vehicle tax due from KSRTC. There is no provision in the Act and Rule to meet any expenditure from the departmental receipts. We had already mentioned about irregular adjustment for the period from October 2006 to March 2008 in the Report of the Comptroller and Auditor General of India for the year ending 31 March 2009 (Revenue Receipts) Vol. I. Short remittance of tax due to irregular adjustment from October 1997 to March 2009 worked out to ₹ 41.54 lakh.

5.8.10 Motor vehicles plying without fitness certificate

Section 56 of the MV Act prescribes the necessity of certificate of fitness for a transport vehicle plying on the road. The validity of the certificate prescribed for a new transport vehicle is two years from the date of registration and it shall be renewed each year. Further, MV Act stipulates that a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness issued by the competent authority. Government of Kerala had prescribed¹⁹ a minimum fine of ₹ 500 for two or three wheelers, ₹ 1,000 for light motor vehicles, ₹ 2,000 for medium vehicles and ₹ 3,000 for heavy motor vehicles for violation of provisions of the Act. Besides, inspection fee at the rate of ₹ 200 for two or three wheelers, ₹ 300 for light motor vehicles, ₹ 400 for medium vehicles and ₹ 500 for heavy motor vehicles are collectible. Besides, KMV Rules provide levy of penalty for delay in obtaining fitness certificate at the rate of ₹ 100 in the case of two wheelers and *auto-rickshaws*, ₹ 150 in the case of motor cab and ₹ 200 for other transport vehicles for every calendar month and part thereof. Government authorised officers above the rank of Assistant Motor Vehicles Inspectors in the MVD to compound the offences punishable under various sections of the Act.

We observed that in 23 RTOs/SRTOs²⁰, certificates of fitness issued to 10,319 transport vehicles of different categories had expired in March 2009. Tax in respect of these vehicles was accepted even after the expiry of the fitness certificate. There is no system in the department to ensure the fitness of the vehicle before accepting tax. The compounding fee, inspection fee and penalty for delay leviable on these vehicles works out to ₹ 2.91 crore.

Permitting vehicles without fitness certificate to ply may imperil public safety.

¹⁹ GO (P) 9/2002 dated 20/3/2002.

²⁰ RTOs Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Thiruvananthapuram, Thrissur, Vadamara and SRTOs Aluva, Chertala, Irinjalakuda, Kanjangad, Karunagappally, Neyyattinkara, Ottappalam, Quilandy, Thalassery, Taliparamba, Tirur and Tiruvalla.

We recommend that the MVD must insist on production of certificate of fitness before accepting tax in respect of transport vehicles.

5.8.11 Enforcement system

The vehicle population of the State is increasing steeply year by year. Since the density of vehicle is far increasing, strict enforcement of traffic rules is essential for the security of the public considering the gravity of the situation. All executive officers in the MVD are acting as enforcement staff also. Further, the Police Department is assisting the MVD by booking traffic offenders. Even though the vehicle population had increased by 45 *per cent* during 2004-09, the strength of the enforcement wing has almost remained static throughout this period resulting in ineffective enforcement.

Monthly target for booking offences was fixed for RTOs at 20 cases per month and junior officers at 50 cases in March 2004 and the monetary limit for RTOs was ₹ 20,000 and for junior officers was ₹ 50,000. Even though the vehicle population had increased by 45 *per cent*, the monthly targets for booking offence fixed for enforcement staff in March 2004 have not been revised. We observed that the enforcement system was deficient as illustrated in the following paragraphs.

5.8.11.1 Delay in disposal of check reports

Enforcement staff of the MVD is empowered to conduct field check to detect offences committed by the vehicle owners/drivers and to compound such offences after collecting the fine prescribed by the Government.

We observed that 23,216 check reports are pending out of 99,022 cases booked in 25 offices²¹ as on 31 March 2009. Out of the pending check reports the nature of offence column in the database was left blank in 8,363 cases. The compounding fee leviable in these cases could not be computed due to the absence of sufficient data in the database. The rest of the check reports relates to multiple offences like non-production of licence, insurance certificate, pollution under control certificate, driving without permit, over speeding etc. Check reports from 1979 onwards are still pending in the database. There is no provision in the Kerala Revenue Recovery Act to recover the compounding fees from the offenders. Therefore in case of non-response to the charge memo within the specified period, prosecution action should be taken against the offenders.

The MV Act provides compounding fee of ₹ 2,000 and an additional fine of ₹ 1,000 per ton of excess load for vehicles with overload. We observed that 610 check reports relating to overload were pending disposal in the database for which compounding fee collectible is ₹ 48.29 lakh.

²¹ RTOs Alappuzha, Ernakulam, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Thrissur, Vadakara and SRTOs Aluva, Changanacherry, Chertala, Irinjalakuda, Kanjangad, Karunagappally, Ottappalam, Quilandy, Thalassery, Taliparamba, Thodupuzha, Tirur and Tiruvalla.

In respect of the remaining 22,606 pending check reports where offences were not specified, minimum compounding fee of ₹ 100 per pending check report is collectible which works out to ₹ 22.60 lakh. Total compounding fee collectible in 23,216 cases worked out to ₹ 70.89 lakh.

5.8.11.2 Vehicles plying with unauthorised exhibition of advertisements

The Kerala Motor Vehicles Rules 1989 provides for prior approval of State or Regional Transport Authority for exhibiting advertisements in transport vehicles. However, KSRTC exhibited advertisements in its stage carriages from 1 February 2000 to 30 April 2008 without the prior approval of State/Regional Transport Authority.

The Government had not exempted the KSRTC from payment of the advertisement fees. KSRTC had sold the right to exhibit advertisements on their buses to a private agency and according to the conditions of the agreement, the advertising agency was bound to pay the fees due to the Government. Even though the KSRTC buses with the advertisements are operated all over the State, the enforcement wing of the MVD had not booked any offence against the KSRTC. Failure to book this offence by the MVD resulted in non-levy of advertisement fee at the prescribed rate of ₹ 10 per 100 sq.cms amounting to ₹ 5.61 crore for the period from 1 April 2006 to 31 March 2009, which was realisable from the advertising agency.

5.8.11.3 Rent a cab scheme

In exercise of the powers conferred by the MV Act, Government of India, Ministry of Shipping, Road Transport and Highways vide notification²² introduced a scheme for regulating the business of 'rent a cab called 'Rent a cab Scheme 1989'. According to the scheme, a person engaged in the business had to obtain a licence from the State Transport Authority (STA) after remitting the prescribed fee of ₹ 5,000.

As per the data collected from three²³ Central Excise Commissionerates, 128 agents conducted 'rent a cab' services and paid service tax during 2006-07, but none of these operators are registered with the State Transport Authority. The enforcement wing of the department failed to book any of the unauthorised operators.

5.8.11.4 Media reports

Media reports appearing frequently in various channels and newspapers highlight the violation of motor vehicle laws, but enforcement wing of the department has not been effectively intervening to check violation of the traffic Laws.

²² No.S.O.437 (E) dated 12 June 1989.

²³ Kochi, Kozhikode and Thiruvananthapuram.

The photograph shown below had appeared in a leading daily about the breach of traffic rules. The report says that no authority is questioning the parking of a motor vehicle with foreign registration number on the footpath.



The enforcement wing of the department may be strengthened to effectively plug the offences committed under the Motor vehicle Laws.

5.8.12 Computerisation of MVD – General controls

Fully Automated Services of the Transport Department (FAST) was initially set up as a “FAST” pilot project at RTO Thiruvananthapuram and Kochi, for providing end-to-end Government to citizen services. Department extended the coverage of computerisation to all the offices and check posts during 2006-08. The customised application software Smart-Move was developed by National Informatics Centre (NIC), Kerala, based on ‘Vahan’ & ‘Sarathi’. The comprehensive package is designed to automate all citizen-centric procedures and prevent the necessity to maintain manual records.

The MVD implemented Client-Server Computing in Two-tier Architecture on Microsoft SQL Server hosted on Windows Server 2003 in each RTOs/SRTOs. The client PCs are working on Windows XP. All computers in the department are protected with ‘Symantec End Point Protection’ to guard against virus infection.

5.8.12.1 IT Strategy and Policy

We noticed that the department has not evolved a long term IT strategy that is aligned within the overall organisational strategy. The MVD has also not constituted a steering committee to guide the IT operations.

IT policy on key areas of computerisation like system security, access controls, configuration management, business continuity planning, documentation, system testing and acceptance and service level agreement (SLA) have not been formulated as elaborated in the ensuing paragraphs.

5.8.12.2 Configuration management

Effective configuration management ensures compatibility between various versions of software and hardware used in IT systems.

We noticed that the Smart-Move application developed by NIC was compatible only with windows XP as a result of which, 20 new computers bought for RTO Ernakulam in February 2009 with VISTA as operating system was not compatible with Smart-Move.

We recommend the MVD to introduce effective management procedures to resolve such compatibility issues.

5.8.12.3 Lack of documentation

Adequate documentation of IT systems is essential to ensure effective systems operations, change management and for training. We noticed that NIC, the software developer or MVD has not maintained any documentation of the six major changes to the application made between 1 January 2007 and 1 April 2010.

We recommend that the MVD should develop documentation for the software Smart-Move in a time bound manner.

5.8.12.4 Non-recovery of down-time charges as per SLA

The Fully Automated Services of the Transport Department (FAST) was a Build, Operate, Maintain, and Transfer (BOMT) project awarded to Electronics Corporation of India Limited (ECIL) as the Service Provider in September 2005 for a period of three years from the date of commissioning (Go Live). Having created the infrastructure at all RTO/SRTO Offices, the project was declared 'Go Live' with effect from 1 January 2007.

According to SLA, ECIL is expected to provide 97 *per cent* uptime of all terminal counters including printing facility and photo capturing. In case of default in this regard, the agreement provides for down-time charges. When the downtime provided exceeds the limit, ECIL is bound to pay down-time charges which shall be adjusted from the instalment payable to it.

We noticed that the MVD calculated down time charges of ₹ 6.06 crore but did not adjust it from the payment due to ECIL as per the SLA.

5.8.12.5 Ineffective Access Control

Effective access control is necessary to ensure that only authorised users can access IT resources and that users could be held accountable for their activity in IT Systems. Implementing a system of user identification and password which is frequently changing are access control tools. We noticed that the computers and

servers in the MVD had neither bios password nor windows password. There is no physical access control preventing entry of persons into the server room as it is not kept locked. Thus any one has free access even to the server. Lack of user identification and password compromises the security of the System on the LAN and allows free access to users to valuable data stored in computers and server.

The departmental users of computers access the backend server through the Smart-Move application. For this purpose, each user has been allotted a user identification and password.

To make the security of the LAN computers more stringent, a biometric device is also used to log into the system. This was intended to provide fool-proof security. However, we noticed that the Windows Server 2003 which hosts the MS SQL database has neither system nor database password and hence access control for initial logging into the Smart-Move application can be bypassed by a user in any of the following ways:

- If remote desktop is enabled on the server, every user being administrative user on the client computer can get direct access to the server.
- The server can be accessed from the local computer using the 'get external data option' of Excel. This facilitates import of all the tables into the client computer.
- Using SQL query option in MS Excel, the user can write SQL queries in the Query Window in Excel and modify data in the backend database.
- User can create programmes in the local computer either in Visual Basic script or any windows based programming language to access the backend server.

As providing unrestricted access to application database can seriously compromise the integrity of data, **we recommend that the MVD should introduce effective access control immediately.**

The MVD accepted (July 2010) the audit finding and replied that security will be put in place as suggested.

5.8.12.6 Business Continuity Planning

It is essential that every organisation that is heavily dependent on its information systems to carry on its activities, has business continuity plan (BCP) to enable the organisation to function. We observed that the MVD is backing up transaction logs every 10 minutes to a standby server and a differential back-up on everyday and a full database back-up every week which is commendable.

We noticed that the RTO Offices as well as the TC Offices are not presently interconnected. Thus the back-up of data taken on CDs are physically transferred to TC at present. Due to lack of interconnection, it is not possible to verify the data of a different office when some service has to be rendered in respect of a vehicle registered at another RTO Office. The MVD should seriously think of interconnection of RTO/SRTO and TC Office as well as migrating to a single

server based IT Architecture in order to avoid redundancy and duplication of data existing at present as well as to provide improved services across the State. This would also enhance easy back-up of data at one location without the necessity of having to backup the data of 60 offices.

5.8.12.7 Anti-Virus features either not updated or configured properly

1,610 copies of licensed anti-virus programmes protect the server and client computers of the MVD from various virus threats.

We found that the network protection had not been updated since November 2007. The personal firewall feature of Anti-Virus programme preventing internet access had also not been enabled in the computers. Due to lack of timely updating of Anti-Virus software, virus outbreak resulted in system crash at the RTO, Ernakulam in June 2009. The department had not imposed any penalty on the ECIL.

The department replied that updating of antivirus definition files was entrusted with service provider.

Though updating was the responsibility of the service provider, the department did not ensure that the service provider was attending to the updating which resulted in server crash at RTO Office, Ernakulam for four days due to virus infection.

5.8.12.8 Poor Environmental Control

We observed that a number of unnecessary equipments such as monitors, switched mode power supplies and obsolete computers, software media and items not related to the operation of the server were stored in the server room within paper cartons. As poor environmental control may damage IT systems or precipitate fire accident, the MVD should instruct all offices to maintain a clean IT environment.

The MVD replied (July 2010) that the server room will be maintained properly.

5.8.12.9 Pre-commissioning tests not done and electrical wiring not conforming to standards

ECIL had to conduct pre-commissioning test on all hardware and infrastructure deployed at each office by a team of technical experts appointed by MVD as per the agreement. The department had declared the project 'Go Live' as on 1 January 2007.

We noticed that in respect of electrical works, the MVD did not carry out necessary tests before declaring 'Go-Live'. After commissioning, the evaluation work was entrusted to the PWD Engineers. We observed, based on the reports of the PWD Engineers, that serious defects like the generator connections without grounding, UPS connections without protective devices etc., existed in 16 Offices.

As defective electrical work may damage costly IT hardware and the data present in them, **we recommend that the MVD may immediately rectify the defects.**

5.8.12.10 Non-adherence to standardisation testing and quality certification

The Government of Kerala had issued directions to all departments implementing e-governance about initiatives to ensure efficiency, transparency and reliability of such services at affordable costs. Government circular stated that the e-governance solutions should be assessed for quality before and after the deployment of such services. The standardisation had to be done by the Department of Information Technology. We observed that steps for carrying out the standardisation test have not been done so far.

5.8.13 Non/partial utilisation of system resources

5.8.13.1 Queue Management System

Automatic Queue Management System (QMS) was intended to facilitate speedy and prompt disposal of the customers' requirements from the counter on first come first serve basis. QMS had to be implemented in 12 'A' category RTOs as part of agreement with ECIL. We observed that QMS had not been functional in any of the offices despite the existence of facilities in the Smart Move application.

After we pointed out the deficiency, the department stated that implementation of QMS was impractical. The reply is not tenable as the system was successfully used in various organisations like Railways, Banks etc. Moreover the QMS has been setup for use in the department as part of the agreement with ECIL. The department has not used the QMS service and hence cannot claim that the system is impractical.

5.8.13.2 Stock entry Module

The MVD was using high security holograms with special security features to emboss on RC books, permits, licences, etc., to make them tamper proof. Though Smart-Move application provides computerised accounting of pre-printed stationary like fee receipts, tax tokens, license cards and registration cards, no such provision is made for high security holograms which resulted in non-monitoring of stock inventory.

The MVD accepted (July 2010) audit findings and replied that stock entry module will be incorporated in Smart-Move application.

5.8.13.3 Non-use of biometric devices

1,540 finger print biometric devices were purchased at a cost of ₹ 77 lakh for logging into the computers. At the Transport Commissionerate, 85 devices costing ₹ 4.25 lakh were kept idling for want of installation of its software. Elsewhere, the biometric devices are used only for logging to the Smart-Move application. If the MVD had installed the appropriate software for the biometric device, control of unauthorised access into the client computers on the LAN as well as access to the server through LAN would have enhanced IT Security.

The MVD replied (July 2010) that the finger print biometric device which was used to log into windows was found to be impractical. The reply is not tenable since the MVD is still using finger print biometric partly for logging into Smart-Move application.

5.8.13.4 Bar code scanners

Bar code scanners were intended to capture data from RC Book, licence, etc. This would enhance the data entry speed and eradicate data entry mistakes. 140 bar code scanners costing ₹ 14.01 lakh were supplied by the Service Provider, ECIL as part of the implementation of the FAST project agreement. These were never put to use in any of the offices due to lack of appropriate training in the use of the Barcode scanner and as well as due to the complex method of menus built in Smart-Move application which does not facilitate ease of use of the Barcode scanner. This resulted in infructuous expenditure.

The MVD replied (July 2010) that staff members have been given training in the use of bar code scanners.

5.8.14 Input controls

IT systems should have built in input control that ensures completeness, accuracy and validity of data entered into the System. We noticed that the three tier user roles like data entry, verification and issue by staff on the basis of roles assigned to them are strictly followed which deserves appreciation.

5.8.14.1 Existence of duplicate chassis numbers

The chassis number is a unique identification number documented on the RC of a vehicle. An analysis of data stored in vehicle registration table shows that the chassis number is not unique. The presence of duplicate chassis numbers in the database is due to the fact that the chassis number column in the database was not set with a constraint of unique value. This shows lack of input validation check in the database. We found 11,066 cases of duplicate chassis numbers in the Registration table of 12 Offices²⁴.

We recommend that the MVD should consider taking action to eliminate duplicates in such a vital field.

5.8.14.2 Absence of validation checks

The tax for transport buses and rickshaws are determined with respect to their seating capacity while the tax for other vehicles like goods vehicles are determined by their registered gross weight. When a user makes use of the menu provided in the user interface to select the type of vehicles, relevant information relating to that class of vehicle like seating capacity, un-laden weight, gross vehicle weight, wheel-base, cubic capacity etc. would automatically become

²⁴ RTOs Ernakulam, Kannur, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Vadakara and SRTOs Irinjalakuda, Ottappalam, Quilandy, Thodupuzha and Tirur.

available in the interface. In cases where seats of vehicles are altered, data relating to seating capacity alone need to be manually inserted.

We noticed that all the above details are keyed into the system which could result in non-standardised data being captured into the system. Further non-existence of validity check on the number of seats may result in erroneous calculation of tax.

We recommend that the software should be modified to permit selection of details from menus and range checks on seating capacity may be introduced.

5.8.14.3 Absence of provision for capturing insurance details

No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force, in relation to the use of the vehicle, a policy of insurance complying with the requirements of Chapter XI of the MV Act.

A valid insurance certificate is required to be furnished alongwith an application for registration. Moreover, there should be a validation check in the system to ensure that every vehicle owner has taken an insurance to cover the third-party risk before registration.

We observed that there was no provision in the registration module to capture details of insurance cover and the MVD was not having information in respect of insurance coverage of the motor vehicles registered with them.

We recommend that the MVD may redesign the database and the input forms to capture details of vehicle insurance at the time of registration.

5.8.15 Other IT control

5.8.15.1 Incorrect DCB Module

Demand, collection and balance register is an important record to watch the collection and arrears of tax on vehicles. We observed that DCB module in the software SMART-MOVE is not generating true information on arrears of tax in respect of transport vehicles for the following reasons:-

- The opening balance at the beginning of each quarter does not tally with the closing balance of the DCB for the previous quarter.
- There is no provision in the software to exclude vehicles which do not come under the jurisdiction of the concerned office for the purpose of generating the DCB statement.

We recommend that a DCB module may be developed where the closing balance of the previous quarter appears as the opening balance of the current quarter and a provision may be installed in the software to exclude vehicles which do not come under the jurisdiction of the concerned office for the purpose of generating the DCB statement.

5.8.15.2 Arrears of revenue under stated

From the date of computerisation, DCB is prepared using the DCB module in the software. We observed that the manual data was not included in the system generated DCB. As a result, arrears of revenue pending collection were under stated. The amount of arrears under stated in 21 RTOs/SRTOs²⁵ worked out to ₹ 36.34 crore.

5.8.16 Internal control

5.8.16.1 Arrears in reconciliation of remittances

The Kerala Treasury Code Volume I and the Kerala Financial Code Volume I provide for periodical reconciliation of remittances into the treasury. In the MVD, reconciliation is to be done every month and the reconciled statement of remittances should reach the DTC/TC office before the 20th of the succeeding month.

We however, noticed that in 22 out of 61 offices from where information was received, the reconciliation was in arrears from one to 30 months.

5.8.16.2 Internal Audit

Effective internal audit is essential to independently evaluate the working of a department and to suggest ways and means to plug the leakage of revenue. In the Transport Commissionerate, the internal audit wing has been functioning with the staff strength of four officers (one senior superintendent and three clerks). The efficiency of the internal audit wing is very poor with regard to the audit plan as shown below:

Year	Units due for audit during the year	Pending units due for audit	Total units due for audit	Units audited during the year	Units remained un-audited	Shortfall in per cent
2004-05	23	-	23	3	20	86.96
2005-06	23	20	43	1	42	97.67
2006-07	23	42	65	2	63	96.92
2007-08	23	63	86	9	77	89.53
2008-09	23	77	100	2	98	98.00

We observed that no control registers to watch the issue of the inspection reports and the observations raised and settled was maintained by the MVD. The total number of inspection reports and audit observations pending for disposal was not available with the internal audit wing. We also observed that training was not imparted to the audit staff. Internal audit of few offices is pending from September 2001 onwards. The performance of the internal audit wing was not

²⁵ RTOs Alappuzha, Ernakulam, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode Malappuram, Muvattupuzha, Palakkad, Thrissur and SRTOs Aluva, Changanacherry, Chertala, Irinjalakuda, Kanjangad, Neyyattinkara, Ottappalam, Thalassery, Tirur and Tiruvalla.

monitored by the higher authorities. The MVD had not taken any steps to strengthen the functioning of internal audit wing.

We recommend that the internal audit wing may be strengthened.

5.8.16.3 Delay in Services

According to the Citizens' charter issued by the Government of Kerala, time limit has been prescribed for 20 important services related to licences, registration and permits rendered to public by the RTOs. Service charge is also collected from the public for the promptness of the service to be rendered. A sum of ₹ 80.46 crore has been collected during 2007-08 and 2008-09 from the public by the department as user charges. The time limit ranges from one to a maximum of 15 days for different services. Services like issue of learner's licence, conductor licence and temporary registration and fitness certificate is rendered on the same day itself. In respect of issue of permits, assignment of new registration numbers for vehicles migrated from other States, issue of duplicate registration certificate etc., we could not assess the delay involved because data related to date of production of additional documents is not captured into the system.

We noticed from an analysis of the data collected from 10 RTOs/SRTOs²⁶ between 1 April 2007 and 31 March 2009 that the time limit as specified in the charter was not adhered to by the MVD. The details are as follows:

Sl. No.	Particulars and time prescribed	No. of cases issued	Issued in time	Percentage of cases issued in time	Delay upto 1 month	Delay upto 6 months	Delay beyond one year
1.	Issue of new registration certificate (3 days)	2,53,427	93,951	37.07	1,39,513	19,360	603
2.	Driving licence renewal(3 days)	1,92,438	93,372	48.52	90,371	7,959	736
3.	Duplicate driving licence (7 days)	19,341	14,553	75.24	3,927	737	124
4.	Driving licence particulars (one day)	2,786	2,121	76.13	602	61	2

We recommend that the MVD may consider ways to render services to the public within the prescribed time.

5.8.16.4 Preparation of Departmental Manual

The Manual kept in use by the MVD was prepared in 1975 i.e. before the motor vehicle laws prevailing in the State came into effect. As all the operations in the department are executed through computerised system there is an urgent need to update the departmental manual.

²⁶ RTOs Ernakulam, Kannur, Malappuram, Muvattupuzha, Thrissur and Vada kara and SRTOs, Aluva, Irinjalakuda, Ottappalam and Quilandy.

5.8.17 Management of demand drafts

5.8.17.1 Blockage/loss of revenue due to non-crediting of demand drafts into Government accounts

The tax due (composite fees) on the vehicles of other States permitted to ply in Kerala on the authority of national permits, corporate permits, short term temporary permits etc. are received by the State Transport Authority, Kerala in the form of demand drafts (DDs) payable at the branches of the banks at Thiruvananthapuram.

We noticed abnormal delay in crediting the demand drafts to the Government account. The reason for the delay was either the demand drafts had become time-barred after receipt at the time of receipt in the office or due to delay in presenting demand drafts to the treasury/bank. The office was not ensuring that all the DDs sent to the bank were being credited to the Government account. The MVD had not evolved a fool proof system to monitor the collection of DDs and follow up action in respect of time-barred DDs returned for revalidation.

₹ 1.67 crore was not credited for the years 2007-08 and 2008-09 as detailed below:

Year	No. of DDs received	Amount (Rs. in crore)	No. of DDs remitted	Amount (Rs. in crore)	No. of DDs pending	Amount (Rs. in crore)
2007-08	61,519	25.98	60,195	25.31	1,324	0.67
2008-09	63,900	26.01	61,922	25.01	1,978	1.00
Total						1.67

The details of DDs relating to the years 2004-05 to 2006-07 were not produced to us.

We conducted a detailed analysis of the management of DDs for the year 2008-09 and we observed that out of 50,815 DDs amounting to ₹ 21.25 crore received during the year, only 48,414 DDs amounting to ₹ 20.11 crore could be remitted to Government account and 2,401 DDs amounting to ₹ 1.14 crore still remain to be credited to Government account (February 2010). The split up of the un-credited DDs is shown in the table:

DDs sent for revalidation and returned without revalidation and kept without further action		Time barred DDs not sent for revalidation		Revalidated DDs kept without crediting to Government account		DDs kept in office without any action	
Number	Amount (Rs. in lakh)	Number	Amount (Rs. in lakh)	Number	Amount	Number	Amount (Rs. in lakh)
571	26.78	41	1.78	7	Rs. 3,850	1,782	85.13

5.8.17.2 Delay in crediting of DDs – non-realisation of interest

Transport Commissioner had instructed²⁷ levy of interest at 12 *per cent* from the banks responsible for the delay in crediting the demand drafts. We observed that

²⁷ Circular No. 8/98 dated 21 April 1998.

vehicle tax collected in 20 offices²⁸ in respect of transport vehicles was remitted by DDs to State Bank of India/State Bank of Travancore for encashment and credit to Government account. We noticed delay ranging from five to 116 days in 3,893 cases for transfer credit of the amounts to Government account. Though delay was noticed in transfer of credit of the amounts, no action was taken to realise the interest from the banks as directed in the circular.

Non-realisation of interest in 20 offices worked out to ₹ 46.23 lakh.

The MVD replied (July 2010) that the present system of management of DDs had now been dispensed with and a new online system followed.

5.8.18 Short/non-collection of tax

5.8.18.1 Non-levy of surcharge

The KMVT Act, 1976 provides for levy of surcharge at the rate of 40 *per cent* on the tax leviable on stage carriages operated by fleet owners. The Kerala State Road Transport Corporation (KSRTC) is the only fleet owner in the State.

We observed that no surcharge was levied for the stage carriages of the KSRTC on the total tax demand of ₹ 395.39 crore for the period from 2004-05 to 2008-09. Short levy of surcharge worked out to ₹ 158.15 crore.

5.8.18.2 Non-levy of additional tax for non-payment of tax

The KMVT Act prescribes levy of the additional tax when tax in respect of a motor vehicle is not paid within the prescribed time limit. According to Rule 5 of the KMVT Rules, time prescribed for remittance of tax in respect of a stage carriage is 45 days from the commencement of the respective quarter. For delay exceeding six months, 50 *per cent* of the tax is leviable as additional tax.

In RTO (NS), Thiruvananthapuram, we observed that the total demand of intrastate stage carriage tax in respect of the KSRTC for the period from 2004-05 to 2008-09 was ₹ 395.39 crore. As the tax amounting to ₹ 373.16 crore was not paid within the six months time, additional tax at the rate of 50 *per cent* of the pending tax was leviable. Non-levy of the additional tax worked out to ₹ 186.62 crore.

5.8.18.3 Short collection of permit fee for educational institution buses

Motor Vehicles (Amendment) Act, 2000 prescribes contract carriage permit for educational institution buses (EIB). Government of India, Ministry of Road Transport and Highways in their letter²⁹ reiterated and clarified that EIBs are Contract carriages.

²⁸ RTOs Alappuzha, Attingal, Ernakulam, Kollam, Kottayam, Malappuram, Muvattupuzha, Palakkad, Thrissur, Thiruvananthapuram and SRTOs Aluva, Irinjalakuda, Karunagappally, Kodungallur, Pala, Perumbavoor, Ponnani, Punalur, Tirur and Transport Commissionerate.

²⁹ Lr.No.RT-11012/32/008MVT dt 28 August 2006.

We found that the department issued private service vehicle permit (PSV) for EIBs from 2004 onwards. The fee prescribed for PSV permit is ₹ 500 whereas the fee prescribed for contract carriage permit is ₹ 2,000, ₹ 2,500 and ₹ 3,000 for vehicles having seats upto 13, between 14 & 20 and above 20 respectively. Despite being pointed out repeatedly in local audit reports, MVD complied Central Government direction only with effect from 1 June 2009. We observed that the non-compliance of Central Government direction resulted in short levy of permit fee in 154 cases in 24 offices³⁰ (out of 43 offices) test checked amounting to ₹ 3.69 lakh.

5.8.18.4 Incorrect classification of omnibuses as non-transport vehicles

Under the MV Act, “Private Service Vehicle” is a motor vehicle constructed or adapted to carry more than six persons excluding driver and ordinarily by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with his trade or business otherwise than for hire or reward. It was clarified by Ministry of Shipping, Road Transport and Highways, that “private service vehicle registered in the name of an individual and if declared to be used by him solely for personal use” only can be classified under non-transport vehicles and others would come under transport vehicles.

We observed that the department was classifying motor vehicles owned by an individual as private service vehicle for personal use under non-transport vehicle in 56 offices³¹ test checked. This classification was against the provisions of the Act and had resulted in recurring revenue loss on fee for certificate of fitness and permit. We had already mentioned about incorrect classification for the period 2006-08 in the Report of the Comptroller and Auditor General for the year ending 31 March 2009 (Revenue Receipts). The total revenue effect worked out to ₹ 78.19 lakh in 8,598 cases.

5.8.18.5 Short collection of fee for conductor licence

The CMV Rules prescribed fee for issue of conductor licence and fee for each renewal thereof shall be half of that for a driving licence. As per Rule 57 and Rule 60 (3) of Kerala Motor Vehicles Rules, 1989, fees of ₹ 50 each for oral test for conductor licence and issue of conductor’s badge shall be levied. Therefore

³⁰ RTOs Alappuzha, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Vadakara and SRTOs Changanacherry, Chertala, Irinjalakuda, Kanjangad, Karunagappally, Neyyattinkara, Ottappalam, Quilandy, Taliparamba, Thalassery, Thiruvananthapuram, Thodupuzha, Tirur and Tiruvalla.

³¹ RTOs Alappuzha, Attingal, Ernakulam, Idukki, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Thiruvananthapuram, Thrissur, Vadakara and Wayanad and SRTOs Alathur, Aluva, Changanacherry, Chertala, Chengannur, Guruvayoor, Irinjalakuda, Kanjangad, Kanjirappally, Karunagappally, Kayamkulam, Kazhakkutam, Kodungallur, Koduvally, Kothamangalam, Kottarakkara, Mannarkad, Mattancherry, Mavelikkara, Nedumangad, Neyyattinkara, North Parur, Ottappalam, Pala, Parassala, Pattambi, Perinthalmanna, Perumbavoor, Ponnani, Punalur, Quilandy, Taliparamba, Thalassery, Thodupuzha, Thripunithura, Tirur, Tiruvalla, Vaikom, Vandiperiyar and Wadakkancherry.

the total fee leviable for issue of a conductor licence with badge is ₹ 200 (half of driving licence fees ₹ 100+50+50).

However, we noticed that only ₹ 125 was levied for issue of conductor licence with badge and ₹ 25 for renewal instead of ₹ 200 and ₹ 125 respectively during the period from 1 April 2004 to 21 April 2008. As the fee is automatically generated by the computer system for each service, the short levy was due to an incorrect entry in the 'Fees Master table' in the database of the system. The total short collection of fees in 4,277 cases of issue and in 10,128 cases of renewal in 26 offices³² worked out to ₹ 12.37 lakh.

5.8.18.6 Non-levy of one time tax on percentage basis

The KMVT Act as amended by the Finance Act, 2007 stipulates levy of onetime tax in case of motor cars which were originally registered in other State on or after 1 April 2007 and migrated to Kerala State. In case of motor cars which were registered on or after 1 April 2007 and reclassified from the category of transport vehicle, tax is calculated on percentage basis depending on the age of the vehicle from the month of original registration.

We observed in 298 cases of assignment of new registration numbers to the migrated/reclassified vehicles, the department inadvertently collected biennial tax applicable to the old vehicles instead of onetime tax at the prescribed rate in 48 offices³³. The short collection in this regard worked out to ₹ 41.85 lakh.

5.8.18.7 Non-realisation of arrear tax on violation of instalment conditions

The KMVT Act and the rules made thereunder do not permit remitting the tax in instalments. But Government, vide various orders granted instalment facility to remit arrear tax of certain vehicles subject to certain conditions. One such condition was that the Government order would not be valid if the amount was not remitted within the period prescribed. In such cases, balance tax may be realised through action like seizure of vehicles, revenue recovery etc.

We noticed that in 64 cases though the condition for granting instalment facility was violated, the department did not take action to collect the arrear tax.

³² RTOs Alappuzha, Ernakulam, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Thrissur, Vadakara and SRTOs Aluva, Changanacherry, Chertala, Irinjalakuda, Kanjangad, Karunagappally, Neyyattinkara, Ottappalam, Quilandy, Thalassery, Thodupuzha, Taliparamba, Tirur and Tiruvalla.

³³ RTOs Alappuzha, Attingal, Ernakulam, Idukki, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Pathanamthitta, Thiruvananthapuram, Thrissur, Vadakara and Wayanad and SRTOs Adoor, Alathur, Aluva, Changanacherry, Chengannur, Chertala, Guruvayoor, Irinjalakuda, Karunagappally, Kayamkulam, Kazhakkuttam, Kodungallur, Kottarakkara, Mattancherry, Mavelikara, North Parur, Neyyattinkara, Ottappalam, Parassala, Pattambi, Perumbavoor, Perinthalmanna, Ponnani, Quilandi, Taliparamba, Thalassery, Thripunithura, Tirur, Tiruvalla, Vaikom and Wadakkancherry.

Non-realisation of tax in respect of those cases in 18 offices³⁴ worked out to ₹ 19.63 lakh.

5.8.18.8 Excess levy of additional tax due to defects in Smart-Move

The KMVT Act prescribes levy of additional tax when tax is not paid within the grace period prescribed in Kerala Motor Vehicles Taxation Rules, 1975.

The benefit of grace period (45 days, one month or 14 days as the case may be) should be allowed to a vehicle owner for the payment of tax in respect of his newly registered vehicle or a vehicle brought from outside the State for which tax endorsement was made within the grace period of the quarter, but the software 'SMART-MOVE' was so designed to levy additional tax for payment of tax after seven days irrespective of whether the date of remittance falls within the grace period or not. This defect in the software resulted in excess collection of additional tax. In six offices³⁵, we observed that in 160 cases there was excess collection of tax amounting to ₹ 1.79 lakh. The excess collection was refunded in 36 cases amounting to ₹ 1.03 lakh by allowing rebate.

We recommend that necessary changes are required to be made in the software to rectify levying excess tax.

Conclusion

We found that:

- the enforcement wing in the MVD is weak;
- the system security is compromised due to lack of access controls;
- poor IT general and input controls compromises the confidentiality, integrity and availability of IT resources;
- there was leakage in revenue assessment and collection due to poor internal controls and non-alignment of IT system with manual provisions;
- prompt service as prescribed in Citizen Chart was not provided to the public; and
- internal control mechanism in the MVD was not effective.

³⁴ RTOs Attingal, Ernakulam, Idukki, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Pathanamthitta and SRTOs Adoor, Aluva, Changanacherry, Neyyattinkara, Punalur, Thalassery, Thrissur and Vadakara.

³⁵ RTOs Kannur, Muvattupuzha, Vadakara and SRTOs Quilandy, Taliparamba and Thodupuzha.

Recommendations

We recommend that:

- Government may consider adequate change in the fee for duplicate driving licence covering the cost of card;
- the enforcement wing may be strengthened to plug the offences committed under motor vehicle laws;
- the computer servers may be made secure by providing necessary passwords;
- strengthening of input controls and validation checks may be done to ensure data completeness and correctness;
- the quality of the infrastructure developed by the service provider may be ensured;
- the department may consider ways to render prompt services to the public without delay; and
- internal control mechanism may be strengthened to avoid compliance deficiency and internal audit wing may be made efficient and effective.

5.9 Other audit observations

We scrutinised the records of various Transport Offices which revealed several cases of non-compliance of the provisions of the Motor Vehicles Act 1988 (MV Act) and Kerala Motor Vehicles Taxation Act (KMVT Act), 1976 and Government notifications 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 on the part of the Regional Transport Offices (RTOs) 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.

5.10 Non-compliance of provisions of Acts/Rules

The provisions of the MV Act and KMVT Act and Rules made thereunder provide for:

- i) collection of revenue on transport vehicles/stage carriages;*
- ii) levy of tax/fees at the prescribed rates within the due dates; and*
- iii) levy of penalty for various offences.*

We noticed that the RTOs did not observe some of the above provisions which resulted in non/short levy of tax/fee/fine of ₹ 41.67 lakh as mentioned in paragraphs 5.10.1 to 5.10.5.

5.10.1 Short levy of one time tax

5.10.1.1 (13 RTOs³⁶ and 26 SRTOs³⁷; between April 2009 and January 2010).

The KMVT Act stipulates that one time tax shall be levied from the date of purchase of vehicle at the rates specified at the time of first registration of the vehicle. The rate for motorcycles, motor cars, three wheelers and omnibus is six *per cent* of the purchase value of the vehicle as per proviso to Section 3(1) of KMVT Act. Tax is payable in respect of vehicles owned by Government companies, public sector undertakings, autonomous bodies, corporations etc.

We noticed that the department short levied one time tax due to incorrect computation of purchase value in 1,339 cases. This resulted in short levy of tax of ₹ 13.68 lakh.

After we pointed out the matter, the department stated (between April 2009 and January 2010) that action would be taken to realise the short collection. We have not

³⁶ Alappuzha, Attingal, Ernakulam, Idukki, Kannur, Kottayam, Kozhikode, Malappuram, Palakkad, Thiruvananthapuram, Thrissur, Vadakara and Wayanad.

³⁷ Adoor, Alathur, Aluva, Chengannur, Cherthala, Kanjirappally, Karunagappally, Kayamkulam, Kazhakuttam, Koduvally, Kothamangalam, Kottarakkara, Mattancherry, Mavelikkara, Nedumangad, North Parur, Pala, Perinthalmanna, Perumbavoor, Ponnani, Punalur, Quilandy, Thodupuzha, Thripunithura, Tirur and Vandiperiyar.

received further developments from the department (December 2010).

We reported the matter to the Government in February 2010. We have not received any further information from them (December 2010).

5.10.1.2 (RTO, Thiruvananthapuram; July 2009)

We noticed that in the cases of nine vehicles owned by autonomous bodies, public sector undertakings etc. one time tax was not levied on the purchase value of the vehicle. This resulted in non-levy of tax of ₹ 2.95 lakh.

After we pointed out the matter in July 2009, the department stated that matter would be examined. We have not received further developments from the department (December 2010).

We reported the matter to Government in March 2010. We have not received any further information from them (December 2010).

5.10.2 Incorrect grant of moffusil permits

(10³⁸ RTOs; between April 2009 and December 2009)

KMV Rule 269 stipulates that the minimum seating capacity of a stage carriage shall be directly proportionate to the wheel base of the vehicle. The seating capacity determines the tax due on stage carriage. The seating capacity can be reduced by two seats in respect of vehicles with separate entrance and exit and further reduced by one fifth in respect of vehicles operating as City/Town service. However, such vehicles with reduced seating capacity are eligible for moffusil permit only on enhancement of seating capacity to the minimum prescribed in the Rule.

We noticed that while transferring the vehicles to the jurisdiction of other RTOs/SRTOs moffusil permits were granted to 33 vehicles after collecting tax based on the reduced seating capacity of the vehicles instead of collecting tax at the minimum seating capacity of stage carriage proportionate to wheel base prescribed. This resulted in short collection of tax of ₹ 13.60 lakh.

After we pointed out the cases between April 2009 and December 2009, the

department stated that action would be taken to realise the balance tax. We have not received further developments from the department (December 2010).

We reported the matter to Government in February 2010. We have not received any further information from them (December 2010).

³⁸ RTOs: Alappuzha, Attingal, Idukki, Kottayam, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Thrissur and Vadakara.

5.10.3 Non-realisation of tax from stage carriages

(Six RTOs³⁹; between April 2009 and January 2010)

Exemption from payment of tax in respect of a motor vehicle which has not been used for the first month or the first and second months of a quarter, or the whole of quarter or year shall be allowable if the owner furnishes a declaration in form 'G' as per Section 5(1) of the KMVT Act. Tax is leviable for the part of the quarter for which declaration in form 'G' is not furnished.

We noticed that on 43 contract carriages tax due was not realised for the period for which non-use intimation had not been filed. This resulted in short levy of tax of ₹ 4.78 lakh.

After we pointed out the omission, the department stated that the matter would be examined. We have not

received any further information from them (December 2010).

We reported the matter to Government in March 2010. We have not received any further information from them (December 2010).

5.10.4 Short collection of tax due to registration of contract carriage as educational institution bus

(SRTO, Koduvally; October 2009)

Educational Institution Bus (EIB) means an omnibus which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities and the tax payable on such EIBs is ₹ 1,000 per quarter as per Section 2(11) of the MV Act. Contract carriages having seating capacity of more than 20 which are registered as EIBs are liable to pay tax at the rate of ₹ 750 per passenger per quarter.

We noticed that an omnibus registered in the name of a person was altered as educational institution bus and tax had been realised at the rate of ₹ 1,000 per quarter as applicable to EIB. Tax should have been collected at the rate of ₹ 750 per person per quarter applicable for contract carriage as the vehicle continued to be

registered in the name of a person. The alteration of contract carriage as EIB resulted in short collection of tax amounting to ₹ 3.77 lakh.

After we pointed out the omission, the department stated that matter would be examined. We have not received any further information from them (December 2010).

We reported the matter to Government in March 2010. We have not received any further information from them (December 2010).

³⁹ Ernakulam, Kollam, Kottayam, Kozhikode, Muvattupuzha and Thrissur.

5.10.5 Irregular adjustment of rent against tax

(RTO (NS), Thiruvananthapuram; April 2009)

KMVT Act stipulates that tax shall be levied on every motor vehicle used or kept for use in the State, at the rate specified for such vehicle in the Schedule. Government issued orders in December 1989 granting adjustment of rent of space utilised by Transport Commissioner's Office in Transport Bhavan, a building owned by KSRTC, against the tax due on inter-state stage carriages. The rent payable was at the rate of ₹ 30,100 p.m. Accordingly KSRTC is required to remit the tax due on inter-state stage carriages to Government after adjusting the rent.

We noticed that KSRTC had been remitting the tax after adjusting the rent even though the Transport Commissioner's Office was shifted in October 2006 and the space utilised by Transport Commissioner's Office was in possession of KSRTC. Further KSRTC deducted income tax at the rate of 20 *per cent* from the tax payable from the balance rent. We mentioned the irregular

adjustment made during the period from October 2006 to March 2008 in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2009. The Government or KSRTC did not take corrective action on the matter. The irregular adjustment made during the period from April 2008 to March 2009 had resulted in short remittance of tax of ₹ 2.89 lakh.

After we pointed out the matter in April 2009, the department stated that the matter would be informed to the Transport Commissioner. We have not received further developments from the department (December 2010).

We reported the matter to Government in February 2010. We have not received their reply (December 2010).

CHAPTER-VI: LAND REVENUE AND BUILDING TAX

6.1 Tax administration

Revenue department is under the control of the Principal Secretary (Revenue) at Government level and the Land Revenue Commissioner is the head of the department. The revenue collection of the department includes collection of basic tax, plantation tax, lease rent, building tax etc. The department realises arrears of public revenue under the Kerala Revenue Recovery Act with interest and cost of process prescribed.

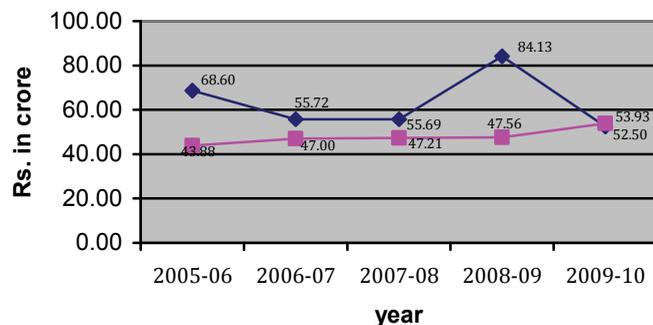
6.2 Trend of receipts

Actual receipts from land revenue and building tax during the last five years (2005-06 to 2009-10) along with the budget estimates during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	68.60	43.88	(-) 24.72	(-) 36.03	9,778.62	0.45
2006-07	55.72	47.00	(-) 8.72	(-) 15.65	11,941.82	0.39
2007-08	55.69	47.21	(-) 8.48	(-) 15.23	13,668.95	0.35
2008-09	84.13	47.56	(-) 36.57	(-) 43.47	15,990.18	0.30
2009-10	52.50	53.93	(+) 1.43	(+) 2.72	17,625.02	0.31

Budget estimates and Actual receipts



◆ Budget estimates

■ Actual receipts

Thus, the percentage of variation which was 36.03 in 2005-06, came down to a level of around 15 during 2006-07 and 2007-08 but again rose to a level of about 43 *per cent* in 2008-09. However, during 2009-10 the receipts exceeded the budget estimates by three *per cent*.

We observed that the land revenue remained between 0.3 and 0.45 *per cent* of the total tax receipts. We also noticed that after four years (2005-06 to 2008-09) the actual collection have marginally exceeded the budget estimates during 2009-10.

We recommend the department to continue the realistic budget process of 2009-10 in future.

6.3 Impact of audit

Revenue impact

During the last four years, we pointed out underassessment of building tax, short levy of lease rent, short realisation of collection charges, non-levy of luxury tax etc., with revenue implication of ₹ 348.96 crore in 358 paragraphs. Of these, the department/Government accepted audit observations involving ₹ 9.47 crore and had since recovered ₹ 1.82 crore. The details are shown in the following table:

(Rupees in lakh)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	63	1,681.00	39	69.97	16	9.41
2006-07	91	323.00	28	47.58	28	35.91
2007-08	113	330.00	83	607.05	50	102.00
2008-09 Vol. I	91	32,562.00	16	222.05	16	35.04
Total	358	34,896.00	166	946.65	110	182.36

We noticed that the government failed to recover even the amount it has accepted.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases is promptly recovered.

6.4 Working of internal audit wing

The Internal Audit Wing was constituted in Land Revenue Department under the control of Commissioner of Land Revenue and the functioning of the wing is monitored by Senior Finance Officer. The department has not prepared a separate internal audit manual. The IAW is having strength of one Senior Superintendent, six Junior Superintendents and six Upper Division Clerks. As informed by the department, audit of 63 *taluk* offices are conducted once in two or three years. Selection of offices is done according to the periodicity of audit determined for each office. IAW fixed target of 36 units during 2009-10, but the wing could complete audit of only 26 units during the year due to shortage of man power.

18,546 paragraphs involving ₹ 68.28 crore relating to 192 Inspection Reports remained outstanding at the end of March 2010.

We noticed that, the clearance of internal audit paragraphs during 2009-10 was only 0.01 *per cent* of the outstanding paragraphs.

We recommend that the IAW may be strengthened so that they are able to achieve their planned audit target. Besides, a mechanism needs to be installed for timely settlement of the audit observations raised by the IAW.

6.5 Results of audit

We test checked the records of 57 units relating to land revenue and building tax. We detected underassessment of tax and other irregularities involving ₹ 17.22 crore in 104 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Underassessment and loss under building tax & luxury tax	73	3.61
2.	Underassessment and loss under other items	31	13.61
Total		104	17.22

The department accepted underassessment and other deficiencies of ₹ 69.41 lakh in 33 cases, of which three cases involving ₹ 2.65 lakh were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 59.34 lakh was realised in 33 cases during the year 2009-10. A few illustrative audit observations involving ₹ 5.23 crore are mentioned in the following paragraphs.

6.6 Audit observations

We scrutinised records of various Taluk Offices and found several cases of non-compliance of the provisions of the Rules for Assignment of Land within Municipal and Corporation Areas 1995 (RALMCO) and Kerala Revenue Recovery Rules 1968, (KRR Rules), Kerala Building Tax Rules (KBT) 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 on the part of the tahsildars 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.

6.7 Non-compliance of provisions of Acts/Rules

The provisions of the KBT Act/Rules, RALMCO and KRR Rules require:-

- i) levy of lease rent on land assigned to various persons at the prescribed rates;*
- ii) levy of collection charges on the amount recovered under RR Act; and*
- iii) assessment of building tax and luxury tax at prescribed rates.*

We noticed that the tahsildars, did not observe some of the above provisions at the time of levying tax. This resulted in short levy of lease rent/building tax/collection charges of ₹5.23 crore as mentioned in the paragraphs 6.7.1 to 6.7.5.

6.7.1 Non-levy of revised lease rent

(Collectorate, Thiruvananthapuram; March 2010)

As per Rule 12(5) of the Rules for assignment of land within Municipal and Corporation areas, 1995, land held under lease either current or time expired, and granted under any rules or orders shall be granted fresh lease for a period not exceeding three years subject to the conditions laid therein. The Government, vide an order issued in May 2004 had fixed the rate of lease rent of land leased to educational institution at two *per cent* of the market value for minimum extent required for the essential functioning of the institution and at 10 *per cent* for the excess holding and used for commercial purposes.

We noticed that an Arts and Science College was holding 18.49 acres of leased land in Kadakampally village and was paying lease rent fixed by the Government in February 1996 when the area was in the jurisdiction of *panchayat*. Kadakampally *panchayat* was brought under the jurisdiction of Thiruvananthapuram Corporation with effect from 1 October 2000. The revenue authorities had not revised the lease rent accordingly and the college was paying the nominal rent⁴⁰ fixed earlier.

⁴⁰ ₹ 8,030 paid for the period from 16 November 1964 to 31 March 2004.

The lease rent payable at the minimum rate of two *per cent* for 18.49 acres worked out to ₹ 3.24 crore. This resulted in short levy of ₹ 3.24 crore.

We pointed out the matter to the department in April 2010 and to the Government in May 2010. We have not received their replies (December 2010).

6.7.2 Non-assessment/realisation of building tax

(14 *Taluk* Offices⁴¹; between February 2009 and March 2010).

Every village officer shall transmit to the assessing authority within five days of the expiry of each month a monthly list of buildings liable to assessment, together with extracts from the building tax application register of the local authority within whose area the buildings included in the list are situated as per Rule 3 of the KBT (Plinth area) Rules.

We conducted cross verification of the records of 14 *Taluk* Offices with those of the corresponding village offices/municipalities and it revealed that 357 buildings escaped from building tax assessment as under:

Sl. No.	Nature of objection	No. of cases	Amount involved
1.	Cases reported by the village officers during 2007-08 and 2008-09 were not assessed by the <i>Tahsildars</i> .	305	₹ 1,60,42,050
2.	Cases in which the building tax assessment records of the local authorities were not verified by the village officers.	13	₹ 7,95,000
3.	Cases in which demand of building tax was not entered in the form B register by the village officers.	39	₹ 6,71,688

This resulted in non-assessment/non-realisation of building tax of ₹ 1.75 crore calculated at the prescribed rates on the basis of plinth area.

After we pointed out the matter between March 2009 and April 2010, the department stated in September 2009 that in one case⁴², the dues of ₹ 4,050 were collected and in other two cases necessary instructions were issued to assess the building tax. We have not received further information (December 2010)

We pointed out the matter to the Government in March 2010 and May 2010. We have not received their reply (December 2010).

⁴¹ Taluk Office: Changanacherry, Chavakkad, Chittur, Hosdurg, Karthikapally, Kozhikode, Kunnathur at Sasthamkotta, Kunnathunad at Perumbavoor, Muvattupuzha, Neyyattinkara, Pala, Pathanapuram, Ranni and Udumbanchola at Nedumkandam.

⁴² Taluk office: Kozhikode.

6.7.3 Short levy of royalty due to erroneous calculation

(*Taluk* Office, Kunnathunadu at Perumbavoor; July 2009)

Section 6 (1) of the Kerala Land Conservancy Act provides that royalty and cost of rock is leviable for unauthorised quarrying on Government land. Royalty and cost of rock is leviable at the rate of ₹ 16/MT and ₹ 2.5/MT respectively.

We found in two cases that the quantity of granite extracted unauthorisedly, was incorrectly computed as 9,450 MT instead of 59,062.50 MT. This resulted in short levy of royalty and cost of rock of ₹ 9.18 lakh.

After we pointed out the defect, the *Tahsildar* stated in July 2009 that the error was due to incorrect conversion of cubic metre to metric tonne and that the error would be rectified and balance amount collected at the earliest. A report on recovery has not been received (December 2010).

We pointed out the matter to the department in August 2009 and reported to the Government in February 2010. We have not received their replies (December 2010).

6.7.4 Non-raising of demand/non-realisation of luxury tax

(Five *taluk* offices⁴³; between March and August 2009)

The Kerala Building Tax Act, 1975 (KBT Act) as amended by the Finance Act, 1999, provides that luxury tax at the rate of ₹ 2,000 is leviable each year on all residential buildings having a plinth area of 278.7 square metre or more and completed on or after 1 April 1999. The Act further stipulates that luxury tax is to be collected in advance on or before 31 March every year.

We noticed that luxury tax was not demanded/realised on 221 residential buildings of plinth area exceeding 278.7 square metres. This had resulted in short collection of luxury tax of ₹ 7.96 lakh.

After we pointed out the defect between April 2009 and January 2010, the department stated in September 2009 that in one case⁴⁴ notices have been issued to the parties to remit luxury tax and village officers were given direction to collect the amount. Further developments on the recovery and replies in other cases have not been received (December 2010).

We reported the matter to the Government in March 2010 and April 2010. We have not received their reply (December 2010).

⁴³ Kanjirappally, Kochi, Kunnathur at Sasthamkotta, Tirurangadi and Vadakara.

⁴⁴ Kanjirappally.

6.7.5 Short levy of building tax

6.7.5.1 Short levy due to failure to consider entire assessable area

(Four *taluk* offices⁴⁵; between March 2009 and February 2010)

Building tax based on the plinth area at the rate specified in the schedule to the Act is leviable on every building, as per Section 3(1) of the KBT Act. Further, the Act provides for tax exemption to the buildings used principally for religious, charitable or educational purposes or as factory or workshops.

We noticed that in eight cases while finalising the building tax assessment, the assessing authorities failed to levy building tax on the entire assessable area even though no portion of the building was eligible for exemption. This resulted in short levy of building tax of

₹ 4.75 lakh.

We pointed out the matter to the department between April 2009 and March 2010 and reported to the Government in March 2010 and May 2010. We have not received their replies (December 2010).

6.7.5.2 Short levy of building tax due to misclassification of special grade *panchayat* into ordinary *Grama Panchayat*

(*Taluk* Office, Kozhikode; March 2009)

Building tax based on plinth area, at the rate specified in the schedule to the KBT Act, is leviable on every building, the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeded 100 sq.m. in the case of residential buildings and 50 sq.m in the case of other buildings as per Section 5 of the Act. Separate rates have been specified for buildings situated in *panchayats*, special grade *panchayats*/municipalities and corporations.

We noticed that 118 buildings coming under Chelannur village was assessed to tax at the rate applicable to the *grama panchayats* even though the village comes under special *grama panchayat*. This resulted in short levy of building tax of ₹ 2.12 lakh.

We pointed out the matter to the department between April 2009 and March 2010 and reported to the Government in

March 2010. However, we have not received their replies (December 2010).

⁴⁵ Quilandy, Taliparamba, Tirurangadi and Vadakara.

CHAPTER-VII: OTHER TAX RECEIPTS

A. STATE EXCISE

7.1 Tax administration

Excise department is under the control of Principal Secretary (Taxes) at the Government level and the Excise Commissioner is the head of the department. The Abkari Act governs the law relating to import, export, transport, manufacture, sale and possession of intoxicating liquor and drugs in the State. The receipt is mainly derived from the duty on foreign liquor and spirits.

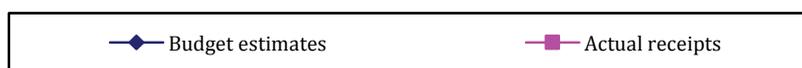
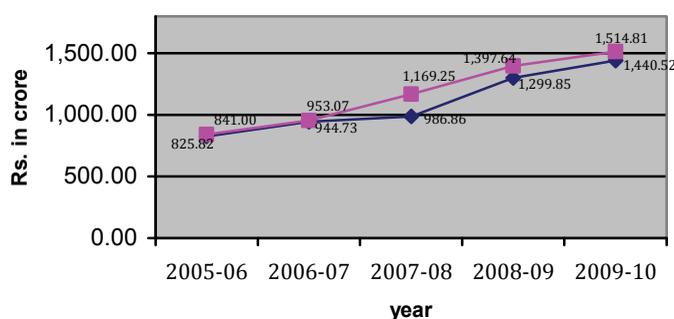
7.2 Trend of receipts

Actual receipts from excise during the last five years (2005-06 to 2009-10) along with the budget estimates during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax/non-tax receipts
2005-06	825.82	841.00	(+) 15.18	(+) 1.84	9,778.62	8.61
2006-07	944.73	953.07	(+) 8.34	(+) 0.88	11,941.82	7.98
2007-08	986.86	1,169.25	(+) 182.39	(+) 18.48	13,668.95	8.55
2008-09	1,299.85	1,397.64	(+) 97.79	(+) 7.52	15,990.18	8.74
2009-10	1,440.52	1,514.81	(+) 74.29	(+) 5.16	17,625.02	8.59

Budget estimates and Actual receipts



Thus, the percentage of variation which was 1.84 in 2005-06 went up to the level of 18 but subsequently came down and stood at five in 2009-10. We observed

that State excise receipts were around eight *per cent* of the total tax receipts of the State during the years 2005-06 to 2009-10.

Though the budget estimates were enhanced marginally from 2005-06 to 2009-10, the actual receipts were more throughout the period and in 2007-08 the variation was as high as 18 *per cent*. This indicates that the budget estimates were not prepared based on proper analysis of actual receipts and future potential.

7.3 Cost of collection

The gross collection of revenue receipts under the head State excise, expenditure incurred on collection and the percentage of expenditure to gross collection during 2005-06 to 2009-10 along with the all India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage
2005-06	841.00	48.78	5.80	3.40
2006-07	953.07	58.07	6.09	3.30
2007-08	1,169.25	69.40	5.94	3.27
2008-09	1,397.64	72.84	5.21	3.66
2009-10	1,514.81	83.31	5.50	Not available

We noticed that the expenditure on collection in respect of State excise was higher than the all India average.

We recommend the Government to examine the reasons for such high costs of collection and take appropriate measures to bring down the cost.

7.4 Impact of audit

7.4.1 Revenue impact

During the last four years, we pointed out non-levy of import fee, non/short remittance of gallonage fee, delay in crediting rentals of toddy shops etc., with revenue implication of ₹ 209.28 crore in 190 paragraphs. Of these, the department/Government accepted audit observations involving ₹ 69.62 crore and had since recovered ₹ 83.58 lakh. The details are shown in the following table:

(Rupees in lakh)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	28	178.00	35	40.62	28	9.85
2006-07	31	12,657.00	23	35.81	23	9.35
2007-08	55	2,756.00	52	3,756.00	26	62.08
2008-09 Vol. I	76	5,337.00	40	3,130.00	10	2.30
Total	190	20,928.00	150	6,962.43	87	83.58

We noticed that the Government failed to recover even the amount it has accepted.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

7.4.2 Amendments in the Acts/Rules/notification/order issued by the Government at the instance of audit

On the basis of the paragraph featured in the Audit Report (RR) for the year 2009, the Government amended the Foreign Liquor Rules to permit loss in import, transit or storage of foreign liquor not exceeding 0.05 *per cent* in the case of foreign liquor and 0.25 *per cent* in the case of beer and to impose gallonage fee for liquor found short in excess of the permissible wastage.

7.5 Working of internal audit wing

Additional Excise Commissioner (Administration) monitors the functioning of the Internal Audit Wing (IAW) in the State Excise Department. The IAW has strength of one Joint Excise Commissioner, one Assistant Excise Commissioner, four Circle Inspectors and six Preventive Officers. The department has not prepared a separate internal audit manual. Norms for selection of audit have not been fixed by the department so far. Out of the total number of 307 units in the department, 45 units were audited during 2009-10. 105 paragraphs involving ₹ 71.56 crore relating to 63 IRs remained outstanding at the end of March 2010.

We recommend that the IAW may be strengthened so that they are able to achieve their planned audit target. Besides, a mechanism needs to be installed for timely settlement of the audit observations raised by the IAW.

7.6 Results of audit

During 2009-10 we test checked the records of 129 units relating to state excise department. We detected non/short remittance of gallonage fee and other irregularities involving ₹ 21.47 crore in 54 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-levy of import fee	7	20.34
2.	Non/short realisation of cost of establishment	18	0.51
3.	Non/short remittance of gallonage fee	7	0.33
4.	Delay in crediting rentals of toddy shop & consequent loss by way of interest	1	0.11
5.	Sale of liquor without renewal of brand registration	2	0.06
6.	Wastage in transit involving gallonage fee	4	0.05
7.	Other lapses	15	0.07
Total		54	21.47

The department accepted underassessment and other deficiencies of ₹ 39 lakh in 39 cases, of which two cases involving ₹ five lakh were pointed out in audit

during the year 2009-10 and the rest in earlier years. An amount of ₹ 39 lakh was realised in 39 cases during the year 2009-10. A few illustrative cases involving ₹ 68.79 lakh are mentioned in the following paragraphs.

7.7 Audit observations

Scrutiny of the records of various State Excise Offices and Commercial Tax Offices revealed several cases of non-compliance of the provisions of the Kerala Rectified Spirit Rules, 1972, Kerala Abkari Act, Kerala Tax on Luxuries Act, 1976, etc. 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 on the part of the Excise Officers/CTOs 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.

7.8 Short realisation of gallonage fee

7.8.1 (Excise Office, KSBC Warehouse, Kollam; January 2010)

Under the Kerala Rectified Spirit Rules, gallonage fee shall be collected on rectified spirit issued from a distillery at the rate in force at the time of such issue. Further, the Rules do not permit wastage to be allowed on spirits after they have been once bottled. As per Section 17 and 18 of the Abkari Act, the full duty includes excise duty and gallonage fee. Gallonage fee payable was at the rate of ₹ 6.75 per bulk litre.

We noticed that the 1,34,62,623 bulk litres of Indian Made Foreign Liquor were transported from the warehouse for which gallonage fee leviable was ₹ 9.09 crore. But the gallonage fee remitted by KSBC was only ₹ 8.83 crore. The Excise Officer did not raise demand for realisation of balance fees. This resulted

in short collection of gallonage fee of ₹ 26 lakh.

After we pointed out the matter, the department stated (January 2010) that the case has been brought to the notice of higher authorities. We have not received information of further development (December 2010).

We reported the matter to the Government in March 2010. We have not received their reply (December 2010).

7.8.2 (Excise Offices attached to Six FL9 Warehouses⁴⁶)

We scrutinised the records of the Excise Offices attached to six FL 9⁴⁷ Warehouses between February 2009 and January 2010. We noticed that gallonage fee was not levied on 75,324.50 bulk litres of IMFL and beer. The gallonage fee leviable at the rate of ₹ 6.75 per bulk litre works out to ₹ 5.08 lakh.

⁴⁶ Office of Circle Inspectors of Excise : Attingal, Kollam, Nedumangad, Pathanamthitta, Thodupuzha and Thrissur.

⁴⁷ FL-9 : licence for possession and supply of foreign liquor in wholesale issued to Kerala State Beverages Corporation by Excise Commissioner.

We pointed out the cases between February 2009 and January 2010. The Department stated (between March 2009 and January 2010) that detailed replies would be furnished. We have not received their reply (December 2010).

We reported the cases to the Government in December 2009. We have not received their reply (December 2010).

7.8.3 (Excise office in two distilleries⁴⁸; between December 2009 and February 2010)

We noticed that the excise offices attached to two distilleries allowed transit wastage and storage wastage on 43,975.37 bulk litres of IMFL and beer resulting in non-levy of excise duty of ₹ 2.97 lakh.

After we pointed out the matter to the department in December 2009 and February 2010, the department stated (February 2010) that the defect would be rectified. We have not received information of further development (December 2010).

We reported the matter to the Government in April 2010. We have not received their reply (December 2010).

7.9 Delay in crediting excise duty and consequent loss by way of interest

7.9.1 (Excise Division Office, Kottayam; November 2009)

The Kerala Excise Manual insists that the officer-in-charge shall be responsible for the correct collection of duty and penalty, if any, at the prescribed rate. The Kerala Financial Code Volume I envisages that the departmental figures should be reconciled with the treasury figures and the signature of the Treasury Officer obtained.

We noticed that in 10 excise range offices, the total rental amount of ₹ 4.29 crore was not paid by way of bank draft but deposited in treasury public (TP) account of the licensee which was credited in Government account in October 2009 only. The excise officer who controls the TP account operation failed to get the amount credited to the Government account immediately. The delay in crediting the rental amount from TP

account had resulted in loss to Government by way of interest payment of ₹ 10.73 lakh⁴⁹ afforded to the licensee.

After we pointed out the matter in November 2009, the department stated (November 2009) that the case would be examined. We have not received information of further development (December 2010).

⁴⁸ Offices of Circle Inspectors of Excise, FL9 Warehouses: Thiruvalla and Trippunithura.

⁴⁹ Interest calculated at the rate of five *per cent* applicable to Deposits in Treasuries vide GO(P) No. 51/07/Fin dated 9 February 2007.

We reported the matter to Government in February 2010. We have not received their reply (December 2010).

7.9.2 (AEC, KSBC Ltd. Thiruvananthapuram; October 2009)

We noticed that the KSBC remitted ₹ one crore in August 2005 towards excise duty for the period 2005-06. But it was credited in the head of account '0039' only on 23 March 2007 in the treasury account after a lapse of 18 months. The delay in crediting the excise duty into the Government account resulted in loss of revenue of ₹ 7.50 lakh by way of interest.

We reported the matter to Government in March 2010. We have not received their reply (December 2010).

We recommend that the departmental officers should reconcile the remittances with the treasury figures and the signature of the Treasury Officers obtained.

7.10 Sale of liquor without renewal of brand registration and consequent non-realisation of revenue

(Excise Office, Devicolam Distillery, Ernakulam; January 2010)

The Foreign Liquor (Registration of Brand) Rules, 1995 prescribes fee for registration of brand at ₹ 50,000. In the case of brands owned by distilleries outside the State and bottling unit in the State of Kerala the fee leviable is ₹ 1,00,000. The validity of registration is one year.

We noticed that the distillery did not register the brand name of five brands (Esteem XXX Rum, New Janatha Dry Gin, Colombia Brandy, Colombia XXX Rum, Officers Choice Brandy) of IMFL produced and sold on behalf of John Distillery, Bangalore. The excise officer attached to the distillery failed to levy the fee for registration of

brands. The non-registration of brand name resulted in non-realisation of revenue of ₹ five lakh by way of registration fee.

After we pointed out the matter, the department stated (January 2010) that the case would be examined. We have not received information of further development (December 2010).

We reported the matter to the Government in March 2010. We have not received their reply (December 2010).

B. LUXURY TAX

7.11 Short levy of luxury tax

(CTO (LT), Thiruvananthapuram; March 2009)

As per Section 2(f) of the Kerala Taxes on Luxuries Act, luxury provided in a hotel means accommodation for residence or use and other amenities and services provided in the hotel.

An assessing officer finalised the assessments for the years 2004-05 and 2005-06 of an assessee engaged in hotel business in March 2009. We noticed that the AA did not take into account the income relating to foreign exchange gain amounting to ₹ 44.68 lakh during the year 2004-05 and other service income and accommodation charges valued at ₹ 34.72 lakh for the years 2004-05 and 2005-06 in the taxable turnover. This resulted in short levy of tax of ₹ 11.51 lakh.

After we pointed out the matter to the department in April 2009, the department stated in March 2010 that the assessment for 2004-05 and 2005-06 were revised creating an additional demand of ₹ 11.91 lakh. We have not received a report on recovery (December 2010).

We reported the case to the Government in September 2009; we have not received their reply (December 2010).

CHAPTER-VIII: NON-TAX RECEIPTS

8.1 Tax administration of Forest department

Forest department is under the control of the Principal Secretary (Forest) at Government level and the Principal Chief Conservator of Forest is the head of the department. The Kerala Forest Act, 1961 governs the laws relating to protection and management of forests in the State. The receipts of the department include receipt from the sale of timber and other forest produce, royalty on raw materials supplied, lease rent, licence fee etc.

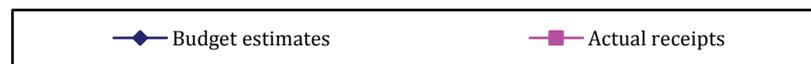
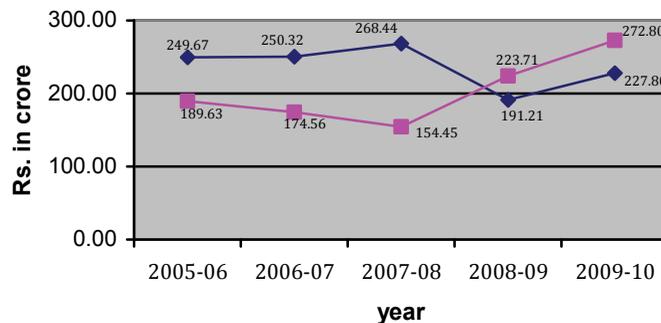
8.2 Trend of receipts

Actual receipts from Forest department during the years 2005-06 to 2009-10 along with the budget estimates during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2005-06	249.67	189.63	(-) 60.04	(-) 24.05	863.79	21.95
2006-07	250.32	174.56	(-) 75.76	(-) 30.27	844.51	20.67
2007-08	268.44	154.45	(-) 113.99	(-) 42.46	1,078.00	14.33
2008-09	191.21	223.71	(+) 32.50	(+) 17.00	1,390.00	16.09
2009-10	227.80	272.80	(+) 45.00	(+) 19.75	1,633.22	16.70

Budget estimates and Actual receipts



We noticed that the actual receipts was significantly less than the budget estimates during 2005-06 to 2007-08 and it was significantly higher than budget estimates during 2008-09 and 2009-10.

We recommend the department to streamline the budgeting process to prepare realistic budget estimates.

8.3 Working of internal audit wing

The Internal Audit Wing (IAW) in the Forest department functions under the general supervision of the Chief Conservator of Forest (Development). Two teams with strength of two Junior Superintendents, four Upper Division/Lower Division Clerks are functioning under the supervision of Senior Finance Officer. The department has not prepared a separate internal audit manual. The selection of staff for IAW is on the basis of experience which is fixed as five years and they are deployed after orientation training. Against a target of 342 units, the department could conduct audit of 135 offices during 2009-10 leaving 207 offices in arrears. The department attributed the shortage of staff as the reason for the shortfall.

We recommend that the IAW may be strengthened so that they are able to achieve their planned audit target. Besides, a mechanism needs to be installed for timely settlement of the audit observations raised by the IAW.

8.4 Results of audit

During 2009-10, we test checked the records of 67 units relating to Co-operative department and forest department. We noticed underassessment of tax and other irregularities involving ₹ 115.78 crore in 11 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Working of Co-operation Department (A review)	1	114.99
2.	Non-realisation of tree value and FDT	2	0.05
3.	Non-levy of penalty	3	0.04
4.	Other lapses	5	0.70
Total		11	115.78

The department accepted underassessment and other deficiencies of ₹ 4.96 crore in nine cases, of which two cases involving ₹ 4.60 crore was pointed out by us during the year 2009-10 and the rest in the earlier years. The department realised an amount of ₹ 25.37 lakh in eight cases during the year 2009-10.

A review on ‘Working of Co-operation Department’ with financial impact of ₹ 114.99 crore and a few illustrative cases involving ₹ 95.84 crore are mentioned in the following paragraphs.

8.5 Working of Co-operation Department

8.5.1 Highlights

- Non-recovery of interest of ₹ 47.51 crore and non-recovery of loan amount of ₹ 150.21 crore repaid to NCDC by Government.
(Paragraph 8.5.10.1)
- 45 per cent of the total assistance was extended to a single beneficiary, from whom nothing has been recovered so far.
(Paragraph 8.5.10.2)
- Non-recovery of dues of ₹ 2.91 crore and locking up of ₹ 6.80 crore due to lack of diligence in sanctioning loan.
(Paragraph 8.5.10.3)
- Loss of revenue of ₹ 44.06 crore by way of interest due to accumulation of plan/borrowed fund at private party's TP account.
(Paragraph 8.5.10.4)
- Non-levy of interest of ₹ 7.09 crore and penal interest of ₹ 5.96 crore.
(Paragraph 8.5.10.5)
- Non-levy of penal interest of ₹ 5.80 crore on belated repayment of share capital contribution assistance in three cases.
(Paragraph 8.5.11)
- Non-recovery of declared dividend amounting to ₹ 1.50 crore which was subsequently converted as share capital.
(Paragraph 8.5.12)
- Non-recovery of ₹ 80 lakh from a society due to lapses in finalisation of revenue recovery proceedings.
(Paragraph 8.5.15.2)
- Short levy of interest of ₹ 1.37 crore and penal interest of ₹ 29.11 lakh in two cases due to failure to appropriate payment towards interest first.
(Paragraph 8.5.20)

8.5.2 Introduction

Co-operative sector plays a significant role in the economic scene of Kerala. There are more than 10,000 societies spread throughout the State with a capital outlay of ₹ 40,000 crore. These societies are concentrated in banking, agriculture, housing, education and health sectors. Banking sector provides short, medium and long term loans to its members, agricultural sector provides assistance to societies which process agricultural produce, housing sector provides assistance for construction of houses, education sector provides assistance for running

professional colleges and health sector provides assistance for running hospitals/dispensaries. The Kerala Co-operative Societies Act 1969 and the rules made thereunder govern the functioning of the co-operative societies/banks.

As on 31 March 2009, there were 10 apex⁵⁰ societies, four federal⁵¹ societies and 14 District Co-operative Banks in the State. There are 13,351 registered societies of which 10,204 are functional.

Major receipts of the Co-operative department are audit fee, audit cost, arbitration fee, fee for appeal or revision, interest/penal interest on loan, penal interest for delay in retirement of share capital, dividend on share capital, guarantee fee and liquidation charges etc.

We reviewed the functioning of the Co-operative department for the period 2004-05 to 2008-09 which revealed a number of system and compliance deficiencies as mentioned in the succeeding paragraphs.

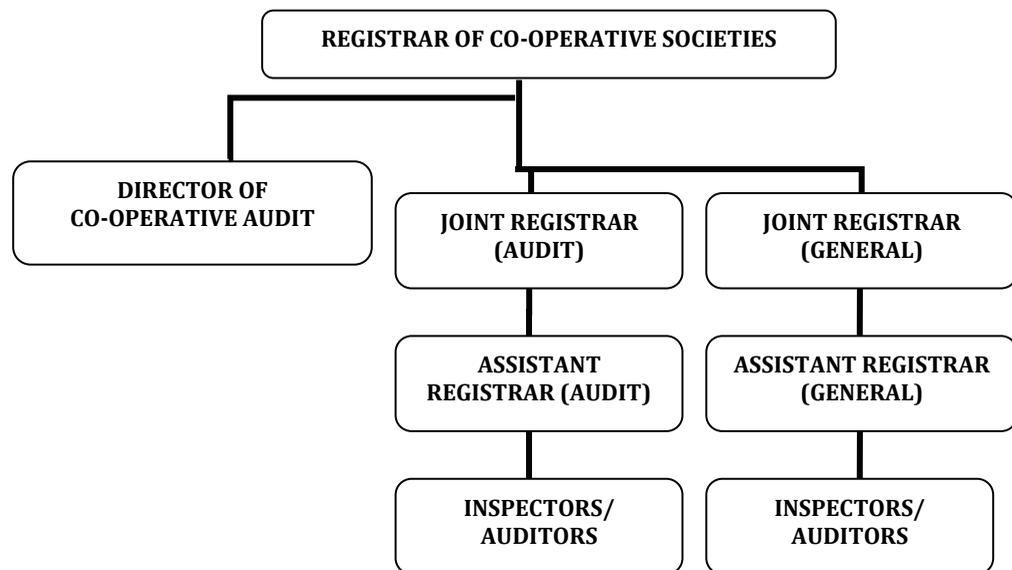
8.5.3 Organisational set up

The Principal Secretary to the Government, Co-operative department is in-charge of the department at Government level. Registrar of Co-operative Societies (RCS) is the head of the department. Five Additional Registrars (Addl. Rs), three Joint Registrars (JR), a Law Officer, a Finance Officer, six Deputy Registrars (DRs), 13 Assistant Registrars (ARs) and one Research Officer assist the Registrar. In each district, there are two JRs. JR (General) looks after functions relating to administration, levy, recovery of principal, demand and collection of interest and penal interest and the JR (Audit) is in charge of the audit of the Co-operative societies. Two ARs are posted in each *taluk* separately for administration and audit. Inspectors and auditors working under the ARs take care of inspection, audit and other field duties. Committee on Public Accounts (2006-08) in its 49th Report directed the Government to form a separate Directorate of Co-operative audit. Accordingly the department formed a separate audit wing on 7 September 2009.

⁵⁰ Apex society means a society having the whole of the State as its area of operation and having as its members only other societies with similar objects and declared as such by the Registrar.

⁵¹ Federal society means a society having more than one district as its area of operation and having individuals and other co-operative societies as its members.

The organisational chart of the Co-operative department is given below:



8.5.4 Scope and methodology of audit

We conducted performance audit of working of the Co-operative department during October 2009 to March 2010 and covered the period 2004-05 to 2008-09. We collected data from the office of the Registrar of Co-operative Societies, offices of the Joint Registrars (General) and (Audit) and the Assistant Registrars (General). We selected six⁵² out of 14 districts (being 40 *per cent*), spread all over Kerala and functional offices in each districts based on risk parameters *inter alia* including the number of societies and arrears. For selection of samples, 14 districts were divided into two clusters. Cluster one consisting of districts where apex/federal societies are located and cluster II consisting of the remaining districts. Cent *per cent* from cluster I had been selected considering the existence of apex/federal societies and for selection of samples from cluster II due consideration was given to the arrears of audit fee and outstanding loan as on 31 March 2009. Using the software ‘Stat Trek’ available in the internet, we randomly selected Alappuzha, Kottayam and Kozhikode districts for review.

8.5.5 Audit objectives

We conducted the audit to ascertain whether

- the department demanded audit fee/audit cost, dividend, interest/penal interest on loan, penal interest on share capital contribution etc. in accordance with the provisions of the Act/Rules and took timely action for their realisation;

⁵² Alappuzha, Ernakulam, Kannur, Kottayam, Kozhikode and Thiruvananthapuram.

- the department maintained the accounts/registers like the loan registers, share capital register, audit fee register, demand collection balance (DCB) statements etc., properly;
- the department conducted audit of the institutions/societies regularly; and
- proper internal control mechanism existed for the effective control of the department.

8.5.6 Acknowledgement

We acknowledge the help extended by the Co-operative department in providing necessary information and records for audit. Before taking up audit, we held an entry conference on 1 March 2010 with the Additional Chief Secretary (Co-operation) to the Government wherein the scope and methodology of audit were explained. The draft review report was forwarded to the department on 8 June 2010 with the request for their response. We held an exit conference on 15 July 2010 with the Additional Chief Secretary to the Government, wherein we discussed the audit findings and recommendations.

The department/Government accepted most of the audit findings and recommendations and assured that steps would be taken to implement them. The specific replies received during the exit conference and at other points of time, have been appropriately included under the respective paragraphs.

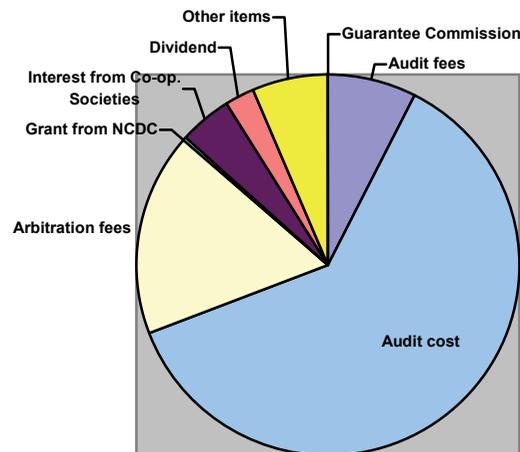
Audit findings

8.5.7 Trend of revenue

The revenue receipts for five years from 2004-05 to 2008-09 were as under.

	(Rupees in crore)				
Head of account	2004-05	2005-06	2006-07	2007-08	2008-09
Audit fees	3.50	3.40	2.92	2.97	3.39
Audit cost	16.04	17.46	20.74	21.84	27.66
Arbitration fees	7.28	11.59	8.39	8.13	7.82
Liquidation charges, appeal fee & other charges	0.25	0.07	0.24	0.49	0.08
Grant from NCDC	0.26	0.25	0.42	0.23	0.15
Interest from Co-operative Societies	2.56	3.31	1.87	1.23	1.99
Dividend	1.72	1.02	1.00	0.87	1.05
Other items	2.04	3.00	3.04	2.86	2.90
Guarantee Commission	0.26	0.02	0.00	0.16	0.01
Total	33.91	40.12	38.62	38.78	45.05

Revenue derived under various major heads during 2008-09



The revenue collection during 2004-09 after an increase in 2005-06 remained in the range of ₹ 38 crore and ₹ 39 crore and went to the highest level of ₹ 45 crore in 2008-09 due to hike in audit cost after pay revision.

The department in their reply stated (July 2010) that the revenue collection declined in the review period due to short fall in unit audit as there was a staff shortage. Further, they had conducted a special drive during January to March 2010 and collected ₹ 9.81 crore. The revenue collection from Guarantee Commission decreased consistently from 2004-05 to 2008-09 except in 2007-08.

8.5.8 Budget estimates and actuals

Under the Kerala Budget Manual, the head of the departments have to forward the proposals for the budget estimates (BEs) of receipts directly to the Finance Department with a copy to the concerned administrative departments in the Government which in turn have to forward these to the Finance Department with their remarks. The Finance Department finally frames the BEs. The BEs of revenue are to be based on the existing rates and no increase or decrease in the rates can be proposed unless approved by the Government. Officers who submit the BEs have to ensure that the BEs is neither inflated nor under pitched but are as accurate as practicable.

The budget estimates and actual receipts of the department during the years 2004-05 to 2008-09 were as follows:

(Rupees in crore)

Year	Receipt head of account in the State budget								
	0425 Co-operation			Interest receipts			Dividend and profit		
	Budget estimates	Actual	Variation	Budget estimates	Actual	Variation	Budget estimates	Actual	Variation
2004-05	30.80	29.38	- 1.42	4.00	2.56	- 1.44	1.20	1.72	+ 0.52
2005-06	33.25	35.78	+ 2.53	3.00	3.31	+ 0.31	1.70	1.02	- 0.68
2006-07	35.39	35.75	+ 0.36	3.10	1.87	- 1.23	1.70	1.00	- 0.70
2007-08	38.22	36.52	- 1.70	3.50	1.23	- 2.27	1.70	0.87	- 0.83
2008-09	43.19	42.02	- 1.17	3.50	1.99	- 1.51	1.50	1.05	-0.45

We noticed that even though the budget estimates for interest and dividends had almost remained static or declined marginally, the department could not achieve these targets and the shortfall in interest and dividend revenue varied from 39.7 per cent to 64.9 per cent and from 30 per cent to 48.8 per cent respectively during 2006-07 to 2008-09.

The department in their reply stated (July 2010) dividend becomes due only after the declaration of the audited Balance Sheet and distribution of profit by the General Body. Due to shortage of auditors, audit was in arrears and hence dividend was not declared.

System deficiencies

8.5.9 Improper computation of arrears

The department issued directions that all the officers should maintain loan ledger and demand, collection and balance register to watch recoveries of loans sanctioned by Government. The department should also raise demand in respect of repayment of the loan sanctioned and maintain demand collection balance details.

Arrears of revenue pending collection as per the Demand, Collection and Balance (DCB) statements of RCS under various categories against the period specified against them were as under:

(Rupees in crore)						
Sl No.	Head of account	2004-05	2005-06	2006-07	2007-08	2008-09
1.	Interest and penal interest on loan due from					
	a) Apex societies	56.56	52.59	21.09	71.55	64.70
	b) Primary societies	5.28	6.54	24.50	12.58	11.40
2.	Penal interest on share capital due from					
	a) Apex societies	5.32	6.08	1.75	2.46	2.97
	b) Primary societies	0.88	0.89	1.85	1.30	1.37
3.	Audit Fee	3.13	3.09	5.38	6.80	7.03
4.	Audit Cost	0.36	0.34	0.43	0.32	0.46
5.	Dividend					
	a) Apex societies	0.43	0.43	0.36	0.36	0.15
	b) Primary societies	0.47	0.47	0.61	0.46	0.46
6.	Guarantee Commission	20.94	20.08	75.89	73.12	101.73

Our review of the DCB statements revealed the following:

- DCB was not prepared periodically and the preparation was in arrears.
- The opening balance under interest, penal interest and dividend varied from the closing balance of the previous year making it unreliable and exposing the department to revenue loss.
- The outstanding revenue from interest and penal interest charged on loan accounts reduced from ₹ 52.59 crore in March 2006 to ₹ 21.09 crore in March 2007 but again increased to ₹ 71.55 crore in the next year. The wide variation was due to incorrect carry forward of the closing balances.

8.5.10 Financial assistance of societies

The financial assistance to the beneficiary societies is extended mainly by way of loan and share capital. For this purpose, the department obtains funds from the Government through the plan schemes and also from National Co-operative Development Corporation (NCDC) and the National Bank for Agricultural and Rural Development (NABARD) as loan which are repayable in periodical instalments. The RCS forwards application for financial assistance received from various societies for approval by the Government. RCS releases the funds to the beneficiaries after fulfilling the terms and conditions. The Government repays the loans alongwith interest on behalf of the loanee who in turn pays the amount to the Government. The Act enables the recovery of all sums due from Co-operative Society as arrears of land revenue. JRs and ARs (General) are responsible for monitoring the recovery of loan to apex societies and ARs (General) to primary co-operative societies. Instalments of principal, interest and penal interest due from the loanees have to be worked out and demand notice issued one month in advance as required in the Kerala Financial Code. We found that the beneficiaries were not repaying the dues promptly. The principal and interest recovered by the Government was much less compared to the amount repaid by the Government to the principal bankers leading to wide mismatch and revenue losses as discussed below:

8.5.10.1 Loss due to non-recovery of interest

The following table indicates details of the financial assistance released to the beneficiaries and the amount recovered by the Government.

(Rupees in crore)								
Sl. No.	Year	Principal repaid to		Principal realised	Interest repaid to		Interest realised by Government	Difference
		NCDC	NABARD ⁵³		NCDC	NABARD ⁵³		
1	2	3	4	5	6	7	8	9
1	2004-05	22.02	5.95	2.02	13.90	2.04	2.56	11.34
2	2005-06	28.55	4.75	2.89	10.68	1.49	3.31	7.37
3	2006-07	27.73	4.45	1.69	8.19	1.21	1.87	6.32
4	2007-08	36.50	4.04	0.31 ⁵⁴	12.29	1.03	1.23	11.06
5	2008-09	42.32	3.56	Not available	13.41	0.94	1.99	11.42
	Total	157.12	22.75	6.91	58.47	6.71	10.96	47.51

During the last five years Government obtained from Plan fund (₹ 58.08 crore), borrowings from NABARD (₹ 7.98 crore) and NCDC (₹ 189.15 crore) and released ₹ 255.21 crore to various beneficiaries by way of loan, share and subsidy. The Government repaid ₹ 157.12 crore towards principal as per the terms during the last five years as compared to which actual recovery of ₹ 6.91 crore only could be made during the period. Out of the periodical borrowing from NCDC, Government had repaid interest of ₹ 58.47 crore to NCDC alone but could collect ₹ 10.96 crore only from the beneficiaries. Similarly Government had repaid ₹ 22.75 crore and ₹ 6.71 crore towards principal and interest

⁵³ Includes repayments on earlier draws also.

⁵⁴ Data on primary societies not available.

respectively to NABARD during the last five years but could not collect any amount from the beneficiaries.

It can be seen from the above table that there was short recovery of ₹ 47.51 crore as interest payment and locking up of ₹ 150.21 crore paid as principal. The recovery of loans and interest from beneficiaries was not in tune with repayment of loan and interest paid to NCDC.

Few instances in which the Government investment in the beneficiary societies did not yield any return are discussed in the succeeding paragraphs.

8.5.10.2 Extension of bulk of financial assistance to a single beneficiary - non-recovery of ₹ 115.28 crore from a single beneficiary

The department extended financial assistance of ₹ 255.21 crore during the last five years by way of loan and share capital. We noticed that a major portion comprising 45.17 *per cent* of the above sum was extended to a single beneficiary viz. RUBCO, Kannur. Year-wise details of financial assistance released to RUBCO by way of Government loan, share capital and NCDC loan⁵⁵ during the last five years were as follows:-

(Rupees in crore)

Year	Government		NCDC loan	Total
	Loan	Share		
Prior to 2004-05	0.72	12.57	24.44	37.73
2004-05				--
2005-06				--
2006-07				--
2007-08		2.00	4.34	6.34
2008-09		6.63	39.44 ⁵⁶	46.07
Total	0.72	21.20	68.22	90.14

Though the RUBCO received financial assistance amounting to ₹ 115.28 crore (₹ 90.14 crore + ₹ 25.14 crore) they had not repaid any amount till date. In addition, the Government converted outstanding loan plus interest amounting to ₹ 25.14 crore as share capital. We observed that the department had not initiated earnest effort to recover the outstanding principal/interest from the RUBCO and instead continued to release additional funds without any restriction.

RCS stated (July 2010) that demand notice was issued to Managing Director, RUBCO to pay the dues. We have not received further development in this case (December 2010).

⁵⁵ Government and NCDC loan as on March 2008 amounting to ₹ 25.14 crore plus interest has been converted to share capital vide GO dated 4.7.09.

⁵⁶ Sanctioned in 2007-08 but released in 2008-09 only.

8.5.10.3 Loss due to non-recovery of loan released to Rubbermark

Financial assistance of ₹ 6.80 crore (from NCDC) was sanctioned to the Rubbermark (Kerala Co-operative Rubber Marketing Federation) for setting up of a joint venture project with a private company (Rubek Balloons Pvt. Ltd.) for the manufacture of toy balloons. The unit was commissioned in June 2006 but commercial production has not commenced due to non-availability of raw materials, improper work environment, non-availability of skilled man power and lack of timely support of collaborator in marketing. The unit again approached the Government for a revival package of ₹ 100 crore.

The Department in their reply stated that the RCS forwarded the request to the Government without recommending sanction of additional loan as there were misutilisation of funds granted previously, mismanagement, accumulation of dues, inefficient working etc. Thus, the investment of ₹ 6.80 crore made in 2006 was fruitless and the Government had lost interest of ₹ 2.91 crore. The office of the RCS had not evolved a system to monitor the viability of the proposal of assistance sanctioned by them.

The department in their reply had stated (July 2010) that strict instructions have been issued for the issue of demand notice and recovery of dues.

8.5.10.4 Undue financial benefit on drawal of loan

Loan and share capital sanctioned to the co-operative societies from plan fund and NCDC/NABARD borrowings are initially deposited in the Treasury Public (TP) Account No. 637 operated in the name of Kerala State Co-operative Bank (KSCB) maintained in the District Treasury, Thiruvananthapuram. The funds are finally released by the RCS to the beneficiaries after completing the necessary formalities. The condition of the loan stipulates that the amount released by the NCDC should be passed on to the beneficiaries within 30 days from the date of receipt from the NCDC. There was no such condition in the case of loan from the plan fund. The sanctioned amount was credited to the above TP account initially pending fulfillment of the conditions by the beneficiary and later transferred to the party's account. We noticed delay ranging from two months to nine years in releasing the fund to the loanee resulting in accumulation of fund in the TP Account of the KSCB on which interest at 3.5 per cent was credited, even though the money was owned by the department.

The reason for huge accumulation was due to subsequent refusal by beneficiaries to receive the loan, drawal of the amount by the Government without ascertaining the viability of the proposal for loan and non-verification of the antecedents of the beneficiaries.

We noticed that the District Treasury, Thiruvananthapuram credited ₹ 44.06 crore as interest on the amount deposited by the Government in the TP account of KSCB which represents revenue loss to the Government and extension of undue financial benefit to KSCB.

Government may evolve a system for ascertaining the eligibility of beneficiaries before sanctioning the assistance. They may take steps to avoid

retention of huge amount received as loan from NCDC on behalf of the beneficiaries in the TP account for long period.

8.5.10.5 Short recovery due to non-levy of interest/penal interest on loan

We conducted a detailed verification of the system of levy of interest and penal interest from the beneficiaries and recovery thereon. The conditions governing the sanction of loans to societies, stipulate levy of penal interest in case of default in repayment of the overdue instalments. **The department is not maintaining proper records to watch the recovery of loans sanctioned by them. Moreover, demand notices were not issued in time and interest and penal interest were not worked out.** Our scrutiny of 34 cases revealed that in six cases there was non-levy of interest amounting to ₹ 7.09 crore and penal interest amounting to ₹ 5.96 crore and short accounting of principal of ₹ 4.73 crore as on 31 March 2009 which are shown in the table below:

(Rupees in crore)

Sl. No.	Name of the beneficiary	Non-accounting of principal amount	Non-levy of		Outstanding since
			Interest	Penal interest	
1.	Kerala Co-operative Rubber Marketing Federation (RUBBERMARK), Ernakulam.	-	0.52	1.09	2001 onwards
2.	Kera Karshaka Federation (KERAFED), Thiruvananthapuram	-	-	4.55	1990-91 onwards
3.	Kerala State Agro Co-operative (AGREENCO), Kannur	3.42	4.01	0.14	2006 onwards
4.	Kerala State Co-operative Hospital Complex and Centre for advanced Medical Services (KCHC), Pariyaram, Kannur	1.12	2.40	0.05	2005 onwards
5.	Kaduthuruthy Co-operative Rubber Marketing and Processing Society (KCRMPS), Kottayam	0.19	0.16	0.01	2003 onwards
6.	Kerala State Federation of SC/ST Development Co-operatives Ltd.	-	-	0.12	1985-86 onwards
Total		4.73	7.09	5.96	

We noticed that for cases at Sl. Nos. one to three the RCS issued (July 2010) directions to issue demand notices to the beneficiaries concerned. For the remaining cases we have not received further developments from the department (December 2010).

8.5.11 Non-levy of penal interest on share capital contribution

Financial assistance given towards share capital contribution under “Direct participation” is repayable to the Government by the co-operative societies in instalments as approved by the Government. For the belated payment of the instalments the societies are liable to pay penal interest at 2.5 per cent. Our analysis of the following three (out of 39) cases revealed that the share capital

amount due to be retired to the Government have not been demanded. The non-levy of penal interest worked out to ₹ 5.80 crore.

8.5.11.1 KERAFED

KERAFED secured share capital assistance amounting to ₹ 17.96 crore from the Government during 1988-89 to 1995-96 intended for distribution as share capital assistance to the primary agricultural credit societies (PACS). We noticed that though the PACS had returned the assistance to the KERAFED as per the agreed terms, the KERAFED has not repaid the assistance to the Government as per the terms and conditions. After we pointed out the matter, the department raised a demand notice for penal interest at the rate of 2.5 *per cent per annum* on the overdue share capital assistance amounting to ₹ 3.93 crore.

The department has stated (July 2010) that directions were given to the Managing Director to remit the share capital and penal interest.

The Government also sanctioned share capital assistance amounting to ₹ 27.56 crore to KERAFED during February 1987 to March 1999 for setting up of three oil mills in south, central and north Kerala subject to the condition that the assistance was to be repaid after six years from the commencement of commercial production of the units. We noticed that the Karunagapally unit, on which ₹ 9.45 crore was invested, started commercial production during February 1993 and the other two units in which ₹ 18.11 crore was invested has not started commercial production so far. However, the federation has not started the repayment. Department failed to demand penal interest of ₹ 1.56 crore on overdue share capital of ₹ 9.45 crore.

The department stated (July 2010) that warning notice has been issued to the Federation to remit the penal interest.

8.5.11.2 AR Office, Thiruvananthapuram

We scrutinised the share capital register of AR office, Thiruvananthapuram and found that they did not charge penal interest on the overdue share capital amount of ₹ 1.26 crore, which works out to ₹ 30.71 lakh relating to 51 cases test checked. The department stated that ₹ 25,976 have been remitted by the beneficiaries and that the practice of raising demand was not followed in that office.

The department stated (July 2010) that the societies were being persuaded to remit the dues.

8.5.12 Non-realisation of declared dividend

In addition to financial assistance to the societies by way of loans, the State Government provides assistance by way of share capital contribution under various schemes as direct participation. The investments in shares are redeemable after a period of six years and the overdue payments attract penal interest at the rate of 2.5 *per cent*. As per the agreement for securing share capital, the societies which make profit have to pay dividend to the Government. The dividend due to

the Government should be remitted into treasury within a period of one month from the date of declaration of such dividend.

As compared to the budget estimate of ₹ 11.06 crore for dividend, the Government received only ₹ 5.66 crore during the last five years ending March 2009. We noticed that the department does not have a system to identify the societies which declared dividends and to watch the remittance of the dividends declared to the Government account within the stipulated time limit of one month. Our test check of records available in two selected institutions⁵⁷ revealed that dividend declared by the societies amounting to ₹ 1.58 crore was not recovered as detailed below.

- RUBBERMARK, Ernakulam declared dividend of ₹ 7.96 lakh during the year 1995-96. The society had not remitted the amount so far.
- RAIDCO, Kannur had an overdue amount of ₹ 1.50 crore towards dividend. The firm did not remit the amount to the Government and the same had been converted as share capital during September 2008.

The department had issued (July 2010) strict instructions to collect dividend due to the Government.

We recommend that the Government may evolve appropriate mechanism for watching the realisation of dividend declared by the societies and crediting it to the Government account.

8.5.13 Guarantee Commission

The revised guidelines issued by the Government in October 2004 require the administrative department to maintain a register for recording all transactions relating to the guarantee commission. The guarantee commission is required to be paid in two equal instalments on first of April and October every year. The beneficiaries are required to send half yearly report to the Finance Department with copies to the administrative department concerned and head of the departments indicating the details of guarantee amount outstanding, guarantee commission payable etc. The administrative department which provides the Government guarantee should make timely demand of the commission and ensure its payment before the due date.

We noticed that the RCS did not maintain register for watching recovery of the amount guaranteed to the beneficiaries, total guarantee commission due from them and the amount of guarantee commission realised. However, the department consolidated the DCB statements from the details of the remittances furnished directly by the beneficiaries. As no supporting documents were maintained in the department, we could not verify the authenticity of the DCB statements prepared by the RCS indicating an outstanding balance of ₹ 101.73 crore as guarantee commission. Compared to the huge balances outstanding, the department could recover only ₹ 45 lakh during last five years which reflects poor monitoring and

⁵⁷ RAIDCO & RUBBERMARK.

follow up action. A test check of cases from the DCB statements revealed that the RCS failed to demand and collect an amount of ₹ 54 lakh as guarantee commission which are detailed below.

8.5.13.1 Short demand of guarantee commission

As per the DCB Statement for the period ending March 2009, the total guarantee commission due from Kerala State Co-operative Agricultural and Rural Development Bank (KSCARDB) was ₹ 100.85 crore, whereas as per the data furnished by the bank, the outstanding guarantee commission was ₹ 101 crore. This resulted in short demand of ₹ 15 lakh.

The Department had issued (July 2010) warning notice to the defaulters to pay principal of ₹ 56.14 crore and interest of ₹ 53.77 crore.

8.5.13.2 Non-levy of interest on guarantee commission

As per the revised guidelines issued by the Government in October 2004 simple interest at the rate of 12 *per cent* will be charged for the defaulted payments of guarantee commission due on 1 of April and October. Scrutiny of records of JR offices, Ernakulam and Kannur revealed that the department failed to demand and collect ₹ 3.98 lakh from Marketing Federation from April 2006 to March 2007 and ₹ 35.70 lakh from RUBCO from April 2004 onwards by way of interest against the overdue guarantee commission of ₹ 33.21 lakh and ₹ 49.58 lakh respectively.

Our scrutiny revealed that the system of collection of guarantee commission, maintenance of DCB registers, levy and collection of interest on guarantee commission are weak as evidenced from the failure of RCS in making available the supporting documents of DCB for scrutiny as well as from the failure of JRs to maintain the registers prescribed.

The department stated (July 2010) that RR proceedings were initiated against RUBCO and notice was issued to Marketing Federation in June 2010.

We recommend that the Government may strengthen the mechanism for watching the collection of guarantee commission.

8.5.14 Audit fee

Rule 65 of the Co-operative Rules prescribes the levy of audit fee in different types of societies. Section 64 (7) of the Co-operative Societies Act 1969, provides for collection of audit fee from the societies concerned within 30 days of the intimation thereof and in case of non-payment of audit fee within the period, it shall be recoverable as arrears of public revenue due on land (Section 79 of the Act). The department recovers audit cost in respect of concurrent audits and audit fee in respect of unit audits involving short duration.

During the year 2008-09, the department completed audit of 12,581 units and 1,495 concurrent audits (total 14,076) and realised audit fee amounting to ₹ 3.39 crore and audit cost worth ₹ 27.66 crore.

Pendency in audit

The Act envisages the audit of co-operative societies at least once in a year and recovery of audit fee from them.

The number of societies due for audit and number of audit conducted during the year 2004-05 to 2008-09 were as under.

Arrears in audit as on	No. of audits due	No. of audits completed	Percentage	Number of audits pending		
				Unit audit	Concurrent audit	Total
2004-05	32,146	13,009	40.47	18,455	682	19,137
2005-06	32,576	13,475	41.36	18,431	670	19,101
2006-07	33,171	12,924	38.96	19,291	956	20,247
2007-08	32,879	13,729	41.76	18,083	1,067	19,150
2008-09	32,498	14,074	43.31	17,193	1,231	18,424

As on 31 March 2009, the department was able to conduct only 14,074 audits out of 32,498 audits due. The arrears in audit were above 58 *per cent* during the last five years. The Committee on Public Accounts in its 49th Report (October 2006) directed that immediate steps be taken to constitute viable system for the audit of Co-operative societies. Accordingly the Government ordered (May 2008) setting up of a Directorate of audit for watching audit of accounts of co-operative societies. But the Directorate was formed only in September 2009, diverting four staff from the existing strength of the department.

Despite directions by the PAC, the constitution of a separate Directorate was delayed and the pendency remained at 18,424 as on March 2009. We noticed that against 14,074 units audited every year, on an average more than 12,000 units are added every year and hence the audit arrears cannot be wiped out without sustained additional efforts. The RCS stated that the pendency in audit was due to shortage of staff in the department.

The department stated (July 2010) that steps are being taken to reduce the pendency of audit.

We recommend that the Government may draw a strategy for wiping out the pendency in audit.

8.5.15 Revenue recovery

Section 79 of the Co-operative Societies Act enables recovery of all sums due from a co-operative society as arrears of land revenue on a requisition certificate issued by the RCS.

8.5.15.1 Non-inclusion of amount proposed for RR action in the DCB figures

The department shall not exclude the amount involved in cases proposed for RR action from the DCB figures until the amount is realised through RR action. We

noticed that in four offices⁵⁸ audit fee of ₹ 78.71 lakh involving RR cases were excluded from the DCB statement even though the dues were not realised.

We observed that the records relating to revenue recovery furnished by the department was incomplete and information such as year-wise and society-wise principal amount receivable, the amount recovered as well as the amount outstanding for recovery were not available with the department. Similar information in respect of interest was also not available with the department. The incomplete information on revenue recovery available with the department indicated that the department lacked effective systems to monitor revenue recovery.

The department stated (July 2010) that instructions were issued to include the amount referred for RR to be shown separately in the DCB statements.

We recommend that the department should initiate an action plan to update revenue recovery records and have them reviewed by Audit.

8.5.15.2 Lapses in recovery of arrears due to the Government

During scrutiny of records of RCS, JR and AR offices, we noticed that these offices did not initiate timely action to collect the overdue arrears pending collection. We noticed that there were serious lapses in finalisation of RR proceedings. Few instances are given below.

- A sum of ₹ 80 lakh was due from Kannur Wholesale Co-operative Society towards outstanding dues relating to the period from 1996 to 2004. RCS referred the case for RR action in September 2005 and the revenue department suspended the proceedings temporarily in December 2006 at the request of the society. In the meantime, the RCS permitted the society to dispose the landed property subject to the condition that the dues to the Government should be settled first from the sale proceeds. Society disposed off the property for ₹ 2.63 crore, but the department failed to collect the Government dues from the society. On revival of RR proceedings, Government again stayed the proceedings in March 2008.
- JR, Kottayam initiated RR action during December 1997 against the Pineapple Marketing Co-operative Society, Kottayam to recover Government dues amounting to ₹ 30 lakh. We noticed that a sum of ₹ 19 lakh was also due from the society towards share capital and penal interest, which was not included in the RR proceedings.

The department replied (July 2010) that directions were given to collect the dues through RR action.

⁵⁸ AR Offices, Kothamangalam, Muvattupuzha, Neyyattinkara and Quilandy.

8.5.16 Failure to conduct special drives/adalaths for collection of arrears

Arrears of revenue pending collection as per the DCB statement in respect of interest, penal interest and audit fee etc., as on 31 March 2009 amounted to ₹ 210.55 crore.

We noticed that during March and December 2001, the department launched special drive to recover the arrears, but thereafter it did not conduct special drive/*adalaths*⁵⁹ to recover the arrears.

We recommend that the Government may conduct special drive/*adalaths* frequently for clearing the arrears.

8.5.17 Liquidation of societies

The Act provides that where the RCS has made an order for winding up a co-operative society, he may appoint a liquidator from among the subordinate officers for the purpose. Liquidators appointed under Sub-Section (1) of Section 72 of the Kerala Co-operative Societies Act shall complete the liquidation proceedings within a period of three years from the date of appointment as per Section 73 (2A). In computing the period of three years, the period during which an appeal, if any, preferred against an order of winding up of a society under Section 71 pending shall be excluded. The RCS in June 2000 had reiterated⁶⁰ that liquidation of the societies that had completed three years should be finalised within one year from the date of Amendment of Co-operative Rules in 1999.

We verified records of six JR offices and found that out of 383 liquidated societies, 254 were pending for more than three years. Of this 254 cases, 109 cases (43 *per cent*) were pending for more than 10 years. The Government dues involved in the liquidated societies was ₹ 2.38 crore.

Districts	Liquidating societies					Government dues (Rs. in crore)
	Below 3 years	3 to 5 years	5 to 10 years	Over 10 years	Total	
Thiruvananthapuram	22	39	26	34	121	0.22
Kozhikode	5	5	12	0	22	0.49
Kottayam	4	6	9	25	44	0.14
Alappuzha	10	5	10	15	40	1.13
Ernakulam	5	4	7	27	43	0.09
Kannur	83	3	19	8	113	0.31
Total	129	62	83	109	383	2.38

Inordinate delay in finalisation of the liquidation process in disposing off the assets of the society under liquidation resulted in locking up of the Government investment in these societies and this may adversely affect the realisation of Government dues.

⁵⁹ Courts.

⁶⁰ Circular No. 33/2000 dated 20 June 2000.

The department stated (July 2010) that necessary directions were issued to the officials concerned to settle the cases pending for more than three years.

8.5.18 Internal control

Paragraph 7.5.8 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (Revenue Receipts) mentioned about the non-maintenance of records by the RCS. During examination of the said paragraph, the Government informed the Committee on Public Accounts that basic records had been made upto date. Scrutiny of the records of RCS, JR and AR offices in the selected districts⁶¹ revealed that these offices did not maintain basic records and where the offices maintained the basic records, they were not properly updated. These have been mentioned in the relevant paragraph of this review. The details regarding the total amount of audit cost, records on loans, share capital, audit fee, interest, and penal interest were not recorded properly. We observed few instances of improper record maintenance as discussed below:

- (i) Recovery of Audit cost from 2004-05 to 2008-09 was ₹ 87.71 crore as per the DCB of RCS whereas, the audit cost recovered as per the finance accounts prepared by the Accountant General was ₹ 103.75 crore.
- (ii) AR offices Karthikappally, Nedumangad, Neyyattinkara and Vaikom, did not properly maintain basic records such as register for loan, share capital and DCB statements. AR offices Cherthala, Kanayannur, Karthikappally and Vadakara did not update the loan register and share capital register periodically.
- (iii) In the DCB statements prepared by the AR offices, the DCB figures did not have the support of the records like loan, share capital, audit fee registers and AR offices Chengannur, Kanayannur, Kochi, Kuttanadu, Muvattupuzha, Thalassery and Vaikom did not demand interest/penal interest properly.

We could not ascertain the genuineness of the figures in the DCB statement in the absence of proper maintenance of the records.

We recommend that the department may strengthen internal control mechanism to watch recovery of audit cost and ensure proper maintenance of records and DCB in the field offices.

8.5.19 Internal audit

Internal audit is intended to examine and evaluate the level of compliance with the rules and procedures so as to provide a reasonable assurance on the adequacy of the internal control. Effective internal audit system both in the manual as well as computerised environments is a pre-requisite for the efficient functioning of any department.

⁶¹ Alappuzha, Ernakulam, Kannur, Kottayam, Kozhikode and Thiruvananthapuram.

The Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (Revenue Receipts) recommended issuing directions for the conduct of internal audit to ensure the compliance with various provisions in the Act/Rules for effective internal control.

Despite the recommendations of the PAC, the department had not strengthened the internal audit wing. We noticed the following deficiencies in the working of internal audit.

- Audit plan was not prepared
- Sanctioned strength was not fixed for internal audit wing
- Target was not fixed for number of units to be audited.

We received (July 2010) the reply that the annual audit plan has been prepared and two Deputy Registrars were entrusted with the work.

We recommend that the Government may consider issuing guidelines to improve the quality and functioning of internal audit wing.

Compliance deficiencies

8.5.20 Revenue loss due to non-appropriation of payment towards interest first

Article 234 (3) (c) of the Kerala Financial Code provides that, any amount paid by the loanee shall be adjusted towards interest dues if any, and the balance available if any shall be adjusted towards principal amount. In the following two cases the department did not follow this principle which resulted in an understatement of loan balance to the extent of ₹ 2.23 crore and consequent interest loss amounting to ₹ 1.37 crore and penal interest of ₹ 29.11 lakh.

8.5.20.1 Pala Marketing Co-operative Society (PMCS), Kottayam

The Government had sanctioned an amount of ₹ 1 crore to the PMCS in May 2003. The rate of interest was 10 *per cent per annum* with an additional penal interest of 2.5 *per cent* for any default. The society had to repay the loan amount in 10 equal annual instalments as per the terms and conditions.

We observed that the Society had remitted ₹ 40 lakh as principal and ₹ 14.45 lakh as interest. However, the department did not observe the principle of adjusting the amount paid first to interest due, resulting in understatement of the outstanding loan position by ₹ 35.54 lakh (₹ 40, 00,000 – ₹ 3,45,685) as detailed below:

Date of Repayment	Total repayments		Interest due on the date of repayment	Interest deductible from repayment	Balance after deducting interest	Penal interest (PI) due	PI deductible from repayment	Balance deductible from Principal
	Principal	Interest						
1.	2.	3.	4.	5.	6.	7.	8.	9.
30.3.2006	20,00,000	8,50,000	28,95,890	28,50,000	Nil	75,000	--	--
17.5.2007	10,00,000	Nil	11,77,397	10,00,000	Nil	1,50,000	--	--
17.3.2008	10,00,000	5,95,000	10,13,014	10,13,014	5,81,986	2,36,301	2,36,301	3,45,685
	40,00,000	14,45,000						

Erroneous adjustment of principal resulted in loss of interest of ₹ 8.70 lakh and penal interest of ₹ 2.15 lakh for the period upto March 2009.

It was stated (July 2010) that at the instance of audit, the loanee has remitted the outstanding dues.

8.5.20.2 Kerala State Co-op. Consumer Federation Ltd. (CONSUMERFED)

The RCS had released a loan amount of ₹ 27.62 crore to the CONSUMERFED during the period from 1977 to 2009 (23 Government loans & 10 NCDC loans).

Out of this, the society had repaid the principal amount of ₹ 1.96 crore in 59 instalments starting from March 1999 to March 2009. We noticed that out of the repayment amount of ₹ 1.96 crore, the Federation adjusted an amount of ₹ 1.86 crore (56 instalments) against the principal amount even when there was overdue interest. This resulted in incorrect adjustment of loan by ₹ 1.86 crore and also resulted in loss of interest of ₹ 1.28 crore and penal interest of ₹ 26.96 lakh leviable on the outstanding principal amount of loan.

In their reply (March 2010), the department informed that directions were given to collect the arrears and to issue timely demand notices.

The department stated (July 2010) that notice has been issued to the Managing Director to remit the dues.

We recommend that the Government may devise suitable measures for monitoring the demand and levy of interest and penal interest including independent review of the same by internal audit.

8.5.21 Unauthorised withdrawal of amount by loanee from TP account

The loans sanctioned by the NCDC to various beneficiaries are routed through the RCS who deposits the amount in TP account pending finalisation of formalities of loans. NCDC sanctioned an amount of ₹ 15 crore to RAIDCO as share capital under rehabilitation package during November 2007. The RCS had drawn the loan amount and transfer credited to TP account of the federation during March 2008 subject to the condition that prior approval of the former must be obtained before the final withdrawal. But RAIDCO had withdrawn the amount during March and April 2008 without obtaining the concurrence of the RCS. Similarly, the beneficiary had also withdrawn an amount of ₹ 35.33 lakh and transfer credited to the federation's TP account during March 2009 without the concurrence of the RCS. This indicates that the RCS was not having proper control over release of loan amounts to the beneficiaries.

The RCS stated (July 2010) that RAIDCO was asked to execute a mortgage deed of the loan amount of ₹ 35.33 lakh and produce share certificate for ₹ 15 crore and society had complied with the directions.

Conclusion

Our review revealed a number of deficiencies in the maintenance of DCB which led to improper computation of arrears. The recovery of loans and interest from beneficiaries was not in tune with repayment of loans and interests paid to NCDC. The system for watching the realisation of dividend declared and crediting it to Government account was not proper. RCS retained huge amount received as loans from the NCDC on behalf of the beneficiaries in the TP account for long period. The information on revenue recovery of outstanding balance of principal and interest was unreliable. There was huge pendency in audit as well as arrears of audit fee. There was no system for ascertaining the eligibility of beneficiary before sanctioning the assistance.

Recommendations

The Government may consider implementing the following recommendations for effective collection of co-operation receipts

- devising suitable measures for monitoring the demand and levy of interest and penal interest;
- evolving appropriate mechanism for watching the realisation of dividend declared by the societies and crediting the dividend to the Government account;
- strengthening the mechanism for watching the collection of guarantee commission;
- evolving a system for ascertaining the eligibility of beneficiaries before sanctioning the assistance;
- taking steps to avoid retention of huge amount received as loan from NCDC on behalf of beneficiaries in TP account for long period;
- taking effective steps for the realisation of amount under revenue recovery; and
- issuing guidelines to improve the quality and functioning of internal audit wing.

8.6 Other audit observations

Scrutiny of the records of Forest Department, Legal Metrology Department, Education Department and Police Department revealed several cases of non-compliance of the provisions 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 on the part of the departmental officers 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 Government to improve the internal control system including strengthening of the internal audit.

A. FOREST RECEIPTS

Due to lack of co-ordination of Forest Department, non-execution/non-payment/non-revision of lease agreement/lease rent, non-collection of entry fee and non-realisation of tree value, the forest department had incurred a revenue loss of ₹ 58.53 crore.

8.7 Non-payment of lease rent to Government

(DFO, Chalakudy; November 2009)

Lease rent payable for forest land leased out to Public Sector Undertakings was ₹ 1,300 per hectare *per annum* with effect from 18 December 1987.

We noticed that the department leased out an extent of 4,261.04 ha of forest land in Chalakudy Division to M/s Plantation Corporation of Kerala Ltd. and lease rent due as on 31 March 2008

was ₹ 27.95 crore. Even though the company was providing in its books of accounts lease rent at ₹ 1,300 per ha, payment was made at the rate of ₹ 475 per ha till 1998-99 and from 1998-99 onwards no amount was paid towards lease. Besides, the company was debiting lease rent payable under the Profit and Loss Accounts and claiming deductions under the AIT Act, at the full rate. The Government declared a moratorium on payment of lease rent till repayment of a loan from Canara Bank was over. We found that the company had a net profit of ₹ 2.62 crore in 2005-06 and ₹ 11.41 crore in 2006-07, whereas the loan outstanding was only ₹ 9,653. The schedule forming part of the final accounts for 2008 showed that there was no loan outstanding in the above bank. This indicates that the company maintained a negligible balance of secured loan account in order to retain moratorium on repayment of lease rent. Thus, the grant of moratorium to the company having net profit which was very huge compared to loan outstanding has enabled the company to avoid payment of lease rent of ₹ 27.95 crore. This resulted in non-realisation of lease rent of ₹ 27.95 crore.

After we pointed out the case to the department, the department stated (November 2009) that it took up the matter with the higher authorities. We have not received information of further developments from them (December 2010).

We reported the matter to the Government in February 2008. We have not received information on further developments from them (December 2010).

8.8 Non-execution of lease agreement with Kerala State Electricity Board (KSEB)

(Divisional Forest Office, Malayattoor; May 2009)

The Government allotted KSEB 3,105.65 Ha of forest land under Chalakudy and Malayattoor divisions in March 1974. An agreement between KSEB and the Government was to be executed before the land was handed over. The lease rent was ₹ 1,300 per ha *per annum* from December 1987 onwards.

We scrutinised the records of Divisional Forest Office, Malayattoor and noticed that KSEB took possession of 3,105.65 ha. of forest land on lease without executing the lease agreement. The Government approved in March 2006 the draft lease deed specifying the terms and

conditions of lease as well as the rate of lease rent and authorising the DFO, Malayattoor division to sign the lease deed on behalf of the Government. Non-execution of lease agreement resulted in non-levy of lease rent. The lease rent leviable from the KSEB for the period from 1974 to 2009 worked out to ₹ 23.28 crore. The KSEB is also liable to pay ₹ 24.22 lakh towards stamp duty and registration fee had the document been registered as required under the Stamp Act.

After we pointed out this case in May 2009, the Divisional Forest Officer, Malayattoor stated (May 2009) that the matter was reported to the Conservator of Forest (Thrissur) and Chief Conservator of Forest (P) in July 2006. The department had, however issued countersigned *challan* to KSEB for ₹ 23.28 crore for the period from 1973-74 to 2009-10.

We reported the matter to the Government in March 2010; we have not received their reply (December 2010).

8.9 Loss of revenue due to non-revision of lease rent of forest land leased to private parties

(Forest Divisions, Nemmara and Chalakkudy; November 2009)

The Kerala Grants and Leases (Modification of Rights) Act, 1980 governs the rights under grants and lease of land made for cultivation. The Act empowers the Collector to revise the lease rent periodically as per Section 5 of the Act. However, the department did not frame the Rules for implementation of the Act. The rate of lease rent applicable to forest land leased out to private parties was fixed during pre-independence period and ranged from ₹ 2.47 per ha to ₹ 12.35 per ha. The Government revised the rates of lease rent applicable for PSUs with effect from 18 December 1987, fixing the rent at ₹ 1,300 per ha. Even when the rates levied on PSUs were enhanced to ₹ 1,300 per ha, lease rent collected from private parties continued to remain at the pre-independence rate.

We noticed that the department collected lease rent of ₹ 1.87 lakh for 4,553.257 ha of forest land leased out to private parties⁶² by applying the pre-independence period rates. Adopting the lease rent fixed for forest land leased to the PSUs, the short realisation of lease rent worked out to ₹ 11.95 crore for the period from December 1987 to December 2008.

After we pointed out the matter in November 2009 to the department, the department stated (November 2009) that even though the Kerala Grants and Leases (Modification of Rights) Act

came into force with effect from 23 June 1980, the Government did not approve the rules for the implementation of the Act and hence the lease rent of private holdings could not be revised. The reply tantamount to admission of laxity on the part of the Government in revising the lease rent realisable from the private parties. Further, had the rates been fixed while fixing the rates applicable to the PSUs, additional resources could have been generated.

We reported the matter to the Government in March 2010. We have not received information on further developments from them (December 2010).

⁶² Alexandria, Beatrice, Chandramala, East Pullala, Manalaru, Meerafloras, Monkad, Oriental Valavachal and Victoria.

8.10 Loss of revenue due to lack of co-ordination between Forest Department and PSU

(Divisional Forest Office, Palakkad; October 2008)

The Forest Department by a notification issued in August 2006 sold in auction 2 lakh cu.m. of residue sand obtained from lime stone mines leased to a Government undertaking (M/s. Malabar Cements Ltd.) in Walayar Range in Palakkad Division. The highest bid amount of sand was ₹ 350 per cu.m. The contractor was required to remove the sand within nine months of the contract. The contractor could use the forest road within the company premises with the prior permission of Forest Department for transportation of sand. The contractor was responsible for making new approach road, if any, needed for extraction of sand with the approval of the department.

We noticed that the sand was not lifted due to objection by the company although the terms of agreement contemplated transport of materials through the road constructed by M/s MCL Ltd., in the leased forest land. Lack of co-ordination between Forest department and PSU and failure of the department to facilitate transportation of sand had led to loss of revenue to the tune of ₹ seven crore.

After we reported the matter to the Government in December 2009, the Government stated (January 2010) that it was decided to undertake extraction of silt from the very same deposit located in the mining area of the company. We have not received further report (December 2010).

8.11 Non-collection of entry fee from forest development agency

(Office of Wildlife Warden, Wildlife Division, Munnar; February 2010)

By a notification dated 11 November 2005, the Government revised the rates of entry fee for tourists, vehicles etc. to National Parks, Wildlife Sanctuaries and Tiger reserves. The rate of entry fee for light vehicle is ₹ 50 per day.

We noticed that during August 2009, 6,480 vehicles have entered inside the Eravikulam national park for transporting tourists. However, the department did not collect the entry fee as prescribed. Non-collection of the entry fee works

out to ₹ 3.24 lakh.

After we pointed out the case in February 2010, the department stated (February 2010) that the arrangement for transportation of tourist by the Forest Development Agency (FDA) was a reciprocal commitment from the part of park management to tackle the visitor management problem. The reply was not

tenable as the Government had fixed the fees for entry of vehicles to national parks.

We reported the matter to the Government in March 2010. We have not received information of further developments from them (December 2010).

8.12 Non-realisation of tree value

(Office of ACF (SF), Malappuram; May 2009)

Cutting and removal of trees on public land requires permission of the Forest Department. In the case of trees planted by social forestry wing, 20 *per cent* of tree value and forest development tax on the total sale value had to be remitted to the Forest Department.

We noticed cutting of trees planted by the Social Forestry Wing in the premises of six institutions/departments⁶³ valued at ₹ 12.31 lakh, for the improvement of roads. However, the department did not levy and collect the tree value and forest development tax

amounting to ₹ 3.08 lakh.

After we pointed out the matter in May 2009 to the department, the department stated (May 2009) that the tree value and forest development tax had been remitted in one case. We have not received information of further development in other cases (December 2010).

We reported the matter to the Government in March 2010. We have not received further developments from them (December 2010).

⁶³ Asst. Executive Engineer (PWD) Tirur, (Roads) Manjeri, (NH) Malappuram, (Irrigation wing) Parappanangadi at Malappuram, Calicut University Botanical Garden Park, Edavanna Government *Ayurvedic* Dispensary Otheri.

B. Legal Metrology

The laxity on the part of legal metrology department to verify fare meters of auto rickshaws and tourist taxis as well as the water meters resulted in non-realisation of revenue to the extent of ₹29.92 crore.

8.13 Loss of revenue due to non-conducting of verification and stamping of auto/taxi meters

(Department of Legal Metrology, Thiruvananthapuram; April 2010)

All auto rickshaws and motor cabs except all India tourist taxis are required to fix fare meters as per Rule 207 and 296 of Kerala Motor Vehicle Rules, 1989. Legal Metrology department (LMD) should ensure that all auto/taxi fare meters are subjected to annual verification and stamping so as to ensure that the fare collected from the passengers is as per prescribed rates. The fee leviable for verification is ₹ 50 per fare meter upto 2005-06 and ₹ 100 thereafter.

We conducted a test check of the data collected from the department of Motor Vehicles with the LMD for the period 2004-09. We found that the verification conducted by the LMD ranged from 8.4 per cent to 13.2 per cent. The laxity on the part of the LMD in verifying fare meters had resulted in loss of revenue of ₹ 16.68 crore during 2004-05

to 2008-09. This has also allowed the commercial vehicle owners to manipulate the meters and over charge the public. The LMD should take initiative so that meters could be verified at prescribed intervals.

We reported the matter to the department in April 2010 and the Government in June 2010. We have not received their replies (December 2010).

8.14 Non-registration and stamping of water meters

(Department of Legal Metrology, Thiruvananthapuram; April 2010)

Legal Metrology Department is engaged in verifying the correctness of the calibration of the weighing and measuring instruments. Section 24 of the Standards of Weights and Measures (Enforcement) Act, 1985 and Rules made thereunder insists that every weight or measure used or intended to be used in any transaction shall be verified/re-verified and stamped at least once in a year. The fee payable for the verification is ₹ 25 per piece.

We test checked the data collected from the LMD, Thiruvananthapuram for the period 2004-09 and found that the fee realisable for 52,96,116 water meters during the said period was ₹ 13.24 crore which was not realised due to non-verification of meters. This resulted in non-realisation of ₹ 13.24 crore, besides allowing scope of tampering the meters leading to further recurring loss

to the Government.

We reported the matter to the department in April 2010 and the Government in June 2010. We have not received their replies (December 2010).

C. Education Department

Due to non-revision of lease rent based on the market value of land and building allotted to KBPS, the Government was deprived of revenue of ₹ 4.19 crore.

8.15 Non-levy of lease rent on land allotted to KBPS

(The Kerala Books and Publication Society (KBPS), Kochi; March and April 2010)

The Kerala Books and Publication Society (KBPS), Kochi is a Kerala Government undertaking registered under the Travancore-Cochin Literary, Scientific and Charitable Societies, Registration Act, 1955 to undertake printing of text books for schools and colleges.

The KBPS was set up in August 1978 in a Government building in a plot of 3.97 hectares in Triakara *Panchayat* in Ernakulam district. We conducted verification of the records relating to lease of land and buildings to KBPS in March and April 2004. We had already mentioned about non-levy of

lease rent from KBPS for the period ending 31 March 1997 in the Report of the Comptroller and Auditor General of India for the year ended 31 March 1998 (Revenue Receipts). The Government stated (October 1997) that they were considering the feasibility of converting the lease rent as capital grant. We noticed that the value of land and building was estimated by the competent authority in March 2004 as ₹ 8.80 crore. Even though the market value of holding was available with the Revenue department, they failed to levy lease rent on land and building allotted to KBPS. The lease rent due for the period 1 April 1997 to 31 March 2010 amounted to ₹ 4.19 crore.

We reported the matter to the Director of Higher Education and Commissioner of Land Revenue in May 2010 and the Government in June 2010. We have not received their replies (December 2010).

D. Police

The cost for providing police escort was not revised based on the revised average cost which resulted in short realisation of fee of ₹ 3.20 crore.

8.16 Short levy of fees for service rendered by police personnel

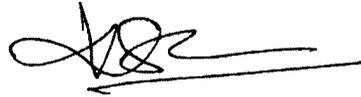
(Office of the DGP, Thiruvananthapuram; April 2010)

The Police Department collects fees/charges for various services rendered by the department which was based on the pay of the police officials. The pay of the Government servants were revised with effect from 1 April 2005 and consequently the Police Department revised the average cost in tune with the pay revision effected from April 2005. Police headquarters had (July 2008) given directions to unit officers who had provided police guards/escorts to various institutions, to raise arrear bill of cost from 1 April 2005.

We verified the cost collected for providing police escort to various institutions. We found from the records of the office of the Director General of Police, Thiruvananthapuram that fees realised from 28 institutions for the period 1 April 2005 to 31 March 2007 was not revised resulting in short realisation of fee by ₹ 3.20 crore.

We pointed out the case to the police headquarters in May 2010. We have not received their reply (December 2010).

We reported the matter to the Government in June 2010. We have not received their reply (December 2010).



**Thiruvananthapuram,
The**

**(K.S. SUBRAMANIAN)
Accountant General (WF&RA)
Kerala**

Countersigned



**New Delhi,
The**

**(VINOD RAI)
Comptroller and Auditor General of India**