

## **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 taxes on sales, trade etc./value added tax, taxes on vehicles, state excise, stamp duty and registration fees, land revenue 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 check of records during the year 2009-10 as well as which were noticed in earlier years but could not be included in previous years' reports.

## OVERVIEW

This Report contains 31 paragraphs including two performance audit relating to non/short levy of taxes, duties, interest and penalty etc., involving ₹ 94.52 crore. Some of the major findings are mentioned below:

### I. General

The total receipts of the State Government for the year 2009-10 were ₹ 22,156.58 crore. Revenue raised by the Government during the year was ₹ 17,692.18 crore, comprising tax revenue of ₹ 12,039.48 crore and non-tax revenue of ₹ 5,652.70 crore. The State Government also received ₹ 2,144.10 crore as State's share of divisible Union taxes and ₹ 2,320.30 crore as grants-in-aid from the Government of India.

**(Paragraph 1.1.1)**

Tax revenue in the year 2009-10 showed an increase of 7.98 *per cent* over 2008-09. Sales tax/VAT receipts of ₹ 7,577.49 crore amounted to 62.94 *per cent* of the tax revenue collected during the year 2009-10.

**(Paragraph 1.1.2)**

Non-tax revenue showed a decrease of 2.27 *per cent* in the year 2009-10 over 2008-09.

**(Paragraph 1.1.3)**

4,628 Inspection Reports issued upto December 2009 containing 9,650 audit observations with money value of ₹ 3,792.89 crore were outstanding for want of final replies from the departments as on 30 June 2010.

**(Paragraph 1.2.1)**

During test check of records of the taxes on sales, trade etc., taxes on vehicles, state excise, stamp duty and registration fees, land revenue and other departmental receipts conducted during year 2009-10, we noticed under assessments, short/non-levy, loss of revenue etc. amounting to ₹ 190.91 crore in 1,823 cases. The departments accepted audit observations involving ₹ 1.93 crore in 679 cases pointed out in 2009-10 and earlier years and recovered ₹ 8.19 crore in 472 cases.

**(Paragraph 1.5.1)**

### II. Sales Tax/Value Added Tax

A review of **Transition from sales tax to value added tax** revealed the following:

- The VAT was introduced by the Punjab State Government w.e.f. 1<sup>st</sup> April 2005. The post VAT collection increased from ₹ 4626.88 crore to ₹ 7577.49 crore during the period 2005-06 to 2009-10 and the average growth rate during the period was 12.75 *per cent*. The number of registered dealers also increased from 1.46 lakh to 1.93 lakh.

**(Paragraph 2.10.5)**

- The shortages in manpower adversely affected the working of the Department in terms of shortfalls in scrutiny of returns and tax audits, an essential feature of the VAT system of levy.

**(Paragraph 2.10.6.3)**

- There was loss of revenue of ₹ 12.76 crore in time barred assessments under the Punjab General Sales Tax Act 1948.

**(Paragraph 2.10.9)**

- As a result of surveys conducted, 1937 dealers could be registered by the Department during the period 2005-06 to 2009-10, however two districts of Barnala and Patiala did not conduct any survey whereas negligible number of surveys were conducted in Ludhiana and Ropar district.

**(Paragraph 2.10.10.3)**

- Though 876 dealers in four districts had not filed quarterly returns, and 6654 dealers had not filed their annual statements, Department had not taken action under the Rules to initiate penal proceedings.

**(Paragraph 2.10.11)**

- It was seen that over the period 2005-06 to 2008-09, 10.98 lakh tax returns filed by the dealers were not scrutinised, non-scrutiny ranging from 70 to 100 percentage. Refunds allowed to the dealers were not pre-audit. Audit noticed omissions and irregularities in returns not scrutinised, resulting in short levy/payment of tax of ₹ 2.37 crore.

**(Paragraph 2.10.11.2)**

- Non-finalisation of the assessment as required in the Deferment & Exemption Rules saved under the Punjab Value Added Tax Act resulted in excess carry forward/availment of exemption of ₹ 1.47 crore.

**(Paragraph 2.10.12)**

- The PVAT Act/Rules prescribed for audit of returns by the Departmental Officer, to be carried out within a period of six years from the date of furnishing of returns. The State Government had neither finalised the parameters for audit of returns nor had they operationalised the module for Tax Audit in COVIS (October 2010).

**(Paragraph 2.10.15)**

- Internal audit of VAT returns was non existent.

**(Paragraph 2.10.18)**

Incorrect allowance of deductions from gross turnover without production/short production of prescribed declarations in form 'C' resulted in short levy of central sales tax of ₹ 26.07 lakh.

**(Paragraph 2.12.1)**

Non-levy of notional tax on branch transfer by an exempted unit resulted in excess carry forward of exemption of ₹ 1.22 crore.

**(Paragraph 2.12.3)**

Failure to apportion and reverse the input tax credit resulted in excess claim of input tax credit of ₹ 54.16 lakh.

**(Paragraph 2.12.7(a))**

An assessee had erroneously calculated the quantum of exemption as ₹ 4.15 crore instead of ₹ 9.03 crore. This resulted in excess allowance of exemption of ₹ 4.88 crore.

**(Paragraph 2.12.9(a))**

Inadmissible deduction of ₹ 4.02 crore from gross turnover resulted in loss of revenue of ₹ 50.27 lakh.

**(Paragraph 2.13.1(b))**

### **III. Taxes on Vehicles**

Misappropriation of Government money of ₹ 7.37 lakh was noticed in three offices of the Transport Department.

**(Paragraph 3.8.1)**

There was non/short realisation of special road tax/motor vehicle tax of ₹ 1.89 crore.

**{Paragraph 3.8.2 (a)}**

Incorrect application of rates resulted in short levy of motor vehicle tax of ₹ 37.62 lakh.

**(Paragraph 3.8.4)**

### **IV. Other Tax/Non-Tax Receipts**

Failure to achieve/enforce the norms for yield of spirit from molasses deprived the Government of excise duty of ₹ 2.31 crore during 2008-09.

**(Paragraph 4.3.1)**

Non-compliance of the Land Revenue Rules and Government instructions thereon resulted in non-recovery of service charges of ₹ 25.49 lakh.

**(Paragraph 4.4.1)**

Non-compliance of the notification issued by the Government of Punjab (Industries and Commerce department) resulted in failure to recover the guarantee fee of ₹ 31.75 crore.

**(Paragraph 4.5)**

Non-compliance of provisions of the Punjab State Lotteries Rules to deduct establishment cost resulted in loss of revenue of ₹ 1.94 crore.

**(Paragraph 4.6)**

### **V. Stamp Duty and Registration Fees**

A review of **Levy and collection of stamp duty and registration fee** revealed the following:

- There were evasions of stamp duty and registration fee on sale of immovable property on powers of attorney and due to non-registration of agreements for sale.

**(Paragraph 5.6.5)**

- Misclassification of the instruments as agreements instead of deeds of conveyance resulted in non-levy of stamp duty and registration fee amounting ₹ 1.07 crore.

**(Paragraph 5.6.6)**

- There are no explicit provisions in the General Clauses (GC) Act, 1897 empowering the Government to remit the registration fee.

**(Paragraph 5.6.7)**

- Non-verification of stamp duty resulted in acceptance of fraudulently tempered bank receipts of ₹ 42.60 lakh.

**(Paragraph 5.6.8)**

- Inadmissible remissions of stamp duty and registration fee of ₹ 20.59 crore were noticed on instruments of conveyance, mega projects, subsidiary/ associate companies of the promoter companies, mortgages for securing loan and charitable institutions.

**(Paragraph 5.6.9)**

- Internal Control Mechanism prescribed for vendor records was not followed by the Departmental officers. Non-settlement of large number of internal audit objections had rendered the internal audit function ineffective.

**(Paragraph 5.6.11)**

- There were sale of fake stamps of ₹ 85.45 lakh not found entered in the vendor records.

**(Paragraph 5.6.11.2)**

- The NIC maintained software for registration activities PRISM, had several general and applications control deficiencies, resulting in manual intervention.

**(Paragraph 5.6.13)**

## CHAPTER-I General

### 1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Punjab 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 given below:

(₹ in crore)						
Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1.	<b>Revenue raised by the State Government</b>					
	Tax revenue	8,989.38	9,017.16	9,899.17	11,150.19	12,039.48
	Non-tax revenue <sup>1</sup>	4,536.33	7,744.58	5,253.97	5,783.91	5,652.70
		(1,439.47)	(5,699.85)	(1,787.80)	(2,264.36)	(1,659.29)
	<b>Total</b>	<b>13,525.71</b> <b>(10,428.85)</b>	<b>16,761.74</b> <b>(14,717.01)</b>	<b>15,153.14</b> <b>(11,686.97)</b>	<b>16,934.10</b> <b>(13,414.55)</b>	<b>17,692.18</b> <b>(13,698.77)</b>
2.	<b>Receipts from the Government of India</b>					
	Share of net proceeds of divisible Union taxes and duties	1,227.45	1,565.75	1,974.99	2,084.01	2,144.10
	Grants-in-aid	2,213.32	2,239.65	2,109.49	1,694.68	2,320.30
	<b>Total</b>	<b>3,440.77</b>	<b>3,805.40</b>	<b>4,084.48</b>	<b>3,778.69</b>	<b>4,464.40</b>
3.	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>16,966.48</b> <b>(13,869.62)</b>	<b>20,567.14</b> <b>(18,522.41)</b>	<b>19,237.62</b> <b>(15,771.45)</b>	<b>20,712.79</b> <b>(17,193.24)</b>	<b>22,156.58</b> <sup>2</sup> <b>(18,163.17)</b>
4.	<b>Percentage of 1 to 3</b>	<b>80</b>	<b>81</b>	<b>79</b>	<b>82</b>	<b>80</b>

The above table indicates that during the year 2009-10, the revenue raised by the State Government (₹ 17,692.18 crore) was 80 per cent of the total revenue receipts (₹ 22,156.58 crore) against 82 per cent in the preceding year. The increase in tax revenues was eight per cent over the previous year, whereas the non-tax revenues decreased by two per cent. The balance 20 per cent of the receipts during 2009-10 was received from the Government of India.

<sup>1</sup> The figures shown in brackets are net of expenditure on prize winning tickets of lotteries conducted by the Government.

<sup>2</sup> For details please see Statement Number 11- Detailed statement of revenue and capital receipts by minor heads in the Finance Accounts of the Government of Punjab for the year 2009-10. Figures under the head 0021 - Taxes on income other than corporation tax-share of net proceeds assigned to States 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 tax revenue raised during the period from 2005-06 to 2009-10:

(₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	VAT <sup>3</sup> / Sales tax	4,270.28	4,503.31	5,014.50	6,166.46	7,264.31	(+) 17.80
	Central sales tax	356.60	325.71	327.99	269.17	313.18	(+) 16.35
2.	State excise	1,568.16	1,367.79	1,861.52	1,809.95	2,100.92	(+) 16.08
3.	Stamp duty and registration fees	1,670.50	1,803.93	1,567.84	1,730.29	1,550.94	(-) 10.37
4.	Taxes and duties on electricity	669.41	527.58	603.80	631.33	230.13	(-) 63.55
5.	Taxes on vehicles	431.19	468.05	499.45	524.09	554.74	(+) 5.85
6.	Other taxes and duties on commodities and services	6.95	5.52	6.76	3.46	9.95	(+) 187.57
7.	Land revenue	16.29	15.27	17.31	15.44	15.31	(-) 0.84
<b>Total</b>		<b>8,989.38</b>	<b>9,017.16</b>	<b>9,899.17</b>	<b>11,150.19</b>	<b>12,039.48</b>	<b>(+) 7.98</b>

The following are the reasons for increase/decrease in receipts during 2009-10 over those of 2008-09, as stated by some of the departments.

**Taxes and duties on electricity:** Shortfall of 63.55 *per cent* during the year 2009-10 was due to adjustment of subsidy on electricity duty (₹ 270.22 crore) and refund of interest (₹ 269.78 crore) due from the Punjab Government to the Punjab Power Corporation Limited. This was due to non-submission and adjustment of electricity duty by Corporation against the subsidy payable by Government of Punjab to the Corporation on account of agriculture concession.

**Taxes on vehicles:** The increase of 5.85 *per cent* during the year 2009-10 over the year 2008-09 was due to the efforts of the Department.

The other departments did not intimate (October 2010) the reasons for variations in receipts in 2009-10 from that of the previous year, despite being requested (July 2010).

<sup>3</sup> Value Added Tax (VAT) introduced with effect from 1 April 2005.

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

(₹ in crore)							
Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Interest receipts	644.07	658.57	348.78	181.98	164.69	(-) 9.50
2.	Dairy development	0.52	0.12	0.09	0.09	0.08	(-) 11.11
3.	Other non-tax receipts	459.44	509.28	441.62	760.97	486.88	(-) 36.02
4.	Forestry and wild life	11.80	14.62	14.70	15.52	26.47	(+) 70.55
5.	Non-ferrous mining and metallurgical industries	10.79	12.72	16.03	37.07	37.99	(+) 2.48
6.	Miscellaneous general services (including State lotteries)	3,244.37	6,386.49	4,189.72	4,567.80	4,780.12	(+) 4.65
7.	Major and medium irrigation	26.17	20.14	20.02	11.85	34.62	(+) 192.15
8.	Medical and public health	44.22	42.82	48.12	47.63	45.13	(-) 5.25
9.	Co-operation	3.37	5.02	4.60	4.55	3.73	(-) 18.02
10.	Public works	11.66	12.26	16.83	17.52	22.60	(+) 29.00
11.	Police	33.62	36.68	44.71	58.58	51.88	(-) 11.44
12.	Other administrative services	46.30	45.86	108.75	80.35	-1.49 <sup>4</sup>	(-) 101.85
<b>Total</b>		<b>4,536.33</b>	<b>7,744.58</b>	<b>5,253.97</b>	<b>5,783.91</b>	<b>5,652.70</b>	<b>(-) 2.27</b>
		<b>(1,439.47)</b>	<b>(5,699.85)</b>	<b>(1,787.80)</b>	<b>(2,264.36)</b>	<b>(1,659.29)</b>	<b>(-) 26.72</b>

The following are the reasons for increase/decrease in receipts during 2009-10 over those of 2008-09, as stated by some of the departments.

**Forestry and wild life:** The increase of 70.55 *per cent* was due to streamlining of the system of transfer of standing trees to the Punjab State Forest Development Corporation.

The other departments did not intimate (October 2010) the reasons for variations in receipts from that of the previous year, despite being requested (July 2010).

<sup>4</sup> Minus figure of ₹ 1.49 crore is due to transfer of ₹ 46.04 crore to Calamity Relief Fund. The amount was misclassified in the year 2008-09.



## **1.2 Response of the departments/Government towards audit**

- Annotated replies of the audit observations are to be submitted by the Government departments to the office of the Principal Accountant General (Audit) within one month from the date of issue of Local Audit Reports (Inspection Reports).
- In case the annotated replies of the audit observations are satisfactory and the documents in support of the replies are duly attested by the competent authority, the para is settled after verification of the documents.
- The audit observations are also settled during audit committee meetings, if the reply of Department is satisfactory.
- The observations which are subjudice remain pending till the decision of the court.
- At the time of next audit, rest of the audit observations are reviewed by the audit party at length and after verification of the record, they are recommended for settlement.

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

The Principal Accountant General (Audit) Punjab (PAG) conducts periodical inspection of the Government departments to test check 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 heads of offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs to rectify the defects and omissions and report compliance through initial reply to the PAG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the departments and the Government.

We, however, observed that audit observations are not promptly complied and no action is being taken by the departments/Government even after long periods.

Inspection reports issued upto December 2009 disclosed that 9650 paragraphs involving ₹ 3,792.89 crore relating to 4,628 IRs remained outstanding at the end of June 2010 as mentioned below:

	June 2008	June 2009	June 2010
Number of outstanding IRs	4,249	4,494	4,628
Number of outstanding audit observations	8,615	9,227	9,650
Amount involved (₹ in crore)	2,492.14	3,223.30	3,792.89

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amount involved are mentioned below.

SI No.	Name of the Department	Nature of receipt	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance	Taxes/VAT on sales, trade etc.	1,948	3,313	235.50
		Electricity duty	16	68	1,900.59
		Entertainments tax, etc.	171	397	11.55
2.	Excise	State excise	151	187	65.52
3.	Revenue	Land revenue	390	973	324.80
4.	Transport	Taxes on motor vehicles	762	2,388	902.38
5.	Stamps and registration	Stamp duty and registration fee	920	1,878	64.29
6.	Forest and environment	Forestry and wild life	202	270	217.76
7.	Lotteries	State Lotteries	68	176	70.50
<b>Total</b>			<b>4,628</b>	<b>9,650</b>	<b>3,792.89</b>

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 306 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 heads of offices and heads of the departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

*It is recommended that the Government takes suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover the loss/outstanding demand in a time bound manner.*

### **1.2.2 Departmental audit Committee meetings**

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs. The details of the audit committee meetings held during the year 2009-10 and the paragraphs settled are mentioned below:

In three audit committee meetings held during the year 2009-10, 160 paras involving ₹ 1.42 crore pertaining to the Excise and Taxation Department under the head “0040-Taxes on sales and trade etc” were settled. The other departments are being pursued to hold the audit committee meetings for expeditious settlement of the outstanding audit observations.

### **1.2.3 Non-production of records to audit for scrutiny**

The programme of local audit of tax revenue/non-tax revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the departments to enable them to keep the relevant records ready for audit scrutiny.

During 2009-10, 333 returns relating to seven offices of Sales Tax/VAT mentioned below were not made available to Audit.

Name of the Office	Year in which the cases were to be audited	Cases requisitioned	Cases produced	Cases not produced
AETC Mohali	2008-09	273	233	40
AETC Barnala	2008-09	167	132	35
AETC Faridkot	2008-09	189	165	24
AETC Ludhiana-I	2006-07	235	179	29
AETC Ludhiana-II	2006-07	597	568	102
AETC Ludhiana-III	2006-07	1,659	1,557	47
AETC Kapurthala	2006-07	386	339	56
<b>Total</b>		<b>3,506</b>	<b>3,173</b>	<b>333</b>

The revenue involved could not be ascertained as the cases pertained to self assessment returns of the dealer, which were not audited by the Department.

#### **1.2.4 Response of the departments to the draft audit paragraphs**

On the recommendation of the Public Accounts Committee (PAC), the Department of Finance issued directions to all the departments in October 1967 to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. We forward the draft paragraphs to the Secretaries of the Departments concerned through demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Government is invariably indicated at the end of each paragraph included in the Audit Report.

Thirty one paragraphs including two reviews in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2010 were forwarded to the secretaries of the respective departments between April 2009 and April 2010 through demi official letters. Replies to 25 of the paragraphs have not been received.

#### **1.2.5 Follow up on the Audit Reports - summarised position**

To ensure accountability of the executive in respect of all the issues dealt in the various Audit Reports, the Department of Finance issued instructions in August 1992 to initiate *suo moto* action on all paragraphs/reviews figuring in the Audit Reports irrespective of whether the cases were taken up for examination by the PAC or not. Out of 209 paragraphs/reviews included in the Audit Reports for the period 2003-04 to 2008-09, which had already been laid before the State Legislature, action taken notes (ATNs) in respect of 121 paragraphs/reviews were not received as of June 2010 as mentioned below:

Year of Report	Date of presentation of Audit Report to the legislature	No. of paragraphs/reviews included in the Audit Reports	No. of paragraphs/reviews on which ATNs were due from the departments
2003-04	31 March 2005	23	4
2004-05	13 March 2006	25	7
2005-06	29 March 2007	30	15
2006-07	12 March 2008	32	12
2007-08	4 March 2009	49	33
2008-09	15 March 2010	50	50
<b>Total</b>		<b>209</b>	<b>121</b>

Though the time limit of three months for furnishing the ATNs for the Audit Reports for the period from 2003-04 to 2008-09 has elapsed, the departments have not submitted/furnished the ATNs on the paragraphs.

### **1.2.6 Compliance with the earlier Audit Reports**

During the years between 2004-05 and 2008-09, the departments/Government accepted audit observations involving ₹ 117.45 crore, out of which an amount of ₹ 7.23 crore was recovered till 31 March 2010 as mentioned below:

(₹ in crore)

Sl. No.	Year of Audit Report	Total money value	Accepted money value	Recovery made
1.	2004-05	101.11	32.41	2.07
2.	2005-06	245.62	4.10	2.33
3.	2006-07	197.96	2.90	1.92
4.	2007-08	352.33	35.46	0.63
5.	2008-09	218.15	42.58	0.28
<b>Total</b>		<b>1,115.17</b>	<b>117.45</b>	<b>7.23</b>

The Government may issue appropriate instructions to the concern Departments to make recovery in accepted cases on priority.

### **1.3 Analysis of the mechanism for dealing with the issues raised by Audit**

The succeeding paragraphs 1.3.1 to 1.3.2 discuss the performance of the State Excise Department to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 2000-01 to 2009-10.

The Department stated that they had constituted audit compliance committees at divisional level which reviewed the pending paragraphs every month. We however, observed that during the year 2009-10 no audit committee meeting under the head "0039 State Excise" was held by the Department with the Principal Accountant General (Audit) Punjab & UT, Chandigarh.

The Department further stated that there existed a system in the Department for monitoring recoveries pointed out in the paragraphs included in the Inspection Reports, Reviews and paragraphs included in the Audit Reports at the level of Commissioner.

We observed that inspite of our reminders to the Department/Government intimating the list of outstanding paragraphs contained in the Inspection Reports and Audit Reports asking them to take necessary steps for their earlier settlement, no action was being taken by the Department/Government.

#### **1.3.1 Position of Inspection Reports**

The summarised position of inspection reports issued to the Excise Department during the last 10 years, paragraphs included in these reports and their status as on 30 June 2010 are tabulated below:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2000-01	295	389	41.17	36	54	4.53	31	30	0.22	300	413	45.48
2001-02	300	413	45.48	37	40	3.63	18	8	0.39	319	445	48.72
2002-03	319	445	48.72	47	40	3.13	44	53	0.17	322	432	51.68
2003-04	322	432	51.68	35	32	7.42	273	337	16.59	84	127	42.51
2004-05	84	127	42.51	37	32	2.08	56	63	1.28	65	96	43.31
2005-06	65	96	43.31	54	52	2.13	25	17	0.05	94	131	45.39
2006-07	94	131	45.39	44	54	2.85	7	11	0.33	131	174	47.91
2007-08	131	174	47.91	35	29	8.53	44	50	17.25	122	153	39.19
2008-09	122	153	39.19	50	35	13.28	31	13	0.39	141	175	52.08
2009-10	141	175	52.08	52	25	19.08	42	13	5.64	151	187	65.52

We observed that the number of IRs/Paras had increased from 94/131 involving ₹ 45.39 crore in 2005-06 to 151/187 involving ₹ 65.52 crore in 2009-10 i.e. an increase of 61 *per cent* in the number of paras in the last *five* years whereas the clearance of paras during the same period remained 13.5 *per cent* on an average except during 2007-08.

### **1.3.2 Assurances given by the Department/Government on the issues highlighted in the Audit Reports**

#### **1.3.2.1 Recovery of amount in the accepted cases**

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned below:

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of the accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2000-01	1	3.14	Not Accepted	-	-	-
2001-02	2	8.87	Not Accepted	-	-	-
2002-03	1	3.37	Not Accepted	-	-	-
2003-04	1 (Review)	20.84	Not Accepted	-	-	-
2004-05	1	3.18	Not Accepted	-	-	-
2005-06	2	7.02	Not Accepted	-	-	-
2006-07	2 1(Review)	1.83 64.21	Not Accepted Accepted 2 (Sub-Para )	- 0.54	-	- Awaited
2007-08	2	3.79	Not Accepted	-	-	-
2008-09	2	10.70	Not Accepted	-	-	-
2009-10	2	2.50	Not Accepted	-	-	-

The Public Accounts committee in its 136<sup>th</sup> Report (2000-01) recommended that immediate steps be taken to make necessary amendment in the existing Rules so that no undue advantage is taken by the distilleries. Further, in reply to paragraph 4.3 of the Audit Report (Revenue Receipts) for the year 2006-07, the Department intimated that the matter of amending the Rules 35 and 37 of the Punjab Distillery Rules 1932 was under the active consideration of the Government. We, however, observed that no action had been initiated by the Government to amend the rules so far.

### 1.3.2.2 Action taken on the recommendations accepted by the Department/Government

We conduct performance reviews and forward to the concerned Department/Government for their information with a request to furnish their replies. Our observations are also discussed in the exit conference and the Department's/Government's views are included while finalising the reviews for the Audit Reports.

We conducted the following two reviews on the State Excise Department during the last ten years.

(₹ in crore)

Year of Audit Report	Name of the Review	Number of recommendations contained in the Review	Details of the recommendations accepted	Status
2003-04	“Internal control in relation to manufacture of liquor by the distilleries”	2	Not accepted	-
2006-07	“Auction of vends and sale of liquor”	3	Accepted	Awaited

The Government has yet to initiate/take action on our recommendations.

## 1.4 Audit planning

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter-alia include critical issues in government revenues and tax administration i.e. budget speech, white paper on state finances, reports of the finance commission (state and central), recommendations of the taxation reforms committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2009-10, the audit universe comprised of 626 auditable units, of which 441 units were planned and audited during the year which is 70.45 per cent of the total auditable units. The details are shown in the annexure ‘A’.

Besides the compliance audit mentioned above, two performance reviews were also taken up to examine the efficacy of the tax administration of the receipt concerned.

## 1.5 Results of audit

### 1.5.1 Position of local audit conducted during the year

During test check of the records of sales tax/VAT, state excise, motor vehicles tax, stamp duty and registration fee, other tax and non-tax receipts during the year 2009-10, we found under assessment, short levy, loss of revenue etc. amounting to ₹ 190.91 crore in 1,823 cases. During the year, the departments

accepted under assessment of ₹ 1.93 crore in 679 cases pointed out in 2009-10 and earlier years and recovered ₹ 8.19 crore in 472 cases.

### **1.5.2 This Report**

This report contains 31 paragraphs including two performance reviews on 'Transition from sales tax to value added tax' and 'Levy and collection of stamp duty and registration fee' relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 94.52 crore. The departments/Government have accepted audit observations involving ₹ 32.51 crore, out of which ₹ 7.37 lakh has been recovered. The replies in respect of the remaining cases have not been received (October 2010).

## CHAPTER-II Sales Tax/Value Added Tax

### 2.1 Tax administration

The Financial Commissioner, Taxation and Principal Secretary to the Government of Punjab is overall incharge of the Excise and Taxation Department. Subject to the overall control and superintendence of the Excise and Taxation Commissioner (ETC), the administration of the Punjab Value Added Tax Act, 2005 (PVAT Act)/Central Sales Tax Act (CST Act) is carried out by the Additional Excise and Taxation Commissioner (Addl. ETC), Joint Excise and Taxation Commissioners (JETCs) at the headquarters, Deputy Excise and Taxation Commissioners (DETCs) at the divisional level and Assistant Excise and Taxation Commissioners (AETCs), Excise and Taxation Officers (ETOs) and other allied staff at the district level. The authorities performing duties within their jurisdictions as specified by the Government under the Punjab Value Added Tax Act are called as Designated Officers (DOs).

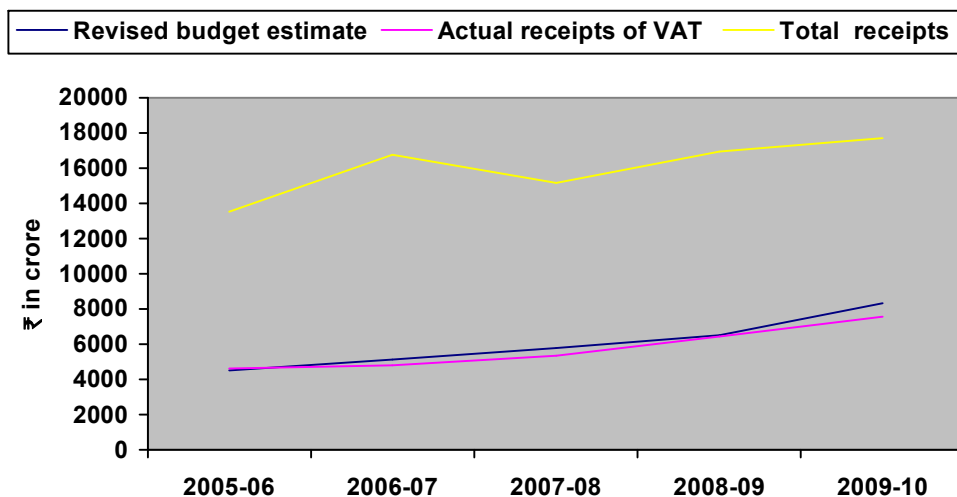
### 2.2 Trend of receipts

The actual receipts from Sales Tax/Value Added Tax (VAT) during the last five years from 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax and non-tax receipts of the State	Percentage of actual VAT receipts to the total receipts
2005-06	4,500.00	4,626.88	(+) 126.88	(+) 2.82	13,525.71	34.21
2006-07	5,125.00	4,829.02	(-) 295.98	(-) 5.78	16,761.74	28.81
2007-08	5,778.00	5,342.49	(-) 435.51	(-) 7.54	15,153.14	35.26
2008-09	6,529.62	6,435.63	(-) 93.99	(-) 1.44	16,934.10	38.00
2009-10	8,320.00	7,577.49	(-) 742.51	(-) 8.92	17,692.18	42.83





The actual receipts of VAT increased from 4626.88 to 7577.49 during the period 2005-06 to 2009-10 an increase of 64 per cent.

It may be seen that variations between budget estimates and actual receipts ranged between (-) 8.92 per cent and 2.82 per cent.

### **2.3 Analysis of the arrears of revenue**

The pre VAT and post VAT position of arrears of revenue on account of non-recovery of sales tax/value added tax during the year 2001-02 to 2009-10 is as under:-

(₹ in crore)						
Pre VAT			Post VAT			
Year	Arrears during the year	Cumulative arrears	Year	Arrear		Cumulative arrears
				Addition	Clearance	
2001-02	--	262.57	2005-06	145.26	--	760.91
2002-03	172.95	435.52	2006-07	786.93	--	1,547.84
2003-04	30.65	466.17	2007-08	486.78	--	2,034.62
2004-05	149.48	615.65	2008-09	--	1,174.52	860.10
			2009-10	--	484.12	375.98

The above table shows that the arrears of tax due under the pre VAT period ending March 2005 was ₹ 615.65 crore, which was reduced to ₹ 375.98 crore in the post VAT period ending March 2010. Out of ₹ 375.98 crore, ₹ 169.09 crore were outstanding for more than five years. The Department had made explicit provisions in the PVAT Act to recover the arrears of tax due under the repealed Act. The details of clearance of arrears of ₹ 1,174.52 crore during the year 2008-09 and ₹ 484.12 crore during 2009-10 were called for, but reply was not received (October 2010).

## 2.4 Assessee profile

The number of dealers registered during the year showing separately the large taxpayers and small dealers, number of dealers required to file returns, number of returns received etc. are mentioned below:

Total no. of dealers registered upto 31 March 2009	No. of dealers registered during the year 2009-10	Large tax payers during the year 2009-10	Small dealers during the year 2009-10	No. of dealers required to file returns during the year 2009-10	No. of returns received during the year 2009-10	No. of returns not received by the Department during the year 2009-10	No. of notices issued to the dealers who failed to furnish returns during the year 2009-10
1,81,940	11,514	149	1,93,305	1,93,454	1,85,941	7,513	7,513

## 2.5 Arrears in assessment

The number of cases pending for assessment at the beginning of the year, becoming due during the year, disposed during the year and pending at the end of each year during 2005-06 to 2009-10 as furnished by the Department in respect of sales tax are mentioned below:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year
2005-06	2,95,968	1,46,121	4,42,089	1,58,593	2,83,496
2006-07	2,83,496	1,62,447	4,45,943	87,560	3,58,383
2007-08	3,58,383	----	3,58,383	30,460	3,27,923
2008-09	80,650	----	80,650	27,623	53,027
2009-10	53,027	----	53,027	12,968	40,059

The closing balance of 2007-08 includes 2,47,273 cases pertaining to VAT and there is no provision for regular assessment under the PVAT Act 2005. Thus, the opening balance of 2008-09 and thereafter depicts the sales tax cases only. The Department needs to complete the pending assessment cases pertaining to pre-VAT period in a time bound manner. As of 1 April 2009, 53,027 assessment cases had become time barred. An illustrative case of loss due to failure to complete the assessment in time is discussed in paragraph 2.10.9.

## 2.6 Cost of collection

The gross collection in respect of sales tax/value added tax, expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2005-06 to 2009-10 alongwith the relevant all India average percentage of expenditure on collection are mentioned below:

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure to collection
Taxes on sales, trade etc./VAT	2005-06	4,626.88	49.06	1.06	0.91
	2006-07	4,829.02	41.78	0.87	0.82
	2007-08	5,342.49	45.81	0.86	0.83
	2008-09	6,435.63	48.53	0.75	0.88
	2009-10	7,577.49	59.83	0.79	-

The increase in cost of collection in 2009-10 was due to implementation of the pay commission's recommendations. However, the percentage of expenditure to the gross collection in the State was lower than the All India average since 2008-09.

## 2.7 Analysis of collection

The breakup of the total collection at pre-assessment stage and after regular assessment of VAT/sales tax, for the year 2009-10 and the corresponding figures for the preceding four years as furnished by the Department is mentioned below:

(₹ in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per the Department	Net collection as per the Finance Account	Percentage of column 3 to 8
1	2	3	4	5	6	7	8	9
Taxes on sales, trade etc./VAT	2005-06	4,603.05	46.83	5.68	37.15	4,618.41	4,626.88	99.48
	2006-07	4,967.60	37.08	3.25	220.05	4,787.88	4,829.02	102.87
	2007-08	6,128.94	49.04	14.15	320.84	5,871.29	5,342.49	114.72
	2008-09	7,397.86	14.67	4.27	373.80	7,043.00	6,435.63	114.95
	2009-10	8,634.88	20.76	4.15	375.66	8,284.13	7,577.49	113.95
	<b>Total</b>		<b>168.38</b>	<b>36.50</b>	<b>1333.50</b>	<b>30,611.71</b>	<b>28,819.51</b>	

We observed that:

- the percentage of tax collected (at pre assessment stage/at the time of filing of returns) before regular assessment has been increasing from the year 2005-06 to 2008-09 when it reached 114.95 *per cent* of the total net collection. However, it declined to 113.95 percent during 2009-10. The Department collected ₹ 168.38 crore after regular assessment conducted during the years 2005-06 to 2009-10 which proved that assessments were not being conducted properly as commented in paragraph 2.10.9.
- the tax due in the cases detected during test check of selective cases conducted by Audit during the period from 2005-06 to 2009-10 amounted to ₹ 314.54 crore, which is almost two fold higher than the amount collected by the Department after regular assessment. The high amount of leakage of revenue detected by Audit only in test checked cases vis-a-vis the amount collected after regular assessment, points towards a need for the Government to strengthen the tax administration.

- the refunds allowed during the years 2005-06 to 2009-10 also registered a consistent increase. It reached ₹ 375.66 crore in 2009-10 from ₹ 37.15 crore in 2005-06 which is almost ten times higher, whereas the amount collected after regular assessment during these years ranged between ₹ 14.67 crore to ₹ 49.04 crore.
- The net collection during the year 2009-10 as intimated by the Department was ₹ 8,284.13 crore whereas, it was ₹ 7,577.49 crore as per the Finance Accounts, which indicated that the Department was not reconciling the net collection with the office of the Accountant General (A&E) Punjab.

## 2.8 Impact of audit

### Revenue impact

During the last five years, Audit through its audit reports had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 258.86 crore in 1,547 paragraphs. Of these, the Department/Government had accepted audit observations in 241 paragraphs involving ₹ 5.24 crore and recovered ₹ 3.18 crore in 227 cases. The details are shown in the following table:

(₹ in crore)

Year	Number of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	228	382	23.40	60	0.71	60	0.71
2005-06	239	399	52.86	75	1.24	44	0.81
2006-07	242	241	14.08	29	0.88	31	0.61
2007-08	88	230	133.50	59	0.34	63	0.67
2008-09	138	295	35.02	18	2.07	29	0.38
<b>Total</b>	<b>935</b>	<b>1547</b>	<b>258.86</b>	<b>241</b>	<b>5.24</b>	<b>227</b>	<b>3.18</b>

## 2.9 Results of audit

Test check of the records of 87 units relating to sales tax/VAT during 2009-10 revealed underassessment of tax and other irregularities involving ₹ 55.55 crore in 157 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Performance audit of Transition from sales tax to Value Added Tax (A review)	1	20.82
2.	Loss of revenue due to excess refund of VAT	7	0.09
3.	Non/short levy of sales tax/VAT	64	16.40
4.	Incorrect grant of exemption from tax	4	0.51
5.	Non/short levy of penalty	6	4.31
6.	Other irregularities	75	13.42
<b>Total</b>		<b>157</b>	<b>55.55</b>

During the year 2009-10, the Department accepted audit observations involving ₹ 1.06 crore in four cases and recovered ₹ 3.68 crore in 148 cases pertaining to the audit findings of previous years.

A few illustrative audit observations involving ₹ 5.35 crore and a review on **Transition from sales tax to value added tax** with financial impact of ₹ 20.82 crore are discussed in the following paragraphs.

## **2.10 Performance Audit of Transition from Sales Tax to Value Added Tax**

### **Highlights**

- The VAT was introduced by the Punjab State Government w.e.f. 1<sup>st</sup> April 2005. The post VAT collection increased from ₹ 4626.88 crore to ₹ 7577.49 crore during the period 2005-06 to 2009-10 and the average growth rate during the period was 12.75 *per cent*. The number of registered dealers also increased from 1.46 lakh to 1.93 lakh.

**(Paragraph 2.10.5)**

- The shortages in manpower adversely affected the working of the Department in terms of shortfalls in scrutiny of returns and tax audits, an essential feature of the VAT system of levy.

**(Paragraph 2.10.6.3)**

- There was loss of revenue of ₹ 12.76 crore in time barred assessments under the Punjab General Sales Tax Act 1948.

**(Paragraph 2.10.9)**

- As a result of surveys conducted, 1937 dealers could be registered by the Department during the period 2005-06 to 2009-10, however two districts of Barnala and Patiala did not conduct any survey whereas negligible number of surveys were conducted in Ludhiana and Ropar district.

**(Paragraph 2.10.10.3)**

- Though 876 dealers in four districts had not filed quarterly returns, and 6654 dealers had not filed their annual statements, Department had not taken action under the Rules to initiate penal proceedings.

**(Paragraph 2.10.11)**

- It was seen that over the period 2005-06 to 2008-09, 10.98 lakh tax returns filed by the dealers were not scrutinised, non-scrutiny ranging from 70 to 100 percentage. Refunds allowed to the dealers were not pre-audit. Audit noticed omissions and irregularities in returns not scrutinised, resulting in short levy/payment of tax of ₹ 2.37 crore.

**(Paragraph 2.10.11.2)**

- Non-finalisation of the assessment as required in the Deferment & Exemption Rules saved under the Punjab Value Added Tax Act resulted in excess carry forward/availment of exemption of ₹ 1.47 crore.

**(Paragraph 2.10.12)**

- The PVAT Act/Rules prescribed for audit of returns by the Departmental Officer, to be carried out within a period of six years from the date of furnishing of returns. The State Government had neither finalised the parameters for audit of returns nor had they operationalised the module for Tax Audit in COVIS (October 2010).

**(Paragraph 2.10.15)**

- Internal audit of VAT returns was non-existent.

(Paragraph 2.10.18)

### **2.10.1 Introduction**

The Empowered Committee of the State Finance Ministers in a conference held on 16 November 1999 issued a 'White Paper' for introduction of the VAT in India. Accordingly, the Committee unanimously decided in January 2002 to implement VAT. The white paper envisaged that after the introduction of VAT:

- ❖ the cascading effect of the existing taxation laws of the States would be eliminated due to credit of tax paid on purchase for resale or for use in manufacture;
- ❖ other taxes would be abolished and the overall tax burden would be rationalised. The Central Sales Tax (CST) would also be phased out;
- ❖ the overall tax would increase and there would be higher revenue growth; and
- ❖ there would be self assessment by the dealers and set off would be given for input and tax paid on previous purchases.

The Government of Punjab repealed the Punjab General Sales Tax Act (PGST Act), 1948 and enacted the Punjab Value Added Tax Act, 2005 (PVAT Act) for implementation of VAT with effect from 1 April 2005. Under the PGST Act, sales tax was levied at the last stage of sale except the goods notified for levy of tax at the first stage of sale in the State; whereas under the PVAT Act, VAT is levied at every stage of sale in the supply chain within the State and simultaneously, tax paid if any, at the earlier stages is allowed as input tax credit (ITC), by deduction from the tax payable at the subsequent stage.

### **2.10.1.2 Difference between PVAT and PGST**

Some of the differences between the PVAT Act and the repealed PGST Act are as under:

- ❖ VAT is a multi-point taxation system, the repealed Act had a single point taxation system;
- ❖ The VAT system relies more on the dealers to pay tax willfully and submit self assessed returns whereas under the repealed Act, supporting documents were required to be produced along with the returns;
- ❖ The PVAT Act provides for tax audit of the dealers, but no norms have been fixed for assessment separately. Whereas under the repealed Act, hundred per cent of the returns were being assessed;
- ❖ The executives have a reduced control over the dealers under the VAT regime in comparison to the repealed Act; and
- ❖ Under the PGST Act, the goods were taxable under nine different tax groups i.e. one per cent, two per cent, three per cent, four per cent, eight per cent, 12 per cent, 20 per cent, 25 per cent and 30 per cent. In addition, surcharge at the rate of 10 per cent of the tax assessed was also

leviable on goods other than the declared goods. Under the PVAT Act, goods are taxable under six tax groups i.e. one *per cent*, four *per cent*, 8.8 *per cent*, 12.5 *per cent*, 20 *per cent* and 27.5 *per cent* and there is no provision for levy of surcharge.

With a view to assess the implementation of VAT, it was decided to review the transition from sales tax to value added tax. The review revealed a number of system and compliance deficiencies, which have been discussed in the subsequent paragraphs.

### **2.10.2 Audit objectives**

The review was conducted to ascertain whether:

- the transition from sales tax to value added tax was effected in time and efficiently;
- the provisions of PVAT Act and Rules made thereunder were adequate and enforced effectively to safeguard the revenue of the State;
- there were lacunae in the provisions of the Act, the Rules and the procedures in safeguarding the revenue; and
- the internal control mechanism existed in the Department was adequate and effective to prevent the leakage of revenue.

### **2.10.3 Scope of audit**

With a view to ascertain the effectiveness of transition from sales tax to value added tax, the records of two divisions<sup>1</sup> out of six divisions and nine districts<sup>2</sup> out of twenty four districts in the State were test checked covering the period from 2005-06 to 2009-10. In addition, records in the office of ETC Punjab, Patiala were also scrutinised. The review was conducted between April to June 2009, in April 2010 and some additional information were collected in July 2010. The divisions/districts were selected on the basis of revenue by adopting the probability proportion to size method. Filing and scrutiny of returns, tax audit and audit of assessment and monitoring of the refund cases were identified as risk areas for detailed scrutiny.

### **2.10.4 Acknowledgement**

The Indian Audit and Accounts Department acknowledges the co-operation of the Excise and Taxation Department in providing necessary records and information to Audit.

### **2.10.5 Pre VAT and Post VAT collection**

The comparative position of pre VAT sales tax collection (2001-02 to 2004-05) and post VAT (2005-06 to 2009-10) tax collection and the growth rate in each of the years is furnished in the table and chart below:-

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<sup>1</sup> Ludhiana and Patiala.

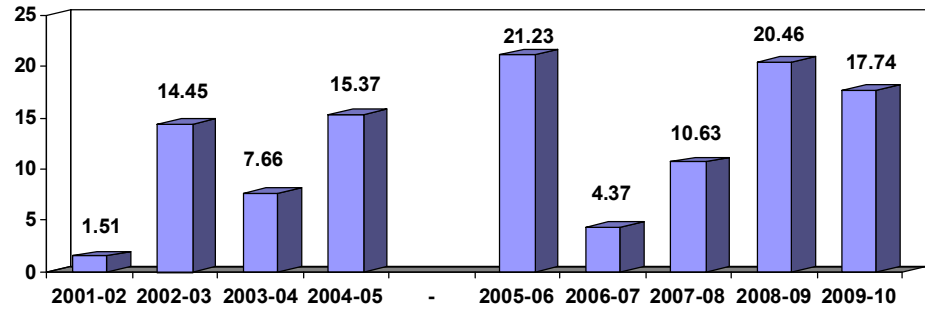
<sup>2</sup> AETCs Ludhiana I, II, III, Fatehgarh Sahib, Barnala, Mohali, Patiala, Ropar and Sangrur.



(₹ in crore)

Pre VAT			Post VAT		
Year	Actual collection	Percentage of growth	Year	Actual collection	Percentage of growth
2001-02	2,684.33	1.51	2005-06	4,626.88	21.23
2002-03	3,072.44	14.45	2006-07	4,829.02	4.37
2003-04	3,307.94	7.66	2007-08	5,342.49	10.63
2004-05	3,816.38	15.37	2008-09	6,435.63	20.46
			2009-10	7,577.49	17.74

Percentage of growth of revenue



(Pre VAT)

(Post VAT)

The average growth rate from 2001-02 to 2004-05 under the repealed Act was 10.54 per cent, whereas the average growth rate from 2005-06 to 2009-10 under the PVAT Act was 12.75 per cent. The year-wise details are given below:-

Year	Pre VAT	
	Actual collection (₹ in crore)	Number of registered dealers
2001-02	2,684.33	1,51,433
2002-03	3,072.44	1,43,297
2003-04	3,307.94	1,49,120
2004-05	3,816.38	1,49,621
Post VAT		
2005-06	4,626.88	1,46,121
2006-07	4,829.02	1,62,447
2007-08	5,342.49	1,68,267
2008-09	6,435.63	1,81,940
2009-10	7,577.49	1,93,454

The reasons for slow growth rate in 2006-07 were attributed by the Department (October 2009) to more refunds (₹ 200 crore) as compared to the refunds (₹ 80 crore) made in 2005-06. Increase in general rate of tax from 8.8 per cent to 12.5 per cent, conversion of many of the tax free items as taxable, imposition of tax on every point were some of the reasons attributed for the increase in revenue during the VAT regime.

## 2.10.6 Preparedness and transitional process

### 2.10.6.1 Planning for implementation of VAT in the State

With a view to have smooth implementation of VAT in the State, the Government initiated the process of registration of existing dealers by asking them to submit the fact sheet and copy of the original registration certificate pertaining to PGST as well as CST by 30 April 2003. If the dealer was found eligible for VAT registration, then VAT Registration Number (VRN) allocated by the Head Office was issued. Further, the Department brought out a 'Tax Payers Guide' for creating awareness of VAT in Punjab in March 2005. For easy understanding, a question and answer format in simple language was also used. Through this guide, the public and stakeholders were made aware that VAT is a new system of tax collection under which tax is charged at each stage of sale.

### 2.10.6.2 Training of staff

The Department had a Staff Training School at Patiala for imparting training to the staff. The Department published manuals for reference to the field officers for successful implementation of the VAT.

Test check of the data supplied by the Department in July 2010 regarding training to the staff revealed that 462 out of 730 officers/officials were trained between April 2005 and March 2010 for implementation of VAT. However, it was observed that the Department had not fixed any target for imparting training for implementation of VAT, as even after five years of introduction of VAT only 63 *per cent* of the officers/officials had been trained (March 2010).

### 2.10.6.3 Shortage of manpower

Manpower management is a key factor for smooth and efficient working of a Department and shortage of personnel impacts the output. The overall position of sanctioned strength<sup>3</sup> vis-à-vis the vacancies in the cadres from Group A to Group C as furnished by the Department are given below:

Year wise/cadre wise sanctioned strength and men in position.					
Year	Cadre	Sanctioned strength	Men in position	Vacancies	Percentage of vacancies
2004-05	A	380	352	28	7.37
	B	11	9	2	18.18
	C	517	340	177	34.24
	<b>Total</b>	<b>908</b>	<b>701</b>	<b>207</b>	<b>22.80</b>
2005-06	A	406	339	67	16.50
	B	14	9	5	35.71
	C	530	343	187	35.28
	<b>Total</b>	<b>950</b>	<b>691</b>	<b>259</b>	<b>27.26</b>
2006-07	A	410	325	85	20.73
	B	14	14	0	0.00
	C	530	324	206	38.87
	<b>Total</b>	<b>954</b>	<b>663</b>	<b>291</b>	<b>30.50</b>

<sup>3</sup> Does not include the ministerial staff deployed in the district offices.

2007-08	A	412	315	97	23.54
	B	14	14	0	0.00
	C	530	329	201	37.92
	<b>Total</b>	<b>956</b>	<b>658</b>	<b>298</b>	<b>31.17</b>
2008-09	A	412	286	126	30.58
	B	14	12	2	14.28
	C	530	354	176	33.21
	<b>Total</b>	<b>956</b>	<b>652</b>	<b>304</b>	<b>31.79</b>
2009-10	A	412	274	138	33.49
	B	75	52	23	30.66
	C	554	478	76	13.71
	<b>Total</b>	<b>1,041</b>	<b>804</b>	<b>237</b>	<b>22.76</b>

We observed that vacancies had adversely affected the working of the Department and there were shortfalls in scrutiny of returns and tax audit etc. as pointed out in the paragraphs 2.10.11.2 and 2.10.15.

#### **Audit findings**

The deficiencies in the transition from sales tax to VAT noticed during the review are discussed in the succeeding paragraphs.

#### **2.10.7 Computerisation of Value Added Tax Information System (COVIS)**

The Computerisation of Value Added Tax Information System was reviewed and a mention was made in the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the year ended 31 March 2008. The audit findings highlighted that the computerisation was undertaken with a view to enhance the efficiency of the organisation in implementing the PVAT Act and Rules made thereunder. It was expected that the COVIS system would assist in maximising the collection of taxes, duties and levies which the Department imposes and collects. However, the utility of the COVIS was restricted on account of non-implementation of all the modules and partial utilisation of rest of the implemented modules. The unreliable and inaccurate data in the system further hampered its utility in monitoring the defaulters and preventing the leakage in revenue. Lack of input and validation controls resulted in various irregularities such as acceptance of wrong entries of vehicle number, unreliable master data of dealers, unauthorised alteration of data etc. Besides, logical access controls for preventing unauthorised alteration of data were found weak. Due to incomplete, inaccurate and unreliable data in the system, no assurance could be derived from the functioning of the system in its present status of implementation. The monitoring by the Department was deficient to the extent that the COVIS was not being used for generation of the Management Information System (MIS) reports which was otherwise expected after implementation of the COVIS.

*The Government may consider rectifying the deficiencies in the COVIS.*

### 2.10.8 Deficiencies in the Act and the Rules

There are some lacunae in the provisions of PVAT Act and Rules, which were not redressed by the Department even after five years of implementation of the Act in the State. These are described below:-

The Deferment and Exemption Rules 1991, (D&E Rules) under the PVAT Act provides that an assessment of a unit in respect of which deferment or exemption certificate had been granted shall be made in accordance with the provisions of the PGST Act and the Rules made thereunder.

(a) The PGST Act has since been repealed, but instructions for assessment under the D&E Rules in the VAT regime have not been issued so far.

Section 19(5) of the PVAT Act provided that ITC, on goods specified in Schedule H and liable to purchase tax under the Act when sold in the course of inter state trade or commerce, shall be admissible only to the extent of tax chargeable under the CST Act.

(b) The State Government amended Section 19(5) of the PVAT Act in March 2008 for allowing ITC on purchase tax paid equal to CST chargeable on the products of goods specified in Schedule H. But the matter regarding allowance of credit of ITC on purchase tax payable prior to the issue of notification of March 2008 had remained without clarification.

In an illustrative case, we found that a dealer under the jurisdiction of AETC Mohali who had filed self assessment returns for the year 2006-07, had claimed and was allowed credit of ITC on the purchase of cotton corresponding to ISS of cotton yarn valued ₹ 8.74 crore at the rate of four *per cent* instead of two *per cent*. This resulted in excess allowance of ITC of ₹ 5.87 lakh due to deficiency in the above mentioned Rules during the period from April 2005 to March 2008.

### 2.10.9 Loss due to time barred assessments

#### AETC, Mohali

The Punjab General Sales Tax Act 1948 provides that the Assessing Authority shall after hearing such evidence as the dealer may produce and such other evidence as the Assessing Authority may require on specified points, pass an order of assessment within a period of three years from the last date prescribed for furnishing the last return in respect of any period.

We found that in the exercise of his powers under the Act *ibid*, the ETC Punjab, Patiala had granted (April 2008) extension in 1,464 cases pertaining to the assessment year 2004-05 upto 31 March 2009 for finalising the assessment. Aggrieved by this order, six dealers approached the VAT Tribunal, Punjab, which set aside the impugned order on the ground that:

- (i) the reasons given in the order for granting extension in the period of limitation that the dealers had not furnished C forms and other documents and thus, the assessment could not be completed in 1,464 pending cases, were not valid and acceptable; and
- (ii) the opportunity of being heard was not provided to the appellants.

When the assessment under the Act could have been completed within the time of limitation without waiting for the assesseees to produce C forms or other documents, why the Department waited so long till the assessment cases became time barred lacked justification. Consequent upon the 33 assessment cases wherein the demands for tax of ₹ 12.76 crore becoming time barred, the State suffered a loss of revenue of ₹ 12.76 crore. Though the Department was asked to clarify whether any appeal has been filed, no reply has been furnished (October 2010).

### **2.10.10 Registration and database of dealers**

#### **2.10.10.1 Registration of the dealers**

As per the PVAT Act, any person who was registered before 1 April 2005 under the PGST Act, and continued to be so registered on the day immediately before the said day, is liable to pay tax under the PVAT Act. The DO shall, within thirty days of receipt of application in the prescribed form, issue a fresh registration for VAT or turnover tax (TOT) dealership, as the case may be.

We found that the dealers registered under the repealed Act had applied for registration under the PVAT Act and VAT or TOT registration numbers were issued to these dealers. However, the database of the dealers registered under the repealed Act vis-a-vis the dealers registered under the PVAT Act was not generated by the Department from the COVIS, even though separate modules for registration of dealers containing all the requisite information for the maintenance of database were available in the system.

The data of the dealers registered under the pre VAT and post VAT periods compiled by Audit on the basis of information collected from the Department is as under:-

Years	Number of assesseees	
	Pre VAT	Post VAT
2001-02	1,51,433	-
2002-03	1,43,297	-
2003-04	1,49,120	-
2004-05	1,49,621	-
2005-06	-	1,46,121
2006-07	-	1,62,447
2007-08	-	1,68,267
2008-09	-	1,81,940
2009-10	-	1,93,454

There was steady increase in the number of registered dealers in the VAT regime and it increased from 1,46,121 in 2005-06 to 1,93,454 in 2009-10.

### 2.10.10.2 Periodic analysis of dealers below the threshold limit

Under the PVAT Act, a dealer with turnover of more than ₹ five lakh but below ₹ 50 lakh is liable to be registered as Registered person and is liable to pay tax under this Act by way of turnover tax (TOT) at the rate of one *per cent* up to 7 June 2007 and at the rate 0.25 *per cent* thereafter on his taxable turnover. The dealer with turnover of ₹ 50 lakh or above is required to pay VAT at prescribed rates. Thus, it is important to keep a watch on the turnover of the TOT dealers at periodic intervals. Scrutiny revealed that eligibility for TOT liability (more than ₹ five lakh but below ₹ 50 lakh) and VAT liability (₹ 50 lakh and above) was ascertained solely on the basis of the returns and trading accounts submitted by the dealers. Thus, there is a need to undertake periodic scrutiny of the books of accounts of such dealers to assess and verify the threshold limits for the appropriate tax.

### 2.10.10.3 Survey to detect the unregistered dealers

The PVAT act provided that:

- ❖ No dealer who is liable to pay tax under the Act, shall carry on business as a dealer unless he has registered under the Act and has a certificate of registration.
- ❖ For identification of the persons, who are liable to pay tax but have remained unregistered, the Commissioner may order to conduct survey of such unregistered persons by issuing of notices to the persons to whom the unregistered dealer had made sale transactions and to the banks or financial institutions calling for the details and particulars of services rendered by them.

We noticed that 7,445 surveys were conducted by the Department in nine excise<sup>4</sup> districts during the years from 2005-06 to 2008-09 and only 1,937 dealers were registered as a result of the surveys. We further observed that no survey was conducted by the AETCs, Barnala and Patiala during the aforesaid period, whereas negligible number (486) of surveys were conducted in two districts<sup>5</sup> only during the year 2005-06.

<sup>4</sup> Ludhiana-I, II, and III, Fatehgarh Sahib, Patiala, Sangrur, Ropar, Mohali and Barnala.

<sup>5</sup> Ludhiana-I and Ropar.

#### **2.10.10.4 Confirmation of securities**

Under Section 25 of the PVAT Act 2005:

- ❖ Every person applying for registration shall furnish a security of ₹ 50,000 prescribed for securing proper and timely payments of tax payable by him.
- ❖ the security already furnished by a person registered under the PGST Act, 1948 shall be deemed to have been furnished under this Act, subject, however, to the confirmation from the sureties within a period of one year from the appointed day.

In the offices of three AETCs<sup>6</sup>, we observed that the securities in respect of 28,646 existing registered dealers were required to be confirmed by 31 March 2006 under the PVAT Act; out of this, 27,233 securities were confirmed within the prescribed/ extended period and 1,413 securities were still to be confirmed (April 2010).

#### **2.10.10.5 Failure to obtain securities**

The PVAT Rules, 2005 provide that the security or additional security or further security, as the case may be, required to be furnished for registration, shall be in the form of a bank guarantee from a local scheduled bank or in the form of a personal bond with two solvent sureties, acceptable to the designated officer in form VAT-3.

We analysed the COVIS data in the offices of AETC, Ludhiana-I and Patiala and found that 864 new dealers<sup>7</sup> were registered without obtaining two sureties; of which, 719 dealers<sup>8</sup> were registered without sureties and 145 dealers<sup>9</sup> were registered with single surety only in contravention of the Rules.

#### **2.10.10.6 Cancellation of the registration of dealers**

The registration issued under the PVAT Act could be cancelled by the DO if the dealer failed to adhere to the provisions of the Act.

We observed in many cases that dealers continued business even after cancellation of their registration certificates. But the Act is silent and does not contemplate any action against such dealers.

*The Government may consider incorporating a penal provision in the PVAT Act/Rules to contain the offending dealers who continued their business even after cancellation of the registration certificates.*

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<sup>6</sup> Ludhiana-I, III and Ropar.

<sup>7</sup> AETC, Ludhiana-I:466, AETC, Patiala:398.

<sup>8</sup> AETC, Ludhiana-I:381, AETC, Patiala:338.

<sup>9</sup> AETC, Ludhiana-I:85, AETC, Patiala:60.

### 2.10.10.7 Delay in cancellation of the Registration Certificates

The PVAT Rules provide that the order for cancellation of the registration shall be passed within a period of thirty days from the receipt of application.

We analysed the COVIS data in the offices of AETC, Ludhiana-I and Patiala and found that in 140 and 66 cases, the order of cancellation of the registration certificates were issued after 30 days with delays ranging from seven to 1,229 days.

### 2.10.10.8 Non-recovery of the registration fee

The PVAT Rules provide that:

- ❖ An application for registration shall be made in form VAT-I alongwith the receipt for a fee of ₹ 500 in form VAT-2.
- ❖ An application for obtaining registration for VAT or TOT by a person who had registered under the repealed Act, shall also be made in form VAT-I to the DO within 30 days from appointed day alongwith the original registration certificate granted under the repealed Act. No fee mentioned above shall be required to be deposited by such persons, if the application is made within the stipulated period.
- ❖ Under the PVAT Act, a taxable person who was registered under the repealed Act and whose registration had been continued under the PVAT Act, as TOT dealer shall be liable to pay tax on the stock held on 31 March 2005.

(a) We found that out of the 2,398 dealers to whom VAT/TOT numbers were granted by AETC Ropar, 1,853 dealers who were the existing registered persons under the repealed Act, had applied for registration under the PVAT Act after the stipulated period of 30 days and had not paid the registration fee of ₹ 9.27 lakh in contravention of the Rules.

(b) We observed that 1,216 persons, who were the existing registered persons under the repealed Act, had applied for and were allotted TOT registration number. When we called (April, 2010) for the records relating to the transitional stock held by these dealers, none of the AETCs selected in audit could produce the requisite records. As a result, the liability of tax payable on the transitional stock held on 31 March 2005 by these dealers could not be checked/verified in audit.



## **2.10.11 Return**

### **2.10.11.1 Late/non-filing of returns**

#### **AETCs Ludhiana-I and Patiala**

The Punjab Value Added Tax Act provides that if a person registered under this Act or any other person required to furnish return or annual statement without sufficient cause fails to furnish return or annual statement by the prescribed date, the Commissioner or the designated officer, may direct him to pay in addition to tax, interest or penalty under any other provision of the Act, a further penalty of a sum of ₹ 100 per day of default, subject to maximum of ₹ 10,000.

(a) We found that the COVIS table capturing the details of quarterly/annual returns did not have any field relating to penalty levied/realised from the defaulting dealers. In the absence of this provision in COVIS, non levy/short levy of penalty from the defaulting dealers could not be verified in audit. Analysis of the COVIS data revealed that 21,694 quarterly<sup>10</sup> and 7,159 annual<sup>11</sup> returns were filed after the prescribed due dates during the period from 2005-06 to 2008-09. In the office of the AETC, Ludhiana-I, though 12,050 quarterly returns were filed after the due dates with delays ranging between one and 1,401

days, the department did not invoke the penal provisions under the Act. Similarly, in the offices of AETCs, Ludhiana-I and Patiala, though 7,159 annual returns were filed after the due dates with delays ranging between one and 1,193 days, penalty was not levied.

(b) We noticed that 40,338 dealers in four AETCs<sup>12</sup> were registered under the PVAT Act from the 42,947 numbers of the existing registered dealers under the repealed Act and thus 2,609 numbers of dealers though not registered under the PVAT Act were deemed to have been registered under section 93(i) this Act. They were required to file the returns but the returns were not filed by them till date. The Department did not reply when requested to intimate whether any notices for levy of penalty were issued to the dealers.

(c) We noticed that 876 dealers in five AETCs<sup>13</sup> though registered under the PVAT Act had not filed 3,504 quarterly returns and 6,654 dealers had not filed their annual statement for the years 2005-06 to 2008-09 till date and the Department failed to identify the defaulters and levy penalty. The Department did not reply when requested to intimate whether any notices for penalty were issued to the defaulted dealers (September 2010).

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<sup>10</sup> AETC, Ludhiana-I:12,050 and AETC, Patiala:9,644.

<sup>11</sup> AETC, Ludhiana-I:4,879 and AETC, Patiala:2,280

<sup>12</sup> Ludhiana I, II, Sangrur and Ropar.

<sup>13</sup> Ludhiana I, Ludhiana II, Fatehgarh Sahib, Mohali and Patiala.

**2.10.11.2 Scrutiny of returns**

Section 29 of the PVAT Act read with rule 43 of the PVAT Rules provides that the DO shall scrutinise every return filed under section 26 of the Act. Scrutiny of the returns filed by the dealers is a tool of enforcement strategy of VAT administration. If during scrutiny of the return, it is found that less tax has been paid than the tax actually payable, the DO shall serve a notice upon the person concerned directing him to rectify the same and to pay the amount of tax less paid, alongwith the interest payable under section 32 of the Act and produce the treasury receipt(s) to the DO, within the time specified in the said notice. However, no intimation under the PVAT Act shall be sent after the expiry of one year from the end of the financial year in which the return is filed.

(a) We found that in nine AETCs mentioned in the table below, only a nominal number of returns (11 per cent) were scrutinised by the DOs during 2005-09. It can be observed from the table that one year had lapsed after the expiry of the financial year in which the returns were filed and it is not possible to issue any intimation now, even if the returns are scrutinised and any short payments etc. are detected, since the returns are deemed to have been assessed.

Name of the AETCs	Period	Number of returns			
		to be scrutinised	scrutinised	not scrutinised	percentage of shortage
Ludhiana-I	2005-09	2,64,556	9,308	2,55,248	96
Ludhiana-II	-do-	2,42,884	24,269	2,18,615	90
Ludhiana-III	-do-	1,92,244	14,272	1,77,972	93
Fatehgarh Sahib	-do-	77,200	4,852	72,348	94
Patiala	-do-	1,58,348	64,848	93,500	59
Sangrur	-do-	1,48,624	Nil	1,48,624	100
Ropar	-do-	35,816	10,885	24,931	70
Mohali	2006-09	89,212	--	89,212	100
Barnala	2007-09	26,396	7,970	18,426	70
<b>Total</b>	-	<b>12,35,280</b>	<b>1,36,404</b>	<b>10,98,876</b>	<b>89</b>

(b) A centralised database exists in the COVIS to watch the work done by the designated officer in the field. But the Department had not generated any information from the database regarding the number of returns scrutinised vis-a-vis shortfall in scrutiny of returns. A few examples of loss of revenue due to non-scrutiny of the returns are given below:-

PVAT Act provides that amount of duties levied or leviable on goods under the Central Excise Act 1914 shall be deemed to the part of sale price.

A dealer under the AETC, Ludhiana III engaged in the business of manufacture and sale of yarn, terry towel etc. in his self assessment return for the year 2006-07, did not include the excise duty of ₹ 18.25 crore to his gross turnover. This resulted in short payment of tax of ₹ 73 lakh.

- A dealer of the AETC, Hoshiarpur engaged in the business of work contract claimed deduction of ₹ 6.19 crore against the admissible deduction of ₹ 2.48 crore on account of labour etc. in his self assessment return for the year 2006-07. This omission had resulted in short levy of output tax of ₹ 10.52 lakh.
- Four dealers of the AETCs, Ferozepur, Gurdaspur and Sangrur engaged in the business of work contract claimed ITC at the rate of 12.5 *per cent* on the purchase and consumption of material worth ₹ 1.83 crore, but paid output tax at the rate of four *per cent* instead of appropriate rate of tax on the items of material consumed in the execution of work done as per their self assessment return for the year 2006-07. This resulted in short levy of output tax of ₹ 15.58 lakh.
- A dealer of the AETC, Ludhiana-I had shown sales of ₹ 110.99 crore in his self assessment return for the year 2006-07 instead of the actual sales of ₹ 114.18 crore, as shown in his trading account. This resulted in suppression of sales of ₹ 3.19 crore and short payment of tax of ₹ 12.79 lakh.

In all the above mentioned cases the Department had not carried out the scrutiny. Though the period of completing the scrutiny in these cases has been expired.

#### **2.10.12 Non-assessment of the exempted units**

The PVAT Act provides that Section 10A, 10B and 30A of the repealed Act and rules framed thereunder giving tax concessions to industrial units and assessment thereof shall remain in force. Further, Section 11(3) of the repealed Act provides that assessment of an exempted unit should have been finalised within a period of three years from the last date prescribed for furnishing of the last return.

As the provision for assessment of the deferred and exempted units as saved under the PVAT Act, the assessment in such cases for the assessment year 2005-06 should have been finalised by November 2009. The Department stated (October 2009) that the last date would be 30 September 2010 and the assessments were being done. The reply of the Department is not acceptable as the assessment had to be completed before 20 November 2009 as required under Section 11 (3) of the Act *ibid*. Two instances of failure to finalise the assessment are given below:

#### **AETC, Ludhiana-I**

(a) We noticed in May 2009 that in his self assessment return for the year 2007-08, while computing the output tax, a dealer claimed deduction of ₹ 22.35 crore from his gross sales, treating the sale as sale made by exempted unit, whereas his exemption limit had expired on 16 May 2006 and as such the dealer was liable to pay tax on his entire sale from 17 May 2006. Thus, non finalisation of the assessment as required under the saved D&E Rules resulted in non-levy of output tax of ₹ 89.41 lakh. The Department stated (October 2009) that assessment proceedings had been initiated and final reply would be communicated in due course. The latest position of the case is awaited (October 2010).

### AETC, Patiala

(b) We found that a dealer enjoying the benefit of exemption from payment of tax of ₹ 6.19 crore had availed the benefit of exemption of ₹ 2.85 crore leaving a balance of ₹ 3.34 crore as on 1 April 2005. The Department in May 2005 issued an entitlement certificate to the dealer for balance exemption of ₹ 3.92 crore instead of ₹ 3.34 crore as on 1 April 2005. We noticed that the dealer while filing his self assessment return for the year 2005-06 carried forward the balance exemption of ₹ 3.92 crore instead of ₹ 3.34 crore.

Thus, non-finalisation of the assessment as required in the saved (D&E) Rules and issue of incorrect entitlement exemption certificate by the DO resulted in excess carry forward of exemption of ₹ 58 lakh.

When we pointed out, the Department did not furnish any reply (October 2010).

**The Government may consider auditing of the returns by prescribing the parameters to be adopted for selection of the returns and procedure of tax.**

### 2.10.13 Input Tax Credit

#### AETC, Ludhiana-I and Sangrur

ITC is not admissible on the value of imported goods as provided in Section 13(1) of the PVAT Act.

(a) We found that out of the total purchases of ₹ 46.22 crore, two dealers had imported goods worth ₹ 19.79 crore, which was deductible from the total purchases for the purpose of claiming of

ITC. Against this, the dealers in their returns for the year 2006-07, had deducted only ₹ 1.71 crore and claimed ITC on the balance imported value of ₹ 18.08 crore treating it as local purchases which resulted in inadmissible ITC of ₹ 72.30 lakh.

When we pointed out, the Department did not furnish any reply (October 2010).

#### AETC, Ludhiana-I

ITC shall be allowed only to the extent by which the amount of tax paid in the state exceeds four *per cent* on purchase of goods used in the manufacturing or in packing of taxable goods sent outside the state by way of branch transfer.

(b(i)) We found that a dealer in his self assessment return for the year 2006-07 had shown branch transfer of ₹ 17.86 crore against the actual branch transfer of ₹ 20.79 crore as per the declarations in Form 'F' received from the purchaser. But the dealer apportioned ITC of ₹ 42 lakh against the apportionable ITC of ₹ 66 lakh. This resulted in short apportionment of ITC of ₹ 24 lakh.

When we pointed out, the Department did not furnish any reply (October 2010).

**b(ii)** We found that another dealer had shown in his self assessment return for the year 2006-07 the gross turnover of ₹ 145.80 crore, branch transfer of ₹ 97.90 crore and purchases eligible for ITC of ₹ 31.71 crore. The dealer had apportioned ITC of ₹ 46 lakh on account of branch transfer against the apportionable ITC of ₹ 51 lakh, which resulted in short apportionment of ITC of ₹ 5 lakh.

When we pointed out, the Department did not furnish any reply (October 2010).

**AETC, Mohali**

**c(i)** We found that a dealer in his self assessment return for the year 2006-07, had wrongly calculated input tax credit of ₹ 40.92 lakh instead of ₹ 32.30 lakh on the eligible purchases of ₹ 8.08 crore at the rate of four *per cent*. This resulted in excess claim of ITC of ₹ 8.62 lakh.

**c(ii)** We found that a dealer in his self assessment return for the year 2006-07 had claimed purchases of ₹ 25.35 crore against the actual purchases of ₹ 21.83 crore and thus claimed excess ITC of ₹ 14.11 lakh.

In all the above mentioned cases, the Department had not carried out the scrutiny/assessment/tax audit. Though the period of two years for scrutiny of return has expired. These cases can however be taken up for assessment with a period of six years.

**2.10.14 Deficiencies in the Forms of returns**

Scrutiny of monthly, quarterly and annual returns in form VAT-16, VAT-15 and VAT-20 respectively, which are required to be submitted by the dealers under Rule 36 and 40 of the PVAT Rules, revealed that columns regarding some most important information such as nature of business, details of commodities of sale/purchase made by the dealer were missing in the forms. The deficiencies in the forms could cause many difficulties to the Department to determine the deduction from turnover and application of correct rate of tax etc. and is also building up a database of assesses.

When we pointed out, the Department included the column regarding description of goods in the form of returns.

### 2.10.15 Tax audit

#### ETC, Patiala

As per the provisions of the PVAT Act and Rules made thereunder, the DO may conduct audit of any of the returns (including any document, information or statutory forms submitted) filed by a person in order to ascertain the correctness of return filed, the admissibility of various claims including ITC and refund. The audit is required to be carried out within a period of six years from the date of furnishing of the returns.

(a) The information regarding the norms/parameters adopted for selection of the returns for tax audit were called for from the ETC, Patiala but still awaited (October 2010). We noticed that a module for tax audit provided in the COVIS has not been made operational till date (October 2010).

Thus, neither the module for management of tax audit provided in the COVIS been utilised nor the functioning of tax audit been effectively monitored, though more than five years have elapsed after the introduction of VAT. We also noticed that the rules or executive instructions did not prescribe maintenance of any register or record to watch the progress of tax audit.

As a result, no records or registers were maintained in the field offices to watch the number of dealers selected for tax audit, name of the audit team to whom the audit was assigned, number of assessments made and the nature of findings etc. Consequently, the correct position regarding tax audit conducted and corrective measures taken by the Department to remove discrepancies or to recover the short remittance of tax, if any, from the assessee could not be ascertained.

*The Government needs to take action for auditing of the returns by prescribing the parameters to be adopted for selection of the returns and procedure of tax audit.*

(b) The Department of Excise & Taxation, Government of Punjab decided to engage an expert to assist them in identifying revenue augmentation measures and also to identify areas of leakages in VAT collection. The Excise & Taxation Department entered into an agreement on 30<sup>th</sup> October 2008 with a private firm M/s Pricewaterhouse Coopers Kolkata for preparation of policies and procedure for conducting VAT audit and collection of information by the Information Collection Centres (ICCs) at a cost of ₹ 66 lakh plus out of pocket expenses. The scope of work *inter-alia* included 35 dealers chosen for VAT audit in three districts of Punjab.

The Department was asked to furnish copies of the audit reports of 35 dealers audited by the private firm and the revenue impact as a result of audit. The Department did not furnish any reply except giving the audit reports of three dealers.

## **2.10.16 Refunds**

### **2.10.16.1 Audit of refunds issued to the dealers**

#### **AETC Ludhiana-I, II and III**

Audit of refunds is an important function from the revenue point of view. Checking/audit of refunds finalised by the assessing authority was assigned to the AETC (Inspection) under the repealed Act. The Government vide notification had created the post of Senior Auditor in August 2007.

The AETC cum Senior Auditor did not conduct the audit of refunds in 9,992 cases valued at ₹ 394.36 crore except 38 refunds audited in the office of AETC, Ludhiana-I during 2005-06.

### **2.10.16.2 Inadmissible refunds**

The Punjab tax on Entry of goods into Local Area Act, 2000 read with new conditions regulating deferment and exemption as contained in the Punjab VAT Act, 2005 provides that input tax credit on account of entry tax paid on the purchases shall not be admissible when goods are imported by an exempted/deferred unit, as the saved PGST (Deferment and Exemption) Rules do not permit any ITC/refund on purchases made from outside the state of Punjab.

(a) We noticed that while allowing the refunds in three AETCs<sup>14</sup> pertaining to the years 2007-08 and 2008-09 to four dealers (between May 2008 and March 2009) who were also availing the benefit of exemption from payment of tax, the designated officers incorrectly allowed input tax credit on account of entry tax paid on import purchases made by the dealers. This resulted in inadmissible allowance of ITC and consequent grant of refund to the extent of ₹ 3.78 crore.

(b) We noticed that while allowing refund by the AETC, Mohali to a dealer for the quarter ended March 2007, the designated officer incorrectly worked out the ITC ₹ 5.57 crore instead of ₹ 5.53 crore on the purchases of ₹ 50.99 crore and this resulted in excess refund of ₹ 3.92 lakh.

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<sup>14</sup> Ludhiana III, Barnala and Ropar.

Section 13(4) of PVAT Act, 2005 provides that input tax credit on lubricants, shall be allowed only to the extent by which the amount of tax exceeds four *per cent*, provided that these goods are used in the production of taxable goods or captive consumption of power.

**c(i)** We noticed that while allowing refund by the AETC, Mohali to a dealer for the period from 1 October 2007 to 30 September 2008, the DO had incorrectly allowed ITC on the purchase of lubricants of ₹ 64.72 lakh at the rate of 12.5 *per cent* without retaining four *per cent*. This had resulted in excess refund of ₹ 2.59 lakh.

**c(ii)** We noticed that while allowing refunds of ₹ 2.33 crore and ₹ 1.41 crore for the quarters ended March 2008 and June 2008 respectively by the AETC, Ludhiana-III to a dealer, imported purchases corresponding to credit of entry tax allowed was not accounted for in the total purchases resulting in suppression of purchases of goods of ₹ 5.80 crore. This resulted in evasion of tax of ₹ 23.18 lakh.

When the matter was reported to the Department (April 2010), the Department replied that the amount of entry tax for the quarter ended December 2007 was included in the quarter ended March 2008. Similarly the entry tax for the quarter ended March 2008 was included in the quarter ended June 2008. The reply of the Department is not acceptable as the dealer had claimed and was allowed the credit of entire entry tax during the period of refunds in question.

### 2.10.17 Non-verification of goods vehicles passing through the State

#### ICC, Lalru

PVAT Act provides that where a goods carrier of one State bound for any other State passes through the State of Punjab, the owner or person incharge of such vehicle shall furnish, in duplicate, to the officer incharge of the check post or the Information Collection Centre (ICC), a declaration in respect of his entry into the State in the prescribed form and obtain from him a copy thereof duly verified. The owner or person incharge of the vehicle, shall deliver within 48 hours the aforesaid copy of the declaration to the officer incharge of the check post or ICC at the point of his exit from the State, failing which, he shall be liable to pay a penalty equal to fifty per cent of the value of goods involved.

We noticed that in respect of 1,762 vehicles<sup>15</sup> carrying goods that entered into the State between April 2005 and March 2009 and declaring their exit point as ICC Lalru, the details of these vehicles were not available at ICC Lalru. In such circumstances, the Department was required to initiate action to trace these vehicles in the State and impose penalty for violation of the provisions of the PVAT Act. The Department did not follow the prescribed provisions of law.

When we pointed out, the Department did not furnish any reply (October 2010).

<sup>15</sup> 1,008 (2005-06), 526 (2006-07), 91 (2007-08) and 137 (2008-09).



### **2.10.18 Internal Audit**

Internal Audit Organisation (IAO) is a vital component of the internal control mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. IAO was set up in October 1981 as an independent organisation under the State Finance Department and was entrusted inter alia, with the internal audit of revenue receipts to safeguard against any loss or leakage of revenue arising under the various revenue heads including sales tax/VAT. By a notification of November 1991, the focus of audit was shifted from revenue to expenditure audit. However, the Government in June 2004 again introduced the internal audit of sales tax/VAT from the year 2004-05.

When we enquired (April 2010) from the selected AETCs as to whether the audit of sales tax/VAT was being conducted by the IAO or not, it was intimated (April 2010) that audit of VAT receipt was not being conducted by the IAO.

*The Government may consider enforcing audit of revenue receipts by the IAO so as to avoid the risk of loss of revenue.*

### **2.10.19 Conclusion**

The transition from PGST Act 1948 to PVAT Act 2005 suffered due to lack of effective control measures and monitoring by the Department for the transition process. The database of the dealers registered under the repealed Act vis-à-vis the dealers registered under the PVAT Act was not generated by the Department from the COVIS, even though separate modules for registration of dealers containing all the requisite information for the maintenance of database were available in the system. Adequate steps were not taken to complete the assessments under the repealed Act within the prescribed time limit despite introduction of VAT in April 2005 and non finalisation of timely assessments resulted in loss of revenue to Government due to quashing of additional demands created in time barred cases. Abnormally low percentage of scrutiny of returns/tax audit left enough scope for leakage of revenue as test checked conducted by audit revealed many cases of non/short realisation/loss of revenue. Tax audit was neglected as no norms/parameters for selection were finalised by the Department till October 2010. The Department had negligible internal control over the issue of refunds. A few deficiencies in the Act and the Rules and absence of executive instructions too had contributed to failure of the field functionaries in implementing various provisions of the PVAT Act effectively.

### **2.10.20 Summary of recommendations**

The Government may consider:

- *rectifying the deficiencies in the COVIS.*
- *incorporating a penal provision in the PVAT Act/Rules to contain the offending dealers who continued their business even after cancellation of the registration certificates;*
- *auditing of the returns by prescribing the parameters to be adopted for selection of the returns and procedure of tax audit;*

- *issuing instructions to the designated officers to ensure scrutiny of every return in time as provided in the PVAT Act; and*
- *enforcing audit of receipts by the Internal Audit Organisation so as to avoid the risk of loss of revenue.*

## **2.11 Audit observations**

*We noticed several cases of non-observance of provisions of Acts/Rules; non/short levy of tax, penalty and interest; incorrect allowance of exemption; incorrect determination of turnover and other cases during scrutiny of records of sales tax/VAT as mentioned in the succeeding paragraphs. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of Assessing Authorities (AAs)/DOs are pointed out in audit repeatedly, but not only the irregularities persist, they also remain undetected till we conduct audit. There is need for the Government to improve the internal control system so that such omissions can be detected and corrective measure taken.*

## **2.12 Non-observance of the provisions of Acts/Rules**

*The Punjab General Sales Tax Act, 1948 (PGST Act), The Punjab Value Added Tax Act, 2005 (PVAT Act), The Central Sales Tax Act, 1956 (CST Act) and the Rules provide for:-*

- (i) levy of tax at the prescribed rates,*
- (ii) exemption from tax and*
- (iii) correct determination of the tax/turnover.*

*The AAs while finalising the assessment did not observe some of the provisions of Acts/Rules in the cases mentioned in paragraphs 2.12.1 to 2.13.2. This resulted in non/short levy and non-realisation of tax, interest and penalties of ₹13.01 crore.*

### **2.12.1 Incorrect levy of concessional rate of tax**

#### **AETC, Jalandhar-II and AETC, Ludhiana-II**

Under the CST Act, on inter state sales of goods made to the registered dealers and supported by declarations in Form C, CST is leviable at the concessional rate of four *per cent* or at such lower rate as applicable to the sale or purchase of such goods within the State. Tax on goods not covered by such declarations, in the case of declared goods, shall be calculated at twice the rate applicable in the State and in respect of other goods at 10 *per cent* or at the rate applicable to the sale of such goods inside the State, whichever is higher.

We found (between April and June 2009) that while finalising the assessments for the years 2003-04 to 2004-05 of two dealers engaged in the business of sports goods and Jewellery, the AAs erroneously assessed tax of ₹ 3.62 lakh against the tax leviable of ₹ 29.69 lakh as the sale of only ₹ 4.54 lakh out of ₹ 3.02 crore was supported by the prescribed declaration forms. This omission resulted in short levy of CST of ₹ 26.07 lakh.

When we pointed out (between April and June 2009), the Department intimated in November 2009 that the AETC, Jalandhar-II had taken up the case for suo motto re-assessment.

The reply in respect of the other case is awaited (October 2010).

We reported the matter to the Government (between December 2009 and February 2010); the reply is awaited (October 2010).

### 2.12.2 Application of incorrect rate of tax

#### AETC, Barnala

As per Section 29 (1) of the PVAT Act, on filing of returns by the dealer, if any tax is found due, a notice of demand specifying the sum due shall be sent to the dealer. However, no intimation under the PVAT Act shall be sent after the expiry of one year from the end of the financial year in which the return is filed.

We found in February 2009 that one dealer in his self assessment returns/ annual return for the year 2005-06 had shown the tax on taxable turnover of batteries valued at ₹ 58.48 lakh at the rate of four *per cent* instead of the correct rate of 12.5 *per cent*. The Department accepted the returns filed, but no notice of demand for the short paid amount of tax of ₹ 4.97 lakh as required under the Act was issued.

When we pointed out (November 2009), the AETC, Barnala stated that an assessment had been framed by creating an additional demand of ₹ 10.85 lakh and recovery proceedings were in progress.

### 2.12.3 Non-levy of tax

#### AETC, Ludhiana-III

Under the PGST (D&E) Rules, as saved under the PVAT Act, the transfer of products from one unit to another unit within the State of Punjab shall be deemed as sales and liable to tax.

We found during scrutiny of the refunds for the second quarter of the year 2008-09 (June 2009) that a dealer who was engaged in the business of manufacture and sale of yarn, paper and terry towel having single TIN number for all the three units. The dealer was filing a single return for all

these units. He was enjoying the benefit of exemption from payment of sales tax/VAT on the unit of manufacture and sale of yarn only. The dealer made transfer of the products produced by his exempted unit valued at ₹ 30.56 crore to his own terry towel division. While the notional tax liability for sale to other dealers within the State of Punjab and interstate sales was worked out and adjusted against the exemption limit but the dealer omitted to work out the notional tax liabilities on the transfer in his own terry units in his self assessment return. This resulted in non-levy of notional tax and excess carry forward of exemption of ₹ 1.22 crore.

We reported the matter to the Department and the Government in January 2010. The Department replied that branch transfer within the State can be made to another dealer having his separate independent TINs and can not be treated as branch transfer in the case of inter-unit of the same concern. The reply is not acceptable as there is no provision in Act/Rules in case of an exempted unit for allowing inter-unit transfers as tax free.

#### **2.12.4 Short assessment of central sales tax**

##### **AETC, Muktsar**

As per Section 8 of the CST Act, a dealer who in the course of inter state trade or commerce sells to the Government departments any goods, was liable to pay tax at the concessional rate of four *per cent* upto 31 March 2007 provided the sales were supported by certificates in form D. Further, the tax payable by the dealer on the sale of goods in the course of inter state trade or commerce not falling within the provisions stated above, shall be calculated at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever was higher.

We found in October 2009 that an assessee engaged in the manufacture and sale of paper and enjoying the benefit of exemption from payment of tax, had exhibited an inter state sale (ISS) of paper valuing ₹ 138.53 crore in his self assessment return for the year 2006-07. Out of this, the sales of ₹ 48.06 crore were assessed to be the ISS made to the Government departments. During scrutiny of the return, we found that:

An ISS of ₹ 47.61 crore made to the Government departments duly supported by D forms had been assessed at the rate of one *per cent* instead of the correct rate of *four per cent*. This mistake of assessing ISS at the rate of *one per cent* resulted in short assessment of notional central sales tax and excess carry forward of exemption of ₹ 1.43 crore.

We reported the matter to the Department and the Government (between December 2009 and March 2010); their replies are awaited (October 2010).

### **2.12.5 Inadmissible claim of input tax credit**

#### **AETC, Muktsar**

The PGST (D&E) Rules as saved under the PVAT Act, provides that a unit availing benefit of deferment or exemption from payment of tax, shall be entitled to refund of tax paid or payable by it on the purchases made from a taxable person within the State, for use in manufacturing, processing or packing of taxable goods. The amount of refund allowed shall be added to the notional tax liability of the unit availing the exemption. No input tax credit shall be admissible in respect of such purchases.

We found in October 2009 that in his self assessment return/annual return for the year 2005-06, an assessee availing the benefit of exemption from payment of tax under the PVAT Act 2005, instead of claiming the refund of ₹ 6.97 lakh on account of tax paid on the purchases of raw material has brought forward and utilise it in the assessment year 2006-07 which was irregular and resulted into excess availment to exemption to this extent.

We reported the matter to the Department and the Government (between October 2009 and February 2010); their replies are awaited (October 2010).

### **2.12.6 Excess claim of input tax credit**

#### **AETC, Jalandhar-I and AETC, Patiala**

As per section 2(ze)(i) of the PVAT Act, reverse input tax credit means an amount of input tax credit, which is required to be reversed by a taxable person on account of credit note for output tax received from the seller of goods on purchases in respect of which input tax credit is claimed. Similarly, a taxable person shall deduct from his gross turnover of sales, amount allowed as cash discount or trade discount/rebate, provided such discount is in accordance with the regular trade practice.

We found in June 2009 and July 2009 that two dealers in their self assessment returns/annual returns and trading account for the year 2006-07 had shown the receipts of credit notes, cash/trade discount and rebate valued at ₹ 2.01 crore received on gross purchases of ₹ 12.97 crore, but had omitted to deduct these receipts from the gross purchases as required under the rules *ibid*. These mistakes of non deduction of the receipts on account of credit notes, cash/trade discount and rebates from the gross purchases resulted in excess claim of input tax credit of ₹ 8.18 lakh.

We reported the above mentioned cases to the Department and the Government (between February 2010 and March 2010 ); In one case of AETC Jalandhar-I, the Department stated that discount received by the dealer was nothing to do with the total sale figures of the company as purchase figures of the consigners being a part of promotional sales. The reply is not acceptable in view of provision of section 2 (ze)(i)

which states that the ITC is required to be reversed on account of credit notes/discount for output tax received from the seller of goods or purchases in respect of which ITC is claimed. Reply in respect of the other dealer is awaited (October 2010).

### **2.12.7 Non-reversal of input tax credit**

Rule 24(1) of the PVAT Rules provides that where a taxable person has used the goods purchased partially for taxable/tax free sales, but is unable to maintain accounts as provided in the Rule 23 and the sales made by him include sale of tax free goods and taxable goods, then it shall be presumed that the goods so purchased during the tax period have been used in proportion of turnover of sales of tax free goods and accordingly the input tax credit shall be disallowed in that proportion.

(a) In the office of three AETC<sup>16</sup>s, we found between November 2008 and June 2009 that four assessees engaged in the manufacture and sale of yarn, hosiery, oil and cattle feed, in their self assessment returns for the year 2005-06 and 2006-07 had shown sales of tax free goods of ₹ 26.97 crore and taxable goods of ₹ 59.45 crore out of the total turnover of ₹ 86.42 crore. The dealers had used the taxable goods in the manufacture of tax free and taxable goods and failed to maintain the separate accounts as required under the rule 23 of Rules ibid. In terms of rule 24, the dealers were required to reverse the ITC to the extent of the taxable goods used in the manufacture of tax free goods. This failure to reverse the ITC

resulted in excess claim of ₹ 54.16 lakh. The Department accepted the returns filed by the dealers and no notice of demand for the short paid tax of ₹ 54.16 lakh as required under the Act was issued.

#### **AETC, Patiala**

Rule 21(1) and (2) of the PVAT Rules provide that no input tax credit shall be admissible to a person for the tax paid on purchase of goods, if such goods are lost or destroyed or damaged beyond repair because of any theft, fire or natural calamity and the input tax credit availed on such goods shall be reversed immediately on occurrence of such event.

(b) We found in June 2009 that an assessee in his self assessment return for the year 2006-07 had claimed and utilised input tax credit of ₹ 49.40 lakh on the purchase of goods valuing ₹ 5.36 crore. Further, during scrutiny of the trading account, we found that goods valuing ₹ 53.58 lakh were destroyed by fire on which the proportionate input tax credit was required to be reversed. But, no reversal of the proportionate input tax credit of ₹ 6.36 lakh was carried out resulting in excess utilisation of credit of equivalent amount.

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<sup>16</sup> Ludhiana-I, Ludhiana-III and Moga.

We reported the above mentioned cases of non-reversal of input tax credits to the Department and the Government (between January 2010 and March 2010). The AETC, Patiala reported (July 2010) recovery of ₹ 2.97 lakh from the assessee and stated that the balance recovery would be effected in installments.

### **2.12.8 Inadmissible availment of exemption from payment of tax**

#### **AETC, Muktsar**

Under the PGST (D&E) Rules as saved under the PVAT Act, exemption from payment of sales/purchase tax is admissible to a unit selling the manufactured products mentioned in the eligibility certificate.

We found in October 2009 that an assessee engaged in the manufacture and trading of yarn and also availing the benefit of exemption from payment of tax for manufacturing of yarn (end product) claimed exemption of tax on the sale of ₹ 79.71 crore (Local sales and inter state sale) instead of

₹ 77.31 crore (yarn) reflected in the books. The Department needs to take action to reconcile the difference in figures.

We reported the matter to the Department and the Government (February 2010); their replies are awaited (October 2010).

### **2.12.9 Excess allowance of exemption**

#### **AETC, Bathinda**

Notification prescribing the VAT conditions under the PVAT Act, subject to which the concessions granted under the PGST (D & E) Rules, were allowed to be continued, provides that the quantum of deferment of or exemption from payment of tax, as the case may be, availed during a return period by a unit, shall be calculated by adding the output tax on interstate sales, output tax on inter state stock transfer, the amount of refund allowed and the output tax on local sales.

(a) We found in September 2009 that a dealer engaged in the manufacture of yarn and enjoying the benefit of exemption from paying tax, had not calculated in his VAT return for the year 2006-07 the quantum of exemption correctly by adjusting the output tax on inter state sales of ₹ 1.20 crore; output tax of ₹ 1.15 crore on inter state stock transfer duly supported by Form F; the amount of refund of ₹ 3.71 crore allowed during the return period and the output tax on local sales of ₹ 2.97 crore. The total amount of exemption, after

taking into account his output tax liability on interstate sales, inter state stock transfer, refund and the local sales, was erroneously worked out as ₹ 4.15 crore instead of ₹ 9.03 crore. This resulted in excess allowance of exemption of ₹ 4.88 crore.



### **AETC, Muktsar**

(b) We found in October 2009 that two dealers engaged in the manufacture of yarn and paper and enjoying the benefit of exemption from paying tax, had in their self assessment returns for the year 2006-07 not calculated the quantum of exemption correctly by adjusting the amount of refund of ₹ 2.29 crore allowed to them during the return period. This resulted in excess allowance of exemption of ₹ 2.29 crore.

We reported the above mentioned cases of excess amount of exemption to the Department and the Government (February 2010); their replies are awaited (October 2010).

### **2.12.10 Inadmissible refund**

#### **AETC, Amritsar-I**

As per condition No.2 of the PGST (D&E) Rules as saved under the PVAT Act, tax paid on purchase of goods shall not be refunded, if the goods so purchased are used in the manufacture, processing or packing of the tax free goods. With effect from 22 December 2006, the goods 'Blanket' manufactured by units other than composite unit had been declared as tax free. A composite unit is an unit which purchases raw material and uses the same for the production of some other kind of goods which are further used as raw material.

We noticed in October 2009 that a dealer engaged in the manufacture and sale of blankets and enjoying the benefit of exemption from tax, had been allowed refund of ₹ 8.16 lakh in August 2008. On examination of VAT invoices related to the VAT return for the year 2007-08, we found that he had made purchases of acrylic yarn from other dealers for use in the manufacture of blankets. These purchases of direct raw material rendered the dealer to lose the status of a composite unit. As such, the blankets manufactured by this dealer are to be treated as tax free commodity. The mistake of the AETC to consider the dealer as a composite unit and the grant of refund resulted in loss of revenue of ₹ 8.16 lakh.

We reported the matter to the Department and the Government (March 2010); their replies are awaited (October 2010).

#### **AETC, Jalandhar-II**

As per Rule 52(4) of the PVAT Act, tax has to be determined correctly. Further, excess of input tax credit over the output tax is refundable.

We found in September 2009 that the AETC had allowed (June and December 2008) refunds of ₹ 14.56 lakh in respect of the quarters ending March and June 2008. On cross verification of the refund order

with the VAT-15 returns and worksheet filed by the dealer, we found that the AETC did not verify the VAT -15 returns correctly because the dealer had an arithmetical mistake in calculating the ITC at the rate of four percent on net purchases of ₹ 3.77 crore. The ITC of ₹ 18.28 lakh instead of ₹ 15.07 lakh

was adjusted against the output tax. This mistake had resulted in incorrect refund of ₹ 3.21 lakh.

We reported the matter to the Department and the Government (between September 2009 and March 2010); their replies are awaited (October 2010).

### **2.12.11 Non-levy of Purchase tax**

#### **AETC (Inspection) Ludhiana-III**

In terms of entry No. 1 of Schedule D appended to the PGST Act, as amended by notification No. S.O.13/PA/46/48/S-5/ Amd/ 2002 dated 24.4.2002 made applicable from 12.11.2001, wheat when purchased within the State of Punjab for processing by the flour mills having five or more installed roll bodies was exempted from payment of the purchase tax.

We found (March 2008) that while finalising (September 2005) the assessment for the year 2001-02 of a dealer engaged in the business of atta, maida etc; the AA allowed exemption from payment of purchase tax on the entire purchase of wheat valued at ₹ 2.82 crore; but the exemption allowed from payment of purchase tax on the wheat valued at ₹ 73.38 lakh purchased within the State prior to 12.11.2001 was not admissible. This mistake resulted in non levy of purchase tax of ₹ 2.93 lakh.

We reported the matter to the Department and the Government (October 2009); their replies are awaited (October 2010).

### **2.12.12 Excess allowance of exemption**

#### **AETC, Amritsar-I and AETC, Ferozepur**

As per Section 19 of the PVAT Act, VAT is leviable on the taxable turnover of purchase of goods specified in schedule H at the rate of four *per cent*. In the case of an exempted unit, the dealer has to pay the purchase tax and claim refund. The amount of refund so claimed shall be liable to be adjusted against exemption.

We noticed in October 2009 that four dealers engaged in the business of rice shelling were enjoying the benefit of exemption from payment of sales tax/VAT. As per VAT returns for the year 2006-07, the dealers had purchased paddy (Schedule-H item) valuing ₹ 23.11 crore but had neither paid purchase tax nor claimed refund as required under the PVAT Act. This resulted in excess allowance of exemption of ₹ 92.46 lakh.

We reported the matter to the Department in October 2009. The DO, Ferozepur stated (October 2009) that both purchase tax and sales tax liability were lying in the hands of dealers and tax liability occurred only on the taxable turnover of the taxable person. The tax/exemption could not be reduced taking into consideration both factors as input tax credit was available against purchases and output tax was to be calculated against sales tax liability. The contention of the DO is not acceptable as the fact remained that

in terms of provisions under Section 19 ibid read with conditions under the PGST (D&E) Rules, the element of tax paid or payable along with notional output tax liability shall form part of the quantum of exemption in the case of exempted unit. No reply was furnished by the DO, Amritsar-1.

We reported the matter to the Government (February 2010); the reply is awaited (October 2010).

### **2.13.1 Short levy of tax due to incorrect deduction from turnover**

#### **AETC, Ludhiana-II and AETC, Gurdaspur**

Section 5(1-A) of the PGST Act provides that in the case of a dealer who brings goods (which are taxable at the first stage of sale in the State of Punjab) from outside the State, are liable to tax when such dealer sells those goods for the first time within the State of Punjab.

(a) We found (between January 2007 and May 2009) that while finalising the assessment of two dealers engaged in the sale of auto parts and duplex board for the years 2001-02 to 2004-05 (assessed during February 2007 and December 2008), the AA erroneously allowed deduction of ₹ 92.16 lakh towards sales of auto parts and duplex board sold to the registered dealers in the state against production of declaration forms. Since the auto parts and duplex board were taxable at the first stage of sale, the deduction allowed against the declaration forms was not correct. This mistake resulted in non-levy of tax of ₹ 6.73 lakh.

#### **AETC, Jalandhar-I**

As per condition (5-A) of the PGST (D&E) Rules saved under the PVAT Act, a taxable person shall be entitled to deduct from his turnover the value of the goods purchased from the exempted electronic units provided the goods so purchased are used in the manufacturing of taxable goods or are sold to a taxable person or any other person within the State or are sold in the course of inter-state trade or commerce. He shall pay tax only on the value addition at the prevalent rate of tax.

(a) We found (July 2009) that a dealer had in his VAT return for the year 2006-07 claimed deduction of ₹ 8.65 crore from his gross turnover on the ground that he had made purchases from an exempted electronic unit. On examination of VAT-20 return with the list of his purchases, we found that the dealer was not entitled to the deduction of ₹ 4.02 crore as he had made purchases from an electronic unit named M/s L.G. Electronics Pvt. Ltd. which is not an exempted unit. This mistake to claim inadmissible deduction of ₹ 4.02 crore resulted in loss of revenue of ₹ 50.27 lakh.

We reported the matter to the Department and the Government (March 2010); their replies are awaited (October 2010).

### 2.13.2 Short computation of turnover

Gross turnover as defined under the PGST Act/PVAT Act, includes the aggregate of sales and purchases actually made by any dealer during the given period. Further, the return as defined in the PVAT Act means a true and correct account of business pertaining to the return period in the prescribed form.

(a) In the offices of three AETCs<sup>17</sup>, we found that two dealers in their self assessment return under PVAT Act and two assessing authorities<sup>18</sup> while finalising the assessment under the PGST Act for the years 2004-05 to 2006-07, had wrongly computed the gross sales and purchases as ₹ 17.64 crore and ₹ 94.94 crore instead of ₹ 21.82 crore and ₹ 92.89 crore as depicted in the trading account respectively.

#### AETC, Patiala

(b) We found in June 2009 that a dealer engaged in the business of work contract, in his self assessment annual return for the year 2006-07 showed the gross receipt as ₹ 1.60 crore instead of ₹ 2.33 crore mentioned in the TDS certificates issued by the contractees. This discrepancy resulted in short computation of turnover of ₹ 72.96 lakh.

The discrepancies in the return/accounts figures regarding short computation of turnover, need to be reconciled for necessary action by the department.

We reported the matter to the Department and the Government (between October 2009 and March 2010); their replies are awaited (October 2010).

<sup>17</sup> Ludhiana-II (one dealer), Mohali (one dealer) and Muktsar (Two dealers).

<sup>18</sup> Ludhiana-II and Muktsar.

## CHAPTER –III Taxes on Vehicles

### 3.1 Tax administration

The overall charge of the Transport Department vests with the State Transport Commissioner (STC), Punjab, Chandigarh. There are 20 districts, each headed by a District Transport Officer (DTO) who maintains the records of receipts of taxes and fee. Besides, there are four Regional Transport Authorities (RTAs) for regulating the use of transport vehicles in the State and collection of Motor Vehicles Tax (MVT) in respect of buses of the other States. In addition, Sub Divisional Magistrates at the sub division level are also entrusted with the work of registration of personalised vehicles and issue of driving licences.

### 3.2 Trend of receipts

The actual receipts from taxes on vehicles during the years 2005-06 to 2009-10 along with the total tax and non tax receipts during the same period are exhibited in the following table and graph.

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax and non tax receipts of the State	Percentage of actual receipts to the total receipts
2005-06	430.00	431.19	(+) 1.19	(+) 0.28	13,525.71	3.19
2006-07	471.50	468.05	(-) 3.45	(-) 0.73	16,761.74	2.79
2007-08	524.00	499.45	(-) 24.55	(-) 4.69	15,153.14	3.30
2008-09	576.00	524.09	(-) 51.91	(-) 9.01	16,934.10	3.09
2009-10	585.00	554.74	(-) 30.26	(-) 5.17	17,692.18	3.14

Though actual receipts increased from ₹ 431.19 crore to ₹ 554.74 crore yet the average growth rate was quite low that is at the rate of 5.73 per cent only over a period of five years.

The percentage of receipts from taxes on vehicles to the total receipts in the State remained stagnant around three during 2005-10.

### 3.3 Analysis of the arrears of revenue

The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10. The arrears of revenue as on 31 March 2010 amounted to ₹ 107.86 crore, of which ₹ 48.17 crore were outstanding for more than five years.

(₹ in crore)

Year	Opening balance of arrears as on 1 April	Closing balance of arrears as on 31 March
2005-06	108.22	59.97
2006-07	59.97	67.72
2007-08	67.72	111.58
2008-09	111.58	109.20
2009-10	109.20	107.86

The arrears of ₹ 107.86 crore outstanding as on 31 March 2010 were due to the following reasons:

- High Court/Appellate authorities had stayed the recovery proceedings of ₹ 0.40 crore.
- Revenue recovery certificates had been sent to the collectors for recovery of ₹ 3.01 crore which were pending recovery.
- Arrears of ₹ 0.13 crore had been proposed for write off.
- The reasons for recovery of the balance ₹ 104.32 crore were not specified by the Department and there had been no progress in realising the arrears during 2007-08 to 2009-10.

### 3.4 Cost of collection

The gross collection in respect of the taxes on vehicles, expenditure incurred on their collection and the percentage of expenditure to the gross collection during the years 2005-06 to 2009-10 alongwith the all India average percentage of expenditure on collection are mentioned below:

(₹ in crore)

Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure to collection
Taxes on vehicles	2005-06	431.19	6.52	1.51	2.67
	2006-07	468.05	7.33	1.57	2.47
	2007-08	499.45	7.66	1.53	2.58
	2008-09	524.09	9.20	1.76	2.93
	2009-10	554.74	9.19	1.66	-

The cost of collection of taxes on vehicles has increased since 2007-08.

### 3.5 Impact of audit

#### Revenue impact

During the last five years, Audit through its reports had pointed out non/short levy etc. involving revenue implication of ₹ 87.95 crore in 4848 paragraphs. Of these, the Department/Government had accepted audit observations contained in 2,823 paragraphs involving ₹ 43.70 crore and had recovered ₹ 10.50 crore. The details are shown in the following table:

(₹ in crore)

Year	Number of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	49	1,427	12.62	1,068	17.05	39	0.34
2005-06	71	798	3.13	228	19.49	128	6.34
2006-07	49	585	54.75	368	0.73	88	1.33
2007-08	51	762	5.05	645	4.18	82	0.78
2008-09	84	1,276	12.40	514	2.25	107	1.71
<b>Total</b>	<b>304</b>	<b>4,848</b>	<b>87.95</b>	<b>2,823</b>	<b>43.70</b>	<b>444</b>	<b>10.50</b>

In the context of large scale pendency of audit objections, Government may ensure holding of audit committee meetings regularly for expeditious settlement of the pending paragraphs.

### 3.6 Results of audit

Test check of the records of 61 units relating to taxes on vehicles during 2009-10 revealed irregularities involving ₹ 9.56 crore in 901 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-short recovery of MVT	703	8.51
2.	Other irregularities	198	1.05
	<b>Total</b>	<b>901</b>	<b>9.56</b>

During the year 2009-10, the Department accepted audit observations involving ₹ 54.37 lakh in 652 cases and recovered ₹ 2.73 crore in 52 cases pertaining to the audit finding of previous years.

A few illustrative cases involving ₹ 2.62 crore are discussed in the following paragraphs.

### 3.7 Audit observations

*During the scrutiny of records in the offices of registering authorities in the Motor Vehicles Department relating to revenue received from taxes on vehicles, we noticed in several cases of non-observance of the provisions of the Acts/Rules resulting in misappropriation of Government money and non/short levy of tax, penalty, interest, and permit fee as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions in audit repeatedly, but not only the irregularities persist, they also remain undetected till we conduct audit. The Government needs to improve the internal control system to avoid occurrence of such cases in future.*

### 3.8 Non-observance of the provisions of Acts/Rules

*The Punjab Motor Vehicles Taxation Act, 1924 (PMVT Act) provides for:-*

- (i) *payment of motor vehicles tax/special road tax by the owner of vehicles at the prescribed rates and*
- (ii) *levy of interest and penalty by the Department.*

*Non-compliance of some of the provisions of the Acts/Rules by the registering authorities (Motor Vehicles) at the time of registration of vehicles/authorisation of permits are mentioned in the paragraphs 3.8.1 to 3.8.7.*

#### 3.8.1 Misappropriation of Government money – Non-discharge of prescribed duty by nodal officers

##### RTA, Patiala

Under the provisions of the Central Motor Vehicles Act, 1887 and Rules framed thereunder, an application for authorisation of national permit shall be accompanied by a fee of ₹ 500 per annum in the form of a bank draft. The Punjab Government, by instructions in August 2000 enhanced the limit for acceptance of the registration fee, token tax, application fee, composite fee etc. in cash from ₹ 500 to ₹ 1,000. Further, under the Punjab Motor Vehicles (first amendment) Rules, 2004, application fee for the grant of goods carriage permit will be ₹ 200 for five years.

(a) We found (August 2009) that authorisation fee at the rate of ₹ 500 and application fee of ₹ 200 for the grant of national permit was received in cash between April 2006 and July 2009. Cross examination of the connected records namely the national permit files, counterfoils of the receipts book and the cash book revealed that ₹ 700 was actually received for authorisation of each national permit for goods carriage, but in the counterfoils, ₹ 50 or ₹ 70 or ₹ 100 were shown as received and the same amounts were entered in the cash book and remitted in the treasury. Thus, there was misappropriation of Government money of ₹ 5.14 lakh during April 2006 to July 2009.



When we pointed out, the RTA stated (12 August and 13 August 2009) that the entire amount of ₹ 5.14 lakh pointed out by Audit had been deposited in the treasury between 11 August 2009 and 13 August 2009. However, on further examination of the cash book in June 2010, we found that no entries corresponding to the remittances of ₹ 5.14 lakh made in the treasury, had been made in the cash book. The contention of the STC Punjab, Chandigarh that after recovering the embezzled permit fee from the permit holders, it was deposited in the treasury, does not hold good as it was not practicable to recover ₹ 5.14 lakh from 841 permit holders within one/two days. The STC, Punjab further stated (August 2010) that the action was being taken by the Department against the defaulting officials.

**DTO, Ropar**

The Punjab Government, by instructions in August 2000 enhanced the limit for acceptance of the registration fee, token tax, application fee, composite fee etc. in cash from ₹ 500 to ₹ 1,000.

(b) We found in December 2008 and January 2009 that ₹ 1,000 was received in cash towards the registration fee and MVT at the time of registration of each new motor vehicle between March 2007 and May 2007. Cross examination of the connected records namely the

registration files, counterfoils of the receipts book and cash book, revealed that the cashier issued receipts for ₹ 1,000 to the applicants seeking registration of the new motor vehicles but on the counterfoils, he wrote the name of some other people purported to have sought issue/renewal of driving licences for which the fee payable was ₹ 30, ₹ 40 and ₹ 100. The cash book also corroborated this modus operandi of the cashier. This act resulted in misappropriation of the Government money of ₹ 0.41 lakh.

The records pertaining to the period prior to March 2007 and after May 2007 could not be audited as these were not maintained properly and made available to audit. The Department was requested to review the cases pertaining to the un-audited period and intimate the results.

When we pointed out, the DTO stated that the entire amount of ₹ 0.41 lakh pointed out by Audit had been deposited on 1 January 2009 and 2 January 2009 in the Government treasury. However, on re-examination of the cash book in June 2010, we found that the remittances of ₹ 0.41 lakh had not been accounted for in the cash book as the same was deposited directly in the treasury by the concerned official. The STC, Punjab stated (August 2010) that charge-sheet was being issued to the defaulting official.

**DTO, Jalandhar**

The Punjab Financial Rules, Volume-1 provide that every monetary transaction should be entered in the cash book as and when it occurs and Government receipts collected during the day should be deposited in the Government treasury on the same day or next working day.

(c) We found in May 2008 that the DTO remitted the Government receipts of ₹ 27.29 lakh in the treasury against the receipts of ₹ 29.11 lakh collected between October 2006 and October 2007. The balance amount of ₹ 1.82 lakh was not carried forward and accounted for from the subsidiary cash book to the main cash book. Further, during scrutiny in June 2010 we found that the short deposited receipts were not depicted in the closing balances or cash in hand (currency chest) at the end of

the day in the subsidiary cash book. This amply proved that the short deposited receipts of ₹ 1.82 lakh were not kept in the currency chest and thus were misappropriated by the cashier.

When we pointed out, the DTO stated that the short amount of ₹ 1.82 lakh had been deposited by the cashier on 28 May 2008 and on 29 May 2008. The STC, Punjab stated (August 2010) that ₹ 1.82 lakh with 18 *per cent* interest had been deposited and departmental proceedings were being initiated against the cashier.

The DTOs vested with the responsibilities of the controlling officer and the head of office were required to perform the below noted codal functions:

- Every controlling officer, in the discharge of his ultimate responsibilities for the administration of an appropriation or part of an appropriation placed at his disposal, every Controlling Officer must satisfy himself not only that adequate provisions exist within the Departmental organisation for system at internal checks calculated to prevent and detect errors and irregularities in the financial proceedings of his subordinate officers and to guard against waste and loss of public money and stores, but also that the prescribed checks are effectively applied.

{PFR Volume I, Rule 2.32 A, Sub-rule (2)}

- At the close of the day while signing the cash book, the head of the office should see that the departmental receipts collected during the day, the utilisation of which towards expenditure is strictly prohibited under the Punjab Treasury Rules are credited into the treasury on the same day or on the morning of the next day at the latest and that there is a corresponding entry on the payment side of the cash book.

(PFR Volume I Rule 2.4)

- It is the duty of the head of office to furnish a certificate to the effect that the case is/is not fit for judicial trial, shall be obtained from the Distt. Magistrate immediately after the loss comes to notice and furnished to the Accountant General alongwith the final report.

{PFR Volume II, Appendix (1), Instructions at paragraph (3)}

No checks that were required to be exercised by the controlling officer/head of office were exercised by the RTA/ DTOs in all the aforesaid instances.

Further, the amendment made in the Punjab Motor Vehicles Rules, 1989 and the subsequent Government instructions issued in August 2000 enabled acceptance of fee in cash for the issue/renewal of national permit instead of bank draft prescribed in the Central Motor Vehicles Act 1887. This facilitated the misappropriation of Government money.

We reported the above mentioned cases to the Department and Government between September 2009 and February 2010; their replies are awaited.

In view of the above mentioned misappropriations and loose internal controls, we recommend that:

- ❖ *Grant/renewal of national permits on payment of cash be discouraged and bank drafts be introduced by the Department remittances through designated banks and*
- ❖ *Disciplinary action be taken against the delinquent officials who had indulged in misappropriations as well as the Nodal/Controlling Officers for failure to discharge their prescribed duties.*

### 3.8.2 Non/short realisation of special road tax/MVT

Under the PMVT Act, as amended from time to time, there shall be levied and paid to the Government, a special road tax (SRT) on stage carriages registered in the State of Punjab at the rate as may be specified by the Government from time to time. By a notification issued in November 2007, the Government levied MVT per kilometre per day per vehicle in place of SRT.

(a) While auditing in seven DTO<sup>1</sup> offices, We noticed between January 2009 and November 2009 that two depots of Punjab Roadways and 55 private transport companies paid SRT/MVT of ₹ 2.13 crore against the correct amount of ₹ 4.02 crore worked out on the basis of permitted kilometres to be operated by them during the period April 2007 and March 2009. The Department had neither demanded the differential amount of tax nor took any penal action as required under the PMVT Act. Thus, there was non/short realisation of SRT/MVT of ₹ 1.89 crore. When we pointed out, the Department stated that recovery would be made or action would be taken after verification of the records.

<sup>1</sup> Amritsar, Bathinda, Ferozepur, Hoshiarpur, Ludhiana, Mansa and Patiala.

### **RTA, Ferozepur**

Under the PMVT Act, as amended in November 2007, MVT is levied on stage carriages buses registered in the other States and plying as stage carriages in the State of Punjab under the reciprocal agreement.

(b) We noticed (September 2009) that the Rajasthan State Road Transport Corporation (Corporation) was permitted under the reciprocal agreement to operate bus services for a distance of 340 kilometres per day in the Punjab territory. The Corporation did not pay MVT of ₹ 4.59 lakh for the period from April 2008 to March 2009.

The Department neither demanded the tax nor took any penal action as required under the PMVT Act. Thus, there was non-payment of MVT of ₹ 4.59 lakh.

When we pointed out, the RTA, Ferozepur stated (September 2009) that the matter would be taken up with the concerned authorities.

We reported the matter to the Department and the Government between October 2009 and May 2010; their replies are awaited (October 2010).

### **3.8.3 Non-realisation of MVT**

#### **STC Punjab, Chandigarh**

Under the PMVT Act, as amended in November 2007, there shall be levied and paid to the Government, MVT at the specified rates on tourist buses registered in the State of Punjab. MVT is payable in advance annually or quarterly by 15 April or 15 of each quarter. Penalty is leviable for default in payment of MVT on the due dates.

We found in December 2009 that MVT of ₹ 11.70 lakh for the year 2008-09 in respect of six all India tourist air-conditioned buses was neither demanded by the STC, Punjab nor paid by the owners. This omission resulted in non-realisation of MVT of ₹ 11.70 lakh and minimum penalty of ₹ 0.06 lakh.

When we pointed out in December 2009, the STC intimated that action would be taken after verification of records.

We reported the matter to the Department and the Government in April 2010; their reply is awaited (October 2010).

### 3.8.4 Application of incorrect rates of motor vehicle tax

#### RTA, Patiala

Under the PMVT Act, as amended in November 2007, MVT is levied on stage carriages buses registered in the other States and plying as stage carriages in the State of Punjab under the reciprocal agreement. It is also provided that the MVT on stage carriages of other States plying in the State of Punjab which are not countersigned under the reciprocal agreement is leviable at the rate of ₹ five per kilometre per day.

(a) We found in August 2009 that the Chandigarh Transport Undertaking, Chandigarh (CTU) was permitted under the reciprocal agreement to operate bus services for a distance of 29,562 kilometres per day in the State of Punjab. The CTU had paid MVT at the old rate of ₹ 2.25 per kilometre per day instead of ₹ 3.70 per kilometre per day effective from 22 November 2007. Non-collection of MVT at the revised rates for the period from December 2007 to March 2008 was pointed out in the Report of Comptroller and Auditor

General of India for the year ended 31 March 2009 - (Revenue Receipts) Government of Punjab. Despite this, during the months of April and May 2008 too, the Department neither demanded the tax at the revised rates nor took any penal action as required under the PMVT Act. Thus, there was short payment of MVT of ₹ 28.25 lakh for the period from April to May 2008.

(b) We found in August 2009 that the CTU was permitted under the reciprocal agreement to operate bus services for a distance of 29,562 kilometres per day in the Punjab State. During June and July 2008, CTU operated bus services for a distance of 31,936 and 30,304 kilometres respectively and paid MVT at the rate of ₹ 2.25 and ₹ 2.60 per kilometre per day respectively. Thus, there was operation of bus services in excess of the permitted kilometers by 2,374 and 742 kilometres during June and July 2008 respectively. For the excess operation, MVT was leviable at the rate of ₹ five per kilometer per day, as the distance operated beyond the permitted kilometres did not fall under the reciprocal agreement. This mistake resulted in short levy of MVT of ₹ 2.51 lakh. The Department neither demanded the tax nor took any penal action as required under the PMVT Act.

(c) We found in August 2009 that the Narnaul depot of Haryana Roadways was permitted under the reciprocal agreement to operate bus services for a distance of 1,052 kilometres per day in the Punjab territory. During April 2008 to March 2009, the Narnaul depot computed and paid MVT on the basis of rates per seat per kilometre, though MVT was payable per kilometre per day per vehicle. Thus, the application of incorrect method of calculation of MVT resulted in short payment of ₹ 6.86 lakh. The Department neither demanded the tax nor took any penal action as required under the PMVT Act.

When we pointed out, the RTA, Patiala stated (August 2009) that the amount would be recovered and shown at the time of next audit.

### 3.8.5 Non-payment of MVT by educational institution

#### DTO, Jalandhar

Under the PMVT Act, 1924 as amended in November 2007, there shall be levied and paid to the Government, MVT at the rate of ₹ 20,000 per annum per vehicle on school vehicles used by the educational institutions and running up to 50 kilometres from the place of registration. Failure to pay tax within the prescribed period attracts penalty not exceeding ₹ 5,000 but not less than ₹ 1,000.

We noticed (May 2009) that an educational society running a private public school, had registered fleet strength of 34 school buses. However, the educational society did not pay MVT of ₹ 6.80 lakh due for the year 2008-09. The DTO neither demanded MVT nor took any action to impound the buses of the society. This resulted in non-payment of MVT of ₹ 6.80 lakh and minimum penalty of ₹ 0.34 lakh.

When we pointed out, the DTO stated (May 2009) that matter would be looked into and informed later on.

We reported the matter to the Department and the Government in November 2009; their reply is awaited (October 2010).

### 3.8.6 Non-levy of interest on belated payment of MVT

#### RTA, Patiala

Under the PMVT Act as amended from June 1993, if the owner of a vehicle fails to pay special road tax/MVT within the prescribed period, he is liable to pay simple interest at the rate of one and half per cent per month or a part of month from the date following the due date, till the default continues. Where tax due in respect of any vehicle has not been paid, the Department may issue notices, impound, seize and detain the vehicle until the tax due is paid.

We found in August 2009 and information collected subsequently in April 2010 that

(a) Utranchal Transport Corporation (Corporation), Dehradun failed to pay MVT for the period from April 2008 to June 2008. MVT of ₹ 7.03 lakh was recovered at the instance of audit in the month of February 2010. There was delay in deposit of MVT and it ranged between 20 and 22 months. But, the interest on MVT for the delayed payment was neither paid by the Corporation nor demanded by the Department. This resulted in non-levy of interest of ₹ 2.22 lakh.

(b) Similarly, Haryana Roadways deposited the arrears of MVT for the period from 22 November 2007 to March 2008 in respect of its six depots<sup>2</sup> in the month of March and April 2008, but omitted to pay interest for the delayed payment of MVT. The interest for the delayed payment of MVT was not demanded by the Department. This resulted in non-levy of interest of ₹ 2.83 lakh.

When we pointed out, the RTA stated (August 2009) that the amount would be recovered.

We reported the matter to the Department and the Government in October 2009; their replies are awaited (October 2010).

### **3.8.7 Delay in remittances of Government receipts**

#### **DTO, Muktsar**

The Punjab Financial Rules, Volume-I provide that every monetary transaction should be entered in the cash book as and when it occurs and the Government receipts collected during the day should be deposited in the Government treasury on the same day or the next working day.

We found that the Government receipts of ₹ 48.92 lakh collected in 372 cases during the year 2008-09 were remitted in the treasury after delays ranging from 6 to 186 days in contravention of the codal provisions. Out of these, in 100 cases involving deposits of ₹ 9.45 lakh, the delays varied from 30 to 186 days. Such abnormal delays have the risk of temporary misappropriation of the Government money.

When we pointed out, the DTO stated (February 2010) that although the amounts were deposited late, all the amounts had been deposited. The STC, Punjab stated (August 2010) that departmental inquiry was being initiated against the defaulting officials.

We reported the matter to the Government (April 2010); their replies are awaited (October 2010).

<sup>2</sup> Haryana Roadways' Depots at Ambala, Bhiwani, Faridabad, Gurgaon, Karnal and Kurukshetra.

### 3.9 Internal controls

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. These help in

- ❖ prevention of frauds and other irregularities;
- ❖ creation of reliable financial and management information systems for proficiency, prompt and efficient service;
- ❖ providing adequate safeguards against evasion of Government Revenue.

We observed during the local audit of STC Punjab, Chandigarh, three Regional Transport Authorities and 20 DTOs that the prescribed records and registers were not maintained properly to monitor the various receipts. The money collected during the day was deposited in the treasury with delays exceeding 30 days in some cases. Due to deficient internal controls, the Department had suffered losses of revenue on account of frauds/misappropriation, delay in deposit of Government money into the treasury and non/short recoveries of MVT.



**CHAPTER -IV**  
**State Excise and Entertainment Duty/Non-Tax Receipts**

**4.1 Results of audit**

Test check of the records relating to the Excise and Taxation (state excise duties and entertainment tax), Revenue and Rehabilitation (land revenue), Industries and Commerce and Lotteries departments revealed irregularities involving ₹ 67.72 crore in 203 cases, which broadly fall under the following categories:

(₹ in crore)

Sr. No.	Categories	Number of cases	Amount
<b>A: Excise and Taxation Department</b>			
<b>(i) State excise duties</b>			
1.	Loss of excise duty due to subnormal yield of spirit from molasses	4	2.28
2.	Outstanding recovery of excise duty	1	0.22
3.	Others irregularities	9	0.30
<b>Total</b>		<b>14</b>	<b>2.80</b>
<b>(ii) Entertainment tax/duty</b>			
1.	Non-recovery of entertainment tax/duty from cinema houses/video parlours	12	0.05
2.	Non-recovery of entertainment duty from cable operators	72	0.30
<b>Total</b>		<b>84</b>	<b>0.35</b>
<b>B: Revenue and Rehabilitation Department</b>			
<b>Land revenue</b>			
1.	Non/short recovery of chowkidara <sup>1</sup> tax	21	1.76
2.	Non-deduction of service fee/charges	32	0.55
3.	Other irregularities	46	28.57
<b>Total</b>		<b>99</b>	<b>30.88</b>
<b>C: Industries and Commerce Department</b>			
1.	Non-recovery of guarantee fee	2	31.75
<b>D: Lotteries Department</b>			
1.	Non-deduction of establishment cost	4	1.94
<b>Grand total</b>		<b>203</b>	<b>67.72</b>

A few illustrative cases involving ₹ 36.53 crore are discussed in the succeeding paragraphs.

<sup>1</sup> Remuneration paid to the village watchman.

## **4.2 Audit observations**

*During scrutiny of the records relating to the Departments of Excise and Taxation (state excise duties and entertainment duty), Revenue and Rehabilitation (land revenue), Industries and Commerce and State Lotteries, we noticed some cases of non-observance of the provisions of the Act/Rules and Government instructions resulting in short yield of spirit, non-realisation of the establishment charges, non registration of cable television operators, non realisation of revenue from the unauthorised occupants, non-recovery of guarantee fee and non deduction of establishment cost from the prize winning tickets as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions in audit repeatedly, but not only the irregularities persist, they also remain undetected till we conduct audit. The Government needs to improve the internal control system to avoid occurrence of such cases in future.*

### **A: Excise and Taxation Department**

#### **(i) State excise duties**

### **4.3 Non-observance of provisions of the Acts/Rules**

*(a) The Punjab Distillery Rules 1932 provide for:-*

- (i) yield of spirit at prescribed norms and*
- (ii) recovery of establishment charges.*

*The department did not observe some of the provisions in the cases mentioned in the paragraphs 4.3.1 and 4.3.2, which resulted in non-realisation of excise duty and cost of establishment charges of ₹ 2.50 crore.*

*(b) The Punjab Entertainments Duty Act, 1955 provides for levy of entertainment duty on the cable television operators. The department did not observe this provision in the cases mentioned in the paragraph 4.3.3, which led to non-collection of entertainment duty of ₹ 2.10 lakh.*

#### **4.3.1 Sub normal yield of spirit from molasses**

The Punjab Distillery Rules, 1932 envisage that one quintal of molasses should yield 36.61 proof litres of spirit.

In five distilleries<sup>2</sup>, we noticed between April 2009 and March 2010 that from 2.32 lakh quintals of molasses only 79.26 lakh proof litres of spirit was produced against the normative yield

of 84.77 lakh proof litres of spirit during the year 2008-09. Had the prescribed norms of yield of spirit been achieved, the Government would have earned

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<sup>2</sup> M/s AB Sugar Ltd. Randhawa-Dasuya (Hoshiarpur), M/s Chandigarh Distillers & Bottlers Ltd. Banur (Patiala), M/s Jagatjit Industries Ltd. (Hamira Distillery) Hamira Kapurthala, M/s Patiala Distillers and Manufacturers Ltd. Main (Patiala) and M/s Piccadily sugar and allied industries (Distillery unit) Patran.

excise duty of ₹ 2.31 crore on the additional yield of 5.51 lakh proof litres of spirit.

When we pointed out, the ETO, Patiala stated that no revenue loss seemed to have occurred. The ETOs of Dasuya, Hamira, Main (Patiala) and Patran stated that with advancement of technology, sugar mills were extracting maximum sugar from sugarcane and the sugar contents in the molasses were reduced to a minimum. The reply is not acceptable because the Public Accounts Committee (January 2010) while discussing the paragraph 4.2 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006, Revenue Receipts-Government of Punjab directed that the Punjab Distillery Rules 1932 should be amended and all such cases should be decided as early as possible; The State Government is yet to amend the Rules.

We reported the matter to the Department and the Government in March 2010; their replies are awaited (October 2010).

#### **4.3.2 Failure to realise the establishment charges**

Under the Distillery Rules, the licensee shall pay into the Government treasury such sums as may be demanded by the Commissioner towards the salaries of personnel of the Excise and Taxation Department posted in the distillery for the purpose of ensuring due observance of these rules.

We found between August 2009 and January 2010 that the establishment charges of ₹19.10 lakh payable for the year 2008-09 towards the Government staff posted in two distilleries<sup>3</sup> for ensuring the due observance of the Distillery Rules, were not demanded by the Department. The non-observance of the Rules resulted in non-realisation of the establishment charges of ₹ 19.10 lakh.

When we pointed out, the ETOs at Hamira and Jamalpur stated (between August 2009 and January 2010) that as no demands towards the establishment charges for the year 2008-09 were made by the Excise and Taxation Commissioner, Punjab, the amount was not recovered. The fact remains that the ETC Punjab, Patiala had failed to raise the demands of the dues as envisaged in the Rules.

We reported the matter to the Department and the Government in February 2010; their replies are awaited (October 2010).

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<sup>3</sup> Jagatjit Industries, Hamira Distillery, Hamira and M/s United Breweries Limited, Jamalpur, (Ludhiana).

## **(ii) Entertainment duty**

### **4.3.3 Failure to collect the entertainment duty**

#### **AETC, Amritsar-I**

- ❖ The Punjab Entertainments Duty Act, 1955 as amended in 1999 provides that entertainment duty of ₹ 15,000 per annum at a time is payable with effect from 1 April 1999 by the proprietors providing entertainment with the aid of antenna or cable television.
- ❖ The cable television operators get themselves registered with the Department of Posts under the Cable Television Networks (Regulation) Act, 1995.

We noticed in January 2010 that no records were maintained by the AETC regarding the number of cable television operators (CTVOs) operating in his jurisdiction. We collected information from the Department of Posts (DOP) in Amritsar and found that in the jurisdiction of the AETC Amritsar-I, 14 CTVOs were holding valid licences obtained from the DOP for providing entertainment with the aid of antenna or cable television during 2008-09. Cross verification of this information with the available records of the AETC disclosed that

the 14 CTVOs had neither paid the entertainment duty nor it was demanded by the AETC. Thus, there was non-collection of entertainment duty of ₹ 2.10 lakh.

When we pointed out, the AETC stated that only one CTVO existed in his jurisdiction. The reply is not correct as all the 14 CTVOs operating in his jurisdiction were holding valid licenses for the year 2008-09.

We reported the matter to the Department and the Government in March 2010; their replies are awaited (October 2010).

## **B: Revenue and Rehabilitation Department**

### **Land revenue**

#### **4.4 Non-observance of provisions of the Acts/Rules**

*The Punjab Land Revenue Act, 1887 and Rules thereunder and Government instructions provide for:-*

- (i) deduction of service charges;*
- (ii) eviction of the unauthorised occupants from Government land and*
- (iii) policy for disposal of rural/urban evacuee land.*

*The department did not observe some of the above mentioned provisions in the cases mentioned in the paragraphs 4.4.1 and 4.4.2, which resulted in non recovery of service charges and non-realisation of revenue from the unauthorised occupants to the tune of ₹ 31.96 lakh.*

#### 4.4.1 Non-recovery of service charges

##### DROs, Gurdaspur and Moga

❖ The Punjab Land Revenue Act provides that the cost of any process linked with the collection of land revenue shall be recoverable as part of the arrears of land revenue.

❖ The Punjab Land Revenue Rules provide that two *per cent* of the collection shall be deducted as service charges by the collector.

❖ Further, the instructions issued by the Government in July 2007 provide for charging of service charges at the rate of five *per cent* in cases of recoveries effected from the defaulters on behalf of the corporations, boards and banks.

❖ Further, the requisitioning authority will deposit with the recovery officer in advance the non-refundable service charges at the rate of two *per cent* of the total amount of recovery mentioned in the revenue recovery certificate (RRCs).

We noticed in December 2008 and October 2009 that

(a) an amount of ₹ 2.44 crore as arrears of land revenue was recovered by the DRO Moga between October 2005 and September 2008. But collection of service charges of ₹ 8.33 lakh at the rate of two/five *per cent* of the arrears recovered was neither deducted nor demanded from the corporations, boards and banks and

(b) RRCs involving dues of ₹ 8.58 crore were accepted by the DROs Gurdaspur and Moga without receipt of non-refundable advance payment of service charges of ₹ 17.16 lakh between August 2007 to September 2008 in contravention of the Government instructions.

Thus, non-compliance of the Rules and Government instructions resulted in non-realisation of revenue of ₹ 25.49 lakh.

When we pointed out, the DRO Moga stated in December 2008 that recovery of service charges would be made as per the rules.

We reported the matter to the Department and Government (November 2009 and February 2010); the reply is still awaited (October 2010).

#### 4.4.2 Non-realisation of revenue from the unauthorised occupants

##### Tehsildars Batala and Rampura Phul

The State Government laid down (September 2007) the policy for disposal of rural/urban evacuee land. The unauthorised occupants of the Government land shall apply to the concerned Sub Divisional Magistrate within a period of three months for the transfer of such land and it could be transferred at the rate of ₹ 15,000 per acre for persons of general category and ₹ 12,000 per acre for members of the Scheduled Castes and Backward Classes. Further, in terms of the Government orders issued in November 1990, rent for unauthorised occupation of rural and urban evacuee agricultural land is chargeable at the rate of ₹ 250 and ₹ 1000 per acre per harvest respectively. Whereas the rent at the rate of ₹ 125 and ₹ 500 per acre per harvest is chargeable from the members of Scheduled Castes and *Rai Sikh* for unauthorised use and occupation of rural and urban evacuee agricultural land.

We found in February and October 2009 that 1,293 acres of Government land encroached upon were being used for agricultural purposes. The encroachers were neither evicted nor did they apply for regularisation/transfer of Government land as per the terms and conditions of the Government policy. The minimum rent of ₹ 6.47 lakh<sup>4</sup> for unauthorised occupation of 1,293 acres of Government agricultural land between October 2006 and September 2009 was recoverable from the unauthorised occupants for which no demands were raised. Failure to do so resulted in non-realisation of revenue of ₹ 6.47 lakh.

When we pointed out in February and October 2009, the tehsildar, Rampura Phul stated in February 2009 that the demand would be created and sent to the Collector for his approval, whereas the tehsildar, Batala intimated in October 2009 that the land would be transferred to the unauthorised occupants. The reply of the tehsildar, Batala is not relevant as the eligible unauthorised occupants were entitled to apply for transfer of land within three months from the date of advertisement in Newspaper in September 2007.

We reported the matter to the Department and the Government between September 2009 and March 2010; their replies have not been received (October 2010).

<sup>4</sup> 1293 acres of rural land at the rate of ₹ 125 per harvest for four harvests.

## C: Industries and Commerce Department

### 4.5 Failure to recover the guarantee fee

*Non-compliance of the notifications issued by the Government of Punjab (Industries and Commerce Department) deprived the State guarantee fee of ₹ 31.75 crore.*

According to the powers conferred by Article 293 of the Constitution of India, the State Government gives guarantees on the Consolidated Fund of the State to various institutions/banks lending money to Public Sector undertakings etc. so as to assure them repayment of principal amount of loans, in the event of default by the borrowers. Such guarantees constitute contingent liabilities of the State. The Government had laid down terms and conditions governing sanctions for guarantees according to which the borrowers must ensure that the prescribed guarantee fee are paid.

We collected information from Punjab Rural Development Board (PRDB) and Punjab Mandi Board (PMB) in October 2009 and observed that the State Government had issued five notifications between March 2004 and November 2008 permitting them to raise the loans of ₹ 1,587.50 crore from banks and stood as guarantor assuring the banks the repayment of loans in the event of default by the borrowers. The terms and conditions of the notifications provide for deposit of guarantee fee at the rate of two *per cent* of the guaranteed loan at the time of giving of guarantee. The guarantee fee of ₹ 31.75 crore was neither deposited by PRDB and PMB in the Government account nor demanded by the Government as tabulated below:-

(₹ in crore)

Sr. No.	Name of institutions	Purpose of loan availed	Year	Amount of loan	Guarantee fee not paid
1.	Punjab Rural Development Board, Chandigarh	i) Constructions/ Repair of Link Roads	2003-04	165.00	3.30
			2006-07	335.00	6.70
		ii) Comprehensive Rural Development	2007-08	135.00	2.70
			2008-09	400.00	8.00
2.	Punjab Mandi Board, Chandigarh	i) Constructions of New Rural Roads	2004-05	140.00	2.80
			2006-07	112.50	2.25
		ii) Special Repair of Rural roads	2008-09	300.00	6.00
<b>Total</b>				<b>1,587.50</b>	<b>31.75</b>

When we pointed out between November 2009 and February 2010, the borrowers intimated between November 2009 and March 2010 that the matter regarding waiver of guarantee fee had been taken up with the Government. However, further information collected (January 2010) by us revealed that the request of PRDB for waiver of guarantee fee of ₹ 20.70 crore had not been accepted. The request of PMB for waiver was pending with the Government. Thus, non-compliance of the terms and conditions governing the guarantees by the borrowers deprived the State Government of its dues of ₹ 31.75 crore.

We reported the matter to the Department and the Government in April 2010; their replies are awaited (October 2010).

## **D: Lotteries Department**

### **4.6 Failure to deduct the establishment cost**

*Non-compliance of provisions of the Punjab State Lotteries Rules, 1998 resulted in loss of revenue of ₹ 1.94 crore.*

❖ Under the Punjab State Lotteries Rules, 1998 as amended in July 2000, the Directorate of Lotteries shall have the over-riding charge to make deductions from the prizes of bumper draw of lottery as may be specified by the State Government from time to time towards the establishment cost of the Directorate.

❖ The terms and conditions governing the schemes of bumper draws prior to August 2004 contained provision for deduction of 20 *per cent* of the prize money paid in cash towards the establishment cost of the Directorate.

#### **Directorate of Lotteries**

We found in February 2010 that four bumper draws having total prizes valued ₹ 9.68 crore were paid between August 2008 and April 2009, but deductions towards the establishment cost were not made from the prizes of bumper draws, on the ground that the terms and conditions of the schemes of bumper draws framed by the department did not provide for such deductions. Thus, failure on the part of the Directorate of Lotteries to approach the Government for prescribing the quantum of deduction towards the establishment cost resulted in loss of revenue of ₹ 1.94 crore at the rate of 20 *per cent* of the prize money during August 2008 to April 2009.

When we pointed out, the Director intimated in February 2010 that the prizes had been paid as per the approved schemes. He further stated that it was a policy decision not to cut the establishment cost. The departmental reply is not acceptable on the following grounds:-

- (a) As per the Punjab State Lotteries Rules, 1998, the deduction on account of establishment cost was mandatory. Government was only to specify the rate of deduction of establishment cost of the Directorate from time to time.
- (b) Non-inserting of a clause in the scheme of bumper draw of the lottery regarding deduction from the prizes towards the establishment cost of the Directorate was contrary to the Rules.

We reported the matter to the Department and the Government in May 2010; their replies are awaited (October 2010).



## CHAPTER-V

### Stamp Duty and Registration Fee

#### 5.1 Tax administration

The State Government exercises control over the registration of instruments through the Inspector General of Registration, who is assisted by the Deputy Commissioners, Tehsildars and Naib-Tehsildars acting as Registrars, Sub-Registrars (SR) and Joint Sub-Registrars (JSRs) respectively. No registration work is however, done in the offices of the Registrars. The Registrar exercises superintendence and control over the SRs and JSRs of the district. For the purpose of levy and collection of stamp duty and registration fee, the State has been divided into four divisions and 20 districts having 20 Registrars, 78 SRs and 76 JSRs. In the year 2000 the National Informatics Centre had developed, a 'Property Registration Information System Module (PRISM)' to automate the major activities of the Sub-Registrar Offices.

The Indian Stamp Act, 1899 provides for levy and adjudication of stamp duty, allowances for stamps in certain cases, revisions, levy of penalties and prosecution in the case of instruments not duly stamped.

The Indian Registration Act, 1908 provides for the compulsory or optional registration of documents and prescribes the time and place for presenting such documents, fee for registration, searches, penalties and prosecutions for offences.

The State Government had framed the Punjab Stamp Rules for tax administration in the State. These Rules govern:

- a) the supply and keeping of stamps;
- b) licencing of vendors and sale and stock of stamps and
- c) inspection and control.

#### 5.2 Trend of receipts

The actual receipts from stamp duty and registration fee during the period 2005-06 to 2009-10 along with the total tax and non-tax receipts during the same period are exhibited in the following table and graph:

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax and non-tax receipts of the State	Percentage of actual receipts to the total receipts
2005-06	1,600.50	1,670.50	(+) 70.00	(+) 4.37	13,525.71	12.35
2006-07	2,000.00	1,803.93	(-) 196.07	(-) 9.80	16,761.74	10.76
2007-08	1,700.00	1,567.84	(-) 132.16	(-) 7.77	15,153.14	10.35
2008-09	1,900.00	1,730.29	(-) 169.71	(-) 8.93	16,934.10	10.22
2009-10	2,015.00	1,550.94	(-) 464.06	(-) 23.03	17,692.18	8.77

It can be seen from the above data that there was decline in stamp duty receipts from ₹ 1,670.50 crore in 2005-06 to ₹ 1,550.94 crore in 2009-10 and the collections were far below the budget estimates in 2009-10 by 23 per cent.

The percentage of receipts from stamp duty and registration fee to the total receipts in the State remained more or less stagnant at 10 during the period 2005-10.

The Government stated (August 2010) that the main reasons for decrease in the revenue collection were the less number of registration deeds preferred by the public and the recession.

### **5.3 Cost of collection**

The gross collection in respect of stamp duty and registration fee, expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2005-06 to 2009-10 alongwith the all India average percentage of expenditure on collection are mentioned below:

(₹ in crore)

Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure to collection
Stamp duty and registration fee	2005-06	1,670.50	20.22	1.21	2.87
	2006-07	1,803.93	30.21	1.67	2.33
	2007-08	1,567.84	18.22	1.16	2.09
	2008-09	1,730.29	23.69	1.37	2.77
	2009-10	1,550.94	12.42	0.80	-

The percentage of expenditure to the total collection of stamp duty and registration fee in the State was lower than the All India average percentage.

### **5.4 Impact of audit**

#### **Revenue impact**

During the last five years, audit through its reports had pointed out non/short levy etc., involving revenue implication of ₹ 145.80 crore in 3,467 paragraphs. Of these, the Department/Government had accepted audit observations in 1,192 paragraphs involving ₹ 14.95 crore and had recovered ₹ 2.21 crore. The details are shown in the following table:

(₹ in crore)

Year	Number of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	93	865	35.21	524	2.83	101	0.31
2005-06	127	909	7.90	114	3.95	51	0.17
2006-07	99	458	11.05	325	7.41	203	0.92
2007-08	132	919	49.32	205	0.45	121	0.44
2008-09	116	316	42.32	24	0.31	88	0.37
<b>Total</b>	<b>567</b>	<b>3,467</b>	<b>145.80</b>	<b>1,192</b>	<b>14.95</b>	<b>564</b>	<b>2.21</b>

The Government may consider issuing of instructions for recovery of the revenue at least in the accepted cases on priority.

### 5.5 Results of audit

Test check of the records of 141 units relating to stamp duty and registration fee during 2009-10 revealed irregularities involving ₹ 58.08 crore in 562 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Review of 'Levy and Collection of Stamp Duty and Registration Fee'	1	29.20
2.	Non/short levy of stamp duty and registration fee	303	13.55
3.	Short levy of stamp duty and registration fee on lease deeds	12	0.17
4.	Misclassification of instruments	23	1.69
5.	Other irregularities	223	13.47
<b>Total</b>		<b>562</b>	<b>58.08</b>

During the year 2009-10, the Department accepted the audit observations involving ₹ 32.57 lakh in 23 cases and recovered ₹ 1.78 crore in 272 cases pertaining to the audit findings of the earlier years.

A Performance Audit of 'Levy and collection of stamp duty and registration fee' involving financial impact of ₹ 29.20 crore is described in the following paragraph.

## **5.6 Performance Audit of Levy and Collection of Stamp Duty and Registration Fee**

### **Highlights**

There were evasions of stamp duty and registration fee on sale of immovable property on powers of attorney and due to non-registration of agreements for sale.

**(Paragraph 5.6.5)**

Misclassification of the instruments as agreements instead of deeds of conveyance resulted in non-levy of stamp duty and registration fee amounting ₹ 1.07 crore.

**(Paragraph 5.6.6)**

There are no explicit provisions in the General Clauses (GC) Act, 1897 empowering the Government to remit the registration fee.

**(Paragraph 5.6.7)**

Non-verification of stamp duty resulted in acceptance of fraudulently tempered bank receipts of ₹ 42.60 lakh.

**(Paragraph 5.6.8)**

Inadmissible remissions of stamp duty and registration fee of ₹ 20.59 crore were noticed on instruments of conveyance, mega projects, subsidiary/ associate companies of the promoter companies, mortgages for securing loan and charitable institutions.

**(Paragraph 5.6.9)**

Internal Control Mechanism prescribed for vendor records was not followed by the Departmental officers. Non-settlement of large number of internal audit objections had rendered the internal audit function ineffective.

**(Paragraph 5.6.11)**

There were sale of fake stamps of ₹ 85.45 lakh not found entered in the vendor records.

**(Paragraph 5.6.11.2)**

The NIC maintained software for registration activities PRISM, had several general and applications control deficiencies, resulting in manual intervention.

**(Paragraph 5.6.13)**

### **5.6.1 Introduction**

Registration of the documents attracts levy of stamp duty and registration fee. The levy of stamp duty on various types of the instruments namely conveyance, exchange, mortgage and lease etc., is governed by the Indian Stamp Act, 1899 (Stamp Act) and the Rules framed thereunder. The duty is paid by the executors of instruments either by using impressed stamps or by affixing stamps (non-judicial) of proper denomination. The levy of registration fee on the instruments presented for registration is regulated by the Indian Registration Act, 1908 (Registration Act) and the Rules framed thereunder. In the context of large number of deficiencies in the registration process reported repeatedly in the Inspection Reports by us and computerisation of some of the

activities in the Sub-Registrar offices, we considered it necessary to undertake Performance Audit of the levy and collection of stamp duty and registration fee in the State.

### **5.6.2 Audit objectives**

The Performance Audit was conducted with a view to ascertain:

- the compliance of the prescribed rules and procedures while registering the documents;
- the efficiency and effectiveness of the system and procedures relating to the levy and collection of the stamp duty and registration fee;
- the adequacy and effectiveness of the internal control system for timely detection of deficiencies for initiating suitable remedial measures; and
- the utilisation and effectiveness of the PRISM.

### **5.6.3 Scope and methodology of audit**

A mention was made in paragraph 4.2 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2005 (Revenue Receipts) Government of Punjab, highlighting the shortcomings during the years 1999-2000 to 2003-04 regarding the levy and collection of stamp duty and registration fee. With a view to ascertain the present functioning of the Department in ensuring correctness of the levy and collection of stamp duty and registration fee, test check of the relevant records for the years from 2004-05 to 2008-09 was conducted during August 2009 and March 2010. We conducted the audit in 38<sup>1</sup> out of the 154 Registering offices in the State.

Computerisation of the registration activities in the State of Punjab was also examined as an integral part of the Performance Audit, by examining the records in Seven SRs<sup>2</sup>. The SQL<sup>3</sup> database maintained in the Sub Registrar Offices at Ludhiana (November 2008 to March 2009) and Sangrur (2008-09) was analysed to assess the controls for completeness, authenticity and reliability. An Interactive Data Extraction and Analysis (IDEA) tool was used in audit for analysing the data.

### **5.6.4 Acknowledgement**

The Indian Audit and Accounts Department acknowledges the cooperation of the Revenue Department for providing information and records for audit. An entry conference was held with the Inspector General of Registration, Punjab at Jalandhar on 14 September 2009. During the conference, the objective, scope and methodology of audit was explained. The Department informed about shortage of staff, need for State level ready reckoner for valuation of

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<sup>1</sup> Amritsar-I, Ajnala, Amloh, Bholath, Barnala, Bathinda, Baghapurana, Faridkot, Gurdaspur, Gidderbaha, Jalandhar-I, Jagraon, Kapurthala, Khanna, Ludhiana(East), Mansa, Moga, Mohali, Mukerian, Nakodar, Nawanshahr, Patti, Patran, Payal, Phagwara, Phillaur, Ropar, Raikot, Sangrur, Samrala, Sultanpur Lodhi, Samana,Zira,, Banga, Goraya, Kartarpur, Machhiwara and Mullanpur Dakha.

<sup>2</sup> Jalandhar-I, Jalandhar-II, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Patiala and Sangrur.

<sup>3</sup> Structured Query Language.

properties for the purpose of levy of stamp duty, need for early completion of computerisation of the registration process and training of the officers and staff. An exit conference with the Secretary Revenue, Government of Punjab was held on 31 August 2010 in which important audit findings and recommendations were discussed.

The draft review was forwarded to the Department and the Government in June 2010. The replies received during the exit conference and at other point of times have been incorporated.

The Performance Audit revealed many systems and compliance deficiencies in the levy and collection of stamp duty and registration fee. These are discussed in the subsequent paragraphs.

## System deficiencies

### 5.6.5 Possible evasion of stamp duty and registration fee on Power of Attorney for sale of immovable property

❖ As per Articles 48 (f) and (ff) of Schedule I-A (for Punjab) of the Indian Stamp Act, on instruments of power of attorney wherein the power when given for consideration and authorising the attorney to sell any immovable property or when given for consideration and/or for authorising possession of the immovable property, the same duty is leviable as applicable to the deeds of conveyance

❖ The Government of Punjab, communicated to all registering authorities in the State (December 2007) that it was in their knowledge that instruments of Power of Attorney were being executed in a large number to sell immovable property to evade stamp duty. The ROs were directed that the persons executing the power of attorney authorising to sell immovable property should specifically state in the instrument as to whether

(a) the possession of the property had been handed over or not, and

(b) the power of attorney was granted for consideration or not.

Failure to check the above conditions would invite administrative action against them.

We noticed in 16 SR/JSR<sup>4</sup> offices that 1, 35,123 instruments of general power of attorney were registered during the years 2004-05 to 2008-09. Of these, 4,994 instruments were test checked and in 1,463 instruments of power of attorney registered during the year 2008-09, the power to sell and transfer the immovable properties and to hand over the possession thereof in favour of the third persons other than the blood related<sup>5</sup> had been granted with a view to evade the levy of stamp duty and registration fee. The instruments of power of attorney attract nominal stamp duty of ₹ 300 and registration fee of ₹ 50 in comparison to the deeds of conveyance whereupon the stamp duty and registration fee are leviable at the rate of five and one *per cent* of the value of the properties. These instruments i.e. power of attorney were effectively the deeds of conveyance. Since the attorney holders were given the power to sell or transfer and hand over the possession of the properties to the third person, stamp duty and registration fee of ₹ 9.84 crore<sup>6</sup> could have been levied and collected, had these instruments been registered as deeds of conveyance though passing of consideration was not mentioned.

<sup>4</sup> Amritsar-I, Barnala, Banga, Bathinda, Jalandhar-I, Kapurthala, Kharar, Ludhiana (East), Mohali, Mansa, Moga, Nakodar, Payal, Phagwara, Patran and Ropar.

<sup>5</sup> Two persons are said to be related to each other by full blood, when they are descendents from a common ancestor by the same wife {Section 3 (e) of the Hindu succession Act, 1956}.

<sup>6</sup> Calculated by applying the Collector rates prescribed from time to time.

In an illustrative case of SR Moga, we found while scrutinising the records of deed writers that one person made an agreement of sale of land measuring 68 kanal 10 Marla on 26 February 2008 with a coloniser for a consideration of ₹ 5.99 crore and received the full consideration. This instrument i.e. agreement for sale was not got registered with the registering authority though the same was required to be registered under Article 5 (cc) of Schedule 1A (for Punjab) of the Indian Stamp Act, 1899. The seller instead executed and got registered another instrument of power of attorney on the same day (26 February 2008) authorising the purchaser to develop the land for all purposes or sell to any other person for consideration and get the land (in full or part) registered as deeds of conveyance.

The instrument of power of attorney was not stamped as required under Article 48(f) *ibid*, though it contained both the averments specified therein. Further, the deed writer did not submit or report to the registering authority about the instrument of agreement to sell as required under Article 5(cc) *ibid* as this instrument was evidencing the delivery of possession of the immovable property agreed to be sold and the receipt of full consideration. This instrument was compulsorily registerable.

In the above mentioned instrument of power of attorney, the attorney holder was given absolute powers to do all acts as an owner can do. It was specifically stated by the owner in the instrument that no sale transaction with the attorney holder had been done nor any consideration had been received. When we cross linked these instruments, it was proved beyond doubt that provisions related to the power of attorney were being misused resulting in loss of revenue to the State Government. We further observed that the attorney holder subsequently sold this property to other persons by undervaluing the property viz. the value of the property mentioned in the sale agreement was higher than the value disclosed in the sale deeds.

We found yet in another case of SR Moga that similar method had been adopted to evade the payment of stamp duty and registration fee.

Non-registration of the agreement to sell and registration of power of attorney in these two cases had resulted in short levy of stamp duty and registration fee of ₹ 1.06 crore.

The Government stated that the Power of Attorney Act is a Central Government Act, which does not provide issuance of any order or instructions to the effect as required by Audit and further stated that instructions already issued in December 2007 had been reiterated in August 2010. The reply is not acceptable to the extent that the Government has power to amend schedule 1-A (for Punjab) of the Indian Stamp Act to consider levy of stamp duty in cases of power of attorney, where the attorney holders were given powers to sell, receive consideration and hand over the possession of the immovable property.

In the context of large scale misuse of the provisions of power of attorney through this *modus operandi*, where the consideration received or possession handed over or both are not being mentioned in the instruments of power of attorney, it is recommended that such Powers of Attorney where power of sale of the immovable property is given to an Attorney Holder, other than a blood



relative, be treated as conveyance deeds for stamp duty purposes, by amendment to the Act/Rules governing stamp duty in the State. Such provisions have already been made in other States such as Rajasthan (Section 44 EE of Rajasthan Stamp Act). Further a nominal appropriate stamp duty may also be considered for such Powers of Attorney given to blood relatives.

### 5.6.6 Misclassification of sale instruments

Under Section 2 (10) of the Indian Stamp Act, 1899, 'Conveyance' includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred is chargeable to duty as specified under Article 23 of the Schedule 1-A. The essence of conveyance is the transfer of property or interest therein, whether moveable or immoveable and the transfer is inferred from the language of the documents which may be in the form and guise of agreement or memorandum of agreement.

(a) We noticed that in three instruments of agreements registered in three SRs/JSRs<sup>7</sup>, the owners of the land entered into agreements with the developers to develop and construct residential/commercial buildings on the owner's land. In return, the owners were to receive sale proceeds of developed property as agreed. The developers were given the possession of the land through Irrevocable Power of Attorneys to develop and sell/lease/rent out the developed properties under the terms of agreements. The agreements contained all the ingredients of conveyance and thus were required to be stamped as per Article 23 of the Schedule 1-A. But the registering authorities classified these instruments as memorandum of agreements instead of the deeds of conveyance.

These mistakes of misclassification of the instruments as agreements instead of deeds of conveyance resulted in non-levy of stamp duty and registration fee amounting ₹ 1.07 crore.

The Government stated in respect of the SR Mohali that action would be taken as per decision of the collector, whereas in respect of SR Amritsar, the concerned SR had been directed to refer the matter to the competent authority.

(b) In five SR<sup>8</sup> offices we noticed that nine instruments were executed for securing loans/cash credit limit from the scheduled banks as 'Memorandum of deposit of title deeds' and 'Power of Attorneys' against the security of immoveable properties.

<sup>7</sup> Amritsar-I, Dera Bassi and Mohali.

<sup>8</sup> Bathinda, Bholath, Kapurthala, Khanna and Phagwara.

❖ A 'mortgage deed' includes every instrument whereby, for the purpose of securing money advanced by way of loan, or an existing or future debt, one person transfers or creates in favour of another a right over or in respect of specified property

❖ For availing cash credit facility or taking loan from the Commercial and Banking Institutions, the instrument is required to be stamped as mortgage under Article 40 of Schedule-I-A of the Act.

These instruments were required to be classified as mortgage deeds without possession. Thus, the misclassification of these instruments resulted in short levy of stamp duty of ₹ 31.90 lakh.

When we pointed out the above mentioned mistakes, most of the registering authorities either stated that the documents were registered as per provision of the Act or the matter would be referred under section 47-A/48 for adjudication.

The Government stated that the concerned registering officers had been directed to effect recoveries under Section 48 of the Act.

#### **5.6.7 Absence of provision for remission of the registration fee**

❖ As per Section 78 of the Registration Act, 1908, registration fee is to be fixed by the State Government for the purposes enumerated in clauses (a) to (i). In case the State Government wants to remit the fees payable in respect of any of the matters enumerated in clauses (a) to (i), provision for the same is required to be made under Section 78 by an Act.

❖ In this context, the States of Kerala, Tamil Nadu and many others had inserted Section 78-A or 78-B or sub section 2 below sub section 1 of Section 78 providing for remission of fee.

The State Government had issued (June 2001) notification for remission of the registration fee leviable on instruments of mortgage for securing loan for agricultural purposes or purposes allied to it including machinery and building which is not used for commercial purposes.

We found that in the office of the 32 SRs/JSRs<sup>9</sup> instruments of mortgage executed during the years 2007-08 and 2008-09 by the agriculturists were registered for securing loans from the banks/banking institutions. These instruments were registered without the levy of registration fee of ₹ 33.80 crore under the above mentioned notification. Remission of the fee under the notification was inappropriate as it was not governed by any provision in the Act.

When we pointed out in July 2010, the Government intimated in August 2010 that Section 21 of the General Clauses Act, 1897 (GC Act) empowered the State Government to add, amend, vary or rescind the table of fees.

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<sup>9</sup> Amritsar-I, Ajnala, Amlon, Bholath, Barnala, Baghapurana, Faridkot, Gurdaspur, Gidderbaha, Jalandhar-I, Khanna, Ludhiana (East), Moga, Mohali, Mukerian, Mullanpur, Nakodar, Nawanshahr, Patti, Patran, Payal, Phagwara, Phillaur, Ropar, Raikot, Sangrur, Samrala, Sultanpur Lodhi, Samana, Banga, Goraya and Kartarpur.

But we observed further that the Government had issued the notification remitting the levy of registration fee under Section 78 of the Registration Act which did not empower the Government to remit or exempt or reduce the fee. Moreover, there are no explicit provisions in the GC Act empowering the Government to remit the fee. Therefore, the Government may consider appropriate amendment in the Act providing for remission of fee, as has been done in some other States.

#### **5.6.8 Non-verification of payment of stamp duty with the banks**

With a view to curb the loss of revenue due to fraud and defalcation etc., the Government issued instructions (October 2005) for depositing of stamp duty of ₹ 20,000 or more involved in a single transaction at the authorised branches of State Bank of India. The scheme also provided for installation of internet connections between the banks and the registration offices for verification of the deposits on-line by the registration offices. The registering authorities were required to verify the deposits of stamp duty in the banks before release of the documents to the executants.

We found that no internet connection was installed in any of the 38 registering offices test checked and as such no verification of the deposits was done by the registering officers before the release of document to the executants. The registering authorities also failed to verify the payment details with the bank by other method and the routine method of reconciliation of remittances with the treasury. We observed that in the office of the SR, Hoshiarpur the non-verification of the deposits of stamp duty before the release of documents to the executants had led to acceptance of fraudulently tampered bank receipts resulting in loss of revenue of ₹ 42.60 lakh in 30 cases during the year 2008-09. The fraud was detected by the Department (August 2009). In all the 30 cases, the executants of instruments tampered the bank receipts in the following manners.

- by adding the digits one or two before the amount of duty actually deposited in the bank, or
- altering the digit of one as four in lakh position in the bank receipts.

Though the fraud was detected by the Department, yet no remedial measures were taken to provide internet facility in the registration offices for online verification of the stamp duty deposited in the banks. During the exit conference held on 31 August 2010, the Secretary Revenue stated that instructions were being issued for speedy installation of internet facility.

Government may, after examining the economical aspect, provide internet connection between the bank and the registering office to monitor the deposits of stamp duty in the bank before releasing the documents to the executants. Alternatively, the registering officers be instructed to release the documents only after they verify the deposits of stamp duty from the bank scrolls.

## Compliance deficiencies

### 5.6.9 Remission of stamp duty and registration fee on incomplete documents

A few illustrations of inadmissible remission of stamp duty and registration fee of ₹ 20.59 crore are discussed below:

The Government of Punjab vide notification (June 2008) allowed remission of the stamp duty and registration fee on the instrument of conveyance that were to be executed or had already been executed by those whose land in the State had been acquired for the public purpose. The remission was to be limited to the amount which the owner of the land had received as compensation awarded by the Collector for the acquisition of the land.

(i) In 11 SRs/JSRs<sup>10</sup>, we noticed that the remission of ₹ 1.91 crore of stamp duty and registration fee was granted on 54 instruments executed by the beneficiaries on the basis of land acquisition notification etc. without obtaining the land acquisition certificates and details of compensation awarded by the Collectors. Thus, the document used for grant of remission in the above mentioned instruments was incomplete.

In the case of SRs Fatehgarh Sahib and Bagha Purana, we noticed that the remission of ₹ 9.22 lakh on three instruments was granted to the persons who were not covered under the land compensation awards as their land was not acquired for public purposes.

The Stamp Act provides that stamp duty is leviable at the prescribed rate on every instrument unless it is otherwise remitted by the State Government. Under the Industrial Policy on Mega Projects, the State Government on the recommendations of the Empowered Committee on Mega Projects grants exemption from levy of duty and issues specific notification in this regard.

(ii) In the office of three SRs<sup>11</sup>, we noticed that the remissions of stamp duty and registration fee of ₹ 5.83 crore were granted to three beneficiaries who executed the instruments of conveyance for Mega Projects in anticipation of the exemption notifications. But no such notifications have so far been issued by the State Government.

The Government intimated (August 2010) that explanation had been called for from the registering authorities as to how they had allowed remissions without proper notifications.

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<sup>10</sup> Ajnala, Amlah, Fatehgarh Sahib, Giddarbaha, Kapurthala, Mansa, Mohali, Patti, Payal, Samana and Samrala.

<sup>11</sup> Barnala, Ludhiana (West) and Talwandi Sabo.

The Punjab Government (September 2006 and February 2007) remitted the stamp duty in respect of instruments of conveyance executed by the owners of Subsidiary Companies and Associate Companies in favour of their Promoter Companies dealing in Mega Housing Projects. The registering officers were to ensure that the factum of relation between the Promoter Companies and the Subsidiary/ Associate Companies was fully described in the instruments.

As per the Indian Stamp Act, 1899 (Schedule 1-A), a mortgage deed in respect of a specified property for securing loan, when possession is neither given nor agreed to be given, is chargeable to stamp duty at the rate of two *per cent* of the amount secured.

Government remitted (February 1981) stamp duty and registration fee chargeable on instruments of conveyance by sale or gift in favour of the charitable institutions for charitable purposes.

(iii) We noticed in three SRs<sup>12</sup> that the remission of stamp duty was granted on 48 instruments of conveyance executed by the companies claiming as Subsidiary/Associate Companies in favour of their Promoter Companies, but the factum of relationship between the Promoter Company and the Subsidiary/ Associate Company had not been described in the conveyance deeds. Thus, the remission of the stamp duty of ₹ 10.48 crore was granted without satisfying the condition prescribed in the notification.

When we pointed out, the Government issued instructions to the registering authorities to obtain the necessary certificates.

(iv) In the office of nine SRs/JSRs<sup>13</sup>, we noticed that the remission of stamp duty and registration fee of ₹ 14.48 lakh was granted on 26 instruments of mortgage executed in favour of the General Manager, District Industries Centers for securing subsidy by creating charge on the specified properties, when no notification for remission was issued by the Government.

(v) In the office of 13 SRs/JSRs<sup>14</sup>, we noticed that the remission of stamp duty and registration fee of ₹ 73.77 lakh was granted on 21 instruments of conveyance executed in favour of the charitable institutions, despite the fact that these institutions were not established under the Charitable Endowment Act, 1890. The Government instructions (August 2009)

directing the registering officers to ensure the charitable status of the institutions before the grant of remission of stamp duty and registration fee under the Act were not complied with.

<sup>12</sup> Bathinda, Jagraon and Mohali

<sup>13</sup> Baghapurana, Bathinda, Faridkot, Kartarpur, Ludhiana (East), Moga, Payal, Samrala and Sangrur.

<sup>14</sup> Barnala, Faridkot, Ferozepur, Giddarbaha, Jalandhar-I, Kapurthala, Khamano, Ludhiana, Majari, Mansa, Moga, Patiala and Sangrur.

Indian Stamp Act, 1899 provides that stamp duty and registration fee is leviable in respect of instruments of transfer of property in favour of Corporations/Boards/Bodies.

The Government (June 2001), exempted stamp duty and registration fee leviable on instruments executed by a person for securing loan from a bank, co-operative society or banking institution to meet the expenditure on any of the items specified in connection with agricultural purpose or purposes allied to it.

The Government (December 2001) remitted duty chargeable in case of transfer by an owner of agricultural and residential property to his class-I heirs. When class-I heir is alive, then stamp duty and registration fee is leviable in the case of transfer of property to class-II heirs.

As per the Indian Stamp Act 1899 (Section 3-C), additional stamp duty and registration fee is leviable in respect of instruments of transfer of properties located within the Municipality/outer limit of five kilometres of class-1 municipality and Municipal Corporation, as specified in Schedule 1 B.

(vi) We noticed in two SRs and JSRs<sup>15</sup> that the remission of stamp duty and registration fee of ₹ 23.55 lakh was granted on two instruments of conveyance executed in favour of a Corporation of the Central Government despite the fact that no specific notification of such remissions was notified by the Government.

(vii) In the office of 22 SRs and JSRs<sup>16</sup>, we noticed that the remission of stamp duty and registration fee of ₹ 89.73 lakh was granted on 116 instruments of 'mortgage without possession' executed by individuals in order to secure loans from the Commercial/Banking institutions for the purpose of non farming activities or for purposes other than the items specified in the Government notification of June 2001.

(viii) We noticed in SR Ludhiana (East) and SR Sunam that the remission of stamp duty of ₹ 5.50 lakh was granted on instruments of transfer of property executed in favour of class-II heirs, when the class-I heirs were alive.

(ix) In the offices of four SRs<sup>17</sup>, we noticed that the remission of additional stamp duty of ₹ 20.78 lakh was granted erroneously on four instruments of transfer of properties located within the Municipality.

In respect of sub paragraphs 5.6.13(iv) to (ix), the Government agreed to take action under Section 47A/48.

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<sup>15</sup> Banga and Malerkotla.

<sup>16</sup> Adampur, Ajnala, Amritsar, Banga, Barnala, Bathinda, Derabassi, Fazilka, Goindwal, Gurdaspur, Khamano, Kapurthala, Kartarpur, Ludhiana, Macchiwara, Mullanpur Dakhan, Nakodar, Phillaur, Samrala, Sangrur, Sultanpurlodhi, and Zira.

<sup>17</sup> Bholath, Jalandhar-II, Mukerian and Samrala

### 5.6.10 Short levy of stamp duty

A few instances of short levy of duty of ₹ 4.37 crore due to non-adoption of the appropriate collector rates are discussed below:

Under the Punjab Stamp (Dealing of Under-valued instruments) Rules, 1983 as amended in 2002, the Collector of a district in consultation with the Committee of Experts as defined thereunder, fixes the minimum market value of land/properties locality wise and category wise in the district for the purpose of levying stamp duty.

(a) In all the 38 selected offices, we noticed that the immovable properties were misclassified in 60 instruments of transfer of properties registered during the years 2007-08 and 2008-09 as agricultural land instead of *ghair mumkin*<sup>18</sup> residential and commercial or *ghair mumkin* residential instead of *ghair mumkin* commercial etc. as described in the *Jamabandi (ferds)*, *Khasra list* and *Khatauni*. The Collector's rates as applicable to those properties were not applied for levy of stamp duty. This omission resulted in short levy of stamp duty of ₹ 3.30 crore.

(b) In eight registering offices<sup>19</sup>, we noticed that the Collector's rates of valuation of the land as applicable to *ghair mumkin* land were not applied in 10 instruments for transfer of land upto two kanals/three kanals for levy of stamp duty and registration fee. This omission resulted in short levy of stamp duty and registration fee of ₹ 22.88 lakh.

(c) In the office of five SRs<sup>20</sup>, we noticed that the Collector's rates of valuation of the land as applicable for those properties like *ghair mumkin*, commercial etc were not applied in six instruments of conveyance. These mistakes resulted in short levy of stamp duty and registration fee amounting to ₹ 37.95 lakh.

(d) In the office of SRs Gurdaspur and Sangrur, we noticed that the stamp duty on two instruments of transfer of immovable properties bought in auction held by the Punjab Urban Development Authority/Punjab Financial Corporation, was levied on the transaction value equivalent to the auction price of the land instead of the value to be worked out as per Collector's rates as applicable to those properties. These mistakes resulted in short levy of stamp duty and registration fee of ₹ 46.66 lakh.

### 5.6.11 Internal Control Mechanism

#### 5.6.11.1 Internal audit

The system of internal audit was introduced in 1985 in the Revenue Department. The Internal Audit organisation (IAO) under the control of the Finance Department conducted audit up to April 2003 and thereafter discontinued. However, the Department in December 2008 decided to restart the internal audit

<sup>18</sup> Ghair mumkin : land which has for any reason become uncultivable, or which is barren sand, or ravines.

<sup>19</sup> Amritsar-I and II, Ludhiana (East), Mahilpur, Moga, Nawanshahr, Rajpura and Samrala.

<sup>20</sup> Bhikhiwind, Goraya, Jalandhar-I, Moga and Raikot.

from January 2009 and during the period January to March 2009 the IAO issued 884 audit paragraphs involving stamp duty and registration fee of ₹ 36.77 crore. As on 31 March 2009, 875 paragraphs involving ₹ 36.60 crore were outstanding for settlement by the Department. Non-settlement of the large number of internal audit objections has rendered the internal audit function ineffective and Government may therefore take appropriate steps in the matter.

#### **5.6.11.2 Sale of stamp papers not found entered in vendor records**

❖ Rule 35 of the Punjab Stamp Rules provides that every officer not below the rank of a tehsildar and any other Government servant including a stamp auditor may at any time inspect the stock of stamps, the registers, and the accounts of any licensed or specially licensed vendor.

❖ Note (1) below the Rule ibid provides that tehsildar/naib tehsildar shall exercise a general supervision over the stamp vendors in their tehsils, and are required to inspect the register and accounts of stamp vendors at least once in a quarter and generally to collect such information as will be useful to the Collectors in their administration of the stamp Department.

In the offices of three SRs/JSRs<sup>21</sup>, we cross verified the records of the stamp vendors with the records of the treasury officers and found that the prescribed control mechanisms were not performed by the designated officials as stated below:

- Nine stamp vendors had shown excess stock of 2,618 non-judicial stamp papers in their vend registers. The excess stock of stamp papers valued ₹ 45.98 lakh was in denominations of ₹ 100, ₹500, ₹ 1,000, ₹ 5,000, ₹ 10,000, ₹ 15,000, ₹ 20,000 and ₹ 25,000 and had not been issued by the treasury officers. The excess stock of stamp papers was sold by the vendors to the public. The stamps thus sold by the stamp vendors could be fake stamp papers, which needs to be investigated.
- Stamp papers valued ₹ 38.16 lakh purchased from the treasuries were neither found entered in the vend registers as stock in hand nor shown as sold to the public by seven stamp vendors.
- As per the Standing Instructions of the Punjab Government, Deed writers are required to record the details (name of the stamp vendor, serial number and date of issue and denomination and printed serial number) of stamp papers in the deeds.

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<sup>21</sup> Ludhiana, Machhiwara and Bathinda.



Para 5 of the questionnaire for the guidance of officers inspecting the registers and accounts of licensed stamp vendors provides that officers inspecting the registers and accounts of the stamp vendors have to ascertain whether the vendor correctly and truly enters in his register the supply of stamp papers received from the local treasury or sub treasury and strike the monthly balance of stock in hand in the register.

The particulars of stamp papers stated in the deeds are to be cross checked with the stamp vendor's registers to rule out the possibility of recycling of used stamp papers as well as of fake stamp papers. We noticed that in the office of S R Bathinda, details of stamp papers mentioned in eight instruments valuing ₹ 1.31 lakh were not traceable in the stamp vendors' register.

The Government stated (August 2010) that instructions had been issued for prevention of sale of fake stamps in the Punjab State and to check the records of stamp vendors regarding verification of sales by the stamp vendors with the treasuries. It was further stated that IAO was also entrusted in one case of such transactions in Ludhiana district and thus the State Government was seized of the matter. The Government reply does not sustain because despite these instructions, the sale of fake stamps were detected by Audit in the registering offices at Bathinda, Ludhiana and Machhiwara. This evidences that the prescribed control mechanisms were not complied by the designated officials and the sale of stamps by the treasuries were not matched/verified with the stamp vendor registers.

*Government need to enforce the prescribed control mechanisms of verification of the stamp papers received by the stamp vendors with the treasury records and reconciliation of stamp papers mentioned in the instruments with the details contained in the vendors' registers.*

**5.6.11.3 Non-maintenance of the vend register**

Under Rule 32 of the Punjab Stamp Rules, 1935, blank vend register in the prescribed form shall be supplied free of charge to the vendor on application to the Collector. Before issuing any blank vend register to the vendor, the Collector shall enter or cause to be entered the particulars such as (a) full name and residence of the vendor, (b) the date on which the register is issued and the pages of such register shall bear printed number, and all the pages of each register shall be printed in a continuous series. The officer in charge of the stamps shall certify under his signature at the beginning of each register the number of pages contained in it, and that they are numbered in a continuous series. To avoid accumulation of the filled or partially filled vend registers at the tehsil offices, they should be transferred at the close of the official year in which they have been deposited, to the district record room where they should be retained for a period of twelve years and then destroyed.

In the office of 36SRs/JSRs<sup>22</sup>, we noticed that the vend registers were not being supplied to the stamp vendors by the Collectors. Further, in the 36 SRs/JSRs, filled/used vend registers were not collected from the stamp vendors

When we requisitioned the vend registers for audit through the SR Samrala, one of the stamp vendors did not produce the vend registers and instead, submitted a copy of FIR lodged by him against the alleged loss of the registers. Thereafter, we requisitioned the vendor report of this particular stamp vendor for the period 2004-05 to 2008-09 available in the backup data of PRISM. When the data of PRISM given to us in CD was scrutinised, we observed that the data was tempered or was insufficient as evident from the following table.

Year	Total no of deeds registered during the year (Book-I, III & IV)	No of deeds as per information supplied in the CD (Book-I, III & IV)	Deficient information in the CD (Book-I, III & IV)
2007-08	3,706	2,042	1,664
2008-09	3,949	820	3,129

Thus, the data base was incomplete and the stamp vendors records could not be verified with the treasury records. The Department resultantly had failed to ensure correctness/completeness of the data.

<sup>22</sup> Amritsar-I, Ajnala, Amlah, Bholath, Barnala, Baghapurana, Faridkot, Gurdaspur, Gidderbaha, Jalandhar-I, Jagraon, Kapurthala, Khanna, Mansa, Moga, Mohali, Mukerian, Nakodar, Nawanshahr, Patti, Patran, Payal, Phagwara, Phillaur, Ropar, Raikot, Sangrur, Samrala, Sultanpur Lodhi, Samana, Zira, Banga, Goraya, Kartarpur, Machhiwara and Mullanpur Dakha.

The Government of Punjab directed (March 2006) that the maximum value of stamp papers for sale by the stamp vendor in each registration case cannot exceed ₹ 50,000. We observed that in four SRs, stamp papers exceeding ₹ 50,000 had been issued by the stamp vendors in 2,111 cases<sup>23</sup> out of 19,806 cases.<sup>24</sup> There was no provision in the software (PRISM) to reject/alert the sale of stamp papers exceeding ₹ 50,000 by the stamp vendors.

The authorised stamp vendors are allotted registration numbers by the Deputy Commissioner of respective district for sale of stamp papers within the monetary limit fixed by the Government of Punjab. In order to identify the authorised stamp vendors, there is a provision in the software to input the code and details of the stamp vendor selling the stamp papers. In 14,173 cases<sup>25</sup> out of 14,691 cases<sup>26</sup>, we found that the stamp vendor code was input as '099'/'others', thereby rendering the data incorrect/incomplete.

The Government (August 2010) agreed to the audit observations and issued instructions reiterating their earlier direction regarding maintenance of vendor register and inspection thereof.

#### 5.6.12 Inadmissible refund of stamps

Under section 49 of the Indian Stamp Act, 1899, the Collector may on application made within the period prescribed, make allowances for stamp duty in certain laid down circumstances.

No provision has been made for allowances of stamp duty in cases of documents fully executed by the concerned parties. Further Section 53 (c) of the Act provides that the collector may at his discretion permit allowances for spoiled and misused stamps of the same value in money, deducting ten naye paisa for each rupee or fraction of a rupee of the stamp value.

We noticed that:

(a) Refund Registers were not maintained in the prescribed Form SR-I in all the SRs/JSRs test checked by Audit.

(b) In 27 SRs/JSRs<sup>27</sup> refunds of ₹ 1.32 crore were allowed in respect of 366 executed instruments duly signed by both the parties. The refunds were allowed on the ground and report of the registering authorities that the instruments were not registered under the Registration Act. Since the instruments were duly executed by both the parties, the refunds were not admissible and needed to be recovered.

<sup>23</sup> Ludhiana-East:727, Ludhiana-West:916, Ludhiana-Central:452 & Sangrur:16.

<sup>24</sup> Ludhiana-East:6275, Ludhiana-West:4501, Ludhiana-Central:3915 & Sangrur:5115.

<sup>25</sup> Ludhiana Central:3748, Ludhiana East:6116, Ludhiana West:4309.

<sup>26</sup> Ludhiana Central:3915, Ludhiana East:6275, Ludhiana West:4501.

<sup>27</sup> Ajnala, Baghapurana, Barnala, Bathinda, Faridkot, Gidderbaha, Gurdaspur, Jagraon, Jalandhar-I, Kapurthala, Khanna, Ludhiana (East), Ludhiana(West), Mansa, Moga, Nakodar, Nawanshahr, Patran, Patti, Payal, Phillaur, Raikot, Roper, Samrala, Sultanpur Lodhi, and Zira.

(c) In the SR Amloh refund of the stamps was made without deducting ten naye paisa per rupee of the stamp value in contravention of the Act. This resulted in excess refund of ₹ 1.50 lakh.

(d) In three collectorates<sup>28</sup> the records relating to the applications seeking refunds, reports of the stamp vendors and the registering authorities, sanction orders and refund vouchers were destroyed along with the spoiled stamps before completion of the prescribed preservation period of one complete financial year following the one in which they were sanctioned.

The Government agreed (August 2010) to furnish a detailed reply. But the same is awaited (October 2010)

### **5.6.13 Computerisation of the registration activities**

The NIC maintained the software (PRISM) by providing technical support to the Department, but the same was withdrawn in August 2009 as the Department entrusted the work of development, implementation and integration of computerisation of land records with property registration to the Punjab Land Records Society (PLRS).

We noticed that the PRISM application was run by the Department as technical support from NIC was withdrawn since August 2009. No documented procedure for effective changes in the software was formulated and different versions of the software were being used including non-secured version in MS-Access. No IT policy, Back up policy and Password policy was formulated by the Department. These deficiencies were noticed as part

of transaction audit in seven SRs/JSRs<sup>29</sup>, as the software was not reviewed by us in totality because it was a rudimentary type. Computerisation of registration integrating with the land records was being done by PLRS.

Some of the system deficiencies noticed in the computerisation (PRISM) of the registration activities are discussed below:

#### **(a) Change management procedures**

Though the software PRISM was developed by the NIC in 2000, the Department had not prepared a documented procedure to control changes in the software and impact analysis of changes. There were no documentation relating to testing of the changes made in the software from time to time. In the absence of any documentation for change control, it was not possible to ascertain the effectiveness of any procedures.

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<sup>28</sup> Amritsar, Phagwara and Samana.

<sup>29</sup> Jalandhar-I, Jalandhar-II, Ludhiana (Central), Ludhiana (East), Ludhiana (West) Patiala and Sangrur.

**(b) Failure to use the new version of PRISM**

NIC, emphasising the security concerns, released new version of the PRISM 3.0 containing Relational Database Management System (RDBMS) in SQL in October 2001.

We noticed in three SRs<sup>30</sup> that the older version of the PRISM software in MS-Access database was continued to be in use in a standalone PC lacking adequate security features. In reply, the SRs Jalandhar-I and Jalandhar-II admitted (March 2010) that the new version PRISM 3.0 was not installed in their offices, whereas the SR Patiala stated (April 2010) that the matter would be brought to the notice of Deputy Commissioner.

**(c) Results of analysis of data applications**

We imported and analysed the PRISM data of four SRs<sup>31</sup> and the analysis was carried out by using IDEA, a Computer Assited Audit Technique and cross verified with the manual records. The results thereof are given below:

**SR, Patiala**

The Government of Punjab notified in February 1981 that no fee shall be chargeable on instrument of sale or gift executed in favour of a charitable institution established for charitable purpose within the meaning of the Charitable Endowment Act, 1890 (Central Act of 1890).

(i) We observed that the provision to regulate the registration of instrument of transfer of immovable property in favour of charitable trust was not mapped in the software and resultantly the SR had to resort manually. In the instant case, though the beneficiary, Kartar Foundation, Mohali (a society registered under Societies Registration Act, 1860) did not qualify for such an exemption, the SR had wrongly allowed

exemption of stamp duty and registration fee of ₹ 4.10 lakh on the registration of the conveyance deed of a land valued at ₹ 50 lakh.

**SRs, Ludhiana (East and West)**

Stamp duty is charged on the instrument of lease on the basis of period of lease, amount of average annual rent reserved and on the value of fine, premium or money advanced in addition to rent reserved.

(ii) When analysed the data base, we observed that the provision to regulate the registration of instrument of lease on the basis of period of lease, amount of average annual rent reserved and the premium or money advanced in addition to the rent reserved was not mapped in the software leading to wrong calculation of stamp duty and registration fee in five

instruments. These mistakes resulted in short levy of ₹ 0.26 lakh and ₹ 0.18 lakh. Manual intervention had to be made to rectify these mistakes.

<sup>30</sup> Jalandhar-I, Jalandhar-II and Patiala.

<sup>31</sup> Ludhiana (Central), Ludhiana (East), Ludhiana (West) and Sangrur.

### SR, Ludhiana Central

(iii) We noticed that in 28 of the 36 instruments of lease registered between November 2008 and March 2009, the transaction value ranged between ₹ one and ₹ 53, whereas the corresponding stamp duty collected ranged between ₹ 242 and ₹ 2,65,918, implying data inaccuracy.

### SR, Ludhiana West

- ❖ The additional stamp duty is leviable at the rate of three *per cent* of the transaction value. There is no concessional rate of additional stamp duty for females.
- ❖ The additional stamp duty is depositable in Social Security Fund maintained under the head 'Stamps and Registratio'.

(iv) When analysed the data base, we observed that the provision to regulate the registration of instrument of transfer of residential property registered in the name of females was not correctly mapped in the software and resultantly additional stamp duty was calculated by the software at the rate of two *per cent* instead of three *per cent* of the transaction value.

Due to these deficiencies, manual intervention had to be resorted to consolidate and reconcile the collection of additional stamp duty.

### SRs, Jalandhar-I and II

The stamp duty is leviable at different rates of the transaction value for male, females and certain other categories.

for male, female and certain other categories. Manual intervention had to be resorted to rectify the mistakes.

A check has been designed in the software to ensure that the transaction value of the sale of property in the instrument is not less than its minimum market value fixed by the respective Collector of the district. In case, the transaction value mentioned in the instrument is less than the minimum market value, the system will alert for impounding and processing of the instrument under Section 47 A of the Act.

(v) We observed that the stamp duty was calculated by the software at a single rate for all instruments of transfer of immovable property instead of different rates of stamp duty prescribed

(vi) In three SR<sup>32</sup> offices, we observed that in 32 of 15,598 instruments of sale of land, the transaction value therein was shown at the rate of 10 *per cent* of the minimum market value by the software as it had surpassed the designed check due to bugs in the software.

In an illustrative case of SR Ludhiana (West), we detected that stamp duty of ₹ 1.34 lakh was short levied in one instrument on account of this deficiency.

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<sup>32</sup> Ludhiana (East):13, Ludhiana (West):17 and Sangrur:2.

**(d) Deployment of man power**

We collected Information from the selected SRs/JSRs and observed that there was no rationale behind the deployment of staff viz-a-viz the number of instruments registered in a registering office. For instance, a very small number of instruments (2,700) were registered during the year 2008-09 by the SR Amloh as compared to those (29,095) by the SR Ludhiana (East). Similar scenario existed in the other registering offices too as can be seen below:

SRs where instruments less than 4,000 registered			
Sr. No.	Name of SR	Year	Total no. of instruments registered
1	SR Amloh	2008-09	2,700
2	SR Phillaur	-do-	3,176
3	SR Bholath	-do-	3,191
4	SR Samana	-do-	3,494
5	SR Payal	-do-	3,866
6	SR Samrala	-do-	3,949
7	SR Mukerian	-do-	3,990

SRs where instruments more than 20,000 registered			
Sr. No.	Name of SR	Year	Total no. of instruments registered
1	SR Ludhiana (East)	2008-09	29,095
2	SR Bathinda	-do-	20,141
3	SR Jalandhar I	-do-	28,261

We observed that the number of registering officials posted in the registering offices was the same irrespective of the number of the instruments registered during the year.

This had led to the mistakes/deficiencies like registration of undervalued instruments and remissions of stamp duty and registration fee in contravention of the Act, Rules and Government notifications/instructions. The audit had detected 3,161 cases of short levy of stamp duty and registration fee due to misclassification of the instruments and remissions, resulting in loss of revenue of ₹ 139.47 crore, as pointed out in the Reports of the Comptroller and Auditor General of India for the years ended 31 March 2006, 2007, 2008 and 2009 Revenue Receipts, Government of Punjab.

*The Government may consider deployment of staff in accordance with the workload to ensure proper scrutiny of the instruments at the time of registration, after proper study on manpower planning.*

**(e) General controls deficiencies**

The Department had not formulated and documented any policy on

- Security for IT assets, software and data security even after nine years of implementation of the PRISM. Further, no fire extinguishers were in place to keep the IT system safe in the event of fire. This endangers the security of IT assets and data base.
- Physical and logical access controls, business continuity and disaster management.

We observed in the SRs, Ludhiana (East) and Sangrur that as a result of general controls deficiencies, the entry of unauthorised persons in the server room was not restricted. Further, in all the selected registering offices, no arrangements for compulsory changing of password after a specified period was made in the software and the backups of data base were not also taken at uniform intervals.

The Government stated (August 2010) that the software PRISM was being disbanded and a new software was being developed. The use of new software would be started shortly.

**5.6.14 Conclusion**

Due to non-compliance of statutory provisions and Government instructions and lack of control over the registration activities, there were many cases of sale of fake stamps, inadmissible remissions of stamp duty and registration fee and evasion of duty through the instruments of general power of attorney, which resulted in loss of stamp duty and registration fee. Non-verification of payment of duty with banks in violation of Government instructions resulted in a fraud in Hoshiarpur district in 2008-09 involving loss of revenue of ₹ 42.60 lakh, detected by the Department. Internal Control Mechanism prescribed for vendor records was not followed by the Departmental officers. Non-settlement of large number of internal audit objections had rendered the internal audit function ineffective.

The NIC maintained software for registration activities, PRISM, had several general and applications control deficiencies, resulting in manual intervention.

**5.6.15 Recommendations**

Government may consider to:

- *Amendment to the Stamp Duty Act/Rules to prevent the misuse of power of attorney given for sale of immovable property, in line with provisions made by other states;*
- *provide internet facility between the banks and registering offices to prevent the sale of fake stamps, tampering etc.;*
- *enforce the system of verification of the stamp papers received by the vendors with the treasury records and reconciliation of the stamp papers mentioned in the instruments submitted for registration with the vendors accounts;*
- *amend the Section 78 of the Indian Registration Act, 1908 for inserting provision empowering the State to remit the stamp duty;*



- *expedite computerisation of the registration linking with the land records and replace the existing application of PRISM, which is rudimentary, insecure and incomplete in its coverage and utility; and*
- *deployment of staff in accordance with the workload to ensure proper scrutiny of the instruments at the time of registration, after proper study on manpower planning.*

**Chandigarh:**  
**The**

**(S.MURUGIAH)**  
**Principal Accountant General (Audit), Punjab**

**Countersigned**

**New Delhi:**  
**The**

**(VINOD RAI)**  
**Comptroller and Auditor General of India**

**ANNEXURE - 'A'**  
**Audit Plan for the year 2009-10 ( Para 1.4)**

Sr. No.	Category/Nature of receipt	Total Number of auditable units				No. of Units planned during the year			
		A	B	T	O	A	B	T	O
<b>Sales Tax/VAT</b>									
1	AETC VAT Audit & Refund	24	-	-	-	24	-	-	-
2	ETO Pendancy	21	-	-	-	21	-	-	-
3	ICC	-	36	-	-	-	18	-	-
4	A.E.T.C. Mobile wing	-	6	-	-	-	5	-	-
5	Sales Tax contingency	-	-	29		-	-	19	-
<b>Other Receipts</b>									
1	State Excise	39	11	16	-	39	6	7	-
2	Stamp Duty & Registration Fee	79	80		20	79	62	-	-
3	Motor Vehicles Tax	43	35	24		43	18	-	-
4	Entertainment Duty	14	10	-	-	14	5	-	-
5	Electricity Duty	2	-	-	-	2	-	-	-
6	Land Revenue	-	78	20	-	-	38	8	-
7	Forest Receipts	30	-	7	-	30	-	1	-
8	Lotteries	2	-	-	-	2	-	-	-
	<b>Total Units</b>	<b>254</b>	<b>256</b>	<b>96</b>	<b>20</b>	<b>254</b>	<b>152</b>	<b>35</b>	<b>-</b>
			<b>626</b>				<b>441</b>		

A: Annual  
B: Bi-ennial  
T: Tri-ennial  
O: Occasional