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## PREFACE

This Report for the year ended 31 March 2012 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 sale, state excise, taxes on motor vehicles, stamps and registration fees and other tax receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2011-12 as well as those which came to notice in earlier years but could not be included in previous years' Reports.

## OVERVIEW

This Report contains 21 paragraphs including two performance audits relating to non/short levy of tax, interest, penalty, revenue foregone, etc. involving ₹ 89.20 crore. Some of the major findings are mentioned below:

### I General

Total revenue receipts of the State Government for the year 2011-12 amounted to ₹ 69,806.27 crore against ₹ 58,206.23 crore for the previous year. 72 per cent of this was raised by State through tax revenue (₹ 46,475.96 crore) and non-tax revenue (₹ 4,086.86 crore). The balance 28 per cent was received from the Government of India as State's share of divisible Union taxes (₹ 11,075.04 crore) and grants-in-aid (₹ 8,168.41 crore).

(Paragraph 1.1.1)

3,115 Inspection Reports issued upto December 2011 containing 6,668 observations involving money value of ₹ 1,589.45 crore were pending settlement at the end of June 2012.

(Paragraph 1.2.1)

Records of 355 units of commercial taxes, state excise, taxes on motor vehicles, stamps and registration fees, electricity tax and other departmental offices were test checked during the year 2011-12. These revealed underassessment, non/short levy of taxes, loss of revenue, failure to raise demands and other irregularities aggregating ₹ 211.00 crore in 2,360 cases. During the course of the year, the Departments concerned accepted underassessment and other deficiencies of ₹ 7.06 crore in 846 cases. The Departments recovered ₹ 7.20 crore in 250 cases at the instance of audit.

(Paragraph 1.5)

### II Taxes on sales, trade, etc.

A Performance Audit on “**Arrears in assessments and collection of taxes in Commercial Taxes Department**” revealed that:

Demand, Collection and Balance (DCB) statements were not prepared and submitted to the Divisional offices after April 2005. In its absence, progress made in recovery of arrears could not be watched and ascertained at the apex level.

(Paragraph 2.8.8)

In six offices, 1,582 assessment files which had details relating to arrears of ₹ 8.77 crore were missing which adversely affected the pursuance of recovery of arrears.

(Paragraph 2.8.10)

Government of Karnataka issued instructions in October 2009 for setting up joint committees at different levels consisting of both Commercial Taxes

Department and State Excise Department officers for identifying sales tax defaulters who were still in the liquor trade. However, no committees were formed except in Mysore division till date. Sales tax arrears of ₹ 205.90 crore from liquor dealers was pending recovery as on 1 October 2012.

**(Paragraph 2.8.12)**

Arrear tax of ₹ 8.38 crore in 29 cases for the period 1999 to 2011 could not be recovered through Judicial Magistrate First Class (JMFC) in Bangalore due to inability of the CTD to furnish mandatory information of the defaulters.

**(Paragraph 2.8.14)**

In eight cases, non-filing/belated filing of claims with the official liquidator resulted in arrears of ₹ 44.88 crore remaining uncollected.

**(Paragraph 2.8.15)**

In four cases, though department was aware of the fact that properties were attached/disposed of by financial institutions, it did not direct the financial institutions to recover the arrears of tax of ₹ 1.80 crore and remit the same to Government.

**(Paragraph 2.8.16)**

Seven industrial units who had availed deferment of sales tax of ₹ 1.34 crore did not repay the amount and department did not demand the same along with interest of ₹ 1.22 crore.

**(Paragraph 2.8.18)**

The audited accounts filed by 18 dealers in form VAT 240 revealed that the dealers had short declared their liability to tax. The concerned dealers neither filed revised returns nor paid the dues as advised by their Auditors. The AA concerned also did not take any action to demand the tax together with mandatory interest and penalty. This deprived the Government of revenue of ₹ 4.46 crore.

**(Paragraph 2.9.1)**

Excess claim of input tax credit amount, under assessment of output tax, short payment of tax, non-levy of interest/penalty etc. in 127 cases amounted to ₹ 1.75 crore.

**(Paragraphs 2.9.2 to 2.9.8)**

### **III Stamp Duty and Registration Fees**

A Performance Audit on “**Computerisation of Department of Stamps and Registration**” revealed that:

No Information System (IS) Audit was conducted by Department of Stamps and Registration (DSR) even after a lapse of eight years since the date of computerisation. The provision for IS Audit was neither contemplated in the document “Software Requirement Specification (SRS)” nor was any departmental instruction issued in this regard.

**(Paragraph 3.8.8.1)**

Under KAVERI system, there was no lateral connectivity across the Sub-Registrars’ offices. The consolidated information relating to the total number of documents registered, amount of stamp duty and registration fee collected and other recoveries made in the State in a day was not available in the system.

**(Paragraph 3.8.8.2)**

The legacy data has not been digitised so far and in the absence of legacy data, the Department of Stamps and Registration could not issue Encumbrance Certificate (EC) on the same day as stipulated in the website.

**(Paragraph 3.8.8.3)**

There was no module for generation of tokens in the software to systematically deal with the requirements of the members of the public visiting SROs.

**(Paragraph 3.8.9.1)**

KAVERI system does not have a provision for presentation of documents online for examination, valuation and determination of duty and fees. The KAVERI website has an interface in English only and not in Kannada. The Karnataka Registration (Deed Writers’ Licence) Rules, 1978 framed under the Registration Act, 1908 was not provided in the website.

**(Paragraph 3.8.9.3 and 3.8.9.4)**

The implementation of logical access controls like user names and passwords by the DSR was not found in tune with business practices necessary to ensure authorisation requirements and establishment of accountability.

**(Paragraph 3.8.10)**

The business rules like denotation of duty, rejection of documents, registration of property notified for non-registration, valuation of lease deeds etc. were not mapped in the system.

**(Paragraph 3.8.11)**

It was noticed in the ‘PropertyMaster’ table that 50 *per cent* of the data was redundant. This resulted in unnecessary wastage of data storage capacity.

**(Paragraph 3.8.12.1)**

In the test checked SROs, we noticed that due to incorrect data entry 2,428 out of 15,116 incomplete documents were not qualified as pending. This had resulted in duplication of payment details. Besides, we found incomplete/incorrect entries in the 'PersonDetails' table of the marriage registration module.

**(Paragraph 3.8.12.2)**

Cross verification of the data from 'DocumentMaster' with 'ScanMaster' tables in two SROs revealed that 2,841 extra pages were scanned for which no receipt was generated and no payment on this was made into the Government account. This resulted in short realisation of revenue of ₹ 86,310.

**(Paragraph 3.8.14)**

In SRO Tumkur, we found shortage of computers and peripherals that affected the service delivery in the system. We also found that, though kiosks were installed in the SROs, these were not found working in any of the offices test checked.

**(Paragraph 3.8.15)**

KAVERI has the provision for generation of the reports required to be sent by SROs to the higher authorities. Though the reports are generated, their figures were not correct, with the results, SROs prepare the reports manually for submission to supervisors.

**(Paragraph 3.8.16)**

Short levy of stamp duty and registration fee due to suppression of facts, under valuation, incorrect denotation, etc. and non-levy of interest in the form of penalty for delay in remittances to Government in 36 cases amounted to ₹ 2.39 crore.

**(Paragraph 3.9.1 to 3.9.6)**

#### **IV Taxes on Motor Vehicles**

Non/short payment of tax on construction equipment vehicles, non-levy of tax and penalty on transport vehicles and in respect of vehicles violating conditions for surrender amounted ₹ 1.20 crore in 145 cases.

**(Paragraph 4.7.1 to 4.7.3)**

#### **V Electricity Tax**

Non-levy of electricity tax on auxiliary consumption and incorrect adjustment of payment leading to short demand of interest amounted to ₹ 3.49 crore.

**(Paragraph 5.6 and 5.7)**



## CHAPTER-I : GENERAL

### 1.1 Trend of Revenue Receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Karnataka during the year 2011-12, the State's share of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)

Sl. No.	Particulars	2007-08	2008-09	2009-10	2010-11	2011-12
<b>I.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	25,986.76	27,645.66	30,578.60	38,473.12	46,475.96
	• Non-tax revenue	3,357.66	3,158.99	3,333.80	3,358.29	4,086.86*
	<b>Total</b>	<b>29,344.42</b>	<b>30,804.65</b>	<b>33,912.40</b>	<b>41,831.41</b>	<b>50,562.82</b>
<b>II.</b>	<b>Receipts from the Government of India</b>					
	• State's share of divisible Union taxes	6,779.23	7,153.77	7,359.98	9,506.32	11,075.04 <sup>1</sup>
	• Grants-in-aid	5,027.49	5,332.25	7,883.32	6,868.51	8,168.41
	<b>Total</b>	<b>11,806.72</b>	<b>12,486.02</b>	<b>15,243.30</b>	<b>16,374.83</b>	<b>19,243.45</b>
<b>III.</b>	<b>Total receipts of the State</b>	<b>41,151.14</b>	<b>43,290.67</b>	<b>49,155.70</b>	<b>58,206.23</b>	<b>69,806.27</b>
<b>IV.</b>	<b>Percentage of I to III</b>	<b>71</b>	<b>71</b>	<b>69</b>	<b>72</b>	<b>72</b>

\* Includes ₹ 170.14 crore (treated as non-tax revenue), the outstanding central loans under Central Plan Schemes and Centrally Sponsored Schemes advanced to State Governments by the Ministries other than Ministry of Finance written off as per the recommendation of the Thirteenth Finance Commission (XIII FC).

**Source:** Finance Accounts.

The table above indicates that during the year 2011-12, the revenue raised by the State Government (₹ 50,562.82 crore) was 72 per cent of the total revenue receipts. The balance 28 per cent of receipts was from the Government of India.

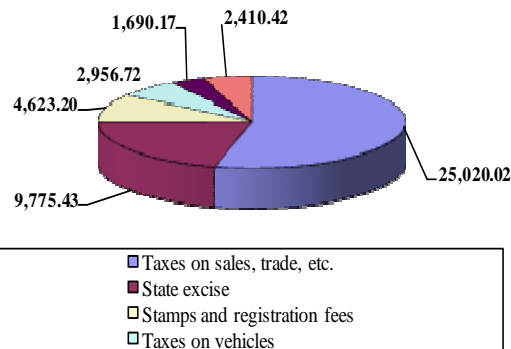
<sup>1</sup> Figures under the major heads of account 0020-Corporation Tax, 0021-Taxes on Income other than Corporation Tax, 0028-Other Taxes on Income and Expenditure, 0032-Taxes on Wealth, 0037-Customs, 0038-Union Excise Duties, 0044-Service Tax and 0045-Other Taxes and Duties on Commodities and Services – Minor head 901 – Share of net proceeds assigned to States booked in the Finance Accounts of the Government of Karnataka for 2011-12, under 'A-Tax Revenue' have been excluded from the revenue raised by the State Government and included in the State's share of divisible Union taxes.

1.1.2 The following table presents the details of tax revenue realised during the period from 2007-08 to 2011-12:

(₹ in crore)

Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+)/ decrease (-) in 2011-12 over 2010-11
1.	Taxes on sales, trade, etc.	13,893.99	14,622.73	15,832.67	20,234.69	25,020.02	23.65
2.	State excise	4,766.57	5,749.57	6,946.32	8,284.74	9,775.43	17.99
3.	Stamps and registration fees	3,408.83	2,926.72	2,627.57	3,531.08	4,623.20	30.93
4.	Taxes on Vehicles	1,650.13	1,681.16	1,961.60	2,550.02	2,956.72	15.95
5.	Taxes on Goods and Passengers	837.34	1,085.02	1,291.13	1,525.55	1,690.17	10.79
6.	Taxes and duties on Electricity	449.50	370.59	678.69	663.49	654.24	-1.39
7.	Other taxes on income and expenditure	451.37	538.79	527.21	549.74	600.20	9.18
8.	Other taxes and duties on commodities and services	380.68	406.15	576.83	946.95	926.01	-2.21
9.	Land Revenue	145.31	255.65	127.88	177.53	214.93	21.07
10.	Taxes on agricultural income	3.04	9.28	8.70	9.33	15.04	61.20
<b>Total</b>		<b>25,986.76</b>	<b>27,645.66</b>	<b>30,578.60</b>	<b>38,473.12</b>	<b>46,475.96</b>	<b>20.80</b>

Graph 1: Tax Revenue 2011-12  
(Rupees in crore)



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

**Taxes on sales, trade etc:** The increase was attributed to increase in the rate of tax and better compliance due to e-administration.

**Stamps and Registration Fees:** The increase was attributed to increase in registration of documents and revision of market value of properties.

**Taxes on vehicles:** The increase was attributed to increase in growth rate of vehicles and continuous action in enforcement of vehicles and monitoring on revenue collection.

The other Departments did not inform (December 2012) the reasons for variation, although called for (June 2012).

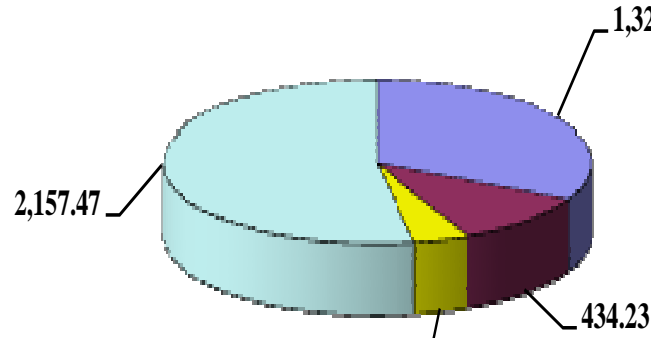
**1.1.3** The following table presents the details of major non-tax revenue realised during the period 2007-08 to 2011-12:

(₹ in crore)							
Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase(+)/ decrease (-) in 2011-12 over 2010-11
1.	Non-ferrous mining and metallurgical industries	472.35	556.07	859.50	1,185.96	1,326.84	11.88
2.	Interest receipts	375.24	337.17	383.86	575.07	434.23	-24.49
3.	Forestry and wildlife	131.84	126.92	212.48	163.74	168.32	2.80
4.	Contributions and recoveries towards pensions and other retirement benefits	29.08	76.20	69.07	54.74	70.48	28.75
5.	Other administrative services	79.60	94.37	99.29	104.20	117.79	13.04
6.	Education, sports, art and culture	74.93	73.56	95.85	127.83	130.58	2.15
7.	Medical and public health	52.77	40.52	54.67	121.29	87.82	-27.60
8.	Police receipts	58.84	69.82	82.13	105.90	118.26	11.67
9.	Other general economic services	443.25	432.47	462.65	596.05	709.70	19.07
10.	Co-operation	33.14	37.30	46.62	51.47	100.42	95.10
11.	Village and small industries	35.30	36.65	50.41	86.19	68.66	-20.34
12.	Public works	21.75	18.81	25.27	20.12	20.53	2.04
13.	Roads and bridges	14.05	36.71	32.46	61.07	95.60	56.54
14.	Major and medium irrigation	19.69	22.11	16.57	20.65	30.60	48.18
15.	Dividends and profits	23.40	40.14	29.48	43.44	60.56	39.41
16.	Housing	15.51	20.69	20.55	23.02	24.12	4.78
17.	Crop husbandry	14.04	15.69	9.96	13.03	22.56	73.14
18.	Miscellaneous general services	468.20	398.92	548.35	(-)205.02 <sup>2</sup>	268.57	--
19.	Others <sup>3</sup>	994.68	724.87	234.63	209.54	231.22	9.38
<b>Total</b>		<b>3,357.66</b>	<b>3,158.99</b>	<b>3,333.80</b>	<b>3,358.29</b>	<b>4,086.86</b>	<b>21.69</b>

<sup>2</sup> Waiver of debt of ₹ 35,832.47 lakh granted to Government of Karnataka during 2008-09 has been withdrawn and the said amount has been recovered during the year 2010-11. The recovery has been adjusted by debiting the Major Head "0075 – Miscellaneous General Services" per contra credit to "6004-Loans and Advances from the Central Government". Hence the minus figure.

<sup>3</sup> Public Service Commission, Jails, Family Welfare, Water Supply and Sanitation, Housing, Urban Development, Power, Labour & Employment, Civil Aviation, Food Storage and Warehousing, Social Security and Welfare, Stationery and Printing, Ports and Light Houses, Shipping, Minor Irrigation, Other Social Services, Fisheries, Animal Husbandry, Industries, Other Rural Development Programmes, Tourism, Information & Publicity, Inland Water Transport, Civil Supplies, Land Reforms, Family Welfare, Other Agricultural Programmes etc.

**Graph 2: Non tax revenue 2011-12  
( Rupees in crore)**



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

**Mines and Geology:** The increase was attributed to increase in gold price, auction of seized iron ore and increase of royalty rates.

**Police:** The increase was attributed to increase in passport verification and job verification applications.

**Cooperation:** The increase was attributed to more number of cases filed under KPMR Act.

## 1.2 Response of the Departments/Government towards Audit

The Principal Accountant General (Economic and Revenue Sector Audit), Karnataka (PAG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the 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, rectify the defects and omissions and report compliance through initial reply to the PAG within one month from the date of receipt of the IRs. Serious financial irregularities are reported to the Heads of the Departments and the Government.

### 1.2.1 Outstanding Inspection Reports and Audit Observations

IRs issued upto December 2011 disclosed that 6,668 paragraphs involving ₹ 1,589.45 crore relating to 3,115 IRs remained outstanding at the end of June 2012 as mentioned below along with the corresponding figures for the preceding two years:

	June 2010	June 2011	June 2012
Number of outstanding IRs	3,554	3,738	3,115
Number of outstanding audit observations	7,106	7,610	6,668
Amount involved (₹ in crore)	1,701.48	2,205.10	1,589.45

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amounts involved are mentioned below:

(₹ in crore)

Sl. No.	Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money Value
1.	Finance	(a) Taxes on sales, trade etc, entry tax, entertainment tax, luxury tax, professions tax, betting tax and agricultural income tax	1,516	4,007	463.37
		(b) State excise	608	935	376.74
2.	Energy	Electricity tax	6	11	5.62
3	Revenue	Stamps and Registration fees	518	842	296.69
4.	Transport	Taxes on motor vehicles	353	534	123.82
5.	Commerce and Industries	Mineral receipts	114	339	323.21
<b>Total</b>			<b>3,115</b>	<b>6,668</b>	<b>1,589.45</b>

Even the first replies required to be received from the heads of the offices within one month from the date of receipt of the IRs were not received for 73 IRs issued up to December 2011. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of the 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.

**We recommend the Government to take suitable steps to install an effective procedure for prompt and appropriate response to the audit observations and take action against officials/officers who fail to take action to recover loss/outstanding demand in a time bound manner.**

### 1.2.2 Adhoc Committee meetings

The Government set up 'Adhoc Committees' to expedite the clearance of audit observations contained in the IRs. As per Government instructions, these committees are required to meet periodically and in any case, at least once in a quarter. In respect of Transport Department, one *adhoc* committee meeting was held during the year 2011-12 and nine paragraphs were settled involving money value of ₹ 9.77 lakh.

In respect of other Departments, no *adhoc* committee meeting was held during the year.

**We recommend that the Government may ensure convening periodical *adhoc* committee meetings for effective and expeditious settlement of outstanding paragraphs.**

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

We prepare the programme of local audit of all the offices planned for audit sufficiently in advance and issue intimations to the Department, usually one month before the commencement of audit, to enable them to keep the relevant records ready for audit scrutiny.

527 records relating to 37 offices of Commercial Taxes Department (CTD) were not made available to audit during 2011-12, out of which, 187 re-assessment files pertaining to 15 Audit offices of the Department were not produced, since they were reported to audit as pending in appeals.

Further, nine files for the year 2010-11 were not produced to audit in respect of office of the Senior Geologist, Yadgiri. In respect of office of the Senior Geologist, Haveri, files relating to major minerals and sand auction for the years 2009-10 and 2010-11 were not produced. In the office of the Deputy Director, Mines and Geology, Gulbarga for the year 2010-11, records pertaining to all offence cases were not produced to audit.

In the office of the Deputy Registrar, Mandya, register of stationery, stock and issue and dead stock register were not produced for the period 2008-2011.

**We recommend that the Government/Department may issue suitable directions to all the offices for making available all these files as well as for production of all the records to audit at the time of audit itself.**

#### **1.2.4 Response of the Departments to Draft Audit Paragraphs**

We forward Draft Audit Paragraphs / Performance Audit Reports proposed for inclusion in the Audit Report to the Principal Secretaries of the concerned Departments through demi-official letters. According to the instructions issued (April 1952) by the Government, all Departments are required to furnish their remarks on the draft audit paragraphs/Performance Audit Reports within six weeks of their receipt. We have indicated the fact of non-receipt of replies from the Government at the end of each observation included in the Audit Report, wherever applicable.

We forwarded 27 draft audit paragraphs (including two Performance Audit Reports) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2012 to the concerned Principal Secretaries to Government with copies endorsed to concerned heads of Departments during May - October 2012.

We received the replies of the Department to 23 draft paragraphs of which the Government endorsed 21 draft paragraphs and the same were considered while finalising the Report. However, we have not received any reply (December 2012) to four draft paragraphs from the Departments and six draft paragraphs from the Government. We discussed the draft Performance Audit Reports in two Exit Conferences with the Additional Chief Secretary, Finance Department and Secretary, Revenue Department of the Government.

#### **1.2.5 Follow-up of Audit Reports – summarised position**

According to the Rules of Procedure (Internal Working) of the Public Accounts Committee (PAC), within four months (three months up to March 1994) of an Audit Report being laid on the table of the Legislature, the Departments of Government are to prepare and send to the Karnataka Legislative Assembly Secretariat detailed explanations (Departmental notes) on the audit paragraphs. The Rules further require that before such submission, the Departmental notes are to be got vetted by the PAG.

We reviewed the position in this regard, which revealed that as of October 2012, nine Departments had not furnished the Departmental notes in respect of

105 paragraphs included in Audit Reports for the years 1992-93 to 2010-11 (due between July 1994 and July 2012) for vetting. The delay ranged from three months to over 18 years, as detailed below:

Sl. No.	Department	Year of Audit Report	Dates of presentation to the Legislature	Last date by which Departmental Notes were due	Number of Paragraphs for which Departmental Notes were due	Delay <sup>4</sup> (months)
1.	Finance	1996-97, 2002-03 to 2004-05, 2008-09 to 2010-11	May 1998 to March 2012	September 1998 to July 2012	32	3 to 169
2.	Revenue	1992-93 to 1996-97, 2004-05 to 2010-11	March 1994 to March 2012	July 1994 to July 2012	57	3 to 219
3.	Forest	2002-03 and 2003-04	July 2004	November 2004	02	95
4.	Urban Development	1998-99, 2002-03 to 2004-05 and 2006-07	March 2000 to July 2008	July 2000 to November 2008	05	47 to 148
5.	Commerce and Industries	1996-97, 2002-03	May 1998 to July 2004	September 1998 to November 2004	02	83 to 169
6.	Co-operation	2005-06 and 2007-08	July 2007 and February 2009	November 2007 and June 2009	02	42 to 59
7.	Health and Family Welfare	1997-98	March 1999	July 1999	01	159
8.	Public Works	2004-05 and 2008-09	March 2006 and March 2010	July 2006 and July 2010	02	27 to 75
9.	Minor Irrigation	2006-07 and 2007-08	July 2008 and February 2009	November 2008 and June 2009	02	42 to 47
<b>Total</b>					<b>105</b>	

This indicated that the executive failed to take prompt action on important issues highlighted in Audit Reports that involved large amount of unrealised revenue.

### 1.2.6 Compliance with earlier Audit Reports

In the Audit Reports 2006-07 to 2010-11, 43,526 cases of underassessment, non/short levy of taxes, loss of revenue, failure to raise demands, etc. were included involving ₹ 1,708.24 crore. Of these, to the end of September 2012, the Departments concerned have accepted 23,148 cases involving ₹ 599.65 crore and recovered ₹ 32.95 crore in 2,331 cases. Audit Report wise details of cases accepted and recovered are as under:

<sup>4</sup> Excluding the month in which these were due.

(₹ in crore)

Audit Report	Included in Audit Report		Accepted by the Department		Recovered	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
2006-07	824	324.48	487	24.56	140	2.64
2007-08	5,080	331.77	2,410	166.51	386	9.24
2008-09	16,905	336.61	16,688	286.56	642	2.76
2009-10	7,040	439.54	1,355	103.64	124	17.22
2010-11	13,677	275.84	2,208	18.38	1,039	1.09
<b>Total</b>	<b>43,526</b>	<b>1,708.24</b>	<b>23,148</b>	<b>599.65</b>	<b>2,331</b>	<b>32.95</b>

From the above, it is observed that only 5.49 *per cent* of the revenue involved in the cases accepted by the Department was recovered during the last five years.

**We recommend that the Government may take measures to ensure expeditious recovery of revenue in respect of the accepted cases.**

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

The succeeding paragraphs 1.3.1 and 1.3.2 discuss the performance of the Transport Department in dealing with the cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2007-08 to 2011-12.

#### 1.3.1 Position of Inspection Reports

The summarised position of IRs issued during the last five years, paragraphs included in these reports and their status as on 31 March 2012 are tabulated below:

(₹ in crore)

Year	Opening balance		Additions during the year		Clearance during the year		Closing balance	
	IRs/ Paragraphs	Money value	IRs/ Paragraphs	Money value	IRs/ Paragraphs	Money value	IRs/ Paragraphs	Money value
2007-08	288/ 378	45.66	46/ 172	10.58	36/ 98	4.89	298/ 452	51.36
2008-09	298/ 452	51.36	55/ 219	32.09	45/ 126	13.27	308/ 545	70.19
2009-10	308/ 545	70.19	52/ 189	14.49	39/ 102	5.33	321/ 632	79.36
2010-11	321/ 632	79.35	57/ 215	74.29	24/ 49	30.34	354/ 798	123.27
2011-12	354/ 798	123.27	30/ 128	2.01	22/ 63	1.50	362/ 863	123.78
<b>Total</b>			<b>240/ 923</b>	<b>133.46</b>	<b>166/ 438</b>	<b>55.33</b>		

During the five year period, we issued 240 IRs with 923 paragraphs involving ₹ 133.46 crore and cleared 438 paragraphs involving ₹ 55.33 crore included in 166 IRs.



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

#### 1.3.2.1 Recovery of accepted cases

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

(₹ in crore)

Year of AR	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Position of recovery of accepted cases
2007-08	04	1.40	04	1.39	0.17
2008-09	04	1.35	04	1.35	0.60
2009-10	02	0.19	02	0.13	0.12
2010-11	03	0.64	02	0.27	0.16
2011-12	03	1.20	03	0.81	0.18
<b>Total</b>	<b>16</b>	<b>4.78</b>	<b>15</b>	<b>3.95</b>	<b>1.23</b>

From the above, it is observed that only 31.14 *per cent* of the revenue involved in the cases accepted by the Department was recovered during the last five years.

**We recommend that the Department may take measures to ensure expeditious recovery of revenue in respect of the accepted cases.**

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

The Draft Report of the Performance Audit conducted by the PAG is forwarded to the concerned Departments/Government for their information with a request to furnish their replies. The Performance Audit is also discussed in an Exit Conference and the Department's/Government's views are included while finalising the Performance Audit for the Audit Reports.

A Performance Audit on 'Computerisation of Transport Department' was featured in the Report of the Comptroller & Auditor General of India for the year 2010-11 (Revenue Receipts). We had suggested nine recommendations for improvement in the system, inter alia, to formulate and adopt a comprehensive Information Technology (IT) Policy encompassing aspects such as technology upgradation, service delivery, staffing and security to serve as a roadmap for future development.

Year of AR	Name of the review	Details of the recommendations
2010-11	Performance Audit on 'Computerisation of Transport Department'	<ol style="list-style-type: none"> <li>1. Formulate and adopt a comprehensive IT Policy encompassing aspects such as technology upgradation, service delivery, staffing and security to serve as a roadmap for future development;</li> <li>2. Strengthen application controls so as to ensure better mapping of the provisions of the relevant Acts and Rules;</li> <li>3. Complete the entry of legacy data and porting of legacy database on priority in a</li> </ol>

Year of AR	Name of the review	Details of the recommendations
		<p>planned and time bound manner followed by permanent disablement of the backlog data entry channel;</p> <ol style="list-style-type: none"> <li>4. Adopt a comprehensive programme of Human Resource Development involving induction of technically qualified functionaries at various levels of Information Systems Management, providing training in the various aspects of database, network and security administration etc;</li> <li>5. Network all the RTOs in the State to enable real time communication between them, enabling better monitoring and service delivery;</li> <li>6. Adopt more secure means of interfacing with the smart card printing software and introduce smart card reading devices that adopt such technology as would enable detection of absence of digital attestation, tampering with data etc;</li> <li>7. Strengthen the security infrastructure by adoption of a well formulated security policy, introduction of logical access controls in tune with best practices, enabling a trail of user actions etc;</li> <li>8. Bring about such operations as the generation of the Demand, Collection and Balance (DCB), monitoring and settlement of Departmental Statutory Authority (DSA) cases etc in the ambit of information technology; and</li> <li>9. Migration to a web based system, by which the general public can gain direct access to the services offered by the Department for registration, payment of fees, taxes etc that will substantially improve the effectiveness of the Department in achieving the objectives of e-Governance.</li> </ol>

The Department has reported that issue of smart cards in respect of Transport Vehicles has been commenced during December 2011 and stated that necessary action will be taken to implement the DCB module after porting legacy data as well as data from RTOs and check posts and also that full-fledged DSA module is being developed and training has been imparted

on the latest VAHAN software version 1.3.4.5 (prime) to all the officers of the Department to use module “surrender of vehicles”.

## **1.4 Audit Planning**

We categorised the unit offices under various Departments into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. We prepared the annual audit plan on the basis of risk analysis which, *inter alia*, includes 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 past five years, etc.

During the year 2011-12, the audit universe comprised 865 auditable units, of which 355 units were planned and audited during the year, which is 41.04 *per cent* of the total auditable units.

We also conducted two Performance Audit Reports besides the compliance audit mentioned above to examine the efficacy of the tax administration of these receipts.

## **1.5 Results of Audit**

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

We test checked records of 355 units of commercial taxes, taxes on motor vehicles, stamps and registration fees, electricity tax, and other Departmental offices during the year 2011-12. Further, we conducted two Performance Audit Reports during the year 2011-12. These revealed underassessment, non/short levy of taxes, loss of revenue, failure to raise demands and other irregularities aggregating ₹ 211.00 crore in 2,360 paragraphs. During the course of the year, the Departments concerned accepted underassessment and other deficiencies of ₹ 7.06 crore in 846 cases. The Department recovered ₹ 7.20 crore in 250 cases at the instance of audit.

### **1.5.2 This Report**

This Report contains 21 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) including two Performance Audit Reports involving financial effect of ₹ 89.20 crore. The Departments accepted audit observations involving ₹ 23.06 crore, of which ₹ 47.47 lakh had been recovered upto December 2012. These are discussed in the succeeding Chapters II to V.



## CHAPTER-II

### EXECUTIVE SUMMARY

<b>Trend of receipts</b>	The percentage of actual receipts of VAT to the total tax receipts ranged between 51.78 and 53.83 <i>per cent</i> during the five year period from 2007-08 to 2011-12.
<b>Revenue Impact of Audit Reports</b>	During the last five years, through our Audit Reports, we had pointed out non/short levy of taxes, incorrect exemption of tax, non/short levy of interest/penalty on tax, etc with revenue implication of ₹ 261.62 crore in 56 paragraphs. Of these, the Government / Department accepted audit observations in 42 paragraphs involving ₹ 54.44 crore and recovered ₹ 11.51 crore as on 31 March 2012.
<b>Results of audit</b>	<p>We conducted a test check of the records of 130 offices of the CTD covering VAT, Sales tax, Entry tax and Professions tax during the year 2011-12, which revealed under-assessments of tax and other irregularities involving ₹ 158.18 crore in 599 cases.</p> <p>During the year 2011-12, the Department had recovered an amount of ₹ 51.22 lakh in 24 cases in respect of observations raised during the year and also recovered an amount of ₹ 5.65 crore in 166 paras which were pointed out in earlier years in respect of VAT.</p>
<b>What we have highlighted in this chapter</b>	<p>A Performance Audit on “<b>Arrears in assessment and collection of taxes in the Commercial Taxes Department</b>” revealed the following:</p> <p>Demand, Collection and Balance (DCB) statements were not prepared and submitted to the Divisional offices after April 2005. In its absence, progress made in recovery of arrears could not be watched and ascertained at the apex level.</p> <p style="text-align: right;"><b>(Paragraph 2.8.8)</b></p> <p>In six offices, 1,582 assessment files which had details relating to arrears of ₹ 8.77 crore were missing which adversely affected pursuance of recovery of arrears.</p> <p style="text-align: right;"><b>(Paragraph 2.8.10)</b></p> <p>Government of Karnataka issued instructions in October 2009 for setting up joint committees at different levels consisting of both Commercial Taxes Department and State Excise Department officers for identifying sales</p>

	<p>tax defaulters who were still in the liquor trade. However, no committees were formed except in Mysore Division till date. Sales tax arrears of ₹ 205.90 crore from liquor dealers was pending recovery as on 1 October 2012.</p> <p style="text-align: right;"><b>(Paragraph 2.8.12)</b></p> <p>Arrear tax of ₹ 8.38 crore in 29 cases for the period 1999 to 2011 could not be recovered through Judicial Magistrate First Class (JMFC) in Bangalore due to inability of the CTD to furnish mandatory information of the defaulters.</p> <p style="text-align: right;"><b>(Paragraph 2.8.14)</b></p> <p>In eight cases, non-filing/belated filing of claims with the official liquidator resulted in arrears of ₹ 44.88 crore remaining uncollected.</p> <p style="text-align: right;"><b>(Paragraph 2.8.15)</b></p> <p>In four cases, though department was aware of the fact that properties were attached/disposed of by financial institutions, it did not direct the financial institutions to recover the arrears of tax of ₹ 1.80 crore and remit the same to Government.</p> <p style="text-align: right;"><b>(Paragraph 2.8.16)</b></p> <p>Seven industrial units who had availed deferment of sales tax of ₹ 1.34 crore did not repay the amount and department did not demand the same along with interest of ₹ 1.22 crore.</p> <p style="text-align: right;"><b>(Paragraph 2.8.18)</b></p>
<b>Recommendations</b>	<p>The Government may consider:</p> <ul style="list-style-type: none"><li>• a system for monitoring the correct accounting and recovery of arrears by maintaining the DCB Register and Watch Register;</li><li>• a system for regular liaison with OL, BIFR and Court Authorities so that the claims are lodged without any delay and or not lost sight of;</li><li>• a system for co-ordination with other Government Departments so that arrears are pursued with those departments without any delay; and</li><li>• a system for monitoring the progress made in the recovery of arrears by prescribing periodical returns for submission to higher authorities.</li></ul>

## CHAPTER-II: TAXES ON SALES, TRADE, ETC

### 2.1 Tax Administration

The levy and collection of Value Added Tax (VAT) and Sales Tax are governed by the Karnataka Value Added Tax Act, 2003 (KVAT Act), the Central Sales Tax Act, 1956 (CST Act), the Karnataka Sales Tax Act, 1957 (KST Act) and rules made thereunder. The Commercial Taxes Department (CTD) is under the administrative control of the Finance Department and headed by the Commissioner of Commercial Taxes (CCT). The CCT is assisted by 14 Additional Commissioners (AdCom) and Joint Commissioners (JCCTs). There are 13 Divisional VAT Offices (DVO) in the State each headed by JCCT in addition to 13 JCCT (Appeals). There are also 148 Audit Offices headed by Deputy Commissioners (DCCT) and Assistant Commissioners (ACCT). At the field level, VAT is being administered through 95 Local VAT Offices (LVOs) and VAT Sub Offices (VSOs) headed by ACCTs and Commercial Tax Officers (CTOs) respectively. The computer cell of the CTD is headed by an AdCom.

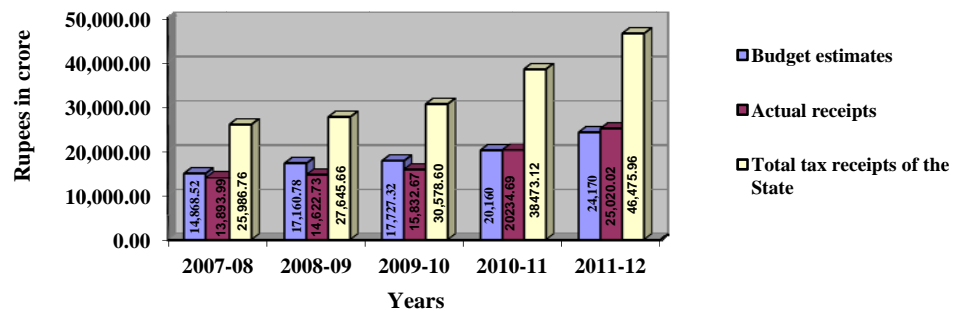
### 2.2 Trend of Receipts

Budget Estimates (BEs) and actual receipts from taxes on sales, trade etc. during the years 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation excess(+)/shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	14,868.52	13,893.99	(-) 974.53	(-) 6.55	25,986.76	53.46
2008-09	17,160.78	14,622.73	(-) 2,538.05	(-) 14.79	27,645.66	52.89
2009-10	17,727.32	15,832.67	(-) 1,894.65	(-) 10.69	30,578.60	51.78
2010-11	20,160.00	20,234.69	(+) 74.69	(+) 0.37	38,473.12	52.59
2011-12	24,170.00	25,020.02	(+) 850.02	(+) 3.52	46,475.96	53.83

Graph 1 : Budget Estimates, Actual Receipts and Total Tax Receipts



The percentage of actual receipts of VAT to the total tax receipts ranged between 51.78 and 53.83 *per cent* during the five year period from 2007-08 to 2011-12.

### 2.3 Cost of VAT collection per assessee

The number of assessees, cost of collection, and the cost of VAT per assessee during 2007-08 to 2011-12 were as follows:

(Amount in ₹)

Year	Number of assessees	Cost of VAT collection	Cost of VAT collection per assessee
2007-08	3,80,135	74,30,28,000	1,955
2008-09	4,01,817	81,61,95,000	2,031
2009-10	4,16,265	84,45,67,000	2,029
2010-11	4,03,639	92,86,95,000	2,301
2011-12	4,44,470	99,24,26,000	2,233

### 2.4 Cost of Collection

The gross collection in respect of taxes on sales, trade etc, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant All India average percentage of expenditure on collection to gross collection for the respective preceding years were as follows:

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the preceding year
	(₹ in crore)			
2009-10	16,546.34	84.46	0.51	0.88
2010-11	21,252.97	92.87	0.44	0.96
2011-12	26,203.81	99.24	0.38	0.75

### 2.5 Impact of Audit Reports

During the last five years, through our Audit Reports, we had pointed out non/short levy of tax, incorrect exemption of tax, non/short levy of interest/penalty on tax etc. with revenue implication of ₹ 261.62 crore in 56 paragraphs. Of these, the Government/Department accepted audit observations in 42 paragraphs involving ₹ 54.44 crore and recovered ₹ 11.51 crore as on 31 March 2012. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount <sup>1</sup>	Number	Amount
2007-08	19	77.54	14	25.64	14	8.13
2008-09	09	7.41	07	1.72	06	1.36
2009-10	09	15.29	09	10.79	07	1.32
2010-11	10	79.26	06	0.53	06	0.43
2011-12	09	82.12	06	15.76	04	0.27
<b>Total</b>	<b>56</b>	<b>261.62</b>	<b>42</b>	<b>54.44</b>	<b>37</b>	<b>11.51</b>

As seen from the above table, the recovery made by the Department was 21.14 per cent of the revenue involved in the total accepted amount.

<sup>1</sup> Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.



**We recommend that the Government may take measures to ensure expeditious recovery of revenue in respect of the accepted cases.**

## **2.6 Working of Internal Audit Wing (IAW)**

IAW is intended to examine and evaluate the level of compliance with the rules and procedures so as to provide a reasonable assurance on the adequacy of the internal control. Effective internal audit system both in the manual as well as computerised environment is a pre-requisite for the efficient functioning of any Department. However, consequent to introduction of VAT with effect from 01 April 2005, the Department abolished the IAW leaving it vulnerable to the risk of control failure.

The Department replied (October 2011) that the IAW was re-established in the Department with effect from June 2011. Information on working of internal audit such as number of units programmed for audit, number of units audited, observation raised and follow up action on internal audit observation though called for (June 2012) from the Department the same has not been received (December 2012).

## **2.7 Results of Audit**

We conducted a test check of the records of 130 offices of the CTD covering VAT, Sales tax, Entry tax, and Professions tax during the year 2011-12, which revealed under-assessments of tax and other irregularities involving ₹ 158.18 crore in 599 cases, which fall under the following categories.

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
<b>Value Added Tax</b>			
1	<b>Arrears in assessment and collection of taxes in Commercial Taxes Department (A Performance Audit)</b>	1	75.91
2	Non / short levy of output tax	145	14.09
3	Incorrect/excess allowance of input tax credit	72	5.58
4	Incorrect/ excess carry forward of refund	63	7.34
5	Non/short payment of tax	96	9.38
6	Incorrect adjustment of TDS	34	31.79
7	Non/short levy of penalty	62	4.36
8	Non/short levy of interest	52	2.56
9	Non- forfeiture of tax collected in excess	3	0.87
10	Other irregularities	35	5.10
	<b>Total</b>	<b>563</b>	<b>156.98</b>
<b>Sales tax, Entry tax and Professions tax</b>			
11	Non/short levy of tax, interest, etc.	36	1.20
	<b>Grand Total</b>	<b>599</b>	<b>158.18</b>

During the year 2011-12, the Department had recovered an amount of ₹ 51.22 lakh in 24 cases in respect of observations raised during the year and also recovered an amount of ₹ 5.65 crore in 166 paragraphs which were pointed out in earlier years in respect of VAT.

A Performance Audit on 'Arrears in assessment and collection of taxes in Commercial Taxes Department' involving ₹ 75.91 crore and a few illustrative cases involving ₹ 6.21 crore are mentioned in the following paragraphs.

## **2.8 Performance Audit on "Arrears in assessments and collections of taxes in Commercial Taxes Department"**

### **Highlights**

Demand, Collection and Balance (DCB) statements were not prepared and submitted to the Divisional offices after April 2005. In its absence, progress made in recovery of arrears could not be watched and ascertained at the apex level.

**(Paragraph 2.8.8)**

In six offices, 1,582 assessment files which had details relating to arrears of ₹ 8.77 crore were missing which adversely affected pursuance of recovery of arrears.

**(Paragraph 2.8.10)**

Government of Karnataka issued instructions in October 2009 for setting up joint committees at different levels consisting of both Commercial Taxes Department and State Excise Department officers for identifying sales tax defaulters who were still in the liquor trade. However, no committees were formed except in Mysore Division till date. Sales tax arrears of ₹ 205.90 crore from liquor dealers was pending recovery as on 1 October 2012.

**(Paragraph 2.8.12)**

Arrear tax of ₹ 8.38 crore in 29 cases for the period 1999 to 2011 could not be recovered through Judicial Magistrate First Class (JMFC) in Bangalore due to inability of the CTD to furnish mandatory information of the defaulters.

**(Paragraph 2.8.14)**

In eight cases, non-filing/belated filing of claims with the official liquidator resulted in arrears of ₹ 44.88 crore remaining uncollected.

**(Paragraph 2.8.15)**

In four cases, though department was aware of the fact that properties were attached/disposed of by financial institutions, it did not direct the financial institutions to recover the arrears of tax of ₹ 1.80 crore and remit the same to Government.

**(Paragraph 2.8.16)**

Seven industrial units who had availed deferment of sales tax of ₹ 1.34 crore did not repay the amount and department did not demand the same along with interest of ₹ 1.22 crore.

**(Paragraph 2.8.18)**

### 2.8.1 Introduction

The CTD is responsible for levy and collection of taxes under the Karnataka Sales Tax (KST) Act 1957, Central Sales Tax (CST) Act 1956, Karnataka Value Added Tax (KVAT) Act 2003, Karnataka Tax on Entry of Goods (KTEG) Act 1979, Karnataka Tax on Luxuries (KTL) Act 1979, Karnataka Agricultural Income Tax (KAIT) Act 1957 and The Mysore Betting Tax Act 1932 and rules made thereunder. The Karnataka Commercial Taxes (KCT) Manual prescribes the procedure for assessment, levy, demand, collection and remittance of revenue under the Acts administered by the CTD.

### 2.8.2 Organisational Setup

The CTD is under the control of Finance Department (FD) and is headed by the Commissioner of Commercial Taxes (CCT) who is assisted by 12 Additional Commissioners of Commercial Taxes (AdCom) at the State level and 40 Joint Commissioners of Commercial Taxes (JCCT) at the Divisional level including appeals, vigilance and enforcement authorities. At the field office level, 123 Deputy Commissioners of Commercial Taxes (DCCTs), 320 Assistant Commissioners of Commercial Taxes (ACCTs) and 522 Commercial/ Professions Tax Officers are working in the administration of various Acts.

### 2.8.3 Audit objectives

The performance audit was conducted with a view to ascertain:

- the extent of arrears in assessment under KST, KVAT, CST, KTEG, KTL, KAIT and MBT Acts;
- whether adequate provisions/rules exist to safeguard the Government revenue;
- the efficiency and effectiveness of the system to collect the arrears of tax;
- whether the rules and procedures prescribed in the Act/Rules/Manuals were being complied with and
- whether adequate internal control mechanism exists for prompt realisation of arrears of revenue.

### 2.8.4 Scope and methodology of Audit

The performance audit was conducted for the period from 2006-07 to 2010-11. The records available in the CCT's office and 5<sup>2</sup> out of 14 divisions (36 per cent) in the State were selected by applying random sampling method without replacement from the list of divisions arranged in the alphabetical order and financial involvement. There were 168 unit offices under the selected five divisions, of which 17 offices (10 per cent) were selected. In the selected 17 offices there were 12,308 cases of arrears of which 1,232 cases (10 per cent) were test checked. An Entry Conference was held with the Additional Chief Secretary, Finance Department and the CCT in June 2012 in which objective, scope and methodology of performance audit was explained and discussed with them. An Exit Conference was held on 17 December 2012 with the

<sup>2</sup> DVO – 2, 3 and 5 Bangalore, Davanagere and Mangalore.

Additional Chief Secretary, Finance Department and the CCT wherein our findings, replies of the Department and our recommendations were discussed. The replies received in the Exit Conference and at other points of time have been appropriately commented in the relevant paragraphs.

### **2.8.5 Reasons for selection of the topic**

We had not conducted a performance audit on the topic since last 14 years. Through our local audit inspection, we had felt that the department was not paying enough attention for recovering the arrears and the arrears were also mounting (₹ 2,168.48 crore). So we felt it was appropriate to conduct a performance audit on this topic.

### **2.8.6 Audit Criteria**

The audit criteria for the Performance Audit are derived from the provisions of the following Acts and Rules made thereunder which govern levy and collection of taxes besides providing measures for recovery of arrears of revenue under the respective Acts:

1. The KVAT Act 2003 and KVAT Rules, 2005
2. The KST Act and Rules, 1957
3. The KTEG Act and Rules, 1979
4. The Karnataka Finance Code (KFC), 1958
5. The CST Act, 1956

In addition, compliance with the circulars and instructions issued by the CCT and procedures prescribed in KCT Manual were also verified.

### **2.8.7 Acknowledgement**

We acknowledge the co-operation of the Finance Department, Government of Karnataka and CTD in arranging for Entry Conference (June 2012) and Exit Conference (December 2012) and in providing necessary information and records for audit.

### **2.8.8 Demand, Collection and Balance (DCB) Register**

Paragraph 2 of Chapter XXVI of KCT Manual stipulates that statement of DCB is to be prepared by the Assessing Officers and submitted to the respective Divisional Officers on monthly basis. The DCB statements assume importance in ascertaining position of arrears for recovery action.

We noticed that in the test checked offices, the DCB statements were not prepared and submitted to the Divisional Offices after April 2005 either in manual or electronic form. No periodical returns have been prescribed by the Department for watching the progress made in recovery of the arrears at the apex level. In the absence of the DCB statement and the returns, no monitoring was done at the apex level.

After we pointed out between March and September 2012, the CCT stated in the Exit Conference that DCB Register has not been maintained after implementation of KVAT Act with effect from 1 April 2005 and DCB module is being developed which is likely to be ready by March 2013.

### 2.8.9 Arrears of revenue in CTD

As per the information furnished<sup>3</sup> (15 July 2011) by the CCT to the Secretary to Government, Finance Department ₹ 2,168.48 crore were shown as arrears of CTD at the end of 31 March 2011. The CTD had not maintained the DCB Register; as such the correctness of the amount could not be ascertained by Audit. The details of arrears of revenue are as under:

(₹ in crore)

Sl. No.	Category-wise arrears in collection of taxes	Arrears of revenue	
		For the year 2009-10	For the year 2010-11
1.	Balance as on 1 April	4,164.96	2,726.06
2.	Demand created during the year	532.09	782.87
3.	Total	4,697.05	3,508.93
4.	Collection during the year	469.00	1,103.36
5.	Reduction during the year	477.26	237.09
6.	Balance as on 31 March	3,750.79	2,168.48
7.	Less deferred tax	1,024.73	--
8.	Actual revenue due for recovery	2,726.06	--

The break-up of the arrears furnished by the Department is mentioned in the following table:

(₹ in crore)

Sl. No.	Stage of recovery	Amount
1	Covered by stay orders	393.34
2.	Before BIFR/AAIFR	108.05
3.	Under liquidation process	176.35
4.	Covered by Revenue Recovery	82.54
5.	Covered by Court Recovery	184.07
6.	Covered by Departmental Recovery	1,023.55
7.	Held under payment verification	160.59
8.	Under write-off proposal	39.99
<b>TOTAL</b>		2,168.48

Further, CTD has not furnished (December 2012) the age-wise pendency/details of arrears of taxes though called for in March 2012.

<sup>3</sup> The information was compiled and furnished in pursuance of an observation made by Public Accounts Committee while discussing the CAG's Audit Report (Civil) paragraph no. 1.6.3 for the year ended 31 March 2010.

### 2.8.10 Non-existence of assessment files/recovery records

Copies of returns filed by the dealers, order passed by assessing authorities (AAs), notices served on the dealers and other correspondence letters are filed in assessment files for each year in respect of each dealer. These files form the basis for proceeding with recovery process provided under the Act in cases where there were arrears of revenue.

We noticed that after the implementation of KVAT, restructuring of the CTD took place and new KVAT offices were formed. We found that 1,582 assessment files relating to pre-KVAT period i.e., prior to 1 April 2005 were

shown to have been transferred from six offices to other newly formed offices. These files involving arrears of ₹ 8.77 crore were stated by the CTD as missing. These are mentioned in the following table:

(₹ in lakh)

Sl. No.	Name of the office from which files were transferred	Name of the receiving Office	No. of assessments	Amount
1	CTO (Recovery)-2, Davanagere	CTO-Davanagere	102	18.41
2	ACCT (Recovery)-1, ACCT (Recovery)-2, CTO (Recovery)-2, Harihara	DCCT-Davanagere	1,228	90.05
3	DCCT (A&R)-2.8, Bangalore	DCCT-2.6 Bangalore	20	17.96
4	DCCT (A&R)-2.8, Bangalore	DCCT-2.5 Bangalore	41	148.48
5	DCCT (A&R)-6.9, Bangalore	DCCT-6.1 Bangalore	86	327.67
6	DCCT (A&R)-6.9, Bangalore	DCCT-6.2 Bangalore	105	273.93
<b>Total (Six Offices)</b>			<b>1,582</b>	<b>876.54</b>

Non-availability of assessment files would adversely affect the pursuance for recovery of arrears in these cases. Though the Department was aware of the fact of the missing files, no efforts were made to trace the files or to reconstruct the same with the help of the dealers to the extent possible.

### 2.8.11 Arrears in Appeals

The details of year-wise cases pending in appeals relating to KST, CST and KVAT and cases disposed of/pending disposal with JCCT (Appeals) was as under:

Year	2006-07	2007-08	2008-09	2009-10	2010-11
Opening Balance	3,387	2,634	5,558	7,502	11,755
Receipts	3,797	8,162	10,777	11,785	14,299
Total	7,184	10,796	16,335	19,287	26,054
Disposal	4,550	5,238	8,833	7,532	10,485
Closing Balance	2,634	5,558	7,502	11,755	15,569

It could be seen from the above that the cases pending for disposal in appeals increased from 3,387 in April 2006 to 15,569 in March 2011 i.e. increase by 360 per cent. The CTD should make extra effort for clearance of the arrears.

The year-wise and tax-wise breakup of the cases pending for disposal in appeals and revenue involved therein though called for in March 2012 has not been furnished by the Department.

After this was pointed out, the Department stated in November 2012 that keeping in view the pendency in disposal of appeal cases, three more appeal offices were created in August 2011.

#### **2.8.11.1 Non-adherence to the instructions contained in Departmental Manual/Circular**

As per the circular No. 28/1998-99 issued by CCT in December 1998, a watch register for watching appeals filed before first Appellate Authorities or Karnataka Appellate Tribunal (KAT) should be maintained by all the AAs. The register shall contain information regarding the files sent to Appellate Authorities or KAT and date of receipt of their order with gist of the order.

We noticed that a Watch Register was maintained only in one<sup>4</sup> out of the five test checked divisions. However, even in that division, the actual number of cases sent to KAT on appeal during the period 2006-11 was not on record.

After we pointed out (April 2012), the CTD stated in November 2012 that it has since started maintaining a watch register.

#### **2.8.11.2 Non-finalisation of assessments remanded for fresh disposal by Karnataka Appellate Tribunal (KAT)**

As per Chapter XXVII (Time Schedule) of the KCT Manual, assessments of cases remanded by the Appellate authorities/Courts should be completed within three months from the date of receipt of the records in the office.

In the arrears cases test checked (May and July 2012) by us, there were 24 cases which were received from the KAT for fresh disposal. Of these, in five cases, we

noticed that though the KAT had passed orders between May 2010 and June 2011 for fresh disposal of assessments, these were not concluded by the concerned AAs even after a delay ranging from one to two years as of September 2012.

<sup>4</sup> Mangalore Division

The position is shown in the following table:

Sl. No.	Division	Name of the dealer	Assessment year/Date of assessment	Date of KAT order remanding for fresh disposal	Date of receipt of the KAT order in the CTD
1.	Mangalore	Shri Nagaraja Ballal, Contractor	2004-05/ 23.2.2007	29.5.2010	13.10.2010
2.	Division 3, Bangalore	M/s Black Cadillac Hotels Pvt. Ltd.	1999-2000/ 30.5.2003	27.9.2010	2.2.2011
3.	Division 3, Bangalore	M/s Build Track Asphalts, Bangalore	2001-02/ 24.12.2003	14.6.2011	18.8.2011
4.	Division 5, Bangalore	M/s Manjunatha Marketing Services, Bangalore	2000-01/ 18.3.2006	16.6.2011	24.6.2011
5.	Division 3, Bangalore	M/s Sapna Wines, Bangalore	1990-91 to 1993-94/ 11.12.1993	7.7.2010	10.12.2010

After we pointed out between March and July 2012, the Department stated in November 2012 that in two cases assessments were concluded in June and September 2012 creating demand of ₹ 11.03 lakh of which ₹ 9.86 lakh was collected in one of them. In respect of the remaining three cases, action has been initiated for fresh disposal.

Non-maintenance of watch register of appeal cases and delay in finalisation of assessments shows that there is no effective monitoring over cases under appeal.

### 2.8.12 Recovery of arrears of sales tax from liquor dealers

Under Section 13 (3)(aaa) of KST Act, any tax assessed, or any other amount due under this Act from a dealer may without prejudice to any other mode of collection be recovered as if it were an arrear of excise revenue under the Karnataka Excise Act (KE Act), 1965 in the case of a dealer engaged in the manufacture or sale of liquor including beer, spirit and alcohol.

The liquor dealers were required to be registered with the CTD up to February 2001. Thereafter, liquor products were exempted from levy of sales tax/VAT and additional duties of excise was introduced under the KE Act. The arrears of sales

tax were not recovered at the time they ceased to be the dealers under the KST Act. The total amount due against these dealers as of 1 March 2001 was also not found on record.

As per information forwarded by the Department to Government in June 2009, arrears in sales tax from 2,607 manufacturers/dealers in liquor amounted to ₹ 383.88 crore. The CTD requested the Government (June/October 2009) for transferring the same to the State Excise Department (SED) on the ground that those liquor dealers were no longer registered with CTD. The Government issued instructions in October 2009 to form joint committees at different levels consisting of both CTD and SED officers for identifying sales tax defaulters who were still in the liquor trade. The CCT and the Excise Commissioner



were to monitor the progress of recovery of arrears monthly and the Finance Department, after six months. We found that not a single meeting of joint committees was conducted and only in Mysore Division, the SED had identified the dealers.

After this was pointed out, the CTD stated (November 2012) that the divisional officers conducted several meetings with the SED and necessary action was being taken for recovery of the arrears. In the Exit Conference, the Government stated that meetings of the joint committees have since been revived both at the divisional level and at the State level. The Department also intimated that arrears of ₹ 383.88 crore has been reduced to ₹ 205.90 crore, on account of amount recovered under Karasamadhan Scheme which provided for waiver of 90 *per cent* of interest and penalty on full payment of tax.

We test checked 24 cases of arrears from liquors dealers. Of these, in four cases, we found lack of monitoring and incorrect grant of exemption amounting to ₹ 2.10 crore as mentioned in the following table:

(₹ in lakh)

Sl. No.	Name of the dealer	Nature of observation	KST arrears
1.	M/s Raghavendra Enterprises, Mysore	The dealer firm was continuing in liquor business, the partners in the default firm held Excise Licence Nos. 8458, 8229, 31013 and 31065. An amount of ₹ 99.18 lakh was outstanding against the dealers as on February 2001. No efforts were made by the Department to take up the matter with SED (December 2012) for realising the amount.	99.18
After this was pointed out, the CTD stated that net tax payable was found to be ₹43.70 lakh and action was being taken to recover the same under Section 13(3)(b) and refer it to SED. The reply of the CTD did not indicate the reasons for not taking action for the last 11 years and for reduction in arrears from ₹99.18 lakh to ₹43.70 lakh.			
2.	M/s Chamundeshwari Agencies, Mysore	The partners of the firm had got individual excise license Nos. 8428, 8236, 8109 and 8328. An amount of ₹ 64.68 lakh was outstanding as on February 2001.	64.68
After the reasons for non-recovery were called for in July 2012, the CTD furnished two set of replies, one in December 2012 wherein it was stated that the records were not received from the previous office, hence information regarding payment of tax was not available. But in an earlier reply in November 2012 the CTD stated that entire amount has been collected in June 2010 under Karasamadhan Scheme. The facts need to be investigated for ascertaining the realisation of the dues.			
3.	M/s Prashanth Wholesale Wines, Madikeri AY: 1998-99, 1999-2000 and 2000-01	Karasamadhan Scheme was introduced under KST Act for recovery of the tax with 90 <i>per cent</i> waiver of the interest and penalty subject to the condition that the dealer paid the entire dues by 31 August 2010. However, the dealer paid the dues on 1 September 2010. As such he was not eligible for exemption of penalty/interest of ₹ 4.10 lakh.	4.10
4.	Goutham Wines AY: 1993-94, 1994-95 and 1996-97	The dealer was engaged in wholesale business of liquor. The case was entrusted to tax recovery officer (October 2002). Application was also filed by the CTD before JMFC Court on 16 October 2002 which was dismissed (05 November 2003) on the ground that whereabouts of the partners were not known and the notice could not be	42.11

(₹ in lakh)

Sl. No.	Name of the dealer	Nature of observation	KST arrears
		served. No further action is forthcoming from the records.	
The Department stated (November 2012) that SED is being approached for collection of the amount.			
<b>Total</b>			<b>210.07</b>

### 2.8.13 Arrears of tax referred to Revenue Department

Section 13(3)(a) of the KST Act provides that any tax or any other amount due under the Act from a dealer or any other person may without prejudice to any other mode of collection be recovered as if it were an arrear of land revenue.

As per Land Revenue (LR) Act, DC (Revenue) is empowered to issue Revenue Recovery Certificate (RRC) in respect of the arrears of Government revenue referred to him by the CTD.

As per the circular instruction No. 15 issued by CCT in February 2002, the AAs were required to file an application for recovery of the arrears of revenue due against any dealer to be recovered as arrears of land revenue under the Land Revenue Act through respective JCCTs. Further, JCCTs were instructed to get the details of revenue recovery certificates (RRC) issued by DC (Revenue) to the Sub-Divisional Officers/Tahsildars for recovery of arrears.

We test checked 24 cases that were sent by three divisions to the concerned DCs for issue of RRCs between September 1993 and December 2008. Of these, the fact of RRC having been issued was not found on record in seven cases. The concerned AAs had made no effort to ascertain issue of RRCs by the revenue authorities. The details are mentioned in the following table:

Sl. No.	Name of the office	Name of the dealer/ Assessment year	Revenue Authority/Date of sending the case to DC	Amount involved (₹ in lakh)
1	DCCT 3.7, Bangalore	M/s Maharaja Forest products 1996-97 and 97-98	DC. Bangalore 4.2.2002	13.13
2	DCCT Audit 2.6 Bangalore	M/s Elbee Traders 1988-89	DC, Quilon, Kerala 29.9.93 and 3.3.94	4.39
3		M/s Akash Steels 1993-94	DC Bangalore (Urban) 20.9.2002	11.70
4		M/s Bangalore Steels 1994-95	DC Bangalore (Urban) 20.9.2002	8.82
5	DCCT(A&R), Davanagere	Shri M.F. Zabiulla, 1985-86	DC, Hubli 18.11.1998	0.62
6.	CTO (A) 1, Davanagere	M/s Guru Traders 1993-94	DC .Davanagere 6.8.08	3.11
7.	DCCT (A&R)5, Mangalore	M/s Century Metal Stores 2004-05	DC, Cochin, Kerala 30.12.2008	2.91
<b>Total</b>				<b>44.68</b>

After we pointed out the cases, the CTD stated in November 2012 that action was being taken to obtain the RRC from the concerned Revenue Authorities.

### 2.8.14 Non-initiation of action under Section 13 (3) (b) of KST Act, 1957

KCT Manual read with CCT Circulars No.650 dated 08.09.1976 and No.40 dated 30.01.1978 stipulates that the recovery applications filed before JMFC should bear the name and present address of the person liable to tax and his status, so that notices issued by Court are served in time. When the 'statement of objection' is filed by the defaulters before the Court, the AAs should file counter replies in time. Memo of calculation of penalty (interest) is to be enclosed along with the recovery applications for perusal by the Court. In this regard a register in prescribed form has to be maintained for recording the details of cases referred to JMFC and to watch follow up action.

During the test check of records of two divisions<sup>5</sup> we observed (between March and June 2012) that in 29 cases involving arrears of tax of ₹ 8.38 crore for the period 1999 to 2011, no recovery could be effected through JMFC due to non furnishing of mandatory information of the defaulters like respondent dealer's current address (both business and residential) phone number, bank account number, details of movable and immovable property, PAN and

other relevant information. Though the above facts were brought to the notice of CCT by the JMFC, Bangalore in December 2011 and March 2012, no action was taken by the Department to furnish the required information to JMFC.

After we pointed out, the Department accepted that many cases could not be pursued as the information regarding present address, phone number, PAN etc. were not available and stated that efforts were being made to collect and furnish the required information to JMFC. The Department also stated that instructions have been issued to all AAs to be careful and diligent in filing recovery applications.

### 2.8.15 Cases referred to Board of Industrial and Financial Reconstruction (BIFR) and with Official Liquidator (OL)

As per the provisions of the Sick Industrial Companies (Special Provisions) Act (SICSP Act), 1985 where a reference for declaration as sick unit is filed and proceedings thereon are pending before the BIFR, no suit for recovery or enforcement of any dues against the Company shall lie or be proceeded further, except with the consent of the BIFR. Where a Company has been declared 'sick' by the BIFR, the Department has to ensure inclusion of all the arrears in the 'statement of liabilities' of the Company furnished to the BIFR and to the OL.

As per the circular dated 21 October 1995 the details of cases referred to the BIFR and their present status shall be maintained in each office to pursue the cases.

<sup>5</sup> DVO-3 and DVO-5, Bangalore

We noticed (May 2012) that details of the BIFR cases were not available in any of the test checked offices. In the absence of this, total number of cases and action taken thereon could not be ascertained and the monitoring done by the Department at the apex level was also not ascertainable.

During test check of arrear cases, we noticed in eight cases that non-filing/belated filing of claims with the OL resulted in non realisation of arrears of ₹ 44.88 crore as of October 2012. These are mentioned in the following table:

Name of the dealer and Assessment year	Nature of observation	Amount involved (₹ in lakh)
Nihon Nirman 1993-94	The company was declared sick in April 1997. However, DCCT-14 had preferred the claims (in Form-66) only in August 2011 after a lapse of 14 years.  After we pointed out, the Department stated that the position of the case is being verified with the OL appointed by the High Court of Rajasthan.	18.62
M/s. Altos India Co. Ltd. 1994-95 to 1997-98	The date of closure of business by the company was not mentioned in the assessment order. The AA requested the Registrar of Companies in September 2001 seeking details of closure of the company and information regarding OL. However, the case was not pursued thereafter. The DC (A&R) issued Form-66 in August 2011 to OL, appointed by the High Court of Punjab and Haryana based on the information published on the internet. The case has not been settled till date.	35.46
M/s Magna Sound India Ltd.; 2001-02 to 2003-04	The company was referred to the BIFR and the OL was appointed by the BIFR by its order dated 14.8.2003. However, claim for the sales tax dues (in Form-66) with OL was preferred only in January 2010 after a lapse of about seven years. Reason for delay in presenting the claim before the OL was not available on record.	3.28
M/s Gladstone Lyall and Co Ltd. 1987-88 and 1988-89	The company was wound up as per the orders of High Court of Calcutta on 18.4.1991 and OL was appointed by the High Court. The claims have been submitted to the OL in August 1994 after a lapse of three years. The present status of the case was not found on record.	4.56
M/s Hegde and Goley Ltd AY: 1975-76 to 1983-84	The company was ordered to be wound up in July 1985 by BIFR. The AA submitted claim on 9.12.1988 for an amount of ₹ 99.11 lakh to the OL after a lapse of three years. The present status of the case was not found on record.	99.11
M/s Saroj Alloys and Steels Ltd, Kriganur, Hospet 1976-77 to 1988-89	It was noticed from the assessment files that the assets of the said defaulter company were sold (May 2002) by public auction for ₹1.46 crore as per the directions (January 1992) of the High Court, Mumbai and the last date for filing the claim was 31 March 1999.  The Department filed their claim (in Form 66) only in October 2002. The OL in his letter dated 9 October 2009 directed the AA to submit the condonation for delay from competent authority. However, it was noticed that the Department has not filed condonation even after lapse of three years. Reason for delay in submission of the claim and delay in condonation were not on record. The delay in submission of claim by the Department may result in non-realisation of Government revenue.	124.00

Name of the dealer and Assessment year	Nature of observation	Amount involved (₹ in lakh)
M/s India Sugars and Refineries Ltd AY 1996-97 to 2010-11	The company is engaged in manufacture and sale of white crystal sugar. The unit was declared as sick company on 22 July 1999 and a rehabilitation scheme was sanctioned under Sick Industry Company Act 1985, for the unit on 12 February 2002. As per the Rehabilitation Scheme, purchase tax arrears of ₹2.68 crore as on 31 March 2001 was deferred for three years, to be repayable thereafter. However, the company did not pay the deferred tax in violation of conditions set forth by BIFR. The High Court in response to a petition filed by the CTD directed (9 October 2007) the company to pay an amount of ₹ 2.50 crore within six weeks. Against this, the company filed an appeal which was dismissed on 7 December 2007. Despite this order the company did not pay tax of ₹2.50 crore till date. The company approached (11 June 2008) CCT for further concessions like waiver, moratorium and exemption from tax. However, the CCT found from the accounts that the company was in a good financial health and he requested BIFR (03 February 2008) to permit CTD to go ahead with the recovery of dues. However, permission for recovery of tax was not passed by the BIFR and the CTD again sought permission in March 2012 from the BIFR intimating that the total amount due against the company was ₹ 40.41 crore including the amount from 2001 which has not been paid.	4041.00
M/s Salar Jung Sugar Mills, (SJSM) Munirabad AY 1981 to 1995	The company was ordered to be liquidated by an order dated 31 October 1996 of High Court of Karnataka and it was taken over by M/s Hemakuta Sugar and Allied Industries (HSAI). The liability of the company was taken by the HSAI but no recovery has been made till date though it was stipulated in their Rehabilitation Scheme that it would be paid within six months. Thus the amount was recoverable from HSAI but the department issued notices to SJSM with the result that no recovery has been made till date.	161.57
<b>Total</b>		<b>4,487.60</b>

### 2.8.16 Failure to invoke provisions of Section 14 of the KST Act, 1957

As per Section 14 of the KST Act, AA may direct by notice in writing any person who is due to the dealer any money to pay such amount to the AA as is sufficient to pay the arrears of tax due by the dealer.

**2.8.16.1** In the arrear cases selected for test check, we noticed that in two cases the Department initiated proceedings under Section 14 of the KST Act. Of these, in one case, it was noticed that proceedings were initiated belatedly and in the other case proceedings initiated were withdrawn without recovery of arrears in full and without assigning any reasons. In two other cases though the department was aware of the fact that the financial institutions have attached/disposed of the properties of the defaulter, no action was taken to direct the concerned financial institutions to pay arrears of tax due. The arrears of revenue involved in these cases amounted to ₹ 1.80 crore. These cases are as mentioned below:

Sl. No	Assessee / Assessment Year	Nature of observation	Amount of arrears (₹ in lakh)
1.	M/s Guru Springs and Vessels (P) Limited 1999-2000 to 2002-03	M/s Guru Springs and Vessels (P) Limited was assessed for the period 1999-2000 to 2002-03 between June 2002 and October 2006 and tax of ₹ 21.27 lakh was levied. A paper clipping dated 16 July 2004 published in a Kannada daily was available in the assessment file of the dealer which indicated that the KSFC, Mangalore branch was to auction the properties of the company on 'as is where is' basis, but no attempt was made by the Department to inform the KSFC about the tax due to the Department.  The assets of the company were taken over by the KSFC in July 2004 and the CTD issued (January 2009) notice to KSFC for payment of the dues under Section 14 of KST Act. Belated submission of the claim may result in non-recovery of the tax dues.	21.27
After this was pointed out, the CTD stated (November 2012) that letter has been addressed to the KSFC to furnish the property details and to the Registrar of Companies to furnish the list of directors and property details held.			
2.	M/s Punjab Crockery House 1987-88 to 1993-94	M/s Punjab Crockery House, Bangalore (RC No. 00200511) was assessed to tax of ₹ 60.28 lakh for the period 1987-88 to 1993-94 and tax was demanded (23 December 2009). The dues were not paid by the dealer. The accounts of the dealer were found to have been maintained in Dena Bank, Jayanagar Branch, Bangalore and a notice was issued under Section 14 of the Act for payment of the same under intimation to the dealer. In response to this demand, an amount of ₹ 2 lakh was paid by the dealer as against a demand of ₹ 60.28 lakh. Balance tax ₹ 58.28 remained unpaid (December 2012).	58.28
After this was pointed out, the Department stated that as per the bank, the dealer held a cash credit hypothecation account and there was debit balance in his account. Hence the amount could not be recovered.  However, the fact remains that the dealer had paid the amount only when notice was issued to the bank and after its withdrawal no amount was paid by him. Records available in the file further revealed that the dealer was running the same business in the same premises in a different trade name <sup>6</sup> . Thus, despite availability of details of defaulter on record, effective action has not been taken to recover the dues which are outstanding for more than 18 years.			
3	M/s Basaveswara Solvent and Oil Extraction AY 1993-94 to 1998-99	In this case an application for recovery of tax dues filed (2004) before JMFC was withdrawn in November 2007 on the ground that the land and building of the defaulter was hypothecated to M/s KSSIDC and M/s KSFC. However, the matter was not taken up with M/s KSSIDC and M/s KSFC under Section 14 of the KST Act.	11.72
After we pointed out the Department stated (November 2012) that M/s KSSIDC and M/s KSFC have disposed the property in 2006 itself. The recovery of sales tax arrears will be taken up with those authorities, if any amount is available for recovery.			

<sup>6</sup> M/s. P.C.H. Marketing Services, Bangalore TIN 29210318881

Sl. No	Assessee / Assessment Year	Nature of observation	Amount of arrears (₹ in lakh)
4	M/s Cold Extrusions (P) Ltd Bangalore AY: 1995-96 to 2000-01	The arrears were outstanding since October 2000, a request was made to M/s KSSIDC in December 2008 for recovery of tax dues from the sale proceeds of a house property attached (December 2000) by them. Thus claim was preferred after a lapse of eight years.	88.82
The Department stated (November 2012) that M/s KSSIDC is yet to dispose of the property and recovery of sales tax dues would be pursued with them.			
<b>Total</b>			<b>180.09</b>

### 2.8.17 Non-recovery of arrears of tax due to inappropriate action by the Department

**2.8.17.1** We noticed that arrears of ₹ 1.37 crore were outstanding in the DCB Register since 2002 in respect of a dealer (M/s Shreeji Packaging) which was a proprietorship concern. The dealer owned a residential property in Bangalore which was free from encumbrance as identified by the CTD in November 2004. However, no action was taken to attach the property. Records revealed that the defaulter is now a proprietor of new concern<sup>7</sup>. Though the defaulter is registered with the CTD and running a business, no effort has been made by the Department to recover dues.

After we pointed out, the CTD stated that the concerned officers have been instructed to collect the details of the property held by the dealer from the jurisdictional revenue officers of Bruhat Bengaluru Mahanagara Palike (BBMP)/Sub-Registrar Office and to collect the details regarding new business, if any.

**2.8.17.2** We noticed that M/s S.C. Chinnaiah & Co. was liable to pay arrears of tax and interest of ₹ 60.11 lakh relating to the years 1980-81 to 1985-86. The firm had five partners of which two were adjudicated (November 1988) as insolvents and unable to pay debts. As per insolvency order, the firm had ₹ 18.05 lakh receivables for which an Official Receiver (OR) was appointed. The OR was requested (August 1994) to remit the amount to sales tax head of account after taking the necessary action on the assets of the petitioner. However, the case was not pursued for recovering the dues from the remaining three partners of the firm.

After we pointed out (August 2012), the CTD stated (November 2012) that notices have been issued to three partners and letter addressed to the OR seeking information regarding recovery of sales tax arrears in October 2012.

**2.8.17.3** In respect of M/s Naveen Enterprises against which there were arrears of tax of ₹ 37.52 lakh relating to the assessment years 1993-94 to 1999-2000, application filed by the CTD for recovery of tax was dismissed by JMFC in April 2003 on the ground that notices have not been served. Though the Department identified one of the partners of the firm (Shri J.T. Raju) with the property held by him, it was recorded (December 2011) that he refused to receive the notice. No further pursuance to recover the dues or action to attach the property was forthcoming from the records.

<sup>7</sup> M/s Jayvee Enterprises, Lakshmipura Main Road Bangalore, TIN 29250844599

After we pointed out, the CTD replied (November 2012) that action was being taken to attach the property.

**2.8.17.4** We also observed in respect of M/s. Neela Kanteswara Oil Industries that the JMFC issued direction for attaching the property for recovery of tax dues of ₹ 15.55 lakh on 4 January 2005. Copy of the warrant was received by the AA in January 2005. However, the dealer alienated his property to different persons in 2010. This indicated that the property in question was not attached at all. Thus, inaction on the part of the CTD resulted in non-recovery of entire amount of tax of ₹ 33.52 (including interest) outstanding as on 25 February 2012.

After we pointed out, the CTD stated that the case was being pursued with the Revenue Authorities. However, the fact remains that property has been sold and the possibility of recovery of the arrears of tax has become remote.

**2.8.17.5** In one case of a wholesale liquor dealer (M/s Shiva Enterprises, Bangalore) there was arrear of ₹ 4.29 crore pertaining to the year 1993-94. Though the Department identified that the defaulter was residing in Bangalore and running a Film Distribution business at Gandhinagar, Bangalore no action was taken to recover the dues (December 2012).

**2.8.17.6** We noticed in one case (M/s Sheethal Wines, Chikkamagaluru) that the dealer was liable to pay arrears of sales tax of ₹ 1.22 lakh relating to the year 1997-98 and was liable to pay interest on the same till the date of payment of tax. However, our cross verification with the SED revealed that the ACCT, LVO-250, Chikkamagaluru issued (March 2011) a clearance certificate declaring that no amount was due from the dealer under the KVAT Act.

### **2.8.18 Arrears of tax in case of deferment of taxes under industrial incentive schemes**

Under Industrial Policies of the Government of Karnataka, concession to industries in the form of deferred payment of tax under KST Act, CST Act and KTEG Act was allowed. In this regard it was necessary to record the data of concessions availed by each industry and also to take action for recovery of taxes after expiry of period of concessions. In case of defaults in making payment of deferred tax as stipulated in the policy, interest at prescribed rate was recoverable.

The CCT issued a circular in May 1999, directing the AAs to maintain a register to record the tax concessions granted in the form of exemption or deferment of tax. In the register each unit shall be allocated separate pages for entries to be made in respect of tax concession allowed from the date of commercial production which shall be maintained from 1 April 1999 and concessions availed in earlier years shall also be recorded. The extract of the said

register shall be submitted to the JCCT (Administration) every month.



We noticed in two offices in Bangalore that seven industrial units who availed tax payment deferment incentive under 1993 and 1996 package of industrial incentives were liable to pay deferred tax of ₹ 40.76 crore with effect from December 2002, of which, the industrial units paid ₹ 39.42 crore leaving a balance of ₹ 1.34 crore. The last instalments paid by these units were between March 2008 and August 2011. An interest of ₹ 1.22 crore was also leviable in these cases.

We noticed that 'Watch Register' was not maintained in any of the offices test checked except in one office (DCCT A&R) 6.2, Bangalore). But even in this office the register was not properly maintained i.e. periodical updating of the register where instalments have been paid were not noted. In the absence of the DCB and the Watch Register, the unpaid deferred tax and interest leviable thereon were not worked out and shown as recoverable arrears in the books of CTD as detailed below:

(₹ in lakh)

Sl. No.	Name of the assessee	Deferment of tax availed	Deferred tax repaid	Month of payment of last instalment	Balance	Interest due
1.	M/s Akzo Nobel Coatings India Pvt. Ltd.	1,270.17	1,199.75	September 2009	70.43	59.35
2.	M/s Delphi Automotive Systems Pvt. Ltd.	1,696.31	1,683.37	June 2008	12.94	9.71
3.	M/s E. M. Shivamani Engineering Pvt. Ltd.	48.33	45.49	December 2009	2.84	3.03
4.	M/s Haat Incinerators Pvt. Ltd.	42.02	40.20	March 2008	1.82	2.28
5.	M/s Kirloskar Toyoda Textile Machinery Pvt. Ltd.	783.14	768.74	June 2009	14.40	16.00
6.	M/s Vectra Azad Engineering Pvt. Ltd.	59.25	48.83	August 2011	10.42	17.76
7.	M/s Alpine Housing Development Corp	176.90	155.57	June 2011	21.33	13.64
	<b>Grand Total</b>	<b>4,076.12</b>	<b>3,941.95</b>		<b>134.18</b>	<b>121.77</b>

After we pointed out between May and July 2012 the CTD issued notices to six dealers in September 2012. In respect of the remaining case, it was stated (November 2012) that interest of ₹ 13.64 lakh is being adjusted out of the refund amount due to the unit. However, in this case, action taken to recover the tax of ₹ 21.33 lakh due has not been furnished (December 2012).

### 2.8.19 Reconciliation

Article 329(v) of KFC provides for reconciliation of payments made into the treasury/bank with that of treasury schedule and furnishing of certificate in this regard. It was noticed that no such reconciliation was made during the period 2004 to 2011. The amount shown as arrears as of March 2011 under the category of "under payment verification" continued to remain the same as of April 2012 indicating that no effort was made by the CTD to reconcile the amount shown as remitted to treasury/under payment verification.

We noticed (May/June 2012) that the CTD had submitted statement of arrears to the Government in pursuance of enquiry of the Public Accounts Committee. The statement of arrears contained 3,907 items involving ₹ 14.07 crore which were shown to have been recovered but these items were pending for want of reconciliation by the Department. On verification in audit, we noticed that these cases included amount due in respect of closed cases where demand notices had not been served, payment made in other offices which was yet to be transferred to the concerned office, payments received through cheques which required verification with reference to treasury records etc. The breakup of arrears was not forthcoming. In respect of payment already made, reconciliation with reference to Treasury records was yet to be made. The period for which such reconciliation is pending is not on record.

Sl. No	Name of the Office	No. of cases	Amount (₹ in lakh)
1.	DCCT-5 Mangalore.	51	22.83
2.	DCCT-Davanagere	648	287.22
3.	DCCT-2.6 Bangalore	98	131.91
4.	DCCT-2.5 Bangalore	2,265	614.37
5.	DCCT-3.7 Bangalore	828	279.57
6.	DCCT(A&R) Bangalore	17	71.20
<b>Total</b>		<b>3,907</b>	<b>1,407.10</b>

### 2.8.20 Conclusion

The performance audit revealed a number of deficiencies in monitoring the collection of arrears of tax like non-maintenance of basic records (DCB registers), lack of monitoring at the apex level, inordinate delay in assessments of cases remanded, lack of co-ordination between CTD and SED, failure to make timely claim before Judicial, Financial and other administrative authorities. A number of cases have not been pursued and stages at which the arrears are pending, action required to be taken, appropriate authority required to take action was not known to the CTD. As a result, the arrears from defaulters are fraught with the risk of revenue becoming irrecoverable with efflux of time.

### 2.8.21 Recommendations

We recommend that Government may put in place

- a system for monitoring the correct accounting and recovery of arrears by maintaining the DCB Register and Watch Register;
- a system for regular liaison with OL, BIFR and Court Authorities so that the claims are lodged without any delay and or not lost sight of;
- a system for co-ordination with other Government Departments so that arrears are pursued with those departments without any delay; and
- a system for monitoring the progress made in the recovery of arrears by prescribing periodical returns for submission to higher authorities.

## 2.9 Non-observance of provisions of the Act/Rules

The KVAT Act provides as under:

- Section 4 for levy of output tax at prescribed rates;
- Section 10(2), 11, 14 and 17 for deduction of ITC subject to certain restrictions;
- Section 10(3) for net tax liability which shall be the amount of output tax less the input tax deductible;
- Section 10(5) for adjustment/refund of excess ITC for any other tax period;
- Section 9-A for tax deduction at source in respect of works contractors;
- Section 15 for composition of tax in lieu of net tax payable;
- Sections 35 and 36 for levy of interest for omission to pay tax;
- Section 35(4) for furnishing of revised returns within six months after the end of the relevant tax period; and
- Section 72(2) for levy of penalty for understatement of output tax/overstatement of ITC.

Under the KVAT Act, every registered dealer is required to furnish returns in the prescribed form and pay the tax due on such return within 20 days after the end of the preceding month or any other tax period. Every dealer shall be deemed to have been assessed to tax based on such return filed by him. Where any prescribed authority has grounds to believe that any return furnished, which is deemed as assessed, understates the correct tax liability, it may re-assess such cases.

We noticed in test check of the records of 27 VAT offices that the above provisions were not fully followed by the concerned Assessing Authorities (AAs). The omissions and irregularities in 79 cases involve non/short realisation of Government revenue amounting to ₹ 6.21 crore. The Department has accepted audit observations in 26 cases involving ₹ 52.97 lakh out of which it intimated recovery of ₹ 26.59 lakh in 19 cases. In respect of the remaining cases, final reply has not been received (December 2012).

### 2.9.1 Non-demand of tax

#### Nine VAT offices in seven<sup>8</sup> districts

As per section 31(4) of the KVAT Act 2003, every dealer whose total turnover in a year exceeds ₹ 40 lakh shall have his accounts audited by a Chartered Accountant or a Cost Accountant or a Tax Practitioner (Auditor) and shall submit to the prescribed authority a copy of the audited statement of accounts in Form VAT-240 prescribed under Rule 34(3) of the KVAT Rules, 2005.

Form VAT-240 provides for the Auditor to fill a comparative statement of dealer's liability to tax and his entitlements for input tax/refund as declared in the tax returns and corresponding correct amount determined on audit. In case of difference between them, the Auditor may advise the dealer either to pay the differential tax together with the interest and penalty if any, or to claim refund due to him as the case may be.

<sup>8</sup> Bangalore, Belgaum, Chikkamagaluru, Gadag, Dharwad, Gulbarga and Kolar.

We noticed (between February and October 2011) that in case of 18 dealers, audited statement of accounts filed in Form VAT-240 for the years 2006-07 to 2009-10, the concerned Auditors brought out short payment of tax by the dealers in their returns. Further, the Auditors advised the dealers to file revised returns and pay tax of ₹ 3.69 crore, interest of ₹ 41.60 lakh and penalty of ₹ 35.67 lakh.

However, the concerned dealers neither filed revised returns nor paid the dues as advised by their Auditors in Form VAT-240. The AAs concerned also had not taken any action to demand the tax together with mandatory interest and penalty. This deprived the Government of revenue of ₹ 4.46 crore.

After we pointed out the cases between February and October 2011, the Government/Department accepted our observations in 10 cases involving tax effect of ₹ 31 lakh and recovered ₹ 17.28 lakh in seven of them. In respect of the remaining cases replies are still awaited (December 2012).

## 2.9.2 Excess adjustment of credit amount

### 12 LVOs and one Audit Office in seven<sup>9</sup> districts

Any dealer in whose case, on the basis of return filed for any tax period, the input tax deductible exceeds the output tax payable by him, such dealer may adjust the excess amount towards the tax payable by him for any other tax period.

We noticed between January 2011 and February 2012 that 25 dealers in their returns filed for tax periods between July 2006 and December 2010, adjusted credit amount of ₹ 9.35 crore as brought forward from earlier tax periods. However, credit carried

forward by them in the respective previous returns was ₹ 8.79 crore only. The LVOs concerned failed to verify the returns of the dealers with reference to respective previous returns and to disallow the excess credit claimed by them. This resulted in excess adjustment of credit amount of ₹ 56.57 lakh. A few illustrative cases are mentioned below:

(₹ in lakh)

Sl. No.	Assessing Authority and Name of the dealer	Previous tax period	Credit carried forward	Subsequent tax period	Credit brought forward	Excess credit availed
1.	LVO-045, Bangalore M/s Universal Steel Rolling Mills Ltd.	March 2009	0.93	April 2009	13.28	12.35
		April 2009	4.22	May 2009	6.20	1.98
2.	LVO-045, Bangalore M/s Planet M Retail Limited	November 2010	Nil	December 2010	6.21	6.21
3.	LVO-390, Belgaum M/s Bharath Electrical Contractor & Manufacturing (P) Limited	September 2008	2.48	October 2008	5.48	3.00
4.	LVO-260, Mangalore M/s Mandovi Motors (P) Ltd.	September 2009	Nil	October 2009	10.81	10.81

<sup>9</sup> Bangalore, Belgaum, Bellary, Dakshina Kannada, Gadag, Dharwad and Mysore.

After we pointed out the cases, the Government/Department accepted audit observations in respect of 10 cases involving ₹9.86 lakh and recovered ₹4.35 lakh in seven of them. We have not received final reply in the remaining cases (December 2012).

### 2.9.3 Non-levy of interest

#### Four VAT offices in Bangalore and Dharwad districts

Every dealer is liable to pay simple interest at the rate of 1.25 *per cent* per month on any amount of tax omitted to have been declared in a return and also for default in payment of tax wrongly collected. Further, interest shall also be demanded on additional tax liability determined on re-assessment.

We noticed from the six assessments finalised by DCCT (Audit) 64 in respect of a dealer and 24 returns filed by six other dealers with three LVOs between August 2011 and January 2012 that tax aggregating ₹ 41.29 crore relating to tax periods between October 2005 and April 2010 was paid after delay ranging from two

days to 54 months. The delay in payment of tax in these cases attracted interest of ₹60.87 lakh. Against this, interest of ₹ 5.81 lakh was only levied by the LVOs/DCCT. The non/short levy of interest amounted to ₹55.06 lakh.

We pointed out the cases to the Department between August 2011 and March 2012 and reported to the Government in June 2012. Their replies are still awaited (December 2012).

### 2.9.4 Short payment of tax

#### Three VAT offices in Bangalore and Belgaum districts

Every registered dealer is liable to pay tax in respect of any taxable sale of goods made by him after deducting the tax on the purchase of goods made by him, for use in the course of business.

We noticed between April and November 2011 that four dealers in their returns for the tax periods between March 2009 and May 2010, had short paid the net taxes amounting to ₹ 13.48 lakh. The LVOs concerned also failed to demand the tax.

After we pointed out the cases, the Government/Department accepted audit observations in one case involving ₹7.15 lakh and issued notice to the dealer concerned. We have not received final reply in the remaining case (December 2012).

### 2.9.5 Underassessment of output tax

#### Three VAT offices in Bangalore, Belgaum and Mysore districts

Every registered dealer is liable to pay tax (output tax) on his taxable turnover at the rates specified in the relevant schedules to the Act. In respect of goods not specified in any of the schedules, tax is payable at the rate of 12.5 *per cent*.

We noticed between April 2011 and February 2012 that eight dealers in their self assessed returns for the tax periods between April 2008 and March 2011 declared tax liability of only ₹ 26.88 lakh

as against actual output tax liability of ₹ 45.10 lakh. This was due to application of incorrect rate of tax, error in computation of the tax liability, error in declaring taxable turnover, etc.

The LVOs concerned also did not notice these errors at the time of accepting the returns and did not demand the tax due. This resulted in underassessment of output tax of ₹ 18.22 lakh which may be recovered along with interest.

These cases were pointed out to the Department between August 2011 and March 2012 and reported to Government in June 2012. We have not received their reply (December 2012).

### **2.9.6 Short levy of Central Sales Tax**

#### **Two VAT offices in two<sup>10</sup> districts**

Under the provisions of CST Act, every registered dealer who sells goods to another registered dealer in the course of inter-State trade or commerce is liable to pay tax at the rate of three *per cent* of his turnover subject to production of declaration in Form 'C'. The rate of tax was reduced to two *per cent* with effect from 1 June 2008.

We noticed between July 2011 and February 2012 that two dealers in their returns for the months of

April and May 2008 declared inter-state sales turnover of ₹ 10.69 crore covered by 'C' Form declarations. However, the dealers had computed and discharged their liability to tax on their turnover at the rate of two *per cent*. The LVOs concerned also failed to raise demand for the tax at the differential rate of one *per cent* after receipt of incorrect returns filed by the dealers. This resulted in short levy of CST of ₹ 10.69 lakh.

These cases were pointed out to the Department between July 2011 and March 2012 and reported to the Government in June 2012. Their replies are still awaited (December 2012).

### **2.9.7 Excess/ Incorrect allowance of input tax**

#### **Five VAT offices in Bangalore and Bellary district**

Input tax in relation to a registered dealer means the tax paid or payable on the purchase of any goods under KVAT Act for use in his business. ITC is not admissible on purchase made from outside the State. As per Section 11(a)(2) of KVAT Act, ITC is not admissible on purchase of goods specified in V Schedule and used for the purpose other than for resale or manufacture. In terms of a Notification dated 30 March 2007 ITC on cement used in manufacture of cement bricks was not admissible.

We noticed between May and December 2011 that six dealers had claimed ITC of ₹ 1.37 crore in 62 (deemed assessments) returns for tax periods between April 2005 and March 2010. The input tax admissible as per the provisions of the Act in these cases was ₹ 1.26 crore only. The excess claim was due to arithmetical errors,

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<sup>10</sup> Belgaum and Bellary.

allowance of ITC on interstate purchases and on cement used in manufacture of cement bricks which were not eligible for deduction. The LVOs concerned also accepted the returns filed by the dealers. The excess allowance of ITC deprived the Government of revenue of ₹ 11.84 lakh.

After we pointed out the cases, the Government/Department accepted and recovered ₹ 1.64 lakh in two cases including interest under Section 36(2) of the KVAT Act. We have not received replies in the remaining cases (December 2012).

### 2.9.8 Non/short levy of penalty on Shortfall in payment of taxes as per returns

#### Three VAT offices in Bangalore and Bellary districts

Section 72(2) of KVAT Act provides that a dealer who for any prescribed tax period furnishes a return which understates his liability to tax or overstates his entitlement to a tax credit by more than five *per cent* of his actual liability to tax or his actual tax credit, as the case may be, shall after being given the opportunity to show cause in writing against the imposition of a penalty, be liable to a penalty equal to ten *per cent* of the amount of such tax under or overstated.

We noticed between June 2011 and January 2012 that in 10 returns filed by nine dealers for tax periods between July 2008 and March 2010 understated output tax liability of ₹ 70.20 lakh and overstated ITC of ₹ 21.43 lakh aggregating ₹ 91.63 lakh. These omissions were corrected by the dealers in the revised returns filed. However, in none of these cases the penalty due was demanded by

the concerned AAs. This resulted in non-levy of penalty of ₹ 9.16 lakh.

After we pointed out the cases, the Government/Department reported recovery of ₹ 3.32 lakh in three cases. In respect of the remaining cases, their replies are still awaited (December 2012).





## CHAPTER-III

### EXECUTIVE SUMMARY

<b>Trend of receipts</b>	The percentage of variation between the BEs and the actual receipts was very high except for the year 2010-11.
<b>Revenue Impact of Audit Reports</b>	During the last five years, through our Audit Reports we had pointed out non/short levy, non/short realisation and loss of revenue, etc. with revenue implication of ₹ 354.54 crore in 26 paragraphs. Of these, the Government/Department had accepted audit observations in 19 paragraphs involving ₹ 302.75 crore and had since recovered only ₹ 0.68 crore which constitutes only 0.22 <i>per cent</i> of the total accepted amount.
<b>Results of audit</b>	<p>We conducted a test check records of the records of 163 offices of the Stamps and Registration Department during the year 2011-12, which revealed evasion, non-realisation, short levy of stamp duty and registration fee, etc. amounting to ₹ 5.66 crore in 993 cases.</p> <p>The Department accepted underassessment of ₹ 56 lakh in 181 cases pointed out during the year. In addition, the Department also recovered ₹ 9.50 lakh in 12 cases pointed out in earlier years. Further, in response to one of the draft paragraphs, the entire amount of ₹ 11.34 lakh was recovered.</p> <p>We also conducted a performance audit on “Computerisation of Department of Stamps and Registration”, the findings of which are featured in this chapter.</p>
<b>What we have highlighted in this Chapter</b>	<p>A performance audit on “<b>Computerisation of Department of Stamps and Registration</b>” revealed the following:</p> <p>No Information System (IS) Audit was conducted by Department of Stamps and Registration (DSR) even after a lapse of eight years since the date of computerisation. The provision for IS Audit was neither contemplated in the document “Software Requirement Specification (SRS)” nor was any departmental instruction issued in this regard.</p> <p style="text-align: right;"><b>(Paragraph 3.8.8.1)</b></p> <p>Under KAVERI system, there was no lateral</p>

connectivity across the Sub-Registrars' offices. The consolidated information relating to the total number of documents registered, amount of stamp duty and registration fee collected and other recoveries made in the State in a day was not available in the system.

**(Paragraph 3.8.8.2)**

The legacy data has not been digitised so far and in the absence of legacy data, the Department of Stamps and Registration could not issue Encumbrance Certificate (EC) on the same day as stipulated in the website.

**(Paragraph 3.8.8.3)**

There was no module for generation of tokens in the software to systematically deal with the requirements of the members of the public visiting SROs.

**(Paragraph 3.8.9.1)**

KAVERI system does not have a provision for presentation of documents online for examination, valuation and determination of duty and fees. The KAVERI website has an interface in English only and not in Kannada. The Karnataka Registration (Deed Writers' Licence) Rules, 1978 framed under the Registration Act, 1908 was not provided in the website.

**(Paragraph 3.8.9.3 and 3.8.9.4)**

The implementation of logical access controls like user names and passwords by the DSR was not found in tune with business practices necessary to ensure authorisation requirements and establishment of accountability

**(Paragraph 3.8.10)**

The business rules like denotation of duty, rejection of documents, registration of property notified for non-registration, valuation of lease deeds etc. were not mapped in the system.

**(Paragraph 3.8.11)**

It was noticed in the 'PropertyMaster' table that 50 *per cent* of the data was redundant. This resulted in unnecessary wastage of data storage capacity.

**(Paragraph 3.8.12.1)**

In the test checked SROs, we noticed that due to incorrect data entry 2,428 out of 15,116 incomplete

	<p>documents were not qualified as pending. This had resulted in duplication of payment details. Besides, we found incomplete/incorrect entries in the 'PersonDetails' table of the marriage registration module.</p> <p style="text-align: right;"><b>(Paragraph 3.8.12.2)</b></p> <p>Cross verification of the data from 'DocumentMaster' with 'ScanMaster' tables in two SROs revealed that 2,841 extra pages were scanned for which no receipt was generated and no payment on this was made into the Government account. This resulted in short realisation of revenue of ₹ 86,310.</p> <p style="text-align: right;"><b>(Paragraph 3.8.14)</b></p> <p>In SRO Tumkur, we found shortage of computers and peripherals that affected the service delivery in the system. We also found that, though kiosks were installed in the SROs, these were not found working in any of the offices test checked.</p> <p style="text-align: right;"><b>(Paragraph 3.8.15)</b></p> <p>KAVERI has the provision for generation of the reports required to be sent by SROs to the higher authorities. Though the reports are generated, their figures were not correct, with the result, SROs prepare the reports manually for submission to supervisors.</p> <p style="text-align: right;"><b>(Paragraph 3.8.16)</b></p>
<b>Recommendations</b>	<p>The Department/Government may consider:</p> <ul style="list-style-type: none"> <li>• The Government/DSR may take necessary steps to ensure that an information audit system is put in place, the SROs are inter-linked and legacy data is entered into the system on top priority to enable fast and efficient EC issue.</li> <li>• A token module system may be introduced, the website may be updated regularly and made available in vernacular.</li> <li>• The DSR may implement logical access controls like user names and passwords in tune with business practices necessary to ensure authorisation requirements and</li> </ul>

	<p>establishment of accountability.</p> <ul style="list-style-type: none"><li>• The business rules like denotation of duty, rejection of documents, registration of property notified for non registration, valuation of lease deeds etc. may be mapped in the system.</li><li>• The DSR may establish a mechanism to monitor and ensure that the service delivery by third party service providers is as per the requirements stated in the contracts and  The existing automated kiosks may be made functional and kiosks installed in every SRO.</li><li>• The Government may issue instructions for strengthening the internal control so that correct and reliable reports are generated for submission to higher authorities.</li></ul>
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## CHAPTER-III: STAMP DUTY AND REGISTRATION FEES

### 3.1 Tax Administration

Levy and collection of stamp duty and registration fees in the State is governed by the Indian Stamp Act (IS Act) 1899, the Karnataka Stamp Act (KS Act) 1957, the Registration Act, 1908 and rules made thereunder. The levy and collection of stamp duty and registration fee is administered by the Department of Stamps and Registration (DSR) headed by the Inspector General of Registration and Commissioner of Stamps (IGRCS). There are 35 District Registrar (DR) offices and 241 Sub-Registrar offices (SRO) in the State.

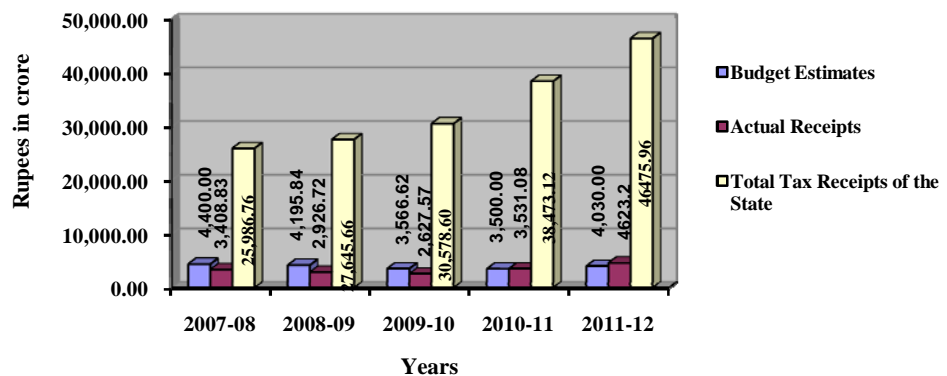
### 3.2 Trend of Receipts

Budget Estimates (BEs) and actual receipts from stamp duty and registration fees during the years 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	4,400.00	3,408.83	(-) 991.17	(-) 22.53	25,986.76	13.12
2008-09	4,195.84	2,926.72	(-)1,269.12	(-) 30.25	27,645.66	10.59
2009-10	3,566.62	2,627.57	(-) 939.05	(-) 26.33	30,578.60	8.59
2010-11	3,500.00	3,531.08	(+) 31.08	(+) 0.89	38,473.12	9.18
2011-12	4,030.00	4,623.20	(+) 593.20	(+)14.72	46,475.96	9.95

Graph 1 : Budget estimates, Actual receipts and Total tax receipts



It would be seen from the above that the percentage of variation between the BEs and the actual receipts was very high except for the year 2010-11. The increases in 2011-12 was stated to be due to increase in market value and increase in the number of registered documents.

### 3.3 Analysis of arrears of revenue

As per the information furnished to us by the Department in November 2012, the amount of uncollected revenue as on 31 March 2012 stood at ₹ 76.17 crore. The year wise position of arrears of revenue for the period 2007-08 to 2011-12 as furnished is mentioned in the following table:

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year from the arrears	Closing balance of arrears	Percentage of collection to opening balance of arrears
2007-08	88.90	11.32	77.65	12.73
2008-09	77.65	15.95	62.90	20.54
2009-10	62.90	4.83	60.53	7.68
2010-11	60.53	3.29	77.57	5.43
2011-12	77.57	3.49	76.17	4.50

As seen from the table above, the closing balance figures do not agree with the figures of opening balance and collection in any of the five years furnished by the Department. Therefore, the Department should reconcile the figures and furnish correct data. However, assuming the closing balance figures furnished by the Department to be correct, the percentage of collection of arrears was highest during 2008-09 and thereafter it recorded a sharp fall in the rate of its collection.

**We recommend that the Department may take remedial measure for improving the collection of arrears of revenue.**

### 3.4 Cost of Collection

The gross collection in respect of stamps and registration fee, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant All India average percentage of expenditure on collection to gross collection for the respective preceding years were as follows:

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the preceding year
	(₹ in crore)			
2009-10	2,650.17	53.18	2.01	2.77
2010-11	3,554.48	53.52	1.51	2.47
2011-12	4,644.46	58.70	1.26	1.60

The table above indicates that the percentage of cost of collection to gross collection was less than the All India average percentage for the preceding years.

### 3.5 Working of Internal Audit Wing

The objective of an IAW is to have a deterrent and reforming effect in the direction of prevention of mistakes and to play a corrective role by pointing out mistakes and ensuring remedies without loss of time.

Mention of absence of IAW in the Department was made in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2010 and recommended that the Government

expedite the setting up of IAW in the Department. It was also reiterated in our 2010-11 Report. Despite this, there was no IAW in the Department as of October 2012, thus leaving it vulnerable to the risk of control failure.

### 3.6 Impact of Audit Reports

During the last five years, through our Audit Reports, we had pointed out non/ short levy, non/short realisation and loss of revenue, etc. with revenue implication of ₹ 354.54 crore in 26 paragraphs. Of these, the Government/ Department had fully/partly accepted audit observations in 19 paragraphs involving ₹ 302.75 crore and since recovered ₹ 68 lakh. The details are given in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount <sup>1</sup>	Number	Amount <sup>1</sup>
2007-08	02	2.44	01	0.03	01	0.03
2008-09	06	325.83	05	283.04	03	0.45
2009-10	07	16.49	05	12.03	04	0.08
2010-11	05	7.39	05	7.39	01	0.09
2011-12	06	2.39	03	0.26	Nil	0.03
<b>Total</b>	<b>26</b>	<b>354.54</b>	<b>19</b>	<b>302.75</b>	<b>9</b>	<b>0.68</b>

Out of the amount of ₹ 325.83 crore included in the Audit Report of 2008-09, an amount of ₹ 260.76 crore pertains to Performance Audit on 'Levy and collection of stamp duty and registration fees' which was accepted by the department.

As seen from the above table, the recovery made by the Department is only 0.22 per cent of the amount involved in the total accepted cases.

### 3.7 Results of Audit

We conducted a test check of the records of 163 offices of the Stamps and Registration Department during the year 2011-12, which revealed evasion, non-realisation, short levy of stamp duty and registration fee, etc. amounting to ₹ 5.66 crore in 993 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	<b>Computerisation of Department of Stamps and Registration (A Performance Audit)</b>	1	--
2.	Short levy of stamp duty and registration fees	203	3.93
3.	Non-realisation of stamp duty	1	0.01
4.	Loss of stamp duty and registration fee due to suppression of facts	10	0.91
5.	Short levy due to undervaluation of properties	32	0.37
6.	Other irregularities	746	0.44
<b>Total</b>		<b>993</b>	<b>5.66</b>

Out of the amount mentioned above, the Department accepted underassessment of ₹ 56 lakh in 181 cases pointed out in audit during the

<sup>1</sup> Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.

year. In addition, the Department also recovered an amount of ₹ 9.50 lakh in 12 cases pointed out in earlier years. Further, in response to one of the draft paragraphs, the entire amount of ₹ 11.34 lakh was recovered.

A performance audit on '**Computerisation of Department of Stamps and Registration**' and a few illustrative audit observations involving ₹ 2.39 crore are mentioned in the succeeding paragraphs.



### 3.8 Performance Audit on “Computerisation of Department Stamps and Registration”

#### Highlights

No Information System (IS) Audit was conducted by Department of Stamps and Registration (DSR) even after a lapse of eight years since the date of computerisation. The provision for IS Audit was neither contemplated in the document “Software Requirement Specification (SRS)” nor was any departmental instruction issued in this regard.

**(Paragraph 3.8.8.1)**

Under KAVERI system, there was no lateral connectivity across the Sub-Registrars’ offices. The consolidated information relating to the total number of documents registered, amount of stamp duty and registration fee collected and other recoveries made in the State in a day was not available in the system.

**(Paragraph 3.8.8.2)**

The legacy data has not been digitised so far and in the absence of legacy data, the Department of Stamps and Registration could not issue Encumbrance Certificate (EC) on the same day as stipulated in the website.

**(Paragraph 3.8.8.3)**

There was no module for generation of tokens in the software to systematically deal with the requirements of the members of the public visiting SROs.

**(Paragraph 3.8.9.1)**

KAVERI system does not have a provision for presentation of documents online for examination, valuation and determination of duty and fees. The KAVERI website has an interface in English only and not in Kannada. The Karnataka Registration (Deed Writers’ Licence) Rules, 1978 framed under the Registration Act, 1908 was not provided in the website.

**(Paragraph 3.8.9.3 and 3.8.9.4)**

The implementation of logical access controls like user names and passwords by the DSR was not found in tune with business practices necessary to ensure authorisation requirements and establishment of accountability

**(Paragraph 3.8.10)**

The business rules like denotation of duty, rejection of documents, registration of property notified for non-registration, valuation of lease deeds etc. were not mapped in the system.

**(Paragraph 3.8.11)**

It was noticed in the ‘PropertyMaster’ table that 50 *per cent* of the data was redundant. This resulted in unnecessary wastage of data storage capacity.

**(Paragraph 3.8.12.1)**

In the test checked SROs, we noticed that due to incorrect data entry 2,428 out of 15,116 incomplete documents were not qualified as pending. This had resulted in duplication of payment details. Besides, we found incomplete/incorrect entries in the 'PersonDetails' table of the marriage registration module.

**(Paragraph 3.8.12.2)**

Cross verification of the data from 'DocumentMaster' with 'ScanMaster' tables in two SROs revealed that 2,841 extra pages were scanned for which no receipt was generated and no payment on this was made into the Government account. This resulted in short realisation of revenue of ₹ 86,310.

**(Paragraph 3.8.14)**

In SRO Tumkur, we found shortage of computers and peripherals that affected the service delivery in the system. We also found that, though kiosks were installed in the SROs, these were not found working in any of the offices test checked.

**(Paragraph 3.8.15)**

KAVERI has the provision for generation of the reports required to be sent by SROs to the higher authorities. Though the reports are generated, their figures were not correct, with the result, SROs prepare the reports manually for submission to supervisors.

**(Paragraph 3.8.16)**

### 3.8.1 INTRODUCTION

The Government of Karnataka (GoK) embarked upon a scheme of computerisation on the activities of the Department in 2002. The aim of the computerisation as stated by the Department of Stamps and Registration (DSR) was to make the process of registration speedy, simple, transparent, accountable and to build in<sup>2</sup> market value intelligence. The work of the computerisation was assigned to the Centre for Development of Advanced Computing, Pune (C-DAC<sup>3</sup>). It was appointed as a technical solution provider by the Inspector General of Registration (IGR), to design and develop the application software for the DSR. This application system was named as Karnataka Valuation and e-Registration (KAVERI). An agreement to this effect was entered into by DSR on 25 July 2002 and a document entitled “Software Requirement Specification” (SRS) was endorsed by the GoK, DSR and C-DAC. The purpose of this document was to lay down the functionality expected by the user of the system and to help DSR to review the requirements and propose changes or enhancements if necessary.

The C-DAC developed the KAVERI application suite and implemented it in all the Sub-Registrar Offices (SROs) and District Registrar (DR) offices in Karnataka with effect from August 2004. The software developed by C-DAC had nine modules: Registration Module, Valuation Module, Reports Module, Vendor Management System, Utilities Module, Societies, Firms and Marriage Registration Module, Scan-Archival Module, Data Transmission Module and Website. The stamp duty and registration fee are administered by the regulations framed by Central and State Laws. KAVERI was developed in light of these Acts and Rules.

### 3.8.2 Organisational Setup

The DSR is headed by the Inspector General of Registration (IGR) who is also designated as the Commissioner of Stamps and Chief Controlling Revenue Authority. He is under the administrative control of Principal Secretary to the GoK, Revenue Department and is assisted by three Deputy Inspectors General of Registration (DIGR) and three Assistant Inspectors General of Registration (AIGR). At district level, there are 34 District Registrars. There are 242 SROs at the taluk level headed by Sub-Registrars who are responsible for registration of documents under the Registration Act, 1908. The responsibility of implementation of computerisation in DSR is entrusted to an AIGR, designated as AIGR (Computers).

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<sup>2</sup> to embed market value intelligence in the system permanently for future use and reference.

<sup>3</sup> a scientific society under, the Ministry of Communication and Information Technology, Government of India.

### **3.8.3 Audit Objectives**

We conducted a Performance Audit with a view to ascertain whether:

1. the process of system development was with systematic planning and adequate assessment of operational requirements;
2. the computerisation has ensured effective, economical and efficient administration of registration processes and achievement of the aims of the Government;
3. the organisational and application level controls are in place to effectively safeguard information system assets;
4. the system meets with the requirements of the relevant Act and Rules and appropriate application level controls have been established to ensure confidentiality, integrity and availability of data; and
5. appropriate controls are in place to ensure continuity of business in the event of loss or damage to resources.

### **3.8.4 Audit Criteria**

The audit criteria are derived from the following Central and State Laws and the Rules and notifications issued thereunder to govern levy and collection of stamp duty and registration fees.

1. The Indian Stamp Act, 1899
2. The Registration Act, 1908
3. Karnataka Stamp Act (KSA), 1957
4. Karnataka Stamp Rules, 1958
5. Karnataka Stamp (Prevention of under valuation of instruments) Rules, 1977
6. Karnataka Registration Rules, 1965
7. Information Technology Audit Manual issued by SAI India
8. System Requirement Specification (SRS)

### **3.8.5 Scope and reasons for selection of Audit**

The performance audit was conducted by us from February to August 2012 for the period from August 2004 to March 2012. The audit was conducted in the Office of the IGR. Besides, six SROs were selected for test check. The SROs were selected on the basis of the maximum number of documents registered during the period covered by audit.

The computerisation of DSR had been in operation for about eight years. Since DSR is the third highest revenue earning department under the Government of Karnataka, we felt it was appropriate to conduct a performance appraisal of computerisation in the department.

### **3.8.6 Audit Methodology**

We selected the entire database of the offices selected for test check. Data analysis was done using Computer Aided Audit Techniques (CAATs) with SQL and IDEA. We also checked the records including assessment records that related to computerisation. We conducted an Entry Conference with the representatives of the GOK and DSR in May 2012 in which objectives, scope and methodology of the performance audit were explained and discussed with them while performing the audit. Copies of the draft performance audit report were forwarded to the Government and to the DSR.

An Exit Conference was held in September 2012. The Government side was represented by a team of officers headed by the Secretary, Revenue Department and DSR was represented by IGR. In addition, a representative from C-DAC was also present in the conference. The replies received during the Exit Conference and at other point of time have been appropriately commented in the relevant paragraphs of the Report. The recommendations were discussed and accepted by the Department.

### **3.8.7 Acknowledgement**

We acknowledge the co-operation extended by IGR, state unit of C-DAC team engaged in the maintenance of the system and staff of SROs visited, in providing necessary information and records for audit including access to the system.

### **3.8.8 Planning and System Development**

#### **3.8.8.1 Information System Audit**

The document 'Software Requirement Specification (SRS)' envisaged that it would help the DSR to review its requirements so that changes and enhancements if necessary could be proposed. However, we found that no Information System Audit was conducted by DSR despite a lapse of eight years since the date of computerisation. The provision for IS Audit was neither made in the SRS nor any departmental instruction was issued in this regard. We have found a number of deficiencies which could have been avoided had IS Audit been put in place by the DSR. These deficiencies are mentioned in the subsequent paragraphs.

After this was pointed out, the DSR accepted the audit contention and stated that the KAVERI system is proposed to be upgraded and new software called New Kaveri Software Project (NKSP) is being developed. A provision for IS audit will be made mandatory in NKSP.

#### **3.8.8.2 Absence of lateral connectivity between the SROs**

Under KAVERI system, there is no lateral connectivity across the SROs. Each SRO in the State has an independent server. As such information relating to the total number of documents registered, amount of stamp duty and registration fee collected and other recoveries made throughout the State in a day was not available in the system. Besides, due to absence of

interlinking, documents registered in one SRO could not be traced in other SROs.

### 3.8.8.3 Entry of Legacy Data

Article 3 of the software development agreement provided for entrusting 'scanning and archiving of old documents' in addition to 'computerisation of the registration department' to C-DAC. One of the aims of computerisation as mentioned in the website of DSR was issue of Encumbrance Certificate (EC) on the day it was applied for.

The aim of giving EC on the same day cannot be fulfilled unless legacy data is entered into the system. The Chief Secretary, in a meeting held on 8 March 2003, had instructed for digitisation of legacy data of the last 12 years within six months from

the date of commencement of the computerisation, so as to enable generation of ECs for citizens. However, we noticed that the legacy data has not been digitised so far.

In the absence of legacy data, the DSR has failed to provide this service to citizens. Scrutiny of the EC Register revealed that the average time taken to issue EC was about 13 days. Thus the aim of the DSR for issuing the EC on the same date has not been fulfilled even after a lapse of eight years from computerisation.

The DSR stated that proposal for digitisation of legacy data is under the consideration of the GoK, and on its approval the work will be undertaken. However, the reply did not indicate the type of approval that was required for digitisation of legacy data.

**We recommend that Government/DSR may take necessary steps to ensure that an information audit system is put in place, the SROs are inter-linked and legacy data is entered into the system on top priority to enable fast and efficient EC issue.**

## 3.8.9 Accountability, Transparency and Citizen Empowerment

### 3.8.9.1 Token Module

The objective of the Government was to make the process of registration speedy, simple, transparent and accountable. For this purpose, the SRS stipulated that a token sheet would be generated by the computer using computerised token system for general public. This would reduce unnecessary crowd gathering and waiting for long hours in SROs. However, we found that there was no module for generation of tokens in software. Consequently, tokens could not be generated through the system.

After this was pointed out, the DSR stated that even though the token system was introduced, it was not being followed in some of the SROs due to operational reasons. The contention of the DSR is not correct as these tokens were generated manually. The software does not provide for the module. The IGR stated that there are plans to implement the updated 'Online Token System' as part of the proposed NKSP.

### 3.8.9.2 Refusal and Withdrawal procedures for documents

Section 71 of the Registration Act, 1908 stipulates that a Sub-Registrar refusing to register a document shall make an order of refusal and record his reasons for such order and endorse the words “registration refused” on the document.

We found that though Section 71 of the Registration Act was mapped into the system, provision for necessary judicial orders required for refusal were not provided in the system. Our test check in six SROs revealed that in 122 cases, registration of documents was refused. But reasons for refusal were recorded

only in nine cases.

After this was pointed out, DSR accepted the fact that the present software does not incorporate the necessary judicial orders required for refusal or withdrawal. However, the observation will be taken note of and attempt will be made to incorporate the same in the proposed NKSP. Recording of reasons for refusal will be made mandatory and action will be taken to incorporate withdrawal related controls in the current software itself.

Similarly, in 52 out of 54 cases, the willingness of the parties withdrawing from the registration process was not found on record.

The above facts indicate that there is a need for constant monitoring to ensure that the system works efficiently and effectively.

### 3.8.9.3 Online appointment and document presentation

The system in vogue needs physical presence of executants and claimants before the SROs at each and every stage. KAVERI system does not have a provision for presentation of documents online for examination, valuation and determination of duty and fees by the DSR. There was no plan for providing the facility of online presentation/appointment or complaint redressal in the SRS. However, similar facilities are available in the website of the Department of Registration, Government of Maharashtra.

After this lacuna was pointed out, the DSR stated that provisions for implementation of online appointment, speedy completion of registration process without requiring the presence of the parties and online compliant redressal mechanisms would be incorporated in NKSP.

### 3.8.9.4 KAVERI website

It was envisaged in the SRS that the website will contain updated information about valuation rules, rate charts, guidelines etc. It was required to be an information centre for the masses.

#### • Non-updation of website

Our scrutiny revealed that though the website contained information about valuation rules, rates etc. open to the public, yet the same was not being updated regularly. A few instances are mentioned below:

1. **Schedule of rates in KS Act:** A few amendments like clause (f) under Article 5<sup>4</sup> of KS Act were omitted with effect from 1 April 2011. A provision relating to joint development agreement was inserted with effect from 1 April 2012 under Article 41. Both these changes are not updated in the website.
2. Changes in the registration fees of licences, agreements, power of attorney etc. were made vide GoK notification dated 29 March 2011. These changes have not been made in the website.

After this was pointed out, the DSR accepted that there is a need for putting in place a proper mechanism for regular and accurate updating of the website.

- **Non-availability of interface in vernacular**

KAVERI has an interface in both English and the local language Kannada. But the website provided has an interface only in English.

After this was pointed out, the DSR accepted absence of local language in the website and stated that action will be taken to provide an interface in Kannada and all the information would be made available to the masses in Kannada also.

- **Deed writers' fees**

The Karnataka Registration (Deed Writers' Licence) Rules, 1978 framed under the Registration Act, 1908 provides for maximum fees payable to deed writers. This information is not provided in the website. Such information is available in the websites of other states like Kerala.

After this was pointed out, the DSR stated that it will publish the maximum fee to be paid to the deed writers as stipulated by the Deed Writers' Licensing Rules. Other features will be incorporated as part of the proposed NKSP.

**We recommend that a token module system may be introduced, the website may be updated regularly and made available in vernacular.**

### **3.8.10 Deficiencies noticed in Information System Security**

Access controls in an application system ensure security of data and integrity of the entire system by implementing a partitioning of information resources and processes and restricting privileges of access or modification based on the jurisdictional relations existing in the DSR.

It is observed, however, that the implementation of logical access controls like user names and passwords in the DSR were not in tune with business practices necessary to ensure authorisation requirements and establishment of accountability. The deficiencies are brought out in the following paragraphs.

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<sup>4</sup> Clause (f) under Article 5 deals with agreements relating to construction, development or sale of property stipulating joint possession or sale (Joint Development Agreement).



- **Deactivation of dead accounts:** Deactivation of accounts of transferred/retired officials was not done. We found in the 'UserRights' table that accounts of 25 retired/transferred officials in SROs Tumkur and Varthur were still active.
- **Administrative privileges:** Administrative privileges and authority to finalise registrations was required to be available only with the Sub-Registrars under the KS Act. We noticed in SROs JP Nagar, Tumkur and Varthur that in 15 cases the privilege was given to clerks. This indicates that designation based jurisdictional levels are not incorporated into the design of the system.
- **UserRights table:** We found 11 instances where a single user was utilising more than one account in Mysore (North), Tumkur and Varthur SROs.
- **UserLog table:** Our analysis showed that a total of 44,91,382 separate actions were performed by the users. Of these, the names of the users were not captured in 62.50 *per cent* i.e. 28,08,775 actions. In 13,37,449, 1,38,351 and 60,938 cases, actions were performed under the user names 'SRO', 'USER' and 'TEST' which were general and cannot be traced.

The facts above indicate that accountability provisions are absent in the computerised environment and no trail of actions by individual operators/employees is available.

After this was pointed out, the DSR accepted the audit observations and stated that the policy to restrict single user to single login does not exist and agreed to take appropriate actions in consultation with C-DAC. Deactivation of accounts of retired/transferred employees will be implemented. The DSR also stated that it will put in place clear guidelines to prevent use of same account by many users.

**We recommend that the DSR may implement logical access controls like user names and passwords in tune with business practices necessary to ensure authorisation requirements and establishment of accountability.**

### **3.8.11 Non-Mapping of Business Rules**

#### **3.8.11.1 Denotation of Duty u/s 16 of the Karnataka Stamp Act**

As per Section 16 of the Karnataka Stamp Act 1957, the stamp duty payable on an instrument is adjustable against the duty paid on another instrument executed earlier if the latter is dependent on the former.

As per Explanation II under Article 5(e) (agreement to sell with/without delivery of possession of property or relating to mortgage), 41(e) (GPA for consideration or coupled with interest) and 41(eb) (GPA with consideration), the stamp duty paid on the instrument shall be adjusted towards the total duty leviable on an instrument of conveyance or

mortgage executed subsequently between the same parties. This business requirement has not been mapped in the KAVERI application system. Non-mapping of these rules has resulted in escape of stamp duty and registration fee mentioned in the Comptroller and Auditor General's Audit Reports<sup>5</sup> from time to time.

### 3.8.11.2 Deemed delivery of possession of property

As per Explanation I under Article 5, “when a reference of a GPA granted separately by the seller to the purchaser in respect of the property is made in the agreement” then “the possession of the property is deemed to have been delivered” and duty is to be levied at conveyance rate. Thus, it is necessary to draw a reference from the previous registrations of a property in order to prevent possible evasions of stamp duty and other levies.

We found that two instruments pertaining to the same property were executed at two places. One was executed at SRO, Malleswaram as an agreement for sale<sup>6</sup> while the other instrument in the form of GPA was registered in SRO, Hebbal<sup>7</sup>. The two instruments, if taken together, were liable to stamp duty at the conveyance rate. But stamp duty was levied at the nominal rate prescribed, without invoking the explanation stated above, thus resulting in short levy of stamp duty and registration fee of

₹ 11.65 lakh. This happened because the SROs are not interlinked and mapped accordingly.

The DSR intimated that it has initiated the facility to register a document in any SRO within the jurisdiction of the same DR, (Anywhere Registration), and is contemplating extension of the same facility within the entire State as well. However, the reply was silent about the recovery in this case and mapping of the provision in the software.

### 3.8.11.3 Non-registrable property

As per Section 22A of the Registration Act, the State Government may, by notification in the Official Gazette, declare that the registration of any document or clause of document is opposed to public policy.

The GoK issues from time to time notices identifying properties, the registration of which is against public interest. The software, however, has no provision to accommodate this data and

the identification of such properties among those brought for registration has to be done manually.

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<sup>5</sup> Para No 5.8.1.1, 5.8.1.2 of Audit Report 2010-11 and Para 3.9.1.1, 3.9.1.3 of this Report

<sup>6</sup> document No 1542/11-12

<sup>7</sup> document No 299/10-11

#### 3.8.11.4 Valuation parameters

The KS Act stipulates that for a property involved in a transaction of sale, gift etc, stamp duty should be computed on the market value of the property (which is the higher of the guidance value determined by the Central Valuation Committee (CVC) or the consideration made out in the document). The Guidance Value of the property is determined or revised periodically by the CVC constituted by the department.

The guidance values indicating the value and location of the property were mapped in the KAVERI software. There are additional parameters mentioned in the instructions attached to the guidance values like kind of land, use etc. which were not mapped in the system.

In the test checked SROs, software was not made use of in registration of 2,79,987 cases. It was being done manually due to absence of additional parameters in the system. Further, in 766 cases, the assessments were made through software but the valuations generated were found less than manually calculated. This was again found due to absence of the additional parameters in the system. Thus, it would be seen from above cases that manual intervention was necessary.

After this was pointed out, the DSR stated that the latest patch of the application system has already addressed this deficiency and the valuation made by the system shall be made mandatory.

#### 3.8.11.5 Non-mapping parameters of lease deeds

As per Article 30 of the Schedule to the KS Act 1957, stamp duty on documents relating to lease of moveable or immovable property is dependent on the amount of rent, deposit or advance as well as the purpose (residential/commercial) of lease, the period of lease, whether in pursuance of an original agreement to lease, whether executed in favour of family members etc.

Article 30 of the Schedule to the KS Act has not been mapped in the application. The stamp duty is being worked out manually. Further, since the system does not capture data relating to these determinants, the processing is amenable to administrative oversight.

After this was pointed out, the DSR replied that even though the present system has provision to receive the relevant parameters, these are not saved in the database. This will be

provided in NKSP. The reply furnished by the DSR is not correct, as the rule has not been mapped in the system and operations are being done manually.

### 3.8.11.6 Fine for delayed presentation of documents

Section 23 of the Registration Act, 1908 stipulates that documents other than 'Wills' should be presented within 4 months from the date of execution and in cases of delay, the same may be registered on approval of the Registrar on collection of a stipulated fine (Section 25).

We found that Section 23 of the Registration Act has not been made mandatory in the system. This could be done by introducing a validation control refusing registration after four months unless approved by the Registrar and inserting the rates of fine in the system.

We found that in 12 cases the instruments were presented after a lapse of four months. These were liable to be rejected but were registered without any approval and collection of fine.

After this was pointed out, the DSR stated that this will be addressed in a proposed enhancement to the system and compliance will be submitted in due course of time.

**We recommend that the business rules like denotation of duty, rejection of documents, registration of property notified for non-registration, valuation of lease deeds etc. may be mapped in the system.**

### 3.8.12 Data Integrity

#### 3.8.12.1 Redundant data in 'PropertyMaster'

We observed in the 'PropertyMaster' table that a default entry was created which got repeated along with every correct entry. Thus 50 per cent of the data was redundant. i.e. out of 1,09,373 records, 52,974 were redundant entries. The huge volume of junk records created in the database resulted in unnecessary wastage of data capacity.

After this was pointed out, the DSR accepted the fact of existence of invalid entry and assured to take necessary steps in modifying the application.

#### 3.8.12.2 Mistakes due to duplicate data entry

KAVERI provides for assigning pending status in respect of incomplete/unfinished transactions. This status enables the SRO to retrieve the data presented for registration and thus prevents duplication of data. For this purpose the data entry operators are required to qualify such entry as 'pending'.

In the test checked SROs we noticed that 2,428 out of 15,116 incomplete documents were not qualified as pending. This had resulted in duplication of payment in 764 cases involving ₹ 9.54 crore, each of which

had entry of two demand drafts/pay orders i.e. one Demand Draft was entered twice. One of these was created due to duplication because of

incomplete entry. This contributed to overstatement of revenue collection statement generated by the software by ₹ 4.05 crore.

### 3.8.12.3 Absence of validation control

In the 'StampDetails' table we found, in one SRO, Pay Order No.936588, dated 6 November 2009, drawn on IDBI, Bangalore, for ₹ 1.30 lakh was recorded as presented in payment for two different documents viz. document nos. JPN-1-03876-2009-10 and JPN-1-03878-2009-10. Subsequent verification in field, however, revealed that this arose due to an error in entry of DD particulars and both the amounts have been separately realised. This could have been prevented had the validation control been installed.

### 3.8.12.4 Marriage registration module

Our analysis of the 'PersonDetails' table in the marriage registration module revealed the following data entry errors:

- The field for capturing names of brides and grooms in the marriage registration module of KAVERI contains irrelevant entries like 'dsdsdf', 'jhgj', 'rtret' etc.
- Further, in four test checked SROs<sup>8</sup>, essential details like mother's and father's names, permanent address, sex, marital status, date of birth, occupation etc were not captured in 8,479 entries out of the total of 31,029. Recording of data in these fields was essential and the possibility of incorrect issue of marriage certificates could not be ruled out.
- We further noticed several instances of duplication of names of the brides/grooms in the database. On verification, it was found that the system does not provide a facility for party verification and certification. As a result, when the certificate is printed and issued, if the parties notice material errors in the document, there is no option in the system other than making a fresh registration resulting in the same names being entered again.
- Out of 42,849 entries in the database of one SRO<sup>9</sup> capturing endorsement information, 3,161 did not represent the real name of the officer managing the marriage. This indicates absence of provision to develop trail from login identity of the officer-in-charge.

The DSR in its reply stated that the present system will be upgraded to introduce input controls and validation to mandate entry of essential data, eliminate errors and to automatically record the officiating officer information.

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<sup>8</sup> SROs JP Nagar, Varthur, Tumkur and Mysore North  
<sup>9</sup> SRO Varthur

### **3.8.12.5 Mistakes noticed in Property number details table**

This table is important for conducting search operations of the properties. However, our comparison of the 'PropertyMaster' table with this table revealed that in 99 instances, details of properties were not fed in the table. Thus correct ECs could not be issued by the concerned SROs in these cases. The two tables were also not linked.

After this was pointed out, the DSR stated that necessary action will be taken to incorporate the uniqueness constraint in the system.

Further, we noticed that in 24,288 cases the survey number of the property, one of the important property identifier, was not fed into the computer.

### **3.8.13 Reconciliation of ECs issued and fee paid**

We noticed that 'ReceiptDetails' table (for fee collection) was not integrated with 'ECcertificateMaster' (for issue of ECs) with the result that the certificates issued and fees collected could not be reconciled at the end of the day. We cross verified the details of the two tables and found that 1,66,142 certificates were issued by the test checked SRO. Accordingly, an amount of ₹ 2.61<sup>10</sup> crore should have been collected against ₹ 31.71 lakh mentioned in the 'ReceiptDetails' table.

After this was pointed out, the DSR stated that the anomaly arose due to searches conducted in exempted cases like searches for Government or Court purposes. Further, it added that a new software called "Anywhere EC", for issue of EC was being developed that would address this audit observation.

### **3.8.14 Collection of service charges on scan archival**

The 'KAVERI' software provides for computation of number of pages of the document to be scanned and generates a receipt for service charges. The service charge for each page is ₹ 30 out of which ₹ 15.50 goes to the BOT partner in Bangalore and ₹ 22.50 to the BOT partner at other places. The software generates a receipt for scanning of the documents and permits scanning of up to two extra pages, if required. But no receipt is generated for the extra pages.

We found on cross verification of the data from 'DocumentMaster' (particulars of registered documents) with 'ScanMaster' (details of scanned pages) tables of two SROs JP Nagar and Varthur that 2,841 extra pages were scanned for which no receipt was generated and no payment on this was made into the Government account. The service charges amounting to ₹ 86,310 were liable to be collected which included Government share.

After this was pointed out, the DSR stated that the discrepancy between service charges collected and amount paid to BOT partner will be examined and suitable solution to eliminate the same will be devised.

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<sup>10</sup> The rates for issue of EC are ₹ 30 for the first year and ₹ 15 for every additional year

### 3.8.15 Maintenance of Service Levels by Designated BOT Vendors

As per the terms and conditions of service level agreement entered between the DSR and BOT operator, the operators were required to provide all the hardware required to meet the desired and specified service standards at the specified locations and regularly maintain the hardware at predetermined standards. However, the predetermined standards were not determined. The BOT partner was also required to install kiosks.

The DSR adopted the BOT (Build Operate Transfer) mode for implementation of computerisation. However, administrative controls necessary to ensure that the third parties maintain service levels appropriate to the service charges collected from the public for this arrangement have not been put in place.

We found that in SRO, Tumkur ten computers were required, seven were supplied by the BOT vendor, two were taken on donations and still there was shortage of one computer. Further, the SRO intimated on 8 August 2012 that three Uninterrupted Power Supply (UPS) machines were not having backup for more than five minutes. Thus, this affected the service delivery in the system adversely.

We also found that, though kiosks were installed in the SROs, these were not found working in any of the offices test checked.

After this was pointed out, the DSR stated that it has embarked on a practice of imposing penalties for service failures from July 2010. As regards kiosks the DSR stated that due to work load, the components of the kiosks had to be used for supporting systems, (i.e. in other computers) involved in registration of documents. Thus, the fact remains that the BOT model has not delivered its desired results.

In the Exit Conference, while expressing his reservations about suitability of the BOT model the Secretary accepted that Service Level Agreements (SLA) for determining standards of performance etc. were not entered into.

#### **We recommend that**

- **the DSR may establish a mechanism to monitor and ensure that the service delivery by third party service providers are as per the requirements stated in the contracts and**
- **the existing automated kiosks may be made functional and kiosks installed in every SRO.**

### 3.8.16 Generation of reports for submission to higher authorities

The SROs submit consolidated reports of every month, every quarter of the year and every year to DR office. The DR office consolidates the reports for the whole district which are further consolidated at IGR's office at the state level.

KAVERI has the provision to generate the reports required to be sent by SROs to the higher authorities. Though the reports were generated, their figures were not found correct, with the result that the SROs prepare the reports manually for submission to higher authorities. We also cross verified the KAVERI reports with manual registers and found that the figures of the two reports did not reconcile as shown in the following tables.

(₹ in crore)

Year	Stamp duty collected						Variation in Amount (percentage)
	As per KAVERI reports		Manual Register		Difference		
	No. of Cases	Amount	No. of Cases	Amount	No. of Cases	Amount	
2007-08	21,888	23.12	20,359	22.23	1,529	0.89	4.00
2008-09	17,749	22.65	16,237	19.92	1,512	2.73	13.70
2009-10	19,126	14.33	17,333	13.80	1,793	0.53	3.84
2010-11	17,238	19.96	14,360	17.50	2,878	2.46	14.06
2011-12	24,484	31.59	22,022	29.37	2,462	2.22	7.56
<b>Total</b>	<b>1,00,485</b>	<b>111.65</b>	<b>90,311</b>	<b>102.82</b>	<b>10,174</b>	<b>8.83</b>	<b>8.59</b>

(₹ in crore)

Year	Registration fee collected						Variation in Amount (percentage)
	As per KAVERI reports		Manual Register		Difference		
	No. of Cases	Amount	No. of Cases	Amount	No. of Cases	Amount	
2007-08	21,888	3.68	20,359	3.33	1,529	0.35	10.51
2008-09	17,749	3.45	16,237	3.25	1,512	0.20	6.15
2009-10	19,126	3.21	17,333	3.03	1,793	0.18	5.94
2010-11	17,238	3.54	14,360	3.44	2,878	0.10	2.91
2011-12	24,484	5.54	22,022	5.35	2,462	0.19	3.55
<b>Total</b>	<b>1,00,485</b>	<b>19.42</b>	<b>90,311</b>	<b>18.40</b>	<b>10,174</b>	<b>1.02</b>	<b>5.54</b>

After this was pointed out, the DSR stated that the discrepancies arose due to issue of manual receipts, which still continue due to shortage of computer systems. However, this is not the only factor as we have noticed other factors like non-segregation of denoted amounts, duplication of stamp duty and registration fee, duplication of stamp duty in cases where registration fee is collected in instalments etc. as discussed in the earlier paragraphs.



**We recommend that the DSR may take immediate action for generation of verified reports to be submitted to the higher authorities so that proper monitoring of work is done at each level.**

### **3.8.17 Additional payment over and above the terms of agreement**

As per Para 2.1 of the SRS, one of the broad deliverables expected from KAVERI software was encumbrance search certificate generation (ESCG). The DSR had paid ₹ 1.10 crore for development of KAVERI application software which included ESCG.

Scrutiny of the records revealed that C-DAC has made a separate additional charge of ₹ 15 lakh in July 2004 for development of software related to encumbrance certificate. The expenditure incurred was incorrect.

After we pointed out, the DSR replied that the amount paid to C-DAC was for the development of 'EC Data Entry Software', developed separately for entry and digitisation of data in legacy records pertaining to the pre-KAVERI period. The reply furnished is not correct as the ESCG contains EC Data Entry software also. As such no additional payment should have been made.

### **3.8.18 Monitoring of staff of C-DAC paid by DSR**

The DSR further entered into a maintenance agreement in May 2005 with C-DAC. In the said agreement vide Article 20.3, C-DAC was to provide the services of four engineers; of these, one was to be stationed in the office of the IGR and the remaining three were to be stationed in C-DAC, Pune. It was stipulated that the team assigned to KAVERI should not be assigned any other work. However, the DSR did not have any mechanism to ensure that the team at Pune was utilised exclusively for KAVERI project as envisaged in the agreement.

The DSR stated that it has made mandatory the submission of attendance registers for payment of quarterly invoices. However, we found that no certificate to the effect that the team has been utilised exclusively for KAVERI project has been obtained by the DSR.

### **3.8.19 Conclusion**

We noticed that the DSR had not conducted any IS audit to ascertain the improvements needed in the system. The online presentation of documents, token system and establishment of kiosks to bring transparency and prompt service delivery were not available in the system. A few rules were also not mapped in the software and manual intervention was required at different levels. The validation controls in the system were weak; as a result, a number of data entry errors were noticed.

### **3.8.20 Summary of Recommendations**

We recommend that:

- **The Government/DSR may take necessary steps to ensure that an information audit system is put in place, the SROs are inter-linked and legacy data is entered into the system on top priority to enable fast and efficient EC issue.**
- **A token module system may be introduced, the website may be updated regularly and made available in vernacular.**
- **The DSR may implement logical access controls like user names and passwords in tune with business practices necessary to ensure authorisation requirements and establishment of accountability.**
- **The business rules like denotation of duty, rejection of documents, registration of property notified for non registration, valuation of lease deeds etc. may be mapped in the system.**
- **The DSR may establish a mechanism to monitor and ensure that the service delivery by third party service providers is as per the requirements stated in the contracts and**  
**The existing automated kiosks may be made functional and kiosks installed in every SRO.**
- **The Government may issue instructions for strengthening the internal control so that correct and reliable reports are generated for submission to higher authorities.**

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

The KS Act 1957 provides as under:

- Section 3 for stamping of all instruments chargeable with duty as per the schedule to the Act and executed by any person in the State of Karnataka before or at the time of execution.
- Section 3B for levy of additional stamp duty at the rate of 10 per cent on any instrument of conveyance, exchange, settlement, gift or lease in perpetuity of immovable property chargeable with duty under Section 3 read with articles of the schedule, on such duty chargeable on such instrument of conveyance, exchange, settlement, gift or lease in perpetuity.
- Section 4, where stamp duty payable for several instruments used in single transaction of sale, the duty chargeable on the instrument shall be the highest duty which would be chargeable in respect of the instruments employed.
- Section 17 for stamp duty on all instruments to be levied or paid at the time of execution of instrument.
- Section 28 to set forth in the instrument the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable. Section 61 for punishment with fine which may extend to five times the amount of the deficient duty thereof for any person, who, with an intent to defraud the Government, executes any instrument in which all the facts and circumstances required to be set forth are not fully and truly set forth.
- Section 45A for estimating the market value, if the registering officer, while registering any instrument has reason to believe that the market value of the properties has not been truly set forth and upon payment of duty on such market value, to register the document.
- Section 46 A for issue of notice on any person to show cause as to why the proper duty should not be collected from him in respect of any instrument which has not been duly stamped.
- Section 67B for power to enter and search any premises excluding residential premises and if on such inspection, the authorised officer<sup>11</sup> is of opinion that any instrument chargeable with duty is not duly stamped, he shall require the person liable, to pay the proper duty or the amount required to make up the same and also penalty not exceeding five times the amount of the deficient duty thereof, if any leviable.

The Registration Act, 1908 and the Karnataka Registration Rules, 1965 provide as under:

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<sup>11</sup> Deputy Commissioner or an Assistant Commissioner or any officer not below the rank of a Sub-Registrar authorised by the Deputy Commissioner or Chief Controlling Revenue Authority.

- Section 80 for levy of fees in respect of various documents presented for registration.
- Section 80-A for recovery of registration fee not paid or insufficiently paid on any document as an arrear of land revenue from the person who presented the document for registration based on a certificate of the IGRCS which is granted after giving the person an opportunity of being heard.

The Karnataka Stamp (Payment of duty by means of e-stamping) Rules, 2009 provides as under:

- Rule 19 for remittance of consolidated amount of stamp duty (less the prescribed discount/commission) by the Central Record Keeping Agency (CRA) collected by the branches and its Authorised Collection Centers to the prescribed head of account of the State.
  - i) In case of stamp duty, collected by way of cash/real time gross settlement/electronic clearance system or any other mode of electronic transfer of funds, not later than the closing of the next working day of such collection of the amount of stamp duty.
  - ii) In case of stamp duty, collected by way of pay order/demand draft not later than the closing of the second working day, after the day of such collection of the amount of stamp duty.
- Rule 38 for failure to remit the amount of stamp duty collected within the stipulated period as in Rule 19, the CRA shall be responsible to pay along with stamp duty, an interest amount calculated at 12 per cent per annum on the amount of stamp duty so collected, for the period of delay in days. Any part of the day will be treated as one day for the purpose of such calculation.

We noticed in fifteen SROs, two DROs, office of the IGR&CS and information obtained during audit of two offices of the Income Tax Department that the above provisions were not fully followed by the concerned authorities. This resulted in a number of discrepancies which led to non/short realisation of Government revenue amounting to ₹ 2.39 crore. The Government/Department accepted audit observations in six cases involving ₹ 26.10 lakh and recovered ₹ 3.27 lakh in one case. Final reply in respect of the remaining cases has not been received (December 2012).

### 3.9.1 Short levy of stamp duty/registration fee due to suppression of facts

As per Article 20 of the Schedule to the KS Act, stamp duty is leviable at 6 per cent on the market value of the property which is the subject matter of conveyance. As per KS Act, market value is guideline market value or consideration stated in the document whichever is higher. Additional stamp duty at 10 per cent is also leviable as per the provisions of the Act. The stamp duty payable for sale agreement and power of attorney is to be in accordance with Article 5(e) and 41(e) respectively.

were levied on the market value/consideration of ₹ 2.23 crore stated in the sale deed. Scrutiny of sale deed, agreement of sale and GPA revealed that vendors had received consideration of ₹ 6 crore from the purchaser/Attorney holder and the same was acknowledged in the instruments. Suppression of the consideration amount by ₹ 3.77 crore resulted in short levy of stamp duty of ₹ 30.41 lakh and registration fee of ₹ 3.77 lakh. Further, a penalty of ₹ 1.52 crore could have been levied for suppression of facts.

After we pointed out the case to the Government in July 2012; the Government reported in November 2012 that the concerned DR had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

As per Article 20, stamp duty on conveyance deeds is leviable on the market value which is the subject matter of conveyance.

Department by the assessee that the persons concerned had acknowledged receipt of money as consideration received for transactions relating to sale of two immovable properties. We cross-verified the details of the transactions of immovable properties as reported to the Income Tax Department with the instruments relating to these properties registered in the office of the SRO, Varthur in July 2011 and SRO, Banaswadi in February 2012. Four sale deeds were registered between January and March 2008, wherein stamp duty of ₹ 1.27 crore and registration fee of ₹ 15.18 lakh were levied on the estimated guideline market value/consideration of ₹ 15.17 crore stated in the documents. The consideration for these transactions as acknowledged by the executants of the documents to the Income Tax Department was ₹ 24.74 crore. Non-disclosure of the actual consideration in the documents resulted in short levy of stamp duty of ₹ 80.22 lakh and registration fee of ₹ 9.55 lakh on

**3.9.1.1** During the test check of 'A<sup>12</sup>' register and the documents of SRO, Malleshwaram in October 2011 and SRO, Devanahalli, in February 2012, we noticed that three sale deeds were registered between 2009-10 and 2011-12. Stamp duty of ₹ 9.83 lakh and registration fee of ₹ 2.23 lakh

**3.9.1.2.** During test check of the assessment records of the Income Tax Department, we noticed in the assessment orders and information furnished to the Income Tax

<sup>12</sup> Register to record details of daily transactions of instruments registered along with amount of stamp duty and registration fee collected

the differential market value of ₹ 9.57 crore. Besides, a penalty of ₹ 4.01 crore was leviable for suppression of facts.

After we pointed out the case to Government in July 2012; the Government reported in November 2012 that in respect of SRO, Banaswadi, the DR, Shivajinagar had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act. In respect of SRO, Varthur, it was stated in the order of the DR that extrinsic evidence of transaction cannot be taken for levy of stamp duty and the issue was under review by the IGRCS. Further report has not been received (December 2012).

As per Article 41(e), when GPA is executed for consideration and / or coupled with interest, and authorising the attorney to sell, the stamp duty as applicable to conveyance on consideration or market value of the property, whichever is higher is leviable. Further, stamp duty paid on corresponding power of attorney is adjustable towards the duty payable on the instrument of sale executed between the same parties in respect of the same property.

**3.9.1.3** During the test check of documents registered and 'A' Register in SRO, Shidlaghatta and SRO, Devanahalli in February and March 2012, we noticed that four sale agreements and corresponding GPAs (executed on the same day between the same parties) were registered between

February 2009 and February 2011. In respect of the GPAs, stamp duty and registration fee were levied on the estimated guideline market value<sup>13</sup> of the properties. Cross verification of these GPAs with corresponding agreements of sale revealed suppression of true market value in the GPA being the sale consideration already received vide sale agreement. This resulted in short levy of stamp duty of ₹ 18.58 lakh and registration fee of ₹ 3.22 lakh on the differential market value of ₹ 3.22 crore as detailed below. Besides this, a penalty of ₹ 92.90 lakh could have been levied for suppression of facts.

(₹ in lakh)

SRO/ No. of cases	Date of execution of sale agreement/ GPA	Consideration paid in the sale agreement	Value on which stamp duty was levied on GPA	Under- valuation of property	Short levy	
					Stamp duty	Registration fee
Devanahalli (3)	20.01.2010 (1 case) 19.02.2011(2 cases)	455.80	157.15	298.65	16.92	2.99
Shidlaghatta (1)	18.02.2009	25.00	2.40	22.60	1.66	0.23
<b>Total (4 cases)</b>				<b>321.65</b>	<b>18.58</b>	<b>3.22</b>

Further, we noticed that no clause specifying period for execution of sale deed was made in the sale agreements except in one case where the absolute sale deed was required to be executed within three months from the date of execution of agreement of sale. No such sale deed executed in these cases was made available to audit for verification. In the absence of

<sup>13</sup> Estimated guideline value is the market value as determined by Central Valuation Committee.

sale deeds for true consideration between the same parties, the short levy of stamp duty and registration fee on the GPAs needs to be recovered.

After we pointed out the case to the Government in July 2012; the Government reported in November 2012 that the concerned DRs had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

### 3.9.2 Short levy of stamp duty due to under valuation

Under Section 28 read with Section 45(A) of the KS Act, 1957, if the registering officer while registering any instrument has reason to believe that the market value of the properties has not been truly set forth, he shall estimate the market value and upon payment of duty on such market value, register the document.

During the test check of documents registered and 'A' Register in ten<sup>14</sup> SROs between April 2011 and March 2012 we noticed that in respect of thirteen

documents (nine sale deeds, three GPAs and one exchange deed) registered between 2007-08 and 2010-11, stamp duty of ₹ 51.42 lakh and registration fee of ₹ 7.81 lakh were levied as against stamp duty of ₹ 81.36 lakh and registration fee of ₹ 12.37 lakh leviable due to incorrect computation of market value which was on account of incorrect adoption of market value guideline, omission to compute for part of the property, non-consideration of conversion of land, etc. This resulted in short levy of stamp duty of ₹ 29.94 lakh and registration fee of ₹ 4.56 lakh. A few illustrative cases are given below:

		(₹ in lakh)
SRO/No. of documents	Nature of observation	Short levy of stamp duty/ registration fee
Dharwad/1	Area of the property conveyed was 8055 square meters of land, 4,000 square feet of office/guest house and an industrial shed measuring 21,000 square feet. The guideline market value worked out to ₹ 1.18 crore instead of ₹ 76 lakh stated in the document. Stamp duty was levied on ₹ 76 lakh resulting in undervaluation of ₹ 42.10 lakh and consequent short levy of stamp duty and registration fee.	2.85/0.42
After we pointed out the case in June 2012, the Government reported in November 2012 that the deficit stamp duty and registration fee had since been recovered.		
Jamkhandi/1	The property conveyed was an industrial land. The guideline market value worked out to ₹ 39.89 lakh. However, the market value of ₹ 15 lakh was computed at rates applicable to residential purpose instead of at rates applicable for commercial purpose. This resulted in short levy of stamp duty and registration fee.	2.09/0.25

<sup>14</sup> Nagarabhavi, Indiranagar, Kuderu, Dharwad, Banashankari, Jigani, Soraba, Tarikere, Hosanagara and Jamakhandi.

		(₹ in lakh)
SRO/No. of documents	Nature of observation	Short levy of stamp duty/ registration fee
After we pointed out the case in June 2012, the Government reported in November 2012 that action had been initiated under Section 46A of the KS Act.		
Soraba/1	The land measuring 40 acres 10 guntas conveyed was used for rubber plantation. As per the guideline market value, the rate of land used for rubber plantation was to be enhanced by ₹ 75,000 per acre of the guideline market value of ₹ 52,000 per acre applicable for kushki (dry) land. Accordingly, the guideline market value of the property worked out to ₹ 51.12 lakh. However, stamp duty and registration fee were levied on the consideration of ₹ 23.30 lakh stated in the document. This resulted in short levy of stamp duty and registration fee.	1.89/0.28
After we pointed out the case in June 2012, the Government reported in November 2012 that action had been initiated under Section 46A of the KS Act.		
Jigani/1	The land exchanged had road on two sides. As per the guidelines, the market value should have been enhanced by 10 <i>per cent</i> . Thus, market value worked out to ₹ 1.64 crore instead of ₹ 1.49 crore considered by the SRO. This resulted in undervaluation of ₹ 14.96 lakh and consequent short levy of stamp duty and registration fee.	0.91/0.15
After we pointed out the case in June 2012, the Government reported in November 2012 that action had been initiated under Section 46A of the KS Act.		
Kuderu/1	A GPA to sell property was registered in August 2010. Stamp duty and registration fee was levied on guideline market value of ₹ 1.60 lakh at ₹ 40/square feet as against the actual guideline market value of ₹ 16 lakh at ₹ 400/square feet.	0.86/0.14
After we pointed out this in June 2012, the Government stated that action had been initiated under Section 46A of the KS Act.		

After we pointed out these cases to the Government in July 2012; the Government reported in November 2012 that demand for ₹ 16 lakh was created in four cases and recovered ₹ 3.27 lakh in one case and the concerned DRs were instructed to initiate action under Section 46(A) of the KS Act and Section 80-A of Registration Act in the remaining cases.



### 3.9.3 Short levy of stamp duty due to incorrect denotation

Under the KS Act, 1957, stamp duty is levied on instrument as per the various articles mentioned in the Schedule. As per Article 41(e) of KS Act 1957, when General Power of Attorney (GPA) is given for consideration and / or when coupled with interest and authorising the attorney to sell the immovable property, stamp duty is payable as conveyance deed. Further, stamp duty paid on such GPA is adjustable towards the duty payable on the instrument of sale or transfer executed subsequently only between the same parties and in respect of the same property with effect from 1<sup>st</sup> April 2010.

During test check of the registered documents and 'A' Register in SRO, Jigani conducted in July 2011, we noticed that eight sale deeds were registered during 2010-11. Against the stamp duty of ₹ 23.83 lakh payable on the sale deeds, stamp duty of ₹ 19.65 lakh paid on GPAs executed earlier in respect of those properties was denoted/adjusted. On cross-verification of the concerned GPAs, we noticed that the parties involved in the GPAs were not the same as those involved in the sale deeds and hence denotation of stamp duty was not admissible in

respect of subsequent sale deeds executed. This incorrect denotation resulted in short levy of stamp duty of ₹ 19.65 lakh.

After we pointed out the cases to the Government in July 2012; the Government reported in November 2012 that the concerned DRs had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

### 3.9.4 Short levy of stamp duty on lease deed

Under the KS Act 1957, the stamp duty leviable on leases for a term exceeding thirty years is the same duty as a conveyance for the amount or value of such fine or premium or advance as set forth in the lease in addition to duty which would have been payable on such lease or for an amount equal to the market value of the property whichever is higher.

During the test check of documents in the office of District Registrar, Bangalore Rural conducted in June 2011, we noticed that a lease deed was executed in respect of 14 acres and 13 guntas of land situated at Sadahalli village, Devanahalli Taluk for a term of 60

years. As per the recitals of the document, the term of 60 years of lease commenced from 1<sup>st</sup> April 2009. As per the terms of lease, the lease rent payable was fixed at ₹ 5 lakh per month from April 2009 and thereafter escalation by 15 *per cent* every three years up to March 2030 and from April 2030 escalation at the rate of 8.75 *per cent* for every three years besides payment of advance of ₹ one crore. The lease deed was presented to the District Registrar for adjudication of stamp duty payable. The

District Registrar determined the stamp duty of ₹ 13.43 lakh on the market value of the property of ₹ 1.79 crore as the market value of the property was higher than advance amount of ₹ one crore paid by the lessee.

The determination of the stamp duty by the DR was incorrect as the stamp duty was to be levied on the average annual rent of ₹ 2.04 crore and advance of ₹ one crore paid by the lessee. Thus, stamp duty was payable on ₹ 3.03 crore instead of ₹ 1.79 crore. This resulted in undervaluation of lease deed by ₹ 1.25 crore involving stamp duty of ₹ 9.34 lakh.

After we pointed out the case to the Government in July 2012; the Government reported in November 2012 that the concerned DRs had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

### **3.9.5 Short levy of stamp duty and additional stamp duty**

As per Article 28(a) to the Schedule of the KS Act, in respect of a gift deed, stamp duty of ₹ 1,000 is leviable if the donee is a family member of the donor and at the rate of conveyance (Article 20) for market value if the donee is not a family member of the donor.

and a trust and hence stamp duty of ₹ 4.61 lakh was leviable at the rate of 6.78 per cent on the market value of ₹ 68 lakh. Misclassification of the gift deed as between family members resulted in short levy of stamp duty of ₹ 4.60 lakh.

After we pointed out the case to the Government in July 2012; the Government reported in November 2012 that the concerned DR had initiated action under Section 46(A) of the KS Act and Section 80-A of Registration Act.

As per clause (i) to first proviso of Article 20(4), in respect of amalgamation of companies, stamp duty is leviable at the rate of 5 per cent of the market value. As per the provisions in the KS Act, additional stamp duty at the rate of 10 per cent is chargeable on such duty chargeable on instrument of conveyance, exchange, gift, settlement or lease in perpetuity.

with mosaic flooring/industrial flooring. However, in the calculation report of the DR, we noticed that the DR had computed the value of the

**3.9.5.1** During the test check of 'A' Register and the registered documents in SRO, Jigani in July 2011, we noticed that in respect of a gift deed registered during 2010-11, stamp duty of ₹ 1,000 was levied. We noticed that the gift deed was executed between donor

**3.9.5.2** During the test check of records of DR, Jayanagar in October 2011, we noticed that the DR had intimated the High Court in August 2010 that stamp duty of ₹ 1.43 crore was determined in a case of amalgamation of companies. As per the valuation report enclosed to the High Court order of amalgamation, the property consisted of an RCC building of 17,638 square feet

building for 17,368 sq ft at ₹ 550/sqft applicable to red oxide flooring instead of ₹ 650/sqft applicable to mosaic flooring. Further, in the order determining the stamp duty, the amount of depreciation was taken as the value of building instead of the written down value. These resulted in incorrect determination of market value of the property at ₹ 28.62 crore instead of ₹ 29.38 crore and determination of stamp duty of ₹ 1.43 crore as against ₹ 1.47 crore leviable. This resulted in short levy of stamp duty of ₹ 3.81 lakh. Further, additional stamp duty amounting to ₹ 14.69 lakh at the rate of 10 *per cent* on the stamp duty amount of ₹ 1.47 crore was not computed. Thus, total short levy of stamp duty and additional stamp duty amounted to ₹ 18.50 lakh.

After we pointed out, the Government stated in November 2012 that the correct stamp duty of ₹ 1.47 crore was assessed on the revised estimation valuation and intimated to the High Court. Reply in respect of additional stamp duty has not been received (December 2012).

### 3.9.6 Non-levy of interest in the form of penalty for delay in remittances to Government

As per Rule 38 of the Karnataka Stamp (Payment of Duty by means of e-stamping) Rules, interest at 12 *per cent* per annum is leviable in case the CRA fails to remit the amount of stamp duty collected within the period stipulated in Rule 19.

During the test check of records of IGR conducted during July 2011, we noticed that the State Government/ Chief Controlling Revenue Authority (CCRA), entered into an agreement with the Central Record Keeping

Agency (Stock Holding Corporation of India Limited) in January 2010, to provide for a system for payment of stamp duty of client/ ultimate user through the approved Authorised Collection Centers (ACCs). Review of such collection details and remittance of the same through State Bank of Mysore Treasury Branch challans as furnished by the department for the year 2010-11 revealed that there was delay in remitting the Government receipts ranging from one to nine days. The department has not furnished the reconciliation statement of remittances of e-stamping though called for. In the absence of breakup of cash and DD remittances to Government, the delay was reckoned after two working days. Interest leviable under Rule 38 of the Karnataka e-stamping Rules, 2009 was not levied for delay in remittance. The non-levy of interest amounted to ₹ 6.29 lakh.

After we pointed out the case, the Government reported that notice was issued to SHICL to remit the interest.



## CHAPTER-IV

### EXECUTIVE SUMMARY

<b>Trend of revenue</b>	The revenue realisation in 2011-12 was 16 <i>per cent</i> more than that of the previous year.
<b>Revenue Impact of the Audit Reports</b>	During the last five years, through our Audit Reports we had pointed out non/short levy of tax with revenue implication of ₹ 4.78 crore in 16 paragraphs. Of these, the Government/Department had accepted audit observations involving ₹ 3.95 crore and had since recovered only ₹ 1.23 crore.
<b>Results of audit</b>	<p>Test check of records of 48 offices of the Transport Department, conducted during the year 2011-12, disclosed underassessment of tax and other irregularities involving ₹ 2.65 crore in 738 cases.</p> <p>During the year 2011-12, the Department accepted underassessments of tax of ₹ 2.50 crore in 632 cases and reported recovery of ₹ 0.93 crore in 47 cases.</p>
<b>What we have highlighted in this Chapter</b>	<p>Non/short payment of tax on construction equipment vehicles, non-levy of tax and penalty on transport vehicles and in respect of vehicles violating conditions for surrender amounted to ₹ 1.20 crore in 145 cases.</p> <p style="text-align: right;"><b>(Paragraph 4.7.1 to 4.7.3)</b></p>



## CHAPTER-IV: TAXES ON MOTOR VEHICLES

### 4.1 Tax Administration

The provisions of the Karnataka Motor Vehicle Taxation (KMVT) Act, 1957 and rules made thereunder govern the levy and collection of taxes on motor vehicles. The levy of taxes on motor vehicles is administered by the Transport Department headed by the Commissioner for Transport who is assisted by Joint Commissioners of Transport. There are 55 Regional Transport Offices (RTOs)/Assistant Regional Transport Offices (ARTOs) and 15 checkposts in the State.

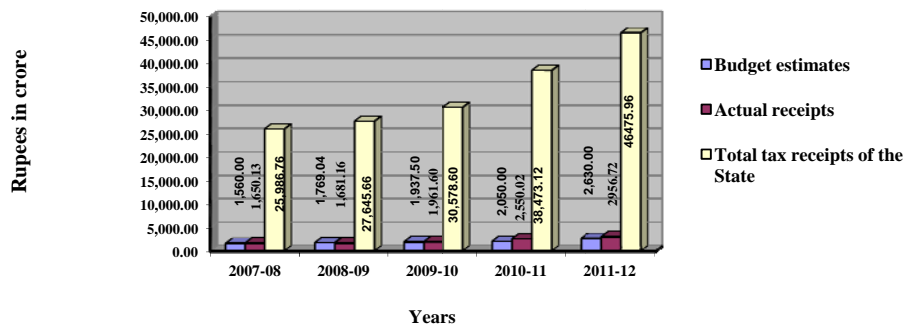
### 4.2 Trend of Receipts

Budget Estimates (BEs) and actual receipts from taxes on motor vehicles during the years 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and graphs.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	1,560.00	1,650.13	(+) 90.13	(+) 5.78	25,986.76	6.35
2008-09	1,769.04	1,681.16	(-) 87.88	(-) 4.97	27,645.66	6.08
2009-10	1,937.50	1,961.60	(+) 24.10	(+) 1.24	30,578.60	6.41
2010-11	2,050.00	2,550.02	(+) 500.02	(+) 24.39	38,473.12	6.63
2011-12	2,630.00	2,956.72	(+) 326.72	(+) 12.42	46,475.96	6.36

Graph 1 : Budget estimates, actual receipts and Total tax receipts



It is seen from the table that the revenue realisation in 2011-12 was 16 per cent more than that of the previous year. The Department reported (August 2012) that the increase in revenue was due to increase in registration of vehicle and continuous action of enforcement of vehicles and monitoring of revenue collection.

### 4.3 Cost of Collection

The gross collection of taxes on motor vehicles, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with All India average percentage of expenditure on collection to gross collection for the respective preceding years were as follows:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the preceding year
2009-10	1,962.62	36.35 <sup>1</sup>	1.85	2.93
2010-11	2,551.40	41.45	1.62	3.07
2011-12	2,958.43	47.49	1.61	3.71

As seen from the above, the percentage of cost of collection to the gross collection was lower than the All India average percentage for all the preceding three years.

### 4.4 Impact of Audit Reports

During the last five years, through our audit reports, we had pointed out non/short levy of tax with revenue implication of ₹ 4.78 crore in 16 paragraphs. Of these, the Government/Department had accepted audit observations involving ₹ 3.95 crore in 15 paragraphs and had since recovered ₹ 1.23 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount <sup>2</sup>	Number	Amount <sup>2</sup>
2007-08	04	1.40	04	1.39	02	0.17
2008-09	04	1.35	04	1.35	04	0.60
2009-10	02	0.19	02	0.13	02	0.12
2010-11	03	0.64	02	0.27	02	0.16
2011-12	03	1.20	03	0.81	02	0.18
<b>Total</b>	<b>16</b>	<b>4.78</b>	<b>15</b>	<b>3.95</b>	<b>12</b>	<b>1.23</b>

As seen from the table above, the recovery made by the Department is only 31 per cent of the amount involved in the total accepted cases.

**We recommend that the Government may take measures to ensure expeditious recovery of revenue in respect of the accepted cases.**

### 4.5 Working of Internal Audit Wing

The Internal Audit Wing (IAW) is functioning in the Transport Department since 1960. As against the sanctioned post of eight First Division Assistants and one Accounts Superintendent for Internal Audit, three posts of First Division Assistants were vacant.

<sup>1</sup> Indicates non-plan expenditure only. Plan expenditure for 2009-10 was ₹ 0.46 crore.

<sup>2</sup> Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.



As per the information furnished by the Department, the IAW had audited 67 out of 71 offices due for audit during 2011-12. Year-wise details of the number of objections raised, settled and pending along with tax effect, as furnished by the Department are as under:

(₹ in lakh)

Year	Observations raised		Observations settled		Objections pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2007-08	352	154.85	564	108.51	-	46.34
2008-09	09	7.17	02	576.00	07	7.16
2009-10	15	9.18	-	-	15	9.18
2010-11	75	29.45	75	13.64	1,217	256.96
2011-12	73	16.95	1,217	256.96	73	16.95

As seen from the above, the number of paragraphs and amount do not tally. We had recommended earlier in 2009-10 that remedial action may be taken for reconciliation of figures and for speedy clearance of old objections. However, the discrepancy in figures continued during 2011-12 also.

**We recommend that the Department accord due importance for follow up on internal audit.**

#### 4.6 Results of audit

Test check of records of 48 offices of the Transport Department, conducted during the year 2011-12, disclosed underassessment of tax and other irregularities amounting to ₹ 2.65 crore in 738 cases, which fall under the following categories:

SL. No.	Category	No. of cases	Amount (₹ in crore)
1.	Unauthorised removal of motor vehicle from declared place of garage	3	0.04
2.	Non/short levy of life time tax	28	0.11
3.	Non/short levy of quarterly tax	126	0.45
4.	Non/short levy of tax in respect of construction equipment vehicles	92	1.13
5.	Delay in realisation of DDs	135	0.10
6.	Non levy of second instalment of LTT on JCBs	73	0.52
7.	Non/short levy of tax	56	0.15
8.	Battery operated vehicles	23	0.09
9.	Non-levy of LTT in respect of Central/PSUs/Bank employees	22	0.01
10.	Non-levy of LTT on goods vehicle	4	0.01
11.	Other Irregularities	176	0.04
	<b>TOTAL</b>	<b>738</b>	<b>2.65</b>

During the year, the Department accepted under assessment of tax of ₹ 2.50 crore in 632 cases and reported recoveries of ₹ 0.93 crore in 47 cases.

A few illustrative audit observations involving ₹ 1.20 crore are mentioned in the succeeding paragraphs.

#### 4.7 Non-observance of provisions of the Act/Rules

The KMVT Act, 1957 and the KMVT Rules, 1957 provide as under:

- Sections 3 and 3A for levy of tax and cess on tax in respect of all vehicles suitable for use on road at the rates specified in the Schedule to the Act.
- Section 4 for payment of tax in advance by the registered owners for a quarter or half year at his choice, within fifteen days from the commencement of such period.
- Section 12 for composition of offence for non-payment of tax in accordance with the provisions of the Act. Rule 29 of the KMVT Rules provides for composition for the offence on payment of a sum of 20 per cent of the arrears of tax due and at one per cent of the arrears of tax due for every defaulting month for transport and non-transport vehicles.
- As per Notification No TD/ 270/SEP/2010 dated 24.03.2011 life time tax was payable on Construction Equipment Vehicles without penalty from 1 April 2010 to 4 August 2010.
- Section 16 of KMVT Act, 1957 provides issue of notification for exemption of tax if it is necessary in public interest. Notification No TRD 45 SAEPA 2007, Bangalore, dated 6 September 2007 provides for exemption from payment of tax on motor vehicles registered in the State of Karnataka and not used on roads subject to certain conditions stated therein.
- We noticed in 12 RTOs that the above provisions were not fully followed by the concerned taxation authorities. This resulted in a number of discrepancies with short realisation of Government revenue amounting to ₹ 1.20 crore. Of these, the Department accepted audit observations of ₹ 80.75 lakh and recovered ₹ 17.61 lakh out of the accepted amount.

##### 4.7.1 Non/ short payment of tax on Construction Equipment Vehicles

Construction Equipment Vehicles were taxable periodically up to March 2010 and life time tax from 1 April 2010 at the rate of 6.6 per cent (inclusive of cess at the rate of 10 per cent on the tax) based on their age. The life time tax was permitted to be paid in two instalments, the second instalment being payable within six months from the date of payment of first instalment. The cost of the vehicle is the cost as per the purchase invoice including excise duty and other taxes. Non/short payment of tax constitutes an offence and the KMVT Rules provide for composition of the offence on payment of 20 per cent of the arrears of tax due in case of taxes payable periodically/at one per cent for each month of default in respect of life time tax payable. Penalty was however, leviable from 5 August 2010 in case of life time tax.

We noticed (between July 2011 and March 2012) from test check of 'B' Registers<sup>3</sup> and other connected records in nine RTOs<sup>4</sup> non/short payment of

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<sup>3</sup> Registers maintained in the RTOs in which tax payments are recorded.

<sup>4</sup> Gadag, Mysore west, Mandya, Tumkur, Hospet, Chitradurga, Ramanagaram, Chikkaballapur and Chikkamagaluru.

tax (periodical/life time tax) of ₹ 96.15 lakh in respect of 96 Construction Equipment Vehicles for different periods between April 2010 and March 2011. For default in payment, the registered owners also had to pay penalty by way of composition for the offence. The composition amount on the tax due worked out to ₹ 6.74 lakh. The concerned RTOs did not demand the tax amount of ₹ 96.15 lakh and consequently did not levy penalty. This resulted in non-realisation of revenue of ₹ 1.03 crore in respect of 96 vehicles.

After we reported the cases to the Government/Department in May and October 2012, the Government reported acceptance of ₹ 64.05 lakh in respect of 59 vehicles and out of these recovered ₹16.94 lakh in 11 cases and issued demand notices in the remaining 37 cases (December 2012).

#### 4.7.2 Non-payment of tax and penalty on Transport Vehicles

Tax in respect of transport vehicles is payable quarterly, half yearly or annually at the discretion of the vehicle owner under the KMVT Act. Tax should be paid by the registered owner or person having possession or control of the vehicle in advance within fifteen days from the commencement of such quarter, half year or year. Non-payment/short payment of tax constitutes an offence and the KMVT Rules provide for composition of the offence on payment of 20 *per cent* of the arrears of tax due. This shall be recovered along with arrears of tax by the taxation authority concerned.

We noticed (between April 2011 and February 2012) from test check of 'B' Registers in three RTOs<sup>5</sup> non/short payment of tax of ₹ 9.49 lakh for different periods between January 2007 and March 2011 in respect of 45 transport vehicles. A sum of

₹ 1.81 lakh could have

been realised by way of composition. The concerned RTOs did not demand the unpaid tax of ₹ 9.49 lakh. This resulted in short recovery of tax of ₹ 11.30 lakh including composition amount of ₹ 1.81 lakh.

After we reported the cases to the Government in May 2012, the Government reported acceptance of ₹ 11.30 lakh in respect of all the 45 vehicles, recovery of ₹ 0.67 lakh in four cases and issue of demand notices in the remaining 41 cases (December 2012).

<sup>5</sup> Tumkur, Kolar and Mangalore.

### 4.7.3 Non-levy of tax on violation of conditions of surrender

KMVT Act provides for exemption of tax for registered owners who declare non-use of their vehicles. However, if the vehicle is not found during physical verification, tax is payable from the date of its non-use.

We noticed from test check of records in two RTOs<sup>6</sup> that declarations of non-use of four motor vehicles were accepted between February 2008 and April 2009 by the Department. However, as per the report of inspection conducted between February 2009 and March 2011, the motor vehicles

were not found at the declared place. Consequently, exemption from payment of tax was not available and tax leviable from the date of surrender to March 2011 worked out to ₹ 5.40 lakh. But no action was taken to raise demand/recover the same.

After we reported the cases to the Government in May 2012, the Government reported acceptance and issued demand notices in all the cases (December 2012).

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<sup>6</sup> Ramanagaram and Shimoga.

## CHAPTER-V

### EXECUTIVE SUMMARY

<b>Revenue Impact of the Audit Reports</b>	<p>During the years 2007-08 and 2011-12, we had pointed out non/short levy, non/short realisation of revenue etc. with revenue implication of ₹ 3.71 crore in three paragraphs. Of these, the Government/Department had accepted audit observations in two paragraphs involving ₹ 3.44 crore and had since recovered ₹ 22 lakh in one paragraph.</p>
<b>Results of audit</b>	<p>Our test check of records of Chief Electrical Inspector to Government of Karnataka during the year 2011-12 disclosed underassessment of revenue amounting to ₹ 3.59 crore in eight cases.</p> <p>During the year 2011-12, the Department accepted underassessments of tax of to ₹ 3.25 crore in two cases.</p>
<b>What we have highlighted in this Chapter</b>	<p>Non-levy of electricity tax on auxiliary consumption and incorrect adjustment of payment leading to short demand of interest amounted to ₹ 3.49 crore.</p> <p style="text-align: right;"><b>(Paragraph 5.6 and 5.7)</b></p>



## CHAPTER-V: ELECTRICITY TAX

### 5.1 Tax Administration

The Karnataka Electricity (Taxation on Consumption) Act, 1959 and Rules made thereunder govern the levy and collection of electricity tax in Karnataka. The Electricity Supply Companies (ESCOMs) have been authorised to collect tax on such units of electricity supplied by them to consumers. Besides, the Electrical Inspectorate collects tax on such energy consumed by a non-licensee from its own generation or supply made by it to others.

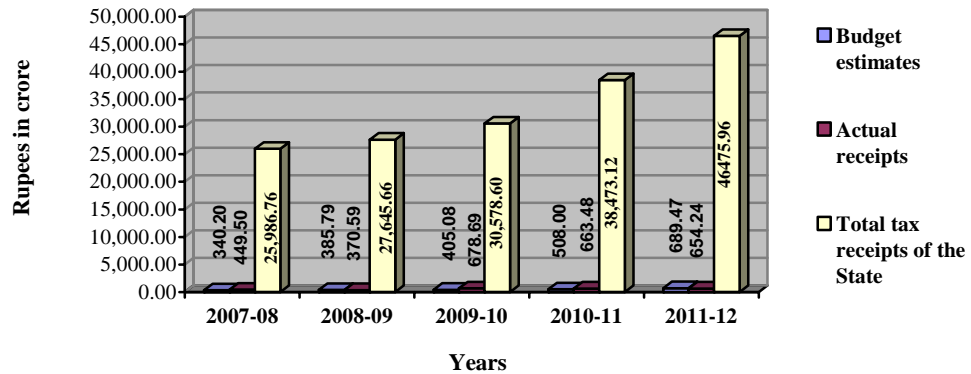
### 5.2 Trend of Receipts

Budget Estimates (BEs) and actual receipts from electricity tax during the years 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and graph.

( ₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation excess(+) / shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	340.20	449.50	(+) 109.30	(+) 32.13	25,986.76	1.73
2008-09	385.79	370.59	(-) 0.20	(-) 3.94	27,645.66	1.34
2009-10	405.08	678.69	(+) 273.61	(+) 67.54	30,578.60	2.22
2010-11	508.00	663.48	(+) 155.48	(+) 30.61	38,473.12	1.72
2011-12	689.47	654.24	(-)35.23	(-)5.10	46,475.96	1.41

Graph 1 : Budget estimates, Actual receipts and Total tax receipts



### 5.3 Impact of Audit Reports

During the years 2007-08 and 2011-12, through our Audit Reports, we had pointed out non/ short levy, non/short realisation of revenue etc, with revenue implication of ₹ 3.71 crore in three paragraphs. Of these, the Government/ Department had accepted the audit observation in two paragraphs involving ₹ 3.44 crore and had since recovered ₹ 22 lakh in one paragraph.

The position is shown in the following table :

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Recovery effected	
	Number	Amount	Number	Amount <sup>1</sup>	Number	Amount
2007-08	1	0.22	1	0.22	1	0.22
2011-12	2	3.49	1	3.22	-	-
Total	3	3.71	2	3.44	1	0.22

## 5.4 Results of Audit

Our test check of records of the Chief Electrical Inspector to Government of Karnataka during the year 2011-12 disclosed underassessment of revenue amounting to ₹ 3.59 crore in eight cases under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non-levy of electricity tax on auxiliary consumption	1	3.23
2.	Incorrect adjustment of payments leading to short demand of tax	4	0.27
3.	Loss of revenue due to non-inclusion of auxiliary consumption	2	0.06
4.	Short levy of interest	1	0.03
	<b>Total</b>	<b>8</b>	<b>3.59</b>

During the year 2011-12, the department accepted underassessment of ₹ 3.25 crore in two cases.

A few illustrative audit observations involving ₹ 3.49 crore are mentioned in the succeeding paragraphs.

## 5.5 Non-observance of provisions of the Act/Rules

*The Karnataka Electricity (Taxation on Consumption) (KETC) Act, 1959 as amended by KETC (Amendment) Act, 1979 provides as under:*

- *Section 7 for recovery of any sum due on account of electricity tax, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears, and thereupon interest at the rate of 15 per cent per annum payable on such sum; and the sum, together with any interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue.*
- *By a notification dated 1 October 1986, the Government levied electricity tax of 5 paise per unit on the licensees or other persons who consume energy generated by themselves in generating station or sub-station (auxiliary consumption) of workshops or colonies situated within the premises of such generating station or sub-station.*

<sup>1</sup> Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.



- *By a notification dated 30 March 2001, Article 32(c) of the Karnataka Financial Code (KFC), according to which the amount received/recovered towards the arrears of revenue/tax due to the Government shall be first adjusted towards penalty, balance, if any, towards the outstanding interest on the tax/revenue. After such adjustment, the balance amount is to be adjusted towards tax / revenue.*

*We noticed in two offices that the above provisions were not fully followed by the concerned authorities. This resulted in a number of discrepancies which led to non/short realisation of Government revenue amounting to ₹ 3.49 crore.*

## 5.6 Non-levy of electricity tax on auxiliary consumption<sup>4</sup>

As per Para 3.50 of the Public Works and Electricity Department Electrical Inspectorate-Departmental Code, Volume-2 (Manual for tax on electricity consumption) 1982, the non-licensees have to pay tax on the electrical energy generated and consumed by them directly as also on the losses (if any) and on the auxiliary consumption, to the Government. Under Notification No. PWD 224 PPC 85 dated 1 October 1986, the Government has levied electricity tax at the rate of five paise per unit of energy generated and consumed by licensees<sup>3</sup> or other persons in generating stations or sub-stations (auxiliary consumption) or workshops or colonies situated within the premises of such generating stations or sub-stations. Further, as per Notification No. PWD 301 EIG 78 dated 24 October 1978, interest at the rate of 15 per cent per annum is chargeable on recovery of arrears of electricity tax.

We noticed from test check of records in the office of the Deputy Chief Electrical Inspector, Bellary in respect of a non-licensee<sup>2</sup> (M/s Bellary Thermal Power Station), electricity tax on auxiliary consumption amounting to ₹ 2.66 crore for

<sup>2</sup> **Non-licensee** as defined in Karnataka Electricity (Taxation of Consumption) Rules, 1959 means a person not being a licensee, who generates energy for his own consumption or supplies the same to any other person free of charge and as per Rule 3(2) every non -licensee shall in respect energy consumed by himself or supplied by him, pay or collect and pay as the case may be, to the State Government, the electricity tax at the appropriate rates by crediting the amount of tax in respect of every calendar month into a Government Treasury within a period of thirty days from the end of that month.

<sup>3</sup> **Licensee** as defined under Section 2(38) of Karnataka Electricity Act, 2003 (Central Act) means a licence granted under Section 14 of this Act by the appropriate Commission to any person

- (a) to transmit electricity as a transmission licensee; or
- (b) to distribute electricity as a distribution licensee; or
- (c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence.

<sup>4</sup> **Auxiliary consumption** as per notification No PWD 224 PPC 85 dated 1 October 1986 means licensee or other persons who consume energy generated by himself in generating stations or sub-stations.

**Captive consumption** as per notification No DE 210 EEB 95 dated 18 June 1997 means self consumption.

the period March 2009 to March 2012 was not levied and collected. Interest leviable on this amount up to March 2012 worked out to ₹ 56 lakh. This resulted in non-levy of electricity tax and interest of ₹ 3.22 crore.

After we reported the case in May 2012, the Government (Energy Department) stated (October 2012) that a demand notice for ₹ 3.31 crore towards electricity tax on auxiliary consumption including interest has been issued to M/s BTPS in September 2012 by the Chief Electrical Officer to Government.

## 5.7 Incorrect adjustment of payments leading to short demand of interest

As per the provision of Article 32(c) of Karnataka Financial Code (KFC), 1958 (Volume-I) inserted vide Notification No. FD 11 TFC 2000 dated 30 March 2001, the amount received/recovered towards the arrears of tax/revenue due to Government shall be adjusted first towards penalty, balance if any, towards the outstanding interest on the tax/revenue and after such adjustment the balance amount be adjusted towards tax/revenue.

Therefore, payment received towards arrears of electricity tax has to be adjusted first towards interest on electricity tax arrears and thereafter the balance amount, if any, has to be adjusted towards electricity tax.

We noticed (May 2012) from statements of tax of three non-licensees, M/s Biocon India Limited, M/s Reid & Taylor and M/s TVS Motor Co. Ltd in the office of the Chief Electrical Inspector that they had not paid electricity tax amounting to ₹ 1.15 crore for the period from October/ November/ December 2003 to June 2004 and that they paid an amount of ₹ 1.14 crore in September / October 2010 i.e. after more than six years. For the period of

delay in payment, the department had also computed interest of ₹ 1.12 crore calculated at the rate of 15 *per cent* per annum till the date of payment.

We noticed that on payment of ₹ 1.14 crore, the department incorrectly adjusted the entire amount towards arrears of tax instead of interest. In terms of Article 32(c), the department should have first adjusted an amount of ₹ 1.12 crore towards interest and the balance ₹ 2 lakh towards tax. On correct adjustment, the principal amount still remaining unpaid as on 31 March 2012 would be ₹ 1.13 crore. The irregular priority in adjustment of receipts resulted in short demand of interest of ₹ 26.62 lakh upto 31 March 2012.

This was brought to the notice of the Chief Electrical Inspector to Government in May 2012. In reply, the department stated (October 2012) that there was no provision under Section 4(1) of the Karnataka Electricity (Taxation on Consumption) Act, 1959 that amount received at first instance should be adjusted towards interest and that a proposal for amendment to the Act was addressed to Government. The Government also endorsed the said reply of the Department in November 2012.

The reply is not acceptable as Section 4(1) specifies recourses available to Government to recover the taxes from the supply companies/non-licensees. It does not specify the manner of adjustments of payments received. It is in the interest of the Government to adopt the manner of adjustments of arrear receipts as specified in the KFC.

**Bangalore  
The**

**(Anita Pattanayak)  
Principal Accountant General  
(Economic & Revenue Sector Audit)  
Karnataka**

**Countersigned**

**New Delhi  
The**

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