



**Report of the
Comptroller and Auditor General of India
(Revenue Sector)**

for the year ended March 2015



Government of Andhra Pradesh
Report No. 2 of 2016

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P R E F A C E

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2015 has been prepared for submission to the Governor of Andhra Pradesh under Article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2014-15 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2014-15 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

OVERVIEW

The report contains 41 paragraphs involving ₹ 122.44 crore relating to non/short levy of taxes, interest, penalty, etc., including a Performance Audit on “Implementation of VAT (including IT Audit of VATIS)”. Some of the significant audit findings are mentioned below.

1. GENERAL

- The total revenue receipts of the composite State of Andhra Pradesh for the period from 1 April 2014 to 1 June 2014 amounted to ₹ 24,977.05 crore. State tax and non-tax revenue accounted for 62 *per cent* of this (₹ 12761.15 crore and ₹ 2794.62 crore respectively). The remaining 38 *per cent* was received from Government of India as State share of divisible Union taxes (₹ 3852.96 crore) and Grants-in-aid (₹ 5568.32 crore).

The total revenue receipts of the residuary State of Andhra Pradesh for the period from 2 June 2014 to 31 March 2015 amounted to ₹ 65,695.40 crore. State tax and non-tax revenue accounted for 58 *per cent* of this (₹ 29,856.87 crore and ₹ 8181.35 crore respectively). The remaining 42 *per cent* was received from Government of India as State share of divisible Union taxes (₹ 11,446.29 crore) and Grants-in-aid (₹ 16,210.89 crore).

(Paragraph 1.1.1)

- Test check of 350 units of Commercial Taxes Department, Prohibition and Excise Department, Registration and Stamps Department, Transport Department, Land Revenue Department and other departmental offices conducted during 2014-15 revealed preliminary audit findings involving non-levy/short levy of taxes, duties etc., amounting to ₹ 936.10 crore in 1487 cases.

(Paragraph 1.10.1)

2 TAXES/ VAT ON SALES, TRADE etc.

A Performance audit on “Implementation of VAT (including IT Audit of VATIS)” with money value of ₹ 27.89 crore revealed the following:

- Penalty and interest of ₹ 65 lakh was not levied in respect of 42 dealers on belated payments of tax in 15 offices.

(Paragraph 2.4.8.1)

- Failure to check periodical returns, sales records of dealers by two Assessing Authorities and application of incorrect rate of tax by two dealers led to short payment of tax of ₹ 1.61 crore.

(Paragraph 2.4.8.2)

- Failure to scrutinise returns and cross verify with financial statements by Department led to under-declaration of Value Added Tax (VAT) of ₹ 1.73 crore.

(Paragraph 2.4.8.4)

- In five offices, Input Tax Credit (ITC) of ₹ 1.07 crore was incorrectly claimed by seven dealers.

(Paragraph 2.4.8.5)

- Inadequate scrutiny of returns resulted in non-payment of tax of ₹ 2.02 crore on transfer of right to use goods in two offices involving four dealers.

(Paragraph 2.4.8.8)

- Non-compliance with checks prescribed in VAT Audit Manual resulted in leakage of revenue of ₹ 20.50 crore in 13 offices.

(Paragraph 2.4.10.4)

Audit noticed

- Incorrect computation of taxable turnover by 12 dealers for the years 2005-06 to 2012-13 resulted in short levy of tax of ₹ 1.22 crore in 12 offices.

(Paragraph 2.5)

- Incorrect determination of taxable turnover for the period 2008-09 to 2012-13 in respect of eight works contractors resulted in short realisation of tax of ₹ 68.54 lakh in one office.

(Paragraph 2.6.1.1)

- Tax of ₹ 37.20 lakh was under-declared by three works contractors in two circles on account of not maintaining detailed accounts.

(Paragraph 2.6.1.2)

- Incorrect exemption of works contract turnover of ₹ 10.54 crore resulted in short levy of tax of ₹ 52.69 lakh in one office.

(Paragraph 2.6.3)

- Penalty of ₹ 98.47 lakh was either not levied or short levied in 16 offices constituting 35 cases on account of belated payment of tax, wilful under-declaration, excess claim of ITC etc.

(Paragraph 2.7)

- Non-recovery of deferred sales tax and incorrect adjustment of tax deferment led to non-realisation of sales tax of ₹ 96.61 lakh in 10 cases covering four offices.

(Paragraphs 2.8.1 and 2.8.2)

- Application of incorrect rate of tax, underassessment, incorrect exemption of interstate sale turnover not covered by statutory declaration forms resulted in short levy of Central Sales Tax (CST) of ₹ 74.94 lakh in 11 cases pertaining to eight offices.

(Paragraph 2.9.1)

- Incorrect allowance of concessional rate of tax on interstate sale turnover of cotton yarn, electrical goods etc. covered by invalid declaration forms led to short levy of CST of ₹ 45.79 lakh in five cases.

(Paragraph 2.9.2)

- VAT of ₹ 64.64 lakh was under-declared by 17 dealers on account of adoption of incorrect rate of tax in 10 offices.

(Paragraph 2.10)

- VAT of ₹ 68.74 lakh was not levied on turnover of ₹ 5.10 crore pertaining to hire charges / lease rentals received on automobiles, trucks etc. in six cases under the jurisdiction of four offices.

(Paragraph 2.11)

- Claim of ITC on ineligible goods, non-restriction of ITC to the percentage prescribed and excess claim of ITC led to incorrect allowance of ITC by ₹ 49.35 lakh in 17 cases pertaining to 11 offices.

(Paragraph 2.12)

3 STATE EXCISE DUTIES

- In three offices of Prohibition and Excise Superintendents, annual licence fee for Bar licences was short levied by ₹ 1.40 crore on 13 restaurant and bars for the licence period 2011-12 to 2013-14.

(Paragraph 3.4)

- In five offices of Prohibition and Excise Superintendents, additional licence fee amounting to ₹ 50.80 lakh was not levied on six restaurant and bars for the licence period 2011-12 to 2013-14.

(Paragraph 3.5)

- In three offices of Prohibition and Excise Superintendents, licence fee of ₹ 75.50 lakh was short levied on 10 retail liquor shops for the licence period 2012-13 and 2013-14.

(Paragraph 3.6)

- In 11 offices of Prohibition and Excise Superintendents, permit room licence fee of ₹ 41.42 lakh was either not levied or short realised for the licence period 2012-13 and 2013-14.

(Paragraph 3.7.1)

4 STAMP DUTY AND REGISTRATION FEES

- Test check of records in eight offices of District Registrars and 12 offices of Sub-Registrars revealed undervaluation of properties in respect of 100 documents such as sale deeds, gift-deeds, partition deeds, settlement/release deeds, exchange deeds, development agreements etc., which resulted in short levy of stamp duty, transfer duty and registration fees of ₹ 3.52 crore.

(Paragraph 4.4)

- Test check of sand leases in two offices of Assistant Directors of Mines and Geology revealed that stamp duty was short realised on three lease deeds. Besides, these compulsorily registerable leases were not registered resulting in short realisation of stamp duty and registration fees amounting to ₹ 1.33 crore.

(Paragraph 4.5)

- In three offices of District Registrars and four offices of Sub-Registrars, 131 sale deeds registered between April 2011 and March 2014 were undervalued resulting in short levy of duties and registration fees amounting to ₹ 33.06 lakh.

(Paragraph 4.7)

- Test check of records in two offices of District Registrars revealed that misclassification of sale deeds resulted in short levy of duties amounting to ₹ 30.61 lakh.

(Paragraph 4.9.1)

5 TAXES ON VEHICLES

- Quarterly tax of ₹ 1.49 crore and penalty of ₹ 2.97 crore were not realised from owners of 1,513 transport vehicles for the years 2012-13 and 2013-14 in four offices of Deputy Transport Commissioners and four offices of Regional Transport Officers.

(Paragraph 5.4)

- Non-renewal of fitness certificate (FC) of 31,604 transport vehicles resulted in non-realisation of fitness certificate fee of ₹ 1.17 crore during the years 2012-13 and 2013-14 in four offices of Deputy Transport Commissioners and five offices of Regional Transport Officers.

(Paragraph 5.5)

- Scrutiny of Vehicle Check Reports (VCRs) conducted in the offices of four Deputy Transport Commissioners and four Regional Transport Officers revealed that compounding fee of ₹ 46.06 lakh was not realised in respect of 799 compoundable offences.

(Paragraph 5.6)

6 LAND REVENUE

- Undervaluation of property and usage of land for non-agricultural purposes without prior permission of competent authority resulted in non/short levy of conversion tax and penalty of ₹ 1.96 crore.

(Paragraphs 6.4.1 & 6.4.2)

- Lack of co-ordination between Revenue Divisional Officers and Division Level Panchayat Officers/Gram Panchayats led to non-levy of conversion tax and penalty of ₹ 21.27 crore.

(Paragraph 6.4.3)

- Non-finalisation of alienation proposals on land alienated for non-agricultural purpose led to non-realisation of land cost amounting to ₹ 13.95 crore. Further, conversion tax of ₹ 1.25 crore also remained unrealised in respect of the land alienated.

(Paragraph 6.5)

- Excess compensation of ₹ 2.68 crore was paid in nine cases while acquiring land of 242.04 acres in three offices of Revenue Divisional Officers.

(Paragraph 6.6)

7 OTHER TAX AND NON-TAX RECEIPTS

Levy and collection of water tax

- Test check of Jamabandi records of 18 Tahsildar offices revealed that water tax of ₹ 13.60 crore was levied instead of ₹ 15.15 crore by the Department of Land Revenue on an extent of 6.75 lakh acres leading to short levy of water tax of ₹ 1.55 crore.

(Paragraph 7.2.6)

- In 72 Tahsildar offices, interest of ₹ 2.65 crore was not levied and interest of ₹ 1.76 crore short levied on collection of water tax arrears of ₹ 85.80 crore.

(Paragraph 7.2.9)

- In two Tahsildar offices, while carrying forward opening balances of water tax demand, an amount of ₹ 77.67 lakh of revenue was short realised.

(Paragraph 7.2.10)

INDUSTRIES AND COMMERCE DEPARTMENT

Mines and Minerals

- In the office of Assistant Director of Mines and Geology, Nellore, it was noticed that in 17 leases, Mineral Revenue Assessments (MRAs)

for the period 2011-12 to 2013-14 were finalised by adopting incorrect rates of royalty resulting in short levy of royalty amounting to ₹ 2.05 crore.

(Paragraph 7.3.1)

- In the office of Assistant Director of Mines and Geology, Banaganapally, it was noticed that in the MRAs of three lessees adoption of incorrect quantity of limestone despatches and the rates of royalty resulted in short levy of royalty and cess by ₹ 18.13 crore.

(Paragraph 7.3.2)

- In the office of Assistant Director of Mines and Geology, Nandigama, discrepancy in the quantity of limestone consumption by five cement companies led to short levy of royalty and cess by ₹ 38.02 lakh.

(Paragraph 7.3.3)

- In two offices of Assistant Director of Mines and Geology and one office of Assistant Director of Mines and Geology (Vigilance), penalty was levied at one time normal seigniorage fee instead of five times the normal seigniorage fee prescribed on minor minerals leading to short levy of penalty amounting to ₹ 3.27 crore in six cases.

(Paragraph 7.5)

CHAPTER-I

GENERAL

CHAPTER I GENERAL

1.1 Revenue Receipts

1.1.1 The tax and non-tax revenue raised by the Government of Andhra Pradesh, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-aid received from the Government of India during the period from 1 April 2014 to 31 March 2015 are mentioned in Table -1.1.1.

Table- 1.1.1
Trend of revenue receipts

(₹ in crore)

| Sl. No. | Particulars ¹ | 2010-11* | 2011-12* | 2012-13* | 2013-14* | 1 April 2014 to 1 June 2014* | 2 June 2014 to 31 March 2015 |
|-----------|---|------------------|------------------|--------------------|--------------------|------------------------------|------------------------------|
| 1. | Revenue raised by the State Government | | | | | | |
| | • Tax revenue | 45,139.55 | 53,283.41 | 59,875.05 | 64,123.53 | 12,761.15 | 29,856.87 |
| | • Non-tax revenue | 10,719.72 | 11,694.34 | 15,999.14 | 15,472.86 | 2,794.62 | 8,181.35 |
| | Total | 55,859.27 | 64,977.75 | 75,874.19 | 79,596.39 | 15,555.77 | 38,038.22 |
| 2. | Receipts from the Government of India | | | | | | |
| | • Share of net proceeds of divisible Union taxes and duties | 15,236.75 | 17,751.15 | 20,270.77 | 22,131.89 | 3,852.96 | 11,446.29 |
| | • Grants-in-aid | 9,900.28 | 10,824.79 | 7,685.32 | 8,990.55 | 5,568.32 | 16,210.89 |
| | Total | 25,137.03 | 28,575.94 | 27,956.09 | 31,122.44 | 9,421.28 | 27,657.18 |
| 3. | Total revenue receipts of the State Government (1 and 2) | 80,996.30 | 93,553.69 | 1,03,830.28 | 1,10,718.83 | 24,977.05 | 65,695.40 |
| 4. | Percentage of 1 to 3 | 69 | 69 | 73 | 72 | 62 | 58 |

* Data pertain to composite State of Andhra Pradesh for 23 districts.

During the period from 1 April 2014 to 1 June 2014, the revenue raised by the State Government (₹ 15,555.77 crore) was 62 per cent of the total revenue receipts. The remaining 38 per cent of the receipts during the period was from the Government of India.

¹ For details please see Statement No.14- Detailed accounts of revenue by minor heads in the Finance Accounts of Andhra Pradesh for the period 1 April 2014 to 1 June 2014 and for the period from 2 June 2014 to 31 March 2015. Figures under the major heads '0020-Corporation tax, 0021-Taxes on income other than corporation tax, 0028-Other taxes on income and expenditure, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties, 0044-Service tax and 0045-Other taxes and duties on commodities and services - share of net proceeds assigned to states booked in the Finance Accounts under A-Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this table. The figures in the seventh column relate to erstwhile state of Andhra Pradesh with 23 districts while the figures under last column relate to the successor state of Andhra Pradesh with 13 districts.

Similarly, during the period from 2 June 2014 to 31 March 2015, the revenue raised by the State Government (₹ 38,038.22 crore) was 58 per cent of the total revenue receipts. The remaining 42 per cent of the receipts during the period was from the Government of India.

1.1.2 The details of the tax revenue raised during the period from 1 April 2014 to 31 March 2015 are given in **Table 1.1.2**.

Table 1.1.2
Details of Tax Revenue raised

(₹ in crore)

| Sl. No. | Head of revenue | 2010-11* | | 2011-12* | | 2012-13* | | 2013-14* | | BE for the period from 1 April 2014 to 31 March 2015 | Actuals for 1 April 2014 to 1 June 2014 | Actuals for 2 June 2014 to 31 March 2015 ² |
|---------|----------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--|---|---|
| | | BE | Actuals | BE | Actuals | BE | Actuals | BE | Actuals | | | |
| 1. | Taxes / VAT on sales, trade etc. | 31,838 | 29,145 | 38,306 | 34,910 | 45,000 | 40,715 | 52,500 | 48,737 | 28,749 | 8,852 | 21,672 |
| 2. | State excise | 7,512 | 8,265 | 9,014 | 9,612 | 10,820 | 9,129 | 7,500 | 6,250 | 4,027 | 710 | 3,642 |
| 3. | Stamp Duty and Registration Fees | 3,546 | 3,834 | 4,240 | 4,385 | 4,968 | 5,115 | 6,414 | 4,393 | 2,460 | 689 | 2,561 |
| 4. | Taxes on vehicles | 2,778 | 2,627 | 3,434 | 2,986 | 3,640 | 3,356 | 4,351 | 3,335 | 1,384 | 2,264 | 1,423 |
| 5. | Others | 1,325 | 1,269 | 1,445 | 1,390 | 1,593 | 1,560 | 1,676 | 1,409 | 17,616 | 246 | 559 |
| | Total | 46,999 | 45,140 | 56,439 | 53,283 | 66,021 | 59,875 | 72,441 | 64,124 | 54,236 | 12,761 | 29,857 |

* Data pertains to composite State of Andhra Pradesh for 23 districts.

1.1.3 The details of the non-tax revenue raised during the period from 1 April 2014 to 31 March 2015 are indicated in **Table 1.1.3**:

Table 1.1.3
Details of Non-tax revenue raised

(₹ in crore)

| Sl. No. | Head of revenue | 2010-11* | | 2011-12* | | 2012-13* | | 2013-14* | | BE for the period from 1 April 2014 to 31 March 2015 | Actuals for 1 April 2014 to 1 June 2014 | Actuals for 2 June 2014 to 31 March 2015 ³ |
|---------|------------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--|---|---|
| | | BE | Actuals | BE | Actuals | BE | Actuals | BE | Actuals | | | |
| 1. | Interest receipts | 7,097 | 5,774 | 7,164 | 6,279 | 8,632 | 9,626 | 8,656 | 8,646 | 4,813 | 198 | 4,597 |
| 2. | Mines and Minerals | 2,695 | 2,065 | 2,995 | 2,337 | 2,734 | 2,771 | 3,083 | 2,731 | 1,226 | 408 | 811 |
| 3. | Education, Sports, Art and Culture | 194 | 238 | 204 | 675 | 274 | 1,196 | 1,219 | 1,676 | 90 | 342 | 1,087 |
| 4. | Others | 5,717 | 2,643 | 1,976 | 2,403 | 2,213 | 2,406 | 2,436 | 2,420 | 2,882 | 1,847 | 1,686 |
| | Total | 15,703 | 10,720 | 12,339 | 11,694 | 13,853 | 15,999 | 15,394 | 15,473 | 9,011 | 2,795 | 8,181 |

* Data pertain to composite State of Andhra Pradesh for 23 districts.

² Source: Statement 14 of Finance Accounts.

³ Source: Statement 14 of Finance Accounts.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 on some principal heads of revenue amounted to ₹ 8,960.12 crore as detailed in the **Table -1.2**

Table 1.2
Arrears of revenue

(₹ in crore)

| Sl. No. | Head of revenue | Total amount outstanding as on 31 March 2015 | Amount outstanding for more than five years as on 31 March 2015 |
|--------------|----------------------------------|--|---|
| 1 | Taxes / VAT on sales, trade etc. | 4,008.04 | 869.84 |
| 2 | State excise | 14.98 | 14.98 |
| 3 | Taxes on vehicles | 1,085.16 | 0.63 |
| 4 | Stamp Duty and Registration Fees | 41.39 | 41.39 |
| 5 | Mines and Minerals | 226.05 | NA |
| 6 | Taxes and duties on electricity | 3,584.50 | 1,951.63 |
| Total | | 8,960.12 | |

Source : Information furnished by the concerned Departments.

The Departments concerned did not furnish any reasons for the amounts in arrears, collection of which was pending for more than five years.

1.3 Arrears in assessments

As per the provisions of the AP VAT Act, annual assessments are not mandatory for the VAT dealers. Assessments under the CST Act are to be completed within four years. However, Commercial Taxes Department has furnished inadequate information i.e., information was not furnished separately for the composite State from 01 April to 01 June 2014 and for the successor State with 13 Districts from 02 June 2014 to 31 March 2015.

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Departments, cases finalised and the demands for additional tax raised and cases pending finalisation as on 31 March 2015 under different heads of revenue were called for from Departments concerned. Departments of Registration and Stamps, Commercial taxes did not furnish the information in full shape. Department of Prohibition and State Excise, Mines and Geology furnished the information as 'Nil'. Remaining Departments i.e. Transport, Land Revenue, Energy did not furnish any information in this regard.

1.5 Pendency of Refund Cases

The number of refund cases pending on 2 June 2014, claims received during the period till 31 March 2015, refunds allowed during the period and the cases pending as on 31 March 2015 as reported by the Departments is given in **Table 1.5**.

Table 1.5
Details of pendency of refund cases

(₹ in crore)

| Sl. No. | Particulars | Commercial Taxes | | State Excise | |
|---------|---|------------------|--------|--------------|--------|
| | | No. of cases | Amount | No. of cases | Amount |
| 1. | Claims outstanding at the beginning of the period | -- | -- | -- | -- |
| 2. | Claims received during the year | 160 | 223.55 | 4 | 0.48 |
| 3. | Refunds made during the year | 160 | 223.55 | 4 | 0.48 |
| 4. | Balance outstanding at the end of period | -- | -- | -- | -- |

Other Departments did not furnish the relevant details though called for.

1.6 Response of the Government / Departments towards Audit

The Accountant General (E & RSA), Andhra Pradesh and Telangana conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of 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 AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection reports issued upto December 2014 disclosed that 11,681 paragraphs involving ₹ 1,288.81 crore relating to 4,197 IRs remained outstanding at the end of June 2015 as mentioned below along-with the corresponding figures for the preceding two years in **Table 1.6**.

Table 1.6
Details of pending Inspection Reports

| | June 2013 | June 2014 | June 2015 |
|--|-----------|-----------|-----------|
| Number of IRs pending settlement | 6,001 | 5,297 | 4,197 |
| Number of outstanding audit observations | 15,825 | 14,080 | 11,681 |
| Amount of revenue involved (₹ in crore) | 4,498.86 | 2,683.51 | 1,288.81 |

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the **Table 1.6.1**.

Table 1.6.1
Department-wise details of IRs

(₹ in crore)

| Sl. No. | Name of the Department | Nature of receipts | Number of outstanding IRs | Number of outstanding audit observations | Money value involved |
|--------------|--------------------------------|----------------------------------|---------------------------|--|----------------------|
| 1. | Revenue Department | Taxes/VAT on Sales, Trade etc. | 1,625 | 5,023 | 604.80 |
| | | State Excise | 230 | 541 | 44.48 |
| | | Land Revenue | 780 | 1,797 | 158.19 |
| | | Stamp duty and Registration Fees | 1,241 | 3,269 | 225.54 |
| 2. | Transport, Roads and Buildings | Taxes on vehicles | 206 | 884 | 102.40 |
| 3. | Industries and Commerce | Mines and minerals | 108 | 160 | 148.27 |
| 4. | Energy | Taxes and duties on electricity | 7 | 7 | 5.13 |
| Total | | | 4,197 | 11,681 | 1,288.81 |

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs, for 164 IRs issued during 2014-15. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

The Government may consider having an effective system for prompt and appropriate response to audit observations.

1.6.2 Departmental Audit Committee Meetings

The Government set up Audit Committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. The details of the Audit Committee Meetings (ACMs) held during the year 2014-15 and the paragraphs settled are mentioned in **Table 1.6.2**.

Table 1.6.2
Details of Departmental Audit Committee Meetings

(₹ in crore)

| Sl. No. | Head of revenue | Number of meetings held | Number of paras settled | Amount |
|---------|------------------|-------------------------|-------------------------|--------|
| 1. | Commercial Taxes | 2 | 94 | 8.44 |
| 2. | State Excise | 13 | 101 | 2.59 |
| | | 15 | 195 | 11.03 |

1.6.3 Non-production of records to Audit for scrutiny

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

During the year 2014-15 as many as 97 records such as Demand, Collection and Balance (DCB) Registers, CST assessment files, challan posting registers, cash books, receipt books, motor vehicle inspection records, bank scrolls etc. were not made available to Audit. Break up of these details is given in **Table 1.6.3**.

Table 1.6.3
Details of non-production of records

| Name of the Office/ Department | | Number of cases not audited |
|--------------------------------|-------------------------|-----------------------------|
| Revenue | Commercial Taxes | 47 |
| | Prohibition and Excise | 20 |
| | Registration and Stamps | 9 |
| | Land Revenue | 18 |
| Transport, Roads and Buildings | Transport | 3 |
| Total | | 97 |

1.6.4 Response of the Departments to the draft audit paragraphs

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

76 draft paragraphs including one Performance Audit were sent to the Principal Secretaries/ Secretaries of the respective Departments by name between July and October 2015. The Principal Secretaries/ Secretaries of the Departments did not send replies to 56 draft paragraphs despite issue of reminders and the same have been included in this Report without the response of the Departments.

1.6.5 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports are delayed inordinately. One hundred and seventy one paragraphs (including

performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Andhra Pradesh for the years ended 31 March 2010, 2011, 2012, 2013 and 2014 were placed before the State Legislative Assembly between March 2011 and March 2015. Of these 15 pertain exclusively to Andhra Pradesh whereas 131 paragraphs pertain to both Andhra Pradesh and Telangana. The explanatory notes from the Departments of Andhra Pradesh on these paragraphs were received in respect of only four paragraphs pertaining to Andhra Pradesh and nine paragraphs pertaining to both the states with delay ranging from two to 49 months in respect of Audit Reports for the years ended 31 March 2010 to 31 March 2014 respectively. Explanatory notes in respect of 133 paragraphs from eight Departments (Commercial Taxes, Prohibition and Excise, Land Revenue, Stamp Duty and Registration Fee, Transport Roads & Buildings Department, Industries and Commerce, Energy and Endowments) have not been received for the Audit Reports from year ended March 2010 to March 2014 so far (January 2016). Of these 11 pertain exclusively to Andhra Pradesh and 122 pertain to both the states.

1.7 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the Inspection Reports / Audit Reports by the Departments / Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last five years for one Department is evaluated and included in this Audit Report.

The succeeding paragraph discusses the performance of Land Revenue Department under revenue head 0029 and cases detected in the course of local audit during the last five years and also the cases included in the Audit Reports for the years 2010-11 to 2014-15. These cases relate only to the 13 Districts of the successor State of Andhra Pradesh.

1.7.1 Position of Inspection Reports

The summarised position of the inspection reports relating to the Land Revenue Department, issued during the last five years in the 13 Districts of the successor state of Andhra Pradesh, paragraphs included in these reports and their status as on 31 March 2015 are tabulated in **Table -1.7.1**

Table 1.7.1
Position of Inspection Reports

(₹ in crore)

| Sl. No. | Year | Opening Balance | | | Additions during the year | | | Clearance during the year | | | Closing balance | | |
|---------|---------|-----------------|-------|-------------|---------------------------|-------|-------------|---------------------------|-------|-------------|-----------------|-------|-------------|
| | | IRs | Paras | Money Value | IRs | Paras | Money Value | IRs | Paras | Money Value | IRs | Paras | Money Value |
| 1. | 2010-11 | 2390 | 5543 | 1654.74 | 183 | 598 | 1731.79 | 16 | 79 | NIL | 2557 | 6062 | 3386.53 |
| 2. | 2011-12 | 2557 | 6062 | 3386.53 | 211 | 892 | 9.37 | 287 | 894 | 11.76 | 2481 | 6060 | 3384.14 |
| 3. | 2012-13 | 2481 | 6060 | 3384.14 | 25 | 118 | 3.29 | 838 | 2702 | 1888.29 | 1668 | 3476 | 1499.14 |
| 4. | 2013-14 | 1668 | 3476 | 1499.14 | 39 | 253 | 333.04 | 500 | 1426 | 6.81 | 1207 | 2303 | 1825.37 |
| 5. | 2014-15 | 1207 | 2303 | 1825.37 | 110 | 756 | 84.83 | 2 | 3 | 0.75 | 1315 | 3056 | 1909.45 |

1.8 Action taken on the recommendations accepted by the Department/Government

The performance audits conducted by the AG are forwarded to the Department concerned and to Government for their information with a request to furnish their replies. These performance audits are also discussed in an exit conference and the Department's / Government's views are included while finalising the reviews for the Audit Reports.

The following reviews were featured in the last five years' Reports. Number of recommendations and their status is given in **Table 1.8**

Table 1.8
Status of Audit recommendations

| Year of Report | Name of the Performance Audit | No. of recommendations | Status |
|----------------|---|------------------------|--|
| 2009-10 | Functioning of the Prohibition and Excise Department | 9 | Explanatory notes for Performance Audits featured in Audit Reports for the years 2009-10 to 2013-14 (except "Functioning of Directorate of Mines and Geology" appeared as a separate Audit Report for the Year 2012-13) are awaited (January 2016). Explanatory notes on "Functioning of Directorate of Mines and Geology" have been received and recommendations made by Audit have been partially accepted by the Government. The discussion of the Report on "Functioning of the Directorate of Mines and Geology" was completed by the Committee on Public Accounts on 5 th December, 2015. Proceedings of the committee are awaited (January 2016). |
| 2010-11 | Taxation of works contracts under the APVAT Act | 5 | |
| | Cross verification of Declaration Forms used in Inter State Trade. | 7 | |
| | Alienation of Government land and conversion of agricultural land for non-agricultural purposes. | 3 | |
| 2011-12 | VAT Audits and Refunds. | 3 | |
| 2012-13 | Functioning of the Directorate of Mines and Geology. | 6 | |
| | Functioning of Registration and Stamps Department including Information Technology (IT) Audit of CARD in Andhra Pradesh | 6 | |
| 2013-14 | Public Service Delivery including functioning of IT Services (CFST) in Transport Department. | 5 | |

1.9 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter alia include critical issues in Government revenues and tax administration i.e. budget speech, white paper on state finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during past five years etc.

There were a total of 1336 units of which 301 units were planned and 350 units were audited during the year 2014-15, which is 26 per cent of the total auditable units. Besides the compliance audit mentioned above, one

performance audit was also taken up to examine the efficacy of the tax administration of these receipts.

1.10 Results of audit

1.10.1 Position of local audit conducted during the year

Test check of the records of 350 units of Commercial Taxes, Prohibition and Excise, Transport, Land Revenue, Registration and Stamps and other departmental offices conducted during the year 2014-15 showed under-assessment/ short levy/ loss of revenue aggregating ₹ 936.10 crore in 1,487 cases. During the course of the year, the Departments accepted under-assessment and other deficiencies of ₹ 28.80 crore in 244 cases which were pointed out in audit during 2014-15. The Departments collected ₹ 1.01 crore in 128 cases during 2014-15, pertaining to the audit findings of previous years.

1.10.2 Coverage of this Report

This Report contains 41 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 one Performance audit on 'Implementation of VAT (including IT Audit of VATIS)', involving financial effect of ₹ 122.44 crore.

The Departments/ Government have accepted audit observations involving ₹ 34.65 crore out of which ₹ 2.17 crore has been recovered. The replies in the remaining cases have not been received (January 2016). These are discussed in succeeding Chapters.

CHAPTER-II

TAXES/VAT ON
SALES, TRADE etc.

CHAPTER II

TAXES / VAT ON SALES, TRADE etc.

2.1 Tax Administration

The Commercial Taxes Department is under the purview of Principal Secretary to Revenue Department. The Department is mainly responsible for collection of taxes and administration of AP Value Added Tax (VAT) Act, Central Sales Tax (CST) Act, AP Entertainment Tax Act, AP Luxury Tax Act and rules framed thereunder. Commissioner of Commercial Taxes (CCT) is the Head of Department entrusted with overall supervision and is assisted by Additional Commissioners, Joint Commissioners (JC), Deputy Commissioners (DC) and Assistant Commissioners (AC). Commercial Tax Officers (CTOs) at circle level are primarily responsible for tax administration and are entrusted with registration of dealers and collection of taxes. The DCs are controlling authorities with overall supervision of the circles under their jurisdiction. There are 13 offices of Large Tax Payer Units (LTUs) headed by ACs and 104 Circles headed by CTOs functioning under the administrative control of DCs. Further, there is an Inter State Wing (IST) headed by a Joint Commissioner within Enforcement wing, which assists CCT in cross verification of interstate transactions with different States.

2.2 Internal audit

The Department does not have a structured Internal Audit Wing that would plan and conduct audit in accordance with a scheduled audit plan. Internal audit is organised at Divisional level under the supervision of Assistant Commissioner(CT). There are Large Tax Payers Units (LTUs) and circles in the State. Each LTU/circle is audited by audit teams consisting of five members headed by either CTOs or Deputy CTOs. Internal audit report is submitted within 15 days from the date of audit to DC (CT) concerned, who would supervise rectification work giving effect to findings in such report of internal audit.

2.3 Results of audit

In 2014-15, test check of the assessment files, refund records and other connected documents of the Commercial Taxes Department showed under-assessment of sales tax and other irregularities involving ₹ 87.69 crore in 853 cases which fall under the following categories as given in **Table - 2.1**

Table – 2.1: Results of audit

(₹ in crore)

| S1. No. | Categories | No. of cases | Amount |
|----------------|--|---------------------|---------------|
| 1. | Performance Audit on “Implementation of VAT (including IT Audit of VATIS)” | 1 | 27.89 |
| 2. | Allowance of Excess Input Tax | 107 | 13.11 |
| 3. | Non-levy/Short levy of Interest and Penalty | 92 | 4.59 |
| 4. | Short levy of tax on works contract | 45 | 13.74 |
| 5. | Short levy of tax under CST Act | 89 | 10.46 |
| 6. | Incorrect exemption of taxable turnover | 19 | 2.08 |
| 7. | Short levy of tax due to application of incorrect rate of tax | 43 | 3.20 |
| 8. | Under-declaration of VAT | 34 | 2.75 |
| 9. | Other irregularities | 423 | 9.87 |
| | Total | 853 | 87.69 |

During the year, Department accepted under-assessments and other deficiencies of ₹ 37.42 crore in 309 cases. Of these ₹ 32.59 crore involving 113 cases were pointed out by Audit during the year 2014-15. An amount of ₹ 0.87 crore was realised in 63 cases during the year.

“Implementation of VAT (including IT audit of VATIS)” involving ₹ 27.89 crore and a few illustrative cases involving ₹ 9.24 crore are discussed in the following paragraphs.

2.4 Performance Audit on “Implementation of VAT (including IT audit of VATIS)”

2.4.1 Introduction

The Andhra Pradesh Value Added Tax Act (AP VAT Act) was introduced in 2005 to provide for and consolidate the laws relating to levy of value added tax on sale or purchase of goods in the State. It replaced Andhra Pradesh General Sales Tax Act, 1957 (APGST Act). Rules supporting AP VAT Act, known as Andhra Pradesh Value Added Tax Rules (AP VAT Rules) were also introduced in the same year. The Commercial Taxes Department uses an IT system known as Value Added Tax Information System (VATIS) to aid the implementation of the Act in the State.

2.4.2 Organisational setup

Commercial Taxes Department (CTD) is under the purview of the Principal Secretary, Revenue Department at the Government level. At Commissionerate level, Commissioner of Commercial Taxes (CCT) is the head of the Department and is assisted by Additional Commissioners, Joint Commissioners (JC), Deputy Commissioners (DC) and Assistant Commissioners (AC). Divisional offices at field level are headed by the DCs and are assisted by the ACs, Commercial Tax Officers (CTO), Deputy

Commercial Tax Officers (DCTO) and Assistant Commercial Tax Officers (ACTO).

There are 117 assessing offices functioning under the administrative control of the DCs consisting of 13 Large Taxpayer Units⁴ (LTUs) headed by ACs and 104 circles headed by the CTOs.

2.4.3 Audit Objectives

The Performance Audit was conducted to

- assess the adequacy of systems in place to ensure compliance with legal provisions relating to registration, scrutiny of records and cancellation of registration of the dealers;
- assess the effectiveness of the system of assessments; and
- evaluate adequacy of IT Policy and relevant controls.

2.4.4 Scope, Sources of Audit Criteria and Methodology

Performance Audit on Implementation of Value Added Tax (including IT Audit of VATIS) covers the period from 2011-12 to 2013-14 and was conducted from September 2014 to May 2015. The performance of the Department was benchmarked against the following audit criteria:

- APVAT Act and Rules, 2005
- VAT Audit Manual⁵ issued by the Government of AP and
- Orders/notifications issued by the Government/Department from time to time
- Citizen's charter 2012

For conducting this Performance Audit, out of the 13 LTUs and 104 circles, two LTUs⁶ and 13 circles⁷ were selected by simple random sampling method. IT audit of VATIS for the period from April 2011 to March 2014 was also conducted as part of the Performance Audit. Data related to selected sample (15 units) was extracted from the centralised data provided by the CCT and was analysed using IDEA software. The general controls and application controls were evaluated with reference to audit objectives.

⁴ Large Taxpayer Units have under their jurisdiction 25-50 dealers of each Division selected on the basis of criteria like tax payments, complexity of transactions, etc. as decided by the CCT.

⁵ The Department revised manual during 2012.

⁶ DC(CT) Kurnool and DC(CT) Nellore,

⁷ Adoni-II, Akividu, Ananthapur-II, Bhimavaram, Chilakaluripet, Chittoor-I, Hindupur, Kurupam Market, Morrispet, Peddapuram, Tadepalligudem, Rajam and Vinukonda.

2.4.5 Acknowledgment

Audit acknowledges co-operation extended by the Department in providing server data, records and other necessary information. The entry conference was held on 2 December 2014 with the Special Commissioner (CT) and Departmental officers in which the Department was appraised of the scope and methodology of audit. An exit conference was held on 30 October 2015 in which the audit results and recommendations were discussed with the representatives of the Department and the Government. The Government was represented by the Special Chief Secretary while the Department was represented by the CCT. Responses of the Government and Department have been suitably incorporated in the Report.

Audit Findings

Adequacy of systems for compliance

CTD is responsible for ensuring that eligible dealers in the State are registered and are paying appropriate tax. Provisions have been made in the VAT Act, Rules and Manuals to protect the interests of the Government revenue as well as to streamline the processes. Registration of dealers provides the basis for controlling the VAT dealers.

The registered dealers are mandatorily required to submit their returns and supporting documents. These form the basis for calculation of the tax liability/ITC of the dealers by CTD.

Cancellation of registration can be done on the request of the dealer or by CTD if certain legal provisions have been violated by the dealer. In such cases, audit is to be conducted by the CTD to ensure that the Government revenues are protected.

2.4.6 Non-conducting of street surveys for identifying new dealers

Section 17 of the APVAT Act, 2005 provides that every dealer other than a casual dealer shall be liable to be registered in accordance with the provisions of the Act. It further provides that dealers having turnover more than ₹ 7.5 lakh but less than ₹ 50 lakh should get registered as 'Turnover Tax' (TOT) dealer and dealers with turnover more than ₹ 50 lakh should invariably be registered as VAT dealers. With a view to identify such dealers who are liable to be registered and pay tax but have remained unregistered, street survey is an important tool. Appendix V of the VAT Audit Manual prescribes conducting of street surveys to identify and ensure registration of dealers. However, neither any procedure nor a periodicity has been prescribed.

Audit observed that street surveys had not been conducted in any of the 13 selected circles during the period covered under audit. In the absence of any such surveys CTD deprived itself of the opportunity of detecting the eligible unregistered dealers and bringing them under the tax net. However, there is no other enabling provision in this regard. The matter had earlier been

raised in the Report of Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009.

The matter was referred to the Department (September 2014 and May 2015) and to the Government (October 2015). The Government stated (December 2015) that circular instructions were issued to the Deputy Commissioners (CT) of all Divisions in the State to allot street survey programmes to ACTOs in the Circles under their jurisdiction in order to identify and register dealers who are to be registered as VAT/TOT dealers.

However, copy of the circular instructions was not provided to Audit and during the course of audit the CTOs had stated that no street surveys were conducted during the period covered under audit.

2.4.7 Absence of penal provisions resulted in non-compliance

2.4.7.1 Non-filing of VAT 200A and VAT 200 B returns

According to Section 13(6) of APVAT Act, Input Tax Credit (ITC) for transfer of taxable goods outside the State otherwise than by way of sale was to be allowed for the amount of tax in excess of four *per cent*/five *per cent*⁸. As per Section 13(5), no ITC is to be allowed if inputs are used for manufacture of exempt goods. As per Rule 20 of AP VAT Rules, dealers to whom Sections 13 (5) or (6) apply, are to file VAT 200A returns monthly and VAT 200B returns annually. These returns give the breakup of the transactions which are required for correct calculation of ITC eligibility in the case of interstate transfer of goods/manufacture of exempt goods. However, there was no provision for imposing any penalty for non-submission of these returns.

During the course of audit, in 12 circles⁹ it was noticed (December 2014 to May 2015), from VATIS data analysis that in 9,450 cases dealers had effected transfers of taxable goods to their branches outside the State, sold exempt goods within the State and claimed ITC amounting to ₹ 666.50 crore during the period 2011-14. Unlike VAT 200, there was no provision in VATIS for online submission of VAT 200A and VAT 200B returns and the manual copies were also not made available to Audit. In the absence of these returns, correctness of ITC claims could not be checked. The AAs could not insist on compliance as there was no penal provisions in the Act/Rules.

The matter was referred to the Department (August 2015) and to the Government (October 2015). Government stated (December 2015) that online filing of VAT 200A and VAT 200B has been made mandatory in VATIS from June 2015. For the previous period, it is stated that if any irregularities were noticed during the course of audit, demands were being raised. However, it does not ensure the corrective measures taken in all the cases pointed out by Audit, as all cases are not selected for VAT audit. Further, Government has not addressed the issue of penal provisions for non-compliance.

⁸ Tax rate revised from four to five *per cent* from 14 September 2011 vide Act No. 11 of 2012.

⁹ CTOs- Adoni-II, Akividu, Ananthapur-II, Bhimavaram, Chilakaluripet, Hindupur, Kurupam Market, Morrispet, Peddapuram, Rajam, Tadepalligudem and Vinukonda.

2.4.7.2 Non-filing of financial statements

Para 5.12 of VAT Audit Manual prescribes mandatory basic checks on figures reported by VAT dealers in their monthly VAT returns, and comparison of the figures with those recorded in certified financial statements to detect under-declaration of tax, if any. As per Rule 25(10) of AP VAT Rules, every VAT dealer whose annual total turnover is more than ₹ 50 lakh shall furnish, for every financial year, the financial statements certified by a Chartered Accountant, on or before 31 December subsequent to the financial year to which the statements relate.

Audit noticed (September 2014 to May 2015) in nine circles¹⁰ from the data available in VATIS for the years 2011-14 that in all 7,942 cases¹¹, VAT dealers (who had a turnover of more than ₹ 50 lakh during the financial year) did not submit the audited financial statements. Neither had the dealers complied with the provisions under Rules nor did the AAs insist for submission of financial statements. In the absence of certified financial statements, CTD cannot check whether the turnover disclosed in the returns are correct unless the dealers are selected for audit.

There was a provision under section 14(1-B) of Andhra Pradesh General Sales Tax Act 1957, to levy penalty on non-submission of financial statement duly certified by the Chartered Accountant. In the AP VAT Act, these provisions were dispensed with, owing to which the AAs could not insist on compliance.

The matter was referred to the Department (between September 2015 and October 2015) and to the Government (October 2015). The Government stated (December 2015) that though filing of certified financial statements is mandatory as prescribed under the Rules, compliance with the statutory stipulation, by most of the dealers has not been satisfactory. In order to overcome the difficulties in enforcing the filing of audited financial statements, an amendment incorporating a penal provision in the APVAT Rules, 2005 was being contemplated. The AAs had been directed to obtain certified financial statements for the earlier periods from the defaulting dealers and returns cross-verified with them.

2.4.8 Effectiveness of the system of assessment

During the course of audit of the two DC(CT) offices and 13 circles, test check of files and VATIS data analysis, cases of short/non-levy of taxes due to incorrect allowance of ITC, adoption of incorrect rate of tax, incorrect declaration of taxes and non-levy of penalty and interest on belated payment of taxes etc. were noticed. The cases are discussed in following paragraphs.

¹⁰ CTOs- Adoni-II, Akividu, Ananthapur, Chilakaluripet, Chittoor-I, Hindupur, Peddapuram, Rajam and Tadepalligudem.

¹¹ One case means one financial year for which tax was to be assessed.

2.4.8.1 Non-levy of interest and penalty on belated payments

As per Section 22 (2) of APVAT Act, in case of delayed payment of taxes, dealers have to pay interest at 1.25 *per cent*¹² per month on tax due for the period of delay from the prescribed or specified date for its payment. Further, according to Section 51(1) of AP VAT Act, where a dealer fails to pay tax due on the basis of the return submitted by him by the last day of the month in which it is due, he shall pay penalty of 10 *per cent* of the amount of tax due.

During the course of audit it was noticed in two DC(CT) offices¹³ and 13 circles¹⁴ (September 2014 to May 2015) that the AAs had not levied interest and penalty in respect of 42 dealers, though they had paid tax with the delay ranging from five days to 340 days. The total non-levy of interest and penalty works out to ₹ 65 lakh.

2.4.8.2 Adoption of incorrect rate of tax

As per Section 4(1) of AP VAT Act, every VAT dealer shall pay tax on every sale of goods, at the rates specified in the Schedules. During the course of audit, in two circles¹⁵ Audit (December 2014 to April 2015) noticed from the returns and records for the period from 2011-12 to 2013-14 of two dealers that they had adopted the rate of tax as four/five *per cent* on the sales turnover of ₹ 9.03 crore, whereas the purchase orders, against which the sales were made, indicated that the goods sold were water storage tanks and steel structures, on which tax at the rate of 12.5/14.5 *per cent* was leviable. The AAs did not check the returns and sales records of the dealer. This resulted in short payment of tax of ₹ 1.61 crore.

2.4.8.3 Under-declaration of purchase tax

As per Section 4(4) of APVAT Act, every VAT dealer, who purchases taxable goods from unregistered VAT dealers shall pay tax at four *per cent* on the purchase price of such goods, if the goods are (i) Used as inputs for goods which are exempt from tax under the Act; (ii) Used as inputs for goods, which are disposed of otherwise than by way of sale in the State.

In Akividu circle, Audit noticed (April 2015), that owing to inadequate scrutiny of returns, the AAs did not notice the non-payment of purchase tax by four dealers during 2012-13 and 2013-14. The dealers had purchased paddy amounting to ₹ 37.42 crore from un-registered dealers and derived taxable sales (₹ 42.47 crore) of rice and exempt sales (₹ 79.25 lakh) of husk. However, they had not paid proportionate purchase tax on paddy which was used for making exempt sale of husk. This resulted in non-payment of purchase tax of ₹ three lakh.

¹² One *per cent* of tax due up to 14 September 2011 and 1.25 *per cent* from 15 September 2011 per month.

¹³ DC(CT) Kurnool and DC(CT)Nellore.

¹⁴ CTOs- Adoni-II, Akividu, Ananthapur-II, Bhimavaram, Chilakaluripet, Chittoor-I, Hindpur, Kurupam Market, Morrispet, Peddapuram, Tadepalligudem, Rajam and Vinukonda.

¹⁵ CTOs- Ananthapur-II and Peddapuram.

2.4.8.4 Variations between the figures of returns and financial statements

Audit noticed in DC(CT) Kurnool (October 2014), that the AA did not notice that there were variations between the sales turnovers as per the financial statements and those reported in VAT returns by two dealers. In all the cases the sales turnovers as per financial statements were more than those reported in VAT returns for the year 2012-13. There was under-declaration of turnover by ₹ 34.92 crore resulting in short payment of tax of ₹ 1.73 crore. This indicates absence of proper scrutiny of returns and cross linking with the financial statements submitted by the dealers¹⁶.

2.4.8.5 Incorrect claim of ITC

As per Section 13(1), no ITC shall be allowed on tax paid on the purchase of goods specified in Schedule VI. Provisions under Sections 13(5) and 13(6) stipulate restrictions on claiming ITC. As per Rule 20 of the AP VAT Rules, a VAT dealer making taxable sales, exempt sales and exempt transactions of taxable goods shall restrict his ITC as per the prescribed formula¹⁷.

Audit noticed in five circle offices¹⁸ (November 2014 to April 2015) from VAT 200, VAT 200A and VAT 200B returns of seven dealers for the years from 2010-11 to 2013-14, that these dealers were making exempt sales, taxable sales and/or exempt transactions of taxable goods and Schedule VI goods but ITC was claimed without applying the prescribed formula for restrictions. This resulted in excess claim of ITC of ₹ 1.07 crore.

2.4.8.6 Under-declaration of tax under works contract

As per Section 4(7)(a), every dealer executing works contracts shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under the Act. As per Section 13(7) of the Act, VAT dealers paying tax under Section 4(7)(a) of the Act can claim ITC at 75 per cent (90 per cent till 14 September 2011) of the related input tax. Rule 17 of AP VAT Rules specify the methods in which the turnover and ITC of works contractors are to be calculated and taxes levied. In two circles¹⁹ Audit noticed (March and April 2015), from VAT 200 returns of four works contractors that they had paid tax incorrectly, instead of arriving at tax due as per the provisions under Rule 17. This resulted in under-declaration of tax of ₹ four lakh.

¹⁶ As per section 2(35) of Act, 'Tax period' means a calendar month. As per section 20 of the Act read with Rule 23 of AP VAT Rules, every VAT dealer shall file a return within 20 days after the end of the tax period. Further, the return so filed shall be subject to scrutiny to verify the correctness of calculation, application of correct rate of tax and input tax credit claimed therein and full payment of tax payable.

¹⁷ $A*B/C$, where A is the input tax for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

¹⁸ CTOs- Adoni-II, Chilakaluripet, Hindupur, Peddapuram and Vinukonda.

¹⁹ CTOs- Chittoor-I and Peddapuram.

2.4.8.7 Under-declaration of turnover by Bar and Restaurants (Hoteliers)

As per Section 4(9)(c) of the Act, every dealer, whose annual total turnover is ₹ 1.5 crore and above shall pay tax at the rate of 14.5 *per cent* of the taxable turnover of the sale or supply of goods, being food or any other article for human consumption or drink, served in restaurants, sweet-stalls, clubs, any other eating houses or anywhere whether indoor or outdoor or by caterers. Section 2(39) defines ‘Total Turnover’ as the aggregate of sale prices of all goods, taxable and exempted, sold at all places of business of the dealer in the State.

In Chilakaluripet and Ananthapur circles Audit noticed (December 2014 to May 2015) that three dealers running bar and restaurants declared the turnover during the period from 2011-12 to 2013-14, at less than ₹ 1.5 crore and paid VAT at five *per cent* on the sale of food only. However, annual total turnover of the dealers including the liquor sales as per the data obtained by Audit from Andhra Pradesh Beverages Corporation Limited was more than ₹ 1.5 crore per annum and the dealers were liable to pay tax at 14.5 *per cent*. Under-declaration of turnover by excluding the liquor sales, resulted in under-declaration and short payment of VAT to the tune of ₹ five lakh. The AAs did not check the correctness of turnover declared by the dealers though they had been registered as ‘bar and restaurant’. Out of three cases, in one case at Ananthapur-II circle, VAT audit was conducted but Audit Officer (AO) did not notice the omission and levy appropriate tax.

2.4.8.8 Under-declaration of tax on hire charges

In terms of Section 4(8) of the Act, on every VAT dealer who transfers the rights to use goods taxable under the Act for cash, deferred payment or other valuable consideration, tax is to be levied at the rates specified in the Schedules, on the total amount realised or realisable for such transfer.

In Kurnool Division and Peddapuram circle, Audit noticed (April and October 2015) that four dealers did not declare the hire charges of lorries amounting to ₹ 14.01 crore collected during the years 2009-10 to 2012-13 in their sales turnover. The AA did not notice non-payment of VAT on omitted sales turnover due to inadequate scrutiny of returns, resulting in non-levy of tax of ₹ 2.02 crore. Though out of the four cases, in two cases of Peddapuram circle VAT audit was conducted, the Audit Officer did not notice the omission and levy appropriate tax.

All these observations were referred to the Department (September and October 2015) and to the Government (October 2015). The Government stated (December 2015) that the concerned AAs had already initiated action for revising the assessments in accordance with the objections raised by Audit.

2.4.9 Non-levy of interest on belated payment of deferred sales tax

Under ‘Target 2000 sales tax incentives scheme’ promulgated by the State Government in 1996, industrial units were allowed deferment of sales tax to the extent of incentive limit as mentioned in Final Eligibility Certificate

(FEC). When AP VAT Act was introduced, all industrial units availing tax holiday or tax exemption on the date of commencement of the Act were to be treated as units availing tax deferment under Section 69 of the Act. As per Rule 67 of AP VAT Rules, the repayment of deferred tax was to commence after the completion of the deferment period. In case of non-remittance of deferred sales tax on the due dates under the ‘Target 2000 sales tax incentives scheme’, interest at 21.5 *per cent* per annum was to be paid as per the conditions mentioned in the FECs.

In four circles²⁰ Audit noticed (September 2014 to April 2015), from tax deferment records that nine dealers had paid deferred tax amounting to ₹ 51 lakh with delay²¹, on which they were liable to pay interest at the rate of 21.5 *per cent* per annum. However, Department did not levy interest of ₹ 19 lakh on belated payments.

The matter was referred to the Department (August 2015) and to the Government (October 2015). The Government stated (December 2015) that the concerned AAs had already initiated action for levying interest in accordance with the observation made by Audit.

2.4.10 VAT Audits

As per para 5.12 of the VAT Audit Manual, every Audit Officer (AO) shall exercise the basic checks prescribed such as verification of the purchase particulars, comparison with the financial statements, verification of payment of output tax etc., and enclose these particulars along with the audit files. Para 5.12.4 and Appendix VIII of the VAT Audit Manual on “examination of annual accounts” prescribes verification of the financial statements of the dealers so as to review any disparities between the details available in the VAT returns submitted by the dealer and his financial statements for that period.

VAT audits cover only around 10 *per cent* of dealers every year which may not be sufficient to prevent leakage of revenue. No norms have been prescribed for conducting minimum number of VAT audits in VAT Audit Manual. The details of VAT audits conducted during the period from 2011-12 to 2013-14 in the erstwhile combined State of AP are as follows:

| Year | Total no. of registered dealers | Audits completed | Percentage of audits with respect to dealers | Revenue from VAT audits (₹ in crore) |
|-----------------------------|---------------------------------|------------------|--|--------------------------------------|
| 2011-12 | 1,89,945 | 18,947 | 9.97 | 493.78 |
| 2012-13 | 2,30,381 | 23,468 | 10.19 | 823.55 |
| 2013-14 (upto Dec. 2013) | 2,78,693 | 14,080 | 3.05 | 863.67 |

²⁰ CTOs- Adoni-II, Akividu, Morrispet and Peddapuram.

²¹ ranging from 28 days to 2096 days.

Audit reviewed VAT audit files and observed the following system and compliance deficiencies which reflect on the quality/insufficient checks being carried out in VAT audits.

2.4.10.1 Non-completion of VAT audit before cancellation of registration

As per Rule 14(4) of AP VAT Rules 2005, every VAT dealer whose registration is cancelled under this rule shall pay back ITC availed in respect of all taxable goods on hand on the date of cancellation. In the case of capital goods on hand on which ITC has been received, the ITC to be paid back shall be based on the book value of such goods on that date. The VAT Audit Manual clearly prescribes several guidelines for selecting units for audit. It is laid down in the Manual that if a dealer applies for cancellation, an audit should be conducted to ascertain the correctness of ITC availed by the dealer and only after completion of audit, the cancellation was to be done.

During the course of audit it was noticed (October 2014 to May 2015) in eight circles²² for the period from 2011-14 that CTD did not audit 1,685 dealers before the cancellation of their registrations owing to which the correct ITC to be recovered from such dealers could not be checked. The self-assessments made by the dealers in the VAT 200 returns would be considered deemed to have been assessed due to not auditing them. Thus protection of revenue was not ensured in these cases.

The matter was referred to the Department (September and October 2015) and to the Government (October 2015). The Government stated (December 2015) that instructions had been issued to the DCs (CT) to ensure that revenue due to the Government is realised by conducting audits, if the dealers had availed ITC or they had tax liabilities to be discharged. They also stated that guidelines would be formulated in this regard. However, CTOs Chittoor-I and Peddapuram had intimated (March and April 2015) that VAT audit could not be conducted due to insufficient staff.

2.4.10.2 Non-receipt of records after audit

The CCT issued circular instructions²³ to DCs to authorise audits to any officer of the Division not below the rank of DCTO. After completion of audits, audit files were to be transferred to the circles where the dealers were registered for further action to collect taxes, penalty and interest. Further, CCT issued instructions²⁴ to DCs to ensure that the demands raised according to the audits were taken into account by the relevant circle.

During the course of audit of eight circles²⁵ (October 2014 to May 2015), VAT audit records in respect of 1,771 cases for the period 2011-14 were called for by Audit. However, the Department could produce only 704 audit

²² CTOs- Adoni-II, Akividu, Ananthapur-II, Chilakaluripet, Chittoor-I, Hindupur, Peddapuram and Tadepalligudem.

²³ CCTs Ref. No. B.II(2)/122/2006 dated 04 October 2006.

²⁴ No.BV(3)/120/2008 dated 16 April 2008 (Appendix XVIII of VAT Audit Manual).

²⁵ CTOs- Adoni-II, Akividu, Ananthapur-II, Chilakaluripet, Hindupur, Rajam, Tadepalligudem and Vinukonda.

files. For the remaining 1,067 audit files, it was observed that those were not received in the respective jurisdictional circle offices after completion of VAT audit. Due to non-receipt of the audit files, the compliance of the assessments finalised could not be ensured. Monitoring of the demands raised cannot be done by the respective CTOs in the absence of documents.

After Audit pointed out the cases, the AAs stated that the matter would be brought to the notice of DCs for necessary action.

The matter was referred to the Department (September and October 2015) and to the Government (October 2015). Government accepted the observation and stated (December 2015) that all the AOs were being directed to ensure that files in respect of the audits completed, were sent to the concerned Circles/LTUs promptly. DCs (CT) had also been directed to monitor and ensure that delays were avoided. Disciplinary action would be initiated against the officials responsible for delays if they were abnormal.

2.4.10.3 Improper maintenance of VAT audit files

It was observed (October 2014 to May 2015) during test check of 2,098 cases in two DC(CT) offices²⁶ and 13 circles²⁷ that there were several omissions in the audit files as indicated in the following table.

| Sl. No | Type of omission | No. of cases (percentage) |
|--------|---|--|
| 1. | Audit officers did not enclose the checklist | 969 files (46.19 per cent of the test checked cases) |
| 2. | P&L account was not enclosed | 672 cases (32.03 per cent) |
| 3. | Purchase particulars were not enclosed | 942 cases (44.90 per cent) |
| 4. | Returns were not available | 808 cases (38.51 per cent) |
| 5. | Details of G.I.S data were not available | 1,717 cases (81.84 per cent) |
| 6. | Non-verification of filing of statutory forms | 1,653 cases (78.79 per cent) |
| | Total | 2,098 |

Due to the above mentioned omissions, Audit could not verify the accuracy of the assessment/penalty orders.

The issues were brought to the notice of the AAs (between October 2014 and May 2015). They replied that the matter would be brought to the notice of concerned DCs(CT).

The matter was referred to the Department (September and October 2015) and to the Government (October 2015). No specific reply was received from the Government.

²⁶ DC(CT) Kurnool and DC(CT) Nellore.

²⁷ CTOs- Adoni-II, Akividu, Ananthapur-II, Bhimavaram, Chilakaluripet, Chittoor-I, Hindupur, Kurupam Market, Morrispet, Peddapuram, Rajam, Tadepalligudem and Vinukonda.

2.4.10.4 Leakage of revenue due to non-compliance with provisions

As per para 5.12 of the VAT Audit Manual, every AO shall exercise the basic checks prescribed such as verification of the purchase particulars, comparison with the financial statements, verification of payment of output tax etc., and enclose these particulars along with the audit files.

VAT audit is the final stage of scrutiny for finalisation of assessment. A scrutiny of VAT audit files revealed that deficient exercise of checks during VAT audit resulted in short levy of tax due to incorrect adoption of rate of tax, incorrect restriction/allowance of ITC, incorrect determination of taxable turnover, short/non-levy of penalties and interest as discussed in the following points.

- Audit noticed (September 2014 to May 2015), in DC(CT) Kurnool and eight circles²⁸ from VAT audit files of 19 dealers that turnovers reported in their VAT 200 returns for the period from 2006-07 to 2012-13 did not tally with those reported in financial statements. During the course of VAT audit, the AOs did not notice this issue. This resulted in short levy of tax of ₹ 1.06 crore that could have been prevented if the audit checks had been mandatorily followed.
- In four circles²⁹ (December 2014 to May 2015), Audit observed from VAT audit files of six dealers that the AOs, while finalising the assessments for the period from 2008-09 to 2013-14, allowed incorrect rate of tax/exemption on taxable turnovers. This resulted in non-levy of tax of ₹ 11.15 crore.
- Audit noticed (September 2014 to February 2015) in two circles³⁰ from the VAT audit files of two dealers that, during the period from 2005-06 to 2013-14 the dealers had paid tax after due date i.e. 20th of succeeding month of the month of return. However during the course of VAT audit, the AOs did not levy interest on belated payment of taxes. This resulted in non-levy of interest of ₹ 13 lakh.
- Audit noticed (September 2014 to May 2015) in two DC(CT) offices³¹ and seven circles³² from VAT audit files of 15 dealers that AOs levied tax on turnover under-declared by the dealers during the financial years from 2008-09 to 2013-14. However, penalty of ₹ 90 lakh was not levied/short levied.
- Audit noticed (May 2015) in CTO Chilakaluripet from an audit file of a dealer that he had purchased cotton amounting to ₹ 5.33 crore from unregistered dealers and derived taxable sales (₹ 8.47 crore) of cotton

²⁸ CTOs- Adoni-II, Ananthapur-II, Chilakaluripet, Chittoor-I, Kurupam Market, Hindupur, Morrispet, Rajam.

²⁹ CTOs- Ananthapur-II, Chilakaluripet, Hindupur and Rajam.

³⁰ CTOs- Adoni-II and Chilakaluripet.

³¹ DC(CT) Kurnool and DC(CT) Nellore.

³² CTOs- Adoni-II, Akividu, Ananthapur-II, Chilakaluripet, Chittoor-I, Hindupur and Kurupam Market.

lint and exempt sales (₹ 3.22 crore) of hank yarn during the period 2009-10 to 2012-13. However, the dealer had not paid proportionate purchase tax on cotton which was used for making exempt sale of hank yarn. The AO during the VAT audit did not levy purchase tax of ₹ six lakh.

- In Chittoor-I circle, it was noticed (March 2015) from the VAT Audit files of two dealers of textiles and fabrics (to be taxed at five *per cent* or at one *per cent* if dealer opted to pay under composition) for the year 2012-13, that both the dealers did not pay any tax by incorrectly declaring the sale of textile and fabrics as exempt sale. However, the AO allowed exemption instead of levying tax at five *per cent*. This resulted in non/short levy of tax of ₹ 25 lakh.
- In seven circles³³ (September 2014 to March 2015) it was noticed from VAT audit files of 12 dealers that the dealers were engaged in exempt sales/exempt transactions along with taxable sales and were to claim ITC proportionately. However they had claimed full/excess ITC during the years 2008-09 to 2013-14. This was not observed in VAT audit by AOs which resulted in incorrect allowance of ITC amounting to ₹ 4.61 crore.
- In Chilakaluripet circle (May 2015) it was noticed from the audit files of three dealers that they were engaged in exempt sales/exempt transactions along with taxable sales and were to claim ITC proportionately. However they had declared full/excess ITC during the years 2007-08 to 2012-13 and claimed refunds. While conducting refund audit the AO did not restrict the ITC which resulted in excess allowance of refund amounting to ₹ 23 lakh.
- As per Section 4(7)(e) of AP VAT Act, if any dealer having opted for composition, purchases any goods from outside the State and uses such goods in the execution of works contracts, he shall pay tax at the rates applicable to the goods under the Act and the value of such goods shall be excluded (from the turnover) for the purpose of computation of turnover on which tax by way of composition at four *per cent* is to be paid. In DC(CT) Kurnool Division (October 2014), Audit observed from VAT audit file that a dealer had opted to pay tax under composition and purchased goods from outside the State during the years 2009-10 to 2010-11. The dealer incorporated such goods in the works and was liable to pay tax at the rates applicable. However during the course of VAT audit, the AO finalised the assessment under non-composition instead of levying tax on interstate purchase under composition and arrived at incorrect tax due. This resulted in short levy of tax of ₹ 94 lakh.
- In the office of DC (CT) Kurnool and six circles³⁴ (September 2014 to May 2015) it was noticed from VAT audit files of nine dealers for the

³³ CTOs- Akividu, Ananthapur-II, Bhimavaram, Chilakaluripet, Hindupur, Tadepalligudem and Vinukonda.

³⁴ CTOs- Akividu, Ananthapur-II, Chittoor-I, Kurupam Market, Morrispet, Tadepalligudem.

period from 2006-07 to 2012-13 that the AOs arrived at taxable turnovers under works contract incorrectly by allowing ineligible deductions and adoption of incorrect rate of tax resulting in short levy of tax of ₹ 41.61 lakh.

- As per Section 13(7) of the Act, VAT dealers paying tax under Section 4(7)(a) of the Act can claim ITC at 75 per cent (90 per cent till 14 September 2011) of the related input tax. From VAT audit files for the period from 2008-09 to 2012-13, in respect of four dealers, in three circles³⁵ (December 2014 to January 2015) it was noticed that AOs assessed incorrect tax on works contracts due to allowing excess ITC in contravention of the prescribed provisions. This resulted in short levy of tax of ₹ 15 lakh.
- As per Rule 16(1)(b) of AP VAT Rules, ITC shall only be claimed on receipt of the tax invoice. Under Section 55(2) of the AP VAT Act, any VAT dealer who issues a false tax invoice or receives or uses such tax invoice, knowing it to be false, shall be liable to pay a penalty of 200 per cent of the tax evaded. Audit noticed (April 2015) in Adoni-II circle, from VAT audit file of a dealer that the dealer made purchase of vegetable oil from various dealers and submitted tax invoices with waybills for claiming ITC. Audit crosschecked the details of the transactions mentioned in invoice and waybills. It was observed that as per the waybills, the quantity of oil transported through each waybill ranged from 11,110 kg to 22,610 kg. Verification of vehicle registration numbers mentioned in the waybills from the website of Transport Department of Andhra Pradesh revealed that those vehicle numbers belonged to autorickshaw, goods carriage, trailers etc. through which such large quantities could not be transported. The AO neither disallowed claim of ITC amounting to ₹ 20 lakh on fictitious way bills and invoices nor levied penalty as per the provisions mentioned above. Not verifying the details during audit resulted in incorrect allowance of ITC and non-levy of penalty of ₹ 60 lakh.

From the cases mentioned above it is clear that the VAT audits conducted did not ensure compliance with Rules.

The issues were brought to the notice of the Department (September and October 2015) and to the Government (October 2015). The Government stated (December 2015) that the AAs had already initiated action for levying interest/penalties or for revising the assessments in accordance with the objections raised by Audit.

2.4.11 Internal audit

Department does not have a structured Internal Audit Wing that would plan and conduct audit in accordance with a scheduled audit plan. Internal audit is organised at Divisional level under the supervision of Assistant Commissioner

³⁵ CTOs- Ananthapur-II, Hindupur and Kurupam Market.

(CT). Internal Audit Report is to be submitted within 15 days from the date of audit to the DC(CT) concerned, who would supervise rectification work.

2.4.11.1 During the course of test check of the two DC(CT) offices and 13 circles (September 2014 to May 2015) it was observed in DC(CT) Kurnool and seven circle offices³⁶ that in three circles³⁷ internal audit was not conducted for 2012-13 and 2013-14 and report for the year 2011-12 had not been received. In three circles³⁸ internal audit was conducted for the year 2013-14 but reports were not issued. In remaining two offices³⁹ internal audit had not been conducted for the year 2013-14. From the above it is evident that the internal audit mechanism was not effective during the period covered under Performance Audit.

The matter was referred to the Department (September 2014 to May 2015) and to the Government (October 2015). The Government stated (December 2015) that instructions had been issued by DCs(CT) to AC(CT) (Audit) in the Division to concentrate on internal audit. CTO (Audit) should concentrate only on internal audit and AG audit. DCs (CT) of all Divisions had also been directed to ensure that backlog in the completion of annual internal audit be cleared within the time prescribed by the Department.

2.4.11.2 As per para 4.96 of the Manual, the allocation of audit cases should be recorded on a computerised listing in divisional and circle offices with date of allocation, date of audit and date of finalisation. A watch register is to be maintained for monitoring the details of audit in each office.

It was noticed that the watch registers with details of authorisation of VAT audits were not maintained in DC(CT) Kurnool and four circle offices⁴⁰ without which the information on the status of audits authorised and completed could not be verified. There was a risk of duplicate or erroneous authorisation of VAT audits in the absence of the watch registers. Audit noticed (December 2014 to January 2015) that in cases of 10 dealers in Ananthapur-II circle and nine dealers in Hindupur circle, VAT audits for same period were authorised during 2009-10 and 2011-12 to two different AOs in each case.

The matter was referred to the Department (September and October 2015) and to the Government (October 2015). The Government stated (December 2015) that from September 2012, audits are being allotted to the AOs through VATIS. The risk of duplicate or erroneous allocation of audits, as pointed out by Audit is not possible through the above computerised programme and hence there was no need for maintaining a watch register in each office separately. However, Audit noticed instances of erroneous authorisation made after September 2012, which is indicative of failure/non-implementation of monitoring system through VATIS.

³⁶ CTOs- Adoni-II, Akividu, Ananthapur-II, Bhimavaram, Chilakaluripet, Chittoor-I and Hindupur.

³⁷ CTOs- Adoni-II, Ananthapur-II and Hindupur.

³⁸ CTOs- Akividu, Bhimavaram and Chilakaluripet.

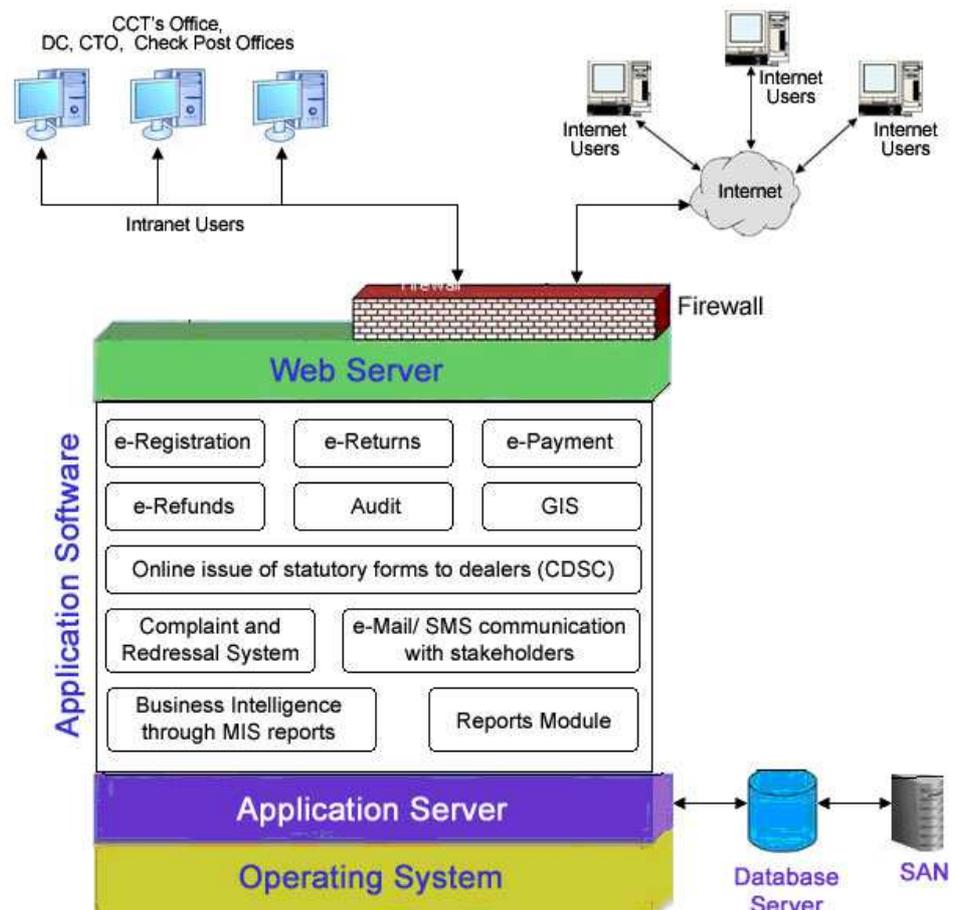
³⁹ DC(CT) Kurnool and Chittoor-I.

⁴⁰ CTOs- Adoni-II, Akividu, Ananthapur-II and Hindupur.

IT Audit of VATIS

2.4.12 Adequacy of IT policy and controls

CTD has been using Information Technology (IT) since 1989 and VATIS came into existence along with introduction of AP VAT Act in 2005. The original VATIS was developed in centralised architecture by Tata Consultancy Services Limited (TCS) and field offices were connected to the Central Data Centre located at the office of CCT. Processes relating to dealer registration, VAT/TOT returns, VAT audit and assessment, and Goods Information System (GIS) that monitors interstate transactions etc., were computerised under this. To improve the response time of the system as a part of the realigned focus of the CTD, reengineering of VATIS was conceived. It was to extend departmental services (Service Oriented Architecture) to the dealers through multiple media like Internet, e-Seva and citizen service centres (CSC). The re-engineered VATIS has modules like e-Return, e-Registration, online issue of Statutory Forms and Complaint/Feedback system. The functional architecture of VATIS is as shown below:



FUNCTIONAL ARCHITECTURE

The application has been built using Windows servers (database and application servers) with SQL Server and .NET framework. All the offices are interconnected through intranet using AP State Wide Area Network

(APSWAN) and other stakeholders are connected to the application via internet for obtaining services.

Audit conducted IT audit of Registration, Return, Audit, Payments, Refunds and Complaint / Feedback modules of VATIS application for the period April 2011 to March 2014. Data related to selected sample (15 units) were extracted from the centralised data provided by the CCT and was analysed using 'Interactive Data Extraction and Analysis (IDEA)'. The general controls and application controls were evaluated with reference to Audit objectives.

The audit revealed deficiencies in the system relating to planning and use of IT application, mapping of business rules, access controls, data capture and validations, data integrity and system security issues etc., as mentioned in the succeeding paragraphs.

2.4.12.1 Lack of documented IT policy

Information Technology Policy ensures support of computing and communication resources to the Department in order to achieve compliance with requirements and effective use of resources, duly addressing the risks in the best possible way. The IT policy needs to be prepared without ambiguity and approved by Senior Management. It has to meet the needs of CTD.

CTD does not possess an IT Policy that addresses the issues of using IT resources in accordance with applicable rules and objectives. Implementation of VATIS with the objectives of developing single core application was embarked upon⁴¹ (August 2010) to take care of all the core tax functions, providing functionality as per the guidelines of the Government, offering quality service to the departmental staff as well as the dealers and to facilitate interface with other Government Departments. However due to the lack of a documented policy addressing the alignment of requirements and implemented services, Audit could not check if the objectives had been completely achieved.

Government contended (December 2015) that the software was developed by involving a core group of senior officers, field representatives and certain members of the trade and that the user requirements were thoroughly explained to the software vendor. As the requirements were ever evolving, no emphasis was placed on formulation of a watertight IT policy. However, it is now proposed to prepare a broad IT policy for the Department.

2.4.13 VATIS Implementation

The implementation of re-engineered VATIS began in February 2012 and the system switched over to maintenance mode from May 2013. Though CTD has accepted all the modules after testing, Audit found some deficiencies relating to development approach, data migration and processes covered under VATIS including lack of mapping of business rules, data inconsistencies etc., which

⁴¹ Date of Request for Proposal (RFP).

have not been addressed even after two years of implementation. These are given below:

2.4.13.1 Piecemeal approach adopted in developing the new VATIS software

An agreement was concluded with LGS Global Ltd in April 2011. LGS was to start project implementation within 230 days of entering into contract. Request for proposal (RFP) for the purpose of re-engineering VATIS was issued in August 2010 by the Government and upon evaluation of the bids received. The implementation, however, began 10 months after agreement i.e. from February 2012. The timeline was extended initially up to September 2012 and then to April 2013. The new software (re-engineered VATIS) development model was changed from originally planned waterfall approach (all changes at once) to iterative (module wise replacement) to save cost. Meanwhile, a module for registration of dealers was developed in parallel by Centre for Good Governance (CGG) which as per the orders of CCT (March 2011) was implemented in all Divisions by June 2011. This was replaced by the registration module of the reengineered VATIS (February 2012).

Delivery of different modules took place on different dates from February 2012 (Registration module) to April 2013 (email/SMS for communication with Stakeholders). The developers were required to develop software in accordance with the System Requirement Specifications (SRS) and User Requirement Specifications (URS) which are to be frozen before implementation in order to ensure that development process is completed within timelines specified.

Audit observations pertaining to the contract for reengineering VATIS and its implementation revealed the following:

- System Requirements Specifications (SRS) document was prepared by the developer after implementation of all the modules (April 2013). This shows that the project was started without identifying the requirements of CTD and involving user groups which resulted in the creation of a system which did not meet the requirements of the Department. For example, as stated earlier in para 2.4.7.1, additional returns of VAT 200A and VAT 200B required for restricting the ITC were not being obtained from the dealers. Neither was there any provision for online submission of these returns. Audit observed that no requirement was projected with regard to this in the RFP, though filing of these additional returns is mandatory. Absence of facilities to automatically generate notices/reports also corroborates the fact.
- CTD had supplied (January 2013) IT related infrastructure to its branch offices without conducting requirement study, which is essential as different circle and divisional Offices handle varying quanta of work and manpower. The nature of transactions dealt with by them are different. It was noticed in audit that the number of systems supplied to branch offices were not as per strength of operating ACTOs, DCTOs, CTOs and DCs.

- The Department conducted module-wise testing⁴² of the application internally and gave acceptance to the developer in a phased manner along with implementation of the modules from February 2012 to April 2013 (final acceptance). Out of all the tests conducted before acceptance of the system, documentation exists only for the validation tests conducted by the developer. Audit also noticed that validation tests were conducted after implementation of the modules like audit, payment and registration. A stable production environment requires appropriate testing infrastructure. Before going for implementation of computer application, test data needs to be removed from the production database. It is observed that test cases were not separated (August 2014) from production data even though final acceptance had been given more than a year ago. These show that standard software development and testing practices were not followed.
- Change Management process enables improvement of an organisation's performance in relevance to the changes brought in to the existing system. Change management documentation ensures chronological recording of the changes adopted and becomes knowledge base for future changes to be made. Audit observed that workflow issues have not been documented and change management documentation was not produced to Audit in spite of repeated requests. No third party or security audit was conducted during the period 2011-2014 for VATIS.

The Government stated (December 2015) that reengineering of VATIS was taken up after an in-depth analysis of the defects in the then existing system. The documentation like SRS etc. was submitted formally by the developer at a later stage. Supply of infrastructure was made based on requirements projected by the field staff. With regard to testing and change management processes, currently there are only two test Taxpayer Identification Numbers (TINs) in operation to test the live problems of dealers. A third party⁴³ had also been roped in to test the VATIS application.

However, evidence of conducting a requirement assessment and formulation of an implementation plan based on these details was not given to Audit. Further, it is desirable that the test data, pertaining to earlier period, be deleted from the live database. No relevant reply for lack of change management documentation was given.

2.4.13.2 Incomplete data migration and inadequate data capture

In the case of tax Departments like CTD, maintenance of legacy data is critical. It was observed that the data that was ported from the previous version of the VATIS was not in line with the new table structures. It was found that after migrating the data to the re-engineered VATIS from old VATIS, the data

⁴² Login functionality with credentials, User Navigation, Data Entry and validation, APVAT Act specifications, Dates validation etc.

⁴³ Standardisation Testing and Quality Certification Directorate (STQC), Government of India.

columns of the re-engineered VATIS were left empty or filled in with universal data values, as no corresponding data value or column existed in the old VATIS. Thus due to ineffective data migration, CTD has to simultaneously maintain two databases, portals and associated infrastructure. It also necessitates users to hop through different portals and databases for report generation which is cumbersome to users.

Audit also observed that though it is mandatory to capture PAN, it was not captured with registration data of 230 dealers out of 15,971 active VAT dealers and 3,160 dealers out of 7280 active TOT dealers in the period 2011-14. Therefore, the data migration and data capture were not effective.

Government replied (December 2015) that the old data was not ported to avoid burden on the server and as the time periods cannot be taken up for assessment. However, the Department promised to take a decision on the same soon. Further, Department had also stated that even for missing PAN cases, the PAN capturing field has been made mandatory once a dealer logs into the system.

However, as CTD still has to maintain two databases and portals, and to build up a continuous history of dealers, it would be desirable to integrate them.

2.4.13.3 Lack of portability of data from Debt Management Unit portal

Before reengineering of VATIS, the departmental users were obtaining details pertaining to the demands of arrears by accessing the data residing on a separate Debt Management Unit portal (DMU). An observation on lack of reliable data in DMU portal had featured in Para 2.5.4 of the Report of Comptroller and Auditor General of India (Revenue Sector) for the year ended March 2014.

It was found in audit that the data of arrears from DMU portal was not directly ported to the re-engineered VATIS but was re-entered into the application manually. As the DMU data itself was not found reliable, reentering of such data into new VATIS requires assurance that the data entered is rectified while reentering. However, no certification was obtained either from Department officers concerned or from any third party service provider. The officials now cross check data existing in old VATIS/DMU with the data entered in new VATIS and also manual records of demand, collection and write off pertaining to the period before 2006 to arrive at arrears. This again necessitates users to hop through three different data groupings. This reveals lack of planning in data migration and porting.

The matter was brought to the notice of Government (October 2015). However, no specific reply was given (January 2016).

2.4.14 Processes covered under VATIS

An analysis of data and application of VATIS revealed that VATIS was not being fully utilised by CTD, either due to non-incorporation of Rules/procedures or due to lack of data/awareness. None of the processes has

been completely automated. Business rules like advance rulings and court judgments are not being mapped into system. The observations made are mentioned below:

2.4.14.1 Registration

When a dealer is applying for registration with CTD, the application must have adequate provisions for capturing important details like PAN of the dealer, the address and contact details, principal activities of the dealer and principal commodities he deals with.

A study of the registration module of the reengineered VATIS revealed that though application forms for registration as VAT dealer (VAT 100) or TOT dealer (TOT 001) could be filed online during the audit period, all the supporting documents still needed to be sent through post along with print outs of filled application forms. VATIS also allowed dealers to mention a maximum of only five principal activities and five principal commodities while applying. An analysis of data in respect of the 15 sample offices for the period 2011-14 revealed that the commodity details captured was 'others' in 3,538 cases (dealers registered before reengineered VATIS) out of 19,454 total VAT dealers. Eight such cases were registered under reengineered VATIS. Commodity wise reports cannot be generated in the absence of proper commodity classification. The details of commodities being dealt with by dealers are necessary to calculate tax liability and to monitor the transactions relating to evasion prone commodities.

Government replied (December 2015) that under APVAT Act 2005, only "principal commodities" are to be mentioned in the VAT application for registration while CST registration application mandates mentioning of all commodities that the dealer deals in as it is linked to 'C' forms.

It is incorrect to assume that the dealers can deal in only five principal commodities or have only five principal activities. The VAT application may be revised to bring it in line with CST application to ensure better monitoring of dealers.

2.4.14.2 Returns

As stated earlier, VAT 200A and 200B returns could neither be filed online nor could the details be entered in VATIS during the audit period. The calculation of tax liability/ITC claim thus require the dealer to manually file the return and the AA to manually account for the adjustments to be made on exempt transactions/sales.

VAT 200 returns also do not have commodity-wise data and details of sales/purchases (e.g. TIN of the dealer to whom a commodity was sold or from whom a commodity was purchased) but only tax rate-wise data.

Currently, from the data in VAT 200 returns, it is possible to check only if tax had been paid on the amounts declared by the dealer under each rate. There is no mechanism to capture commodity wise sales or purchases to verify whether

the dealer was dealing only in goods for which he was registered, whether the commodity was classified under the correct Schedule and whether the taxes were paid accordingly. There is no mechanism to verify if there is any disparity in sales claimed to be made by a dealer, say A to another dealer B as neither A nor B has to disclose the buyer/seller details in their monthly returns. Thus, e>Returns module of VATIS does not support cross checking of sales and purchases.

It was also observed that wherever revised returns were filed and payments made, the ledgers of the dealer and the payment status reports were showing a mismatch due to the Returns module not being updated even if Payment module was updated.

Government accepted (December 2015) audit findings and stated that provision for filing of additional returns and for cross-checking of sales and purchases have been made in the software.

2.4.14.3 Implementation of automatic notice and report generation

VATIS does not alert users to convert TOT dealers to VAT dealers based on turnover. Though it was part of RFP, automatic notice and reminder generation, and their delivery through email and SMS is not fully implemented. Interest and penalty on belated/non-filing of returns or belated payment of tax is not automatically calculated. It is left to the assessing authority to manually scrutinise the returns and related documents and levy the demand.

An analysis of payment and dealer details available in VATIS package revealed that in 16,006 cases of delayed submission of returns in Andhra Pradesh, penalty and interest amounting to ₹ 28.17 crore was not realised during the period 2011-14. This could have been avoided by automating notice generation at least in cases of belated payment/filing of returns.

It was also observed that 611 out of 19,093 active dealers who were registered before March 2011 in the sample offices did not file monthly returns and total number of such pending returns is 7,383 as on August 2014. Penalty at the rate of ₹ 2,500 for each instance of non-filing was to be charged.

Analysis of data in VATIS package also revealed that both mobile and telephone numbers were not captured for 1,043 out of 15,971 active VAT dealers. For 782 out of 15971 active VAT dealers and 1,687 out of 7,280 TOT dealers records, bank account number was not captured. For 505 out of total 19,454 VAT dealers and 105 out of 15,971 active VAT dealers email-id was not captured. Lack of these data would hamper the efforts of CTD to automate notice and reminder generation.

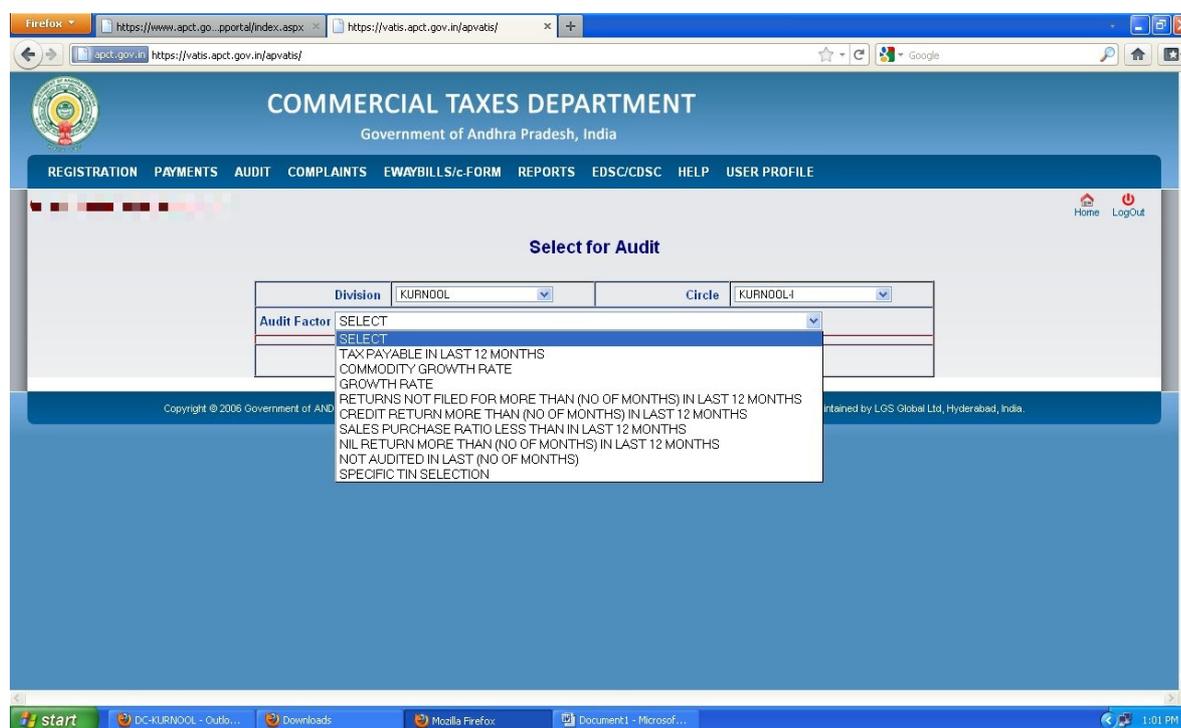
Government replied (December 2015) that dealer turnover reports are available in the MIS report module of VATIS which can be used to identify TOT dealers who need to register themselves as VAT dealers. Government has initiated steps to implement automatic generation of notices for interest and penalty and has proposed implementation of automatic generation of SMS

and email alerts. Steps to levy penalty for not filing monthly returns had been initiated.

2.4.14.4 Audit

VAT Audit Manual being currently used by CTD was brought out in June 2012 five months after the implementation of reengineered VATIS which began in February 2012. Audit module was accepted and implemented from September 2012. A comparison between the Manual and the Audit module revealed the following:

- While the VAT Audit Manual gives 15 criteria for selection of dealers for general audit, only four of these have been mapped to VATIS Audit module.



While the Audit Manual clearly stipulates that top six *per cent* of the VAT dealers excluding LTU VAT dealers are to be audited every 12 months in each Division, data available in VATIS package clearly shows that in 13 circles covered under the sample nearly 78 *per cent* of top 100 dealers who came under jurisdiction of the offices were not audited during 2013-2014.

Selection parameter wise breakup (as available in VATIS) of 1,529 audit authorizations in sample offices for the period April 2013 to March 2014 as recorded in VATIS is tabulated as follows:

| Selection parameter | Audit cases |
|---|-------------|
| Nil return more than (no. of months) in last 12 months | 1 |
| Commodity growth rate | 7 |
| Returns not filed for more than (no. of months) in last 12 months | Nil |
| Sales purchase ratio less than in last 12 months | 424 |
| Credit return more than (no. of months) in last 12 months | 50 |
| Not audited in last (no. of months) | 705 |
| Growth rate | 28 |
| Specific TIN selection | 133 |
| Tax payable in last 12 months | 181 |

This table clearly shows that audits were not selected based on parameters provided in the Manual. Selection of 133 dealers based on 'Specific TIN selection' (total 8.70 *per cent* of audit selections) shows that discretionary powers were exercised for selection of dealers for audit.

- VAT Audit Manual also calls for Specific Audit in (a) cases resulting from other audits where audit officers have identified evidence of serious fraud or based on information provided by intelligence and other agencies which require in-depth investigation and (b) cases where there is evidence of inter-state fraud or international fraud or investigation involving more than one Division should be passed on to CIU / Enforcement Wing at Headquarters.

In VATIS audit module data captured/ processed pertaining to tax declared, waybills usage, check post data, belated registrations, revised returns and interest amounts payable are not furnished as inputs for selection for specific audit. Thus business requirements have not been mapped to implementation in VATIS package for specific audits.

- Only active user_ids with designation of DC or above can authorise VAT Audits as per business rules. An analysis of data relating to authorisations in VATIS package revealed that in four cases, authorisation of audit of dealers coming under the sample offices was done by users whose user-ids were not present in user master table. In 1,627 cases out of 3,209 audits conducted (September 2012 to March 2014) of dealers in the sample offices it was observed that audit inspection details had been entered by junior assistants, instead of the officers who conducted audit. These show that logical access controls are not in place in case of audit authorizations and entry of data relating to audit inspections.
- In 24 cases among the cases where audit inspection conducted during the period from September 2012 to March 2014 in the sample offices

resulted in additional demand. However, the additional demand amounts were posted to tables but no specific reason was assigned to the additional demand. VAT audit inspection details were also not available in another 19 cases (for the three month period from January to March 2014) in audit inspection table indicating inspection details were not uploaded. These show that the Audit module is not being utilised effectively by CTD.

- VATIS also does not provide results of VAT audit to CST assessment. Thus a dealer can escape declaring his true turnover by declaring certain turnovers as relating to CST during VAT assessment and not declare it at the time of CST assessment, leading to loss of revenue to the Government.
- In 225 out of 697 cases where additional demand was raised due to audit during September 2012 to March 2014 in the sample offices, it took more than 90 days to complete assessment after serving notice. This delay may result in assessments getting time-barred.
- In 13 cases relating to the sample offices in the period from September 2012 to March 2014, it was observed that VAT audit of dealers were done by same officers consecutively against the instructions⁴⁴ of CCT.
- It was observed that cancelled dealers are not being audited as per VAT Act and only 209 out of 1,152 cancelled cases (from September 2012 to March 2014) in the sample offices were audited.

Government, while accepting (December 2015) that all the criteria prescribed was not mapped, stated that more criteria were being added. Steps to reduce discretionary powers of the officers were taken by categorizing the dealers into Large Tax Payers Units (LTUs) and High Tax Cases (HTCs). While accepting rest of the observations made, it was stated that the audit module of VATIS will be redesigned after taking inputs from the field officers.

2.4.14.5 Refund

Currently, a dealer who is eligible can apply for refund of ITC while filing the monthly returns. Audits are usually conducted before authorization of refunds to verify the claims. This is done manually as it involves cross-verification of sales/purchase particulars with CTOs under whom the dealers having business transactions with the dealer claiming the refund are registered. Details are entered in Refund module only after refund is authorized. Even the voucher for refund payment is generated manually. There is no provision for capturing voucher number and date of generation of voucher in the module. Audit test checked the data relating to refunds of the 15 sample offices where refunds had been authorized as per the VATIS package. A cross-verification of the manually maintained refund registers with VATIS data revealed that in five sample offices⁴⁵ there was mismatch in the number of refunds. There were 26

⁴⁴ CCT's Ref.No. B.II(2)/122/2006 dated 4 October 2006.

⁴⁵ DC(CT) Kurnool, CTOs- Chilakaluripet, Hindupur, Kurupam Market and Rajam.

cases in two offices⁴⁶ where corresponding register entries were not available though entries had been made in VATIS and in 12 cases⁴⁷ in which there were no corresponding entries in VATIS though refunds had been made as per the refund registers.

Government stated (December 2015) that a revamped online refund system was under development.

2.4.14.6 Grievance redressal

An analysis of entries of the table ‘CCRS_FEEDBACK’ in VATIS package relating to complaints received revealed that in 58 out of 445 complaints entered in VATIS from January 2013 to March 2014 relating to erstwhile combined State of AP, complaint details like the officer to whom complaint was addressed was not captured. Due to the faulty design of the form which allows such critical data to be omitted, these complaints could not be allocated to anyone for resolution.

Government replied (December 2015) that these features were incorporated in the revised web portal of the Department.

2.4.15 Data validation problems

Audit observed while test-checking the data relating to sample offices that data validation checks that were supposed to be incorporated in the system were either not incorporated or incorrectly incorporated resulting in the following inconsistencies:

- VATIS captures invoice details for the goods transported aboard motor vehicles passing through the State, i.e. for vehicles with origin and destination of goods in other States. The movement type assigned in VATIS for such vehicles is ‘3’. It was observed in 29 cases registered with Integrated Check Post (ICP) Naraharipeta that though the transit passes issued were with type ‘3’, the consignee details pertain to the State of AP (TIN beginning with 28). It was also observed that out of these 29 dealers, 25 dealers’ TINs do not exist in the VATIS database and in the remaining four cases, the consignee dealers were registered only under APVAT Act (without CST registration). This indicates that the GIS module of the VATIS is ineffective in preventing such cases where there are chances of evasion of tax.
- It was also observed that there were five records in ‘PAYMENT_DTL’ relating to the sample offices in the period covered under audit where ‘tax period from’ was later than ‘tax period to’.
- For 85 out of 15971 active VAT dealers of sample offices, starting date of tax liability (first tax period date) was not within 30 days from approved registration date (RC-effect date).

⁴⁶ CTOs- Chilakaluripet and Rajam.

⁴⁷ DC(CT) Kurnool, CTOs- Kurupam Market and Hindupur.

In reply, the Government stated (December 2015) that it was proposing to validate the consignee and the consignor details with TINXSYS database with regard to issue of transit passes. For other observations relevant replies were not given.

2.4.16 Inadequate data capture

Registration data of VATIS indicate status of the dealer as 'REGD' (Registered) and 'CNCL' (Cancelled) basing on the status of the dealer's registration. Dates of Registration or Cancellation were also captured to indicate changes in dealer's status from active status to cancelled status. Audit observed in cases of cancelled dealer's data that the 'registration effective to' date was not recorded in 1,152 cases out of 4,726 cancelled dealers among 15 sample offices during the period covered under audit. Out of these cases, 209 cancellations were done after the introduction of re-engineered VATIS. This indicates that data capture is incomplete.

The Government replied (December 2015) that the "registration effective to date" field is captured in the cases of reactivation of cancelled dealers.

The reply is not tenable as the field has to be captured in all cases of cancellation to monitor misuse of statutory forms.

2.4.17 Non-compliance with Citizen's charter

The timeframe fixed for issue of registration certificate to the applicants (when pre-registration visit is required) is 24 days from application date excluding application date. In two cases of new registrations (out of 122 in sample offices in 2013-14) done with pre-visit requirement, Audit noticed that registration took more than 24 days.

As per Citizen's Charter of CTD, registration of dealers not requiring pre-visits is to be completed within six days of application. Audit observed from VATIS package that during the year 2013-14, registration of 126 VAT dealers not requiring pre-visit by the registering authority (out of 5,993 registrations in sample offices) took more than six days which is not in line with the Citizen's charter.

In reply (December 2015), it was stated that instructions were given to officers concerned for issuing registration certificate within the time prescribed and action would be taken in respect of the cases in which delays took place.

2.4.18 IT Security, monitoring of outsourced services and business continuity

Security policy defines how an organization plans to protect physical and Information Technology (IT) assets that include servers, systems, software and data. For any IT system, it is important that sufficient measures be taken to ensure smooth functioning of critical functions even if disasters occur. This is especially so for a system like VATIS, which supports the CTD, the main revenue-earning wing of the State.

It is observed that risks associated with data and content management are not being adequately addressed. Outsourced service providers facilitate services of portal, and backup recovery issues and facility management services and CTD has not yet evolved a mechanism to maintain and manage data as per required retention period of CTD. There is no security policy drafted but for the items listed in System Requirement Specifications.

RFP 7.2 of annual maintenance contract (AMC) and facility management (FM) services prescribes maintenance of details of problems and issues related to application/database/network failures and time taken to resolve them at branch offices/data centre chronologically through an automated tracking solution implemented by service providers. However CTD is yet to furnish details to Audit. In the same R.F.P, clause 3.2.1.1 stipulates virus protection services to IT infrastructure of the Department. However log of antivirus updating on client machines in branch offices was not available, leaving Audit with no assurance as to whether they were being updated. This indicates that performance of outsourced technical team (HCL) is not being monitored.

Backup activity of reengineered VATIS data and related information is being done at central office. However, Audit found that in all the sample offices backup of branch office's assessment documents, notices, vakalat filings and other important documentation was neither done locally (CTO office) nor at central office as VATIS does not have a mechanism to backup these orders and documents. Thus, VATIS has only a superficial amount of data when compared to the physical documents available in unit offices.

Presence of disaster recovery site in the same city or geographical proximity does not address risks like earthquakes. It was observed that only one disaster recovery site is located that too within three km radius of main site which is not sufficient to ensure business continuity. From these, it is clear that the disaster preparedness of CTD is not adequate.

In reply, it was stated (December 2015) that backup activity cannot be done at local level. It was also stated that the security mechanism was in place both at the data centre and client level. No specific reply was also given on the issue of non-monitoring of the performance of security mechanism and outsourced technical team was given.

Backup of important documents like assessments and vakalat files needs to be taken in order to ensure business continuity.

2.4.19 Training and change management

Training policy and implementation of the same is critical to inculcate awareness among users of IT infrastructure when new systems are introduced to ensure smooth transition. It is observed that CTD has no training policy. Audit also observed that user manuals have not been provided to local offices.

RFP stipulates Change requests maintenance. However it was found that Change Management documentation was not available either with CTD or

developers. Lack of change management documentation can cause problems with business continuity.

It was replied (December 2015) that steps were afoot to create a training facility, with adequate systems to provide periodic training for field officers with hands on computer training. With respect to change management, it was stated that documentation for changes in tax rates and relevant dates were available.

The reply to change management documentation was limited to updating of the tax rates or master tables but was silent on process change documentation, which is important for business continuity.

2.4.20 Conclusion

Audit found that CTD was not insisting on filing of returns. The level of scrutiny of records was inadequate as was evidenced by non-levy of penalty/interest on non-filing of returns and belated payments. The selection of dealers for audit remains mostly discretionary. The checks prescribed were not completed and the documentation was inadequate in assessment files. Integration of various modules in and with VATIS was still incomplete. There was no assurance regarding integrity of data as there are problems associated with data migration as well as logical access controls. Filing of returns had not yet fully been made available online and a lot of critical data was still being maintained at local offices which have no backup.

2.4.21 Recommendations

- Built in provisions for automatic scrutiny of returns when they are filed and generation of penalty/demand notices in cases of non-filing and belated payments be introduced.
- Audit file tracking system may be integrated with VATIS so that the progress can be monitored. The checklist for the checks prescribed may also be integrated.
- Data in VATIS needs to be purged of inconsistencies and module integration taken up in a time-bound manner.

Audit observations

During scrutiny of records of the Offices of the Commercial Taxes Department relating to assessment and revenue collection towards VAT and CST, Audit observed several cases of non-observance of provisions of Acts/Rules, resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions are pointed out in audit every year, but not only do the irregularities persist; these remain undetected till an audit is conducted again. There is a need for improvement of internal controls so that repetitions of such omissions can be avoided or detected and rectified.

2.5 Short levy of tax due to incorrect determination of taxable turnover

2.5.1 As per Section 21(3) of AP VAT Act, 2005 (VAT Act) read with Rule 25(5) of AP VAT Rules 2005 (VAT Rules), if the Assessing Authority (AA) is not satisfied with a return filed by the VAT dealer or return appears to be incorrect or incomplete, he shall assess the tax payable to the best of his judgement on Form VAT 305 within four years of due date of the return or within four years of the date of filing the return whichever is earlier.

As per Section 21(4) of the VAT Act, the authority prescribed may, based on any information available or on any other basis, conduct a detailed scrutiny of the accounts of any VAT dealer and where any assessment, as a result of such scrutiny, becomes necessary, such assessment shall be made within a period of four years from the end of the period for which assessment is to be made. Rule 25(10) of the VAT Rules requires all the VAT dealers to furnish for every financial year to the prescribed authority, the statements of manufacturing/trading, Profit and Loss (P&L) accounts, balance sheet and annual report duly certified by Chartered Accountant on or before 31 December subsequent to the financial year to which the statements relate. As per para 5.12 (a) of the VAT audit Manual 2012, audit officer has to reconcile the figures given by the dealer on VAT returns with certified annual accounts.

During the test check of VAT/CST records of 11 offices⁴⁸, Audit noticed (between January 2014 and March 2015) in nine cases, where assessments were finalised between October 2011 and March 2014 for the period 2005-06 to 2012-13 that the sales turnover determined by the AAs were less than the turnover reported in trading, P&L accounts by assesseees. This had resulted in under-declaration of tax of ₹ 45.74 lakh. In two other cases, purchase turnover assessed in VAT 305/declared in VAT monthly returns were more than the purchase turnover reported in P&L accounts. Consequently there was excess claim of ITC of ₹ 15.90 lakh.

⁴⁸ DC(CT) Vijayawada-I, CTOs- Adoni-I, Ananthapur-I, Kadapa-I, Krishnalanka, Kurnool, Markapur, Piduguralla, Sattenapally, Tadipatri and Tirupathi-I.

After Audit pointed out the cases, AAs⁴⁹ stated (between June and December 2014) in three cases, that VAT audit files were submitted to Deputy Commissioner (DC) (CT) for revision. In two cases AAs⁵⁰ stated (between June and October 2015) that notices were issued to the dealers. CTO Sattenapalli, in one case, replied that VAT audit of the dealer was authorised and detailed report would be submitted after completion of audit. In another case, CTO Krishnalanka replied (June 2014) that assessee filed P&L account separately for each year and income of the year 2007-08 was wrongly represented in the P&L Account of the year 2008-09. The reply is not acceptable because any correction carried out should have been certified by the Chartered Accountant who had certified the accounts earlier. DC(CT) Vijayawada stated (January 2015) in one case that the dealer had erroneously mentioned local purchases as CST purchases in his annual accounts for the year 2010-11, therefore ITC allowed on these purchases was correct. The reply is not tenable as annual accounts were prepared from basic records, and there was no evidence of incorrect classification of purchases. In remaining three cases, AAs⁵¹ stated (between November 2014 and March 2015) that matter would be examined.

2.5.2 During the test check of records of CTO Anakapalli, Audit noticed (between October and November 2014) in one case, for the period from 2008-09 to 2011-12, that assessee effected sale of goods such as molasses, bagasse, boiler ash, manure, scrap, filter mud and sugar⁵² taxable at four *per cent*. Audit observed that while finalizing the assessments, AA compared the taxable turnover reported by dealer with those of books of accounts and pointed out under-declaration of tax on sale of manure only, AA did not consider the overall difference between total tax declared by the dealer and actual tax payable on the total taxable turnover as per books of accounts. This resulted in under-declaration of tax and resultant short levy of tax of ₹ 60.16 lakh.

After Audit pointed out the case, AA stated (September 2015) that assessment file was submitted to DC(CT), Visakhapatnam for revision.

The matter was referred to the Department (between November 2014 and July 2015) and to the Government (between August and September 2015). Their replies have not been received (January 2016).

2.6 VAT on works contracts

2.6.1 Payment of VAT under non-composition

Under Section 4(7) (a) of VAT Act, tax on works contract is payable on the value of goods incorporated in the work at the rates applicable to such goods. To determine the value of goods incorporated, deductions prescribed under Rule 17(1) (e) of VAT Rules, are to be allowed from the total consideration

⁴⁹ CTOs- Piduguralla, Tadipatri, Tirupathi-I.

⁵⁰ CTOs- Adoni-I, Kurnool-I

⁵¹ CTOs- Ananthapur-I, Kadapa-I and Markapur.

⁵² Sugar is taxable at the rate of four *per cent* with effect from 11 July 2011.

received or receivable and the balance turnover is taxable at the same rates at which the purchase of goods were made and in the same proportion.

2.6.1.1 Short realisation of tax due to incorrect determination of taxable turnover

During the test check of VAT audit files of CTO Steel Plant, Audit noticed (January and December 2014) that in eight cases in the period from 2008-09 to 2012-13, AAs incorrectly determined taxable turnover as ₹ 10.75 crore instead of ₹ 20.26 crore on account of allowing inadmissible deductions such as audit fee, bank charges, entertainment charges, printing and stationery, telephone expenses, interest paid to bank etc. from gross turnovers. This resulted in short levy of tax of ₹ 68.54 lakh.

After Audit pointed out the cases, AA stated (September 2015) in four cases that revision orders were issued and demand raised. In two cases, it was stated (July 2015) that show cause notices were issued to dealers. In remaining two cases AA replied (December 2014) that action would be initiated after verification of assessment records.

2.6.1.2 Under-declaration of tax by works contractors who did not maintain detailed accounts

As per Rule 31(1) of VAT Rules, every dealer executing works contract shall keep separate accounts for each contract specifying the details of the works being executed. As per Rule 17(1)(g) of VAT Rules, where the dealer did not maintain detailed accounts to determine the correct value of the goods at the time of incorporation, he shall pay tax at 14.5 *per cent*⁵³ on the total consideration received or receivable subject to standard deductions specified.

During test check of VAT audit files of two circles⁵⁴ for the period between 2007-08 and 2012-13, Audit noticed (July and August 2014) that in two out of three cases, works contractors had neither opted for composition nor maintained detailed accounts. AA levied tax at only four *per cent* on total consideration instead of levying tax at 14.5 *per cent* on total consideration (after allowing permissible deductions) under Rule 17(1)(g). In another case where the dealer was engaged in printing works, assessment was finalised by levy of tax at four *per cent* treating the transaction as ‘sale’, instead of treating it as ‘works contract’ and levying tax under Rule 17(1)(g). Incorrect application of rules resulted in short levy of tax of ₹ 37.20 lakh.

After Audit pointed out the cases, CTO, Madanapalle (June 2015) stated that audit files were submitted to DC(CT) for revision. In remaining two cases CTO, Tirupathi-I stated (August 2014) that action would be taken after verification of books of accounts.

⁵³ 12.5 *per cent* upto 25 April 2010 and 14.5 *per cent* from 26 April 2010.

⁵⁴ CTOs- Madanapalle, Tirupathi-I.

2.6.2 Short levy of tax on works contract under composition

Under Section 4(7)(b) of VAT Act, every dealer executing works contract may, in lieu of making payment of tax under Section 4(7)(a), opt to pay tax by way of composition at the rate of five *per cent*⁵⁵ on the total amount received or receivable by him towards execution of the works contract. In such case, no deductions except payments made to sub-contractors are to be allowed to these dealers.

During the test check of VAT audit files, Audit noticed (between July 2014 and March 2015) in four circles⁵⁶ that in three out of four cases AAs adopted incorrect turnover for the period from 2008-09 to 2012-13. In one case, though the dealer neither had declared correct tax on the turnover reported nor furnished TDS certificates to the extent declared, AA did not levy differential tax. This resulted in short levy of tax of ₹ 12.23 lakh.

After Audit pointed out the cases, the AAs stated in two cases⁵⁷ (May and June 2015) that assessment files were submitted to DC (CT) for taking up revision; two CTOs⁵⁸ stated (between September 2014 and February 2015) in remaining two cases that the matter would be examined and report submitted in due course.

2.6.3 Short levy of tax due to incorrect exemption

As per Section 4(7)(h) of VAT Act, a contractor is not liable to pay tax on the turnover relating to payments made to sub-contractor subject to the production of proof that the sub-contractor is a registered VAT dealer and the amount paid is included in the returns filed by the sub-contractor.

During the test check of VAT records of CTO Tirupathi-II, for the year 2011-12 Audit noticed (August 2014) that in one case, the AA allowed exemption on a turnover of ₹ 11.92 crore based on the dealer's claim of it being payment made to a sub-contractor. Scrutiny of assessment order of the sub-contractor revealed that turnover of ₹ 1.38 crore only was assessed. Hence, there was under-assessment of turnover of ₹ 10.54 crore which resulted in short levy of tax of ₹ 52.69 lakh at the rate of five *per cent*.

After Audit pointed out the case, the AA stated (May 2015) that the assessment file was submitted to DC(CT), Chittoor and final rectification report would be submitted.

The matter was referred to the Department (between August 2014 and June 2015) and to the Government (September 2015). Their replies have not been received (January 2016).

⁵⁵ Four *per cent* before 14 September 2011.

⁵⁶ CTOs- Dharmavaram, Gandhi Chowk, Madanapalle, Narasaraopet.

⁵⁷ CTOs- Dharmavaram, Madanapalle.

⁵⁸ CTOs- Gandhi Chowk, Narasaraopet.

2.7 Levy of Penalties

2.7.1 Under Section 51(1) of VAT Act, where a dealer who fails to pay tax due on the basis of the return submitted by him by the last day of the month in which it is due, he shall be liable to pay tax along with penalty of 10 *per cent* of the amount of tax due.

During the test check of VAT records for the period from May 2010 to March 2014 in nine circles⁵⁹ Audit noticed (between September 2014 and March 2015) in 26 cases that the dealers paid tax of ₹ 4.30 crore due on the monthly returns submitted by them after the last day of the month in which it was due. The AAs did not levy penalty at 10 *per cent* of the amount of tax due on belated payment of tax. This resulted in non-levy of penalty of ₹ 42.98 lakh.

After Audit pointed out the cases, CTO, Srikakulam intimated (October 2015) that demand was raised and an amount of ₹ 0.55 lakh realised. Six CTOs⁶⁰ stated (between March and September 2015) in 19 cases that notices were issued. In remaining six cases, two CTOs⁶¹ stated (between November 2014 and February 2015), that the matter would be examined.

2.7.2 Under Section 53(3) of the VAT Act, if any dealer has under-declared tax and where it is established that fraud or willful neglect has been committed, he shall be liable to pay penalty equal to the tax under-declared.

During the test check of the VAT audit files for the period 2010-11 to 2012-13 of DC(CT), Ananthapur and CTO Kakinada, Audit noticed (June and July 2014) in two cases that dealers under-declared tax of ₹ 37.11 lakh willfully. The AAs either did not levy or short levied penalty to the extent of ₹ 27.83 lakh in violation of the provisions under Section 53(3) of the VAT Act.

After Audit pointed out the cases, the AAs stated (June and July 2014) that the matter would be examined.

2.7.3 As per Section 53(1) of VAT Act, where any dealer has under-declared tax, and it has not been established that fraud or willful neglect has been committed and where under-declared tax is (i) less than 10 *per cent* of the tax, penalty shall be imposed at 10 *per cent* of such under-declared tax; (ii) more than 10 *per cent* of the tax due, penalty shall be imposed at 25 *per cent* of such under-declared tax.

During the test check of the VAT audit files relating to the period from 2007-08 to 2012-13 of DC (CT), Kadapa and five circles⁶² Audit noticed (between January 2014 and February 2015) that out of the seven cases, where dealers had under-declared tax/claimed excess ITC of ₹ 1.52 crore for reasons other than fraud or willful neglect, no penalty was levied in three cases and in

⁵⁹ CTOs- Ananthapur-II, Gudivada, Kadapa-I, Kurnool-II, Markapur, Nellore-I, Sattenapally, Srikakulam, Tuni.

⁶⁰ CTOs-Ananthapur-II, Gudivada, Kadapa-I, Kurnool-II, Nellore-I, Tuni.

⁶¹ CTOs- Markapur, Sattenapally.

⁶² CTOs- Dwarakanagar, Gajuwaka, Kadapa-I, Nandigama, Tanuku-II.

remaining four cases, penalty was levied at 10 *per cent*, instead of at 25 *per cent*. This resulted in non/short levy of penalty of ₹ 27.66 lakh.

After Audit pointed out the cases, CTO, Gajuwaka replied (August 2015) that the original assessing authorities had been requested to issue penalty orders. Two AAs⁶³ stated (December 2014 and April 2015) in two cases that penalty at the rate of 10 *per cent* of tax due was levied, as there was no fraud or willful neglect. The reply is not acceptable in view of the provisions under Section 53(1)(ii) which clearly state that 25 *per cent* penalty was to be levied where under-declared tax was more than 10 *per cent* of the tax due for the reasons other than fraud or willful neglect. In remaining three cases, the AAs⁶⁴ stated (between January 2014 and February 2015) that the matter would be examined.

The matter was referred to the Department (between November 2014 and July 2015) and to Government (August and September 2015). Their replies have not been received (January 2016).

2.8 Sales Tax incentives

According to “Target 2000 sales tax incentive scheme” promulgated by Government in 1996, sales tax incentives such as tax deferment and tax exemption were sanctioned to certain industrial units for the products manufactured by them to the extent of incentive limit as mentioned in the Final Eligibility Certificate (FEC). As per Rule 67(2) of VAT Rules, the units already availing tax deferment prior to commencement of the VAT Act, shall continue to avail the benefit upto the period as mentioned in their FECs.

2.8.1 Non-recovery of deferred sales tax

As per Rule 67(5) of VAT Rules, the repayment of deferred tax shall commence after the completion of the deferment period.

During the test check of deferment records of three circles⁶⁵ Audit noticed (between September 2011 and December 2014) that in nine cases, the dealers availed tax deferment of ₹ 50.70 lakh for the period from 1997-98 to 2008-09. Though the deferment period, as per the FEC, was completed in 2008-09, the units did not start repayment of deferred sales tax till audit. This resulted in non-recovery of deferred sales tax of ₹ 50.70 lakh.

After Audit pointed out the cases, CTO Vuyyuru stated (October 2015) in two cases that notices were issued to dealers. Two CTOs⁶⁶ in seven cases stated (between September 2011 and December 2014) that action would be initiated to collect the outstanding amount.

⁶³ DC(CT), Kadapa, CTO - Tanuku-II.

⁶⁴ CTOs - Dwarakanagar, Kadapa-I, Nandigama.

⁶⁵ CTOs - Chittoor-II, Ongole-I, Vuyyuru.

⁶⁶ CTOs - Chittoor-II and Ongole-I.

2.8.2 Incorrect adjustment of deferment

As per the “Target 2000 sales tax incentive scheme” tax incentives were to be regulated in accordance with the terms and conditions mentioned in the FEC issued by the Department of Industries. The FEC contained the eligible amount of tax, products to be manufactured and sold, term of deferment etc.

During the test check of records of CST assessments of one dealer in CTO Tanuku-II, Audit noticed (December 2014) that the dealer was sanctioned sales tax deferment for an amount of ₹ 4.96 crore for the period from 1998 to 2012 on the product “Straw board”. Scrutiny of assessments for the years 2008-11 revealed that tax of ₹ 45.91 lakh payable on other commodities (kraft board) was incorrectly adjusted against deferment for VAT and CST. This resulted in undue benefit of deferment availed by the dealer and consequent loss of interest to exchequer.

After Audit pointed out the case, the AA contended (November 2015) that this name of principal product was mentioned in the FEC issued (February 1999) by Industries Department whereas in the incentive application (September 1998) to District Industries Centre (DIC) as well as in the agreements with DIC and DC (CT) (June 2000) products were clearly mentioned as Straw Board, Grey Boards, Kraft Boards and Mill Boards. The reply is not tenable as the codes in Harmonised System of Nomenclature (HSN) for straw board (48070010) and kraft board (48102900) are different. It was also mentioned in CTO’s reply that the dealers have applied for modification of their product to add kraft board in November 2015 for industrial approval which makes it evident that the kraft board was not entitled for tax deferment.

2.8.3 Non-levy of interest on belated payment of deferred sales tax

As per the provisions of Section 69 of the VAT Act, all sales tax exemption cases sanctioned prior to the enactment of VAT Act were converted as sales tax deferment by doubling the period left over without change in monetary limit of the amount sanctioned. Further, as per the Government orders⁶⁷, repayment of deferred sales tax was to commence after the end of the period of deferment. In case of non-remittance of deferred tax on the due dates, interest at the rate of 21.5 *per cent* per annum was to be charged as per the guidelines of the sales tax deferment scheme.

During the test check of the deferment records of DC (CT), Vizianagaram Audit noticed (December 2014) that in two cases, though the dealers paid the deferred tax amounting to ₹ 54.19 lakh with delays ranging from 87 to 276 days, no interest was levied. This resulted in non-levy of interest of ₹ 5.94 lakh.

After Audit pointed out the cases, demand had been raised in one case and partial amount of ₹ 0.61 lakh was recovered in another case.

⁶⁷ G.O.Ms.No.503, Revenue (CT-II) Department, dated 8 May 2009.

The matter was referred to the Department (between October 2014 and July 2015) and to the Government (August and September 2015). Their replies have not been received (January 2016).

2.9 Interstate sales and Export sales

2.9.1 Short levy of tax on interstate sales

According to Section 8(2) of the Central Sales Tax Act 1956 (CST Act) read with Rule 12 of the CST (Registration & Turnover) Rules 1957 (CST Rules), every dealer, who in the course of interstate trade or commerce sells goods to a registered dealer located in another State, shall be liable to pay tax under the CST Act at the rate of two *per cent* (with effect from 1 June 2008), provided the sale is supported by a declaration in form 'C', otherwise tax shall be calculated at the rate applicable to goods within the State.

The commodities viz. automobile parts, cement and clinker, granites, insulators, isolators, and timber, fall under Schedule V to the VAT Act and are taxable at the rate of 14.5 *per cent*⁶⁸. The commodities viz. cashew nuts, cotton, gunnies and sponge iron fall under Schedule IV to the VAT Act and are to be taxed at five *per cent*⁶⁹.

During the test check of assessment files of 11 cases of DC (CT) Kurnool and seven circles⁷⁰ Audit noticed (between June 2014 and March 2015) that in seven⁷¹ cases, AAs, while finalising the CST assessments between July 2011 and March 2014 for the years 2008-09 to 2010-11 levied tax at lesser rates on interstate sales of goods which were not covered by 'C' forms. In four⁷² cases, for the years 2008-09 and 2009-10, the AAs underassessed the interstate sale turnover of cashew nuts, cement, cotton, gunnies. This resulted in short levy of tax of ₹ 74.94 lakh on turnover of ₹ 28.50 crore.

After Audit pointed out the cases, four AAs⁷³ stated (September and October 2015) in seven cases, that show-cause notices were issued to the dealers; CTO, Patnam Bazar replied (November 2015) that assessment file was submitted to DC(CT) for revision. In two cases CTOs⁷⁴ stated (June and November 2014) that, the matter would be examined. Response in respect of one case of CTO, Seetharamapuram has not been received (January 2016).

2.9.2 Incorrect grant of concessional rate of tax due to acceptance of invalid declaration forms

According to Section 8(4) of the CST Act read with Rule 12(1) of CST Rules, every dealer shall file a single declaration in form 'C' covering all transactions

⁶⁸ 12.5 *per cent* upto 14 January 2010.

⁶⁹ Four *per cent* before 14 September 2011.

⁷⁰ CTOs- Adoni-I, Anakapalli, Ananthapur-II, Patnam Bazar, Piduguralla, Seetharamapuram, Tuni.

⁷¹ DC(CT)- Kurnool, CTOs- Adoni-I, Ananthapur-II, Piduguralla, Seetharamapuram.

⁷² CTOs- Anakapalli, Patnam Bazar, Tuni.

⁷³ DC(CT)- Kurnool, CTOs -Ananthapur-II, Adoni-I, Tuni.

⁷⁴ CTOs- Anakapalli, Piduguralla.

of sale, which take place in a quarter of the financial year between the same two dealers to claim concessional rate of tax as per Section 8(1) of the CST Act. Otherwise, tax shall be calculated at the rates applicable to all goods inside the State.

During the test check of the CST assessments of DC (CT), Kakinada and four circles⁷⁵ Audit noticed (between February 2014 and November 2014) that the AAs while finalising the assessments in March 2013 and March 2014 for the years 2009-10 and 2010-11, in five cases incorrectly allowed concessional rate of tax on the sale turnover in respect of 'natural gas, petroleum oils, dry chillies, cotton yarn, adhesives and electrical goods' amounting to ₹ 15.34 crore supported by invalid 'C' forms i.e. local 'C' forms, forms covering transactions of more than a quarter, duplicate copies of the 'C' forms etc. This resulted in short levy of tax of ₹ 45.79 lakh.

After Audit pointed out the cases, AAs stated (between February and November 2014) that the matter would be examined and report submitted in due course.

2.9.3 Non-levy of tax on export sales not covered by documentary evidence

As per Section 5(1) and 5(3) of CST Act, export of goods and goods sold for export are not liable to tax. Further, under Section 5(4) of the CST Act read with Rule 12(10) of the CST Rules, the dealer exporting the goods shall furnish documentary evidence such as bill of lading, purchase order, 'H' form duly filled in and signed by the exporter in support of the transaction, failing which the transaction is required to be treated as interstate sale not covered by 'C' form and tax levied at the rates applicable to the goods inside the State under the provisions of Section 8(2) of the CST Act.

The commodities granite blocks and slabs fall under Schedule V to the VAT Act and are liable to tax at the rate of 12.5 *per cent*⁷⁶.

During the test check of the CST assessment files in four circles⁷⁷ Audit noticed (between July 2014 and March 2015), that out of the five cases, where the assessments were completed between January 2012 and March 2014 for the period from 2007-08 to 2009-10, in one case CTO, Markapur incorrectly allowed exemption on export sales which were not supported by proper documentary evidence. In three cases⁷⁸, the shipping bills/bills of lading prepared were prior to the date on which the sale was actually effected by the assessee to the exporter. In another case CTO, Gudivada allowed exemption on export sales not covered by purchase orders. The incorrect exemption of turnover of ₹ 2.15 crore in these cases resulted in non-levy of tax of ₹ 24.10 lakh.

⁷⁵ CTOs- Aryapuram, Nandigama, Nidadavolu, Suryabagh.

⁷⁶ 14.5 *per cent* with effect from 15 January 2010.

⁷⁷ CTOs- Dharmavaram, Gudivada, Kadapa-II, Markapur.

⁷⁸ CTOs- Dharmavaram, Kadapa-II.

After Audit pointed out, two AAs⁷⁹ stated (June and July 2015) that in three cases assessment files were submitted to DC(CT) for revision. In remaining two cases, CTOs⁸⁰ stated (between December 2014 and February 2015) that the matter would be examined.

2.9.4 Incorrect exemption on interstate sales made to SEZ without proper documentary evidence

Under Sections 5(1), 5(3) and 5(4) of the CST Act, export of goods and goods sold for exports are exempted from payment of tax on production of documentary evidence such as purchase order from the foreign buyer, bill of lading, 'H' form obtained from the exporter.

As per Section 8(8) of the CST Act read with Rule 12(11) of CST Rules, any interstate sale of goods made to units located in a Special Economic Zone (SEZ) shall be supported by a declaration in 'I' form. In case, the dealer fails to furnish the prescribed statutory forms, the transactions are required to be treated as interstate sales not covered by 'C' forms and in such case tax is to be levied at the rate applicable to such goods in the respective State in terms of Section 8(2) of the CST Act.

During the test check of CST assessment file and other records of CTO Vizianagaram (West) Audit noticed (September and October 2014) in one case that during the year 2010-11 the AA did not levy tax on interstate SEZ sales of ₹ 2.39 crore and export sales of ₹ 85.19 lakh not supported by essential documentary evidence like declaration in 'I' form, purchase order from the foreign buyer, bill of lading and 'H' form from the exporter. This resulted in short levy of tax of ₹ 14.07 lakh.

After Audit pointed out the case, AA stated (September 2014) that the unit was 100 *per cent* export oriented unit (EOU) and the dealer erroneously reported SEZ sales as transit sales. The reply is not tenable as the sales made to SEZ were not supported by 'I' form and no documentary evidence was furnished in support of sales made for export.

2.9.5 Non-levy of penalty for misuse of declaration form on interstate purchases

As per Section 8(3)(b) of the CST Act, the goods purchased on issue of 'C' form shall be as specified in the Registration Certificate of the purchaser and the purchases so made shall be for the purpose of (i) resale; (ii) use in the manufacture or processing of goods for sale; (iii) use in mining (iv) use in the generation or distribution of electricity or any other form of power or (v) use in the packing of goods for sale /resale.

“Electronics and electrical goods” are taxable at the rate of 12.5 *per cent* and “cotton fabrics” are taxable at four *per cent*⁸¹. As per Section 10A of CST Act,

⁷⁹ CTOs- Dharmavaram, Kadapa-II.

⁸⁰ CTOs- Gudivada and Markapur.

⁸¹ Upto 13 September 2011.

penalty not exceeding 1.5 times of the tax due has to be levied if the dealer violates the provisions of Section 8(3)(b).

During the test check (December 2014 and January 2015) of CST records for the period from July 2008 to March 2012 of CTO Bhimavaram, Audit noticed that in one case the dealer made interstate purchase of consumer electronics, electrical goods, cotton fabrics by using 'C' forms, though these commodities were not specified in the Registration Certificate. Thus, the assessee misused 'C' forms by violating the conditions laid down under section 8(3)(b) of the CST Act and was liable to pay penalty of ₹ 6.04 lakh on the purchase turnover of ₹ 33.93 lakh. The AA failed to check and did not impose the penalty.

After Audit pointed out the case, the AA stated (September 2015) that notice was issued levying penalty under Section 10 A of CST Act.

2.9.6 Non- levy of tax due to incorrect exemption on high sea sales

Under Section 5(2) of the CST Act, all sales in the course of import (high sea sales) are exempt from tax. A sale or purchase of goods shall be deemed to have taken place in the course of the import of goods into the territory of India if the sale either occasions such import or is effected by transfer of documents of title to the goods before the goods have crossed the customs frontiers of India.

To claim exemption on high sea sales, documents such as high sea sale agreement, copy of import bill, bill of lading, airway bill, bill of entry in the name of the purchaser and proof of payment of customs duty are required to be furnished. In the absence of documentary evidence, such transactions shall have to be treated as interstate sales not covered by 'C' form and tax levied at the VAT rates applicable to the goods within the State. 'Bauxite' falls under Schedule IV of VAT Act and is to be taxed at the rate of five *per cent*.

During the test check of CST assessment files of CTO Suryabagh, Audit noticed (June 2014) that, the AA while finalising the assessment in 2013-14, in one case for the year 2011-12, incorrectly allowed exemption on high sea sales turnover of ₹ 1.02 crore in respect of bauxite though not covered by prescribed documentary evidence. The incorrect exemption resulted in non-levy of tax of ₹ 5.13 lakh.

After Audit pointed out the case, the AA stated (June 2014) that the matter would be examined and report submitted in due course.

The matter was referred to the Department (between October 2014 and July 2015) and to the Government (August/September 2015). Their replies have not been received (January 2016).

2.10 Under-declaration of tax due to adoption of incorrect rate of tax

Under Section 4(1) of the Act, tax on sales is to be levied at the rates prescribed in Schedule I to IV and VI to the VAT Act. Commodities not

specified in any of these schedules fall under Schedule V and tax is to be levied at the rate of 14.5 *per cent*⁸². As per Section 4(9)(c), every dealer whose annual total turnover is ₹ 1.5 crore and above shall pay tax at the rate of 14.5 *per cent*⁸³ on the taxable turnover representing sale or supply of food or any other article for human consumption or drink served in restaurants, sweet-stalls, clubs or any other eating houses or anywhere whether indoor or outdoor by caterers. Works contractors who opt to pay tax under composition are liable to pay tax at the rate of five *per cent*⁸⁴.

According to Section 20(3)(a) of the Act, every monthly return submitted by a dealer shall be subjected to scrutiny to verify the correctness of calculation, application of correct rate of tax, ITC claimed therein and full payment of tax payable for such tax period.

Commodities viz., aluminium channel, fabrication material, herbal extracts of garcinial powder, PSCC poles, reconditioning of failed electric transformers are not specified in any of the Schedules to the VAT Act and therefore fall under Schedule V and are to be taxed at 14.5 *per cent*.

During the test check of VAT records of 10 circles⁸⁵ for the period from 2006-07 to 2013-14 Audit noticed (between April 2013 and March 2015) that two dealers of Tuni circle registered as works contractors incorrectly declared tax at the rate of four *per cent* instead of at five *per cent*; 10 dealers⁸⁶ running hotels / sweet shops etc, did not declare tax at the rate of 14.5 *per cent* on the total food sales though their annual turnover exceeded ₹ 1.5 crore. In five cases⁸⁷, the dealers dealing in reconditioning of electric transformers, fabrication material, herbal extracts of garcinial powder, PSCC poles and aluminium channels, declared tax at rates lesser than 14.5 *per cent*. This resulted in under-declaration of VAT of ₹ 64.64 lakh on a turnover of ₹ 9.57 crore in all 17 cases.

After Audit pointed out the cases, CTO Kurnool stated (October 2015) in respect of five cases that an amount of ₹ 1.20 lakh had been recovered in two cases. Three CTOs⁸⁸ have stated (between April 2013 and June 2015) in five cases that rectificatory action had been initiated. Six AAs⁸⁹ stated (between December 2013 and March 2015) in seven cases that the matter would be examined and detailed report submitted.

The matter was referred to the Department (between September 2013 and May 2014) and to the Government (September 2015). Their replies have not been received (January 2016).

⁸² Rate was revised from 12.5 *per cent* to 14.5 *per cent* with effect from 15 January 2010.

⁸³ With effect from 26 April 2010.

⁸⁴ Four *per cent* before 14 September 2011.

⁸⁵ CTOs- Autonagar, Gajuwaka, Kothapet, Kurnool-I, Narsaraopet, Ongole-I, Srikakulam, Suryabagh, Tirupathi-II and Tuni.

⁸⁶ CTOs- Kurnool-I, Ongole-I, Srikakulam and Tirupathi-II.

⁸⁷ CTOs- Autonagar, Gajuwaka, Kothapeta, Narsaraopet and Suryabagh.

⁸⁸ CTOs- Gajuwaka, Srikakulam and Tirupathi-II.

⁸⁹ CTOs- Autonagar, Kothapet, Narsaraopet, Ongole-I, Suryabagh, Tuni.

2.11 Non-levy of tax on transfer of right to use goods

As per Section 4(8) of VAT Act, every VAT dealer who leases out or licenses others to use taxable goods, whether or not for a specified period, for cash or consideration in the course of his business, shall pay tax on such consideration at the rates as are applicable to the goods involved.

The commodities viz. automobiles, lorry, trucks and crushers, which have not been listed in Schedules I, II, III, IV and VI to VAT Act, are to be classified under Schedule V of VAT Act and are to be taxed at 12.5 *per cent*⁹⁰. The commodity machinery falls under Schedule IV to the VAT Act and is taxable at five *per cent*⁹¹.

During the test check of records of four circles⁹² Audit noticed (between August 2011 and October 2014) in six cases that the AAs while finalising the assessments for the years 2007-08 to 2011-12, did not levy tax on a turnover of ₹ 5.10 crore pertaining to hire charges/lease rentals received on machinery, automobiles, crushers and trucks. This resulted in non-levy of VAT of ₹ 68.74 lakh.

After Audit pointed out the cases, the CTO Nidadavole stated (May 2015) that in three cases assessment files were submitted to DC(CT) for revision. In three cases, AAs⁹³ stated (between August 2011 and October 2014) that the matter would be examined and reply submitted in due course.

The matter was referred to the Department (between April 2012 and February 2015) and to the Government (August and September 2015). Their replies have not been received (January 2016).

2.12 Input Tax Credit (ITC)

Under Section 13(1) of the VAT Act, ITC shall be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods, made by that dealer during the tax period, if such goods are for use in his business.

2.12.1 Under-declaration of tax due to incorrect claim of ITC

As per Section 13(4) of the VAT Act read with Rule 20(2) (h), (q) and (r) of VAT Rules, a VAT dealer is not entitled for ITC on purchase of coal or cement used in construction or maintenance of any building and other fuels used in manufacture or processing units, unless the dealer is in business of dealing in these goods. CCT clarified⁹⁴ that usage of Liquefied Petroleum Gas (LPG) in hotels shall be treated as manufacturing activity. As per Section 13(5)(d) no ITC shall be allowed in case of exempt sales.

⁹⁰ 14.5 *per cent* with effect from 15 January 2010.

⁹¹ Four *per cent* before 14 September 2011.

⁹² CTOs- Amalapuram, Machilipatnam, Nidadavole, Steel plant.

⁹³ CTOs- Amalapuram, Machilipatnam, Steel Plant.

⁹⁴ Advance Ruling -A.R.Com/79/2012, dated 21 February 2013.

As per Section 13(7) of the VAT Act, ITC allowable to works contract dealers, who opt to pay tax under Section 4(7)(a), on the value of goods incorporated in works shall be limited to 75 per cent⁹⁵ of the related input tax.

During test check of VAT records of DC(CT) Vizianagaram and three circles⁹⁶ Audit noticed (between February 2013 and March 2015), that four dealers incorrectly claimed ITC for the period from 2009-2010 to 2012-2013, on purchase of coal and LPG used in manufacturing activity, cement used in manufacture of RCC sleepers, and items used in housekeeping services though these dealers were not dealing in these goods. In three other cases relating to works contractors, the AAs⁹⁷ while determining the tax for 2010-11 to 2012-13, did not restrict the ITC to 90 per cent/75 per cent on the purchase value of goods incorporated in works. This resulted in incorrect allowance of ITC of ₹ 28.92 lakh in all the seven cases.

After Audit pointed out the cases, DC(CT) Vizianagaram replied (October 2015) in one case that assessment was revised and effectual orders were issued. In three other cases AAs stated⁹⁸ (between July 2013 and July 2015) that assessment files were submitted to DC(CT) for revision. In two cases, AAs⁹⁹ stated (April and October 2015) that show cause notices were issued to the dealers. Reply in respect of one case of CTO Tirupathi-II has not been received (January 2016).

2.12.2 Excess claim of ITC

According to Section 13(5) of the VAT Act, no ITC shall be allowed on sale of exempted goods (except in the course of export), exempt sales and transfer of exempted goods outside the State otherwise than by way of sale (exempt transactions) and to the works contractors who opt to pay tax under composition. As per Section 13(6) of the VAT Act, ITC for exempt transactions shall be allowed for the amount of tax in excess of five per cent (four per cent up to 13 September 2011).

As per sub rules (7), (8) and (9) of Rule 20 of VAT Rules, a VAT dealer making taxable sales, exempted sales and exempt transactions of taxable goods shall restrict his ITC as per the formula prescribed i.e. $A*B/C$, where A is the input tax for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

Under Section 20(3) of the VAT Act, every return shall be subject to scrutiny to verify the correctness of calculation, application of correct rate of tax and ITC claimed and full payment of tax payable for tax period. If any mistake is detected as a result of such scrutiny made, the authority prescribed shall issue a notice of demand in the prescribed form for any short payment of tax or for recovery of any excess ITC claimed.

⁹⁵ 90 per cent before 15 September 2011.

⁹⁶ CTOs- Adoni-I, Aryapuram, Tirupathi-II.

⁹⁷ CTOs- Gajuwaka, Kurnool-I.

⁹⁸ CTOs- Aryapuram, Gajuwaka.

⁹⁹ CTOs- Adoni-I & Kurnool-I.

Audit noticed (between June 2012 and February 2015) in DC(CT), Kakinada and four circles¹⁰⁰ that in three¹⁰¹ out of six cases for the years 2008-09 to 2013-14, VAT dealers claimed ITC without reporting any taxable sales other than branch transfers in VAT 200 returns. They did not restrict ITC claims as per the provisions of Section 13(6) of the VAT Act. In three other cases the AAs¹⁰², while finalising the VAT assessments between January 2013 and January 2014 for the assessment years 2009-10 to 2012-13 did not restrict the ITC as per the prescribed formula though the transactions included taxable sales, exempt sales as well as exempt transactions. This resulted in excess allowance of ITC of ₹ 15.02 lakh.

After Audit pointed out the cases, CTO Steel plant stated (December 2014) in one case that action would be initiated. CTO, Hindupur replied (November 2015) that revised assessment orders were issued and demand raised in two cases. In remaining cases, the AAs¹⁰³ stated (between August and December 2014) that the matter would be examined and report submitted to Audit in due course.

2.12.3 Short levy of tax due to non-restriction of ITC

As per Advance Ruling¹⁰⁴ the amount received on account of claims of insurance, are not liable to VAT but the ITC claimed on the goods damaged is also not admissible.

Fertilisers, pesticides, drugs and medicines are classified under Schedule IV of the VAT Act and are taxable at four *per cent* (five *per cent* with effect from 14 September 2011).

During test check of VAT records of three circles¹⁰⁵ for the period from 2006-07 to 2010-11, Audit noticed (between January and March 2015) that the AAs¹⁰⁶ in two cases incorrectly allowed ITC on purchase returns. In two other cases of CTO Nandigama, insurance claim received by the assessee during the years 2008-09 and 2010-11 towards loss of stock, machinery and value of stock damaged in floods was deducted from the taxable turnover. However, the ITC claimed on the value of stock and machinery damaged in fire and floods was not disallowed. This resulted in non-restriction of ITC to the extent of ₹ 5.41 lakh in all the four cases.

After Audit pointed out the cases, CTO Adoni-I stated (October 2015) that show cause notice was issued to the dealer. In case of CTO Nandigama, it was replied (February 2015) that ITC would be restricted. In remaining two cases AAs¹⁰⁷ stated (January and February 2015) that the matter would be examined and report submitted in due course.

¹⁰⁰ CTOs- Gandhi Chowk, Hindupur, Ongole-II, Steel Plant.

¹⁰¹ DC(CT)- Kakinada, CTO- Hindupur.

¹⁰² CTOs- Gandhi Chowk, Ongole-II, Steel Plant.

¹⁰³ DC(CT) Kakinada, CTOs- Gandhi Chowk, Ongole-II.

¹⁰⁴ A.R.Com/81/2009, dated.15 April 2010.

¹⁰⁵ CTOs- Adoni-I, Guntakal, Nandigama.

¹⁰⁶ CTOs- Adoni-I, Guntakal.

¹⁰⁷ CTOs- Guntakal, Nandigama.

The matter was referred to the Department (between December 2012 and July 2015) and to the Government (November 2015). Their replies have not been received (January 2016).

2.13 Non-levy of interest

According to Section 22(2) of VAT Act, if any dealer fails to pay the tax due on the basis of return submitted by him under the Act, within the time prescribed or specified thereunder, he shall pay, in addition to the amount of such tax or penalty or any other amount, interest calculated at the rate of one *per cent*¹⁰⁸ per month for the period of delay from such prescribed or specified date for its payment.

During the test check of the VAT records of DC(CT) Kadapa and seven circles¹⁰⁹ Audit noticed (between September 2014 and March 2015) for the period from 2007-08 to 2013-14, that in 12 cases, the dealers paid tax after the due dates with the delay ranging between two and 619 days. However, AAs did not levy interest on belated payment of tax. This resulted in non-levy of interest of ₹ 26.88 lakh.

After Audit pointed out the cases, three AAs¹¹⁰ in three cases stated (between March and May 2015), that demands were raised levying interest and further report would be submitted on realisation of the demand. In one case, CTO Nellore-I stated (March 2015) that notice was issued to the dealer. In the remaining eight cases, the AAs¹¹¹ stated (between October 2014 and March 2015) that the matter would be examined and report submitted in due course.

The matter was referred to the Department (between February and July 2015) and to the Government (September 2015). Their replies have not been received (January 2016).

2.14 Short payment of tax due to non-conversion of TOT dealers as VAT dealers

As per Section 17(3) of the VAT Act, every dealer whose taxable turnover exceeds ₹ 50 lakh in the 12 preceding months shall be liable to be registered as a VAT dealer¹¹².

According to Section 17(5)(g) of VAT Act, every dealer executing works contract exceeding ₹ 7.5 lakh (with effect from 20 April 2012) or any dealer who opts to pay tax by way of composition on works contract shall be registered as VAT dealer.

¹⁰⁸ 1.25 *per cent* with effect from 15 September 2011.

¹⁰⁹ CTOs- Ananthapur-II, Gudivada, Kadapa-I, Markapur, Nellore-I, Ongole-I, Parchur.

¹¹⁰ CTOs- Ananthapur-II, Gudivada, Ongole-I.

¹¹¹ DC(CT) Kadapa, CTOs- Kadapa-I, Markapur, Parchur.

¹¹² Prior to 1 May 2009 any dealer whose turnover exceeds either ₹ 10 lakh in the preceding three months or ₹ 40 lakh in the preceding 12 months shall be liable to be registered as a VAT dealer.

As per Rule 6(1)(d) of VAT Rules, VAT registration should take effect from the first day of the month in which the dealer becomes liable for VAT registration. As per STAT orders¹¹³ Printing & Binding of books and magazines is to be treated as ‘works contract’.

During the test check of Turnover Tax (TOT) records of four circles¹¹⁴ Audit noticed (January and February 2014) in three out of six cases, that during the year 2012-13, the dealers engaged in printing works were not registered as VAT dealers in terms of Section 17(5)(g). In three other cases, during the period 2011-12 to 2013-14, though the dealers crossed the threshold limit of ₹ 50 lakh, the AAs did not convert these dealers as VAT dealers. The total turnover that exceeded the threshold limits in six cases amounted to ₹ 165.42 lakh on which VAT of ₹ 17.01 lakh was to be levied had they been registered as VAT dealers. These TOT dealers had neither applied for VAT registration nor were registered by AAs. This resulted in short realisation of revenue of ₹ 14.84 lakh.

After Audit pointed out, AAs¹¹⁵ stated (July and October 2015) that show cause notices were issued to dealers in four cases. In remaining cases AAs¹¹⁶ stated (between January 2014 and January 2015) that the matter would be examined and report submitted in due course.

The matter was referred to the Department (between October 2014 and July 2015) and to the Government (September 2015). Their replies have not been received (January 2016).

2.15 Non-levy/non-declaration of purchase tax

Under Section 4(4) of the VAT Act, purchase tax is to be levied on purchase of taxable goods made without paying tax (purchase from unregistered dealers or if the selling dealer is not liable to pay tax) if the goods are used as inputs either for exempt products or for goods which are disposed of by any means other than by sale. Purchase tax is to be levied proportionately if the originally purchased goods are used as common inputs for products which separately necessitate and do not necessitate levy of purchase tax.

During the test check of VAT records of six circles¹¹⁷ Audit noticed (between May and December 2014) in nine cases including eight audited cases for the period from 2008-09 to 2012-13, that the dealers purchased taxable goods such as paddy, black gram, red gram from unregistered dealers and effected exempt sales of husk derived from the paddy and gram and also exempt transactions of rice bran oil extracted from paddy to other States. These purchase transactions attracted levy of purchase tax. However, neither had the dealers paid the tax nor was the same levied by the AOs in the VAT audited

¹¹³ Kalajyothi Process Ltd. Vs The State of Andhra Pradesh (STAT) (2006) 43 APSTJ 141.

¹¹⁴ CTOs- Gajuwaka, Jagannaikpur, Kakinada and Ongole-I.

¹¹⁵ CTOs- Gajuwaka and Kakinada.

¹¹⁶ CTOs- Jagannaikpur and Ongole-I.

¹¹⁷ CTOs- Aryapuram, Chinawaltair, Gandhi Chowk (Tenali), Gudivada, Tanuku-II, Tirupathi-II.

cases. This resulted in non-levy/under-declaration of purchase tax of ₹ 13.72 lakh.

After Audit pointed out, in three cases, CTOs¹¹⁸ stated (between December 2014 and November 2015) that assessment files were submitted to DC(CT) for revision. CTOs Aryapuram and Tanuku-II in two cases contended (February and June 2015) that purchase tax on byproducts is not to be levied as per the Advance Ruling¹¹⁹ and High Court Judgement¹²⁰. The reply is not tenable as the advance ruling and judgement are related to raw cotton and the commodity referred to by Audit was husk derived from paddy. In the remaining four cases CTOs¹²¹ stated (between June and December 2014) that the matter would be examined.

The matter was referred to the Department (June 2015) and to the Government (September 2015). Their replies have not been received (January 2016).

2.16 Non-levy of tax on handling charges

As per Section 2(29)(c)(ii) of the VAT Act, sale price includes, any other sum charged by the dealer for anything done in respect of goods sold at the time of, or before the delivery of the goods.

As per Section 2(h) of CST Act, “sale price” means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount but inclusive of any sum charged for anything done by the dealer in respect of the goods other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged.

During the test check of VAT/CST assessment files of two circles¹²² Audit noticed (between February and May 2013) in two cases that the dealers received an amount of ₹ 95.68 lakh towards handling charges which was not assessed to tax by AAs while finalising the assessments under VAT and CST Acts between February and March 2012. This resulted in non-levy of tax of ₹ 11.96 lakh.

After Audit pointed out the cases, the CTO Dwarakanagar stated (July 2013) in one case that Assessment file was submitted to DC(CT), Visakhapatnam for revision. In remaining case, CTO Nellore-II stated (May 2013) that the matter would be examined.

The matter was referred to the Department (between June and July 2013) and to Government (September 2015). Their replies have not been received (January 2016).

¹¹⁸ CTOs- Chinawaltair, Gudivada and Tirupathi-II.

¹¹⁹ Advance Ruling No.PMT/P&L/A.R.Com/172/2006, dated 12 March 2007.

¹²⁰ High Court of A.P W.P. No.17972 of 2014, dated 04 March 2015.

¹²¹ CTOs- Aryapuram, Gandhichowk, and Tanuku-II.

¹²² CTOs- Dwarakanagar, Nellore-II.

2.17 Short levy of tax due to underassessment of interstate purchases

Sale of “PVC Pipes, fittings” etc., fall under Schedule IV to the VAT Act and are taxable at the rate of four *per cent* upto 13 September 2011 and at five *per cent* thereafter.

Cross verification of VAT assessment order (August 2011) in one case of CTO Ongole-I, with ‘C’ form issue report revealed (January 2015) that the dealer under-declared interstate purchases for the years 2009-10, 2010-11 and 2011-12 (upto June 2011). As a result, corresponding sales turnover of ₹ 1.35 crore was not assessed to the extent of excess purchases made by the assessee resulting in short levy of tax of ₹ 5.38 lakh at the rate of four *per cent*.

After Audit pointed out the case, the AA stated (January 2015) that the matter would be examined and a detailed reply furnished in due course.

The matter was referred to the Department (May 2015) and to the Government (September 2015). Their replies have not been received (January 2016).

2.18 Short Levy of tax due to incorrect exemption on turnover relating to credit notes issued for discounts

According to Rule 16(3)(f) of APVAT Rules, whenever any credit note is to be issued for discounts or sales incentives by any VAT dealer to another VAT dealer after issuing tax invoice, the selling VAT dealer shall pass a credit note without disturbing the tax component on the price in the original tax invoice, so as to retain the quantum of ITC already claimed by the buying VAT dealer as well as not to disturb the tax already paid by the selling VAT dealers.

According to Section 8(2) of the CST Act read with Rule 12 of the CST (R&T) Rules, every dealer, who in the course of interstate trade or commerce sells goods to a registered dealer located in another State, shall be liable to pay tax at the rate of two *per cent* with effect from 1 June 2008, provided the sale is supported by a declaration in ‘C’ form. Otherwise, tax shall be levied at the rate applicable to all goods inside the State.

‘Polystyrene’ is classified under Schedule IV of VAT Act and is to be taxed at four *per cent*.

During the test check of assessment files of DC(CT), Visakhapatnam Audit noticed (December 2013) that the AA while finalising the CST assessments for the year 2009-10 in February 2013 allowed exemption for ₹ 1.34 crore towards discounts allowed to the dealer after raising the invoices. However, as per the above provisions, discounts allowed subsequent to issue of invoice are not eligible for exemption. This resulted in short levy of tax of ₹ 5.37 lakh at the rate of four *per cent*.

After Audit pointed out the case, the AA stated that the assessment was done under the provisions of CST Act and the tax component was not disturbed.

The reply is not tenable as the provisions of VAT Act are applicable to CST also and discounts allowed after raising invoices do not qualify for exemption.

The matter was referred to the Department (June 2015) and to Government (August 2015). Their replies have not been received (January 2016).

CHAPTER-III

***STATE EXCISE
DUTIES***

CHAPTER III

STATE EXCISE DUTIES

3.1 Tax administration

The Prohibition and Excise Department (P&E) is governed by the Andhra Pradesh Excise Act, 1968 (AP Excise Act), the Narcotic Drugs and Psychotropic Substances Act, 1985, the Andhra Pradesh Prohibition Act, 1995 etc. The Principal Secretary to Government, Revenue Department is the controlling authority at Government level. The Commissioner, Prohibition and Excise Department is the head of the Department in all matters connected with administration of these Acts. He is assisted by Director of Enforcement for implementation of the Acts. The 13 districts of the State, each headed by a Deputy Commissioner (DC), are classified under 29 excise districts. Each of the excise districts is under the charge of a Prohibition and Excise Superintendent (P&ES) who is assisted by the Assistant Excise Superintendent and other staff. Prohibition and Excise Inspectors are in charge of excise stations and check posts, while DCs and Assistant Commissioners (AC) supervise the overall functioning of the offices of Excise Superintendents.

3.2 Internal audit

Internal Audit is an important mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. The orders issued by the Government of Andhra Pradesh from time to time stipulate that it is the responsibility of the Accounts Branch of the Head of the Department to conduct internal audit of the Regional Offices, District Offices, Unit Offices etc., periodically (at least once in a year) and furnish reports to the Commissioner. It was communicated by the Department (January 2016) that no internal audit was conducted during the year 2014-15.

3.3 Results of audit

Test check of records of 32 offices of Prohibition and Excise Department conducted during the year 2014-15 revealed non-levy/short realisation of fees and other irregularities involving ₹ 5.76 crore in 88 cases, which broadly fall under the categories as given in Table 3.1.

Table 3.1: Results of audit

| (₹ in crore) | | | |
|--------------|---|--------------|-------------|
| Sl.No. | Category | No. of cases | Amount |
| 1. | Non/short levy of annual licence fee | 06 | 2.16 |
| 2. | Non-levy of additional licence fee | 12 | 1.69 |
| 3. | Non/short levy of permit room licence fee | 26 | 1.33 |
| 4. | Short levy of licence transfer fee | 06 | 0.29 |
| 5. | Non-levy of interest on belated payments of licence fee | 18 | 0.14 |
| 6. | Short levy of toddy rentals | 08 | 0.11 |
| 7. | Other irregularities | 12 | 0.04 |
| Total | | 88 | 5.76 |

During the year 2014-15, the Department accepted under-assessment and other deficiencies of ₹ 3.40 crore in 105 cases, of which 38 cases involving ₹ 2.40 crore were pointed out during the year 2014-15 and the rest in earlier years. An amount of ₹ 91.09 lakh was realised in 96 cases during the year 2014-15. A few illustrative cases, involving ₹ 3.33 crore, are mentioned in the succeeding paragraphs.

3.4 Short levy of annual licence fee on Bar licences

As per Section 28 of the AP Excise Act read with Rule 10 of the A.P. Excise (Grant of licence of selling by Bar and conditions of licence) Rules, 2005, the annual licence fee for the Bar shall be at rates notified¹²³ by the Government from time to time and are collected at the time of issue of Bar licence (2-B) to consumption enclosure. The mode of levying licence fee is on the basis of population.

As per the Government orders mentioned earlier, the licence fee of a Bar situated in a Tourism Centre notified by the Tourism Department of the Central or State Government shall be at the rate of licence fee of a Bar situated within the limits of the nearest municipality or municipal corporation. Annual licence fee for a Bar situated within the limits of a municipality with population above 50,000 but not exceeding five lakh had been notified as ₹ 35 lakh.

Audit noticed (between November 2014 and February 2015) from the Bar licence files of three offices¹²⁴ of the Prohibition and Excise Superintendents (P&ES), that annual licence fee for the Bar licences for the licence period 2011-12 to 2013-14 was short levied in 13 restaurant and bars.

Of these, one restaurant and bar under P&ES, Machilipatnam was located at Avanigadda village, a notified tourism centre. As this village is located at a distance of 10 km to 12 km to Repalle Municipality which had a population above 50,000, the annual licence fee of ₹ 35 lakh was to be levied. However, only ₹ 25 lakh was levied for the years 2012-13 and 2013-14 towards the annual licence fee.

In the remaining restaurant and bars, ₹ 35 lakh was to be levied towards annual licence fee in each case as the population in municipal areas where these establishments were located, was above 50,000 but not exceeding five lakh as per the Census 2011. However, the Department had adopted the population figures as per Census 2001 and collected ₹ 25 lakh only in each case.

This resulted in short levy of annual licence fee of ₹ 1.40 crore for the licence period 2011-12 to 2013-14 in 13 restaurant and bars.

¹²³ G.O.Ms.No.655, Revenue (Excise-II) Department, dated 18 June 2011.
G.O.Ms.No.403, Revenue (Excise-II) Department, dated 25 June 2012.
G.O.Ms.No.406, Revenue (Excise-II) Department, dated 08 July 2013.

¹²⁴ Chittoor, Machilipatnam, Narasaraopet.

After Audit pointed out these cases, P&ES, Chittoor (February 2015) replied that matter would be examined and detailed reply furnished to Audit in due course. P&ES, Narasaraopet replied that show cause notices were issued (January 2015) to the licencees for payment of differential licence fee.

P&ES, Machilipatnam replied (August 2015) that action was taken to collect differential licence fee from the licencee.

The matter was referred to the Department in May 2015 and to the Government in July 2015. Their replies have not been received (January 2016).

3.5 Non-levy of additional licence fee on non-contiguous additional enclosures

As per Section 28 of the AP Excise Act read with Rule 10 of AP Excise (Grant of licence of selling by Bar and conditions of licence) Rules, 2005, any additional enclosure for consumption of liquor, which is not contiguous, shall attract additional licence fee at 10 *per cent* of the annual licence fee.

In terms of explanation given under Rule 10, the word 'enclosure' means an area of consumption of liquor which is contiguous in utility for consumption. If one consumption enclosure is separated from another enclosure by non-contiguity and interposition of areas of different utilities other than consumption of liquor, it attracts additional licence fee.

Audit noticed (between July 2014 and May 2015) during test check of the records relating to Bar licences, payment details etc. of five offices¹²⁵ of the P&ESs, that the respective P&ES did not levy 10 *per cent* additional licence fee amounting to ₹ 50.80 lakh for the years from 2011-12 to 2013-14 on six restaurant and bars with non-contiguous consumption enclosures like consumption areas situated in different halls, different floors having separate access etc.

After Audit pointed out the cases, P&ES, Kakinada replied (October 2014) that in one of the two restaurants pointed out by Audit, there was contiguity between consumption enclosures as they were separated only by passage and toilet rooms and toilet is a mandatory requirement under Rule 6 of Bar rules. For other restaurant, it was stated that consumption enclosures in the ground floor and first floor were separated by kitchen and staircase and the kitchen, as well as staircase are part and parcel of the Bar. Hence, additional licence fee was not payable in both the cases. The reply is not tenable as separate access was provided to enter the enclosures and those were separated by areas utilised for purposes other than liquor consumption.

P&ES, Chittoor replied (November 2015) that there was no non-contiguity according to the structure of the building and hence there was no short levy. The reply is not tenable as the access to the consumption enclosures situated at first floor was through the staircase situated outside the consumption

¹²⁵ Amalapuram, Chittoor, Guntur, Kakinada, Visakhapatnam.

enclosures at ground floor enabling the consumers to enter the consumption enclosures at first floor without entering the area at the ground floor.

P&ES, Guntur accepted the audit observation and intimated that show cause notice was issued (January 2015) to the licensee. Remaining P&ESs replied that matter would be examined and reply furnished in due course.

The matter was referred to the Department between October 2014 and May 2015 and to the Government in July 2015. Their replies have not been received (January 2016).

3.6 Short levy of annual licence fee on retail liquor shops

As per Section 28 of the AP Excise Act, 1968 read with Rule 16 of the AP Excise (Grant of licence of selling by shop and conditions of licence) Rules 2012, the annual licence fee for the shop licence shall be levied on the basis of population and at the rates notified¹²⁶ by the Government from time to time. The annual licence fee of a shop situated in a village/town, any part of which is within a belt of two km from the periphery of municipalities or five km from the periphery of municipal corporations, measured in a straight line on the horizontal plane, shall also be at the rate of annual licence fee of a shop situated within the limits of such municipality or municipal corporation.

During scrutiny of shop policy and licence files of three P&ESs offices¹²⁷, it was noticed (between August 2014 and February 2015) in respect of three shops under the jurisdiction of P&ESs Narasaraopet and Gudur situated within two kilometres from municipalities with population exceeding 10,000, annual licence fee was collected at ₹ 32.50 lakh each instead of ₹ 34 lakh for the years 2012-13 and 2013-14, resulting in short levy of licence fee of ₹ nine lakh.

In P&ES, Chittoor, Audit observed that due to merger of 14 villages with Chittoor Municipality and upgradation of municipality to municipal corporation, licence fee at ₹ 42 lakh for each had to be collected from the seven shops situated in municipal area. Licence fee of ₹ 32.50 lakh for each was collected for the year 2013-14, leading to short levy of ₹ 66.50 lakh. In all, there was a short levy of licence fee of ₹ 75.50 lakh from 10 shops for the years 2012-13 and 2013-14.

After Audit pointed out these cases, P&ES, Chittoor replied that notices would be issued to the licensees for payment of differential licence fee and progress intimated to Audit. Remaining P&ESs replied that matter would be examined and detailed reply furnished to Audit in due course.

¹²⁶ G.O.Ms.No.392, Revenue (Excise-II) Department, dated 18 June 2012.
G.O.Ms.No.357, Revenue (Excise-II) Department, dated 22 June 2012.
G.O.Ms.No.358, Revenue (Excise-II) Department, dated 22 June 2013.
G.O.Ms.No.265, Revenue (Excise-II) Department, dated 22 June 2014.

¹²⁷ Chittoor, Gudur, Narasaraopet.

The matter was referred to the Department in May 2015 and to the Government in July 2015. Their replies have not been received (January 2016).

3.7 Permit room¹²⁸ licence fee

3.7.1 Non/short levy of permit room licence fee

As per Section 28 of the AP Excise Act, 1968, read with Rule 25 of AP Excise (Grant of licence of selling by shop and conditions of licence) Rules 2012, the holder of licence in Form A-4 (for retail liquor shop) in places with population of 5000 and above, shall be licensed in Form A-4(B) to have a permit room. Provided that no such permit room will be granted in municipal corporation and municipalities and within a belt area of five km from the periphery of such municipal corporation and within a belt area of two km from the periphery of such municipalities and in Tourism Centres. Further, as per Rule 26, the licence fee for a permit room shall be ₹ one lakh for the licence period 2012-13 and ₹ two lakh for the licence period 2013-14¹²⁹ or part thereof and is payable in lumpsum.

During scrutiny of shop licence files of 11 offices¹³⁰ of P&ESs for 2012-13 and 2013-14, it was noticed (between July 2014 and February 2015) that in respect of 26 shops, Department did not levy and collect permit room licence fee for the years 2012-13 and 2013-14 although the population exceeded 5,000. This resulted in non-levy of permit room licence fee amounting to ₹ 37 lakh.

In offices of P&ES, Amalapuram and Chittoor, it was noticed that seven shops were disposed of belatedly during 2012-13 and 2013-14 and proportionate licence fee of ₹ 8.58 lakh had been collected instead of lumpsum and full fee of ₹ 13 lakh despite there being no provision in shop rules for levy and collection of proportionate licence fee. Collection of proportionate permit room licence fee was irregular; hence, there was short collection of permit room licence fee of ₹ 4.42 lakh.

In all, there was non-levy and short realisation of permit room licence fee of ₹ 41.42 lakh from 33 shops during the years 2012-13 and 2013-14.

After Audit pointed out these cases, P&ESs, Parvathipuram, Rajahmundry and Tenali accepted the audit observation and replied that action would be taken to collect permit room licence fees from licencees for the relevant years. P&ESs Amalapuram, Ananthapur and Narasaraopet replied that the matter would be examined and reply furnished to Audit in due course.

¹²⁸ Consumption area adjacent to the liquor shop.

¹²⁹ G.O.Ms.No.357, Revenue (Excise-II) Department, dated 22 June 2013.

¹³⁰ Amalapuram, Ananthapur, Chittoor, Gudur, Guntur, Markapur, Narasaraopet, Parvathipuram, Proddatur, Rajahmundry, Tenali.

In respect of the remaining cases¹³¹, P&ESs (between July 2014 and February 2015) stated that as the population was below 5000, permit room licence fee was not insisted upon; and shops were disposed of belatedly, hence, proportionate licence fee had been collected. The replies are not tenable as the population of places pointed out by Audit exceeded 5000 as per 2011 Census; and full licence fee should have been levied in accordance with provisions.

The matter was referred to the Department in October 2014 and May 2015 and to the Government in July 2015. Their replies have not been received (January 2016).

3.7.2 Short levy of proportionate permit room licence fee

As per Rule 27-A of AP Excise (Lease of right of selling by shop and conditions of licence) Rules, 2005¹³², the holder of the license in Form A-4 may be granted a permit room licence in Form A-4 (B) after payment of licence fee of ₹ two lakh for the lease year 2010-12. As per proviso to Rule 27-A, the licence fee for permit room may be calculated proportionately to the whole months of the licence period and a part of the month shall be reckoned as a whole month.

During test check of the records relating to licences to retail liquor shops and payment of licence fee etc. of the office of the P&ES, Amalapuram, Audit noticed (July 2014) that in two cases the permit room licence fee amounting to ₹ 1.50 lakh was collected as against ₹ 3.42 lakh for the year 2010-12 by incorrectly calculating the proportionate licence fee. This resulted in short levy of permit room licence fee by ₹ 1.92 lakh.

After Audit pointed out the case, the P&ES replied that matter would be examined and reply furnished to Audit in due course.

The matter was referred to the Department in October 2014 and to the Government in July 2015. Their replies have not been received (January 2016).

3.8 Non-levy of interest on belated payment of permit room licence fee

As per Section 28 of the AP Excise Act read with Rule 26 of AP Excise (Grant of licence of selling by shop and conditions of licence) Rules, 2012, the licence fee for a permit room shall be ₹ one lakh for the licence period or part thereof and shall be payable in lumpsum at the time of completion of formalities prescribed under Rule-16 (mode of levy, method of payment of licence fee, etc.). Government through an order¹³³ enhanced the amount of licence fee to ₹ two lakh in June 2013.

¹³¹ Chittoor, Gudur, Guntur, Markapur, Proddatur.

¹³² Applicable till 17 June 2012 vide GOMs no. 391 Rev.(Ex II) Department, dated 18 June 2012.

¹³³ G.O.Ms.No.357, Revenue (Excise-II) Department, dated 22 June 2013.

As per Rule 3 of AP Excise (Levy of Interest on Government Dues) Rules, 1982, the arrears of money recoverable shall bear interest at the rate of 18 per cent per annum.

Audit noticed (between August 2014 and February 2015) during the scrutiny of A4 shops files for the years 2012-13 and 2013-14 in four offices¹³⁴ of the P&ESs, that in 364 cases, licencees had paid permit room licence fee belatedly with delay ranging from two to 122 days. However, no penal interest was levied by the Department. Interest to be levied on belated payments amounted to ₹ 7.63 lakh.

After Audit pointed out these cases, Government replied (December 2015) that ₹ 1.82 lakh was realised towards interest on belated payment of licence fee in three P&ESs¹³⁵. In respect of P&ES, Gudur, Station House Officers (SHOs) were instructed to realise penal interest.

3.9 Short levy of toddy rentals

Rule 5(5) of the AP Excise (Grant of Licence to sell Toddy, conditions of licence and Tapping of Excise trees) Rules, 2007 read with Government orders dated 13 November 2007¹³⁶, the rate of rent per tree was ₹ 25 in rural areas and ₹ 50 in urban areas with effect from 01 October 2007.

Any change in the status is notified by the Government, whenever Gram Panchayats are upgraded as Nagar Panchayat or are merged with municipalities/municipal corporations. As per 2011 Census, certain villages were classified as Census Towns (CT) and Out Growths (OG) under urban category. Accordingly, toddy rentals in these areas were to be collected as per rates applicable to urban areas.

During test check of toddy rental collection registers, files and records of toddy shops etc. in four offices¹³⁷ of the P&ESs, Audit noticed (between November 2014 and March 2015) that the rentals in 23 TCSs¹³⁸ and TFTs¹³⁹ were levied at rates applicable in rural areas, instead of urban areas, though some villages were classified as urban areas as per 2011 Census and some Gram Panchayats were upgraded and notified as Nagar Panchayats/Municipalities as Municipal Corporations. This resulted in short levy of toddy rentals amounting to ₹ 8.36 lakh for the years 2011-12 to 2013-14.

After these cases were pointed out by Audit, P&ES, Kurnool replied (May 2015) that ₹ 0.93 lakh was remitted to Government account in respect of seven TCS/TFTs and the remaining amount would be collected shortly. It was further stated that in the remaining four cases, villages were not merged with Kurnool Municipal Corporation and hence the amount was not payable. The

¹³⁴ Chittoor, Eluru, Gudur, Proddatur.

¹³⁵ Chittoor, Eluru, Proddatur.

¹³⁶ G.O.Ms.No.1433, Revenue (Ex-III), dated 13 November 2007.

¹³⁷ Chittoor, Eluru, Kurnool and Vizianagaram.

¹³⁸ Toddy Co-operative Societies.

¹³⁹ Tree for Tappers Scheme.

reply is not tenable as these villages were categorised as OGs which are urban agglomerations as per Census 2011 and hence the urban area rate was to be applied. P&ES, Eluru replied (June 2015) that steps were initiated to collect the difference of the enhanced toddy rentals as pointed out by Audit. Remaining P&ESs stated that action would be taken to collect differential amount by issuing notices to the concerned.

The matter was referred to the Department in May 2015 and to the Government in July 2015. Their reply has not been received (January 2016).

3.10 Non-levy and non-collection of licence transfer fees

As per Section 28 of AP Excise Act, 1968 read with Rule 17 (1) & (2) of AP Excise (Grant of licence of selling by Bar and conditions of licence) Rules, 2005, no licensee shall, except with the sanction of the Commissioner of Prohibition & Excise, transfer his licence to any other person. The Commissioner may allow such transfer after collecting 10 *per cent* of the licence fee. As per Rule 17(4) of these Rules, when there are only two partners in the firm holding the licence and one of them withdraws or expires, the entity of the firm changes from partnership to proprietary concern. It amounts to transfer of licence. As per Rule 17(5), conversion of a proprietary concern into a firm or a company or a firm into a company and vice versa shall amount to transfer of licence.

Audit noticed (July and August 2014) during scrutiny of Bar licence files in two offices¹⁴⁰ of the P&ESs that the status of two entities holding Bar licences changed from partnership firm to proprietary concern due to retirement of partners. Though there was change in status of the entities, P&ESs did not levy transfer licence fee amounting to ₹ 7.30 lakh.

After Audit pointed out the cases, P&ES, Anakapalli replied in respect of one case that as per their records the restaurant and bar was running as partnership firm since 2010-11 and none of the partners had represented for change in status of the entity. The reply is not tenable as the Income Tax statement (Form 3D) and the PAN number indicate that status of entity was a person not a firm. P&ES, Parvathipuram replied that the matter would be examined and detailed reply furnished to Audit in due course.

The matter was referred to the Department in October 2014 and to the Government in July 2015. Their replies have not been received (January 2016).

¹⁴⁰ Anakapalli, Parvathipuram.

CHAPTER-IV

***STAMP DUTY AND
REGISTRATION FEES***

CHAPTER IV

STAMP DUTY AND REGISTRATION FEES

4.1 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899, (IS Act), the Registration Act, 1908 and the rules framed thereunder as applicable in Andhra Pradesh State and are administered at the Government level by the Principal Secretary (Revenue). The Commissioner and Inspector General of Registration and Stamps (CIGR) is the head of the Revenue Department who is empowered with the task of superintendence and administration of registration work in the State. He is assisted by the zone wise Deputy Inspectors General (DIG). The District Registrar (DR) is in charge of the district. He supervises and controls the Sub-Registrars (SR) in the district concerned.

4.2 Internal audit

There is a separate Internal Audit wing in the Department to examine the lapses of the registering officers, if any, in the cases of undervaluation of properties registered which cause loss of revenue to the State exchequer. DIG intimated (December 2015) that internal audit for the year 2014-15 was conducted by drawing monthly audit programmes.

4.3 Results of audit

Test check of records of 87 offices of Registration and Stamps Department conducted during 2014-15 showed non-levy/short realisation of stamp duty and registration fees etc. and other irregularities involving ₹ 9.85 crore in 366 cases, which broadly fall under the following categories:

Table 4.1: Results of audit

| (₹ in crore) | | | |
|--------------|--|--------------|-------------|
| Sl.No. | Category | No. of cases | Amount |
| 1. | Short levy of stamp duty and registration fees due to non-verification of properties | 220 | 6.13 |
| 2. | Short levy of duties due to undervaluation of properties | 64 | 2.21 |
| 3. | Short levy of duties due to misclassification of documents | 33 | 0.66 |
| 4. | Short levy of duties due to adoption of incorrect rates | 26 | 0.63 |
| 5. | Other irregularities | 23 | 0.22 |
| Total | | 366 | 9.85 |

During the year 2014-15, the Department accepted under-assessment and other deficiencies of ₹ 1.10 crore in 59 cases, of which 52 cases involving ₹ 1.08 crore were pointed out during the year 2014-15 and the rest in earlier years. An amount of ₹ 13.48 lakh was realised in 24 cases during the year

2014-15. A few illustrative cases involving ₹ 5.87 crore are mentioned in the succeeding paragraphs.

4.4 Short levy of stamp duty and registration fees due to non-verification of facts

As per Rule 7 of AP Revision of Market Value (MV) Guidelines Rules, different values have been fixed for agricultural lands fit for house sites/residential localities. Further, Rule 4(1)(ii)(a) *ibid* provides for valuation of agricultural land and non-agricultural land for levy of stamp duty. Acreage rate in respect of agricultural land and square yard rate in respect of non-agricultural land have to be adopted for levy of stamp duty.

During test check of records of eight offices of DRs¹⁴¹ and 12 offices of SRs¹⁴², Audit noticed (between July 2014 and February 2015) that in 100 cases involving 77 sale deeds, 11 general powers of attorney (GPA), five gift settlements, four agreements of sale cum GPA (AGPA), one development agreement cum GPA (DGPA), one exchange deed and one release deed executed between May 2011 and March 2014, the registering officers, while registering the documents, adopted the agricultural rate for the land which had already been converted for non-agricultural purposes by revenue authorities. Due to non-verification of facts by registering authorities, the properties were undervalued resulting in short levy of stamp duty and registration fees by ₹ 3.52 crore.

After Audit pointed out these cases, Government contended (December 2015) that no information about conversion of land was being received from the revenue authorities concerned in time. The reply is not tenable as the properties commented upon by Audit had already been converted for non-agricultural purposes through conversion orders issued by revenue authorities and the registering authorities did not verify the facts before registration as provided under Section 27 of the IS Act. Government's reply indicates that non-coordination between the two wings of Revenue Department resulted in short collection of revenue. Action needs to be taken by the registering authorities for collection of deficit duties.

4.5 Short collection of stamp duty and non-registration of sand leases

As per Article 31(b) of Schedule I-A of Indian Stamp Act, 1899 where lease is granted for a fine or premium or for money advanced, stamp duty is chargeable at the rate of five *per cent* on the market value of the property or the amount or the value of such fine or premium or money advanced as set forth in the lease, whichever is higher. Section 17 (1) (d) of the Registration Act, 1908 stipulates that all leases are to be compulsorily registered with effect from 1 April 1999. Rule 9-I (2) of APMCM Rules, 1966 stipulate that a sand

¹⁴¹ Anakapalli, Bhimavaram, Eluru, Kakinada, Kurnool, Machilipatnam, Ongole, Srikakulam.

¹⁴² Adoni, Bheemunipatnam, Buja Buja Nellore, Chandragiri, Kadapa (Rural), Kallur, Kandukur, Kankipadu, Kavali, Nallapadu, Stone Housepet, Vizianagaram.

lease holder shall execute the lease deed with the ADMG concerned on stamp paper as per the provisions of Registration and Stamp Acts.

Audit noticed (November 2014) during test check of sand lease files of two offices¹⁴³ of the Assistant Directors of Mines & Geology (ADMG), that lease holders had executed three lease deeds where stamp duty was paid at lower rates instead of five *per cent* on the bid amount for the period from 2011-12 to 2012-13. The ADMG while accepting the documents, neither checked the correctness of the stamp duty paid nor insisted upon getting the documents registered. Since the documents were not registered, the Department could not check the quantum of stamp duty paid. This resulted in short levy of stamp duty and registration fees amounting to ₹ 1.33 crore.

After Audit pointed out the cases, ADMG, Kurnool replied (March 2015) that the lessees were addressed to pay the deficit stamp duty as pointed out by Audit. ADMG, Nandigama replied (November 2014) that matter would be examined and Audit intimated.

The matter was referred to the Department in April 2015 and to the Government in September 2015. Government replied (December 2015) that Mines and Geology Department had been addressed for taking necessary action.

4.6 Short levy of stamp duty and registration fees on lease deeds

Article 31 of Schedule I-A to the IS Act, prescribes the rates of stamp duty to be levied on leases. As per Explanation to the Article *ibid*, if the lessee undertakes to pay any recurring charge on behalf of the lessor including taxes/fees due to the Government, it shall be taken to be part of the rent and duties levied accordingly.

4.6.1 During scrutiny of records of two offices¹⁴⁴ of DRs, Audit noticed (December 2014 and February 2015) that in four lease deeds (registered between July 2012 and June 2013), specific clauses stipulated that service tax was to be paid by the lessees on behalf of the lessors. The registering authority did not take into account the service tax payable by the lessee on behalf of the lessor for computation of total rent payable resulting in short levy of stamp duty and registration fees of ₹ 20.36 lakh.

After Audit pointed out these cases, Government replied (December 2015) that Department would seek clarification from Central Excise Department for payment of service tax with regard to Audit observations in offices of DR, Guntur and Rajahmundry.

4.6.2 Under Article 31(d) of Schedule I-A to IS Act, where the lessee undertakes to effect improvements in the leased property and agrees to make the same to the lessor at the time of termination of lease, stamp duty is to be levied at five *per cent* on the value of the improvements to be made by the

¹⁴³ Kurnool, Nandigama.

¹⁴⁴ Guntur, Rajahmundry.

lessee as stated in the deed, in addition to the duty chargeable under other clauses of Article 31. Besides stamp duty, registration fee is also to be levied on the leases at 0.5 per cent of average annual rent.

During test check of records of two offices of SRs¹⁴⁵, Audit noticed (July 2014) that in one case¹⁴⁶ where a lease deed was executed (November 2012) for a lease period of four years, the duties amounting to ₹ 4.23 lakh were short levied due to incorrect computation of average annual rent. In another case¹⁴⁷, stamp duty on improvements under Article 31 (d) was not levied resulting in short levy of stamp duty amounting to ₹ 2.45 lakh.

After Audit pointed out these cases, Government accepted (December 2015) the audit observation and issued necessary instructions to the District Registrars to collect the deficit stamp duty.

4.7 Short levy of duties and registration fees due to undervaluation on sale deeds

As per Section 3 read with Article 47-A of Schedule I-A to the IS Act, instruments of sale are chargeable to stamp duty at rates notified¹⁴⁸ from time to time on the amount set forth in the instrument or market value of the property, whichever is higher. In addition, Transfer duty¹⁴⁹ is also to be levied on sale deeds at applicable rates¹⁵⁰ under provisions of various Acts of Local bodies, besides registration fee.

Audit noticed (between July 2014 and March 2015) during scrutiny of records of three DRs¹⁵¹ and four SRs¹⁵², that in 131 sale deeds (registered between April 2011 and March 2014), the registering authorities undervalued the properties for reasons as mentioned in **Annexure I**.

Undervaluation of these properties resulted in short levy of duties and registration fees of ₹ 33.06 lakh.

In response, Government accepted (December 2015) audit observations in all the cases except in respect of offices of SRs Kallur and Yemmiganur and intimated that necessary instructions were issued to collect the deficit stamp duty and fees. Government stated that observations in respect of Kallur and Yemmiganur were not accepted, without furnishing any reasons.

¹⁴⁵ Bheemunipatnam and Dharmavaram.

¹⁴⁶ Bheemunipatnam.

¹⁴⁷ Dharmavaram.

¹⁴⁸ G.O.Ms.No.719 Revenue (Registration-I) Department, dated 30 July 2010.

G.O.Ms.No.162 Revenue (Registration-I) Department, dated 30 March 2013.

¹⁴⁹ G.O.Ms.No.622 & 625 MA & UD (TC.I) Department, dated 27 June 2005.

G.O.Ms.No.150 & 153 MA & UD (TC) Department, dated 6 April 2013.

¹⁵⁰ G.O.Ms.No.226 PR & UD (PTS.I) Department, dated 6 April 2013.

¹⁵¹ Chittoor, SPSR Nellore, Vijayawada.

¹⁵² Ananthapur (Rural), Kallur, Yemmiganur, Pedagantyada.

4.8 Short levy of stamp duty and registration fees on Construction/ Development Agreements and Power of Attorney documents

4.8.1 As per Article 6(B) of Schedule I-A of IS Act read with Government orders¹⁵³, Development Agreements cum General Power of Attorney (DGPAs) are to be charged with stamp duty at one *per cent* on the amount of MV of property as per basic value guidelines or sale consideration shown in document or estimated MV for land and complete construction made or to be made in accordance with the schedule of rates approved by the CIGR, whichever is higher.

Audit noticed (between July 2014 and February 2015) during test check of records of office of DR Anakapalli and three SRs¹⁵⁴ that of six DGPAs (registered between June 2011 and November 2013) for development of land by building multi-storied residential/commercial complexes, in two documents, the registering authority¹⁵⁵ levied stamp duty on the consideration value instead of on the MV for land and complete construction, which was higher than the value declared in the document. In three other documents, the parking area/land meant for roads and open spaces were not considered for valuation by the registering authorities¹⁵⁶. In case of a document registered in Anakapalli, property was undervalued due to adoption of lesser cost of land and structure as against provided in MV guidelines and CIGR's circular instructions¹⁵⁷. Thus, the short levy of duties on DGPAs due to under valuation of property amounted to ₹ 7.12 lakh.

After Audit pointed out these cases, Government accepted the audit observation and replied (December 2015) that necessary instructions were issued to the DRs concerned to collect the deficit stamp duty and registration fee.

4.8.2 Instruments of Power of Attorney (PA) under Article 42(g) of Schedule I-A, which are given in favour of other than family members to sell/construct/develop/transfer immovable property and Construction Agreements (CA), Agreement of sale cum General Power of Attorney (AGPA) covered under Article 6 of Schedule I-A, are liable for stamp duty at rates prescribed on the MV of the property and registration fees¹⁵⁸ at 0.5 *per cent* on MV subject to a minimum of ₹ 1,000 and a maximum of ₹ 20,000.

During scrutiny of records of office of the DR, SPSR Nellore, Audit noticed (March 2015) that in 13 PA documents and three Agreements for construction, registration fee was collected at ₹ 1000 per document instead of at 0.5 *per cent* of market value resulting in short collection of registration fees amounting to

¹⁵³ G.O.Ms.No.1481 Revenue (Registration-I) Department dated 30 November 2007.

¹⁵⁴ Anandapuram, Kavali, Tadipatri.

¹⁵⁵ Tadipatri.

¹⁵⁶ Anandapuram, Kavali.

¹⁵⁷ Procs.No. MV6/12658/2012 dated 2 February 2013.

¹⁵⁸ G.O.Ms.No.463, Revenue (Regn-I) Department, dated 17 August 2013.

₹ 1.69 lakh. In two other cases¹⁵⁹, stamp duty of ₹ 1.48 lakh was short levied on Power of Attorney/ AGPA documents due to non-adoption of higher value recited in the previous transactions of same properties.

After Audit pointed out these cases, Government accepted the audit observation and replied (December 2015) that necessary instructions were issued to the DRs concerned to collect the deficit stamp duty and registration fee.

4.9 Short levy of duties due to misclassification of documents

4.9.1 As per Article 16 of Schedule I-A to the IS Act, on sale of any property through public auction by a civil court/revenue court/collector or other revenue officer in respect of which a certificate of sale is issued to the purchasers, the stamp duty as applicable to a conveyance deed under Article 20 is to be levied. The Government in its Memo¹⁶⁰ dated 22 June 2012, clarified that sale deeds executed by Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) will be governed by Article 47-A of Schedule I-A of IS Act and not Article 16 of the said schedule. In all other cases of public auction, the transactions should be treated as sale as defined under Section 54 of the Transfer of Property Act, 1882 and duties levied as per Article 47-A of Schedule I-A to the IS Act.

Audit noticed (October 2014 and January 2015) during scrutiny of records of two DRs¹⁶¹, in two documents registered in June 2011 and July 2013, that the registering authorities misclassified the sale deeds executed under the SARFAESI Act by Bank and Asset Reconstruction Company Limited as certificates of sale resulting in short levy of duties amounting to ₹ 30.61 lakh.

4.9.2 As per Article 41 C (a) of Schedule I-A to IS Act, where the property belonging to one or more partners right from the beginning of the partnership is distributed or allotted or given to another partner or partners, at the time of dissolution of partnership, stamp duty is chargeable at five *per cent* on the MV of the property so distributed or allotted or given to the partner or partners under the instrument of dissolution.

Audit noticed (December 2014) during the scrutiny of records of DR, Narasaraopet that in one document styled as release deed, one of the two partners released 50 *per cent* share of the property in favour of the second partner. But the property now released was purchased by them jointly before commencement of the partnership firm and later, a poultry firm established in the said land, after commencement of the partnership. The registering authority treated the document as release deed and levied duties amounting to ₹ 1.50 lakh. As the property was purchased by the members jointly, the instrument has to be treated as dissolution of partnership under Article 41 C(a) of Schedule I-A to IS Act and stamp duty has to be levied at five *per cent* of market value on the half share of the property amounting to ₹ 50 lakh released

¹⁵⁹ Ananthapur, Nallapadu.

¹⁶⁰ Memo No. 3358/Registration-I/A2/2012 dated 22 June 2012.

¹⁶¹ Adoni, Eluru.

to the other member. Thus, misclassification of dissolution of partnership as instrument of release resulted in short levy of duties amounting to ₹ 1.25 lakh.

After Audit pointed out these cases, Government accepted (December 2015) audit observations and stated that instructions were issued to DRs for collection of deficit duty.

CHAPTER-V
TAXES ON VEHICLES

CHAPTER V TAXES ON VEHICLES

5.1 Tax administration

The Transport Department of Government of Andhra Pradesh is governed by Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989, Andhra Pradesh Motor Vehicles Taxation (APMVT) Act, 1963, Andhra Pradesh Motor Vehicles Taxation (APMVT) Rules, 1963 and Andhra Pradesh Motor Vehicles (APMV) Rules, 1989. The Transport Department is primarily responsible for enforcement of provisions of Acts and Rules framed thereunder which *inter alia* include provisions for collection of taxes, fees, issue of driving licenses, certificates of fitness to transport vehicles, registration of motor vehicles, granting regular and temporary permits to vehicles. The Transport Department is headed by Principal Secretary (Transport, Roads and Buildings Department) at Government level. Transport Commissioner (TC) is in charge of the Department. At district level, there are Deputy Transport Commissioners (DTCs) and Regional Transport Officers (RTOs) who are in turn assisted by Motor Vehicles Inspectors (MVIs) and other staff.

5.2 Internal audit

Internal audit provides a reasonable assurance of proper enforcement of laws, rules and Departmental instructions, and this is a vital component of the internal control framework. There was no system of internal audit in the Department to ascertain compliance with Rules/Government orders by Department. When this was pointed out in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009, Department assured that internal audits would be conducted in future. However, Department stated (December 2015) that there was no independent internal audit wing in the Department due to shortage of staff.

5.3 Results of audit

In 2014-15, test check of nine units of Transport Department revealed preliminary audit observations involving under-assessment of tax and other irregularities involving ₹ 7.09 crore in 48 cases, which broadly fall under the following categories:

Table 5.1: Results of audit

(₹ in crore)

| Sl.No. | Category | No. of cases | Amount |
|--------------|---|--------------|-------------|
| 1. | Non-levy of quarterly tax and penalty | 09 | 5.11 |
| 2. | Non-renewal of fitness certificates resulting in non-realisation of fitness fee | 09 | 1.19 |
| 3. | Non-levy of compounding fee | 10 | 0.63 |
| 4. | Non/short levy of life tax | 10 | 0.11 |
| 5. | Non-levy of green tax | 08 | 0.04 |
| 6. | Other irregularities | 02 | 0.01 |
| Total | | 48 | 7.09 |

During the year 2014-15, the Department accepted under-assessment and other deficiencies of ₹ 5.60 crore in 27 cases. An amount of ₹ 26.02 lakh was realised in 14 cases. A few illustrative cases involving ₹ 6.36 crore are mentioned in the succeeding paragraphs.

5.4 Non-realisation of quarterly tax and penalty

Section 3 of APMVT Act, 1963 stipulates that every owner of a motor vehicle is liable to pay the tax at the rates specified by the Government. Section 4 specifies that tax shall be paid in advance either quarterly, half yearly or annually within one month from commencement of the quarter. Under Section 6 of the Act read with Rule 13(1) of APMVT Rules, 1963, penalty for belated payment shall be levied at the rate equivalent to quarterly tax demanded, if tax is paid within two months and at twice the rate of quarterly tax if the tax is paid beyond two months from the beginning of quarter on cases detected. In terms of Section 53 of MV Act read with Rule 102 of APMV Rules, 1989, any registering authority or other prescribed authority may suspend the registration of a motor vehicle by sending a notice in case of non-compliance with the Act.

Audit noticed (between September 2014 and March 2015) during test check of records and analysis of data of offices of four DTCs¹⁶² and four RTOs¹⁶³ that quarterly tax of ₹ 1.49 crore for the years 2012-13 and 2013-14 was neither paid by the owners of 1,513 transport vehicles nor demanded by the Department. The Department did not take any suitable action under Section 53 also. Besides, penalty of ₹ 2.97 crore at twice the rate of quarterly tax for delay over two months in respect of all the cases was not levied. This resulted in non-realisation of tax and penalty amounting to ₹ 4.46 crore.

After Audit pointed out these cases, Government replied (December 2015) in respect of two DTCs¹⁶⁴ and two RTOs¹⁶⁵ that an amount of ₹ 9.48 lakh was collected in respect of 103 vehicles and in respect of the remaining vehicles, action had been initiated.

5.5 Non-monitoring of renewal of fitness certificates (FC)

As per Section 56 of the MV Act, 1988, a transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness issued by the prescribed authority. As per Rule 62 of the CMV Rules, 1989, the certificate of fitness in respect of the transport vehicles shall be renewed every year. Rule 81 of CMV Rules prescribes the fee for conducting test of a vehicle for grant and renewal of the FC.

Audit noticed (between September 2014 and March 2015) during test check of FC granting registers and analysis of data of offices of four DTCs¹⁶⁶ and five RTOs¹⁶⁷ that during the years 2012-13 and 2013-14, FCs of 31,604 transport

¹⁶² Eluru, Guntur, Kurnool, Vizianagaram.

¹⁶³ Bhimavaram, Nandyal, Narasaraopet, Rajahmundry.

¹⁶⁴ Guntur, Kurnool.

¹⁶⁵ Bhimavaram, Nandyal.

¹⁶⁶ Eluru, Guntur, Kurnool, Vizianagaram.

¹⁶⁷ Amalapuram, Bhimavaram, Nandyal, Narasaraopet, Rajahmundry.

vehicles whose status was ‘active’ as per the Citizen Friendly Services of Transport Department (CFST) system database had not been renewed. ‘Active’ status implies that the vehicle has all the requisite certificates. Non-renewal of FC, which is issued after testing of the vehicle for fitness, jeopardised public safety besides resulting in non-realisation of FC fee of ₹ 1.17 crore.

After Audit pointed out these cases, Government contended (December 2015) that FC fee would be collected as and when the registered owner approaches the Department for renewal of FC and that the enforcement staff would seize those vehicles plying on road without valid FCs. The reply is not tenable as under Section 56 of MV Act, it is mandatory to renew FC. The presumption that vehicles without FCs would invariably be intercepted by enforcement authorities and that vehicles not so detected were not plying on roads is fallacious. The absence of an in-built mechanism in CFST package to give alerts regarding validity of FC while payment of quarterly tax etc. led to non-monitoring of fitness of vehicles.

5.6 Non-levy of compounding fee

As per Section 200 of MV Act read with Government orders¹⁶⁸, the offences like overloading, driving without licence, registration certificate, fitness certificate; under age driving, driving at excessive speed, wrong parking, etc. are punishable under the Act and may be compounded by collecting fee at the rates specified by the Government. In case offences are not compounded on the spot, the Vehicle Check Reports (VCRs) have to be sent to the Regional Transport Authorities concerned for taking necessary action.

Audit noticed (between September 2014 and March 2015) during the test check of the data relating to VCRs for the years 2012-13 and 2013-14 of offices of four DTCs¹⁶⁹ and four RTOs¹⁷⁰ that in 799 cases of compoundable offences relating to transport laws, neither penal action was taken nor minimum compounding fee levied. This resulted in non-realisation of compounding fee of ₹ 46.06 lakh.

After this was pointed out, Government replied (December 2015) that compounding fee of ₹ 23.39 lakh was collected in 399 cases in all the offices pointed out by Audit. However, vehicle particulars were not furnished by three offices¹⁷¹; action had been initiated in the remaining cases.

5.7 Short levy of fine for plying vehicle without permit

As per Section 192-A of MV Act, 1988, if a motor vehicle is driven or caused to be driven as a transport vehicle without permit or in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, first such offence shall be

¹⁶⁸ G.OMs.No.108, R&B (TR-I) dated 18 August 2011.

¹⁶⁹ Eluru, Guntur, Kurnool, Vizianagaram.

¹⁷⁰ Amalapuram, Bhimavaram, Nandyal, Narasaraopet.

¹⁷¹ Eluru, Narasaraopet, Vizianagaram.

punished with a fine which may extend to ₹ 5,000 but shall not be less than ₹ 2,000; For any subsequent offence it shall be punished with imprisonment which may extend to one year but shall not be less than three months or with fine which may extend to ₹ 10,000 but shall not be less than ₹ 5,000 or with both.

During data analysis and test check of records in the office of the DTC, Kurnool in March 2015 relating to vehicles intercepted on account of offences relating to misuse of permits under Section 192-A, it was observed that 554 offences booked by the enforcement officials were compounded by giving release order. However, fine at lesser rate, i.e., ₹ 2,000 only was collected instead of a minimum of ₹ 5,000 on the second and subsequent offences. This resulted in short levy of fine amounting to ₹ 16.62 lakh.

After the cases were pointed out by Audit, Government contended (December 2015) that Section 192-A of MV Act deals with prosecution and offences were not compoundable under this section; therefore compounding fee was collected under Section 86(5) of MV Act for violation of permit conditions. The reply is not tenable as the cases observed by Audit were booked under Section 192-A of the Act, i.e., for using the vehicle without permit and for second and subsequent time. Hence minimum fine of ₹ 5,000 per vehicle was to be collected.

5.8 Short levy of life tax/penalty

As per Section 4(1)(aa) of APMVT Act, 1963, tax levied under the second proviso to Section 3(2) shall be for the lifetime of the motor vehicle and shall be paid in advance in lumpsum by the registered owner of the motor vehicle or any other person having possession or contract thereof.

Third, Sixth and Seventh Schedules to the APMVT Act (Act 11/2010) prescribe rates of life tax for vehicles. For first vehicle, if it is a two wheeler, the applicable tax rate is nine *per cent*; if it is a four wheeler, if the cost of the vehicle is less than ₹ 10 lakh, the rate is 12 *per cent*; otherwise 14 *per cent*. For second and subsequent non-transport vehicles having upto seating capacity of 10 in all, owned by individuals, the tax rate is 14 *per cent*. The above provisions came into operation with effect from 02 February 2010.

As per the third proviso to Section 3(2) of the APMVT Act, life tax shall also be levied at the rates specified in the fourth schedule in the case of construction equipment vehicles. As per Rule 13 of APMVT Rules, 1963, if the tax due in respect of non-transport vehicles has not been paid, the licensing officer shall impose the penalty at the rate of two *per cent* of the life tax for calendar month or part subject to a maximum of twice the life time or lumpsum tax due.

Test check of the data (between September 2014 and March 2015) on registration of vehicles in offices of two DTCs¹⁷² and three RTOs¹⁷³ revealed

¹⁷² Eluru, Kurnool.

that life tax on 181 second or subsequent non-transport vehicles owned by individuals was collected (between April 2012 and March 2014) at lower rates instead of the enhanced rate of 14 *per cent*, resulting in short levy of life tax amounting to ₹ 7.41 lakh.

Further, during data analysis and test check of records of collection of life tax through VCRs in the office of the RTO, Bhimavaram in September 2014, it was noticed that a construction equipment vehicle registered in Jharkhand was plying in Andhra Pradesh since March 2013 without payment of life tax. As per the VCR prepared by the RTO, life tax amounting to ₹ 15.76 lakh was paid in January 2014. However, penalty of ₹ 0.95 lakh was collected only for three months instead of 10 months resulting in short levy of ₹ 2.20 lakh.

After Audit pointed out these cases, Government replied (December 2015) in respect of life tax short levied that an amount of ₹ 1.64 lakh was collected in 36 cases by four offices¹⁷⁴. Action had been initiated in the remaining cases. However, vehicle-wise data of collection in respect of RTO, Rajahmundry was not furnished.

On the issue of short levy of penalty, Government replied (December 2015) that as per the material evidence produced by the vehicle owner, the vehicle was at Bokaro upto 07 November 2013. The reply is not tenable as the construction equipment vehicle was plying in Andhra Pradesh since March 2013 without payment of life tax as per the VCRs prepared in March and December 2013. Life tax amounting to ₹ 15.76 lakh was paid in January 2014 and penalty for 10 months was to be levied accordingly.

¹⁷³ Bhimavaram, Narasaraopet, Rajahmundry.

¹⁷⁴ Kurnool, Bhimavaram, Narasaraopet, Rajahmundry.

CHAPTER-VI
LAND REVENUE

CHAPTER VI

LAND REVENUE

6.1 Tax administration

At the apex level, Chief Commissioner of Land Administration (CCLA) is responsible for administration of Revenue Board's Standing Orders (BSO), Andhra Pradesh (AP) Water Tax Act, 1988, AP Agricultural land (Conversion for Non-agricultural Purposes) Act, 2006, AP Irrigation, Utilisation and Command Area Development Act, 1984 and Rules and orders issued thereunder. The State is divided into 13 districts, each of which is headed by a District Collector who is responsible for the administration of the respective district. Each district is divided into revenue divisions and further into mandals¹⁷⁵, which are kept under administrative charge of Revenue Divisional Officers (RDOs) and Tahsildars respectively. Each village in every mandal is administered by Village Revenue Officers (VROs) under the supervision of Tahsildars. VROs prepare tax demands under all the Acts mentioned above for each mandal from the village accounts and get them approved by the concerned *Jamabandi* Officers¹⁷⁶. VROs/Revenue Inspectors are entrusted with work of collection of revenue/taxes such as water tax, conversion fee for agricultural lands etc. At Government level, Principal Secretary (Revenue) is in charge of overall administration of Revenue Department.

6.2 Internal audit

Department did not have a structured Internal Audit Wing that would plan and conduct audit in accordance with a scheduled audit plan.

6.3 Results of audit

Test check of the records of 110 units of Land Revenue Offices conducted during the year 2014-15 revealed under-assessments of tax amounting to ₹ 76.11 crore in 57 cases which broadly fall under the following categories:

Table 6.1: Results of audit

| (₹ in crore) | | | |
|--------------|---|--------------|--------------|
| Sl.No. | Category | No. of cases | Amount |
| 1. | Non/short levy of conversion tax and penalty on conversion of agricultural land for non-agricultural purposes | 42 | 54.69 |
| 2. | Non-finalisation of alienation proposals on advance possession | 02 | 13.94 |
| 3. | Other irregularities | 13 | 7.48 |
| Total | | 57 | 76.11 |

¹⁷⁵ Mandal is the jurisdictional area of each Tahsildar.

¹⁷⁶ *Jamabandi officer* is District Collector or any other officer nominated by him not below the rank of Revenue Divisional Officer.

During the year 2014-15 the Department accepted under-assessment and other deficiencies of ₹ 6.22 crore in five cases. A few illustrative cases involving ₹ 38.62 crore are mentioned in the succeeding paragraphs.

6.4 Non-levy of conversion tax and penalty on conversion of agricultural land for non-agricultural purposes

As per Section 3 (1) of AP Agricultural Land (Conversion for Non-agricultural Purposes) Act, 2006, no agricultural land in the state shall be put to non-agricultural purpose, without the prior permission of the competent authority. Section 4 (1) provides that every owner¹⁷⁷ or occupier of agricultural land shall pay a conversion tax at the rate of nine *per cent* of the basic value¹⁷⁸ of the land converted for non-agricultural purposes. If any agricultural land has been put to non-agricultural purpose without obtaining permission, the RDO who, under Section 5, is the competent authority to convert the land use from agricultural purpose to non-agricultural purpose, shall impose a penalty of 50 *per cent* of the conversion tax under Section 6 (2). Further, as per the AP Agricultural Land (Conversion for Non-agricultural Purposes), Rules, 2006, where land is deemed to have been converted for non-agricultural purposes, the date for purpose of calculation of basic value shall be the earliest of (i) the date of detection of conversion by the competent authority (ii) the date of entry into village accounts or (iii) the date of application by owner/occupier.

6.4.1 Non/short levy of conversion tax and penalty on conversion of agricultural land for non-agricultural purpose

During test check (between June 2014 and February 2015) of records of seven offices¹⁷⁹ of the RDOs/Sub-Collectors and eight Tahsildars¹⁸⁰, it was noticed that in 20 cases, individuals applied for conversion of 111.91 acres of agricultural land for non-agricultural purposes and paid conversion tax. Audit noticed that land was undervalued due to adoption of lesser basic values than those maintained by Registration and Stamps Department. Department had levied conversion tax of ₹ 28.39 lakh in these cases instead of ₹ 93.41 lakh resulting in short levy of conversion tax of ₹ 65.02 lakh. Out of these 20 cases, in four cases under two offices¹⁸¹ construction activities had commenced before issue of permission for land conversion, hence, penalty at the rate of 50 *per cent* of the conversion tax was to be levied. Owing to short assessment of conversion tax, penalty amounting to ₹ 12.68 lakh was short levied. Thus, in these 20 cases the total amount of conversion tax and penalty short levied comes to ₹ 77.70 lakh.

¹⁷⁷ As per Section 2(m) of the Act, 'owner' includes any lessee/local authority to whom lands have been leased out by State Government or the Central Government.

¹⁷⁸ 'Basic value' means the land value entered in the Basic Value Register notified by Government from time to time and maintained by the Sub-Registrar.

¹⁷⁹ Adoni, Kandukur, Kurnool, Madanapalle, Markapur, Ongole, Vijayawada.

¹⁸⁰ Bapatla, Bikkavolu, Bhimavaram, Kalla, Mandapeta, Tallarevu, Tenali, U. Kothapalli.

¹⁸¹ Madanapalle, Markapur.

Similarly, in 26 other cases, the competent authorities had issued permissions for conversion of 128.1075 acres of agricultural lands for non-agricultural purposes and collected the appropriate conversion tax. However, as per the reports of Tahsildar/Revenue Inspector/VRO, these lands were already being used for non-agricultural purposes without prior permission of the competent authorities. Hence, penalty under Section 6(2) of the Act was to be levied but the authorities had levied only the conversion tax, which resulted in non-levy of penalty to the tune of ₹ 17.54 lakh.

After Audit pointed out these cases, Tahsildar, U. Kothapalli replied that revised proposals would be sent to RDO, Kakinada and action taken intimated to Audit. Sub-Collector, Vijayawada replied that notices would be issued to collect the amount. District Collector (DC), West Godavari intimated (September 2015) that the audit observation was accepted in one of the two cases and penalty was to be paid. In another case, Government communicated (December 2015) that land was not yet levelled and paddy crop was being cultivated, therefore penalty need not be imposed. The reply is not tenable since it was mentioned in the registered documents of 2009 that agricultural land had already been converted into house sites. With reference to Tahsildar, Kalla, DC replied (September 2015) that notices were issued to land owners directing them to pay the amount immediately. Remaining authorities replied that matter would be examined and Audit intimated.

6.4.2 Short levy of conversion tax and penalty in the case detected by the Department of Vigilance & Enforcement

During the scrutiny of conversion cases in the office of the Tahsildar, Kakinada (rural) in February 2015, it was noticed that the Department of Vigilance & Enforcement (V&E), in October 2014, detected a case where agricultural land admeasuring 7.10 acres was converted for non-agricultural purpose without payment of conversion tax in Ramanayyapeta village. Accordingly, on the basis of the alert note issued by the V&E, RDO, Kakinada issued a demand notice to the owner for payment of ₹ 1.77 crore towards evaded conversion tax.

However, Audit noticed that the land was undervalued due to adoption of lesser basic values than those maintained by Registration Department. The basic value of the land to be adopted was ₹ 6000 per square yard based on which ₹ 1.85 crore was required to be levied as conversion tax. The Department, however, had levied conversion tax of ₹ 1.77 crore in the above case resulting in short levy of conversion tax of ₹ 8.17 lakh. Besides, penalty of ₹ 92.78 lakh was also to be levied. Thus, the total short levy of conversion tax and penalty amounted to ₹ 1.01 crore.

After Audit pointed out the case, the Tahsildar replied that the matter would be examined and action intimated to Audit.

The matter was referred to the Department in May 2015 and Government in August 2015. Their replies have not been received (January 2016).

6.4.3 Non-levy of conversion tax and penalty on approved layouts due to lack of co-ordination between Revenue and other Departments

As per Rule 6 of AP Gram Panchayat Land Development (Layout and Building) Rules, 2002, Gram Panchayats are the executive authorities to sanction permission for layout proposals. Division Level Panchayat Officers (DLPOs) exercise supervision, control and provide guidance to the Gram Panchayats under their jurisdiction¹⁸².

Audit noticed (between May and December 2014) during cross verification of the layouts approved by the Gram Panchayats coming under DLPOs' jurisdiction¹⁸³ with the conversion granted in offices of seven RDO/Sub-collectors¹⁸⁴, that in 221 cases, layouts were approved by the Gram Panchayats and 2447.90 acres of land was converted without authorisation from the RDOs/Sub-collectors. Neither had the individuals/ organisations approached the RDOs concerned nor did the Department make any effort to levy conversion tax in these cases. Due to lack of coordination between the RDOs and DLPOs/Gram Panchayats, conversion tax and penalty amounting to ₹ 21.27 crore could not be levied.

After Audit pointed out these cases, Government replied (December 2015) only in the cases pertaining to RDOs, Jammalamadugu and Jangareddigudem that notices had been issued in September 2015 to the applicants for payment of conversion tax and penalty. However, RDO Rajampet had communicated (September 2015) that Tahsildars were directed to collect and remit conversion tax and penalty. Remaining RDOs replied (between August and December 2014) that matter would be examined and Audit intimated in due course.

6.5 Non-realisation of cost of alienation and conversion tax

As per Board's Standing Order (BSO) No.24, alienation of Government land to a company, institution or private individuals for any public purpose will normally be on collection of its market value and subject to the terms and conditions prescribed in the BSO. The BSO provisions allow the competent authorities to permit possession of the land in advance by the applicant in the event of any emergent circumstances, pending formal approval of the alienation proposal.

During the scrutiny of conversion cases in two offices¹⁸⁵, it was noticed (August and November 2014) that the competent authorities had given advance possession of 705.99 acres of land in Piler mandal and Gudivakalanka village in favour of AP Industrial Infrastructure Corporation (APIIC) and AP Tourism Development Corporation (APTDC) respectively, in 2010 and 2012, pending finalisation of alienation proposals. In the absence of any prescribed time limit, the alienation proposals were not finalised even after three to four

¹⁸² G.O.Ms.No. 70, PR&RD (Rules) Department dated 29 February 2000.

¹⁸³ Audit collected the information of layouts approved by GPs through the DLPOs.

¹⁸⁴ Adoni, Jammalamadugu, Jangareddygudem, Kurnool, Madanapalle, Markapur, Rajampet.

¹⁸⁵ RDO- Madanapalle, Tahsildar- Eluru.

years of handing over possession of these lands. Thus, non-finalisation of alienation proposals resulted in non-realisation of revenue towards value of land amounting to ₹ 13.95 crore.

Further, in case of land alienated to APIIC, it was observed that though the land was alienated for being used for non-agricultural purposes such as establishment of Industrial Park, neither the allottees had applied for conversion of land nor had the RDO levied any conversion tax. This resulted in non-levy and collection of conversion tax amounting to ₹ 1.25 crore on lands alienated without obtaining conversion orders from the competent authority.

Thus, the total amount of non-realisation of cost of alienated land and conversion tax thereon worked out to ₹ 15.20 crore.

After Audit pointed out the cases, the RDO and Tahsildar replied that matter would be examined. The matter was referred to the Department in June 2015 and to the Government in August 2015. Their replies have not been received (January 2016).

6.6 Excess payment of compensation on acquisition of land

The Land Acquisition Act, 1894, empowers Government for acquisition of private lands for a public purpose. As per Section 3, the officer empowered to acquire land is the Collector or any officer appointed by the Government/Collector as Land Acquisition Officer. Under Section 4, draft notification is to be issued for acquiring land.

As per the provisions of the Act, MV of the land to be acquired has to be determined on the basis of the registered sale transactions for a period of three years preceding the draft notification. Further, solatium at 30 *per cent* on the MV in consideration of compulsory nature of land acquisition and 12 *per cent* additional MV per annum on MV from the date of draft notification till the date of passing the award or date of taking possession of land has to be allowed to arrive at preliminary value (PV). Government introduced Consent Award through District level and State level negotiation Committees who are empowered to enhance land value by 50 *per cent* over PV.

During the scrutiny of land acquisition cases in three offices¹⁸⁶ of RDOs/ Sub-Collectors (between June and November 2014), it was noticed in nine cases that while acquiring land of 242.04 acres for public purposes, PV adopted was higher (33 to 87 *per cent*) than the highest value recorded in sales transactions of the three years prior to draft notification. Adequate justification for the increase were not given in the PV statements as discussed in the following table.

¹⁸⁶ Adoni, Madanapalle, Vijayawada.

| S.No. | Name of office (Extent) (Tax Effect) | Reasons given for discarding sales statistics/enhancement by Department | Department reply | Remarks of Audit |
|--------------|---|---|--|---|
| 1. | RDO, Adoni (198.45 acres) ₹ 1.50 crore (2 cases) | Sales statistics do not exhibit the true value of the land. Sale transactions took place more or less equal to basic value. Hence by taking into account the MV prevalent in proximity of the village, time lag and as the lands were fertile, land value was fixed. | DC replied (October 2015) that land value was fixed as per proceedings of June 2010 and the committee was empowered ¹⁸⁷ to enhance land compensation upto 50 per cent and compensation fixed was within the limit. | Audit observation relates to initial fixation of market value at preliminary valuation stage (which should have been on the basis of sales statistics) that resulted in payment of excess compensation and not on competence of Department in enhancing the compensation. |
| 2. | Sub-collector, Vijayawada 8.16 acres ₹ 13.14 lakh (3 cases) | Basic value of the land was very low compared with latest basic value. The proposed land was suitable to provide house sites for weaker sections and hence higher rate was adopted. Land was even and properly cultivated. Hence it was properly justified. | Government replied (December 2015) that compensation of land acquired in all the cases was fixed within the limit prescribed in the Government orders ¹⁸⁸ and no payment of excess compensation was made as pointed out by Audit. | |
| 3. | Sub-collector, Madanapalle (35.43 acres) ₹ 1.04 crore (4 cases) | Sales statistics do not exhibit the true value of the land. The sales contain meagre extent of land, hence not considered for fixation. The lands were fertile, covered by orchards, located on the national highway and well maintained by regular cultivation. Sales were rejected as lands were different in nature and quality to that of the proposed land. As per local enquiry it is quite reasonable to hike MV by 60 per cent per annum. | Sub-Collector replied (November 2014) that the matter would be examined. No further replies were received (January 2016). | |
| Total | | 9 cases | Land acquired : 242.04 acres | Tax effect : ₹ 2.68 crore |

This resulted in excess payment of land compensation amounting to ₹ 2.68 crore.

¹⁸⁷ G.O.Ms.No.889, Revenue (LA) Department, dated 27 August 1992.

¹⁸⁸ G.O.Ms.No.434, Revenue (LA) Department, dated 10 June 1996.
G.O.Ms.No.1134, Revenue (LA) Department, dated 19 September 2008.

6.7 Non-levy of interest on collected arrears under Non-agricultural Land Assessment Act

As per Section 15(2)(b) of AP Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006, all the outstanding arrears of revenue from individuals/institutions under AP Non-agricultural Land Assessment Act, 1963 (NALA)¹⁸⁹, shall be recovered under the provisions of the Andhra Pradesh Revenue Recovery (APRR) Act, 1864. Further, under Section 7 of APRR Act, arrears of revenue shall bear interest at the rate of six *per cent* per annum.

During the course of audit (January 2015) of office of the Chief Commissioner of Land Administration, a scrutiny of Demand, Collection and Balance (DCB) records and receipt books revealed that arrears of land revenue towards NALA, amounting to ₹ 2.95 crore were collected upto November 2014. However, interest leviable under Section 7 of APRR Act was not levied. Interest of ₹ 17.69 lakh was computed by Audit on a conservative estimate (calculated at the rate of six *per cent* for minimum period of one year).

After Audit pointed out the case, the CCLA, accepted the observation and replied (January 2015) that action would be taken to collect six *per cent* interest on revenue arrears as per Section 7 of R.R. Act.

The matter was referred to the Government in August 2015. Their replies have not been received (January 2016).

¹⁸⁹ NALA was an Act under which the land revenue was assessed according to the nature of the land use. The Act was superseded on 2 January 2006, by AP Agricultural Land (Conversion for Non-Agricultural Purposes) Act 2006.

CHAPTER-VII

***OTHER TAX AND
NON-TAX RECEIPTS***

CHAPTER VII

OTHER TAX AND NON-TAX RECEIPTS

7.1 Results of audit

Test check of records of 32 offices of the Revenue¹⁹⁰, Industries and Commerce and Energy Departments conducted during the year 2014-15, revealed preliminary audit findings of under-assessments of tax and other irregularities involving ₹ 749.60 crore in 75 cases, which broadly fall under the following categories:

Table 7.1: Results of audit

| (₹ in crore) | | | |
|--------------|--|--------------|---------------|
| S.No. | Category | No. of cases | Amount |
| I | REVENUE DEPARTMENT | | |
| | A. Water Tax ¹⁹¹ | | |
| 1. | Levy and collection of water tax | 01 | 8.72 |
| | B. Professions Tax | | |
| 1. | Non-levy of professions tax | 18 | 0.08 |
| | C. Luxury Tax | | |
| 1. | Non-payment of luxury tax | 01 | 1.67 |
| II | INDUSTRIES AND COMMERCE DEPARTMENT | | |
| 1. | Short levy of Seigniorage fee/dead rent | 11 | 1.35 |
| 2. | Short levy of royalty | 16 | 24.70 |
| 3. | Short levy of penalty on minor minerals | 03 | 3.14 |
| 4. | Short levy of mineral revenue | 04 | 4.05 |
| 5. | Short levy of stamp duty on sand leases ¹⁹² | 12 | 2.50 |
| 6. | Other irregularities | 06 | 4.01 |
| III | ENERGY DEPARTMENT | | |
| 1. | Non-levy of Electricity duty | 02 | 696.37 |
| 2. | Short levy of Electricity duty | 01 | 3.01 |
| Total | | 75 | 749.60 |

During the year 2014-15, the Department accepted under-assessment and other deficiencies of ₹ 8.54 crore in nine cases, which were pointed out during the year 2014-15. A few illustrative cases involving ₹ 31.13 crore are mentioned in the succeeding paragraphs.

¹⁹⁰ Observations relating to water tax were raised as a result of audit of offices of the Tahsildars and observations relating to professions tax, luxury tax were raised as a result of audit of offices of the Commercial Taxes Department.

¹⁹¹ Observations relating to 110 offices of Land Revenue Department are included in Chapter VI - "Land Revenue".

¹⁹² Para on the subject is included in Chapter-IV - "Stamp Duty and Registration Fees".

REVENUE DEPARTMENT

7.2 Levy and collection of water tax

7.2.1 Introduction

Assessment and levy of water tax is governed by the Andhra Pradesh Water Tax Act 1988 (Act) as amended in 1997. Every land receiving water for the purpose of irrigation from any Government source notified under the Act is subject to water tax for each *fasli*¹⁹³ year at rates specified in the Schedule to this Act.

The Revenue Department is headed by the Principal Secretary to Government. The Chief Commissioner of Land Administration (CCLA) is the administrative head for Land Revenue Department and is responsible for administration of the Revenue Board's Standing Orders (BSO), AP Irrigation Utilisation and Command Area Development Act 1984 and Rules 1985, AP Water Tax Act, 1988 and Rules 1988, AP Agricultural Land (Conversion for non-agricultural purposes) Act, 2006, and orders issued thereunder. CCLA is assisted by District Collectors at district level. Each district is divided into revenue divisions headed by Revenue Divisional Officers (RDOs) and further sub-divided into mandals, which are under administrative charge of Tahsildars. Each village in a mandal is administered by a Village Revenue Officer (VRO) under the supervision of the Tahsildar. VROs/Revenue Inspectors are entrusted with the work of maintaining the land records, collection of water tax and road cess, field inspection duties etc.

The basic record for computation of water tax is the village account, which contains survey number, extent of land, pattadar, nature of crop, source of irrigation etc. The Village Revenue Officer (VRO) prepares the demand for water tax in respect of the villages under his jurisdiction and Tahsildars consolidate the demand for each mandal¹⁹⁴. In accordance with instructions contained in BSO 12(5), the final accounts called *Jamabandi*¹⁹⁵ are to be completed before the end of *fasli* and mandal demand statements must be closed within 15 days after end of the *fasli* year, so as to finalise the settled demands in respect of water tax.

7.2.2 Objectives, Scope and Methodology of audit

Audit of levy and collection of water tax was conducted to

- examine whether the *Jamabandi* was completed within the stipulated timeframe;
- ascertain that the correct water tax rates were applied and interest was levied / realised on arrear collections; and

¹⁹³ Period of 12 months from July to June.

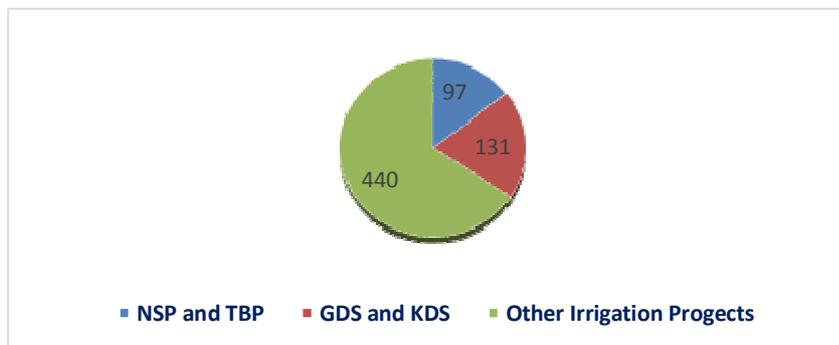
¹⁹⁴ Mandals are the jurisdictional area of each Tahsildar.

¹⁹⁵ Finalisation of village accounts and demand.

- examine whether remissions on water tax granted were in order.

Out of 668 mandals in Andhra Pradesh, 97 mandals are covered under the two major irrigation projects viz. Nagarjuna Sagar Project and Tungabhadra Project and 131 mandals are covered under Godavari Delta System and Krishna Delta System.

Mandals covered under NSP, TBP, Godavari and Krishna Delta Systems in Andhra Pradesh



Audit of 26 mandals coming under Nagarjuna Sagar and Tungabhadra projects had featured in the Reports of the Comptroller and Auditor General of India (Revenue Sector) for the years ended March 2013 and 2014. The observations made in this Report relate to 100¹⁹⁶ out of 131 mandals covered under Godavari Delta System (Sir Arthur Cotton Barrage or Dowlaiswaram Barrage) and Krishna Delta System (Prakasam Barrage). The audit was conducted during the period from July 2014 to July 2015 covering the period from fasli years 1411 to 1423 (July 2001 to June 2014). The sample was selected on the basis of highest registered ayacut¹⁹⁷ under these projects. Detailed check of records relating to village selected for audit under each mandal and test check of remaining villages in the mandal were conducted with reference to observations on water tax.

The audit objectives were benchmarked against the following sources of audit criteria.

- Board's Standing Orders (BSO);

¹⁹⁶ Achanta, Ainavilli, Akividu, Alamuru, Allavaram, Amarthaluru, Anaparthi, Atreyapuram, Attili, Avanigadda, Bantumilli, Bapatla, Bapulapadu, Bhattiprolu, Bhimadole, Bhimavaram, Bikkavolu, Chebrolu, Challapalli, Cherukupalli, Denduluru, Duggirala, Elamanchili, Eluru, Ganapavaram, Gangavaram, Gannavaram, Ghantasala, Gudivada, Gudlavalleru, Guduru, I.polavaram, Iragavaram, Kadiyam, Kaikaluru, Kajuluru, Kakinada Rural, Kakumanu, Kalidindi, Kalla, Kollipara, Kankipadu, Kapileswarapuram, Karlapalem, Karapa, Katrenikona, Koduru, Kollur, Kothapeta, Kruthivenu, Machilipatnam, Mandapeta, Mandavalli, Mamidikuduru, Mogalthuru, Mopidevi, Movva, Mudinepalli, Mummdivaram, Nagaram, Nagayalanka, Nandivada, Narasapuram, Nidamaru, Nizampatnam, Pedaparupudi, Palacoderu, Palakol, Pamarru, Pamidimukkala, Pedapadu, Pedakani, Pedana, Pedapudi, Penamaluru, Penumantra, Peravali, Pittalavanipalem, Poduru, Ponnuru, Ramachandrapuram, Rayavaram, Razole, Repalle, Sakhinetipalle, Samalkot, Tallarevu, Tanuku, Tenali, Thotlavalluru, Tsundururu, Undi, Undrajavaram, Unguturu K, Unguturu WG, U. Kothapalli, Uppalaguptam, Veeravasaram, Vemuru, Vuyyuru.

¹⁹⁷ The area served by an irrigation project source such as canal, dam or tank.

- AP Water Tax Act, 1988 and Rules 1988;
- AP Revenue Recovery Act, 1864;
- AP Financial Code (APFC);
- AP Budget Manual; and
- Orders / notifications issued by the Government / Department from time to time.

Audit findings

7.2.3 Failure to complete *Jamabandi* within stipulated time

As per the instructions issued in B.S.O. 12(5), *Jamabandi* is to be completed before the end of *fasli* and mandal demand statements must be closed within 15 days, so as to finalise the settled demand in respect of water tax and other revenue.

Audit scrutinised *jamabandi* records pertaining to five *fasli* years from 1419 to 1423 (1 July 2009 to 30 June 2014) of the selected mandals. Scrutiny revealed that out of the 100 sampled mandals details of *jamabandi* pertaining to last five years were available only in respect of 75¹⁹⁸ mandals. Age analysis of completion of *jamabandi* is as given in the following table.

Table 7.2.3 :Status of *Jamabandi* completed

| Fasli year | Completed in one year | Completed in the second year | Completed in the third year | Completed after three years | Total completed | Not completed at all | Total |
|--------------|-----------------------|------------------------------|-----------------------------|-----------------------------|-----------------|----------------------|-------------------|
| 1419 | 31 | 10 | 30 | 2 | 73 | 2 | 75 |
| 1420 | 29 | 40 | 2 | 1 | 72 | 3 | 75 |
| 1421 | 49 | 12 | 4 | 0 | 65 | 10 | 75 |
| 1422 | 7 | 7 | 0 | 0 | 14 | 61 | 75 |
| 1423 | 5 | 0 | 0 | 0 | 5 | 69 | 74 ¹⁹⁹ |
| Total | 121 | 69 | 36 | 3 | 229 | 145 | 374* |
| | 32.35% | 18.45% | 9.63% | 0.80% | 61.23% | 38.77% | |

* Total *jamabandis* to be completed in 75 mandals during last five *fasli* years

¹⁹⁸ Ainavilli, Alamuru, Allavaram, Amarthaluru, Anaparthi, Avanigadda, Bantumilli, Bapatla, Bapulapadu, Bhattiprolu, Bikkavolu, Challapalli, Chebrolu, Cherukupalli, Duggirala, Elamanchili, Eluru, Gangavaram, Gannavaram, Ghantasala, Gudlavalleru, Guduru, I.polavaram, Kaikaluru, Kajuluru, Kakinada Rural, Kakumanu, Kalidindi, Kankipadu, Kapileswarapuram, Karapa, Karlapalem, Katrenikona, Koduru, Kollipara, Kothapeta, Kruthivennu, Machilipatnam, Mandapeta, Mandavalli, Mamidikuduru, Mogalthuru, Mopidevi, Movva, Mudinepalli, Mummidivaram, Nagaram, Nagayalanka, Nandivada, Narasapuram, Nidamaru, Nizampatnam, Palakol, Pamarru, Pamidimukkala, Pedana, Pedaparupudi, Pedapudi, Penamaluru, Penumantra, Pittalavanipalem, Ramachandrapuram, Razole, Repalle, Samalkot, Tallarevu, Tanuku, Tenali, Thotlavalluru, Unguturu K, Unguturu WG, U. Kothapalli, Uppalaguptam, Vemuru, Vuyyuru.

¹⁹⁹ Office of Uppalaguptam was audited in the month of July 2014 by which time *jamabandi* for *fasli* year 1423 was not due for completion. Hence number of *Jamabandis* has been correspondingly reduced for *fasli* year 1423.

Analysis of the above data revealed that out of 374 *jamabandis* due in 75 mandals during last five *fasli* years only 229 *jamabandis* (61.23 per cent) were completed till the time of audit, with delay ranging from one year to more than three years. *Jamabandi* was not completed in respect of remaining 145 (38.77 per cent) cases. No *Jamabandi* in respect of two mandals (Avanigadda and Kruthivenu) was completed for a continuous period of five years i.e. from *fasli* year 1419 to 1423.

Delay in completion of *jamabandi* had resulted in non-finalisation of demands and consequently non-realisation of revenue. Though provisional demands are being raised, there is no assurance that they truly reflect the revenue to be recovered.

After Audit pointed out the cases, Tahsildars replied that the matter would be brought to the notice of higher authorities for conducting *jamabandi* within stipulated time.

7.2.4 Non-maintenance of Demand, Collection and Balance Registers

As per Government Order²⁰⁰ dated 5 January 1990, village accounts are to be scrutinised and approved by the Mandal Revenue Officer (MRO)/Tahsildar. Government of AP introduced integrated village accounts in their order²⁰¹ dated 10 March 1992, and prescribed Demand Collection and Balance register (DCB) to be maintained by Village Revenue Officer as Village Account No.5.

Articles 8 and 9 of Andhra Pradesh Financial Code (APFC) also prescribe that every departmental controlling officer should closely watch the progress of the realisation of the revenue under his control and obtain regular returns from his subordinates for the amounts received by them.

Audit noticed that out of the 100 test checked mandals, DCB registers were not maintained in 71 mandals²⁰² for the period from 1 July 2009 to 30 June 2014 (*fasli* years 1419 to 1423). In the absence of DCB registers, recovery of arrears could not be properly monitored.

²⁰⁰ G.O.Ms.No.3 of Revenue Department dated 5 January 1990.

²⁰¹ G.O.Ms.No.265 Revenue LR-II Department dated 10 March 1992.

²⁰² Ainavilli, Alamuru, Akividu, Allavaram, Anaparathi, Attili, Atreyapuram, Bapulapadu, Bhattiprolu, Bhimadole, Bhimavaram, Bikkavolu, Denduluru, Elamanchili, Eluru, Ganapavaram, Gangavaram, Gannavaram, Ghantasala, Gudlavalleru, Ipolavaram, Iragavaram, Kaikaluru, Kajuluru, Kakinada Rural, Kakumanu, Kalidindi, Kalla, Kapileswarapuram, Karapa, Katrenikona, Kothapeta, Machilipatnam, Mamidikuduru, Mandapeta, Mandavalli, Mudinepalli, Mummdivaram, Nagaram, Nandivada, Narasapuram, Nidamarru, Nizampatnam, Palacoderu, Palakol, Pamarru, Pamidimukkala, Pedana, Pedapadu, Pedapudi, Penamaluru, Penumantra, Peravali, Pittalavanipalem, Poduru, Ponnuru, Ramachandrapuram, Sakhinetipalle, Samalkot, Tanuku, Tallarevu, Tenali, Thotlavalluru, TSundur, U.Kothapalli, Undi, Undrajavaram, Unguturu WG, Uppalaguptam, Veeravasaram, Vemuru.

In response, 66 Tahsildars²⁰³ replied that DCB registers would henceforth be maintained and remaining Tahsildars replied that the matter would be examined.

7.2.5 Non-reconciliation of remittance figures with those of treasury

As per Para 19.6 of the AP Budget manual read with Government instructions issued from time to time, departmental receipts are to be reconciled every month with those booked by the treasury in order to detect in time, the misclassifications, accounting errors, fraudulent and spurious challans etc., if any.

Audit noticed that in 11 mandals²⁰⁴ accounts of revenue realised and remitted towards water tax were not reconciled with treasury accounts during the *fasli* years from 1419 to 1423 (1 July 2009 to 30 June 2014). This is likely to lead to non-detection of accounting errors, misclassification, fraudulent and spurious challans etc. if any.

In response, all the Tahsildars replied that reconciliation would be completed and Audit intimated.

7.2.6 Short levy of water tax due to incorrect finalisation of demand

Government vide orders dated 13 February 2001 and 8 June 2007, laid down the procedure for raising water tax demand. As per this procedure, Executive Engineers of Project areas/irrigated sources are required to communicate the extent of area irrigated for fixation of water tax demand by Tahsildar. In case of variation between actual area irrigated as indicated by Irrigation Department and that of Revenue Department, Joint *Azmoish*²⁰⁵ should be conducted and the actual figures of area irrigated should be arrived at.

Audit noticed from *Jamabandi* records of 18 mandals²⁰⁶ that as per joint *Azmoish* statements water tax amounting to ₹ 15.15 crore was to be levied on an extent of 6.75 lakh acres for the *fasli* years from 1414 to 1423 (1 July 2004 to 30 June 2014). However, demand of only ₹ 13.60 crore was finalised by

²⁰³ Ainavilli, Alamuru, Akividu, Allavaram, Anaparthi, Atreyapuram, Attili, Bapulapadu, Bhattiprolu, Bhimadole, Bhimavaram, Bikkavolu, Denduluru, Elamanchili, Eluru, Ganapavaram, Gangavaram, Gannavaram, Ghantasala, Gudlavalleru, I.polavaram, Kaikaluru, Kajuluru, Kakinada Rural, Kakumanu, Kalidindi, Kalla, Kapileswarapuram, Karapa, Katrenikona, Kothapeta, Machilipatnam, Mamidikuduru, Mandapeta, Mandavalli, Mudinepalli, Mummidivaram, Nagaram, Nandivada, Narasapuram, Nidamaru, Nizampatnam, Palacoderu, Palakol, Pamarru, Pamidimukkala, Pedana, Pedapadu, Pedapudi, Penamaluru, Peravali, Pittalavanipalem, Poduru, Ponnuru, Ramachandrapuram, Sakhinetipalle, Samalkot, Tallarevu, Tenali, U. Kothapalli, Undi, Undrajavaram, Unguturu WG, Uppalaguptam, Veeravasaram, Vemuru.

²⁰⁴ Atreyapuram, Bhimadole, Denduluru, Eluru, Ganapavaram, Katrenikona, Mandavalli, Mamidikuduru, Mopidevi, Narasapuram and Peravali.

²⁰⁵ Joint *Azmoish* means joint inspection of irrigated land conducted by Irrigation, Agriculture and Revenue Departments.

²⁰⁶ Bhimadole, Bhimavaram, Cherukupalli, Ganapavaram, Guduru, I Polavaram, Kaikaluru, Kalla, Nagaram, Nandivada, Narsapuram, Pedapadu, Pedaparupudi, Ramachandrapuram, Razole, Tallarevu, Undi and Veeravasaram.

jamabandi officers (**Annexure-II**). This resulted in short levy of water tax amounting to ₹ 1.55 crore.

In response, all the Tahsildars stated that the matter would be examined.

7.2.7 Short levy of water tax due to adoption of incorrect rate

As per Section 3 of the Act, all Government sources of irrigation classified as major and medium projects shall be regarded as category-I and all other sources, which are capable of supplying water for not less than four months in a year shall be regarded as category-II. The rate of water tax for first or single wet crop in a *fasli* under category-I is ₹ 200 per acre and the rate for second wet crop of that *fasli* is ₹ 150 per acre for second crop. For category II source ₹ 100 per acre is to be adopted for first/single wet crop or second crop. The rate applicable for *duffasal*²⁰⁷ crops is ₹ 350 per acre. For aqua culture, the leviable water tax is ₹ 500 per acre.

Audit noticed during the scrutiny of village accounts of four Tahsildar offices²⁰⁸, that water tax was short levied for the *fasli* year 1421 due to applying incorrect rate for second wet crop (₹ 150 per acre) instead of single wet crop rate (₹ 200 per acre) on an irrigated extent of 32,750.70 acres resulting in short levy of water tax of ₹ 15.93 lakh (**Annexure-III**).

It was also noticed that in two other Tahsildar offices²⁰⁹ water tax was short levied on an extent of 8,756.65 acres though it was irrigated by Government source of irrigation (Category I). Tahsildars had levied water tax of ₹ 13.62 lakh instead of ₹ 17.22 lakh resulting in short levy of tax of ₹ 3.60 lakh (**Annexure-IV**).

Application of incorrect rate had thus resulted in total short levy of water tax amounting to ₹ 19.53 lakh.

In response, Tahsildars replied that the matter would be examined and detailed reply furnished in due course.

7.2.8 Non-levy of water tax due to adoption of incorrect area

Audit noticed during the scrutiny of the *Jamabandi* records in two mandals²¹⁰, that an extent of 2,325.70 acres was excluded by the Department while finalising the water tax demand for the *fasli* years 1419 to 1422 (1 July 2009 to 30 June 2013). This had resulted in non-levy of water tax to the tune of ₹ 5.10 lakh (**Annexure-V**).

In response, Tahsildars stated that the matter would be examined.

²⁰⁷ *Duffasal* crops are those the cultivation of which lasts for two seasons.

²⁰⁸ Ainavilli, Allavaram, Mummidivaram, Uppalaguptam.

²⁰⁹ Eluru, Ghantasala.

²¹⁰ Denduluru, Undi.

7.2.9 Non/ Short levy of interest on collected arrears of water tax

As per Section 8 of the Act, water tax payable by a landowner in respect of any land shall be deemed to be public revenue due and provisions of Andhra Pradesh Revenue Recovery (APRR) Act, 1864 shall apply. Further, under Section 7 of APRR Act, arrears of revenue shall bear interest at the rate of six *per cent* per annum.

During scrutiny of consolidated statements of demand and collection and receipt books of 72 Tahsildar offices²¹¹, Audit noticed that during *fasli* years from 1411 to 1423 (1 July 2001 to 30 June 2014), arrears of land revenue towards water tax amounting to ₹ 85.80 crore was collected. However, interest of ₹ 2.65 crore to be levied under Section 7 of APRR Act was not levied in 37 offices²¹². Similarly in 35 offices²¹³ interest of ₹ 0.74 crore was levied instead of ₹ 2.50 crore resulting in short levy of interest of ₹ 1.76 crore. Thus there was total non/ short levy of interest ₹ 4.41 crore (**Annexure-VI**)

Interest was computed by Audit on a conservative basis (calculated at the rate of six *per cent* for minimum period of one year) as the period of delay could not be checked on account of non/improper maintenance of DCB registers at village level.

In response, 33 Tahsildars²¹⁴ stated that interest on arrears would be collected under intimation to Audit, 17 Tahsildars²¹⁵ stated that interest would be levied

²¹¹ Ainavilli, Alamuru, Allavaram, Anaparthi, Atreyapuram, Attili, Bantumilli, Bapatla, Bapulapadu, Bhimadole, Bhimavaram, Bikkavolu, Chebrolu, Challapalli, Denduluru, Duggirala, Elamanchili, Eluru, Ganapavaram, Gannavaram, Ghantasala, Gudivada, Gudlavalleru, Guduru, Iragavaram, Kaikaluru, Kakinada Rural, Kalidindi, Kankipadu, Kapileswarapuram, Karlapalem, Karapa, Katrenikona, Koduru, Kothapeta, Kruthivenu, Machilipatnam, Mamidikuduru, Mandapeta, Mandavalli, Mogalthuru, Mopidevi, Movva, Mudinepalli, Nagaram, Nagayalanka, Nandivada, Narasapuram, Nidamaru, Pedaparupudi, Palacoderu, Pamarru, Pamidimukkala, Pedapadu, Penamaluru, Penumantra, Peravali, Pittalavanipalem, Ponnuru, Ramachandrapuram, Rayavaram, Razole, Repalle, Tanuku, Thotlavalluru, Sakhinetipalle, Samalkot, Undrajavaram, Unguturu K, Unguturu WG, Vemuru, Vuyyuru.

²¹² Atreyapuram, Bantumilli, Bapulapadu, Challapalli, Chebrolu, Duggirala, Elamanchili, Gannavaram, Ghantasala, Gudivada, Gudlavalleru, Guduru, Kaikaluru, Kalidindi, Kankipadu, Kapileswarapuram, Karlapalem, Koduru, Kruthivenu, Machilipatnam, Mopidevi, Mudinepalli, Nagaram, Nagayalanka, Pamarru, Pamidimukkala, Penamaluru, Peravali, Pittalavanipalem, Ponnuru, Rayavaram, Repalle, Sakhinetipalle, Thotlavalluru Unguturu K, Vemuru, Vuyyuru.

²¹³ Ainavilli, Alamuru, Allavaram, Anaparthi, Attili, Bapatla, Bhimadole, Bhimavaram, Bikkavolu, Denduluru, Eluru, Ganapavaram, Iragavaram, Kakinada Rural, Karapa, Katrenikona, Kothapeta, Mandapeta, Mandavalli, Mamidikuduru, Mogalthuru, Movva, Nandivada, Narasapuram, Nidamaru, Palacoderu, Pedaparupudi, Pedapadu, Penumantra, Ramachandrapuram, Razole, Samalkot, Tanuku, Undrajavaram, Unguturu WG.

²¹⁴ Ainavilli, Alamuru, Allavaram, Bapatla, Bhimadole, Bikkavolu, Denduluru, Elamanchili, Ganapavaram, Gannavaram, Ghantasala, Gudivada, Kaikaluru, Kankipadu, Kapileswarapuram, Karlapalem, Katrenikona, Kothapeta, Machilipatnam, Mamidikuduru, Mandavalli, Mogalthuru, Nagaram, Nandivada, Pamarru, Pedapadu, Pedaparupudi, Peravali, Pittalavanipalem, Ponnuru, Repalle, Unguturu K, Vuyyuru.

²¹⁵ Anaparthi, Atreyapuram, Bantumilli, Bapulapadu, Chebrolu, Challapalli, Gudlavalleru, Kakinada Rural, Karapa, Mandapeta, Mopidevi, Movva, Nagayalanka, Pamidimukkala, Penamaluru, Rayavaram, Samalkot.

in subsequent *fasli* years and remaining Tahsildars stated that the matter would be examined.

7.2.10 Lack of control / monitoring

As per Article 8 of Andhra Pradesh Financial Code, every departmental controlling officer should closely watch the progress of the realisation of revenue under his control and check the recoveries made against demand.

Audit noticed during test check of DCB statements of two Tahsildar offices²¹⁶ that while carrying forward the opening balances of water tax demand for the *fasli* years 1416 and 1417 (1 July 2006 to 30 June 2008) an amount of ₹ 77.67 lakh was taken short. This was neither detected by Tahsildars nor by *jamabandi* officers, and reasons for same were not forthcoming from records. This resulted in short realisation of revenue of ₹ 77.67 lakh due to incorrect depiction of demand in DCB statements. (**Annexure-VII**)

In response, Tahsildars stated that the matter would be examined and Audit intimated.

7.2.11 Irregular grant of remission of water tax

As per provisions of Section 3 of the Act, water tax is to be levied on all types of lands receiving water from Government sources. Any exemption from the application of these provisions can only be granted by the Government. Hence, only the Government is competent to remit Water tax. CCLA also clarified²¹⁷ and directed that Collectors are required to obtain necessary orders whenever such cases of remission arise. Remission granted by the Government has to be noted in village accounts (Account 4B).

During scrutiny of Statement of Remissions (Village Account 4B) and *Jamabandi* records of office of the Tahsildar, Kakinada Rural, Audit noticed that remission of water tax amounting to ₹ 11.69 lakh was granted by the *Jamabandi* officer for the *fasli* year 1420 without any sanction from the Government. Unauthorised remissions resulted in short realisation of Government revenue to that extent.

In response, Tahsildar replied that as per Government order²¹⁸ dated 14 December 2010 and as per Gazette notification²¹⁹ dated 10 February 2011, villages were declared to be 'Jal' cyclone affected. Therefore, water tax was not levied. Reply of the Department is not tenable as the Gazette notification had declared the villages/mandals to be cyclone affected, but had not remitted water tax. Hence remission of water tax needed to be ratified by the Government.

²¹⁶ Kajuluru and Ramachandrapuram.

²¹⁷ CCLA's Ref.No. AP1/1260/2009 dated 24 February 2010.

²¹⁸ G.O.Ms.No17(Rev) D.M.II, 14 December 2010.

²¹⁹ Gazette Notification No.34/2011 dated 10 February 2011 published in East Godavari District.

These issues were referred to the Department and to the Government (May/July 2015); their replies have not been received (January 2016).

7.2.12 Conclusion

In several cases there were delays in completion of *jamabandi* each year. Non-maintenance of DCB registers and non-reconciliation of revenue receipts with treasury are indicative of weak monitoring by the Department. Water tax demands were finalised without verifying the correct extent of the irrigated land and incorrect rates were applied. Interest under AP Revenue Recovery Act on collected arrears was either short levied or not levied by the Department.

INDUSTRIES AND COMMERCE DEPARTMENT

Mines and Minerals

7.3 Short levy of royalty

As per Section 9 of Mines and Minerals (Development & Regulation) (MMDR) Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rates specified in the Second Schedule in respect of the mineral.

7.3.1 Short levy of royalty due to adoption of incorrect rates

As per Rule 64-D of the Mineral Concession (MC) Rules, 1960, every mine owner, his agent, manager, employee, contractor or sub-lessee shall compute the amount of royalty on minerals taking into consideration the sale price published by Indian Bureau of Mines (IBM) for different minerals where such royalty is charged on ad valorem basis. For this purpose, the statewise sale price for different minerals as published by IBM shall be the sale price for computation of royalty in respect of any mineral produced any time during a month in any mine in that State.

The rate to be adopted for barytes is 5.5 *per cent* of sale price; and the rates for feldspar and quartz are 12 *per cent* and 15 *per cent* respectively.

During the course of audit of office of Assistant Director of Mines & Geology (ADMG), Nellore (December 2014), it was noticed from the assessment files, monthly returns and annual returns submitted relating to 17 leases for the period 2011-12 to 2013-14 that the Department had not adopted the monthly sale statistics published by IBM for the minerals despatched. The Mineral Revenue Assessments (MRAs) were finalised by adopting incorrect rates of royalty resulting in short levy of royalty amounting to ₹ 2.05 crore.

After these cases were pointed out by Audit, ADMG, Nellore replied (May 2015) that based on audit observation MRAs were revised for the period from 2011-12 to 2013-14, duly taking IBM rates into account and levying royalty at the prescribed rates.

The matter was referred to the Department in April 2015 and to the Government in September 2015. Their reply has not been received (January 2016).

7.3.2 Short levy of royalty and cess

Royalty is to be levied²²⁰ at the rate of ₹ 63 per metric tonne (MT) for limestone (other than LD grade) and ₹ 72 per MT on limestone (LD Grade).

As per Section 3 of the Andhra Pradesh Mineral Bearing Lands (Infrastructure) Cess Act, 2005 read with Government order²²¹ dated 12 September 2005, cess of ₹ three per tonne is to be levied on the mineral produce (limestone) from the mineral bearing lands.

During the course of audit of the office of the ADMG, Banaganapally in November 2014, it was noticed from the assessment files, monthly returns and annual returns submitted by three lessees for the period 2010-11 to 2013-14 that there was a difference of quantity of limestone despatched between the annual returns submitted by the lessee and MRAs finalised by the Department in one case. In another case, there was a difference between the despatches as per the permit issue register and the MRAs. In the third case, MRAs were finalised by levying royalty at ₹ 63 per MT (limestone other than LD grade) instead of at ₹ 72 per MT on limestone (LD Grade) extracted.

Thus, the Department had finalised MRAs of three lessees by incorrectly adopting the quantity of limestone despatches and the rates of royalty applicable for limestone (LD grade) which resulted in short levy of royalty amounting to ₹ 17.32 crore.

Besides royalty, cess of ₹ one crore is to be levied on 33.46 MT of limestone despatched by these three lessees. However, assessing authorities levied cess amounting to ₹ 19.09 lakh which resulted in short levy of cess by ₹ 81.30 lakh. The total short levy of royalty and cess amounted to ₹ 18.13 crore.

After Audit pointed out the case, ADMG, Banaganapally replied that matter would be examined and detailed reply submitted in due course.

The matter was referred to the Department in March 2015 and to the Government in September 2015. Their replies have not been received (January 2016).

7.3.3 Short levy of royalty and cess by cement companies

Cement companies which extract limestone mineral for captive consumption, have to adopt the limestone clinker factor²²² in addition to other factors like permitted quantity, despatched quantity, etc. for arriving at the quantity to be adopted in MRAs.

²²⁰ G.S.R.574 (E), dated 13 August 2009.

²²¹ G.O.Ms.No.255 Industries and Commerce (M.1(2)), dated 12 September 2005.

²²² Quantity of limestone required for production of one metric tonne of clinker (a substance used in manufacture of cement).

During the course of audit of the office of the ADMG, Nandigama, (November 2014), it was noticed that during 2012-13, 2013-14, five cement companies produced 54.28 lakh MTs of clinker. Based on limestone clinker factor, 76.59 lakh MTs of limestone was required to be consumed in its production. However, assessing authorities worked out royalty and cess to be payable on 76.01 lakh MT of limestone based on returns furnished by lessees. Discrepancy in quantum of limestone consumption led to short levy of royalty and cess by ₹ 38.02 lakh.

After Audit pointed out the case, ADMG, Nandigama replied that action would be taken to collect shortfall of royalty under intimation to Audit.

The matter was referred to the Department in April 2015 and to the Government in September 2015. Their replies have not been received (January 2016).

7.4 Non/short levy of seigniorage fee/dead rent

As per Rule 10 of Andhra Pradesh Minor Mineral Concession (APMMC) Rules, 1966, the seigniorage fee²²³ or dead rent²²⁴, whichever is higher shall be charged on all minor minerals despatched or consumed from the land at the rates specified in the schedules to the Rules. Government revised the rates of Seigniorage fee on minor minerals through Government order²²⁵ dated 13 August 2009.

During the course of audit (between July and November 2014) of four offices²²⁶ of ADsMG, it was noticed from the lease records for the years 2011-12 to 2013-14 that in 10 cases, seigniorage fee/dead rent of ₹ 52.90 lakh was levied on road metal, colour granite and gravel during the above lease period instead of ₹ 64.07 lakh resulting in short levy of seigniorage fee/dead rent of ₹ 11.17 lakh. In another case seigniorage fee of ₹ 0.35 lakh was not levied, leading to non/short levy of seigniorage fee/dead rent amounting to ₹ 11.51 lakh.

After Audit pointed out these cases, ADsMG, Markapur and Vizianagaram replied that the MRAs would be revised for the relevant years. Remaining ADsMG replied that the matter would be examined and reply submitted in due course.

The matter was referred to the Department in March 2015 and to the Government in September 2015. Their replies have not been received (January 2016).

²²³ 'Seigniorage fee' is fee charged on minor minerals.

'Dead rent' is rent payable on a mining lease though there is no mining activity.

²²⁴ Rates of seigniorage fee for minor minerals are mentioned in Schedule-I and rates of dead rent for specific minerals are mentioned in Schedule - II.

²²⁵ G.O.Ms.No.198, Industries and Commerce (M.I) Department, dated 13 August 2009.

²²⁶ Markapur, Nandigama, Vijayawada, Vizianagaram.

7.5 Short levy of penalty on minor minerals consumed without permit

As per Rule 26(3)(ii) of APMMC Rules, 1966 read with Rule 10 of the Rules, if no documentary proof is produced in token of having paid the mineral revenue due to Government by any person who used or consumed or is in possession of any material including the processed mineral, he shall be liable to pay five times of normal seigniorage fee as penalty, in addition to the normal seigniorage fee.

The penalty was reduced to one time the normal seigniorage fee through Government order²²⁷ dated 15 May 2009 and subsequently enhanced to five times the normal seigniorage fee in Government order²²⁸ dated 01 October 2010.

During the course of audit of ADMG (Vigilance), Visakhapatnam (June 2014) and two offices²²⁹ of the ADsMG (November 2014), it was noticed from the registers of illegal mining/possession/transportation that in six cases, the Regional Vigilance and Enforcement Officer had levied penalty at one time normal seigniorage fee instead of five times normal seigniorage fee, in addition to the normal seigniorage fee. This resulted in short levy of penalty amounting to ₹ 3.27 crore on minor minerals consumed without permit.

After these cases were pointed out by Audit, Director of Mines & Geology (DMG) replied (July 2015) that two offices²³⁰ had issued revised demand notices in March and May 2015 to the defaulters for the amount pointed out by Audit. ADMG, Banaganapally replied (November 2014) that matter would be examined and detailed reply submitted in due course.

The matter was referred to the Government in September 2015. Their reply has not been received (January 2016).

7.5.1 Short levy of seigniorage fee detected during departmental inspection

During the audit of office of the ADMG, Vijayawada (November 2014), it was noticed from the departmental inspection reports for the year 2011-12 that Deputy Director of Mines and Geology (DDMG), Kakinada had issued a demand notice for payment of normal seigniorage fee and 10 times penalty of normal seigniorage fee to a lease holder for illegal quarrying of 41,800 cu.m gravel and 6480 cu.m. road metal. Subsequently, the penalty was waived through memo dated 20 December 2013²³¹ permitting the lessee to pay the normal seigniorage fee. However, the Department calculated the seigniorage fee incorrectly and issued a demand notice for ₹ 4.16 lakh instead of ₹ 12.44 lakh. This resulted in short levy of seigniorage fee by ₹ 8.28 lakh.

²²⁷ G.O.Ms.No.104 Industries & Commerce (Mines I) Department, dated 15 May 2009.

²²⁸ G.O.Ms.No.102 Industries & Commerce (Mines I) Department, dated 01 October 2010.

²²⁹ Banaganapally, Kurnool.

²³⁰ ADMG, Kurnool, ADMG(Vigilance), Visakhapatnam.

²³¹ Industries and Commerce (Mines-II) Department Memo No.17580/M.II(2)/2011-3, dated, 20 Dec.2013.

In response, DMG replied (July 2015) that the Deputy Director of Mines & Geology (DDMG), Kakinada had issued a revised demand notice in March 2015 to the lessee for an amount of ₹ 8.28 lakh as pointed out by Audit.

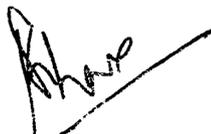
The matter was referred to the Government in September 2015. Their reply has not been received (January 2016).



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The

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The

ANNEXURES
&
GLOSSARY

Annexure - I

Paragraph 4.7

(Short levy of duties and registration fees due to undervaluation on sale deeds)

| Sl. No. | Name of office | No. of Documents | Period of Registration | Rule/Act provision violated | Reasons for undervaluation | Tax effect (₹ in lakh) |
|--------------|-----------------------|------------------|-----------------------------|--|---|------------------------|
| 1. | SR Ananthapur (Rural) | 1 | June 2011 | Article 47-A of Schedule I-A to IS Act | Non-adoption of entire amount of consideration | 0.81 |
| 2. | DR Chittoor | 1 | January 2014 | Article 47-A of Schedule I-A to IS Act read with I.G. Procs. No.. MV1/20363-A/90, dated 10 August 1990 | Non-adoption of higher value recited in previous transaction | 1.37 |
| 3. | SR Kallur | 1 | April 2012 | Article 47-A of Schedule I-A to IS Act | Adoption of incorrect rates of MV | 7.64 |
| 4. | SR Pedagantyada | 3 | June 2011 | | Adoption of incorrect rates of MV | 1.35 |
| 5. | DR SPSR Nellore | 112 | April 2013 to March 2014 | | Adoption of incorrect rates of MV | 19.82 |
| 6. | | 1 | August 2013 | | Adoption of incorrect rates of MV | 0.70 |
| 7. | DR Vijayawada | 11 | December 2012 to March 2013 | Article 47-A of Schedule I-A to IS Act read with I.G. Procs. No.. MV1/20363-A/90, dated 10 August 1990 | Non-adoption of higher value recited in previous transactions | 0.53 |
| 8. | SR Yemmiganur | 1 | August 2013 | Article 47-A of Schedule I-A to IS Act | Adoption of incorrect rates | 0.84 |
| Total | | 131 | | | | 33.06 |

Annexure - II

Paragraph 7.2.6

Short levy of water tax due to incorrect finalisation of demand

(₹ in lakh)

| Sl. No. | Name of the Mandal | Period (Fasli years) | Total Extent (in acres) | Water tax to be levied | Water tax levied | Short levy |
|---------|--------------------|------------------------|-------------------------|------------------------|------------------|---------------|
| 1 | Bhimadole | 1419 1420 | 25986.57 | 71.51 | 66.03 | 5.48 |
| 2 | Bhimavaram | 1422 1423 | 34400.15 | 51.60 | 47.55 | 4.05 |
| 3 | Cherukupalli | 1418 to 1422 | 93700.00 | 187.03 | 171.41 | 15.62 |
| 4 | Ganapavaram | 1421 | 10621.00 | 20.65 | 18.96 | 1.69 |
| 5 | Gudur | 1419 1421 | 62129.73 | 110.64 | 80.96 | 29.68 |
| 6 | I Polavaram | 1420 | 21632.00 | 42.19 | 41.58 | 0.61 |
| 7 | Kaikaluru | 1418 to 1420 | 7155.82 | 0.78 | 0 | 0.78 |
| 8 | Kalla | 1420 to 1423 | 76156.00 | 251.58 | 233.42 | 18.16 |
| 9 | Nagaram | 1416 to 1419 & 1421 | 77681.00 | 159.11 | 121.88 | 37.23 |
| 10 | Nandivada | 1414 to 1416 | 98084.42 | 262.26 | 252.47 | 9.79 |
| 11 | Narasapuram | 1420 | 23309.00 | 65.49 | 44.93 | 20.56 |
| 12 | Pedapadu | 1423 | 3651.00 | 5.48 | 3.82 | 1.66 |
| 13 | Pedaparupudi | 1419 1421 | 42235.64 | 84.47 | 83.29 | 1.18 |
| 14 | Ramachandra-puram | 1417 1420 | 42521.29 | 106.73 | 106.12 | 0.61 |
| 15 | Razole | 1419 1420 | 818.84 | 1.54 | 0 | 1.54 |
| 16 | Tallarevu | 1418 to 1420 | 10797.00 | 16.20 | 14.20 | 2.00 |
| 17 | Undi | 1423 | 43230.00 | 75.65 | 74.03 | 1.62 |
| 18 | Veeravasaram | 1420 to 1422 | 857.95 | 2.57 | 0 | 2.57 |
| | | Total | 674967.41 | 1515.48 | 1360.65 | 154.83 |

Annexure - III

Paragraph 7.2.7

Short levy of water tax due to adoption of incorrect rate

(₹ in lakh)

| Sl. No. | Name of the office | Extent (in acres) | Water tax to be levied | Water tax levied | Short levy |
|--------------|--------------------|-------------------|------------------------|------------------|--------------|
| 1 | Ainavilli | 4590.26 | 9.18 | 6.89 | 2.29 |
| 2 | Allavaram | 8638.49 | 17.28 | 12.96 | 4.32 |
| 3 | Mummidivaram | 6200.74 | 12.40 | 9.30 | 3.10 |
| 4 | Uppalaguptam | 13321.21 | 26.64 | 20.42 | 6.22 |
| Total | | 32750.70 | 65.50 | 49.57 | 15.93 |

Annexure - IV

Paragraph 7.2.7

Short levy of water tax due to adoption of incorrect rate

(₹ in lakh)

| Sl. No. | Name of the Office | Period (Fasli years) | Total Extent (in acres) | Water tax to be levied | Water tax levied | Short levy |
|--------------|--------------------|----------------------|-------------------------|------------------------|------------------|-------------|
| 1 | Eluru | 1419 to 1420 | 7677.74 | 13.44 | 12.93 | 0.51 |
| 2 | Ghantasala | 1416 to 1420 | 1078.91 | 3.78 | 0.69 | 3.09 |
| Total | | | 8756.65 | 17.22 | 13.62 | 3.60 |

Annexure-V

Paragraph 7.2.8

Non-levy of water tax due to adoption of incorrect area

(₹ in lakh)

| Sl. No. | Name of the Office | Period (Fasli years) | Irrigated extent (in acres) | Water tax to be levied |
|--------------|--------------------|----------------------|-----------------------------|------------------------|
| 1 | Denduluru | 1419 to 1421 | 1605.2 | 2.92 |
| 2 | Undi | 1419 to 1422 | 720.50 | 2.18 |
| Total | | | 2325.70 | 5.10 |

Annexure -VI
Paragraph 7.2.9

Non/ Short levy of interest on collected arrears of water tax

(₹ in lakh)

| Sl. No. | Name of the office | Period (Fasli years) | WT Collections | Interest to be levied | Interest levied | Non/ Short levy |
|---------|--------------------|------------------------------|----------------|-----------------------|-----------------|-----------------|
| 1 | Atreyapuram | 1420 to 1423 | 12.67 | 0.76 | 0.00 | 0.76 |
| 2 | Bantumilli | 1419 to 1421 | 141.66 | 8.50 | 0.00 | 8.50 |
| 3 | Bapulapadu | 1415 to 1421 | 148.67 | 8.92 | 0.00 | 8.92 |
| 4 | Challapalli | 1419 to 1421 | 32.25 | 1.93 | 0.00 | 1.93 |
| 5 | Chebrolu | 1418 to 1421 | 43.49 | 2.61 | 0.00 | 2.61 |
| 6 | Duggirala | 1419 to 1421 | 67.43 | 4.05 | 0.00 | 4.05 |
| 7 | Elamanchili | 1411 to 1421 | 108.84 | 6.53 | 0.00 | 6.53 |
| 8 | Gannavaram | 1419 to 1421 | 34.06 | 2.04 | 0.00 | 2.04 |
| 9 | Ghantasala | 1417 to 1421 | 97.40 | 5.84 | 0.00 | 5.84 |
| 10 | Gudivada | 1419 to 1421 | 56.87 | 3.41 | 0.00 | 3.41 |
| 11 | Gudlavalleru | 1419 to 1421 | 147.82 | 8.87 | 0.00 | 8.87 |
| 12 | Guduru | 1419 to 1421 | 174.37 | 10.46 | 0.00 | 10.46 |
| 13 | Kaikaluru | 1414 to 1421 | 387.26 | 23.24 | 0.00 | 23.24 |
| 14 | Kalidindi | 1414 to 1421 | 654.27 | 39.26 | 0.00 | 39.26 |
| 15 | Kankipadu | 1413 to 1421 | 54.94 | 3.30 | 0.00 | 3.30 |
| 16 | Kapileshwarapuram | 1417 to 1421 | 50.97 | 3.06 | 0.00 | 3.06 |
| 17 | Karlapalem | 1415 to 1421 | 101.81 | 6.11 | 0.00 | 6.11 |
| 18 | Koduru | 1419 to 1421 | 98.21 | 5.89 | 0.00 | 5.89 |
| 19 | Kruthivennu | 1416 to 1418 | 52.77 | 3.17 | 0.00 | 3.17 |
| 20 | Machilipatnam | 1419 to 1421 | 164.97 | 9.90 | 0.00 | 9.90 |
| 21 | Mopidevi | 1416 to 1419 | 68.03 | 4.08 | 0.00 | 4.08 |
| 22 | Mudinepalli | 1414 to 1421 | 592.09 | 35.53 | 0.00 | 35.53 |
| 23 | Nagaram | 1416 to 1421 | 105.54 | 6.33 | 0.00 | 6.33 |
| 24 | Nagayalanka | 1419 to 1421 | 99.37 | 5.96 | 0.00 | 5.96 |
| 25 | Pamaru | 1417 to 1421 | 60.41 | 3.62 | 0.00 | 3.62 |
| 26 | Pamidimukkala | 1416 to 1419 | 75.73 | 4.54 | 0.00 | 4.54 |
| 27 | Peravali | 1415 to 1418 1420 to 1423 | 102.82 | 6.17 | 0.00 | 6.17 |
| 28 | Penamaluru | 1419 to 1421 | 9.61 | 0.58 | 0.00 | 0.58 |
| 29 | Pittalavanipalem | 1419 to 1421 | 45.99 | 2.76 | 0.00 | 2.76 |
| 30 | Ponnuru | 1419 to 1422 | 113.63 | 6.82 | 0.00 | 6.82 |
| 31 | Rayavaram | 1419 to 1420 | 47.65 | 2.86 | 0.00 | 2.86 |
| 32 | Repalle | 1419 | 57.70 | 3.46 | 0.00 | 3.46 |
| 33 | Sakhinetipalle | 1420 to 1421 | 19.66 | 1.18 | 0.00 | 1.18 |
| 34 | Thotlavalluru | 1419 to 1421 | 16.90 | 1.01 | 0.00 | 1.01 |
| 35 | Unguturu K | 1411 to 1421 | 200.28 | 12.02 | 0.00 | 12.02 |
| 36 | Vemuru | 1414 to 1421 | 125.83 | 7.55 | 0.00 | 7.55 |
| 37 | Vuyyuru | 1419 to 1421 | 42.10 | 2.53 | 0.00 | 2.53 |
| 38 | Ainavilli | 1419 to 1421 | 31.40 | 1.88 | 0.05 | 1.83 |
| 39 | Alamuru | 1420 & 1421 | 26.03 | 1.56 | 0.39 | 1.17 |
| 40 | Allavaram | 1417 to 1421 | 132.83 | 7.97 | 0.19 | 7.78 |
| 41 | Anaparthi | 1417 to 1421 | 76.23 | 4.57 | 2.26 | 2.31 |
| 42 | Attili | 1421 & 1423 | 44.59 | 2.68 | 1.86 | 0.82 |
| 43 | Bapatla | 1419 & 1420 | 80.81 | 4.85 | 0.77 | 4.08 |

(₹ in lakh)

| Sl. No. | Name of the office | Period (Fasli years) | WT Collections | Interest to be levied | Interest levied | Non/Short levy |
|--------------|--------------------|----------------------|----------------|-----------------------|-----------------|----------------|
| 44 | Bhimadole | 1419 to 1423 | 76.49 | 4.59 | 3.98 | 0.61 |
| 45 | Bhimavaram | 1419, 1420 & 1422 | 135.21 | 8.11 | 5.80 | 2.31 |
| 46 | Bikkavolu | 1417 to 1419 | 60.28 | 3.62 | 1.32 | 2.30 |
| 47 | Denduluru | 1421 to 1423 | 74.97 | 4.50 | 1.86 | 2.64 |
| 48 | Eluru | 1419 to 1421 | 131.63 | 7.90 | 0.64 | 7.26 |
| 49 | Ganapavaram | 1418 to 1423 | 111.12 | 6.67 | 5.40 | 1.27 |
| 50 | Iragavaram | 1421 to 1423 | 29.71 | 1.78 | 0.34 | 1.44 |
| 51 | Kakinada Rural | 1419 to 1422 | 17.53 | 1.05 | 0.11 | 0.94 |
| 52 | Karapa | 1419 to 1422 | 75.06 | 4.50 | 2.57 | 1.93 |
| 53 | Katrenikona | 1417 to 1420 | 101.61 | 6.10 | 1.17 | 4.93 |
| 54 | Kothapeta | 1421 | 24.01 | 1.44 | 0.24 | 1.20 |
| 55 | Mamidikuduru | 1417 to 1421 | 43.80 | 2.63 | 0.31 | 2.32 |
| 56 | Mandapeta | 1417 to 1421 | 131.86 | 7.91 | 3.97 | 3.94 |
| 57 | Mandavalli | 1415 to 1421 | 548.77 | 32.93 | 0.68 | 32.25 |
| 58 | Mogalthuru | 1415 to 1423 | 124.34 | 7.46 | 2.48 | 4.98 |
| 59 | Movva | 1419 to 1421 | 82.98 | 4.97 | 0.25 | 4.72 |
| 60 | Nandivada | 1414 to 1421 | 698.86 | 41.93 | 0.50 | 41.43 |
| 61 | Narasapuram | 1420 | 26.42 | 1.59 | 0.22 | 1.37 |
| 62 | Nidamaru | 1417 to 1423 | 251.70 | 15.10 | 5.70 | 9.40 |
| 63 | Palacoderu | 1420 to 1423 | 57.31 | 3.44 | 1.58 | 1.86 |
| 64 | Pedapadu | 1418, 1420 to 1423 | 140.98 | 8.46 | 6.38 | 2.08 |
| 65 | Pedaparupudi | 1419 to 1421 | 51.14 | 3.07 | 0.11 | 2.96 |
| 66 | Penumantra | 1414 to 1423 | 48.02 | 2.88 | 1.86 | 1.02 |
| 67 | Razole | 1419 & 1421 | 59.96 | 3.60 | 1.95 | 1.65 |
| 68 | Ramachandrapuram | 1417 to 1420 | 130.40 | 7.82 | 1.73 | 6.09 |
| 69 | Tanuku | 1418 to 1422 | 90.99 | 5.46 | 1.75 | 3.71 |
| 70 | Samalkot | 1417 to 1422 | 178.10 | 10.69 | 5.26 | 5.43 |
| 71 | Undrajavaram | 1420, 1421 & 1423 | 29.62 | 1.78 | 1.01 | 0.77 |
| 72 | Unguturu WG | 1418 to 1423 | 241.30 | 14.48 | 9.05 | 5.43 |
| Total | | | 8580.13 | 514.82 | 73.74 | 441.08 |

Annexure -VII

Paragraph 7.2.10

Lack of control / monitoring

(₹ in lakh)

| Sl. No. | Name of office | Fasli year | Arrears of Water tax to the end of the previous fasli year | Arrears of Water tax at the beginning of the fasli year | Elimination of water tax |
|----------------|-----------------------|-------------------|---|--|---------------------------------|
| 1 | Kajuluru | 1416 | 119.35 | 78.54 | 40.81 |
| 2 | Ramachandrapuram | 1417 | 118.37 | 81.51 | 36.86 |
| | Total | | 237.72 | 160.05 | 77.67 |

| GLOSSARY | |
|-----------------|---|
| AA | Assessing Authority |
| AC | Assistant Commissioner |
| ACTO | Assistant Commercial Tax Officer |
| ADMG | Assistant Director of Mines and Geology |
| AG | Accountant General |
| AGPA | Agreement of sale cum General Power of Attorney |
| AIG | Assistant Inspector General |
| AMC | Annual Maintenance Contract |
| AO | Audit Officer |
| AP | Andhra Pradesh |
| APFC | Andhra Pradesh Financial Code |
| APGST | Andhra Pradesh General Sales Tax |
| APIIC | Andhra Pradesh Industrial Infrastructure Corporation |
| APMMC | Andhra Pradesh Minor Mineral Concession |
| APMVT | Andhra Pradesh Motor Vehicles Taxation |
| APMV | Andhra Pradesh Motor Vehicles |
| APRR | Andhra Pradesh Revenue Recovery Act |
| AP SWAN | Andhra Pradesh State Wide Area Network |
| APTDC | Andhra Pradesh Tourism Development Corporation |
| APVAT | Andhra Pradesh Value Added Tax |
| BE | Budget Estimates |
| BSO | Board's Standing Orders |
| CARD | Computer-aided Administration of Registration Department |
| CCLA | Chief Commissioner of Land Administration |
| CCT | Commissioner of Commercial Taxes |
| CDSC | Computerised Dealer Service Centre |
| CFST | Citizen Friendly Services of Transport Department |
| CGG | Centre for Good Governance |
| CIGR | Commissioner and Inspector General of Registration and Stamps |
| CMV Rules | Central Motor Vehicle Rules, 1989 |
| CSC | Citizen Service Centre |
| CST | Central Sales Tax |
| CST (R&T) Rules | Central Sales Tax (Registration and Turnover) Rules, 1957 |
| CT | Census Town |
| CT | Commercial Taxes |
| CTD | Commercial Taxes Department |
| CTO | Commercial Tax Officer |
| DC | Deputy Commissioner |
| DC | District Collector |
| DC (CT) | Deputy Commissioner (Commercial Taxes) |
| DCB | Demand Collection and Balance |
| DCTO | Deputy Commercial Tax Officer |

| | |
|----------|---|
| DD | Demand Draft |
| DD | Draft Declaration |
| DDMG | Deputy Director of Mines and Geology |
| DGPA | Development Agreement cum General Power of Attorney |
| DIC | District Industries Centre |
| DIG | Deputy Inspector General |
| DLNC | District Level Negotiations Committee |
| DLPO | Division Level Panchayat Officer |
| DMG | Director of Mines and Geology |
| DMU | Debt Management Unit |
| DR | District Registrar |
| DTC | Deputy Transport Commissioner |
| E&RSA | Economic and Revenue Sector Audit |
| EOU | Export Oriented Unit |
| FC | Fitness Certificate |
| FEC | Final Eligibility Certificate |
| FM | Facility Management |
| GDS | Godavari Delta System |
| GIS | Goods Information System |
| GO | Government Order |
| GP | Gram Panchayat |
| GPA | General Power of Attorney |
| HSN | Harmonised System of Nomenclature |
| IBM | Indian Bureau of Mines |
| IDEA | Interactive Data Extraction and Analysis |
| IR | Inspection Report |
| IS Act | Indian Stamp Act, 1899 |
| IST | Inter State Wing |
| IT | Information Technology |
| ITC | Input Tax Credit |
| JC | Joint Commissioner |
| KDS | Krishna Delta System |
| LD | Linzer Dusenthal |
| LPG | Liquified Petroleum Gas |
| LTU | Large Taxpayer Unit |
| MIS | Management Information System |
| MMDR Act | Mines and Minerals (Development and Regulation) Act, 1957 |
| MRA | Mineral Revenue Assessment |
| MRO | Mandal Revenue Officer |
| MT | Metric Tonne |
| MV | Market Value |
| MV Act | Motor Vehicles Act, 1988 |
| MVI | Motor Vehicles Inspector |
| NALA Act | Non-Agricultural Lands Assessment Act, 1963 |
| NSP | Nagarjuna Sagar Project |
| OG | Out Growth |

| | |
|--------------|--|
| P&E | Prohibition and Excise |
| P&ES | Prohibition and Excise Superintendent |
| P&L | Profit and Loss |
| PA | Power of Attorney |
| PAN | Permanent Account Number |
| PN | Preliminary Notification |
| PV | Preliminary Valuation |
| RCC | Reinforced Cement Concrete |
| RDO | Revenue Divisional Officer |
| RFP | Request for Proposal |
| RTA | Regional Transport Authority |
| RTO | Regional Transport Officer |
| SARFAESI Act | Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 |
| SDC | Special Deputy Collector |
| SEZ | Special Economic Zone |
| SLNC | State Level Negotiations Committee |
| SMS | Short Message Service |
| SQL | Structured Query Language |
| SR | Sub-Registrar |
| SRS | System Requirement Specifications |
| STAT | Sales Tax Appellate Tribunal |
| STQC | Standardisation, Testing and Quality Certification |
| TBP | Tungabhadra Project |
| TC | Transport Commissioner |
| TCS | Tata Consultancy Services |
| TDS | Tax Deducted at Source |
| TCS | Toddy Co-operative Society |
| TFT | Tree For Tapper |
| TIN | Taxpayer Identification Number |
| TOT | Turnover Tax |
| URS | User Requirement Specifications |
| V&E | Vigilance and Enforcement |
| VAT | Value Added Tax |
| VATIS | Value Added Tax Information System |
| VCR | Vehicle Check Report |
| VRO | Village Revenue Officer |
| w.e.f. | with effect from |
| WP | Writ Petition |

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