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**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended 31 March 2017**



**Government of Gujarat
Report No. 3 of the year 2017**

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(Report No. 3 of the year 2017)

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PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2017 has been prepared for submission to the Governor of Gujarat under Article 151 of the Constitution of India.

The Report contains significant findings of audit of the Receipt and Expenditure of major Revenue earning Departments under the Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 and Regulations on Audit and Accounts, 2007 issued thereunder by the Comptroller and Auditor General of India.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2016-17 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 2016-17 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

This Report contains 21 paragraphs including one Performance Audit involving ₹ 263.50 crore. Some of the major findings are as mentioned below:

I. General

The total revenue receipts of the Government of Gujarat in 2016-17 were ₹ 1,09,841 crore as against ₹ 97,482.58 crore during 2015-16. The revenue raised by the State from tax receipts during 2016-17 was ₹ 64,442.71 crore and from non-tax receipts was ₹ 13,345.66 crore. The revenue raised by the State Government was 71 *per cent* of the total revenue receipts. The main sources of tax revenue during 2016-17 were value added tax/ central sales tax (₹ 46,313.78 crore) and Taxes and Duties on Electricity (₹ 5,833.10 crore). The main receipt under non-tax revenue came from non-ferrous mining and metallurgical industries (₹ 3,746.50 crore). In the financial year 2016-17, 12 *per cent* of the revenue received by the Government of Gujarat came from Grants-in-aid from Government of India as compared to 9 *per cent* in the previous year 2015-16. Share of divisible Union taxes and grants-in-aid from the Government of India were ₹ 18,835.39 crore and ₹ 13,218.05 crore respectively.

(Paragraph 1.1)

II. Value Added Tax (VAT)/Sales Tax

Test check of records of Commercial Tax Department offices during the year 2016-17 revealed under assessment of ₹ 35.67 crore in 325 cases. A few illustrative audit observations involving ₹ 13.24 crore are mentioned in the chapter II of the report. Some of these are highlighted as under.

Short levy of VAT of ₹ 2.15 crore was noticed in 23 assessments in five offices due to misclassification of commodities.

(Paragraph 2.3)

Excess tax credit of ₹ 4.01 crore was allowed in the assessment records of 20 offices in 31 assessments of 30 dealers due to incorrect grant of input tax credits.

(Paragraph 2.5)

Short levy of tax of ₹ 1.22 crore was noticed in assessment records of six offices of nine dealers due to incorrect determination of turnover.

(Paragraph 2.6)

III. Land Revenue

Test check of records in the offices of the Collectors, Dy. Collectors and Mamlatdars (LR); Gujarat State Disaster Management Authority, Gandhinagar; Commissioner of Revenue (Inspection), Gandhinagar; Director of Relief, Gandhinagar and Principal Secretary, Revenue Department in the State during the year 2016-17 revealed underassessment of tax and other

irregularities involving ₹ 71.13 crore in 204 cases. Some illustrative audit observations involving ₹ 5.17 crore are mentioned in the Chapter-III of the report. Of these, a few are highlighted as under.

Premium price of ₹ 78.44 lakh was short recovered due to application of incorrect rates on conversion of land from new tenure to old tenure in two cases at Surat and Ahmedabad during 2014-15 and 2015-16.

(Paragraph 3.2)

Conversion tax of ₹ 1.98 crore was not levied/short levied in 138 cases in four Collector offices during the period from period 2012-13 to 2014-15.

(Paragraph 3.3)

IV. Stamp Duty and Registration Fees

Test check of records in the offices of Sub-Registrars, Deputy Collectors (Stamp Duty Valuation Organisation) and Additional Superintendent of Stamps, Gandhinagar in the State during the year 2016-17 revealed short realisation of stamp duty and registration fees and other irregularities involving ₹ 99.98 crore in 103 cases.

This chapter contains a paragraph on Audit of “Evaluation and application of Annual Statement of Rates for determination of market value of immovable properties for levy and collection of Government revenue” involving ₹92.17 crore. Audit revealed the following:

Annual Statement of Rates (ASR) had not been revised during the period from April 2012 to March 2017 despite a Government of Gujarat Resolution dated 31 March 2011 that stipulated annual release of Annual Statement of Rates.

(Paragraph 4.3.6)

Revenue in the shape of premium and stamp duty amounting to ₹ 67.33 crore could not be collected due to non-revision of ASR in respect of areas falling under Town Planning Schemes.

(Paragraph 4.3.6.5)

Separate rates for commercial land in urban areas were not provided in the ASR due to which there was undervaluation of land. The survey process was found defective, the rates obtained through general enquiry was not cross verified with the computerised database of the system (*gARVI*).

The survey data was unreliable as there were a number of unauthentic/incomplete survey forms from which the rates of the land used for different purposes were entered into the ASR.

(Paragraph 4.3.7.1 and 4.3.7.4)

During the test check of ASRs alongwith the survey forms, check forms, etc. produced to audit by the 12 DC (SDVO) offices of nine districts, audit found

irregularities in data entry of rates in ASRs resulting in short levy of premium of ₹ 4.63 crore in 41 cases.

(Paragraph 4.3.7.5)

Audit noticed inconsistencies and anomalies in the rates adopted in ASR such as rates of agriculture land were shown at par or higher than the rates of open plot/office/shops and survey/final plot numbers of one value zone were repeated under another value zone of the same area.

(Paragraph 4.3.9)

Audit noticed that due to incorrect determination of market value of properties in 28 documents there was short levy of stamp duty of ₹ 1.75 crore. This was due to lack of adherence to the instructions contained in the ASR guidelines for ascertaining the correct market value of properties.

(Paragraph 4.3.11)

In addition, a few illustrative audit observations involving ₹ 6.55 crore are mentioned in the Chapter-IV of the report. Of these, a few are highlighted as under.

In four Sub Registrar offices, the market value of the properties was determined incorrectly in 41 documents, which resulted in short levy of stamp duty and registration fees of ₹ 4.77 crore.

(Paragraph 4.4)

In Sub Registrar office, Bavla (Ahmedabad), there was short levy of stamp duty of ₹ 98 lakh in one document due to incorrect adoption of market value.

(Paragraph 4.5)

V. Other Tax and Non-Tax Receipts

Test check of records in the offices of the District Geologists/ Assistant Geologists and Commissioner of Geology and Mining, office of the Chief Electrical Inspector and Collector of Electricity Duty and Operation and Maintenance Divisions of Electricity Distribution Companies and Director of Petroleum in the State during the year 2016-17 revealed under-assessment and other irregularities involving ₹ 152 crore in 185 cases.

This chapter contains a Performance Audit of “Grant, Levy and Collection of Receipts from Mining Leases” involving ₹ 144.05 crore. The PA disclosed a number of control deficiencies which had an adverse impact on the management of revenue. A few are mentioned in the following paragraphs

Gujarat Mineral Policy was framed in 2003. This has not been revised despite the circulation of draft “Model State Mineral Policy, 2010” by the Government of India in 2010. Absence of a revised policy resulted in a number of discrepancies including estimating the reserves of the minerals, etc.

(Paragraph 5.2.7)

Due to the frequent changes in the Guidelines of 2011 issued by the Government of Gujarat for auction of blocks of minor minerals, the auction

process was rendered faulty and a fair competitive bidding could not be ensured.

(Paragraph 5.2.8.1)

The Department had not made any attempt to put minor minerals other than ordinary sand in public domain. No register was prescribed to record the minerals put to auction and record the receipts therefrom for want of technical opinion.

(Paragraph 5.2.8.2)

There were 4,749 applications for grant of leases pending allotment as on 31 March 2016. Out of these, 3,543 applications (74.60 *per cent*) were pending for want of technical opinion from various departments.

(Paragraph 5.2.10)

Ministry of Mines, Government of India declared 31 major minerals as minor minerals in February 2015. The Department prescribed the rates for levy of royalty and dead rent on these 31 re-classified minerals in June 2016, after a delay of more than one year and four months. Delay in revision of rates of royalty/ dead rent in these cases resulted in foregoing of revenue of ₹ 35.69 crore.

(Paragraph 5.2.13)

The percentage shortfall in yearly inspections of leases by the Department ranged between 74.24 to 89.86. In absence of adequate inspection of leases, the Department was unable to control the mining activities of the lessees.

(Paragraph 5.2.17)

In 10 District Geologist offices, 45 *per cent* of the applications remain pending for clearance by SEIAA/ DEIAA. The Department allowed the continuance of leases without the ECs.

(Paragraph 5.2.22)

The Department had not evolved a system of co-ordination with other departments for plugging leakage of revenue, prevention of unauthorized mining, protection of environment/ forests, etc. The internal audit conducted by the Department was inadequate which may result in the Department remaining unaware of the areas requiring attention and taking steps for improvement.

The co-ordination with Forest Department and Gujarat Pollution Control Board was insufficient for prevention of illegal/ unauthorised mining. This resulted in illegal excavation of minerals in 92 cases involving ₹ 1.51 crore.

(Paragraph 5.2.23 to 24)

Transport Department

In eight Regional Transport Offices, operators of 600 transport vehicles had neither paid tax nor filed non-use declarations for the periods between 2010-11 and 2015-16. This resulted in non-realisation of motor vehicles tax of ₹ 2.32 crore.

(Paragraph 5.3)

CHAPTER-I GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Gujarat during the year 2016-17, the share of net proceeds of divisible Union Taxes and duties assigned to the State and Grants-in-aid received by the State from the Government of India during the year and the corresponding figures for the preceding four years are as mentioned in **Table 1.1.1**:

Table 1.1.1

(₹ in crore)

Sl. No.	Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
1.	Revenue raised by the State Government					
	· Tax revenue	53,896.69	56,372.37	61,339.81	62,649.41	64,442.71
	· Non-tax revenue	6,016.99	7,018.31	9,542.61	10,193.51	13,345.66
	Total	59,913.68	63,390.68	70,882.42	72,842.92	77,788.37
2.	Receipts from the Government of India					
	· Share of net proceeds of divisible Union taxes and duties ¹	8,869.05	9,701.93	10,296.35	15,690.43	18,835.39
	· Grants-in-aid	6,445.80	6,883.13	10,799.01	8,949.23	13,218.05
	Total	15,314.85	16,585.06	21,095.36	24,639.66	32,053.44
3.	Total revenue receipts of the State Government (1 and 2)	75,228.53	79,975.74	91,977.78	97,482.58	1,09,841.81²
4.	Percentage of 1 to 3	80	79	77	75	71

(Source: Finance Accounts of the State)

There was overall increase in collection of revenue in the State during the last five years. The revenue raised by the State Government (₹ 77,788.37 crore) during the year 2016-17 was 71 *per cent* of the total revenue receipts against 75 *per cent* in the preceding year. The balance 29 *per cent* of the receipts during 2016-17 were from the Government of India.

¹ Figures under the 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, 0045 - Other taxes and duties on commodities and services”, - share of net proceeds assigned to State booked in the Finance Accounts under ‘A - Tax Revenue’, have been excluded from revenue raised by the State and included in State’s share of divisible Union taxes, in this statement.

² For details, please see **Statement No. 14-** Detailed Statement of revenue and capital receipts by minor heads of the Finance Accounts of the Government of Gujarat for the year 2016-17.

1.1.2 The details of the tax revenue raised during the period 2012-13 to 2016-17 are given in **Table 1.1.2**:

Table 1.1.2

(₹ in crore)

Sl. No.	Heads of revenue	2012-13	2013-14	2014-15	2015-16	2016-17	Percentage of increase (+) or decrease (-) in 2016-17 over 2015-16
1.	Sales tax/Value Added Tax ³	34,086.69	35,685.20	38,418.73	37,755.00	41,530.49	(+) 10.00
	Central sales tax	5,377.98	5,290.86	5,726.53	6,336.05	4,783.29	(-) 24.51
2.	Taxes and duties on electricity	4,406.60	4,692.77	5,877.65	5,999.66	5,833.10	(-) 2.78
3.	Stamp duty and registration fees	4,426.93	4,749.35	5,503.34	5,549.42	5,782.93	(+) 4.21
4.	Land revenue	2,207.85	1,727.41	1,892.65	2,528.50	1,998.52	(-) 20.96
5.	Taxes on vehicles	2,276.26	2,282.81	2,695.09	3,007.98	3,212.95	(+) 6.81
6.	Taxes on goods and passengers	210.58	833.56	210.35	265.19	66.40	(-) 74.96
7.	State excise	84.91	109.82	140.27	123.32	151.53	(+) 22.88
8.	Other taxes on income and expenditure ⁴	207.80	222.22	230.87	240.72	249.24	(+) 3.54
9.	Other taxes ⁵	611.09	778.37	644.33	843.57	834.26	(-) 1.10
	Total	53,896.69	56,372.37	61,339.81	62,649.41	64,442.71	(+) 2.86

(Source: Finance Accounts of the State)

- It can be seen from the above table that the tax revenue raised by the State Government has increased by 19.57 per cent during the last five years.
- The overall tax revenue as well as different types of tax receipts had shown upward trend during 2016-17 over 2015-16 except receipts under “Central Sales Tax”, “Taxes and duties on electricity”, “Land Revenue”, “Taxes on goods and passengers” and “other taxes”.

The reasons for variation wherever found substantial though called for (May/ August 2017) were not furnished by the concerned Departments.

³ Sales Tax/Value Added Tax includes tax on sales of Motor Sprit and Lubricants, Trade Tax and Other Receipts.

⁴ Other taxes on income and expenditure include “Taxes on Professions, Trades, Calling and Employment” and “Share of Net Proceeds assigned to States”.

⁵ Other taxes include “Taxes on Immovable Property other than Agricultural land”, “Entertainment Tax”, “Luxury Tax” etc.

1.1.3 The details of the non-tax revenue raised during the period 2012-13 to 2016-17 are indicated in **Table 1.1.3**:

Table 1.1.3

(₹ in crore)

Sl. No.	Heads of revenue	2012-13	2013-14	2014-15	2015-16	2016-17	Percentage of increase (+) or decrease (-) in 2016-17 over 2015-16
1.	Non-ferrous mining and metallurgical industries	1,847.16	1,578.34	4,285.85	3,350.19	3,746.50	(+) 11.83
2.	Interest receipts	1,325.84	1,267.18	1,011.47	843.00	2,580.10	(+) 206.06
3.	Major and medium irrigation	714.13	897.51	1,034.91	1,028.42	1,086.10	(+) 5.61
4.	Miscellaneous general services	(-)334.66 ⁶	90.62	26.27	1,443.86	28.92	(-) 98.00
5.	Other administrative services	102.22	100.32	169.07	129.99	176.67	(+) 35.91
6.	Police	163.84	177.81	214.20	219.82	248.88	(+) 13.22
7.	Medical and public health	126.34	111.88	243.57	171.51	981.98	(+) 472.55
8.	Public works	44.36	54.99	59.27	130.01	52.52	(-) 59.60
9.	Forestry and wild life	54.39	60.04	48.15	48.92	45.59	(-) 6.81
10.	Other non-tax receipts ⁷	1,973.37	2,679.62	2,449.85	2,827.79	4,398.40	(+) 55.54
	Total	6,016.99	7,018.31	9,542.61	10,193.51	13,345.66	(+) 30.92

(Source: Finance Accounts of the State)

- The non-tax revenue raised by the State Government has increased by 121.80 *per cent* during the last five years. There was an overall increase of 30.92 *per cent* in non-tax receipts during the year 2016-17 as compared to 2015-16.

The cause of such high rate of growth though called for (May/ August 2017) were not furnished by the concerned Departments.

⁶ Includes ₹ 471.87 crore on account of recovery of debt waiver (write off) granted by Government of India to Government of Gujarat for 2009-10, which remained to be adjusted in the accounts for 2011-12.

⁷ This includes receipts under “Ports and light houses”, “Education, Sports, Arts and Culture”, “Labour and Employment”, “Housing”, “Fisheries”, “Village and Small Industries”, “Crop Husbandry”, etc.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2017 on some principal heads of revenue amounted to ₹ 33,685.27 crore of which ₹ 11,928.54 crore was outstanding for more than five years, as detailed in the **Table-1.2**:

Table 1.2

(₹ in crore)

Sl. No.	Head of revenue	Total Amount out-standing as on 31 March 2017	Amount outstanding for more than five years as on 31 March 2017	Remarks
1.	VAT/ Sales Tax	32,677.64	11,221.66	Out of total outstanding amount of ₹ 32,677.64 crore, recovery of ₹ 3,361.58 crore was covered by Revenue Recovery Certificates, recovery of ₹ 13,471.40 crore was stayed by High Court/ Other Judicial Authorities and Government, recovery of ₹ 2,134.63 crore was outstanding due to dealers being insolvent. Details of the stages of pendency/recovery of remaining amount were not furnished by the Department.
2.	Stamp Duty and Registration Fees	607.85	484.69	The concerned Department did not furnish the stages at which the arrears of revenue were pending for collection or whether the cases were referred for write off, if any, despite being requested by Audit.
3.	Taxes and duties on electricity	108.67	104.16	Out of total outstanding amount of ₹ 108.67 crore, recovery of ₹ 8.09 crore was pending with BIFR, recovery of ₹ 100.58 crore was stayed by Courts.
4.	Taxes on Vehicles and Taxes on Goods and Passengers	291.11	118.03	The concerned Department did not furnish the stages at which the arrears of revenue were pending for collection or whether the cases were referred for write off, if any, despite being requested by Audit.
	Total	33,685.27	11,928.54	

(Sources: Information furnished by the Departments)

It would be seen from the table that arrears aggregating to ₹ 11,928.54 crore were pending for more than five years under the above four heads of revenue.

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Commercial Tax Department in respect of Value Added Tax / Sales Tax and Profession Tax was as in **Table 1.3**:

Table 1.3

Head of revenue	Opening balance	New cases due for assessment during 2016-17	Total assessments due	Cases disposed off during 2016-17	Balance at the end of the year as on 31 March 2017	Percentage of disposal (col.5 to 4)
1	2	3	4	5	6	7
Value Added Tax/Sales Tax	2,00,738	1,41,061	3,41,799	1,01,987	2,39,812	29.84
Profession Tax	50,397	8,596	58,993	10,652	48,341	18.06
Total	2,51,135	1,49,657	4,00,792	1,12,639	2,88,153	28.10

(Sources: Information furnished by the Department)

It could be seen from the above table that percentage of assessments pending disposal increased by 15 *per cent* during 2016-17. Assessment made during 2016-17 was only 28.10 *per cent* indicating therein that the Department needs to make more efforts to dispose of cases expeditiously for easier transition to GST in 2017-18.

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table 1.4**:

Table 1.4

(₹ in crore)

Sl. no.	Head of revenue	Cases pending as on 1 April 2016	Cases detected during 2016-17	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2017
					Number of cases	Amount of demand	
1.	Value Added Tax/ Sales Tax	309	581	890	516	1,451.34	374
2.	Taxes on Vehicles and Taxes on Goods and passengers	59,378	26,098	85,476	24,819	209.08	60,657
	Total	59,687	26,679	86,366	25,335	1,660.42	61,031

(Sources: Information furnished by the Departments)

Overall 70.66 *per cent* cases were still pending for finalisation in the Departments.

1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2016-17, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2016-17 as reported by the Department is given in **Table 1.5**:

Table 1.5

(₹ in crore)

Sl. no.	Particulars	Taxes on Vehicles and Taxes on Goods and Passengers		Mining Receipts	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	85	3.67	00	0.00
2.	Claims received during the year	604	14.37	14	0.22
3.	Refunds made during the year	605	14.77	12	0.21
4.	Balance outstanding at the end of year	84	3.27	2	0.01

(Sources: Information furnished by the Departments)

The Revenue Department (in respect of Land Revenue) and Commercial Tax Department did not furnish the details regarding claims outstanding at the beginning of the year, claims received during the year, balance outstanding at the end of year and refunds made during the year despite being requested in May/ August 2017.

1.6 Response of the Government/ Departments towards audit

The Accountant General (Economic and Revenue Sector Audit), Gujarat, Ahmedabad (AG), conducts periodical inspections of the Government Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with 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 offices/ Government are required to act promptly on 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 receipt of the IRs. Serious financial irregularities are reported to the Heads of the Departments and the Government.

Inspection Reports issued upto December 2016 disclosed that 3,412 paragraphs involving ₹ 1,023.31 crore relating to 904 IRs remained outstanding at the end of June 2017 as mentioned below alongwith the corresponding figures for the preceding two years in **Table 1.6**.

Table 1.6

Particulars	June 2015	June 2016	June 2017
Number of Inspection Reports pending for settlement	1,526	918	904
Number of outstanding audit observations	7,262	3,545	3,412
Amount of revenue involved (₹ in crore)	4,562.83	1,260.01	1,023.31

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2017 and the amounts involved are mentioned in the **Table 1.6.1**.

Table 1.6.1

(₹ in crore)					
Sl. no.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance (Commercial Tax)	Taxes/VAT on sales, trade etc. including Profession Tax	320	1,067	222.40
2.	Revenue	Land revenue	93	485	318.14
		Stamp duty and registration fees	253	1,032	368.05
		Valuation of Property	20	55	7.12
		Expenditure ⁸	95	263	17.65
3.	Ports and Transport	Taxes on Vehicles and Taxes on Goods and Passengers	69	305	17.96
4.	Energy and Petrochemicals	Electricity duty	9	22	15.57
		Director of Petroleum	5	21	38.75
5.	Industries and Mines	Mining Receipts	40	162	17.67
Total			904	3,412	1,023.31

Audit did not receive even the first replies from the heads of office within one month from the date of issue of IRs for 56 IRs issued during 2016-17 pertaining to the Commercial Tax Department (30), Revenue Department (9), Ports and Transport Department (7), Industries and Mines Department (9) and Energy and Petrochemicals Department (1). In respect of remaining IRs, the first replies were received within one month of issue of IRs. The pendency of the IRs due to non-receipt of the replies indicated that the heads of offices and the Department need to take effective action to rectify the defects, omissions and irregularities pointed out in the IRs.

⁸ Money value of the paragraphs included in IRs pertaining to Revenue Department issued by AG (General and Social Sector Audit), Gujarat, Rajkot has not been included.

1.6.2 Departmental audit committee meetings

Chapter 14 of the Regulations on Audit and Accounts 2007 stipulates that Government may establish audit committees for the purpose of monitoring and ensuring compliance and settlement of pending audit observations. Each committee so established shall comprise a representative each from the administrative department, Audit and a nominee from the Finance Department besides the head of the department of the auditable entity. Accordingly, the Government has set up Audit Committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. Besides, Group Officers also discusses periodically the outstanding audit observations with Heads of Departments concerned. During 2016-17, seven meetings for disposal of outstanding audit observations were held in respect of Commercial Tax Department and Revenue Department (in respect of Land Revenue) in which 360 paragraphs were settled.

There had been decrease in the number of outstanding audit inspection reports and number of audit observations as mentioned in **Table 1.6**.

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 2016-17 as many as 974 assessment files, returns, refunds, registers and other relevant records, which had become due for audit in the year, were not made available to audit. Break-up of these cases is given in **Table 1.6.3**:

Table 1.6.3

Name of the Office/ Department	Year in which it was to be audited	Number of cases not produced for audit
Sales Tax/VAT	2016-17	490
Land Revenue	2016-17	484
	Total	974

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 Department, 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.

Twenty one draft paragraphs including one Performance Audit were sent to the Principal Secretaries/ Secretaries of the respective Department by name between March and July 2017. The Principal Secretary of the Revenue Department did not send replies to seven draft paragraphs despite issue of reminders (June 2017) and the same have been included in this Report without the response of the Department.

1.6.5 Follow up on the Audit Reports- summarised position

The internal working system of the Public Accounts Committee, notified in March 1966, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislature Assembly, the Departments shall initiate action on the audit paragraphs and the action taken 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 were being delayed inordinately.

Two hundred and ninety-one paragraphs (including performance audit reports) included in the Reports of the Comptroller and Auditor General of India on the Revenue Receipts/ Revenue Sector of the Government of Gujarat for the years ended 31 March 2010, 2011, 2012, 2013, 2014, 2015 and 2016 were placed before the State Legislature Assembly between March 2012 and March 2017. Action taken explanatory notes in respect of 72 paragraphs from five Departments (Finance Department, Revenue Department, Ports and Transport Department, Industries and Mines Department and Energy and Petrochemicals Department) had not been received (September 2017).

1.7 Audit Planning and Results of Audit

The offices under various Departments are categorised into high, medium and low risk auditable entities according to their revenue realisation, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* include critical issues in Government revenues and tax administration i.e. budget, white paper on state finances, reports of the Finance Commission (Central and State), recommendations of the taxation reforms committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years etc.

During the year⁹ 2016-17, the audit of 124 entities were planned and audited during the year. Besides, one Performance Audit of “Grant, levy and collection of receipts from mining leases” was taken up for detailed scrutiny.

⁹ Audit universe comprised of 720 auditable entities, keeping in view the availability of the staff, 124 were planned for audit.

Position of local audit conducted during the year

Test check of the records of units of Commercial Tax Department, Revenue Department, Ports and Transport Department, Energy and Petrochemicals Department and Industries and Mines Department conducted during the year 2016-17 revealed under assessment/ short levy/ loss of revenue amounting to ₹ 358.78 crore in 817 cases.

During the course of the year, the concerned Departments accepted under assessment and other irregularities of ₹ 4.13 crore involved in 162 cases which were pointed out in audit during 2016-17 and earlier years. The Departments recovered ₹ 2.72 crore in 152 cases at the instance of audit.

1.8 Coverage of this Report

This report contains 21 paragraphs including one Performance Audit of “Grant, levy and collection of receipts from mining leases”, relating to irregular/ excess allowance of ITC, short/ non-levy of VAT /CST/ premium price/ stamp duty/ registration fees and other irregularities, system issues relating to determination of market value of immovable properties involving financial effect of ₹ 263.50 crore.

The concerned Departments/ Government have accepted audit observations involving ₹ 1.64 crore out of which ₹ 60.45 lakh have been recovered. The replies in the remaining cases have not been received (September 2017). These are discussed in the succeeding Chapters II to V.

CHAPTER-II VALUE ADDED TAX/ SALES TAX

2.1 Tax Administration

Value Added Tax laws and rules framed thereunder are administered at the Government level by the Additional Chief Secretary (Finance). The Commissioner of Commercial Tax (CCT) is the head of the Commercial Tax Department (CTD), who is assisted by one Special CCT, four Additional CCTs, 11 Joint CCTs, 23 Deputy CCTs, 103 Assistant CCTs and Commercial Tax Officers (CTOs). They are assisted by Commercial Tax Inspectors and other allied staff for administering the relevant Tax laws and rules.

2.2 Results of Audit

Test check of records of Commercial Tax Department offices during the year 2016-17 revealed under assessment of ₹ 35.67 crore in 325 cases which broadly falls under the following categories:

**Table 2.1
Results of Audit**

Sl. No.	Category	No. of cases	Money Value (₹ in crore)
1	Incorrect rate of tax and mistake of computation	25	10.74
2	Incorrect concession/ exemption	10	1.04
3	Non/ short levy of interest and penalty	34	4.18
4	Irregular/ excess grant of Input Tax Credit	109	7.91
5	Non/ short levy of tax due to underassessment and escapement of turnover	98	9.40
6	Other irregularities	44	2.33
7	Expenditure Audit	5	0.07
	Total	325	35.67

During the course of the year, the Department accepted underassessment of tax and other irregularities of ₹ 2.52 crore in 97 cases, which were pointed out in audit during 2016-17 and earlier years. An amount of ₹ 1.11 crore was recovered in 87 cases.

A few illustrative audit observations involving ₹ 13.24 crore are mentioned in the succeeding paragraphs.

2.3 Non/ Short levy of VAT due to misclassification

Section 7 of the GVAT Act, 2003 provides for levy of tax on turnover of sales of goods specified in the Schedule II or Schedule III of the Act at the rate set out against each of them. Additional tax at the rate of 2.5/1 *per cent* is also leviable from 1 April 2008. Further, as per entry No. 87 of Schedule II, all goods other than those specified in Schedule I or Schedule III and in the preceding entries of Schedule II attract tax at the rate of 15 *per cent* including additional tax at the rate of 2.5 *per cent*.

During test check of the assessment records of five offices, audit noticed¹ in 23 assessments² of 21 dealers that there was short levy of VAT of ₹ 2.15 crore due to misclassification of commodities as detailed below. Besides, interest and penalty was also recoverable, wherever applicable.

2.3.1 Non levy of VAT on rice husk

As per entry 37 of Schedule II, husk of all types including groundnut husk are taxable at the rate of five *per cent* including additional tax at the rate of one *per cent*. Further, husk of all types excluding 'groundnut husk' and 'rice husk' were exempted from whole of tax by entry 18 of Notification³ dated 29 April 2006 u/s 5(2). Thus, 'rice husk' was taxable at the rate of five *per cent* including additional tax at the rate of one *per cent*.

Audit observed in 19 cases of 18 dealers of three offices⁴ that the Assessing Authorities (AAs) had treated rice husk (rice bran) worth ₹ 20.61 crore as exempted goods by classifying it as cattle feed under entry 11 of Schedule I and did not levy any tax. Thus, there was non levy of VAT to the extent of ₹ 98.12 lakh excluding interest and penalty due to misclassification of goods.

The Government vide order dated 06 February 2017 confirmed the audit contention and clarified that tax is leviable at the rate of 4+1 *per cent* on sale/purchase of rice husk. The Government further intimated that it remitted the tax, interest and penalty leviable on sale/ purchase of rice husk up to the period 2014-15 except for those dealers whose cases were finalised in reassessment/ revision/ appeal under Section 41 of the VAT Act. The reason for remission of the tax was not intimated to audit.

2.3.2 Short levy of VAT due to misclassification

2.3.2.1 Under Entry 43 of Schedule-II of the GVAT Act, the goods specified as "Iron and Steel" identical to declared goods as specified in Section 14 of the CST Act, are taxable at the rate of four *per cent*. Further, "Stainless Steel Wire" and "Stranded Wire" do not fall under "Iron and Steel" as specified under Section 14 of the CST Act. Thus, "Stainless Steel Wire" and "P C Stranded Wire" fall under Entry 87 of Schedule-II of the GVAT Act and

¹ Between August 2014 and August 2016

² For the year 2009-10, 2010-11, 2011-12 and 2012-13; assessed between February 2013 and April 2015

³ No. (GHN-44)VAT-2006- S.5(2)(3)-TH

⁴ ACCT: Unit-11 and Unit-21, Ahmedabad; DCCT: Range-3, Ahmedabad

attract tax at the rate of 15 *per cent* including additional tax at the rate of 2.5 *per cent*.

Audit observed in three assessment cases in two offices⁵ that the AAs classified the Stainless Steel Wire and P C Stranded Wire worth ₹ 10.50 crore as “Iron and Steel” and levied tax at the rate of four *per cent* under Entry 43 instead of 15 *per cent* under Entry-87 of Schedule-II. This resulted in short levy of tax to the extent of ₹ 96.61 lakh excluding interest and penalty.

2.3.2.2 The Government vide Notification⁶ dated 01 April 2008 prescribed rate of tax at five *per cent* on sale of furnace oil whereas Sludge oil falls under Entry 87 of Schedule-II and is taxable at the rate of 15 *per cent*.

Audit observed in an assessment case at the office of ACCT Unit-11, Ahmedabad that the AA while assessing the case classified Sludge Oil worth ₹ 2.51 crore as Furnace Oil and levied tax at the rate of five *per cent* instead of 15 *per cent* under Entry-87 of Schedule-II. This resulted in short levy of tax to the extent of ₹ 20.78 lakh excluding interest and penalty.

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

2.4 Short levy of tax due to application of incorrect rate of tax

Section 7 of the GVAT Act, 2003 provides for levy of tax on turnover of sales of goods specified in the Schedule II or Schedule III of the Act at the rate set out against each of them. Additional tax at the rate of 2.5/1 *per cent* is also leviable from 1 April 2008. Further, as per entry No. 87 of Schedule II, all goods other than those specified in Schedule I or Schedule III and in the preceding entries of Schedule II attract tax at the rate of 15 *per cent* including additional tax at the rate of 2.5 *per cent*.

During test check of the assessment records of five offices, audit noticed⁷ in six assessments⁸ of five dealers that there was short levy of VAT of ₹ 2.98 crore due to incorrect application of rate of tax as detailed below. Besides, interest and penalty was also recoverable, wherever applicable.

2.4.1 Under Section 2(23) read with Section 2(24) of the GVAT Act, the supply⁹ of Ready Mix Concrete (RMC) at site alongwith other incidental activities of pouring, pumping etc. amounts to sale. The sale of RMC is taxable at the rate of 15 *per cent* including additional tax at the rate of 2.5 *per cent*.

⁵ ACCT: Unit-25, Kalol and Unit-44, Vadodara

⁶ No. (GHN-16) VAT -2008-S.5 (2) (22)-TH

⁷ Between September 2013 and August 2016

⁸ For the year 2008-09, 2009-10, 2010-11 and 2011-12; assessed between July 2012 and March 2016

⁹ The view was upheld by the Hon'ble Supreme Court in case of GMK Concrete Mixing Pvt. Ltd. Vs. Commissioner of Service Tax [2014] 36 STR 913 (SC)/ [2015] 51 GST 719 (SC) dated 06 January 2015

Audit observed in the assessment case of one dealer at the office of the ACCT Unit-5, Ahmedabad that the AA in assessment treated the sale of RMC worth ₹ 16.21 crore as civil works contract and tax was levied at lump sum rate of 0.6 *per cent* instead of 15 *per cent*. This resulted in short levy of tax to the extent of ₹ 2.02 crore excluding interest and penalty.

2.4.2 Tax is leviable at the rate of 15 *per cent* including additional tax at the rate of 2.5 *per cent* on the sale of gas metering skids and parts of telecom towers under GVAT Act.

Audit observed in assessment cases of two dealers in two offices¹⁰ that the AAs while assessing the cases levied tax at the rate of five *per cent* including additional tax at the rate of one *per cent* instead of correct rate of 15 *per cent*, on sale of gas metering skids and parts of telecom towers worth ₹ 10.19 crore. This resulted in short levy of VAT to the extent of ₹ 84.36 lakh, excluding interest and penalty, due to application of incorrect rate of tax.

2.4.3 The Government *vide* Notification dated 11 October 2006 fixed the rate of lump-sum tax at two *per cent* on execution of works contract related to erection of mobile towers and electrical installations while the rate of lump-sum tax for the civil works contract was fixed at 0.6 *per cent*. Further, the sale of used trailer and loader are taxable at the rate of 15 *per cent* under GVAT Act.

Audit observed in three assessment cases in two offices¹¹ that in respect of two cases of one dealer, the AAs had levied lump-sum tax at the rate of 0.6 *per cent* instead of two *per cent* on works contract receipts of ₹ 3.90 crore where the dealer was engaged in execution of works related to erection of mobile towers and electrical installations. In case of another one dealer, the AA levied a lump-sum tax of ₹ 5,000 instead of correct tax at the rate of 15 *per cent*, on sale of used trailer and loader worth ₹ 48.60 lakh. The application of incorrect rate of tax resulted in short levy of tax to the extent of ₹ 11.95 lakh excluding interest and penalty.

Audit pointed out these cases to the Department and Government in May 2017. The Department accepted (August 2017) our observation in case of one dealer where lump-sum tax of ₹ 5,000 was levied. The reply of the Department in remaining cases has not been received (September 2017).

2.5 Non/ short reduction/ reversal of tax credit

As per Section 11 of the GVAT Act, a registered dealer who has purchased the taxable goods shall be entitled to claim tax credit equal to the amount of tax collected from him by a registered dealer from whom he has purchased such goods or tax paid by him as purchase tax under Section 9 of the Act. The tax credit to be so claimed shall be subject to the provisos as provided under the Section.

¹⁰ ACCT Unit-11, Ahmedabad and Unit-58, Surat

¹¹ ACCT Unit-06, Ahmedabad and Unit-104, Gandhidham

During test check of assessment records of 20 offices audit noticed¹² in 31 assessments¹³ of 30 dealers that the AAs had allowed excess tax credit of ₹ 4.01 crore, excluding interest and penalty, as detailed below:

2.5.1 Short reduction of ITC on branch transferred goods

Under Section 11(3)(b) of the GVAT Act, the amount of tax credit in respect of a dealer shall be reduced by the amount of tax calculated at the rate of four *per cent*, on the taxable turnover of purchases within the State, of the taxable goods consigned or dispatched for branch transfer or to his agent outside the State or of the taxable goods which are used as raw materials in the manufacture, or in the packing of goods which are dispatched outside the State in the course of branch transfer or consignment or to his agent outside the State.

2.5.1.1 Audit observed in assessment cases of three dealers of three offices¹⁴ that the goods worth ₹ 795.98 crore were consigned or dispatched for branch transfer outside the State or used as raw materials in the manufacture or in the packing of goods which were dispatched for branch transfer outside the State. The tax credit of ₹ 31.84 crore at the rate of four *per cent* of such goods was required to be reduced, but during assessment the AAs incorrectly reduced an amount of ₹ 30.76 crore due to arithmetical mistakes. This resulted in short reduction of tax credit to the extent of ₹ 1.08 crore, excluding interest and penalty.

Audit pointed out these cases to the Department and Government in May 2017. The Department accepted (August 2017) our observation in case of one dealer¹⁵. The reply in case of remaining two dealers has not been received (September 2017).

2.5.1.2 Audit observed in assessment case of one dealer assessed at office of ACCT Unit-57, Ankleshwar that the AA while assessing the case did not reduce the tax credit of taxable goods worth ₹ 2.73 crore¹⁶ which were used as raw materials in the manufacture of goods. The goods so manufactured were dispatched by the dealer for branch transfer or to his agent outside the State. This non-reduction of tax credit by the AA resulted in non-realisation of tax to the extent of ₹ 10.92 lakh in the form of tax credit, excluding interest and penalty.

When this was pointed out, the Jurisdictional JCCT¹⁷, Division 6, Vadodara did not accept audit observation and stated (February 2016) that the reduction in ITC was not applicable as the goods were purchased during the financial year only. The reply was not correct as Section 11(3)(b) stipulated reduction in

¹² Between May 2014 and October 2016

¹³ For the year 2008-09, 2009-10, 2010-11 and 2011-12, assessments finalised between March 2013 and March 2016

¹⁴ ACCT: Unit-7, Ahmedabad; DCCT: Petro-1, Ahmedabad and Range-25, Gandhidham

¹⁵ of DCCT, Range-25, Gandhidham

¹⁶ which was held as opening stock

¹⁷ of ACCT, Ankleshwar

tax credit in case of branch transfers irrespective of the year of purchase. As such, reduction in ITC should have been made.

Audit pointed out the case to the Department and Government in May 2017. Their reply has not been received (September 2017).

2.5.2 Short reduction of tax credit on goods sold in the course of inter-State Trade or Commerce

Under Section 11(6) of the GVAT Act, the Government vide Notification No. GHN-14 dated 29 June 2010 specified reduction of tax credit at the rate of two *per cent* of the purchase turnover of goods, for which tax credit is admissible as specified in the notification, when such goods are sold/used as input including raw material in the manufacture of goods which are sold in the course of inter-State Trade or Commerce w.e.f. 01 July 2010.

Audit observed in 19 assessment cases of 18 dealers of 12 offices¹⁸ that the AAs reduced the tax credit of ₹ 5.33 crore instead of ₹ 7.39 crore on the goods worth ₹ 369.73 crore. These goods were resold/ used as raw material in the manufacture of goods sold in the course of inter-State trade or commerce. The omissions were on account of arithmetical mistakes, incorrect reduction of tax credit, etc. This resulted in short reduction of tax credit to the extent of ₹ 2.06 crore excluding interest and penalty.

When this was pointed out, the Department accepted (December 2016 and September 2017) our observations in six assessment cases of five dealers. The Government accepted (September 2017) our observations in three cases of two dealers¹⁹. Their replies in remaining cases have not been received (September 2017).

2.5.3 Irregular allowance of tax credit on purchase of goods used for inadmissible purposes

Section 11 of the GVAT Act, *inter alia*, provides that tax credit shall not be allowed for purchases of goods used in the manufacture of tax free goods. Further, Rule 18(B) of the GVAT Rules, provides for grant of refund of the tax paid to the registered dealer on purchases of taxable goods in case of the textile units which are issued Certificate of Entitlement for remission of tax and engaged in the manufacture of tax free goods.

2.5.3.1 Audit observed in assessment cases of four dealers of four offices²⁰ that the AAs had irregularly allowed tax credit of ₹ 36.86 lakh on purchases of goods worth ₹ 7.89 crore which were used in manufacture of tax free goods such as fabrics, newspaper, shading net and dairy products.

¹⁸ ACCT: Unit-5, 7 and 14 Ahmedabad; Unit-57, Surat and Unit-41, Vadodara; DCCT: Petro-1- Ahmedabad; Corporate Cell - Gandhinagar; Range-7 Gandhinagar; Corporate Cell IV- Mehsana; Range-13- Nadiad; Range-23- Rajkot and Range-11- Vadodara

¹⁹ of DCCT Range-11, Vadodara

²⁰ ACCT: Unit-5, Ahmedabad; Unit-56, Bharuch; DCCT: Range-5, Ahmedabad and Corporate Cell-1, Div. 3, Gandhinagar

Out of these, in case of one dealer, the Department even granted the refund of tax credit of taxable goods which were purchased during the tax remission period but remained as closing stock on the date of completion of such remission period. The refund of tax credit on closing stock was not admissible as these goods were used in manufacture of tax free goods after the completion of remission period. This resulted in irregular allowance/ refund of tax credit to the extent of ₹ 36.86 lakh, excluding interest and penalty.

When this was pointed out, the jurisdictional JCCT²¹, Division 2, Ahmedabad, did not accept our observation in case of a dealer where refund of tax credit was granted and stated (August 2014) that the refund of tax credit of taxable goods purchased during the tax remission period was granted as per the provisions of Rule 18(B) of the GVAT Rules. The reply was not correct as the proviso under Rule 18(B) stipulated that the goods so purchased should be used in the manufacture of goods. In the instant case, goods were not used in manufacture during the remission period but remained as closing stock on completion of remission period and subsequently used in manufacture of tax free goods. As such, the tax credit was not admissible.

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

2.5.3.2 Under Section 11 of the GVAT Act, tax credit shall not be allowed for purchases of vehicles of any type except when the purchasing dealer is engaged in the business of sales of such goods. As per Section 2 (5) second-hand plant and machinery does not fall within the definition of capital goods.

Audit observed in the assessment cases of four dealers of four offices²² that the AAs had allowed tax credit of ₹ 39.93 lakh on purchases of capital goods/ plant and machinery worth ₹ 4.82 crore. Out of these four cases, in case of three dealers, the capital goods included purchase of motor vehicles such as hydraulic excavator, hydraulic mobile crane, tipper/ lorry which were used in execution of works contract or for providing services. In another case, the dealer purchased plant and machinery which was damaged and unfit for use. As such, the tax credit on purchase of motor vehicles used for the purposes other than resale and defective plant and machinery, was not admissible, but the AAs allowed it during the assessment. This resulted in irregular allowance of tax credit to the extent of ₹ 39.93 lakh excluding interest and penalty.

When this was pointed out, the CTO, Unit 29, Prantij did not accept our observation in case of one dealer and stated that tax credit was admissible on purchase of tipper/ lorry as capital goods meant for quarry work. The reply was not acceptable as Section 11 of the GVAT Act did not allow tax credit on purchase of any type of motor vehicle other than for resale.

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

²¹ of DCCT Range 5, Ahmedabad

²² ACCT: Unit-7 and Unit-11, Ahmedabad; Unit-39, Vadodara and CTO-29 Prantij

2.6 Short levy of VAT due to incorrect determination of turnover

Section 7(1) of the GVAT Act, 2003 provides for levy of tax on the turnover of sales of goods specified in Schedule II or Schedule III at the applicable rates. Further, under Section 2(24), sale price means the amount of valuable consideration paid or payable to a dealer or received or receivable by a dealer for any sale of goods made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962 and any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof.

During test check of the assessment records of six offices audit noticed²³ in assessments of nine dealers²⁴ that there was short levy of tax of ₹ 1.22 crore excluding interest and penalty due to incorrect determination of turnover as detailed below:

2.6.1 Under Section 2(30) of the GVAT Act, tax is leviable on taxable turnover of sales in relation to works contracts on the amount of sale (deemed sale) remaining after deducting therefrom the charges towards labour, service and other like charges. Further, Rule 18AA of the GVAT Rules, 2006 stipulates that where the amount of charges towards labour, service and other like charges are not ascertainable or the accounts are not sufficiently clear or intelligible, a lump sum deduction at prescribed rate shall be admissible in case of civil works contract.

Audit observed in assessment cases of two dealers of two offices²⁵ that:

- In case of a dealer, as per the certified accounts, the deemed sale value of the goods as a result of works contract was ₹ 11.13 crore. The AA while finalising the assessment levied tax on turnover of ₹ 5.37 crore. This resulted in under assessment of turnover to the extent of ₹ 5.76 crore having tax effect of ₹ 46.38 lakh. The basis on which ₹ 5.37 crore was worked out was not found on record.
- In case of another dealer assessed at office of ACCT Unit-44 Vadodara, the deemed sale of the goods involved in the execution of works contract was incorrectly arrived at, due to allowance of deductions of labour charges of ₹ 4.47 crore rather than admissible deductions of ₹ 2.38 crore under Rule 18AA, at the rate of 30 *per cent* from the total receipts of works contract of ₹ 7.93 crore. This resulted in under assessment of turnover to the extent of ₹ 2.09 crore having tax effect of ₹ 9.90 lakh.

The short determination of turnover in the above cases to the extent of ₹ 7.85 crore resulted in short levy of tax to the extent of ₹ 56.28 lakh excluding interest and penalty.

²³ Between April 2014 and October 2016

²⁴ For the year 2008-09, 2009-10, 2010-11 and 2011-12; assessment finalised between February 2012 and March 2016

²⁵ ACCT Unit-57, Surat and Unit-32, Vijapur

Audit pointed out these cases to the Department and Government in May 2017. The Department accepted (July 2017) our observation in case of one dealer²⁶. The reply of the Department in this case was confirmed (August 2017) by the Government. The reply of the other case has not been received (September 2017).

2.6.2 As per Section 2(24) of the GVAT Act ‘sale price’ means the amount of valuable consideration received or receivable by a dealer for any sale of goods made including the amount of duties levied or leviable under the Customs Act, 1962 and any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof. The supply²⁷ of Ready Mix Concrete (RMC) at site alongwith other incidental activities of pouring, pumping etc. amounts to sale. Thus, tax at the rate of 15 *per cent* is leviable on total sales turnover of RMC including pouring/ pumping charges as such charges form the part of sale price.

Audit observed in assessment cases of two dealers of two offices²⁸ that in case of one dealer the AA did not include the central taxes namely customs duty amounting to ₹ 4.42 crore in the taxable sales turnover of ₹ 61.58 crore for levy of tax. In another case, the AA irregularly deducted the amount of pouring/ pumping charges of ₹ 78.02 lakh from the taxable turnover of RMC of ₹ 4.45 crore as labour charges. The customs duty and the charges incurred before supply of RMC formed the part of sale price and tax was leviable on gross turnover of sale including such duty/ charges. This irregular exclusion of central taxes and incidental charges of ₹ 5.20 crore from taxable turnover resulted in short realisation of VAT to the extent of ₹ 32.25 lakh excluding interest and penalty.

When this was pointed out, DCCT Corporate Cell Division-V, Vadodara did not accept the audit observation in one case and stated that the custom duty was paid by the purchasers directly to the custom authorities and thus VAT was not leviable. Reply of the AA is not acceptable since duties leviable under the Customs Act form part of sale price and are liable to VAT.

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

2.6.3 Section 14A of the GVAT Act, provides for payment of lump-sum tax by way of composition in lieu of the amount of tax payable by a works contractor, at such rate as may be fixed by the State Government. Further, the Government vide Notification dated 17 August 2006, fixed the rate of lump-sum tax at two *per cent* of total receipts of works contract in respect of painting and cable laying works.

²⁶ of ACCT Unit-32, Vijapur

²⁷ The view was upheld by the Hon’ble Supreme Court in case of GMK Concrete Mixing Pvt. Ltd. Vs. Commissioner of Service Tax [2014] 36 STR 913 (SC)/ [2015] 51 GST 719 (SC)

²⁸ ACCT Unit-57, Surat and DCCT Corporate Cell Division-V, Vadodara

Audit observed in three assessment cases of two dealers of two offices²⁹ that AAs had irregularly allowed deductions of ₹ 12.94 crore from the total works contract receipts of ₹ 20.66 crore as labour charges though lump-sum tax was required to be levied on total turnover and no deduction was admissible. This irregular deduction from the taxable turnover resulted in short realisation of tax of ₹ 25.87 lakh excluding interest and penalty.

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

2.6.4 Under Section 5A of the GVAT Act, the sale of goods to a unit carrying on its business in the processing area or in the demarcated area of Special Economic Zone (SEZ) shall be zero rated sale for the purpose of this Act. Further, the Government vide Notification dated 01 April 2008 specified that the sale of spare parts of vehicles, which are taxable at the rate of 15 per cent, shall not be zero rated sale to the SEZ Units.

Audit observed in three assessment cases of two dealers assessed at ACCT-104, Gandhidham that the dealers sold the spare parts of vehicles namely tyres worth ₹ 59.26 lakh to the units in SEZ area which was allowed by AAs as zero rated sale, though as per Notification dated 01 April 2008 these sales were taxable at the rate of 15 per cent, and not at zero rated sale to the SEZ Units. This resulted in short levy of VAT to the extent of ₹ 7.73 lakh excluding interest and penalty.

Audit pointed out these cases to the Department and Government in May 2017. The Department stated (August 2017) that in case of one dealer, deficit tax along with interest and penalty has been recovered³⁰. Their replies in remaining cases have not been received (September 2017).

2.7 Short/ Non-levy of Central Sales Tax (CST)

Under Section 6 of the CST Act, every dealer shall be liable to pay tax under this Act on all sales of goods effected by him in the course of inter-State trade or commerce during any year.

During test check of the assessment records of 11 offices audit noticed³¹ in 13 assessments³² of 12 dealers that there was non/ short levy of CST of ₹ 1.81 crore due to underassessment of taxable turnover or incorrect application of rate of tax as detailed below.

2.7.1 Non-levy of tax on job-work not supported by statutory Forms

Section 6A of the CST Act, 1956 read with Rule 12(5) of the CST (Registration and Turnover) Rules, 1957 provides for exemption from levy of CST on transfer of goods from one State to another by the dealer to his

²⁹ ACCT Unit-2, Ahmedabad and Unit-57, Surat

³⁰ of ACCT 104, Gandhidham

³¹ Between June 2014 and October 2016

³² For the year 2009-10, 2010-11, 2011-12 and 2012-13; assessed between March 2013 and March 2016

principal/ branch, provided such transfer is supported by declaration in statutory Form-F. If the dealer fails to furnish such statutory forms, then, the movement of such goods shall be deemed to have been occasioned as a result of sale and tax shall be levied accordingly.

Audit observed in eight assessment cases of seven dealers in seven offices³³ that the AAs allowed the deductions as job-work income of ₹ 19.91 crore from the taxable turnover of on account of interstate trade. No tax was levied on such receipts even though the dealers had not furnished the statutory Form-F in support of such transfers. CST at appropriate rate was required to be levied. This resulted in non-realisation of tax to the extent of ₹ 97.90 lakh excluding interest and penalty.

Audit pointed out these cases to the Department and Government in May 2017. The Department accepted (September 2017) our observation in case of one dealer³⁴. The replies in remaining cases have not been received (September 2017).

2.7.2 Short levy of CST due to application of incorrect rate of tax

Under Section 8(1) read with Section 8(4) of the CST Act, every dealer, who in the course of inter-State trade or commerce, sells goods to a registered dealer, shall be liable to pay tax at concessional rate of two *per cent* of his turnover or at the rate applicable to the sale or purchase of such goods inside the State under the sales tax law of that State, whichever is lower provided that the dealer selling the goods furnishes a declaration in statutory Form-C in original.

Further, as per Section 6A(1) of the Act, a dealer is not liable to pay tax in respect of transfer of goods by him to any place of his business or to his agent or principal, where such transfer of goods is supported by a declaration in Form-F. In case of non-furnishing of Form - C/F by the registered dealers, tax is leviable at the rates applicable on sale of such goods within the State.

Audit observed in assessment cases of three dealers of three offices³⁵ that Form-C/F were not furnished by the registered dealers. Out of three cases, in assessments of two dealers, the AAs had levied tax at the rate of five *per cent* instead of 15 *per cent* on sale of gas measuring skids and cosmetic items worth ₹ 7.20 crore. In remaining case, tax was levied on sale of tissue papers worth ₹ 12.55 crore at the rate of four *per cent* instead of five *per cent*.

Thus, application of incorrect rate of tax resulted in short levy of tax to the extent of ₹ 70.79 lakh, excluding interest and penalty.

³³ ACCT: Unit- 10, 11 and 14, Ahmedabad; Unit-103, Bhuj and Unit-25, Kalol; DCCT: Range-6, Ahmedabad and 13, Nadiad

³⁴ of ACCT Unit-103, Bhuj

³⁵ ACCT: Unit-9 and 11, Ahmedabad and Unit-70 Vyara

When this was pointed out, the Jurisdictional JCCT³⁶ Division 1, Ahmedabad accepted (January 2016) our observation in one case where tax amount of ₹ 10.86 lakh was involved.

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

2.7.3 Short levy of CST due to incorrect determination of turnover

Under Section 2(h) of the CST Act, 1956 read with Section 2(24) of the GVAT Act, “sale price” means the amount payable to a dealer as consideration for the sale of any goods including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962.

Audit observed in assessment cases of two dealers of two offices³⁷ that AA did not include the customs duty of ₹ 3.41 crore in the taxable sales turnover of ₹ 47.61 crore of a dealer for levy of tax though the amount of such customs duty formed the part of sale price for the purpose of levy of tax. In case of another dealer, the AAs irregularly deducted the amount of transportation charges of ₹ 1.17 crore from the taxable turnover. These charges were incurred by the sellers on transportation of goods before delivery of such goods to purchasers on destination basis, as such were a part of sale price. The above irregular exclusion of customs duty and transportation charges resulted in short realisation of CST to the extent of ₹ 12.44 lakh excluding interest and penalty.

When this was pointed out, the AA did not accept audit observation in one case stating that the custom duty did not form a part of sale price. Reply of the AA is not correct as duties leviable under the Customs Act form part of sale price and are taxable under Section 2(h) of the CST Act, 1956 read with Section 2(24) of the GVAT Act.

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

2.8 Non-levy of Entry Tax

Section 3(1) of the Gujarat Tax on Entry of Specified Goods into Local Area Act 2001, provides for levy and collection on entry of motor vehicles³⁸ into the local area, a tax on purchase value thereof at the rate of 15 *per cent*. Under Section 4(2) of the Act, the amount of tax leviable shall be reduced to the extent of the amount of tax paid under the Central Sales Tax Act, 1956 on the purchase of such vehicles in the course of inter-State trade or commerce.

³⁶ of ACCT, Unit 9, Ahmedabad

³⁷ ACCT: Unit-57, Surat; DCCT: Corporate Cell, Div-5, Vadodara

³⁸ As per Honourable Gujarat High Court judgement dated 15.7.2011 in the case of Reliance Industries Ltd. V/s State of Gujarat (SCA No. 11848 of 2005) ‘crawler cranes, loaders, mobile cranes, motor grader, road roller, fork lift, chain mounted drilling machine, pipe layer and bulldozer’ are classified as motor vehicles.

During test check of the assessment records of three offices³⁹ audit noticed⁴⁰ in assessments of three dealers⁴¹ that the dealers had effected inter-state purchases of motor vehicles viz. Hydraulic Excavator, Hydraulic Mobile Crane, Wheel Loader etc. worth ₹ 1.97 crore. These vehicles were not resold by the purchasing dealers, but used in the execution of works contract. Though, entry tax was leviable on purchase of these vehicles, neither the dealers paid entry tax at the time of purchase of such vehicles nor the AAs levied the entry tax at the time of audit assessment. This resulted in non-levy of entry tax to the extent of ₹ 25.72 lakh excluding leviable interest and penalty.

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

2.9 Non-levy of purchase tax on purchases from unregistered dealers

Section 9(1) of the GVAT Act provides for levy of purchase tax on purchases of goods made from unregistered dealers (URDs). Notification No. GHN-14 dated 29 June 2010 specified reduction of tax credit at the rate of two *per cent* of the purchase turnover of goods mentioned in the notification when the goods are sold/ used as raw material in the manufacture of goods which are sold in the course of inter-State trade or commerce w.e.f. 01 July 2010. ‘Cotton’ was exempted from reduction in tax credit on account of inter-State sales vide Notification No. GHN-35 dated 07 September 2010 (effective from 01 October 2010). Thus, tax credit was required to be reduced on purchases of ‘cotton’ between the period 01 July 2010 and 30 September 2010.

Audit observed⁴² in assessment cases⁴³ of three dealers of two offices⁴⁴ that the dealers had purchased cotton worth ₹ 6.09 crore from URDs which was sold in the course of inter-State trade between the period 01 July 2010 and 30 September 2010. However, purchase tax on such purchases was neither paid by the dealers nor assessed by the AAs during audit assessment. This resulted in non-levy of purchase tax to the extent of ₹ 12.17 lakh.

When this was pointed out, the ACCT, Unit 104, Gandhidham did not accept our observation in case of two dealers and stated that reduction in tax credit was not admissible as the goods were not purchased between the period 01 July 2010 and 30 September 2010. The reply was not relevant as the inter state trade was made between 1 July 2010 and 30 September 2011 and as such the tax credit was required to be reduced irrespective of their period of purchase. The exemption was admissible only from 1 October 2010.

³⁹ ACCT: Unit-5 and 11, Ahmedabad and Unit-36-Unjha

⁴⁰ Between October 2015 and August 2016

⁴¹ For the year 2010-11 and 2011-12; assessments finalised between August 2014 and March 2016

⁴² July and August 2016

⁴³ For the year 2010-11 finalised between July 2014 and March 2015

⁴⁴ ACCT: Unit-104, Gandhidham and CTO-29, Prantij

Audit pointed out these cases to the Department and Government in May 2017. Their replies have not been received (September 2017).

2.10 Loss of revenue due to irregular remission

Section 41 of the GVAT Act provides for the remission of whole or any part of the tax payable in respect of any period by any dealer or a class of dealers of any specified class of sales or purchase. The benefit of sales tax exemption granted to Khadi and Gramodyog industries under the Sales Tax Act were discontinued/ withdrawn with the implementation of the GVAT Act. The Hon'ble Gujarat High Court held⁴⁵ that the certificate/notification which has been issued granting exemption for a period from 01 December 2005 to 30 November 2008 would remain in force. Further, the issue regarding grant of benefit of exemption under the newly substituted VAT Act would be either a legislative function by issuance of notification in exercise of power conferred under the statute, or it would be a matter of policy to be decided by the Government afresh in accordance with law. The Government vide Notification No. GHN-9 read with Notification No. GHN-8 dated 27 February 2009 remitted the whole of tax on the sales of products of village industries mentioned in the notification payable by a certified manufacturer who has obtained the Eligibility Certificate prior to the 01 April 2006 from the Gujarat Rajya Khadi and Gramodyog Board (the Board) and the Exemption Certificate from the CCT under the provisions of earlier law. The remission of tax shall be granted till the period as specified in eligibility certificates which were issued before 01 April 2006.

During test check of the assessment records of ACCT-103, Bhuj audit noticed⁴⁶ in two assessment cases of a dealer⁴⁷ that the Department issued a Certificate of Entitlement on 16 April 2010 for refund/ remission of tax for the period from 01 April 2009 to 31 March 2014. This certificate was issued by the Department on the basis of a renewed Eligibility Certificate obtained by the dealer on 03 February 2010 from the Board i.e. after 01 April 2006. The AA in assessment remitted the tax of ₹ 13.87 lakh on sale of goods worth ₹ 1.68 crore on the basis of the Eligibility Certificate and Certificate of Entitlement issued in February 2010 and April 2010 respectively. The irregular renewal of Entitlement Certificate by the Department and remission of tax resulted in loss of revenue to the extent of ₹ 13.87 lakh excluding interest and penalty.

Audit pointed out these cases to the Department and Government in May 2017. The Department accepted (September 2017) our observation in both the cases and stated that revision proceedings had been initiated.

⁴⁵ in the case of Kishorkumar Prabhudas Tanna and Anr. vs State of Gujarat (2009 [1] GLR 683) dated 29 December 2008

⁴⁶ In April 2016

⁴⁷ For the year 2009-10 and 2010-11; assessment finalised between December 2013 and March 2014

2.11 Non/ Short levy of interest (VAT)

Under Section 42(6) of the GVAT Act, where the amount of tax assessed or reassessed for any period, exceeds the amount of tax already paid by the dealer for that period, the dealer shall pay simple interest at the rate of eighteen *per cent* per annum on the amount of tax remaining unpaid for the period of default.

During test check of assessment records of office of the Additional Commissioner of Commercial Tax (Flying Squad) Ahmedabad audit observed⁴⁸ in four assessments⁴⁹ of two dealers that either the AAs had calculated interest incorrectly on delayed payment of tax or had not levied interest on delayed payment of tax. In three assessments of one dealer, the AA levied interest of ₹ 9.48 crore instead of leviable amount of ₹ 9.93 crore, due to arithmetical mistakes and adoption of incorrect period of delay. In one case, though interest of ₹ 9.57 lakh was leviable due to non-payment of tax within the prescribed time period, the AA had not levied any interest on such delayed payment of tax. This resulted in total non/ short levy of interest to the extent of ₹ 54.98 lakh.

Audit pointed out these cases to the Department and Government in May 2017. The Department accepted (July 2017) our observation and reassessed all the four cases.

⁴⁸ In May 2015 and May 2016

⁴⁹ For the year 2010-11, 2011-12 and 2012-13, assessments finalised in March 2015 and March 2016

CHAPTER-III LAND REVENUE

3.1 Results of Audit

Test check of records in the offices of the Collectors, Dy. Collectors and Mamlatdars (LR); Gujarat State Disaster Management Authority, Gandhinagar; Commissioner of Revenue (Inspection), Gandhinagar; Director of Relief, Gandhinagar and Principal Secretary, Revenue Department in the State during the year 2016-17 revealed underassessment of tax and other irregularities involving ₹ 71.13 crore in 204 cases, which fall under the following categories:

**Table 3.1
Results of Audit**

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1	Non/ short levy of occupancy price/ premium price	39	30.81
2	Non/ short recovery of Non Agricultural Assessment	84	0.21
3	Non/short recovery of conversion tax	24	15.91
4	Other irregularities	46	24.16
5	Expenditure Audit	11	0.04
	Total	204	71.13

During the course of the year, the Department accepted and recovered under-assessment and other irregularities of ₹ 44.35 lakh in 26 cases, which were pointed out in audit during 2016-17 and earlier years

A few illustrative audit observations involving ₹ 5.17 crore are mentioned in the succeeding paragraphs.

3.2 Short levy of premium price

As per the Revenue Department Resolutions¹ issued under Section 43 of the Gujarat Tenancy and Agricultural Lands Act, 1948 in case of conversion of land under new and restricted tenure to old tenure², premium at the prescribed rates is required to be recovered by the concerned Collector. The market value of the property is determined in accordance with the *jantri*³ rates and subject to the conditions prescribed therein.

Government Resolution of 18 April 2011 stipulates that in cases where old *jantri* rates effective upto 17 April 2011 were higher than the new *jantri* rates effective from 18 April 2011, then the old *jantri* rates would be applicable for the valuation purpose. As per Government Resolution dated 03 May 2011, the rate of premium is 25/ 40 *per cent* of the market value of the property for agricultural/ non-agricultural purpose.

During the test check of records including the orders for change of tenure of land in the office of the Principal Secretary, Revenue Department for the period 2014-15 to 2015-16, audit noticed (August 2016) that premium price of ₹ 78.44 lakh was short recovered in two cases as detailed below:

3.2.1 In one case of conversion of land measuring 4,221 sq. mtr. at Magdalla, Surat from new and restricted tenure to old tenure for agricultural purpose, the Revenue Authority (RA) had adopted *jantri* rate of ₹ 9,500 per sq. mtr. as opined by the Dy. Collector (SDVO) based on new *jantri*. But, this rate was lower than the rate (i.e. ₹ 14,000 per sq. mtr.) prescribed in the old *jantri*. The RA was required to adopt old *jantri* rates for determination of market value for levy of premium price instead of new *jantri* rates. This resulted in short levy of premium price of ₹ 47.49 lakh at the rate of 25 *per cent*⁴.

3.2.2 In one case of conversion of land measuring 8,397 sq. mtr. at Thaltej, Ahmedabad from new and restricted tenure to old tenure for agricultural and non-agricultural purposes, the Department adopted incorrect *jantri* rates. The *jantri* rate for agricultural land was taken as ₹ 8,600 per sq. mtr. instead of ₹ 9,400 per sq. mtr. The *jantri* rate for non-agricultural land was taken as ₹ 32,750 per sq. mtr. instead of ₹ 43,500 per sq. mtr. The premium levied was ₹ 8.53 crore instead of ₹ 8.84 crore⁵. This resulted in short levy of premium price of ₹ 30.95 lakh.

¹ Dated 13 July 1983 read with the Resolution No NBJ-102006-S 71-J (Part 2) dated 04 July 2008

² New and restricted tenure means the tenure of occupancy which is non-transferable and impartible without the prior approval of Collector. Old tenure land means land deemed to have been purchased by a tenant on Tiller's day, 1 April 1957 free from all encumbrances. New and restricted tenure land can be converted to old tenure after payment of premium price.

³ *jantri*: Annual Statement of Rates issued by the Government showing the rates for the purpose of determination of value of immovable properties and levy of stamp duty.

⁴ [4,221 sq. mtr. X ₹ 14,000 per sq. mtr. x 25 per cent] – ₹ 1,00,24,875 = ₹ 47,48,625

⁵ [7,433 sq. mtr. x ₹ 8,600 per sq. mtr. x 25 per cent + 4,460 sq. mtr. x ₹ 32,750 per sq. mtr. x 40 per cent + 964 sq. mtr. x ₹ 9,400 per sq. mtr. x 25 per cent + 675 sq. mtr. x ₹ 43,500 per sq. mtr. x 40 per cent] - ₹ 8,53,22,050 = ₹ 30,95,300

Audit pointed out these cases to the Department and Government in April 2017. Their replies have not been received (September 2017).

3.3 Non/ short levy of conversion tax

Section 67A of the Gujarat Land Revenue Code, 1879 provides for the levy of conversion tax at prescribed rates on change in the mode of use of land from agricultural to non agricultural (NA) purpose or from one NA purpose to another in respect of land situated in a city, town or village. Different rates of conversion tax are prescribed for residential/ charitable/ temporary non-agriculture and industrial/other purposes, depending upon the population of the city/ town/ notified area/ village. The conversion tax shall be paid in advance by a challan in the Government treasury. As per Revenue Department's Resolution of 18 December 2006, in cases of allotment of Government land for non-agricultural purposes, conversion tax shall be recovered from the applicant.

During the test check of records of four Collector offices⁶ for the period 2012-13 to 2014-15, audit noticed⁷ that the conversion tax of ₹ 1.98 crore was not levied in 138 cases as detailed below:

3.3.1 Levy of conversion tax in cases of land granted to AUDA and ONGC

During test check of records of Collector office, Ahmedabad, audit observed that in one case land measuring 1,76,481 sq. mtr. was awarded to Ahmedabad Urban Development Authority (AUDA) for construction of sewage treatment plant. But, conversion tax at the rate of ₹ 6 per sq. mtr. amounting to ₹ 10.59 lakh was not recovered.

Audit also observed in 27 cases that land measuring 3,15,724 sq. mtr. was awarded to Oil and Natural Gas Corporation (ONGC) for mining purposes at different places. But, conversion tax at the rate of ₹ 6 per sq. mtr. amounting to ₹ 18.94 lakh was not levied.

The assessing authority accepted the observation in 27 cases of land awarded to ONGC (December 2015) while no reply has been received in case of land awarded to AUDA (September 2017).

3.3.2 Levy of conversion tax in cases of land leased to Sardar Sarovar Narmada Nigam Limited (SSNNL)

During test check of records of two Collector offices⁸, audit observed in 73 cases that land measuring 15,87,789 sq. mtr. had been granted on lease for 99 years to SSNNL for irrigation projects at the token rent of ₹ one. The Collector had not inserted the condition of payment of conversion tax in the lease sanction order. This resulted in non-levy of conversion tax of ₹ 95.27 lakh.

⁶ Ahmedabad, Amreli, Kachchh and Surendranagar

⁷ in April 2015 to February 2016

⁸ Kachchh and Surendranagar

Both assessing authorities replied that clarification from the Government would be obtained for levy of conversion tax. The reply is not correct as Section 67 A of GLR Code, 1879 provides for levy of conversion tax. As such, no clarification in this regard was required.

3.3.3 Levy of conversion tax at lower rates in cases of land situated within municipal areas

During test check of records of Collector office, Amreli, audit observed in 32 cases that for conversion of lands situated in municipal areas from agricultural to non-agricultural purposes, i.e. residential or industrial, conversion tax was levied without taking into consideration the population figures available on the website of the Census of India 2011 (a Government Department). As the population of Amreli exceeded one lakh, conversion tax was leviable at higher rates⁹. This resulted in short levy of conversion tax of ₹ 20.96 lakh.

The assessing authority stated that in absence of Census booklet, higher rates were not levied. The reply is not acceptable as the population figures were available in the website of the Census of India. These should have been made use of for levy of conversion tax. The Department may circulate these figures to all Assessing Authorities for levy of conversion tax. Besides, no provision in the Act prevents the Department from recovery of the amount realised short.

3.3.4 Levy of conversion tax in cases of advance possession of land for metro link project

During test check of records of Collector office, Ahmedabad, audit observed in five cases that advance possession of land measuring 1,72,560 sq. mtr. had been handed over (March 2015) to Metrolink Express for Gandhinagar and Ahmedabad (MEGA- a company) for metro link project. But, conversion tax at the rate of ₹ 30 per sq. mtr. amounting to ₹ 51.77 lakh was not levied.

The assessing authority accepted (October 2015) the observation stating the conversion tax would be recovered at the time of final allotment.

Audit pointed out these cases to the Department and Government in April 2017. Their replies have not been received (September 2017).

3.4 Non levy of additional occupancy price

In January 1999, State Government framed a policy for allotment of grazing land to industries after recovery of 30 *per cent* additional occupancy price in addition to the full market value of the land. This amount shall be used by respective *Taluka Panchayat* for purchase of land for grazing purpose.

During test check of records of the office of the Principal Secretary, Revenue Department, Gandhinagar and Collector (LR), Godhara for the year 2012-13

⁹ ₹ 10/ 30 per sq. mtr instead of ₹ 2/ 6 per sq. mtr. for residential/ industrial purposes

to 2015-16, audit noticed¹⁰ non levy of additional occupancy price as shown below:

Land measuring 7,521 sq. mtr. in Visnagar and Unjha taluka (District Mehsana) had been allotted to Dedicated Freight Corridor Corporation of India Ltd. (DFCCIL) for the railway project after recovery of occupancy price at the rates decided by State Level Valuation Committee (SLVC). The allotted land was identified as grazing land (*gauchar*), but the Department did not levy additional occupancy price. This resulted in non-levy of additional occupancy price of ₹ 42.20 lakh. Similarly, land measuring 4,900 sq. mtr. in Godhra taluka had been allotted to Gujarat Energy Transmission Corporation Ltd. (GETCO) for industrial purposes (i.e. construction of sub-station) after recovery of occupancy price at the rates decided by District Level Valuation Committee (DLVC). The allotted land was identified as grazing land (*gauchar*), but the Department failed to levy additional occupancy price. This resulted in non-levy of additional occupancy price of ₹ 5.88 lakh. Thus, there was total non-levy of additional occupancy price of ₹ 48.08 lakh in two cases.

The AA accepted the audit observation in one case and issued (October 2016) notice for recovery of ₹ 5.07 lakh. No reply has been received in other case (September 2017).

Audit pointed out these cases to the Department and Government in April 2017. Their replies have not been received (September 2017).

3.5 Short levy of penal occupancy price

As per Government Resolution dated 8 January 1980, the Government land encroached for commercial or industrial purpose shall be regularised after charging penal occupancy price at 2.5 times of the market value fixed by competent authority.

During the test check of records of the office of the Principal Secretary, Revenue Department, Gandhinagar, audit noticed (August 2016) that land measuring 1,619 sq. mtr. in Bhunava (Gondal-Rajkot) had been allotted (May 2015) to a Company after recovery of occupancy price. Records kept in file revealed that the said land had been encroached by the Company. The Company had requested for regularisation of encroachment after payment of occupancy price. The fact was not taken into consideration while levying the occupancy price. The Department had recovered occupancy price of ₹ 7.19 lakh instead of 2.5 times penal occupancy price of ₹ 17.97 lakh. This resulted in short-recovery of penal occupancy price of ₹ 10.78 lakh.

Audit pointed this out to the Department and Government in April 2017. Their reply has not been received (September 2017).

¹⁰ September 2015 and August 2016

3.6 Non/ short levy of service charge

As per GR dated 26 April 2011, the person/ company applying for the allotment of Government land has to pay service charge at the rate of one *per cent* of the value of land applied for as per the prevailing *jantri*. The service charge so paid is non-refundable. Moreover, the application should be processed only if the applicant pays the service charge at the time of application itself. GR of 18 April 2011 stipulates that in cases where old *jantri* rates effective upto 17 April 2011 were higher than the new *jantri* rates effective from 18 April 2011, then the old *jantri* rates would be applicable for the valuation purpose.

During test check of records of Collector office, Ahmedabad for the period 2014-15, audit noticed (February 2016) that land measuring 24,85,897 sq. mtr. and 3,03,525 sq. mtr. in Hansalpur and Ughrojpura villages respectively were allotted to Maruti Suzuki India Ltd. for industrial purpose, after determination of market value by the SLVC and recovery of occupancy price. Audit observed that in respect of land allotted at Hansalpura village, though old *jantri* rates were higher than the new *jantri* rates, the Revenue Authorities adopted new *jantri* rates for valuation of land for the purpose of levy of service charge and levied ₹ 62.09 lakh instead of ₹ 74.58 lakh. In respect of land allotted at Ughrojpura, service charge of ₹ 8.65 lakh was not levied at all. This resulted in non-recovery of service charge of ₹ 21.14 lakh.

Audit pointed out this case to the Department and Government in April 2017. Their reply has not been received (September 2017).

3.7 Non levy of cost of acquisition

As per Section 50(1) of the Land Acquisition Act, 1894, where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company. Revenue Department vide Circular of September 1999 had revised the rates of cost of acquisition commonly termed as “establishment charges” by the Department on the basis of amount of compensation/ award (10 *per cent*, if amount of compensation/ award is ₹ 10 lakh and above).

During test check of records of the Additional Special Land Acquisition Officer, Ahmedabad, audit noticed (February 2016) in one case that the Officer had acquired private land after payment of compensation of ₹ 16.10 crore and awarded (October 2013) the same to Western Railways. But, establishment charges of ₹ 1.61 crore were not levied.

Audit pointed out this case to the Department and Government in April 2017. Their reply has not been received (September 2017).

CHAPTER-IV STAMP DUTY AND REGISTRATION FEES

4.1 Tax Administration

The overall control on the levy and collection of stamp duty and registration fees rests with the Revenue Department. The Inspector General of Registration (IGR) and Superintendent of Stamps, Gandhinagar is the head of the Department. The IGR is assisted by the Sub-Registrar (at the district and *taluka* level) whereas the Superintendent of Stamps is assisted by the Deputy Collector (Stamp Duty Valuation Organisation) [DC (SDVO)] at the district level.

4.2 Results of Audit

Test check of records in the offices of Sub-Registrars, Deputy Collectors (Stamp Duty Valuation Organisation) and Additional Superintendent of Stamps, Gandhinagar in the State during the year 2016-17 revealed short realisation of stamp duty and registration fees and other irregularities involving ₹ 99.98 crore in 103 cases, which fall under the following categories:

**Table 4.1
Results of Audit**

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1	Audit of "Evaluation and application of Annual Statement of Rates for determination of market value of immovable properties for levy and collection of Government revenue"	1	92.17
2	Misclassification of documents	15	2.51
3	Undervaluation of property	11	0.59
4	Short levy of stamp duty and registration fees	23	4.04
5	Other irregularities	53	0.67
	Total	103	99.98

During the course of the year, the Department accepted and recovered under-assessment and other irregularities of ₹ 30.26 lakh in 12 cases, which were pointed out in audit during 2016-17 and earlier years.

Audit of "Evaluation and application of Annual Statement of Rates for determination of market value of immovable properties for levy and collection of Government revenue" involving ₹ 92.17 crore and a few illustrative audit observations involving ₹ 6.55 crore are mentioned in the succeeding paragraphs.

4.3 Audit of “Evaluation and application of Annual Statement of Rates for determination of market value of immovable properties for levy and collection of Government revenue”

Highlights

Annual Statement of Rates (ASR) had not been revised during the period from April 2012 to March 2017 despite a Government of Gujarat Resolution dated 31 March 2011 that stipulated annual release of Annual Statement of Rates.

(Paragraph 4.3.6)

Revenue in the shape of premium and stamp duty amounting to ₹ 67.33 crore could not be collected due to non-revision of ASR in respect of areas falling under Town Planning Schemes.

(Paragraph 4.3.6.5)

Separate rates for commercial land in urban areas were not provided in the ASR due to which there was undervaluation of land. The survey process was found defective, the rates obtained through general enquiry was not cross verified with the computerised database of the system (*gARVT*).

The survey data was unreliable as there were a number of unauthentic/incomplete survey forms from which the rates of the land used for different purposes were entered into the ASR.

(Paragraph 4.3.7.1 and 4.3.7.4)

During the test check of ASRs alongwith the survey forms, check forms, etc. produced to audit by the 12 DC (SDVO) offices of nine districts, audit found irregularities in data entry of rates in ASRs resulting in short levy of premium of ₹ 4.63 crore in 41 cases.

(Paragraph 4.3.7.5)

Audit noticed inconsistencies and anomalies in the rates adopted in ASR such as rates of agriculture land were shown at par or higher than the rates of open plot/ office/ shops and survey/ final plot numbers of one value zone were repeated under another value zone of the same area.

(Paragraph 4.3.9)

Audit noticed that due to incorrect determination of market value of properties in 28 documents there was short levy of stamp duty of ₹ 1.75 crore. This was due to lack of adherence to the instructions contained in the ASR guidelines for ascertaining the correct market value of properties.

(Paragraph 4.3.11)

4.3.1 Introduction

Various taxes such as stamp duty and registration fees, premium for conversion of land under new and restricted tenure to old tenure¹ for agricultural/ non-agricultural purposes, Income tax on capital gain at the time of sale of immovable assets under Income Tax Act, 1961, etc., levied by the Central/ State Government, are based on the market value of the immovable property (which is the subject matter of the transaction). Hence, Annual Statement of Rates (ASR) showing the market value of the immovable properties at par with prevailing real estate market rates in the State becomes extremely important as it helps in assessing as well as fixing the rate of the property under transaction for securing proper revenue realisation.

Section 2 (na) of the Gujarat Stamp Act, 1958 (GS Act) defines ‘Market Value’ as “the price which a property would have fetched if sold in open market on the date of execution of such instrument”.

In June 1998, the Government introduced ASR of immovable properties in the State. This was a guiding instrument on the basis of which nearest possible market value could be ascertained. The ASR 1998 was revised by the Government with effect from 9 February 2007 by adding 50 *per cent* to the rate of ASR 1998. From 1 April 2007, the rates were again revised by increasing the rates by 5 *per cent* to be effective from 9 February 2007. Meanwhile, the work for the preparation of ASR 2006 was undertaken by the Government and implemented with effect from 1 April 2008. The survey methodology and compilation process adopted, resulted in much litigation in the Hon’ble High Court of Gujarat on the ground that ASR 2006 was not scientifically prepared and contained errors. The records revealed that the Hon’ble High Court had desired that either the existing ASR be modified or the Government may prepare a new ASR based on surveys done by adopting scientific methodology and process. The Department conducted survey activities for preparation of new ASR during January 2009 and June/ July 2009 and submitted (August 2009) the ASR 2009 to Government for approval. However, it was not approved/ implemented by the Government. It ordered the Department to continue with the yearly survey activities. Subsequently, the ASR 2011 was formulated and implemented from 1 April 2011. The ASR was again revised/ modified to address public grievances regarding substantial increase in rates and Revised ASR 2011² was made effective from 18 April 2011. This was in use till date (May 2017). In the ASR, the rates were arranged ward wise/ zone wise for urban properties and *taluka* wise, village wise for rural properties. ASR also provides guidelines to determine the market value of the immovable property.

Government inserted a new Rule 5 in the Gujarat Stamp (Determination of Market Value of Property) Rules, 1984 vide notification dated 21 March 2016

¹ New and restricted tenure means the tenure of occupancy which is non-transferable and impartible without the prior approval of Collector. Old tenure land means land deemed to have been purchased by a tenant on Tiller’s day, 1 April 1957 free from all encumbrances.

² ASR was revised by allowing concession of 50 *per cent* on the differential value between the ASR 2011 (effective during 01 April 2011 to 17 April 2011) and the ASR 2006 (effective during 01 April 2008 to 31 March 2011)

to include the requirements of preparation of Annual Statement of Rates or *jantri* (ASR).

4.3.1.1 Market value and its significance to taxation

Income from stamp duty, registration fees and land revenue forms a major component of tax revenue of the State and is mainly based on market value of the property. Thus volume of these revenues are directly dependent on fixation of market value of property. It also plays a role in levy of Income Tax on gains/ losses from property transactions.

Stamp duty and registration fees (SD and RF) from sale deeds

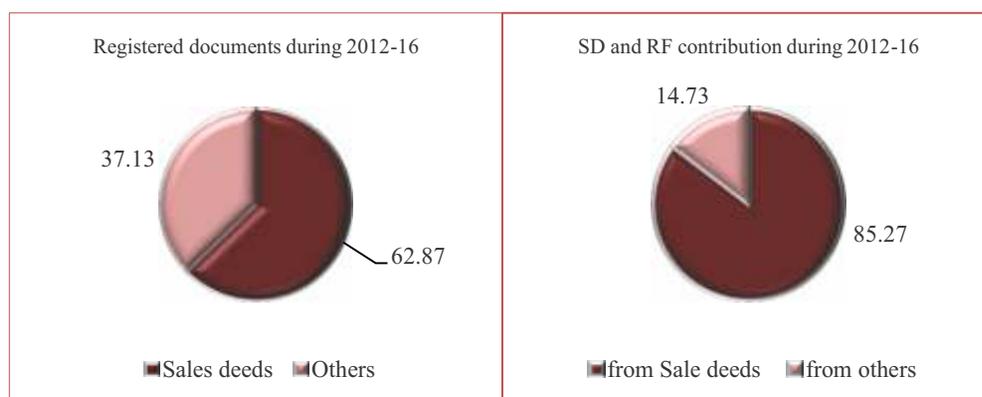
As per Article 20 of Schedule I of the GS Act, in respect of conveyance deeds, stamp duty is required to be levied on the market value of the immovable properties or the consideration amount, whichever is higher. The following table and diagram shows the quantum of sale deeds registered and the percentage of SD and RF realised from sale deeds in the State:

Table 4.2
Stamp duty and registration fees from sale deeds

Year	Total number of registered documents	Number of sale deeds	Percentage of sale deeds to total documents	Total SD and RF (₹ in crore)	SD and RF from sale deeds (₹ in crore)	Percentage of SD and RF from sale deeds to total revenue
2012	8,78,691	6,14,480	69.93	3,881.49	3,433.67	88.46
2013	9,26,125	6,06,933	65.53	4,158.95	3,579.81	86.07
2014	9,94,370	6,10,315	61.38	4,608.68	3,896.14	84.54
2015	10,33,023	6,13,917	59.43	4,864.48	4,082.90	83.93
2016	10,39,256	6,16,963	59.37	5,049.54	4,247.18	84.11
Total	48,71,465	30,62,608	62.87	22,563.14	19,239.64	85.27

(Source: gARVT data furnished by Department)

Chart 4.1
Stamp duty and registration fees from sale deeds



From the above diagram, it could be seen that, on an average, the number of sale deeds constitutes 62.87 per cent of the total registered documents and the revenue realised on account of SD and RF from sale deeds constitutes

85.27 per cent of the total revenue under the category during the last five years.

Premium for conversion of new and restricted tenure land to old tenure for agricultural/non-agricultural purpose

The land holders holding land under new and restricted tenure can convert their land to old tenure subject to payment of the premium price on the market value of the land at the rates prescribed by the Government. The Government vide Resolution dated 04 July 2008 permitted application of ASR rates effective from 01 April 2008 for determination of market value of land for the purpose of levy of premium price.

The contribution of premium to the total land revenue of the State had been significant as shown below:

Table 4.3
Contribution of premium to the total land revenue of the State

Year	Total land revenue as per Finance Accounts	(₹ in crore)	
		Premium collected for conversion of new and restricted tenure land into old tenure for agriculture/ non-agriculture purposes as per Finance Accounts	Percent
2011-12	1,477.18	114.64	7.76
2012-13	2,207.85	231.16	10.47
2013-14	1,727.41	174.45	10.10
2014-15	1,892.65	202.87	10.72
2015-16	2,528.50	612.27	24.21 ³

(Source: Finance Accounts of the relevant year)

From the above, it can be seen that premium price constitutes a significant portion of the land revenue.

As stamp duty, registration fees and premium for conversion of land are based on the market values prescribed in the ASR, it becomes essential that the rates in the ASR should be fairly accurate so that there is no leakage of Government revenue.

4.3.1.2 Mechanism adopted by Department for preparation of ASR 2011

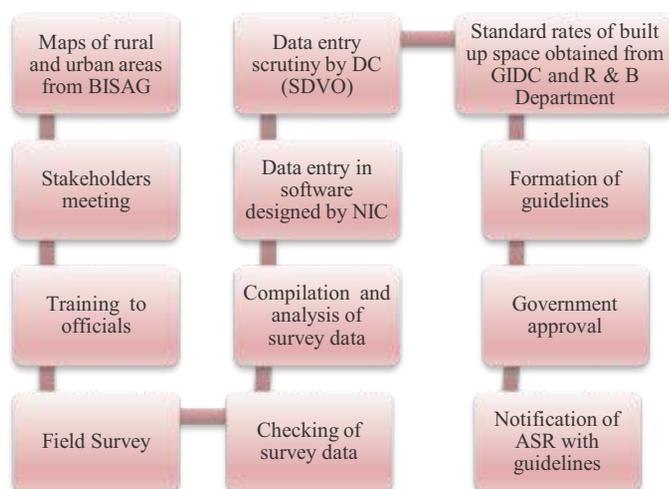
In order to conduct a scientific survey for the preparation of ASR, the Government engaged (January 2011) Bhaskaracharya Institute for Space Application and Geo-Informatics (BISAG) to provide “one sq. km. grid maps” for the whole State. For Urban areas, the growth zones varying from 10,000 sq. mtr. to one sq. km. were made as ‘value zones’. Similarly, for rural areas every sq. km ‘grid zone’ was subsequently divided into three sub-grids. The Department deployed about 10,029 State Government employees to conduct the survey of 7,83,602 grids and 21,878 value zones during January-February

³ The steep rise in premium collected over the last year was due to deposit of premium amount in incorrect Major Head/ Sub-head. The issue has been brought to notice of Department.

2011 and with the approval of Government implemented ASR 2011 that were made effective from 1 April 2011. A chart showing the methodology adopted for conducting the survey and preparation of ASR 2011 is as follows:

Chart 4.2

Methodology adopted for conducting the survey and preparation of ASR



4.3.2 Organisational set-up

The overall control of the levy and collection of stamp duty and registration fees rests with the Revenue Department. The Additional Chief Secretary (Revenue) is the administrative head of the Revenue Department. The Inspector General of Registration (IGR) and Superintendent of Stamps, Gandhinagar are the heads of the Registration and Stamp Duty Department, respectively. The IGR is assisted by the Sub Registrar (at the district and *taluka* level) whereas the Superintendent of Stamps is assisted by the Deputy Collector-Stamp Duty Valuation Organisation; DC (SDVO) at the district level.

4.3.3 Audit objectives

The Audit was conducted with a view to ascertain whether:

- the Department devised a proper mechanism before initiating surveys for determining the market value of land;
- the surveys conducted and reported were in consonance with the provisions of the determination of market value rules applicable in the State;
- adequate monitoring mechanism was in place to assess the correctness of the survey reports;
- the Department took timely corrective actions wherever any discrepancy or ambiguity was noticed or reported in respect of the implemented ASR to safeguard the revenue; and
- the Department had scrupulously followed all the instructions from the Government regarding implementation and application of ASR rates from time to time.

4.3.4 Scope and methodology of audit

Test check of records was conducted in the offices of five Sub Registrars⁴ and 12 DC⁵ (SDVO) of nine⁶ districts for the period from 2011-12 to 2015-16. The records of the Revenue Department and Additional Superintendent of Stamps were also checked. The selection of the offices was based on the statistical sampling techniques.

Audit verified the policy files, survey records and other related records maintained at the Revenue Department, offices of Additional Superintendent of Stamps and Dy. Collectors (SDVO) pertaining to the period from 2011-12 to 2015-16 and also analysed data from *gARVI*. The scrutiny of documents registered in the Sub Registrar offices was taken up to ascertain the level of implementation of the instructions and proper application of ASR rates for levy of stamp duty and registration fees. Besides, the issues relating to the revised ASR 2011, reported in Inspection Reports have also been considered, wherever found appropriate.

Reasons for selection of the topic

Audit selected this topic for audit as it was found during local inspection of offices of the Sub Registrars and the Collectors that the variation between the market value of the property determined as per ASR and the consideration mentioned in the instruments were large. Besides, undervaluation of properties was noticed due to incorrect application of rates and non-compliance of instructions in ASR in a number of cases.

4.3.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Revenue Department in providing the necessary information and records to Audit. An exit conference with the Principal Secretary (Revenue Department), Superintendent of Stamps and Inspector General of Registration was held on 22 August 2017 wherein the audit observations and the recommendations were discussed. The replies received during the exit conference and at other points of time have been appropriately incorporated in the relevant paragraphs.

⁴ Bopal (Ahmedabad), Athwa (Surat), Gorva (Vadodara), Bapod (Vadodara) and Patan

⁵ DC-I and II Ahmedabad, Godhra, Jamnagar, Mehsana, Patan, I and II Rajkot, II Surat, Surendranagar, I and II Vadodara

⁶ Ahmedabad, Godhra, Jamnagar, Mehsana, Patan, Rajkot, Surat, Surendranagar and Vadodara

Audit Findings

The system and compliance deficiencies noticed during audit are discussed in the following paragraphs:

4.3.6 Non-revision of ASR

As per Government of Gujarat, Revenue Department Resolution dated 31 March 2011, the procedure for revision of ASR needed to be carried out every year and new ASR was required to be released annually. Rule 5 (4) inserted vide notification dated 21 March 2016 prescribes that if the Superintendent of Stamps and Inspector General of Registration Gujarat is not in a position to issue ASR on 1 April in any year due to any administrative difficulties, the rates mentioned in the ASR for the year immediately preceding may be incremented by the Chief Controlling Revenue Authority⁷, in consultation with the Revenue Department, keeping in view the increase in market rates of immovable properties.

Audit observed from scrutiny of records in the offices of the SS as well as the Principal Secretary, Revenue Department that no revised ASR had been implemented during April 2012 to March 2017 in contravention of the Government directives. The Department conducted surveys and submitted the survey results in 2012 for Government's approval but it was not approved. Subsequently, the Department had proposed in the year 2013, 2014, 2015 and 2016 for revision of ASR, but the same also had not been approved by the Government. The reasons for non-approval were not made available to Audit. Further, Rule 5 inserted in March 2016 also provides for revision/ increment of the rates mentioned in the prevailing ASR, however, the Government did not revise/ increment the ASR till the date of audit (April 2017).

Since 2011 significant development activities have taken place in various parts of the State. Introduction/ expansion of Bus Rapid Transit System in Ahmedabad, Rajkot and Surat districts, completion of River Front project and commencement of work for Metro Rail project in Ahmedabad district were some of the noticeable developments which have a direct impact on the upward movement of the market value of the immovable properties. However, due to non-revision of ASR, the Government had foregone an opportunity for revenue realisation which is based on the current market value of immovable properties. The following analysis is indicative of the upward movement in the market value of the properties between 2012 and 2016 which was not reflected in the revised ASR 2011.

4.3.6.1 Audit collected the *gARVI* data of sale deeds registered in the State during the period from 2012 to 2016 from the Department in order to ascertain whether the rates prescribed in the ASR reflects the true market value of the properties in the State. According to the data furnished by the Department, there were 30,62,608 sale deeds registered during the period from 2012 to

⁷ Additional Collector (Appeal) working under SoS

2016. During the analysis of the comparable data⁸ of 25,46,078 sale deeds out of 30,62,608, audit observed that the consideration set forth in 13,69,636 sale deeds (i.e. 53.79 *per cent* of the total sale deeds) were higher than the market value as per ASR. The number of documents with higher consideration than ASR value is given below:

Table 4.4
Documents with higher consideration than ASR value

Year	Total number of comparable sale deeds	Number of documents with higher consideration than ASR value in percentage variation ranging from				
		0 to <10	10 to <50	50 to <100	100 to <500	500 to <1000
2012	5,56,023	1,19,640	57,285	24,464	32,721	5,704
2013	5,26,502	1,20,851	60,369	28,021	44,115	7,779
2014	5,04,582	1,28,111	60,580	30,130	49,207	9,204
2015	4,85,807	1,34,469	60,627	30,283	51,657	10,661
2016	4,73,164	1,38,261	64,858	32,914	55,855	11,870
Total	25,46,078	6,41,332	3,03,719	1,45,812	2,33,555	45,218

It can be seen from the above that:

- Of 13,69,636 documents, in 7,28,304 (53.17 *per cent*) documents, the difference in market value as per ASR and consideration mentioned in the documents was more than 10 *per cent*.
- In 2,33,555 documents, the consideration mentioned in the documents was higher than ASR value by one to five times and in 45,218 documents, the difference was five to 10 times.
- Further, the number of documents with higher consideration than ASR value grew larger with passage of each year, which points to the necessity of yearly revision of ASR.

All these facts indicate that the ASR 2011 did not reflect the true market value of the properties in the State during the period 2012 to 2016 and needs revaluation and revision. Besides, in absence of the updated ASR, the SRs could not ensure the application of correct market value in the 11,76,442 cases where the documents were registered according to the ASR value.

When this was pointed out, the Department stated (September 2017) that the observations, findings, recommendations made in the audit would be considered appropriately for future course of action.

4.3.6.2 During test check of records of Revenue Department, six Collector and two Sub Registrar offices, audit noticed from the Village Forms 6⁹ and 7 & 12¹⁰ (kept in the case files of premium paid for change of tenure of land and the sale deeds) that the actual consideration paid for purchase of the land by

⁸ Comparable data is the data excluding the zero and negative values displayed in the market value and consideration columns of the database. Further, consideration above 1,000 *per cent* or more than 10 times the ASR value is also excluded from the comparable data.

⁹ Record of rights called *Hak Patrak* in Gujarati. It shows the basis for creation of rights of ownership.

¹⁰ This form contains survey numberwise ownership/ rights of the persons and also reflects the cultivator and the crop cultivated.

industries/ individuals had been fairly higher than the market value determined as per revised ASR 2011 for levy of premium. This indicated that the rates in ASR were unrealistic and premium levied with reference to ASR resulted in loss of revenue to the Government.

Table 4.5
Loss of revenue due to unrealistic *jantri* rates

(₹ in crore)							
Sl. No.	Name of office	No. of cases Collector's Order period	Period of registered document	Gap in months/ days between Order and registered document	Market value of property as per ASR Consideration received for sale of property	Premium levied at <i>jantri</i> rates Premium if levied on consideration amount	Loss of revenue
1	Collector, Ahmedabad	52 Between November 2013 and April 2016	Between January 2013 and February 2015	165 to 904 days	14.62 44.40	5.85 17.76	11.91
2	Collector, Bharuch	3 Between January 2014 and April 2014	March 2014	23 to 56 days	1.68 1.94	0.66 0.79	0.13
3	Collector, Mehsana	1 October 2012	June 2012	113 days	0.99 1.39	0.39 0.55	0.16
4	Collector, Surendranagar	3 September 2014	December 2013	287 to 289 days	0.44 1.46	0.18 0.59	0.41
5	Collector, Vadodara	2 August 2015	May 2014 and January 2016	154 to 463 days	1.46 5.07	0.58 2.03	1.44
6	Sub Registrar : Ahmedabad-11 (Aslali) and Bavla, (Ahmedabad)	2 May 2013 and December 2013	October 2013 and March 2014	121 to 155 days	2.94 5.37	1.18 2.15	0.97
		63 cases				Total	15.02

Of the 63 cases, in three cases, in each case, the sale deed was executed within a period of six months subsequent to payment of premium and order of the Collector. In the remaining cases, the sale deeds were executed prior to change of tenure of land and issuance of orders of Collectors.

Audit pointed out this, the Department appreciated the contention of audit and stated (September 2017) that the observations made by audit would be considered appropriately at the time of policy framing and at the time of ASR revision in consultation with Revenue Department, Government of Gujarat.

4.3.6.3 Section 2 (na) of the Gujarat Stamp Act, 1958 (GS Act) defines Market Value as 'the price which a property would have fetched if sold in open market on the date of execution of such instrument'. Section 32A (4) of the GS Act empowers the Sub Registrar to refer instruments to the DC (SDVO) within six years from the date of registration of the instruments for the purpose of satisfying himself as to the correctness of the consideration or of the market value of the property which is the subject matter of such instrument and the duty payable thereon.

During test check of document registered in three SR offices between the year 2013 and 2015, audit found in six registered documents that the property which was the subject matter of the document was purchased and sold on the same day or within a short span of time at two different and inconsistent values. The first document was conveyed with reference to the rates in the ASR to company/ firm/ individuals and the second between the purchaser company/ firm/ individuals to another company/ firm wherein the consideration for sale was exceptionally higher than the rates in the ASR. No change in use of land was involved. This indicates the unrealistic ASR prevailing in the State. Details of the cases are given below:

Table 4.6
Unrealistic ASR prevailing in the State

(₹ in crore)						
Sl. No.	Name of office	Document no. and date of registration	Name of seller	Name of purchaser	Market value as per ASR	Consideration for sale
1	SR: Bavla, (Ahmedabad)	3247 21.10.2013	Shri Sureshbhai Ranchhodhbhai Thakkar	M/s Manibhadra Securities Services Pvt. Ltd.	1.68	2.00
2		3249 21.10.2013	M/s Manibhadra Securities Services Pvt. Ltd.	M/s Varia Engineering Works Pvt. Ltd.	1.68	18.00
3	SR: Ahmedabad-9 (Bopal)	486 24.01.2014	The Sakar Co-operative Housing Society Ltd.	M/s Nikshal Properties Pvt. Ltd.	7.38	8.50
4		526 to 531 28.01.2014	M/s Nikshal Properties Pvt. Ltd.	M/s Ardor Overseas Pvt. Ltd.	7.38	44.35
5	SR: Surat-1 (Athwa)	3786 and 3787 10.03.2015	M/s Shah and Sanghvi Developers	Ms Nayanaben Subhodhbhai Sanghvi and others	0.67	1.36
6		10783 01.07.2015	Ms. Nayanaben Subhodhbhai Sanghvi	The Surat People's Co-operative Bank Ltd.	0.67	4.38

With the registration of the document mentioned at Sl. No. 2, 4 and 6 above, the undervaluation of the property registered vide documents mentioned at Sl. No.1, 3 and 5, became obvious. However, the Department neither evolved any mechanism to detect such irregularities nor the SRs referred these documents to DC (SDVO) under Section 32A (4) of the GS Act to recover the deficit stamp duty. Thus, there was loss of revenue to the tune of ₹ 2.69 crore on account of short levy of stamp duty from the documents mentioned at Sl. No.1, 3 and 5 because of unrealistic rates in ASR 2011. Such unrealistic rates could also impact other Government revenues collected based on the ASR.

When this was pointed out, the Department stated (September 2017) that the observation made by audit would be considered appropriately at the time of policy framing as well as at the time of ASR revision in consultation with Revenue Department, Government of Gujarat.

4.3.6.4 ASR and income tax on capital gain

Sale/ Purchase of property is taxable both in the hands of seller and purchaser under Income Tax Act, 1961 (IT Act) with effect from 1 April 2014. The ASR plays an important role in determining capital gains¹¹ (in the hands of the seller) and income from other sources (in the hands of the purchaser). In case of seller¹², if the consideration is below market rates then capital gains would be calculated on deemed sale price based on ASR and the benefit of cost inflation index¹³ (CII) on the cost of the property is given to determine long-term capital gains, depending on the time period the property is held. In case of purchaser¹⁴, if the sale consideration is below market rates then difference would be taxable, if it is more than ₹ 50,000.

CII is an index used to factor in the effect of inflation on the prices of Capital Assets while calculating long term capital gains. For this purpose, every year Central Government (CBDT) notifies CII to adjust for inflation in the value of assets. Between 2011-12 and 2016-17, CII has increased from 785 to 1125. However, the State Government had not revised the ASR after the year 2011 though there had been substantial increase in the property value as indicated by the increase in CII.

Thus, the assessee (seller) could avail the benefit of CII on one hand and also the benefits of non-revision of ASR, resulting in narrowing of capital gain and short-levy of tax. Similarly, the assessee (purchaser) could get the benefit of non-revision of ASR. Looking to this, there should be immediate revision of ASR, so as to secure the revenue of the Central Government as well.

When this was pointed out, the Department stated (September 2017) that the concern of audit for immediate revision of ASR, so as to secure the revenue of the Central Government as well as State Government is noted and the same would be conveyed to competent authority for further deliberation and appropriate decision.

4.3.6.5 Leakage of revenue due to inappropriate application of area and value of land falling under town planning schemes

A number of Town Planning (TP) schemes have been implemented in various districts of the State after implementation of ASR 2011. As a part of TP schemes, certain area of land gets deducted from the original plot area for various development purposes such as roads, gardens, etc., and final plot numbers are assigned to the residual land in place of revenue survey/ block numbers. Simultaneously, the value of the land goes up in view of the developmental prospects of the area. In cases where ASR was finalised prior to the implementation of TP schemes, the rates shown therein were of

¹¹ Any profit or gain that arises from the sale of a “capital asset”. This gain or profit is charged to tax in the year in which the transfer of the capital asset takes place.

¹² As per Section 50C of IT Act

¹³ Indexation is a process by which the cost of acquisition is adjusted against inflationary rise in the value of asset.

¹⁴ As per Section 56 (2) (vii) of IT Act effective from 1 April 2014

revenue/ block numbers (original plots) and not the final plot numbers. Government neither took any steps to revise the ASR post 2011 nor had issued any clarifications/ instructions to levy stamp duty as well as premium on the original plot area in such cases. This resulted in assessing authorities levying ASR 2011 rates on final plot. Non-revision of ASR impacted the revenue generation and created ambiguity regarding the basis of calculating market value in areas where such schemes had been implemented. A few are illustrated as follows:

Effect of non-revision of ASR on premium

During scrutiny of records pertaining to levy of premium for conversion of new and restricted tenure land into old tenure for non-agricultural purposes, audit noticed in eight cases finalised in the office of the Pr. Secretary, Revenue Department and 32 cases finalised by two Collector offices¹⁵ during the period 2014-16 that the new tenure land was falling under TP schemes implemented after the issue of ASR 2011.

In these 40 cases, the total area of a piece of land (original plot) before implementation of TP scheme was 9,53,875 sq. mtr. The total aggregate area of the individual plots allotted (allotted plots) after the implementation of plots under TP scheme was 5,69,880 sq. mtr. The Department should have revised the per plot rate after TP as the TP scheme would enhance the value of the plot and premium should have been levied accordingly. Instead per plot rate was retained as hitherto i.e. before the TP scheme was implemented.

As per the existing rates, the premium on the original plot area measuring 9,53,875 sq. mtr. valued at ₹ 410.34 crore amounted to ₹ 164.13 crore while the premium collected on the individual plot areas measuring 5,69,880 sq. mtr. valued at ₹ 250.59 crore was ₹ 100.24 crore. This resulted in revenue loss of ₹ 63.90 crore.

Effect of non-revision of ASR on stamp duty

Recitals of 29 conveyance deeds registered in seven SR offices¹⁶ revealed that the land conveyed were included in TP scheme and were allotted final plot numbers by the development authorities after deducting certain portion of the land. The SR while computing the market value of the property considered the final plot area and applied rates applicable for survey/ block numbers as per ASR 2011 to work out the market value of the property. The Department instead of ascertaining the market value of these final plot areas applied the rates of survey/ block numbers of original plot available in the ASR 2011 effective from 18 April 2011 for ascertaining the stamp duty payable on the final plot areas. Had the Government decided to apply rates of survey/block numbers to levy stamp duty of ₹ 10.03 crore on the original plot area instead of ₹ 6.60 crore collected on the final plot area in these cases, it could have avoided revenue loss to the extent of ₹ 3.43 crore.

¹⁵ Ahmedabad and Surat

¹⁶ Ahmedabad-9, 11 (Bopal, Aslali), Gandhinagar, Surat-2, 8 (Udhna, Rander), Vadodara-4, 5 (Gorva, Bapod)

The above paragraphs reveal the loss of opportunity to generate revenue due to non-evaluation of market scenario and non-revision of ASR. It is indicative of the necessity of yearly revision of ASR.

When this was pointed out, the Department agreed with the audit contention and stated (September 2017) that yearly revision of ASR will be followed in the future as far as practically possible with reference to administrative convenience as well as exigencies due to various reasons and factors at the relevant point of time in consultation with State Government.

Government may strictly adhere to its policy of yearly revision of ASR so as to plug the leakage of revenue of State and Central Government.

4.3.7 Deficiencies in the survey process

The Department had prescribed forms for conducting surveys for ascertaining the market value of properties for the ASR 2011. The formats of survey form and check form were designed to mention 'Value Zone' wise rates for different type of properties in urban areas such as Municipal Corporation, Urban Development Authority Areas as well as *Nagarpalikas*. 'Grid Zone' rates were prescribed for villages of rural areas. Each survey official was required to fill the rates of a particular value/grid zone through general enquiry from individuals of the area. It was instructed to the survey officials during the training that where the rates of a particular usage of land is not available, the column in the survey/ check forms shall be kept blank. Further, the surveying officials were required to prepare "*panchkayas*¹⁷" with the signatures and details of the persons who have given the information of rates.

The details of the survey/ check/ re-survey forms produced and verified by audit in the selected 12 DC (SDVO) offices are given below:

Table 4.7
Deficiencies in the survey process

Sl. No.	Name of Office	Number of forms produced			Number of forms verified in audit		
		Survey	Check	Re-survey	Survey	Check	Re-survey
1	Dy. Collector (SDVO), Ahmedabad I	436	406	-	123	103	-
2	Dy. Collector (SDVO), Ahmedabad II	704	491	-	212	88	-
3	Dy. Collector (SDVO) Godhra	297	-	-	297	-	-
4	Dy. Collector (SDVO), Jamnagar	779	174	-	779	174	-
5	Dy. Collector (SDVO), Mehsana	5,734	1798	-	1070	155	-
6	Dy. Collector (SDVO), Patan	4,551	3,861	110	261	246	110

¹⁷ Report of inquest or enquiry

Sl. No.	Name of Office	Number of forms produced			Number of forms verified in audit		
		Survey	Check	Re-survey	Survey	Check	Re-survey
7	Dy. Collector (SDVO), Surat II	9,614	108	-	295	108	-
8	Dy. Collector (SDVO), Surendranagar	2,280	547	-	856	330	-
9	Dy. Collector (SDVO), Rajkot I	808	602	-	200	200	-
10	Dy. Collector (SDVO), Rajkot II	8,171	2,671	-	1977	370	-
11	Dy. Collector (SDVO), Vadodara I	432	665	-	145	172	-
12	Dy. Collector (SDVO), Vadodara II	4,804	59	-	271	59	-
Total		38,610	11,382	110	6,486	2,005	110

4.3.7.1 Deficiencies in survey/check forms

The deficiencies noticed in survey/ check forms are mentioned in the following paragraphs:

- The rates filled for various purpose of usage of land in the survey forms were collected through general enquiry from two individuals. Further, though the sales data of registered documents was available with the Department in *gARVI* system (computerised system for registration of documents), no cross verification of the sale deeds executed in the vicinity was carried out to ascertain the rates of land at which it was registered. Thus, no trend analysis to that extent was performed before approving the survey work.

When this was pointed out, the Department stated (September 2017) that in *Jantri* 2011, market price for property shown in Survey Form/ Verification Form is based on local inquiries depending on which data entry was made. No instructions were given for the specific cross verification at the relevant point of time. However, due care will be taken up at the time of the survey work for next revision of *Jantri*.

- The value zone survey/ check forms and the ASR/ revised ASR 2011 for urban areas did not differentiate between residential purpose and commercial purpose land rates. It only provided for mentioning a single rate for open plots which could be applied for both residential and commercial purpose, but the grid zone survey/ check forms and ASR for rural areas did have separate rates for residential and commercial purpose lands. Due to absence of separate rates of residential and commercial lands, the open plot rates mentioned in ASR/ Revised ASR 2011 were applied for calculating the market value of properties for both residential and commercial purposes for levy of premium, stamp duty, registration fees, etc. in urban areas. This

resulted in undervaluation of commercial properties in the urban areas and subsequent short levy of various Government revenues.

When this was pointed out, the Department replied (September 2017) that the suggestion will be taken into consideration and will be proposed to the Government in the next revision of *Jantri*. Further, the Department added that in the next *Jantri* revision, the new survey form and check form will be suggested in the proposal to be submitted to the Government for adding the new category *viz.* open land for residential and commercial purpose in the *Jantri*.

- No zoning identity¹⁸ like agricultural/ non-agricultural/ other property and FSI¹⁹ applicable for the area was ascertained and recorded in the survey/ check forms. As such, the principles mentioned in Rule 8 of the Gujarat Stamp (Determination of Market Value of Property) Rules, 1984 relating to zone identity and FSI were not considered while fixing the parameters for determining the rates in ASR.

When this was pointed out, the Department replied (September 2017) that in view of the upcoming *Jantri* revision, the survey will be carried out keeping in mind the appropriate zoning and FSI as well as cross-verification of the same will also be done after devising appropriate mechanism for making it meaningful.

4.3.7.2 Non production of records

The following records and information were not furnished in any of the DC (SDVO) offices and the SS office selected for audit scrutiny:

- (i) The Department instructed during training of survey officials that the checking team was required to check at least 20 *per cent* and 50 *per cent* of the survey results in respect of rural and urban areas, respectively.

During test check of survey records of 12 DC (SDVO) in the nine districts, in one district²⁰ no check forms were made available to audit for scrutiny. In other eight districts²¹ though check forms were made available, no records or statistics regarding the check of survey results were maintained so as to ascertain whether the prescribed percentage of check was accomplished.

- (ii) During test check of survey records in these 12 DC (SDVO) offices, audit noticed in most of the survey/ check forms that the rates applicable for lands for various uses were not provided therein. This was due to the instructions given to the surveying officials that no rates for land for a

¹⁸ Legislative process that divides privately owned urban areas into different zones (such as residential, commercial, industrial) according to the specified land use. Each zone is regulated as to the density, location, size and type of buildings permitted therein.

¹⁹ Floor Space Index (FSI) or Floor Area Ratio (FAR) is the ratio of a building's total floor area (gross floor area) to the size of the piece of land upon which it is built. The terms also refer to limits imposed on such a ratio. Higher allowable FSI yields higher land value.

²⁰ Godhra

²¹ Ahmedabad, Jamnagar, Mehsana, Patan, Rajkot, Surat, Surendranagar and Vadodara

particular use shall be provided, where the data of land for that particular use was not available during survey.

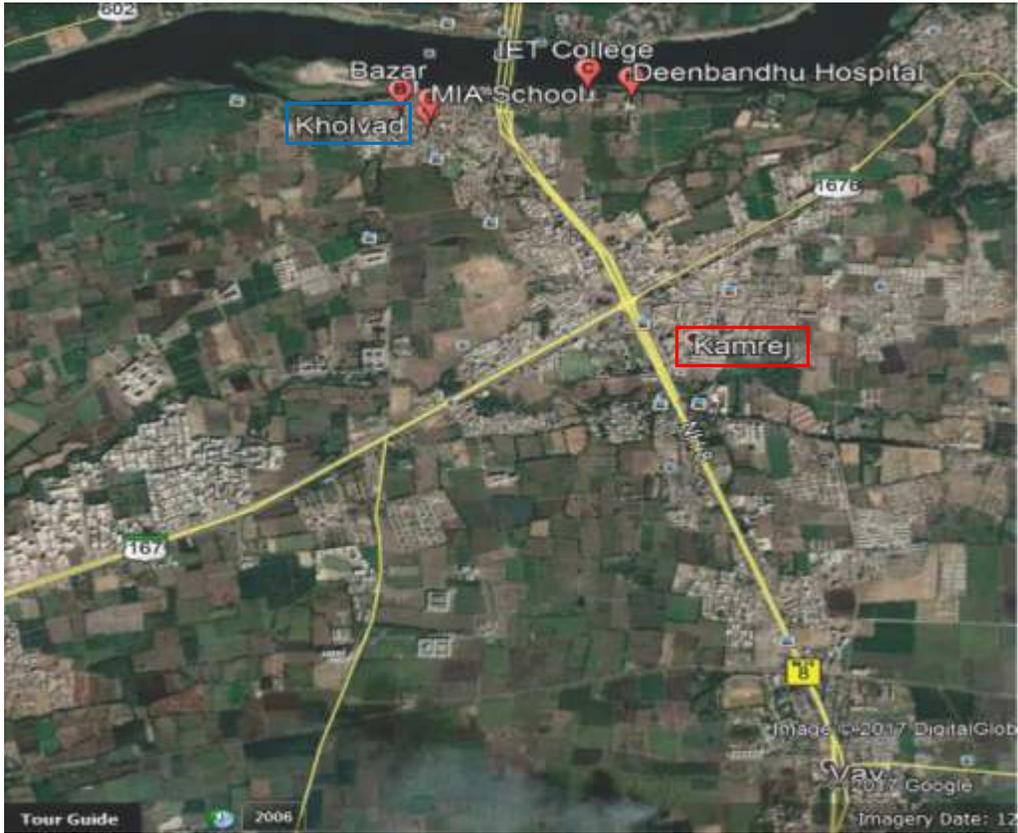
Audit noticed that the Revised ASR 2011 effective from 18 April 2011, however, reflected the rates of those lands for whose particulars were left blank in the survey/ check forms. The Department did not furnish the records and data based on which these rates were entered in the ASR 2011. Therefore, audit could not ascertain the accuracy of these rates.

4.3.7.3 Incomplete maps used in survey activities

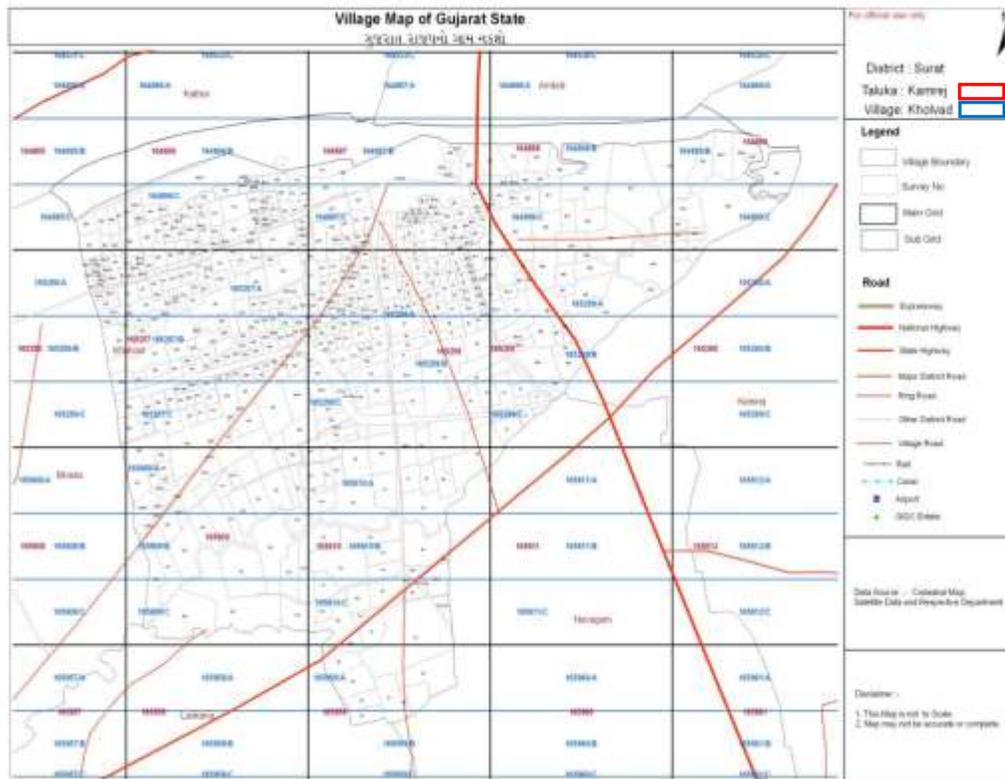
In rural areas, every sq. km. grid was divided into three parts in the cadastral²² map by BISAG and was surveyed by different officials. It was intended to compare the survey prices of these sub-grids to have a holistic view of the prices in each grid zone. The maps had the markings of Express Highway, State/ National Highways, Main District Roads, Other District Roads, canals, airport and GIDC. However, the map did not have the markings of other areas of importance/ landmarks such as agricultural lands, non-agricultural properties including lands for mining purposes, forest lands, coastal areas, health centres, industrial lands, educational institutions, tribal areas, etc. These are the important factors for ascertaining the market value of land in each village/ grid. Thus, it was difficult for a person unfamiliar with the place to locate and carry out the survey unless areas of importance/ landmarks in each grid were properly marked in the map.

In an illustrative case, the Google map of the village Kholvad, *Taluka* Kamrej, District Surat of the year 2010-11 (Map A) and the map of village Kholvad used by the Department for survey (Map B) shown below revealed that though the village had hospital, schools, college, *bazaar*, etc., these landmarks were not highlighted in the map used by the Department for survey. In revised ASR 2011, residential, commercial and industrial lands of most of the survey numbers in the village have been valued at the same rate though they fall in close proximity to or away from National Highway/Main District Road, College/ School, etc. Thus, utilisation of incomplete maps for survey activities did not yield the desired results. A comparison of two maps is given below:

²² A cadastral map is a map defining land ownership. The cadastral map consists of cadastral units, each of which represents a single registered plot of land.



(MAP A)



(MAP B)

The computerisation of cadastral mapping and GIS based system development of all the villages were carried out in 2007 by BISAG under the project “Computerisation of cadastral mapping and Geographic Information System (GIS) based system development for Gujarat State” jointly sponsored by the Department of Space, Government of India and the Government of Gujarat. However, the Department did not initiate any steps for getting the GIS aided maps with relevant information of important landmarks as mentioned above for the survey conducted in 2011 to ascertain the true market value of the land.

When this was pointed out, the Department stated (September 2017) that the survey work was conducted in a very short time period. BISAG and our own machinery might not have been fully prepared to include such important areas and landmarks in the survey maps. However, survey team was comprised of the local personnel familiar with the geographical area and location of the important landmarks for determining the market price of the properties with reference to such landmarks. Further, the Department added that in the recent meeting with the BISAG technical teams, the matter was deliberated at length and concerns of the Audit were appraised to them. It was decided that the same will be included/ reflected in the map in the future survey and ASR preparation as far as possible.

The Government while accepting the audit observation stated that all efforts would be taken to formulate a sound and scientific valuation process to estimate property value with specific streamlined procedures using sales data comparison, trend analysis and GIS enabled maps having all the factors necessary for ascertaining true market value of the property.

4.3.7.4 Unreliable survey data

(i) During test check of survey records in the offices of the 12 DC (SDVO) of nine districts, audit found blank survey forms i.e., no rates for any purpose of use was recorded in the forms but had signature of witnesses and/ or surveying officials. In many survey forms though rates of particular value/ grid zone were mentioned, dated signatures of the surveying officials or the dated signature/ details of the witnesses were missing. The following table shows the number of such unauthenticated survey forms noticed in nine DC (SDVO) offices.

Table 4.8
Unreliable survey data

Name of DC (SDVO) office	Number of blank forms with signatures of witness/survey officials	Number of survey forms filled with rates but signature of surveying official was absent	Number of survey forms filled with rates but signature/details of witnesses were absent	Number of survey forms filled with rates where signatures of surveying official as well as witnesses were absent
DC-II Ahmedabad	-	-	19	2
DC Godhra	-	119	35	-
DC Surendranagar	386	96	-	-
DC Jamnagar	-	-	12	5
DC Patan	15	-	-	-
DC II Surat	-	38	50	-
DC Mehsana	-	542	60	251
DC II Rajkot	49	501	841	57
DC II Vadodara	-	-	-	13
Total	450	1,296	1,017	328

Further, audit noticed that signatures of same witnesses were obtained for the entire village in many instances, though the survey was conducted sub-grid wise by three different officials. Instances of overwriting, use of white ink to correct the figures mentioned in the survey/ check forms without any authentication were also noticed in many areas. This indicated that correctness of the rates mentioned in the respective ASRs was not ensured by the Department.

(ii) In Jamnagar and Rajkot districts, audit noticed in case of 18 areas/ villages that the surveying officials have filled in the grid zone survey forms as well as the value zone survey forms, though the area/ villages were covered in Urban Development Authorities of Jamnagar and Rajkot. These 18 areas/ villages of these two districts are reflected in revised ASR 2011 of Corporation/ Authority as well as rural areas.

Audit cross verified the rates of revised ASR 2011 in rural and urban areas of Jamnagar and Rajkot districts. Audit found that different rates were entered in both the ASRs. During test check, audit found that the rates of various survey numbers were higher in villages than the urban areas of these places. This could result in ambiguity in application of rates for ascertaining the correct market value of the properties. As a matter of fact, the rates of properties in urban areas cannot be lower than the properties of similar nature situated in villages. This also indicates that the survey data was unreliable and incorrect.

When this was pointed out, the Department stated (September 2017) that survey for 2011 was carried out within a short span of time. The work was entrusted to personnel of different Departments and local bodies and they have carried out the survey work as an additional assignment. The Department while appreciating the audit points and indications assured to ensure a foolproof survey work, data collection and record keeping/ maintaining at the time of next ASR revision. Further, the Department also stated that it is planning to collect the data online ensuring all pertinent details along with

authenticity and reliability as well responsibility and accountability will also be ensured through online data entry by the concerned officials.

4.3.7.5 Incorrect fixation of market value

The survey activities were required to be monitored by the District Collector with the help of DC (SDVO) of the respective district. *Talukawise* checking team were constituted which included DC (SDVO), *Mamlatdar*, *Taluka Development Officer*, *Chief Officer (Nagarpalika area)* and *DCM (Corporation/ Authority area)*. It was also instructed to the officials that in case of variation between the rates collected during survey and the rates ascertained during checking was more than 10 *per cent*, then DC (SDVO) shall order for re-survey.

Test check of ASR 2011 and Revised ASR 2011 along with the survey forms, check forms and re-survey forms produced to audit in the 12 DC (SDVO) offices of nine districts revealed the following:

- (i) Audit found irregularities in data entry of rates in ASR 2011 and revised ASR 2011 in all the 12 offices selected for test check. The details are as under:
- In four²³ DC offices of three districts, the rates were entered in ASR 2011 according to the survey forms. The rates were different from the rates mentioned in check forms and were not considered in 185 value zones test checked in audit. Thus, the checking process was not made use in the preparation of ASR and the entire checking process proved useless.
 - Similarly, in Ahmedabad district, in 11 value zones, rates were entered according to survey forms and in 26 value zones, these were based on check forms. Thus, a uniform system was not adopted for working out ASR in 37 value zones of Ahmedabad district.
 - Errors in data entry were noticed in three value zones of Ahmedabad district and Poicha village of Vadodara district. Further, in 62 value zones in urban areas and one village of Ahmedabad district, though the rates in ASR 2011 were entered according to the rates mentioned in the survey/ check forms, but the prevailing revised ASR 2011 displays incorrect rates. The reason for such incorrect display of rates in revised ASR 2011 was not explained to audit.
 - In 37 value zones of four districts²⁴ and 38 villages of eight districts²⁵, the rates entered in ASR 2011 and revised ASR 2011 were neither from the survey forms nor from the check forms of the particular value zone of the urban area or grid zone of the village. The reason for not considering the rates in check forms was not made available to audit. This resulted in incorrect fixation of market value in these places.

²³ DC Jamnagar, DC I Rajkot, DC I and II Vadodara

²⁴ Ahmedabad, Mehsana, Patan and Rajkot

²⁵ Ahmedabad, Godhra, Mehsana, Patan, Rajkot, Surat, Surendranagar and Vadodara

(ii) Besides, out of the total test checked 8,601 value zone/ grid zone survey/ check/ re-survey forms, 152 value zones of 40 urban areas of five districts²⁶ and in 24 grid zones of six villages of three districts²⁷ had more than 10 per cent variation in the rates collected during survey and the rates decided by the authorities during checking. The rates entered in the ASR of these areas were either as per survey forms or as per the check forms which reveals that no re-survey was carried out in these places. Thus, non-adherence to instructions resulted in under/ over valuation of properties in these areas.

Financial impact of the inaccuracies on the collection of revenues

(iii) Short/ excess levy of premium

Audit called for detailed list of cases where premium was levied and collected from the Collector offices of the nine selected districts during the period from August 2011 to July 2016. Seven Collector offices²⁸ furnished the detailed list of cases. Audit found that as per survey forms/ check forms the rate for ASR worked out more than that mentioned in the ASR in 41 cases while in one case, the ASR rate was more than the rates mentioned in the survey form/ check form. The incorrect depiction of rates resulted in short levy of premium of ₹ 4.63 crore in 41 cases and excess levy of premium of ₹ 0.45 lakh in one case.

(iv) Short levy of stamp duty

Audit also collected the Index II²⁹ statement of Jamnagar district. With the help of this statement, audit identified the sale deeds registered in the Sub Registrar offices in Jamnagar during April 2011 to March 2016 in respect of the properties. Audit compared the survey forms/ check forms with the rates mentioned in the ASR and found that rates mentioned in ASR were less than those mentioned in survey forms/ check forms. Audit noticed short levy of stamp duty of ₹ 6.70 lakh in 125 documents registered during the period from April 2011 to March 2016.

When this was pointed out, the Department stated (September 2017) that concern and observations of audit were discussed and deliberated at various level in the Department. Special meeting of DC (SDVO), Stamps Inspectors and Office Superintendent of the district was convened. The Department further added that discrepancies in the present *Jantri* whatsoever would be addressed as far as practically possible and the same would also be strictly followed at the time of next ASR so as to avoid any possible leakage of revenue. All DC (SDVO) who works as Nodal Officers for *Jantri* revision at

²⁶ Ahmedabad, Jamnagar, Mehsana, Rajkot and Vadodara

²⁷ Mehsana, Patan and Surat

²⁸ Ahmedabad, Godhra, Mehsana, Patan, Rajkot, Surat and Vadodara

²⁹ Index II statements are computer generated statements based on documents registered with the Sub Registrar showing *inter alia* the details of parties involved in the transaction, description of the property, type of document, date of presentation and registration of the document, amount of consideration, amount of stamp duty and registration fee levied on the documents.

district level were sensitized on this particular issue in a meeting headed by Additional Superintendent of Stamps on 08 July 2017.

Government may formulate a sound scientific valuation process to estimate property value with specific, streamlined procedures using sales data comparison, trend analysis and GIS aided maps having all the factors necessary for ascertaining true market value of the property.

4.3.8 Visangatata (discrepancies) in ASR

4.3.8.1 As per paragraph (3) of GR dated 31 March 2011, in case of error in printing/ typing/ calculations/ data entry or clerical mistakes or if the details of any particular areas or rates are not included in ASR 2011, the DC (SDVO) shall conduct survey and send the proposals for carrying out the corrections in ASR 2011 to the District Valuation Committee for approval. It was instructed that the activities shall be completed within 15 days and shall be intimated to the SS and the Government. Further, as per paragraph (4) of the GR, in addition to the above, if survey was not conducted in any area during implementation of ASR 2011 from 1 April 2011, the DC (SDVO) shall conduct the re-survey and fix the market value of the properties in that particular area and the same shall be forwarded to the Government for approval after getting the District Valuation Committee's (DVC) consent and the work shall be completed within 30 days.

Audit noticed that the ASR 2011 effective during 1 April 2011 to 17 April 2011 had no mention of any rates for any category of uses in 1,320 value zones out of 11,868 value zones of nine districts test checked in audit. However, the rates were subsequently entered in Revised ASR 2011 which was effective from 18 April 2011. The *Tantrik* (Technical) Branch of Superintendent of Stamps office maintains a register to indicate the name and signature of the official from the districts who have attended the office to carry out the corrections in the ASR. Audit noticed that the register contained 288 entries during the period between 15 July 2011 and 5 October 2012 relating to re-survey and corrections in data entries, but there was nothing on record that the corrections were made after obtaining prior approval of the DVC. Audit called for these case files, but Department did not produce the same.

It was also evident that though the GR dated 31 March 2011 provided for maximum of one month for completion of the entire work including corrections in data entries, etc. The Department took three to seven months to complete the work and did not take approval from DVC as envisaged by the Government. During this period, the rates reflected in ASR 2011 and revised ASR 2011 effective from 18 April 2011 were erroneous or incomplete. Further, audit called for the log sheets relating to modifications carried out in ASR 2011 rates in *gARVI* software to ascertain that only authorised persons logged in and modified the data. However, this information was also not made available to audit.

4.3.8.2 DVC was constituted vide GR of 31 March 2011. It stipulated that wherever discrepancy in prevailing ASR rates were noticed such as the rates were either very high or very low, the power to fix the correct rates, after due diligence, was vested with DVC³⁰ (constituted vide GR dated 31 March 2011). The GR further prescribed that the rates so decided by the DVC would require approval of the SS.

The proposals received for correction/ revisions in ASR 2011 rates, rejected/ approved by the Department and pending for decision in the SS office were called for in audit. The office did not produce the list of proposals received, approved and pending for decision but produced 40 files in this category of cases. Audit noticed that the proposals in these cases were received by the Department during 2012 to 2015. However, there was delay ranging between four to 30 months in finalizing the value by DVC and SS in 12 cases.

In two cases, audit noticed that the corrections proposed by DVC were approved by SS in 32 survey number of one village³¹ and one value zone³² of an urban area in March and October 2013, respectively. However, the Department did not intimate the revisions to NIC for carrying out online modifications in the revised ASR 2011. This resulted in undervaluation/ overvaluation of ASR rates in these places during the period from March/October 2013 to till the date of audit (March 2017) (**Annexure A**).

When this was pointed out, the Department stated (September 2017) that regarding *visangatata* in ASR, time limit is prescribed only for submission of proposal by DVC to the SS whenever any matter is referred to DVC. As such resolution under the question does not stipulate any date or deadline for raising the concern about or against any discrepancy found later on in the *Jantri*. The question of anomaly found out at any time can be resolved only when the issue is brought to the notice of the Department by the applicants. There was no any deadline for that matter. Regarding the two cases pointed out in audit, the Department stated that these were referred to NIC on 21 July 2017 for displaying amended rates in ASR 2011. The Department's contention that the time limit is prescribed only for submission of proposal by DVC to SS is not correct as the GR dated 31 March 2011 categorically mentioned the time limit to complete the entire process of corrections in ASR 2011.

4.3.9 Inconsistencies or anomalies in the rates adopted in ASR

Superintendent of Stamps (SS) vide circular dated 21 March 2011 had instructed the DC (SDVO) offices to verify the ASR data and find out the mismatch/ discrepancies, if any, and take steps for their rectification. A few possible discrepancies which needed to be rectified were also cited in the circular such as non-irrigation land rates higher than irrigation land rates; rates of interior areas higher than the areas adjacent to National/ State highways; value of residential plots higher than commercial plots etc. It was instructed in the circular that a committee may be formed to verify the rates. Further, a

³⁰ GR dated 1 October 2012

³¹ Samdhiyala-2 village of Botad *taluka*, Bhavnagar district

³² Singanpor TPS 26, Surat City *taluka* and district Surat

report regarding the verification of all these aspects and a certificate of completion of work was also required to be furnished by the DC (SDVO) office to the SS.

Test check of ASR 2011 and Revised ASR 2011 revealed that the mismatch/ discrepancy mentioned in the circular still prevails (April 2017) in the revised ASR 2011. In addition to these, audit found many incorrect/ unrealistic rates, such as final plot numbers/ city survey numbers are shown as survey numbers, rates of agriculture land were at par or higher than the rates of open plot/ office/ shops, some of the survey/ final plot numbers of one value zone gets repeated under another value zone of the same area, etc. This points out the fact that no analysis was carried out to rectify the discrepancies. These are mentioned in the **Annexure B**.

When this was pointed out, the Department stated (September 2017) that due care will be taken and checks and balances would be applied in the next ASR revision for reasonable assurance of correctness of the market value of the property.

4.3.9.1 Clause 2 (a) of revised ASR 2011 guidelines prescribed by the Department provides the rates to be adopted for calculating the value of different types of constructed properties as mentioned below:

Table 4.9
Rates for calculating the value of constructed properties

Rate of different types of structures for the year 2011	Rate in ₹ per sq. mtr.	
	Urban area	Rural area
RCC frame structure	9,900	9,100
Load bearing structure	8,600	7,700
Semi Pukka structure	6,300	5,900
Industrial RCC sheds	11,500	11,200
Industrial tin sheds	8,500	8,200

(Source: Guidelines of ASR 2011)

To ascertain the market value of a constructed property such as independent house, bungalow, factory, etc., in urban/ rural areas the following value of items had to be added (a) value of construction by applying the rate mentioned under clause 2 (a) of the guidelines attached with the revised ASR 2011 depending upon the type and place of construction and (b) value of the land as per rates specified in the revised ASR 2011 for the survey/ block/ final plot numbers of the value/ grid zone where the land is situated.

For ascertaining the value of flats/ apartments, shops, offices, etc. in a building, situated in urban areas the composite rates of land and construction cost was provided in the ASR itself. The Department vide circular dated 21 March 2011 had categorically instructed that DC (SDVO) shall take steps to rectify the composite rates in the ASR 2011 if it was below ₹ 5,000 or ₹ 6,000 per sq. mtr. However, it was not specifically mentioned in which category each of these rates would apply. Further, the Department/Government also did not instruct its officials to maintain these minimum composite rates in the revised ASR 2011.

Audit noticed in the nine selected districts that the composite rates of flats/offices/ shops provided in the revised ASR 2011 were less than ₹ 5,000/ ₹ 6,000 per sq. mtr. in the value zones as given below:

Table 4.10
Value zones with composites rates below ₹ 6,000 per sq. mtr.

Sl. No.	Name of District	Total no. of value zones	No. of value zones where rates are below ₹ 5,000 per sq. mtr.			No. of value zones where rates are in between ₹ 5,001 and ₹ 6,000 per sq. mtr.		
			Flats/ Apartments	Office	Shop	Flats/ Apartments	Office	Shop
1	Ahmedabad	3,336	101	3	0	545	24	0
2	Vadodara	1,079	55	3	0	203	32	4
3	Surat	2,124	13	1	1	32	3	3
4	Rajkot	1,645	285	3	6	257	143	0
5	Jamnagar	1,081	95	0	0	153	44	0
6	Patan	462	1	0	0	136	0	1
7	Surendranagar	736	158	0	0	320	7	0
8	Godhra	388	76	10	0	128	14	12
9	Mehsana	1,017	364	0	0	255	200	0
	Total	11,868	1,148	20	7	2029	467	20

(Source: ASR 2011)

The records produced to audit indicated that the Department had not taken any step to rectify the rates effective from 18 April 2011. Further, the number of incorrect depiction of rates reveals degree of inaccuracy of rates of revised ASR 2011.

As no composite rates were provided in revised ASR 2011 for rural areas, a similar property in the rural area would cost more than the urban area as the value of a constructed property in rural area is required to be calculated by applying rate of ₹ 9,100 per sq. mtr. for the area of construction besides the value of area of land conveyed. **Case study 1** demonstrates this anomaly.

Case Study 1

A new flat/ apartment measuring 100 sq. mtr. situated at value zone number 12/213/2/A of Bodakdev Town Planning Scheme 213 of Ahmedabad district will be valued as under:

Composite rate for flat/ apartment as per revised ASR 2011 = ₹ 6,000 per sq. mtr. x 100 sq. mtr. = ₹ 6,00,000

However, a new flat/ apartment measuring 100 sq. mtr. situated at rural area of Bagodara village, Bavla taluka of Ahmedabad district would be valued as under:

Landrate as per revised ASR 2011 = ₹ 950 per sq. mtr. (the lowest rate in the village) x 100 sq. mtr. = ₹ 95,000

Construction value = ₹ 9,100 per sq. mtr. x 100 sq. mtr. = ₹ 9,10,000

Total cost of residential property = ₹ 10,05,000

It can be seen that a flat/apartment situated at rural area would be valued at ₹ 10 lakh while the same area of flat/ apartment situated at urban locality would be valued at ₹ 6 lakh.

This shows the extent of anomaly in the composite rates provided in ASR 2011.

4.3.9.2 Audit noticed in 9,172 value zones that the composite rates of flats/ offices/ shops provided in the revised ASR 2011 in the nine selected districts were in between ₹ 6,001 per sq. mtr. and ₹ 9,900 per sq. mtr. which was less than the construction cost for RCC frame structure mentioned in the guidelines for urban areas (Paragraph 4.3.9.1). The details of the number of value zones having rates in between ₹ 6,001 per sq. mtr. and ₹ 9,900 per sq. mtr. is given below:

Table 4.11
Value zones with composites rates above ₹ 6,000 per sq. mtr.

Sl. No.	Name of District	Total no. of value zones	No. of value zones where rates are between ₹ 6,001 and ₹ 9,900 per sq.mtr.		
			Flats / Apartments	Office	Shop
1	Ahmedabad	3,336	1,337	547	4
2	Vadodara	1,079	655	467	204
3	Surat	2,124	259	176	69
4	Rajkot	1,645	557	512	379
5	Jamnagar	1,081	532	461	255
6	Patan	462	340	310	28
7	Surendranagar	736	239	538	194
8	Godhra	388	50	117	52
9	Mehsana	1,017	285	597	8
	Total	11,868	4,254	3,725	1,193

(Source: ASR 2011)

From the above, it could be seen that though the composite rates were required to include both value of land and construction cost, but in these value zones, the composite value was even less than ₹ 9,900 per sq. mtr. prescribed for construction cost in urban areas. Thus, it is implicit that the composite rates displayed in the revised ASR 2011 were not accurate.

4.3.9.3 In the test checked nine districts, audit found in 70 value zones out of 11,868 value zones that the rate of open plot land was significantly lower than the composite rates of flats/ apartments. Accordingly, in these value zones, a bungalow would cost less than a flat which is unrealistic. **Case study 2** illustrates this issue.

Case Study 2

A newly constructed 100 sq. mtr. bungalow as well as a 100 sq. mtr. flat in the value zone W-14/2 of Jamnagar (1) JMC would be valued as under:

Value of bungalow :

Open plot rate as per ASR 2011 = ₹ 18,500 per sq. mtr. x 100 sq. mtr. = ₹ 18,50,000

Construction value = ₹ 9,900 per sq. mtr. x 100 sq. mtr. = ₹ 9,90,000

Total cost of bungalow (including land and construction) = ₹ 28,40,000

Value of flat :

Composite rate (including cost of land and construction) = ₹ 43,500 per sq. mtr. x 100 sq. mtr. = ₹ 43,50,000

It can be seen from the above that a 100 sq. mtr. bungalow would cost only 65.28 per cent of the cost of a flat in this value zone, which is unrealistic.

When this was pointed out, the Department stated (September 2017) that in view of the huge geographical area/ villages/ cities in the State and the huge number of zones/ grids involved, there might be some defects and discrepancy in the ASR rates. However, adequate care would be taken in the next revision of ASR and well-structured meaningful, effective cross checking and validation would be ensured for the data collected.

Government should ascertain that the rates prescribed in the ASR are in line with the market scenario and composite and open plot rates may be prescribed with due diligence for different purpose/ uses of the property.

4.3.9.4 Government of Gujarat, Revenue Department vide Resolution dated 03 December 2011 instructed that in the case of village areas where non-agricultural (NA) rates were not mentioned in the Revised ASR 2011 for any of the survey/ block number falling under the particular village, the NA land rates (Circular Rate) meant for residential, industrial and commercial shall be worked out as per the following method:

Table 4.12
Rates for determination of market value of NA land

Sl. No.	Purpose	Rate for determination of market value
1	Residential	Two times of rates mentioned for agricultural land in revised ASR 2011
2	Industrial	Three times of rates mentioned for agricultural land in revised ASR 2011
3	Commercial	Four times of rates mentioned for agricultural land in revised ASR 2011

(Source: GR of 3 December 2011)

The basis for devising the above formula was not made available to audit. In order to ascertain the reasonability of fixation of the rates in light of the above instruction, audit compared the revised ASR 2011 rates of agricultural and NA lands in 332 villages of Ahmedabad district with the NA rates that would be obtained by applying the above stated instructions to the same villages. Audit found that the methodology of valuation prescribed by Government as above was not realistic as only in seven villages, rates provided in the revised ASR 2011 matched with the rates arrived at by adoption of above method of valuation for residential, industrial and commercial lands, respectively. The details of analysis are shown in the following table:

Table 4.13
Analysis of methodology of valuation prescribed by Government

Purpose	Number of villages with <i>percentage</i> variation ranging						Matching with ASR value using the above method	No rates mentioned in prevailing ASR for the purpose	Total villages
	Lower than the prevailing ASR value determined using the above method			Higher than the prevailing ASR value determined using the above method					
	-1 to -50	-51 to -100	More than -100	Upto 50	50 to 100	Above 100			
Residential	121	32	0	36	27	107	3	6	332
Industrial	94	52	0	24	21	52	2	87	332
Commercial	85	90	0	26	26	38	2	65	332

(Source: ASR 2011)

From the above, it could be seen that the methodology adopted for working out the NA rates was arbitrary. The Department should have re-surveyed and made proper analysis to ascertain the true market value of the immovable properties in these villages.

Non adherence to the instructions

As per the circular dated 30 April 2011 issued by the SS, where the rates for a piece of NA land was not provided in the Revised ASR, the Department was required to apply the NA rates of the adjacent piece of land which fell within the same grid/ value zone of the ASR.

Scrutiny of the records in four Collector offices revealed that in 10 cases in that the rate of NA land was not mentioned in the Revised ASR, however the rates of the adjacent pieces of land were mentioned in the Revised ASR. Thus as per the circular dated 30 April 2011 issued by the SS, the Department was required to apply the NA rates of the adjacent piece of land which fell within the same grid/ value zone.

The Department incorrectly applied the rate mentioned in the GR dated 03 December 2011 for ascertaining the market value of the land. This has resulted in undervaluation and short levy of premium of ₹ 67.64 lakh as follows:

Table 4.14
Non adherence to the instructions

(₹ in lakh)					
Sl. No.	Name of office	No. of cases Period of Collector's Order	Premium leviable	Premium levied	Short levy of premium
1	Collector, Ahmedabad	<u>1</u> June 2016	57.38	51.64	5.74
2	Collector, Bhavnagar	<u>5</u> November 2012 and December 2013	83.43	71.51	11.92
3	Collector, Navsari	<u>3</u> December 2015	124.53	113.28	11.25
4	Collector, Surat	<u>1</u> March 2015	61.97	23.24	38.73
Total					67.64

When this was pointed out, the Department stated (September 2017) that the Resolution dated 03 December 2011 was issued by the Government for fixing market price for different non-agricultural purposes as such rates were applied uniformly. The reply is not correct as the GR was applicable only in those areas where NA rates were not provided for any survey number but in these cases the rates of the adjacent pieces of the lands were available and should have been applied.

Government may design a robust methodology to avert the inconsistencies or anomalies such as abnormal agriculture/ NA land rates, repetition of survey/ block numbers in another value zone of the same area, etc.

4.3.10 Revised ASR 2011 in Revenue Department's website – not updated

There are three websites where prevailing revised ASR Rates 2011 are displayed. These are <https://revenuedepartment.gujarat.gov.in>, the website of Revenue Department of Government of Gujarat, <https://newjantri.guj.nic.in> and <https://garvi.gujarat.gov.in/WebForm1.aspx>, the websites of Superintendent of Stamps and Inspector General of Registration.

Audit noticed that the Department had carried out corrections/ revisions of rates in many value/ grid zones in many parts of the State due to various reasons since the uploading of revised ASR 2011. After carrying out the corrections/ revisions, the updated version of revised ASR 2011 was uploaded only at <https://newjantri.guj.nic.in> and <https://garvi.gujarat.gov.in/WebForm1.aspx> by NIC. While, the revised ASR 2011 available at Revenue Department's website was not updated simultaneously and displays the un-updated rates. Further, the date and reference of revisions/ corrections of rates were also not mentioned in the updated revised ASR 2011 uploaded at <https://newjantri.guj.nic.in> and <https://garvi.gujarat.gov.in/WebForm1.aspx>. This makes it difficult to ascertain which website shows the correct rates of revised ASR 2011 and also create ambiguity in application of rates for levy of various Government revenue like stamp duty, premium for conversion of new tenure land, etc., by the Revenue Authorities concerned.

When this was pointed out, the Department replied (September 2017) that Principal Secretary (Revenue Department) had instructed NIC personnel to look into the matter and resolve the issue. Further, the Department also stated that it was decided that there may not be different set of *Jantri* on different platforms but the *Jantri* uploaded by NIC would be linked with other Departments or stake holders' websites.

4.3.11 Lack of adherence to instructions in guidelines of ASR led to undervaluation of properties and short levy of stamp duty

Lack of adherence to the instructions for ascertaining the correct market value of properties was noticed in several instances during the test check of registered documents in SR offices which resulted in incorrect determination of market value of properties in 28 documents and short levy of stamp duty of ₹ 1.75 crore as mentioned in the following table:

Table 4.15
Undervaluation of properties

(₹ in lakh)

Sl. No.	Name of office	Number of documents	Stamp duty leviable	Short levy of stamp duty
		Period of registration of documents	Stamp duty levied	
1	SR: Surat-1 (Athwa)	9	70.26	16.51
		Between January 2015 and November 2015	53.75	
<p>As per the guidelines of ASR effective from 18 April 2011, for calculating the value of the built-up area, the carpet area mentioned in the document is required to be multiplied by 1.2 times. For calculating the value of terrace above individual bungalows and flats/ offices/ shops, 40 per cent of the rate mentioned against the concerned value zones should be applied. For ascertaining the value of the covered car parking space for commercial purpose, 20 per cent of the rate mentioned against the value zone should be applied.</p> <p>Observation: Recitals of above nine documents revealed that in four cases rights of terrace and parking space were passed on to the purchasers by the sellers at the time of sale of constructed properties, but the SR did not consider the terrace rights and parking space for calculating the value of the property conveyed by the sellers. In the remaining five cases, instead of multiplying the carpet area by 1.2 times for ascertaining the built-up area of the property, SR calculated stamp duty on the carpet area of the property. This resulted in short levy of stamp duty of ₹ 16.51 lakh.</p>				
2	SR: Vadodara-4 (Gorva), Ahmedabad-6 (Naroda)	9	94.60	12.38
		Between January 2014 and December 2014	82.22	
<p>As per guidelines of ASR effective from 18 April 2011, when the conveyed shop is situated in a Mall, Arcade or Multiplex, no rebate for floor or frontage should be given while calculating the market value of the property for the purpose of levy of stamp duty.</p> <p>Observation: Mall and arcade are collection of shops with interconnected walkways. Due to not mentioning mall, arcade in the building's name, SR had misclassified the properties to be ordinary commercial property and applied rebate for floor and frontage while ascertaining the market value of the property conveyed. Recitals of documents/ brochures of the properties in the above cases revealed that conveyed property were shops/ offices situated in Arcade/ Mall. The SR while calculating the market value of the property had incorrectly provided rebate, not applicable in these cases. The properties were required to be registered for a market value of ₹ 1,930.58 lakh, but were registered for a market value/consideration of ₹ 1,529.85 lakh resulting in short levy of stamp duty of ₹ 12.38 lakh.</p>				
3	SR: Vadodara-5 (Bapod)	1	54.83	10.54
		June 2014	44.29	
<p>Observation: In one case, audit noticed that the number of the final plot was shown in two different value zones of the same area having two different rates. The Sub Registrar had applied the lower rate for working out the market value of the property instead of the higher rate. The property was required to be registered for a market value of ₹ 1,118.91 lakh, but was registered for a market value of ₹ 877.91 lakh resulting in short levy of stamp duty of ₹ 10.54 lakh.</p>				
4	SR: Vadodara-5 (Bapod), Ahmedabad-6 (Naroda)	2	85.55	42.08
		July 2015 and December 2015	43.47	

Sl. No.	Name of office	Number of documents	Stamp duty leviable	Short levy of stamp duty
		Period of registration of documents	Stamp duty levied	

ASR of urban areas had different composite rates prescribed for flats/ apartments, offices and shops at flats/ complexes based on the value zones. The composite rates of offices are lower than that of shops and composite rates of flats/ apartments are lower than that of offices and shops. However, the ASR and the guidelines did not define the terms office and shops. Due to which, there has been misclassification of shops as office which results in undervaluation.

Observation: In two conveyance deeds, audit noticed that due to lack of clarity in the ASR and guidelines, the SR had classified the multiplexes as offices instead of shops and stamp duty was levied at a lower value. The properties were required to be registered for a market value of ₹ 1,745.98 lakh but were registered for a market value/ consideration of ₹ 887.00 lakh.

5	SR : Vadodara-4 (Gorva), Surat-1 (Athwa)	3	112.97	46.07
		December 2014 to October 2015	66.90	

As per the ASR guidelines, other than flats/ complexes, the open plot rates should be applied along with rates of construction cost prescribed in the guidelines for ascertaining the value of the constructed property.

Observation: In one document of conveyance, the property conveyed was shop but was considered for residential purpose and lower rates applicable for flats/ apartments was applied for levy of stamp duty. In other two conveyance deed, entire building was sold to the purchasers, but market value was worked out with reference to the composite rate applicable for flats/ apartments instead of calculating the market value by applying open plot rates and rates for construction cost. The composite rate of flats/ apartments was lower than that of open plot rate and rate for construction cost taken together and hence, there was undervaluation and resultant short levy of stamp duty of ₹ 46.07 lakh.

6	SR: Vadodara-4 (Gorva), Gandhinagar	3	64.76	13.93
		January 2013 and March 2015	50.83	

Observation: In one document, SR had considered the rate of value zone number 26/0/1-Wadiwadi instead of the correct rates of value zone number V/V/1/5 for ascertaining the market value of the properties in these documents. Audit noticed this with reference to document number 8149 dated 10 November 2014 in respect of the same property which was registered with SR, Vadodara-1 (City) applying the correct rate. This has resulted in short levy of stamp duty of ₹ 5.82 lakh. In another document, SR had considered the rate of an incorrect value zone which resulted in undervaluation of the property and resultantly there was short levy of stamp duty of ₹ 8.11 lakh.

7	SR: Vadodara-4 (Gorva)	1	503.27	33.77
		June 2015	469.50	

Observation: The land conveyed was included in commercial and public institutional purpose as noticed from the Zone certificate of Vadodara Urban Development Authority, as such it was required to be valued with reference to the rates of open plot. However, the Sub Registrar valued the land considering the rate applicable for industrial purpose. This has resulted in short levy of stamp duty of ₹ 33.77 lakh.

After this was pointed out, the Department replied (September 2017) that all these cases would be reviewed and in case of stamp duty/ registration fees

found recoverable, due procedure for recovery would be initiated at the earliest.

4.3.12 Conclusion

Annual Statement of Rates (ASR) is being taken as the base for determining the market value of properties by State and Central Government Departments for various purposes. There has been an inordinate delay in revising the ASR despite the policy of the Government for yearly revision. Further, the survey conducted for ASR 2011 was neither scientific nor reliable. This impacted the composite and open plot rates in many places of urban areas. The unrealistic rates in ASR resulted in incorrect determination of market value of immovable properties resulting in leakage of revenue.

Monitoring of the Department was weak and the corrections in ASR were not detected and carried out even after a period of five years from its implementation. No periodical evaluation and revision was carried out. A foolproof systemic evaluation process and periodical revision is necessary, so that the market value of properties ascertained are transparent and correct. Lack of clarity and non-adherence to guidelines of ASR resulted in incorrect determination of market value and short levy of stamp duty in registered documents.

4.3.13 Recommendations

Audit recommend that:

- **Government may strictly adhere to its own policy of yearly revision of ASR, so as to plug the leakage of revenue.**
- **Government may formulate a sound scientific valuation process to estimate property value with specific, streamlined procedures using *gARVI* data comparison, trend analysis and GIS aided maps ascertaining true market value of the property.**
- **Government may design a robust methodology to avert the inconsistencies or anomalies such as abnormal agriculture/ NA land rates, repetition of survey/block numbers in another value zone of the same area, etc.**
- **Cases of discrepancies between survey forms and published ASR need to be reviewed and corrected.**

4.4 Short levy of stamp duty due to undervaluation of properties

Section 32 A of the Gujarat Stamp Act, 1958 provides that if the officer registering the instrument believes that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall refer the same to the Deputy Collector (Stamp Duty Valuation Organisation) for determination of the market value of the property. The market value of the property is to be determined as per the Gujarat Stamp (Determination of Market Value of the Property) Rules, 1984 and the orders issued thereunder.

During test check of the documents registered with the four Sub Registrar offices³³ during the year 2011 to 2014, audit noticed³⁴ that the market value of the properties was determined incorrectly in 41 documents, which resulted in short levy of stamp duty of ₹ 4.77 crore as explained below:

4.4.1 Cases where land had been converted from new to old tenure for non-agricultural purposes

As per the guidelines issued for implementation of *jantri* or Annual Statement of Rates (ASR) with effect from 1 April 2011, developed land includes land which can be used for non-agriculture purposes, land wherein development can take place or which is capable of being developed e.g. land converted into non agriculture, land included in development schemes (*Vikas Yojana*)/ Town Planning schemes, land purchased under Section 63 A and 63 AA of the Gujarat Tenancy and Agricultural Lands Act, 1948 (GTAL Act) and land included in Special Economic Zone and Information Technology Parks.

Audit observed in 38 cases (registered between January 2012 and September 2014) of three Sub-Registrar offices³⁵ that new tenure agricultural lands were converted (between April 2010 and September 2014) to old tenure for non-agricultural purposes by orders of the Collector after payment of premium price. But, the Sub-Registrar had adopted *jantri* rates of agricultural lands in place of non-agricultural lands for determination of market value for levy of stamp duty. These documents were required to be registered by adoption of market value of ₹ 208.09 crore instead of ₹ 116.73 crore. This resulted in short levy of stamp duty of ₹ 4.40 crore.

4.4.2 Cases where permission of competent authority had been obtained for sale under Section 63 of GTAL Act, 1948

Audit observed in two cases registered at Sub-Registrar, Surat-8 (Rander) that the Revenue Authorities had granted permission for sale of agricultural land for non-agricultural use under Section 63 of GTAL Act. But, the Sub-Registrar had adopted *jantri* rates of agricultural lands instead of non-agricultural lands for determination of market value for levy of stamp duty. These documents were required to be registered by adoption of market value

³³ SR- Ahmedabad- 13 (Agriculture), 14 (Daskroi), Surat- 8 (Rander) and Sanand

³⁴ between November 2015 and January 2016

³⁵ SR- Ahmedabad-13 (Agriculture), 14 (Daskroi) and Surat- 8 (Rander)

of ₹ 23.47 crore instead of ₹ 18.78 crore. This resulted in short levy of stamp duty of ₹ 23 lakh.

4.4.3 Audit observed in one case of sale of land for residential purpose registered by Sub-Registrar, Sanand that incorrect *jantri* rates were adopted. The Department levied stamp duty of ₹ 8.66 lakh on consideration of ₹ 1.77 crore instead of stamp duty of ₹ 23.19 lakh on market value of ₹ 4.73 crore at *jantri* rates. This resulted in short levy of stamp duty of ₹ 15 lakh.

Audit pointed out the above cases to the Department between November 2015 and October 2016. The Department stated (June 2017) that out of 41 cases, in 33 cases, notices have been issued, in five cases, stamp duty have been correctly levied and three cases, reply is awaited (September 2017).

4.5 Short levy of stamp duty

Section 32 A of the Gujarat Stamp Act, 1958 provides that if the officer registering the instrument believes that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall refer the same to the DC (SDVO) for determination of the market value of the property. The market value of the property is to be determined as per the Gujarat Stamp (Determination of Market Value of the Property) Rules, 1984 and the orders issued thereunder.

During test check of the documents registered with the Sub Registrar office, Bavla, district Ahmedabad during the year 2010 to 2014, audit observed (January 2016) in case of a conveyance deed that after the orders of the High Court of Gujarat dated 29 July 2011, the said document had been accepted for registration on 30 July 2011.

Recitals of the deed indicated that the vendor had made the payments to the vendee after the revision of ASR rates on 31 March 2011. Twenty-two instalments of payment of ₹ 12.94 crore were made between 29 April 2011 to 25 July 2011. The vendee had presented the document on 30 July 2011 showing that the deed was executed on 31 March 2011 and had stamped it at pre-revised rates of ASR 2011.

The Sub-Registrar examined the document and forwarded the document to the DC (SDVO) for correct determination of market value. The High Court of Gujarat vide its order dated 17 August 2011 held that stamp duty should be levied on the market value prevalent on the date of execution in accordance with Section 32 A of the Gujarat Stamps Act, 1958. The DC (SDVO) returned the case to the Sub-Registrar on 20 October 2012 indicating that the document was properly stamped in light of the High Court judgement.

The High Court had desired to levy stamp duty on the market value determined in accordance with Section 32A of the BS Act, 1958 prevalent on the date of execution of the deed. It has nowhere stated that the date of execution of document was 31 March 2011. The recitals of the document

clearly indicate that the document was drafted after 01 April 2011 (in view of the payments made after 01 April 2011).

The document was required to be registered by adoption of market value of ₹ 54.13 crore instead of ₹ 35.45 crore. The DC (SDVO) failed to take cognizance of this fact. This resulted in short levy of stamp duty of ₹ 98 lakh.

Audit pointed out the case to the Department in January 2016. The Department stated (June 2017) that notice has been issued in the case.

4.6 Short levy of stamp duty and registration fees on documents comprising several distinct matters

Under Section 5 of the Gujarat Stamp Act, 1958, any instrument comprising of several distinct matters or distinct transactions shall be chargeable with aggregate amount of duties with which separate instruments would be chargeable under the Act.

During test check of the records of two Sub Registrar offices³⁶ for the year 2014 and 2015, audit noticed³⁷ from the recitals of two documents that it contained more than one distinct matter or transaction which attracted levy of aggregate stamp duty and registration fees. However, the Sub Registrars failed to take cognizance of the recitals of the documents and did not levy the aggregate stamp duty and registration fees chargeable on each such distinct matter. This resulted in short levy of stamp duty and registration fees of ₹ 79.59 lakh as explained below:

4.6.1 In Sub-Registrar office, Ahmedabad-IX (Bopal), audit observed in case of one document registered as conveyance deed that a Housing Society (i.e. seller) had sold land measuring 12,857 sq. mtr. to a Private Limited Company (i.e. purchaser) and members of the Housing Society had signed the document as confirming parties.

Recitals of the document (at page no. 9) revealed that the Housing Society had allotted the plots to the members and the members became owners of the plots by virtue of share certificates issued by the Housing Society to the members. Thus, the document comprises two distinct matters i.e. 1. Conveyance between the Housing Society and the members of Housing Society and 2. Conveyance between the members of the Housing Society and the Company. The Sub Registrar was required to levy aggregate stamp duty on both the transactions. But, the Sub Registrar had not levied stamp duty on deemed conveyance executed between seller and confirming party. This resulted in short levy of stamp duty of ₹ 58.27 lakh.

4.6.2 In Sub-Registrar office, Vadodara-IV (Gorva), audit observed in case of one document registered as conveyance deed that three co-owners (i.e. sellers) of land measuring 11,944 sq. mtr. had transferred the land in favour of a partnership firm (i.e. purchaser). Recitals of the document revealed that one of

³⁶ SR- Ahmedabad-IX (Bopal) and Vadodara-IV (Gorva)

³⁷ in December 2016 and January 2017

the co-owners had relinquished his respective rights in the land measuring 6,569 sq. mtr. in favour of remaining two co-owners and the amount of consideration had also been received by the remaining two co-owners. Thus, the document comprises two distinct matters i.e. (1). Deed of release between one co-owner and remaining two co-owners in respect of proportionate land owned by the one co-owner and (2). Conveyance between the remaining two co-owners and the partnership firm. The Sub Registrar was required to levy aggregate stamp duty on both the transactions. But, the Sub Registrar had not levied stamp duty on deed of release between one co-owner and remaining two co-owners in respect of proportionate land owned by the one co-owner. This resulted in short levy of stamp duty and registration fees of ₹ 21.32 lakh.

Audit pointed out these cases to the Department in December 2016 and January 2017. The Department stated (June 2017) that notices have been issued in these cases.

CHAPTER-V OTHER TAX AND NON-TAX RECEIPTS

5.1 Results of Audit

Test check of records in the offices of the District Geologists/ Assistant Geologists and Commissioner of Geology and Mining, office of the Chief Electrical Inspector and Collector of Electricity Duty and Operation and Maintenance Divisions of Electricity Distribution Companies and Director of Petroleum in the State during the year 2016-17 revealed under-assessment and other irregularities involving ₹ 152 crore in 185 cases, which fall under the following categories:

**Table: 5.1
Results of Audit**

Sl. No.	Category	No. of cases	Amount (₹ in crore)
	Mining Receipts		
1	Performance Audit of “Grant, Levy and Collection of Receipts from Mining Leases”	1	144.05
2	Non/ short levy of dead rent/ surface rent	13	0.57
3	Non/ short levy of royalty/ interest	7	0.33
4	Other irregularities	77	2.45
	Total (A)	98	147.40
	Electricity Duty		
5	Short levy of Electricity Duty and other irregularities	12	1.82
	Director of Petroleum		
6	Non/ short levy of royalty/ dead rent/ surface rent/ stamp duty and registration fees and other irregularities	12	0.16
	Total (B)	24	1.98
	Taxes on Vehicles		
7	Non/ short levy of motor vehicles tax	20	2.52
8	Other irregularities/ Passenger Tax/ Expenditure Audit	43	0.10
	Total (C)	63	2.62
	Grand Total (A + B + C)	185	152.00

During the course of the year, the Departments accepted and recovered under-assessment and other irregularities of ₹ 86.60 lakh in 27 cases, which were pointed out in audit during 2016-17 and earlier years.

A Performance Audit of “Grant, Levy and Collection of Receipts from Mining Leases” and an illustrative audit observation on “Taxes on Vehicles” are mentioned in the succeeding paragraphs.

5.2 Performance Audit of “Grant, Levy and Collection of Receipts from Mining Leases”

Highlights

The total amount of arrears pending collection on account of mining receipts as on 31 March 2016 in the State was ₹ 155.28 crore. Out of these, ₹ 51.17 crore (33 *per cent*) was pending for more than 10 years of which ₹ 22.26 crore was pending for more than 20 years.

(Paragraph 5.2.6.2)

Gujarat Mineral Policy was framed in 2003. This has not been revised despite the circulation of draft “Model State Mineral Policy, 2010” by the Government of India in 2010. Absence of a revised policy resulted in a number of discrepancies including estimating the reserves of the minerals, etc.

(Paragraph 5.2.7)

Due to the frequent changes in the Guidelines of 2011 issued by the Government of Gujarat for auction of blocks of minor minerals, the auction process was rendered faulty and a fair competitive bidding could not be ensured.

(Paragraph 5.2.8.1)

There were 4,749 applications for grant of leases pending allotment as on 31 March 2016. Out of these, 3,543 applications (74.60 *per cent*) were pending for want of technical opinion from various departments.

(Paragraph 5.2.10)

Ministry of Mines, Government of India declared 31 major minerals as minor minerals in February 2015. The Department prescribed the rates for levy of royalty and dead rent on these 31 re-classified minerals in June 2016, after a delay of more than one year and four months. Delay in revision of rates of royalty/ dead rent in these cases resulted in forgoing of revenue of ₹ 35.69 crore.

(Paragraph 5.2.13)

The percentage shortfall in yearly inspections of leases by the Department ranged between 74.24 to 89.86. In absence of adequate inspection of leases, the Department was unable to control the mining activities of the lessees.

(Paragraph 5.2.17)

In 10 District Geologist offices, 45 *per cent* of the application remain pending for clearance by SEIAA/ DEIAA. The Department allowed the continuance of leases without the ECs.

(Paragraph 5.2.22)

The co-ordination with Forest Department and Gujarat Pollution Control Board was insufficient for prevention of illegal/ unauthorised mining. This resulted in illegal excavation of minerals in 92 cases involving ₹ 1.51 crore.

(Paragraph 5.2.23 to 24)

The exploration and exploitation of major minerals is governed under the Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rules 1960 made thereunder. Central Government determines policies for their regulation. These include Limestone, Bauxite, Lignite and Fluorspar. The State Government is empowered to make rules in respect of minor minerals by issue of notifications under Section 15 of MMDR Act. These include black trap, ordinary sand, gravel, clay and other building stones used for construction, etc. Fire-clay, china-clay, chalk, gypsum etc. have also been notified as minor minerals with effect from 10 February 2015. The minor minerals are governed under the Gujarat Minor Mineral Concession Rules 2010.

The extraction of mineral is being done by grant of mining leases in accordance with the provisions of the Acts and Rules. The mining leases of major minerals are granted by the State Government with the prior approval of Central Government. The quarry leases for minor minerals are granted by the Collector on the recommendation of Geologists.

The mining receipts mainly consist of royalty, dead rent, surface rent, interest and penalty. Their assessment and collection is regulated under the above Acts/ Rules framed by the Central and State Government from time to time. As on 31 March 2016, there were 7,481 leases¹ of major and minor minerals covering an area of 69,043 hectares on Government and private land in Gujarat. Regulatory framework and procedure for grant of Mineral Concessions is given in **Chart 5.2**.

¹ Source: Commissioner of Geology and Mining, Industries and Mines Department

Chart: 5.2
Regulatory framework and procedure for grant of Mineral Concessions



5.2.2 Organizational set up

The Commissioner of Geology and Mining (CGM) under the administrative control of Principal Secretary, Industries and Mines Department (IMD), Government of Gujarat (GoG), is the Head of the Department. He is assisted by three Additional Directors [dealing with matters relating to Flying Squad (FS)/ Appeals, Technical assistance and Development] and one Deputy Director dealing with the administrative matters of the Department. There are 33 districts in the State. Out of these, Dang district does not have mining activities. The remaining 32 offices in the State, each headed by Geologist/Asst. Geologists are responsible for controlling the mining activities in their respective districts.

5.2.3 Audit Objectives

The Performance Audit (PA) was conducted to ascertain whether:

- Prospecting and estimation of mineral resources was done systematically in a scientific manner before approval of the mining plans. The mining leases or quarrying licenses were being granted, renewed, closed, surrendered and cancelled in accordance with the provisions of the relevant Act/ Rules.
- The system of levy and collection of fees, rent, royalty, penalty, etc. was effective, transparent, adequate and in conformity with the provisions of the Acts and Rules framed from time to time.
- Adequate internal controls and co-ordination existed between the various departments involved in the mining activities to address the environmental and ecological concerns and prevent illegal mining.

5.2.4 Scope of Audit and Methodology

The PA was conducted for the period from 2011-12 to 2015-16 during the period from August 2016 to April 2017. Audit conducted a test check of records² of 11 out of 32 district offices. The offices were selected on the basis of statistical sampling. Revenue collected from these 11 district offices constituted 45 *per cent* of the total revenue received from the mining activities in the State.

An entry conference was held with the officers of the Department on 6 June 2016 in which the audit objectives and methodology to be adopted in conducting the PA was explained. The Draft Audit Report was forwarded to the Department and to the Government in July 2017, thereafter an Exit Conference was held in August 2017 in which Principal Secretary (IMD) and Commissioner of Geology and Mining and Additional Director (FS) participated. The replies received in the exit conference and at other points of time have been appropriately considered and included in the relevant paragraphs.

² Except Oil and Natural Gas that were not selected for test check.

5.2.5 Audit Criteria

The audit criteria are derived from the following:

- (i) The Mines and Minerals (Development and Regulation) Act (MMDRA), 1957 and Amendment Act (MMDRAA), 2015
- (ii) The Mineral Concession Rules (MCR), 1960
- (iii) Gujarat Minor Mineral Concession Rules (GMMCR), 2010 and Amendment Rules (GMMCAR), 2015
- (iv) Gujarat Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005
- (v) Gujarat State Mineral Policy, 2003
- (vi) Mineral (Auction) Rules (MAR), 2015
- (vii) Mineral Conservation and Development Rules (MCDR), 1988
- (viii) Minerals (Evidence of Mineral Contents) Rules, 2015
- (ix) Guidelines/ Manual/ Instructions/ Circulars/ Orders issued by the Department.

5.2.6 Financial Status of Industries and Mines Department

5.2.6.1 Trend of Revenue

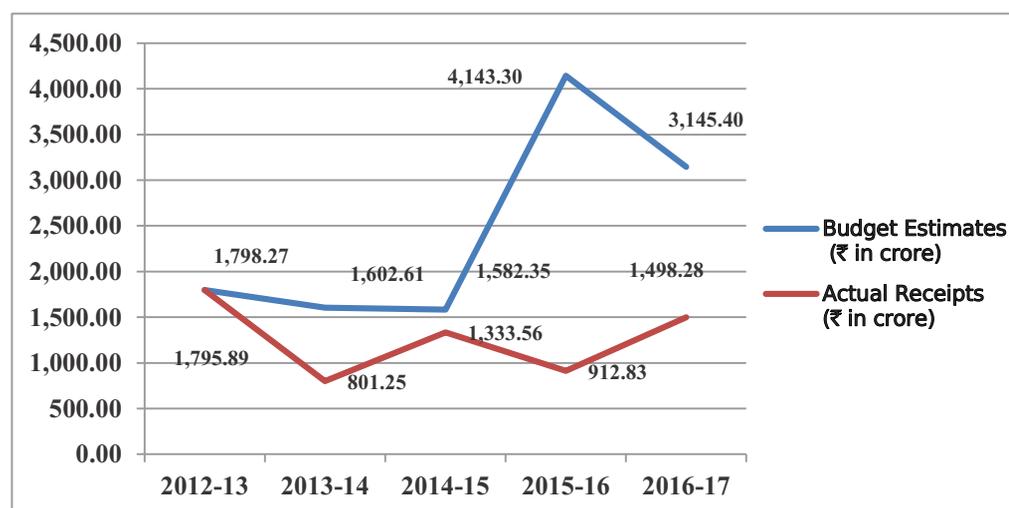
The budget estimates *vis-à-vis* gross mineral receipts collected between 2012-13 to 2016-17 in respect of major and minor minerals were as under:

Table: 5.2
Trend of Revenue

Year	Budget Estimates	Actual Receipts	Excess (+) / Short fall (-)	Percentage of Variation
2012-13	1,798.27	1,795.89	(+)2.38	(-)0.13
2013-14	1,602.61	801.25	(-)801.36	(-)50.00
2014-15	1,582.35	1,333.56	(-)248.79	(-)15.72
2015-16	4,143.30	912.83	(-)3,230.47	(-)77.97
2016-17	3,145.40	1,498.28	(-)1,647.12	(-)52.37

(Source: Finance Accounts of the State)

Chart: 5.3
Trend of Revenue



The above figures indicate that there was a steep fall in revenue during 2013-14 and 2015-16. It fell by 55 per cent during 2013-14 as compared to 2012-13 and 32 per cent in 2015-16 as compared to 2014-15. Similarly, the revenue receipts were substantially less than the budget estimates framed by the Government. The reasons for steep fall in revenue and variation in budget estimates, though called for were not intimated by the Department.

Framing of budget estimates is an essential tool of financial management and control, it would be prudent, if the Department could ensure framing of budget estimates more carefully so that these are realistic when compared with the actual mining receipts of the State.

5.2.6.2 Status of uncollected revenue: Arrears pending collection

As per information furnished by the Department the total amount of arrears pending collection on account of mining receipts as on 31 March 2016 in the State was ₹ 155.28 crore. Besides, the position of arrears pending collection in the 11 districts test checked was also obtained. It was analysed age wise as mentioned in the following table.

Table: 5.3
Arrears pending collection

(₹ in crore)

Particulars	Total pending recoveries	Less than 5 years	5 to 10 years	10 to 15 years	15 to 20 years	More than 20 years
Gujarat	155.28	69.76	34.35	19.62	9.29	22.26
Analysis of 11 districts test checked by audit						
Ahmedabad	2.63	1.14	1.37	0.12	0.00	0.00
Chotta Udepur	1.97	1.18	0.29	0.50	0.00	0.00
Jamnagar	2.25	0.35	1.04	0.60	0.26	0.00
Junagadh	2.09	0.09	0.17	0.28	0.59	0.96
Kheda	2.64	0.42	2.22	0.00	0.00	0.00
Kachchh	20.22	9.91	8.51	1.62	0.18	0.00
Mehsana	2.93	0.49	2.44	0.00	0.00	0.00
Navsari	0.44	0.11	0.09	0.09	0.06	0.09
Palanpur	4.85	2.68	0.76	0.94	0.43	0.04
Porbandar	16.36	1.81	4.51	3.79	3.94	2.31
Surat	3.40	0.58	0.78	0.99	0.74	0.31
Total of selected districts	59.78	18.76	22.18	8.93	6.20	3.71

(Source: Commissioner of Geology and Mining, Gujarat State)

As would be seen from the above table arrears amounting to ₹ 22.26 crore were pending for more than 20 years while ₹ 28.91 crore were pending collection for more than 10 years and less than 20 years in the State.

Out of the selected districts, Kachchh district reported highest amount of arrears amounting to ₹ 20.22 crore. The Department did not intimate the stages at which the recoveries were pending and efforts made by them in recovering the same. Kachchh is the largest and highest revenue earning district for mining receipts in the State.

It is recommended that the State Government may direct the Department to take steps to expedite the recovery of these arrears, particularly those that have been outstanding for a longer period as with the passage of time, the chances of their collection become remote.

5.2.7 Non revision of State Mineral Policy for regularisation and exploration of Minerals

Government of India, Ministry of Mines, formulated a National Mineral Policy (notified in March 2008) which *inter alia* provided for devising a programme for conducting survey, exploration, exploitation and management of resources which have been already discovered and those which are in the process of discovery as their optimal, economical and timely use are matters of national importance. It also provided that resource inventory should be prepared in accordance with the latest version of United Nations Framework Classification System (UNFC)³. The Ministry of Mines also formulated and circulated a “Model State Mineral Policy, 2010” for the guidance of the States. The model mineral policy was prepared with the perspective that scientific mining has to go hand in hand with sustainable management practices for the long term economic development of the State.

Gujarat Mineral Policy 2003 containing details of minerals, occurrences and estimated reserves of 18 important minerals was framed in 2003. This policy has not been revised despite the circulation of draft “Model State Mineral Policy, 2010” by the Government of India in 2010.

5.2.7.1 As per the UNFC system referred to in National Policy 2008, the exploration for any mineral deposit involved four stages namely, Reconnaissance Survey (G4), Preliminary Exploration (G3), General Exploration (G2) and Detailed Exploration (G1). This resulted in identification of resource categories namely Reconnaissance Mineral Resource, Inferred Mineral Resource, Indicated Mineral Resource and Measured Mineral Resource, respectively reflecting the degree of geological assurance.

Audit examined whether resource inventory was prepared by the Department as per UNFC system from the CGM. There was nothing on records produced to audit indicating that the UNFC system was followed by the Department in inventorying resources, but out of 18 minerals, indicated resources (G2) and measured resources (G1) of Limestone and Marl (Calcium Carbonate or lime-rich mineral) were furnished by the Department.

As per the information furnished by the Department, “Indicated Mineral Resource” (G2) and “Measured Mineral Resource” (G1) of limestone was 36.63 and 1,033.78 million metric tonnes respectively in four districts (*viz* Junagadh, Jamnagar, Kachchh and Porbandar). Further audit scrutiny revealed that in “notice inviting tenders” issued (November 2015) in district Kachchh,

³ It is a system in which reserves/resources of solid fuels and mineral commodities are classified on an internationally uniform system based on market economy criteria.

the estimated mineral resources in five mineral blocks was advertised as 1,083.5 million tonnes.

A comparison of the two⁴ showed that the mineral mentioned in the tender notice in Kachchh was more than the mineral resources estimated in the four districts put together as per the Department. This indicated that estimated reserves of the minerals were not worked out correctly. Had the State framed revised mineral policy in accordance with the directions of the Ministry of Mines, the estimation and exploration of the mineral could have been done in a scientific manner. Notifying blocks for auction without establishing indicated/ measured mineral resource was not in line with the National Mineral Policy, 2008/ Model State Mineral Policy, 2010.

This was discussed in the exit conference held on 11 August 2017. The Principal Secretary and CGM agreed for the need of a comprehensive mineral policy in the changed scenario. However, reasons for not framing the revised policy till date were not furnished (September 2017).

5.2.8 Grant of leases through auction - System of regulation of auction of minor minerals in the State

The Government of Gujarat issued guidelines on May 2010 and April 2011 which stipulated that all blocks of minor mineral concessions should be put in public domain. It also stipulated marking of the blocks as “Prime Location” or “Scattered Location” depending upon the number of respondents. If more than three applications were received for a block, the block was to be considered as “Prime Location” and allocation was required to be made through auction only. In case of two applications, the block was to be considered “Scattered Location” and allotment made through draw system and in case of one applicant allotment was required to be made directly.

Audit reviewed the records relating to auction of the minor mineral sand between the period 2010-11 and 2015-16. The findings are reported below:

5.2.8.1 Inconsistencies in the Guidelines

As per the Guidelines of April 2011, lease applications received prior to 31 March 2010 were not required to be considered for auction of minor minerals. Thus, applications for leases of minor minerals were disposed of after April 2011 without taking the applications received prior to March 2010 into consideration. However, in June 2016 the Department again instructed to take the applications received prior to March 2010 into consideration for auction of minor minerals. Thus, due to the frequent changes in the guidelines, the auction process was rendered faulty and fair competitive bidding could not be ensured during the period April 2010 to June 2016 due to non-inclusion of applications received prior to March 2010.

⁴ The information furnished by the Department and Notice Inviting Tenders (November 2015) of limestone blocks in Kachchh District

5.2.8.2 No attempt to put minor minerals other than ordinary sand in public domain

The guidelines issued in May 2010 and April 2011 provided for disposal of applications received for minor mineral concessions through block auction. However, it was noticed that only blocks of ordinary sand were put in the public domain for auction. No attempt was made to put the remaining minor mineral⁵ bearing areas in public domain for auction. The existing leasing of other minor minerals continued either by renewal or deemed extension or on applications.

The Department stated (September 2017) that GoG in 2010 had made an effort to put all mineral blocks for auction. Sand is geologically a simple mineral whereas other minerals are geologically complex. Ordinary sand block auctions were carried out on pilot basis. Few challenges were met and amendments were made accordingly. Ministry of Mines, Government of India had amended (January 2015) the MMDRA and decided to grant all mineral concessions through auction only and accordingly State Government framed Gujarat Minor Mineral Concession Rules in May 2017. The facts indicate that there was lack of control mechanism for allotment of minor minerals leases till the rules were amended in May 2017.

5.2.8.3 Lack of monitoring at apex level

Audit observed in the office of the CGM that neither any register had been prescribed [to keep track of the total number of blocks put up in public domain for auction, number of blocks auctioned, number of Letter of Intents (LoI) issued, number of lease deeds executed, amounts recoverable and amounts recovered] nor was any periodical returns prescribed for submission to higher authorities for monitoring the leasing process. This information was maintained in a disaggregated manner at district level.

As per the information furnished by the Department (June 2017), during the period from 2010-11 to 2015-16, 853 blocks of ordinary sand in 185 villages of 26 districts of the State were notified for auction. Out of these, 635 blocks were put to auction. However, only 230 blocks could be auctioned. The reasons for non-auction of 405 blocks and revenue realization as a result of auctioned blocks were not furnished by the Department. Thus the performance of Department and revenue generated through auction could not be ascertained.

It is recommended that the Government may strengthen its internal control mechanism by prescribing the registers for monitoring the auction of blocks and receipts therefrom.

5.2.8.4 Terms and conditions of auction of blocks of ordinary sand

The Department issued a notification on 30 June 2011 for auction of blocks of ordinary sand stipulating the terms and conditions of auction. Audit found that

⁵ like limestone, black trap, etc.

there was lack of uniformity in the terms and conditions as advertised in the notice inviting tenders viz. minimum bids to be considered for a successful auction, conditions for minimum bid price, minimum/ maximum area per block, period of lease, payment conditions, etc. stipulated in the notifications issued for auction of blocks of ordinary sand. Further, anomalies like allotment to a single qualified bidder, arbitrary revision of minimum bid price after opening bids and allotment of more than one block to one agency in respect of a single advertisement came to our notice (**Annexure C**).

5.2.8.5 Area of blocks exceeded the maximum area prescribed

Rule 14 of GMMCR 2010 (effective from 26 August 2010) restricts the maximum area for grant of lease of ordinary sand to 10 Hectares. But, audit observed that three sand blocks having area exceeding 10 hectares, were put to auction in Surat *vide* Notification of 04 August 2012 without mentioning the reasons for offering areas in excess of the prescribed limit. The excess area included in the auction ranged from 4,707 sq. mtr. to 15,506 sq. mtr.

5.2.8.6 Equal platforms to new and existing lease holders

The proviso below Rule 17(4) of GMMCR 2010 stipulates that if the application for renewal of lease is not disposed of by the competent authority before expiry of lease, the period of lease shall be deemed to have been extended.

Audit observed that as on 31 March 2016, 4,599 quarry lease renewal applications⁶ were pending. The existing quarry lease holders were allowed to extract minerals (sand, black trap and limestone) even after the expiry of the leases, at the original royalty rates, whereas the new leases were to be granted based on highest bids obtained through auction. Unless equal platform is provided to the new and existing lease holders, it would be difficult for the Department to auction the blocks at higher premium.

When this was pointed out, the Department stated (September 2017) that rules for providing equal platform to the new and existing lease holders were framed with effect from May 2017 and all the leases were to be auctioned in a time bound manner. The reply, however, failed to address the macro issues raised by audit. It was silent about the reasons for making frequent changes in the guidelines that had made the auction faulty as a result of which fair competitive bidding could not take place. Besides, the information of the blocks put to auction and the amounts recovered therefrom were not furnished to audit. The Department further stated in September 2017 (in case of grant of sand blocks having areas exceeding 10 hectares) that Government could in any special case and under special circumstances, relax the provisions of the rule. The reply, however, neither indicated the reason for relaxing the provisions nor was it found in Departmental records produced to audit.

⁶ Number of applications for sand blocks was not ascertainable from the information provided by the Department.

Thus, it would be seen from the above that grant of quarry leases lacked transparency and a number of system deficiencies had occurred that could have been avoided had the mineral policy been revised in time which was finally done in May 2017 after a gap of nearly six years.

Management of leases

After grant/ renewal of mining/ quarry leases, the Department was required to ensure that minerals were extracted as per the approved mining plans and conditions attached to the sanction order are fulfilled by the lessees. The deficiencies found in this regard in the 11 test-checked districts are reported below:

5.2.9 Improper/ non- maintenance of registers

As per Section 12 of MMDRA, 1957 read with Mineral Concession Rules, 1960, the Department was required to maintain two set of registers one for registration of applications received and other for recording grant of Reconnaissance Permit (RP), Prospecting License (PL) and Mining Lease (ML).

Audit observed that the office of CGM maintained Registers of applications for RP, PL and ML but had not maintained registers for recording grant of RP, PL and ML. Thus, information relating to the number of RP, PL and ML granted and renewal thereof during the period from 2011-12 to 2015-16 was not furnished to audit, with the result the progress made in issue of the licences/ leases could not be ascertained in audit. These registers serve as an important tool to monitor the processing of applications of various mining operations.

The Department stated (September 2017) that registers of RP, PL and ML are being maintained in the district office. The reply is not correct as the concessions are being issued by the CGM, as such his office was required to maintain the relevant registers. This would have also enabled the CGM office to monitor the concessions.

5.2.10 Delay in processing of lease applications

Rule 63 (A) of MCR, 1960 and Rule 8 of GMMCR, 2010 provide that applications for grant of mining⁷ and quarry leases shall be disposed of within a period of one year and 90 days respectively.

A report called “Annual Review Report” is published by the Department annually. It *inter alia* contains information relating to receipt and disposal of the lease applications received by the Department. Since the Department did not furnish the year wise position of receipt and disposal of applications, in its absence, audit analysed the receipt and disposal of these applications mentioned in the Annual Review Report as under:

⁷ w.e.f. February 2015, applications for major minerals not accepted.

Table: 5.4
Position of pending lease applications

Year	Opening Balance ⁸	Received	Total	Disposal	Percentage <i>vis a vis</i> Total	Pending (closing balance)
2011-12	10,679	12,266	22,945	6,945	30.27	16,000
2012-13	16,000	17,808	33,808	9,722	28.76	24,086
2013-14	24,086	5,308	29,394	7,963	27.09	21,431
2014-15	21,431	3,324	24,755	12,784	51.64	11,971
2015-16	11,971	1,924	13,895	9,146	65.82	4,749

(Source: Statement 6 of yearly review report published by CGM)

It would be seen from the above that the disposal of applications as percentage of total applications pending has been increasing in the year 2013-14 to 2015-16. There were 4,749 applications pending allotment as on 31 March 2016. Of these, 3,543 applications were stated to be pending (March 2016) for want of technical opinion from Revenue, Forest and other departments. Reasons for non-disposal of remaining applications were not furnished.

When this was pointed out, the Department stated (September 2017) that the Mining Industry was facing challenges due to numerous clearances to be taken i.e. Revenue opinion, Forest opinion, Environmental Clearance, etc. and various procedures need to be completed such as stamp duty, land measurement, land allotment process, etc. It further stated that the Department had adopted e-auction process for major minerals and similar process was being developed for minor minerals.

5.2.10.1 Case study showing inordinate delay in processing of application

GMDC applied (May 1991) for grant of mining lease of lignite in an area measuring 2,826.28 hectares⁹. The proposal was submitted by the Department to Ministry of Coal (MoC), New Delhi in September 1992, with recommendations for grant of lease only on Government waste and *gauchar* land measuring 1,501.06 hectares after deducting private land, quarry leases already granted and forest land. MoC gave the concurrence (October 1994) and LoI was issued for 1,501 hectares in May 1995. However, GMDC again requested (September 2005) to grant lease of total land measuring 2,186.76 hectares and stated that continuous scientific lignite mining cannot be undertaken unless remaining areas are included in the mining lease. MoC gave approval in September 2009. Thereafter, the Department issued a revised LoI (December 2009) for land measuring 2,186.76 hectares to GMDC. The Department finally sanctioned grant of mining lease on 2,186.76 hectares land to GMDC in January 2014.

⁸ the closing balance of pending cases at the end of previous year did not tally with opening balance of pending cases at the beginning of next year except for 2012-13, the same has been adjusted

⁹ in the villages Umarsar, Pranpur, Guneri and Chhugar of Tal-Lakhat, District Kachchh

Thus, the Department granted (January 2014) 2,186.76 hectares land to GMDC for a period of 20 years, i.e. after a delay of four years from the date of approval by MoC and eight years after the receipt of initial request of GMDC for grant of lease for entire land. This delay could have been avoided had a time limit been prescribed for each stage of grant. The delay resulted in loss of dead rent of ₹ 33.52 lakh (September 2009 to December 2013).

The Department needs to strengthen its control mechanism to ensure that a time bound approach for grant of mineral concessions is adopted and may consider prescribing a time limit for each level involved in sanction of the leases in the interest of revenue and compliance with extant regulations.

5.2.11 Deemed extension of mining leases

Section 8A(5) and 8A(6) of MMDRAA, 2015 stipulate that the period of lease granted before the date of its commencement shall be deemed to have been extended upto a period ending on 31 March 2030 for captive mines and upto 31 March 2020 where mineral is used for other than captive purpose or a period of 50 years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.

As per the information furnished by three District Geologists¹⁰ 167 mining leases of Limestone, Bauxite and Lignite existed as on 31 March 2015. All the leases were required to be extended upto March 2020/ March 2030 as per the provisions of the Act, *ibid*. The check lists of all the leases were prepared and sent to the Department by District Geologists. Audit scrutiny revealed that formal approval of extension was given in only two cases while the remaining were pending with the Department. Though, differential stamp duty is leviable for the extended period of lease, no specific orders/ instructions were issued for its recovery.

Out of total 167 leases, the lease period of 111 leases had expired between 1987 to 2015. Nineteen leases were pending for renewal for more than 20 years and 72 leases were pending for renewal for 10 to 20 years. While 20 leases were pending for renewal upto 10 years. These leases required renewal prior to the promulgation of MMDRAA, 2015. Thus, Department neither renewed the leases as per the erstwhile provisions nor extended the leases as per the MMDRAA, 2015.

When this was pointed out, the Department stated that stamp duty in case of extended period of lease would be decided soon. Further, while quoting the provisions of Section 8A(5) and 8A(6), the Department stated that question of renewal of leases does not exist after passing of MMDRAA, 2015. However, the Department gave formal approval in the case of two out of the 167 lessees. Also, in the absence of a renewal lease agreements the amount of Stamp Duty could not be ascertained despite a lapse of two years from the date of promulgation of the Act.

¹⁰ Junagadh, Kachchh and Porbandar

5.2.12 Non-cancellation of lease

In two offices¹¹ out of 11 selected offices, audit noticed that the Geologists had found breach of conditions resulting in irregular mining in respect of seven lease holders of limestone. They had recommended (between March 2013 and October 2015) for cancellation of their leases in terms of Rule 27(5) that prescribed determination of lease in such cases. CGM forwarded the cases to IMD. The leases have not been cancelled even after lapse of two to four years (**Annexure D**). No reason for non-cancellation of the leases was furnished to audit (September 2017).

5.2.13 Delay in prescribing rates of royalty and dead rent on re-classification of major minerals as minor minerals

As per Rule 21 of GMMCR, 2010, the holder of quarry lease or any other mineral concessions granted under these rules shall pay royalty as specified in Schedule-1 and yearly dead rent as specified in Schedule-2. Government of India, Ministry of Mines *vide* Notification dated 10 February 2015 declared 31 major minerals as minor minerals. The Department prescribed the rates for levy of royalty and dead rent on the above 31 re-classified minerals only on 18 June 2016, i.e. after a delay of more than one year and four months.

5.2.13.1 Royalty on these 31 major minerals for the interim period from 10 February 2015 to 17 June 2016 was levied by treating them as major minerals at the rates published by IBM for the month of February 2015¹².

In two District Geologists¹³, in case of eight¹⁴ re-classified minerals, rates of royalty fixed by the Government on 18 June 2016 were higher than the rates at which royalty had been actually recovered for the interim period from February 2015 to June 2016. Delay in revision of royalty in these cases resulted in foregoing of royalty of ₹ 34.56 crore.

5.2.13.2 The Government of India fixed the rate of dead rent on major minerals ranging between ₹ 400 and ₹ 2,000 per hectare in September 2014. The GoG revised these rates in respect of the re-classified minerals to ₹ 3 per sq. mtr. from June 2016 onwards. No instructions were issued by CGM regarding rate of dead rent of reclassified minerals for the interim period.

In three District Geologists¹⁵, in case of 54 leaseholders of seven re-classified minerals¹⁶, dead rent of ₹ 8.08 lakh for the period from 10 February 2015 to 17 June 2016 was recovered by treating the minerals as major minerals. Had the Department fixed the rates in time, it could have earned total revenue of

¹¹ Kachchh and Porbandar

¹² IBM did not publish the rates of these minerals for the subsequent period as these minerals were declared as minor minerals.

¹³ Kachchh and Porbandar

¹⁴ Ball clay, Chalk, China clay, Clay others (Pozzolanic clay), Fire clay, Kaolin (white clay), Laterite and Silica sand.

¹⁵ Chhota Udepur, Kachchh and Porbandar

¹⁶ Ball clay, Chalk, China clay/ white clay, Dolomite, Fire clay/ Pozzolanic, Laterite and Silica sand

₹ 1.21 crore. Delay in fixation of rates of dead rent resulted in foregoing of revenue of ₹ 1.13 crore.

The Department stated (September 2017) that last published rate of royalty and dead rent for major minerals was considered by the State Government till new rates were published. Hence the same shall not be considered as loss of revenue.

The reply however, did not mention the reasons for delay in fixation of the rates on re-classification of minerals by more than one year and four months. The delay in prescribing the rates on re-classification of minerals deprived the Government revenue of ₹ 1.13 crore in three districts alone.

5.2.14 Non-compliance with conditions attached to leases

The deficiencies in compliance with conditions attached to quarry/ mining leases observed in audit in the sampled districts were as follows:

Table 5.5
Non compliance

Sl. No.	Condition	Audit observation
1	Submission of mining plans Rule 3N of GMMCAR, 2015 stipulates that every lease holder shall carry out mining operations for minor minerals in accordance with approved mining plan. The Department delegated (June 2015) powers to approve mining plans of minor minerals to District Geologist.	Audit observed that in nine ¹⁷ District Geologist offices, as against total of 800 lessees, mining plans were submitted by 378 lessees and 422 lease holders did not submit mining plan. Further, only 73 mining plans were approved in six offices ¹⁸ . The remaining lessees were conducting their mining operations without approved mining plans.
2	Submission of financial assurances Rule 3K of GMMCAR, 2015 provides for recovery of financial assurance at the rate of ₹ 50,000 per hectare subject to minimum of ₹ one lakh. Further, as per Rule 3K (5) the financial assurance can be forfeited in the event of non-reclamation of land as per Mine Closure Plan.	As per the information furnished by selected 11 District Geologist offices, audit observed that out of 3,017 cases of quarry leases in 1,182 cases, financial assurances amounting to ₹ 18.57 crore had not been obtained (March 2016).
3	Delay in execution of lease deed	In District Geologist office, Banaskantha, in seven cases the lease

¹⁷ Ahmedabad, Banaskantha, Jamnagar, Junagadh, Kachchh, Kheda, Mehsana, Porbandar and Surat

¹⁸ Banaskantha, Jamnagar, Junagadh, Kachchh, Kheda and Mehsana

Sl. No.	Condition	Audit observation
	<p>Rule 10(2) of GMMCR, 2010 stipulates that where a quarry lease (QL) is granted, the requisite lease deed shall be executed within three months of the date of order sanctioning the lease and if no such deed is executed within the said period, an order granting the lease shall be deemed to have been revoked. Competent authority can condone delay in execution of lease deed for period from three months upto one year. In case of delay exceeding one year from date of sanction of lease, the matter has to be referred to the Government.</p>	<p>deeds were executed after three months from the date of grant of lease¹⁹. The District Geologist accepted the lease deeds executed after expiry of three months. It included one lease deed executed after one year from date of grant of lease. The details of condonation of delay by the competent authority/ Government were not available on record.</p> <p>District Geologist, Banaskantha stated (April 2017) that reply would be furnished after scrutiny of records.</p>
4	<p>Execution of lease deeds for period more than granted</p> <p>Rule 17(4) of GMMCR, 2010 stipulates that application for renewal of quarry lease shall be presented at least 180 days before the expiry of the lease to the competent authority. Provided that any such application may be admitted after the expiry of stipulated period, if the competent authority is satisfied that the applicant had just and sufficient cause for not presenting the application within such period. Provided further that in no case, the application made after the expiry of the lease shall be entertained.</p>	<p>In District Geologist office, Kachchh, two leases of bentonite were initially granted (January 2008) for a period of five years, but lease agreements were erroneously executed (March 2008) for a period of 10 years. The lease holders had also not submitted renewal applications within time. The Department noticed the mistake only in April 2014 and locked the ATR²⁰ Pass Account(s). But, the leaseholders had already excavated 7,234 MT minerals unauthorisedly during the period from January 2013 to April 2014 (after payment of royalty of ₹ 18.09 lakh).</p>
5	<p>Idle leases (major minerals)</p> <p>Under Section 4 (4) of the MMDRA, 1957, where the holder of the mining lease fails to undertake mining operations for a period of two years after the date of execution of the lease deed or having commenced mining</p>	<p>In the District Geologist office, Chhota Udepur, the Gujarat Mineral Development Corporation (GMDC) was granted (July 1964) mining lease²¹ of major mineral 'fluorspar'²². Audit observed from the statement of production and dispatch that no excavation had been done from 2011-12</p>

¹⁹ With delays ranging between 18 and 315 days

²⁰ All Time Royalty Pass

²¹ on a land measuring 31.20 hectare, situated at S. No. 40, Village Ambadungar, Taluka-Kwant

²² Fluorspar (CaF₂) is an important industrial mineral used in a wide variety of chemical, metallurgical and ceramic processes or to make ornamental objects.

Sl. No.	Condition	Audit observation
	operations, has discontinued the same for a period of two years, the lease shall lapse on the expiry of the period of two years from the date of execution of lease deed or, as the case may be, discontinuance of mining operations.	to 2015-16. Last excavation of minerals was done in the year 2010-11 ²³ The closing stock of 83,188 MT of mineral was lying undisposed. Thus, the lease remained idle for five years. The Department did not take any action for termination of lease. This also resulted in blockage of revenue to the tune of ₹ 79.86 lakh ²⁴ in the form of royalty on stock lying with GMDC.
6	Idle leases (minor minerals) Rule 42 of GMMCR, 2010 stipulates that the lease shall be liable to cancel if the lessee ceases to work on the quarry for a continuous period of one year.	In three District Geologists offices ²⁵ , four quarry leases (measuring 17.19 hectares), had not submitted any returns while two quarry leases (measuring 2.47 hectares) had shown nil production in their periodical returns for the last two/ three years. However, the Department did not initiate any action for cancellation of the above mining/ quarry leases. Dead rent of ₹ 39.70 lakh was also not recovered from these lease holders. District Geologist/ Assistant Geologist stated (September 2016 to April 2017) that necessary action would be taken after scrutiny of records.
7	Excavation above the limit of approved mining plan As per Rule 13(1) of MCDR, 1988, every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan. If the mining operations are not carried out in accordance with the mining plan, the Regional Controller, Indian Bureau of Mines (IBM) or the authorised officer may order suspension of all or any of the mining operations. Further, Section 21(5) of the MMDR Act, 1957 envisages that whenever, any	In two District Geologist Offices ²⁶ , in eight mining leases of limestone and bauxite, the lease holders excavated minerals in excess of limits prescribed in the approved mining plan without prior approval of Department. The lease holders had paid the royalty applicable on excess minerals excavated. But, excavation of minerals in excess of limits prescribed in the mining plan was illegal and the Department was required to recover cost of minerals amounting to ₹ 39.44 crore.

²³ It was noticed that 83,188 MT of ‘flourspar’ was held in stock as on 31 March 2016 which was excavated in the year 2009-10 and 2010-11.

²⁴ calculated at the rate of ₹ 96 per MT i. e. royalty per MT levied on the last dispatch of mineral

²⁵ Kachchh, Kheda and Surat

²⁶ Jamnagar and Porbandar

Sl. No.	Condition	Audit observation
	<p>person raises without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof along with royalty.</p>	
8	<p>Contribution towards District Mineral Foundation (DMF)</p> <p>Section 9B of the MMRD Act (as amended on 12 January 2015) stipulated that in any district affected by mining related operations, the State Government shall, by notification, establish a trust, as a non-profit body, to be called the District Mineral Foundation (DMF). Section 15A of the Act empowered the state Government to collect funds for the DMF in case of Minor minerals.</p> <p>Government of Gujarat, however, framed Gujarat District Mineral Foundation (DMF) Rules to regulate the composition, functions and manner of working of leases of minor minerals in April 2016. These Rules were deemed to have been come into force from 12 January 2015. As per the notification dated September 2016, ten <i>per cent</i> of the royalty was payable by each lease holder of the minor minerals with retrospective effect from January 2015.</p>	<p>Audit observed that that though the MMRD Act was amended on 12 January 2015, Rules for DMF were framed in April 2016 while notification specifying the rates in modification of the DMF Rules were issued in September 2016 which was late by more than one year eight months and issued with retrospective effect from 12 January 2015. This had delayed the process of collection of DMF. As per the information furnished by the CGM an amount of ₹ 25.45 crore was recovered from quarry lease out of ₹ 106.99 crore payable by the lease holders from April 2014 to February 2017. Year wise details of the recoveries, reasons for delay in issue of notification and with retrospective effect, though called for were not furnished to audit.</p> <p>The Government may consider taking speedy action for recovery of the amounts from the lease holders as with the passage of time the chances of its recovery become difficult.</p>

The Department may ensure that instances of breach of conditions of leases are detected and rectified in time.

5.2.15 Pendency of appeal cases

Rule 11(1)(a) of Gujarat Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules 2005 stipulates that any person aggrieved by an assessment order issued under these rules, may within 30 days from date of communication of such order to him, file an appeal against such order to the Additional Director (Appeal).

As per the information furnished by CGM, during the years 2011 to 2016, out of 1,321 appeal cases, 835 appeal cases were disposed of and 486 cases were pending for want of decision.

Further, as per instructions issued (December 2014) District Collectors are required to issue final orders on remand cases within 45 days from their receipt. Audit noticed that in five remand cases the District Collector, Kachchh issued final orders with delays ranging between three and 27 months.

The Department stated (September 2017) that action is being taken for disposal of pending appeal cases.

5.2.16 Analysis of Data obtained from Integrated Lease Management System (ILMS)

CGM furnished dump data containing all the details relating to the mining operations in the State. However, it did not intimate whether it had made use of the data at any stage to ensure that mining operations were carried out smoothly. Audit analysed the data and found out a few irregularities that required departmental action. These are illustrated below:

5.2.16.1 Non registration of lease holders under VAT Act

Section 7 of Gujarat Value Added Tax stipulates that subject to the provisions of this Act, there shall be levied tax on the turnover of sales of goods specified in Schedule II. Under entry 51 of Schedule II of GVAT Act “Mineral or Ores” attracts tax at the rate of 5 *per cent* including one *per cent* additional tax.

During analysis of dump data of ILMS received from CGM for the period from 2011-12 to 2015-16, audit found that there were 14,032²⁷ Mining/Quarry lease holders in the State. Out of the above lessees, PAN number was mentioned in case of only 2,906 lessees. This was compared with dump data of *eVATIS* collected from Commercial Tax Department (CTD).

On cross verification of the PAN details of the lessees with the dump data provided by CTD, audit found that PAN details of 1,183 lessees were not found in the data of CTD. The lease holders’ data was forwarded to the CTD for verification and confirmation of their registration with the Department.

The CTD intimated (June 2017) that 862 lease holders were not registered under VAT Act and TIN of three lease holders had been cancelled. The details of the production made by lessees was checked with the CGM data and it was found that 683 lessees had shown extraction during the period 2011-12 to 2016-17.

²⁷ These are actually entries and our para is based on entries of this dump data.

Table: 5.6
Non registration of lease holders under VAT Act

Sl. No	Particulars	No. of lease holders
1	Name of holders did not match with the name in PAN	365
2	PAN number shown as invalid number	10
3	Name of lease holders matched with the name in PAN	308

Further analysis of CGM data revealed that 609 lease holders out of 683 had produced 59.93 million MT of mineral valued at ₹ 645.88 crore²⁸ during the period from 2011-12 to 2016-17. This resulted in evasion of VAT to the tune of ₹ 31.12 crore²⁹ in the last six years from 2011-12 to 2016-17

Further, in absence of PAN details of 11,126 lease holders audit could not verify their registration in CTD.

The matter has been reported to CGM and CTD in July 2017. The CGM intimated (September 2017) that details of 11,126 lease holders was being obtained from field offices and would be provided to audit. The CTD had not intimated the action taken by them on this account.

5.2.16.2 Analysis of dump data provided by CGM revealed that 63 mining leases and 91 quarry leases had discontinued their mining work more than two years earlier. The Department needs to verify the cases and terminate their leases, if these have remained idle for more than two years.

5.2.16.3 Analysis of dump data of CGM revealed that in 223 cases, the Public Works Department of the State Government furnished the complete details such as material consumption statement to the concerned District Geologist, but verification of payment of royalty in respect of minerals used was pending with the IMD. The fact needs to be verified by the Department and necessary action taken accordingly

5.2.16.4 Transit Pass is an authorization slip issued under Rule 3 of Gujarat Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005 to a vehicle owner for transportation of minerals. Analysis of dump data of CGM revealed that 536 transit passes were issued without vehicle numbers. In the absence of valid vehicle numbers, it is difficult to establish the identity of the purchaser and genuineness of delivery challan.

²⁸ calculated on mineral value per MT as prescribed vide CGM letter dated 18 November 2009

²⁹ VAT calculated at the rate of five *per cent* on mineral value excluding the lease holders whose production value was less than ₹ five lakh, as they are not liable to be registered under GVAT Act.

Detection and curbing of illegal mining

Rule 13(2) of Gujarat (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005 stipulates that whenever any person raise, transport or store or cause to be raised or transported or stored without any lawful authority, the State Government may recover from such person the mineral so raised, or transported or stored and where such mineral has already been disposed of, the price thereof and may also recover from such person rent, royalty or tax as the case may be. Deficiencies noticed in detection and curbing of illegal mining are discussed in the following paragraphs:

5.2.17 Inadequate inspection of leases

Gujarat State Mineral Policy, 2003 stipulated that every lease shall be inspected once in a year to ensure implementation of terms and conditions of lease deeds. There is no system of monitoring the timely inspection of leases and action taken reports on the inspections conducted at the apex level.

The number of inspections to be carried out, actually conducted and percentage of shortfall in 10 offices³⁰ during five years is shown in the table below.

Table: 5.7
Shortfall in inspection of leases

Year	No. of mining/ quarry leases	No. of inspections done	No. of inspections pending	Percentage of shortfall
2011-12	3,254	330	2,924	89.86
2012-13	3,379	599	2,780	82.27
2013-14	2,926	689	2,237	76.45
2014-15	3,169	697	2,472	78.01
2015-16	3,133	807	2,326	74.24

(Source: Information furnished by the District Geologists)

The percentage of shortfall in inspections ranged from 74.24 to 89.86. In absence of adequate inspection of leases, the Department was unable to control the mining activities of the lessees. During the course of audit, audit found that in six District Geologist offices, in 20 cases of illegal mining, recovery of ₹ 24.57 crore is outstanding due to inadequate action by the Department (**Annexure E**). An examination of the cases indicated that some of these could have been prevented with more concurrent inspections and also there was inadequate follow-up action for recovery of ₹ 24.57 crore.

The illegal mining activities mentioned at Annexure E which came to light during course of audit could have been prevented had timely inspections been conducted. In these cases, there was lack of follow-up action for recovery of dues raised by the Department on account of illegal mining.

³⁰ Ahmedabad, Banaskantha, Chhota Udepur, Jamnagar, Junagadh, Kachchh, Mehsana, Navsari, Porbandar and Surat. The information in respect of Kheda is awaited (September 2017).

The concerned Geologists/ Assistant Geologists stated (August 2016 to April 2017) that due to shortage of staff, inspections of mines could not be completed.

The Government may consider putting up a system for monitoring the timely inspection of leases and for ensuring timely action on the deficiencies noticed during inspections. This may be in the form of periodic report/ return to be furnished by the Geologist to the higher authorities.

5.2.18 Illegal excavation after expiry of lease period

Rule 17(4) of GMMCR, 2010 stipulates that application for renewal of quarry lease shall be presented at least 180 days before the expiry of the lease to the competent authority provided further that in no case, the application made after the expiry of the lease shall be entertained. Notification of March 2010 stipulates that no royalty passbooks/ Delivery Challan should be issued to any lessee in case of breach of any condition of lease deed.

In two District Geologist offices³¹, in case of five quarry leases of ordinary sand and Bentonite, the lease holders submitted renewal application after expiry of lease period. Therefore, the District Geologist did not entertain the applications of renewal. However, he did not lock the All Time Royalty Pass Accounts (ATR) of these lease holders immediately after the date of expiry of lease. These lease holders continued to generate royalty pass after payment of royalty and excavated 58,674 MT minerals even after expiry of leases. Thus, the mineral excavated by the lessee was unauthorized and cost of mineral amounting to ₹ 49.33 lakh was recoverable from the lessees. The District Geologist failed to initiate any action against the lessees for illegal excavation of mineral and recovery of cost of minerals.

When this was pointed out, the concerned Geologists accepted the audit observation and stated (October 2016 and April 2017) that the amount would be recovered.

5.2.19 Role of flying squad

Flying Squad working under the control of CGM has been entrusted with the work of detection of illegal excavation/ transportation of minerals in the State. The squad acts on the basis of grievances/complaints received by CGM. Similarly, the flying squad working under the control of District Geologist checks illegal excavation/ transportation and collects the cost of mineral with penalty. The number³² of illegal cases detected by the Department had increased (103 *per cent*) from 3,760 (in 2011-12) to 7,622 in 2015-16. Out of 28,321 cases of illegal excavation/ transportation detected by the Department from 2011-2016, only 987 cases (3.5 *per cent*) were detected by the flying squad (**Annexure F**).

³¹ Banaskantha and Kachchh

³² Annual review report furnished by the CGM

5.2.20 Mining Surveillance System (MSS)

5.2.20.1 Surveillance for Major Minerals

The Mining Surveillance System (MSS) launched (October 2016) by the Ministry of Mines, Government of India captures incidences of illegal mining of major minerals within 500 meter zone of mining leases in the form of triggers. The system detected 32 triggers in the State of Gujarat and the same was conveyed (October 2016) to the CGM for verification within 7 days. Out of 32 triggers, the Department verified and confirmed illegal mining in 12 triggers. These 12 triggers also included three triggers, where illegal mining were already detected by the Department.

However, the Department did not initiate any action against the offences committed (September 2017).

5.2.20.2 Surveillance for Minor Minerals

As per Ministry of Mines, Government of India's directives (October 2016), the State Government was also required to implement the MSS for curbing illegal mining in case of minor minerals. The digitisation of all the details of minor mineral leases was to be done through the State Remote Sensing Centers by December 2016. Details of progress in this regard were not furnished by the Department (May 2017).

When this was pointed out, Department stated (September 2017) that MSS was being implemented in five districts as a pilot project.

The Department may expedite the implementation of MSS for minor minerals for effective curbing of illegal mining.

5.2.21 Check post and weighbridge

Section 23C of the MMDRA, 1957 provides that the State Government may establish check posts and weighbridges for checking of minerals in transit and maintain registers and forms.

CGM created (January 2016) seven temporary check posts³³ in the State. As per instructions, three persons were required to be posted in each check post to work in shift basis in a day. Two policemen per shift should accompany the persons working in check post.

Test check of working of check posts under four District Geologists³⁴ revealed the following irregularities:

- (i) The check posts were working in makeshift structures with no provision for drinking water or electricity.

³³ Bagodara (Ahmedabad), Chiloda (Gandhinagar), Dhamsiya (Chhota Udepur), Dwarka-Okha Road (Devbhumi Dwarka), Kim (Surat), Miyani (Devbhumi Dwarka) and Samkhiyali (Kachchh)

³⁴ Ahmedabad, Chhota Udepur, Kachchh and Surat

	
<p>Check Post, Samakhyali, Kachchh District</p>	<p>Check Post, Kim, Surat</p>
	
<p>Check Post, Dhamsia, Chota Udepur</p>	<p>Check Post, Bagodara Ahmedabad</p>

- (ii) Policemen did not accompany the officials of the Department except in Surat District.
- (iii) There were no adjoining weighbridges. It was stated that check post was left unmanned in case, an overload vehicle/ vehicle transporting minerals illegally was required to be taken to a distant weigh bridge
- (iv) Details of vehicles, royalty pass numbers, etc. were being entered manually and no computer system was provided. Royalty passes have bar codes and computer system along with a bar code reader would have been helpful in capturing the data of royalty passes for verification, analysis and review.
- (v) Check post officials enter the detail of illegal transportation/ overload of minerals in receipts and submit to District Geologist Office for levying penalty. Audit observed that the receipt books used by the check post were not serially numbered.

Absence of adequate infrastructure along with technical assistance hinders the effectiveness of the check posts in checking illegal mining.

When this was pointed out, Department stated (September 2017) that efforts are being made to develop the infrastructural facilities and use of computerized technique for checking of royalty pass and this would be completed by December 2017.

The Government may expedite establishment of computerized check posts with adjoining weighbridges, manned by adequate number of persons for more effective curbing of illegal mining.

Environmental Issues

5.2.22 Protection of Environment

5.2.22.1 Applications for Environmental clearance

Ministry of Environment and Forest (MOEF) *vide* Notification of September 2006 (amended in January and December 2009) had stipulated that mining projects with lease area of five hectares and above are required to obtain prior environmental clearance. In May 2012, MOEF directed³⁵ that all mining projects irrespective of their area were required to obtain prior environmental clearance. Leases with area up to 50 hectares would be considered by respective State Level Environment Impact Assessment Authority (SEIAA). Further, as per Notification dated 15 January 2016, all mining projects with lease area upto five hectares would be considered by respective District Level Environment Impact Assessment Authority (DEIAA).

As per the information furnished by 10³⁶ selected District Geologist offices, audit observed that out of total 3,448 applications received (between May 2014 and March 2017) for grant of environment clearance, 1,561 applications remain pending (45 *per cent*) for clearance by SEIAA/ DEIAA. The Department allowed the continuance of leases without the environment clearance.

When this was pointed out, Department stated (September 2017) that SEIAA and DEIAA are two independent entities; CGM shall not interfere in their jurisdiction. The reply indicates lack of co-ordination between the concerned authorities that led to permitting mining operations without environment clearance.

5.2.22.2 Excavation of mineral even after rejection of environmental clearance

In District Geologist office, Kachchh, audit noticed that out of 40 proposals (pertaining to ordinary sand and black trap) for grant of Environmental Clearance Certificate (ECC); the SEIAA had rejected (January 2016) four proposals (three of ordinary sand and one of black trap). Thereafter, the Department locked (March and April 2016) their ATR Pass Accounts. These leases were required to be cancelled immediately after the rejection of ECC by the SEIAA. However, out of these four cases, in two cases of ordinary sand, ATR Pass Accounts were permitted to be re-opened (April and May 2016) by the Collector, Kachchh irregularly on the basis of statement of Gram Panchayat that there is no human settlement within 500 meters of lease area. Such arbitrary action by the Collector not only defeated the very purpose of formation of SEIAA but may also have an adverse impact on the environment. These leases need to be cancelled and value of mineral of

³⁵ After judgment of the Supreme Court of India in the case of *Deepak Kumar Vs. State of Haryana* (AIR 2012 SC 1386) dated 27 February 2012

³⁶ Banaskantha, Chhota Udepur, Jamnagar, Junagadh, Mehsana, Kachchh, Kheda, Navsari, Porbandar and Surat

₹ 48.03 lakh³⁷ dispatched after unlocking of ATR Pass Account recovered from the lessee by considering such excavation of mineral as illegal.

When this was pointed out, the District Geologist, Kachchh stated (April 2017) that necessary action would be taken after scrutiny of records.

5.2.23 Lack of co-ordination with other departments

Illegal mining - detected by Forest Department

Audit noticed that co-ordination with other departments was not adequate for prevention of illegal/unauthorised mining. A few cases are mentioned below:

The Additional Chief Conservator of Forest, Gandhinagar detected 87 cases of illegal mining in nine districts³⁸ during the period 2011-12 to 2015-16. These comprise 23 cases of illegal excavation and 64 cases of illegal transportation. Audit observed that:

- Out of the above 87 cases, the Forest Department had not forwarded 66 cases to concerned District Geologist/ Collector for further necessary action.
- Out of 21 cases forwarded to the CGM/ Concerned District Collector, the Department had recovered penalty of ₹ 0.25 lakh in two cases only and remaining 19 cases were pending with the concerned District Geologists.

In cases of illegal transportation of minerals, penalty of ₹ 13.82 lakh was recoverable. In cases of illegal excavation, audit could not quantify the amount of penalty recoverable for want of details.

No Objection Certificates (NOC) from Forest Department

In case of three limestone mining leases at Jamnagar, the lease holders had initially obtained (December 2010) “No Objection Certificate (NOC)” from the Forest Department with validity of five years.

Audit observed that the lease holders did not renew their NOCs after their expiry in December 2015 but continued their mining operations. One of the lessees had excavated 30,000 MT limestone during January 2016 to March 2017. Excavation of minerals without valid NOC from the Forest Department was irregular and the Department was required to recover cost of minerals amounting to ₹ 79.20 lakh from the lease holder. Details of production of remaining two lessees were not made available by the Department. The Department also did not ensure submission of NOCs after expiry of validity.

³⁷ calculated from 21 April 2016 to March 2017. The lease was in operation till date of Audit (April 2017)

³⁸ Amreli, Chhota Udepur, Dahod, Godhra, Junagadh, Kachchh, Mahisagar, Patan and Vadodara

5.2.24 Extraction of minerals in excess of limits prescribed by various authorities

Under Section 21(4) of the Air (Prevention and Control of Pollution) Act, 1981 and Section 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974, a lessee is required to obtain 'consent to establish' from the Gujarat Pollution Control Board (GPCB), determining quantity of minerals that can be excavated during the prescribed period.

- In CGM office, in case of a lease³⁹ of limestone granted (September 2012) for 30 years, the lease holder had obtained (July 2013) consent to establish (NOC) from GPCB. Audit observed that the lease holder had excavated 18,493 MT mineral (valued at ₹ 48.82 lakh) in excess of the limit prescribed by GPCB during the period 2014-15. The Department had also issued royalty passes without considering the production limit fixed by GPCB, which was irregular.
- In District Geologist office, Kachchh, in case of a lease⁴⁰ of black trap, the lessee had obtained (March 2015) ECC from SEIAA for extraction of 3,000 MT mineral *per annum*. Audit observed that the lessee excavated 6,060 MT mineral (valued at ₹ 9.33 lakh) in excess of the permissible limit between November 2015 and March 2016. Thus, the Department could not ensure that the lessee restricts the quantity of excavation within the limit prescribed by GPCB/ SEIAA.

When this was pointed out, the District Geologist, Kachchh stated that necessary action would be taken after consultation with CGM office and GPCB.

5.2.25 Excavation of mineral within eco-sensitive zone of forest area

Gir wildlife sanctuary is the last abode of Asiatic lions. The Supreme Court order (October 2006) has banned mining in 10 km peripheral around the sanctuary pending clearance of final eco-sensitive zone (ESZ) proposal. Forest and Environment Department vide GR of 01 July 2015 decided that in 10 km peripheral around the sanctuary pending clearance of final eco-sensitive zone (ESZ) proposal, no grant or renewal of mining leases shall be made. However, the GR was silent about the leases which were granted/renewed before July 2015 and were operative in that area.

Audit observed that the Forest Department, with the help of GPS data, had detected 42 cases of excavation within the proposed ESZ and forwarded these to the Mining Department for necessary action. The Department took action in 20 cases involving money value of ₹ 11.29 crore⁴¹ and action on 22 cases was

³⁹ On a land measuring 42,796 sq. mtr. of S.No.113 in Village Budhecha, Taluka Maliya Hatina

⁴⁰ On 49,000 sq. mtr. of land at S.No.155/p Village Sinugra, Taluka Anjar, District Kachchh

⁴¹ Source: Times of India article of 16 March 2017

pending (May 2017). Reasons for non-finalization of cases were not furnished (September 2017).

5.2.26 Revenue Collection

Assessment and levy of royalty, dead rent, etc.

After grant of lease, the Department is required to recover royalty, dead rent, surface rent, etc. as per extent laws and rules. Audit findings in this regard in the test checked 11 districts are given below:

5.2.26.1 Assessment of royalty on lignite

Section 9 of the MMDRA, 1957 stipulates that holder of a mining lease is liable to pay royalty for any mineral removed or consumed by him.

Ministry of Coal, Government of India notified (August 2007) rate of royalty on lignite as ₹ 45 plus two *per cent* of basic pit head price of ROM (run-of-mine) of lignite as reflected in the invoice. These rates were revised in May 2012 as six *per cent ad-valorem* on transfer price of lignite. For calculating royalty on coal and lignite produced from captive mines, the price of coal and lignite shall mean the basic pit head price of ROM coal and lignite, as notified by the Coal India Ltd./ Singareni Collieries Company Ltd./ Neyveli Lignite Corporation, for similar Gross Calorific Value (GCV) of coal or lignite for the mines nearest to that captive mine.

In District Geologist office, Surat, GMDC and Gujarat Industries Power Company Limited (GIPCL), holding leases for mining lignite, pay a lump sum amount at different intervals of time into their account (online) in lieu of royalty. The online web portal was programmed to deduct the royalty at the prevailing rates on the quantity of mineral dispatched. Audit observed that the rate of royalty was not revised in the online web portal as per revised notification of May 2012. The yearly assessment of royalty was also not finalized and balances as per demand registers and virtual account were not reconciled.

An amount of ₹ 7.77 crore was shown to the credit of GMDC in online account instead of actual credit and of ₹ 6.02 crore as per demand and collection register. As a result, an amount of ₹ 1.75 crore remained to be credited to Government account.

Similarly, GIPCL obtained refund of ₹ 62.58 lakh as excess royalty had been deducted from online account by the system by adopting pre-revised rate of royalty instead of current rate.

5.2.26.2 Levy of royalty on bricks manufacturing

The Department fixed (January 2010) lumpsum rate of royalty on the manufacturing of bricks at the rate of ₹ 3,600 per one lakh bricks. The rates were revised (June 2012) from 'Nil' to ₹ 6,500 on the basis of manufacturing capacity.

In three District Geologist offices⁴², audit observed that royalty of ₹ 17.23 lakh was not paid by the 41 bricks manufactures. However, the District Geologists did not issue any demand notices for recovery of the dues. This resulted in non-realisation of revenue of ₹ 17.23 lakh.

When this was pointed out, the concerned Geologist/ Assistant Geologist stated (September 2016 to April 2017) that recovery would be made after scrutiny of cases.

5.2.26.3 Levy of dead rent

Section 9A of MMDRA, 1957 (in case of major minerals) and Rule 21 of GMMCR, 2010 (in case of minor minerals) stipulate that if lease holders do not extract any mineral during the year or royalty paid on removal/ consumption of mineral extracted is less than dead rent payable, they are liable to pay dead rent or difference between dead rent payable and royalty actually paid.

During test check of the Demand and Collection Registers of the offices of District Geologists audit observed in 327 cases of major and minor minerals, dead rent of ₹ 4.13 crore was not recovered or short recovered by the Department (**Annexure G**).

When this was pointed out, the Department recovered an amount of ₹ 19.67 lakh has been recovered in 27 cases. In remaining cases, the Department stated (September 2017) that recovery would be made after scrutiny of cases.

5.2.26.4 Levy of surface rent

Rule 22 of GMMCR, 2010 stipulates that the lessee shall pay surface rent at the rate of ₹ 100 per hectare or at the non-agricultural assessment rate, whichever is higher.

In two District Geologists offices⁴³ for the period 2011-12 to 2015-16, audit noticed that in 142 cases of leases of major/ minor minerals, though the lessees were liable to pay surface rent annually in respect of land occupied or used, the Department did not levy surface rent on area measuring 1.19 crore sq. mtr. This resulted in non-levy of surface rent of ₹ 12.39 lakh.

When this was pointed out, the concerned Geologist/ Assistant Geologist stated (September 2016 to April 2017) that after scrutiny of cases, recovery would be made.

5.2.26.5 Levy of stamp duty

Rule 10(2) of GMMCR, 2010 stipulates that where a quarry lease is granted under Sub-rule 1, the requisite lease deed shall be executed within three months of the date of order sanctioning the lease. As per Section 3 of the

⁴² Ahmedabad, Kheda and Mehsana

⁴³ Chhota Udepur and Kachchh

Gujarat Stamp Act, 1958, any document of lease shall be chargeable to stamp duty of the amount indicated in Article-30 of Schedule I to the Act depending on the term of the lease and average annual rent reserved.

In three District Geologist offices⁴⁴, audit observed in 27 cases that while sanctioning mining leases for a period of 10 to 20 years, lease deeds were executed/ registered on the basis of the proposed production of first year in the application instead of average production as shown in the mining plan. Thus, stamp duty amounting to ₹ 1.36 crore was levied against the leviable amount of ₹ 2.84 crore. This resulted in short levy of stamp duty of ₹ 1.48 crore.

When this was pointed out, the concerned Geologist/ Assistant Geologist stated (September 2016 to April 2017) that the cases would be forwarded to the Dy. Collector (Stamp Duty Valuation Organisation) for levy of proper stamp duty.

5.2.26.6 Levy of Non Agricultural Assessment (NAA)

Section 48 of Gujarat Land Revenue (GLR) Code, 1879 provides for levy of non-agricultural assessment (NAA) on land used for non-agricultural purposes at the rate prescribed by the Government from time to time. Rule 27(d) of the MCR 1960 provides for levy of surface rent on the surface area used for the purposes of mining operations, at the rates not exceeding the land revenue assessable on land.

In two Districts Geologist Offices⁴⁵, in case of five leaseholders⁴⁶, out of total leased area of 25,629.89 hectares, surface rent had been recovered on the area of 11,352.40 hectares actually used for mining purposes in terms of provisions of MCR 1960 and Agricultural Assessment had been recovered on the remaining area of 14,277.49 hectares. Since, the entire Government land was leased for the purpose of mining operations and no portion of the land was used for agriculture purposes, NAA in terms of Section 48 of Gujarat Land Revenue Code on the land measuring 14,277.49 hectares was recoverable. This resulted in non-levy of NAA of ₹ 1.99 crore.

The District Geologist, Kachchh stated (April 2017) that NAA had been recovered at correct rates as per Rule 27 (d) of MCR, 1960 and under provisions of GMMCR, 2010 only for the surface area used for the mining operations. He further stated that as the matter pertains to policy issue, he would refer it to CGM for necessary action. The reply is not tenable because NAA was required to be recovered for the total area leased out for mining purposes (i.e. NA purpose) as per the provisions of GLR Code. The reply of the District Geologist, Porbandar has not been received (September 2017).

⁴⁴ Banaskantha, Kachchh and Navsari

⁴⁵ Kachchh and Porbandar

⁴⁶ Gujarat Mineral Development Corporation, Sanghi Industries Ltd. and ABG Cement Ltd. in Kachchh and Saurashtra Cement Ltd. and Tata Chemicals Ltd. in Porbandar

5.2.27 Computerisation

CGM had appointed (June 2009) a service provider- M/s. (n)Code Solutions⁴⁷ for implementation of Integrated Lease Management System (ILMS). The Service Provider had developed an integrated Web Portal <http://www.geomining.gujarat.gov.in> called as Integrated Lease Management System (ILMS). The portal contained various application modules such as e-payment, all time royalty (ATR) pass, e-return and others for use by all the stakeholders viz. Department, CGM, District Geologists, Leaseholders and Stockists. The primary aim of the portal was to replace the traditional manual processes by a web-based application which is faster and more efficient than former.

Audit observed that computerisation was not fully implemented and various processes are still done manually. Audit test-checked the computerised records in six District Geologist offices⁴⁸ and noticed following discrepancies:

- (i) The portal had provision for maintenance of computerised Demand and Collection register, but in five District Geologists, Demand and Collection registers have been maintained manually.
- (ii) There was no provision for calculation of Dead Rent payable by the lessee. Further, there was no provision to compare the dead rent payable in a year with the total royalty paid in that year and levy the difference.
- (iii) There was no provision for calculation of Surface Rent. Although, e- payment module reflects surface rent wherever paid, the web portal has no system to determine the surface rent payable, paid and balance outstanding/ carried forward, if any.
- (iv) There was no provision for calculation of interest on the delayed payment of dead rent/ surface rent. Therefore, interest wherever payable was calculated manually.
- (v) There was no provision in the portal to link the mining operations of the lease holder with approved mining plan and subsequent changes therein. Thus, it was not possible to compare the planned quantity of production with the actual production.
- (vi) In cases of payment of royalty on Lignite at District Geologist, Surat, two lease holders⁴⁹ had paid lumpsum amount in lieu of royalty. But, there was no provision for auto adjustment of deductions of royalty based on changes in rates of royalty. The rates of royalty of major minerals were not revised in the portal simultaneously with Notification of 10 May 2012.

⁴⁷ a division of Gujarat Narmada Valley Fertilizers and Chemicals Limited (GNFC)– a Joint Sector Enterprise promoted by the Government of Gujarat

⁴⁸ Ahmedabad, Chhota Udepur, Kachchh, Mehsana, Navsari and Surat

⁴⁹ Gujarat Mineral Development Corporation (GMDC) and Gujarat Industries Power Company Ltd (GIPCL)

- (vii) In District Geologist, Surat, the portal erroneously showed the quantity of minerals dispatched double the actual quantity dispatched as per periodical returns submitted by the leaseholders during the period from November 2015 to December 2016. This discrepancy needs to be rectified immediately.
- (viii) Rates of royalty of minor minerals were revised from 18 June 2016. But, the system adopted the revised rates from 1 June 2016 for calculation of royalty.
- (ix) The e-Governance system of the CGM envisaged the above portal for all stake holders of the Geology and Mining. Since, the Department intends to replace the manual process with web-based applications, full time access of the portal to the IA&AD was essential for audit purpose. However, no such access was provided to audit.
- (x) Of the two modules available for e-payment of royalty (e-pay and Cyber Treasury), TCS⁵⁰ from online payments is not deducted in “Cyber Treasury” module.

CGM stated (September 2017) that automation process was being done in a phased manner. Remaining automation of the processes was under development and will be completed soon. He further stated that he has requested IMD and Finance Department for implementation of “SBI e-pay payment gateway” in place of “Cyber Treasury” module. Reply indicates that computerisation processes undertaken since 2009 was done at a very slow pace.

5.2.28 Internal Audit

An independent and effective internal audit/ internal inspection under the direct control of the Head of the Department (Commissioner of Geology and Mining in this case) is essential for ensuring compliance of the provisions of the Acts/ Rules and the Government instructions regarding assessment of revenue, prompt raising of demands, collection and accounting thereof and for overall functioning of the administration effectively, efficiently and economically.

As per the manual of CGM, Internal Audit is required to be conducted annually. Accordingly, for five years, the internal audit of 11 offices should have been conducted at 55 times. However, it was done only 35 occasions for different periods between 2011-12 and 2015-16. Further, out of 671 objections raised during internal audit, 110 objections were pending for settlement (May 2017). Moreover, no internal audit was conducted in three districts *viz.* Chhota Udepur, Mehsana and Navsari during the period covered under audit. Thus, the internal audit conducted by the Department and its follow-up was inadequate.

⁵⁰ As per Section 206C(1C) of the Income Tax Act 1961, the Department is required to deduct Tax collected at Source (TCS) on the amount of royalty collected.

Inadequate internal audit may result in Department remaining unaware of the areas requiring attention and taking steps for improvement. Thus, the Department needs to strengthen its internal audit wing so that all the units are covered and the observations raised by it are settled immediately.

Department stated (September 2017) that internal audit of the remaining districts would be conducted at the earliest.

5.2.29 Conclusions and Recommendations

The PA on “Grant, Levy and Collection of Receipts from Mining Leases” disclosed a number of control deficiencies which had an adverse impact on the management of revenue.

- Gujarat Mineral Policy was framed in 2003. This has not been revised despite the circulation of draft “Model State Mineral Policy, 2010” by the Government of India in 2010. Absence of a revised policy resulted in a number of discrepancies in working out the estimated reserves of the minerals, etc.

The Government/ Department may consider the need for framing a comprehensive mineral policy commensurate to the present requirements for better administration and exploitation of the mineral in a scientific manner.

- The Department had not made any attempt to put minor minerals other than ordinary sand in public domain. No register was prescribed to record the minerals put to auction and record the receipts therefrom. As per the annual review report, 4,749 applications were pending for grant of lease as on 31 March 2016. Out of these, 3,543 applications were pending for want of technical opinion.

The Government may direct the Department to put all the minor minerals in public domain, prescribe a register for monitoring the same and ensure disposal of pending lease applications in a time-bound manner.

- The percentage of yearly inspections was very low. In absence of adequate inspection of leases, the Department was unable to ascertain whether the mining activities were done in accordance with the approved mining plan. Besides, the Department did not have a network to detect illegal mining of minor minerals through surveillance as implemented by Central Government for major minerals.

The Government may consider putting up a system for monitoring the timely inspection of leases and for ensuring timely action on the deficiencies noticed during inspections. This may be in the form of periodic report/ return to be furnished by the Geologist to the higher authorities. In addition, the Department should take prompt steps for implementation of Mining Surveillance System for curbing illegal mining of minor minerals and speedy action on triggers received.

· The Department had not evolved a system of co-ordination with other departments for plugging leakage of revenue, prevention of unauthorized mining, protection of environment/ forests, etc. Besides, the internal audit conducted by the Department was inadequate. Inadequate internal audit may result in Department remaining unaware of the areas requiring attention and taking steps for improvement.

The Department should establish a mechanism for regular co-ordination with other departments. Thus, the Department needs to strengthen its internal audit wing so that all the units are covered and the observations raised by it are settled immediately.

· Out of ₹ 155.28 crore arrears of mining revenue pending as on 31 March 2016, ₹ 51.17 crore and ₹ 22.26 crore were pending for more than 10 years and 20 years respectively.

The State Government may direct the Department to take steps for recovery of these arrears, particularly those that have been outstanding for longer time as with the passage of time, the chances of their collection become remote.

Transport Department

5.3 Non-realisation of motor vehicles tax on transport vehicles

The Gujarat Motor Vehicles Tax (GMVT) Act, 1958 prescribes that owner of contract carriage and goods carriage vehicles are required to pay assessed tax on monthly/half yearly/ yearly basis respectively except for the period where the vehicles are not in use. In case of delay in payment, interest at the rate of one and half *per cent* per month is leviable. If the delay exceeds one month, a penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable. Section 12 of the Act, *ibid*, authorises the Department to recover unpaid tax as arrears of land revenue. Section 12B empowers the Department to detain and keep in custody the vehicles of those owners who defaulted in payment of Government dues.

During test check of the Demand and Collection Registers and VAHAN system of eight taxation authorities⁵¹ between January 2014 and October 2016, audit noticed that operators of 297 omnibuses⁵²/ maxi cabs⁵³, who kept their vehicles for use exclusively as contract carriage and 303 vehicles used for transport of goods had neither paid tax nor filed non-use declarations for various periods between 2010-11 and 2015-16. There was no proper monitoring system to trace such vehicles in default. The Regional Transport Authorities failed to issue demand notices and take recovery action prescribed in the Act which shows weak internal control system in the Department. The Department neither invoked provisions of Section 12 nor took action under

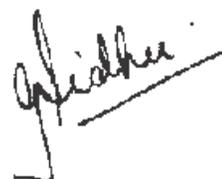
⁵¹ Ahmedabad, Himatnagar, Junagadh, Nadiad, Navsari, Rajkot, Surat and Vadodara

⁵² any motor vehicle constructed or adapted to carry more than six persons excluding the driver

⁵³ any motor vehicle constructed or adapted to carry more than six persons, but not more than 12 passengers excluding the driver, for hire or reward

Section 12B. This resulted in non-realisation of motor vehicles tax amounting to ₹ 2.32 crore. Besides, interest and penalty was also leviable at the rates prescribed in the Act.

Audit pointed out these case to the Department and Government in March 2017. The Department stated (May 2017) that an amount of ₹ 50.64 lakh has been recovered in 59 cases of contract carriages and an amount of ₹ 9.79 lakh has been recovered in 66 cases of goods vehicles. In remaining cases, details of recovery are awaited (September 2017).



Ahmedabad
The 5 March 2018

(GURVEEN SIDHU)
Accountant General
(Economic & Revenue Sector Audit) Gujarat

Countersigned



New Delhi
The 9 March 2018

(RAJIV MEHRISHI)
Comptroller and Auditor General of India

**Annexure A
(Para 4.3.8)**

(Amount in ₹)

Sl. No	Name of District, Taluka, Village	Survey numbers	Corrections approved by SS		Prevailing ASR effective from 18 April 2011		Under/overvaluation	
			Rate of non-irrigation land	Rate of irrigation land	Rate of non-irrigation land	Rate of irrigation land	Rate of non-irrigation land	Rate of irrigation land
1	Bhavnagar, Botad, Samdhiyala No.2	1,2,3,52,53/2,54	102	118	102	71	-	47
	(Rates approved by SS in March 2013)	40/1	108	128	108	71	-	57
		61/2, 61/1, 94, 97	86	102	86	71	-	31
		72, 73	55	71	86	71	-31	-
		62, 74	86	102	86	71	-	31
		64, 65, 69	55	71	103	71	-48	-
		68	103	108	103	71	-	37
		75	86	102	86	71	-	31
		82	103	113	86	71	17	42
		79, 84	103	113	103	71	-	42
		9/1	102	118	102	71	-	47
		9/2	102	118	102	71	-	47
		43	102	118	102	71	-	47
		45/2	55	71	102	71	-47	-
		103	103	118	102	71	1	47
		144/1/4	102	108	102	71	-	37
		144/1	102	118	102	71	-	47
		99	102	118	86	71	16	47
	76	108	118	118	118	-10	-	
2	Surat, City, Singanpor (Rate approved by SS in October 2013)	138/1 TP Scheme 26 FP No.102. 103	6800	7000	-	-	6800	7000

Annexure B
(Para 4.3.9)

Statement showing the absurd rates in the prevailing ASR 2011

Sl. No.	Place	Value zone number / Name of Village	Particulars of rates
1	Atladra, Vadodara	2/20/1, 2/20/1/A, 2/20/2, 2/20/3, 2/20/3/A, 2/20/3/B, 2/20/4	The final plot numbers/ city survey numbers are shown in ASR 2011 as survey numbers in 33 value zones. The incorrect mention of final plot/city survey number as survey number may result in incorrect application of ASR rates and short levy of stamp duty, registration fees, premium for conversion of new tenure land, etc.
	Rajkot -1, Ward-7 Ward-12, Ward-16, Ward 18, Taluka and District Rajkot	7/4/9, 12/0/2, 12/0/3, 12/0/4, 12/0/16, 12/0/19, 16/9/1, 16/9/1/A, 16/9/2, 16/9/3, 16/9/4, 16/9/5/A, 16/9/6, 16/9/6/A, 16/9/7, 18/19/1, 18/19/1/A, 18/19/2, 18/19/2/A, 18/19/3, 18/19/4, 18/24/1, 18/24/2, 18/24/3/A, 18/24/4, RYA/16/1	
2	Rajkot-1, Taluka and district Rajkot	7/4/10, 8/10/3, 11/0/3, 11/6/9, 11/6/9/A, 12/8/8, 12/8/8/A, 18/23/1, 18/23/1/A, 18/23/2, 18/23/3, 18/23/4, 18/24/3/A, 18/24/4, RYA/16/2/A	The rates of agriculture land are at par or higher than the rates of open plot/ office/ shop in 26 value zones in these places
	Taluka and District Jamnagar	(25/0/1, 25/0/1/A, 25/0/2, 25/0/2/A, 25/0/3, 25/0/3/A, 25/0/5, 25/0/5/A, 25/0/6, 25/0/7/A = Kansumara village) (28/0/2 = Naghedi village)	
3	Taluka and District Jamnagar-1 (JMC) and Jamnagar-2 (JADA)	(W-15/11 & W-15/12/A) (W-15/17/A & W-15/11/A) (W-15/3/A & W-15/4/A) (W-A/2/3 & W-A/2/3/A) (W-A/3/2/A & W-A/3/3/A) (W-A-3/4/A & W-A/3/5/A) (W-A/5/1 & W-A/5/2) (W-A/8/4 & W-A/8/4/A) (W-B/3/1/A & W-B/3/2/A) (16/TP2/3 & 16/TP2/3/A)	Some of the survey/ final plot numbers of one value zones gets repeated under another value zone of the same area. Both the value zones bear different rates, thus, making it difficult to ascertain the correct market value.
	Godhra Nagarpalika, Panchmahal District	(W/0/1/A & W/0/2) (W/0/1 & W/0/2/A) (W/0/1/A & W/0/3) (W/0/5/E & W/0/6) (W/0/7/A & W/0/8) (W/0/9 & W/0/9/A) (R/0/17 & R/0/18/A)	
	Taluka Vadodara City, Vadodara District	(16/19/1 & 16/19/1/A) (15/0/1, 15/0/1/A & 15/0/1/C)	
	Jasdan Nagarpalika, Rajkot District	(W/0/21 & W/0/21/A) (W/0/3 & W/0/4) (W/0/8 & W/0/9) (R/0/10 & R/0/10/B)	

Sl. No.	Place	Value zone number / Name of Village	Particulars of rates
	Bardoli and Mandvi Nagarpalika, Surat District	(R/0/10/C & R/0/3, R/0/3 & R/0/3/A, R/0/3/A & R/0/3/B, R/0/3 & R/0/3/B, R/0/7 & R/0/7/A, R/0/7 & R/0/8, R/0/7/A & R/0/8, R/0/10/A & R/0/7/C, T/1/1 & T/1/1/C, T/1/3 & T/2/2/A, T/1/3/A & T/2/2/A, T/1/4 & T/2/2/A, T/1/3 & T/2/2, T/1/1 & T/2/2, T/1/4 & T/2/1, T/1/1/A & T/2/3, T/1/1/A & T/2/4, T/1/3 & T/2/5, T/1/4 & T/2/6, = Bardoli Nagarpalika) (R/0/12/A & R/0/13, R/0/14 & R/0/18= Mandvi Nagarpalika)	
4	Rajkot-1, Taluka and District. Rajkot	18/23/1, 18/23/1/A, 18/23/2, 18/23/3, 18/23/4, 18/19/1, 18/19/1/A, 18/19/2, 18/19/2/A, 18/19/3, 18/19/4, 18/24/1, 18/24/2, 18/24/3/A, 18/24/4	Irrigation land rates were lower than the non-irrigation land rates in 16 value zones and 23 villages.
	Taluka Jasdan, Rajkot District	Village : Devdhari	
	Taluka Bardoli, Surat District	Villages : Hindolia, Allu, Nizar, Pardi Valod, Surali, Ten, Ucharel, Umred, Vankaner	
	Taluka Palsana, Surat District	Villages : Vanzolia, Dhamdod	
	Taluka Shehera, Taluka Halol and Taluka Kalol, District Panchmahal	(Bilitha, Boriyavi, Guneli = Shehera Tal.), (Abhatva, Kanjari, Rameshra, Ranipura, Alindra = Halol Tal.), (Delol, Madvas= Kalol Tal.)	
	Bapod, Taluka and District Vadodara	3/0/1/B	
	Visnagar Taluka, Mehasana District	Village : Basana	
5	Taluka Jasdan, Jetpur, Maliya, District Rajkot	Village :(Atkot= Jasdan Tal), (Virpur = Jetpur Tal.), (Nani Barar = Maliya Tal.)	The commercial land rates were lower than residential rates in 3 villages.
6	Rajkot-I Taluka and District Rajkot	13/0/1/A (NVG), 13/0/1(NVG), 13/0/6/A	The composite rates of offices were higher than the rate of shops in 3 value zones.

Sl. No.	Place	Value zone number / Name of Village	Particulars of rates
7	Taluka Jamnagar City, Taluka and District Jamnagar (1) JMC	W-A/3/4/A, 16/TP2/1	The composite rate of flat/ apartment is higher than or equal to office/ shop rate in 3 value zones.
	Taluka Padra, Padra (Kasba), District Vadodara	89/2/2/A	
8	Taluka Visnagar, District Mehsana	Village : Basana	Wide variations between the cultivable land rates and uncultivable land rates for various survey numbers in 2 villages.
	Taluka Dholka, District Ahmedabad	Village : Koth	
9	Taluka Visnagar, District Mehsana	Village : Basana	Wide variation between the rates of two adjacent survey numbers in many places of 1 village, which reveals that the rates are unreliable.
10	Taluka Dholka, District Ahmedabad	Village : Ambareli	The survey was conducted by two groups and survey forms were submitted by them. One group had submitted the survey forms for sub grid of zone A and the other group had submitted the survey forms of sub grid of zone B. We found that there was huge difference between the rates determined by these groups though both these areas are adjacent to each other. No checking/corrections or re-surveys were carried out even after a lapse of five years from the implementation of ASR.
11	Taluka Lodhika, District Rajkot	Village : Khambha, Balasar,	Rates for National Highway /State Highway/ Main District Roads, etc., was not considered or incorrectly entered in ASR for many survey numbers though the map clearly shows that the survey numbers were getting benefit of the roads. This was noticed for various survey/ block numbers of 10 village areas.

Annexure C
(Para 5.2.8.4)

Name of Geologist/ Assisatnt Geologist	Nature of irregularity	Audit observation
Ahmedabad	allotment to a single qualified bidder	Out of 35 blocks of sand put in public domain for auction, in case of one block, only one bid was received. However, auction was conducted for the said block and lease agreement was also finalized (July 2013) in favour of the lone bidder. In absence of norms of auction, the bid could not be cancelled and was granted in the favour of single bidder.
Kachchh	allotment to a single qualified bidder	In one case, out of three applications received, two applications were disqualified for want of necessary documents and lease was granted (January 2013) to the lone applicant, instead of rebidding.
Mehsana	arbitrary determination of minimum bid price after opening bids	Auction of 19 blocks with minimum bid price of ₹ 12 per MT was conducted (September 2015) and highest bidders with bid amount ranging between ₹ 17 to ₹ 93 per MT for each block were identified. The bids of ₹ 50 or above (royalty plus premium) in four blocks were only accepted for issue of LoI and the auction of remaining blocks was cancelled and it was decided to re-auction it. Subsequently, bids were received for only eight of the remaining 15 blocks and the Department was unable to auction remaining seven blocks due to revising minimum amount for eligibility arbitrarily after conducting auction and after identifying highest bidder. This deprived Government of possible revenue of ₹ 3.09 crore (calculated on the basis of minimum bid price adopted by the Department) for the blocks that remained un-auctioned though qualified bidders were available in the original auction (September 2015).
Kachchh	allotment of more than one block in respect of a single advertisement to one agency	As per the terms and conditions of the e-Auction prescribed (July 2014) by the Department, any individual/ firm, company shall not be allotted more than one block in respect of one particular advertisement. In two cases of Kachchh, two blocks were allotted to one individual in response to a single advertisement.

Annexure D
(Para 5.2.12)
Non cancellation of leases

Sl. No.	Name of Geologist	Name of lease holder	No. of leases	Nature of breach of conditions
1	Kachchh	Kachchh Cenment Pvt. Ltd.	3	Non-payment of dead rent and surface rent, Non-submission of mining plan, Non furnishing of annual returns, Non obtaining Environmental clearance certificate, illegal mining outside the leased area
2	Junagadh	Girnar Cement Ltd.	2	No mining activities since 1995, Non-payment of dead rent and surface rent alongwith interest, Non furnishing of monthly/ annual returns
3	Junagadh	Shri Visabhai s. Timba	1	No mining activities since April 2005, Non-payment of dead rent alongwith interest, Non furnishing of monthly/ annual returns since May 2008
4	Junagadh	Jinabhai B. and Co.	1	No mining activities since last two years, Non-payment of dead rent and surface rent alongwith interest

Annexure E
(Para 5.2.17)

Sl. No.	Name of Geologist/ Assistant Geologist	Audit observation
1	Kheda	<p>During inspection of seven bauxite leases, it was found that 1,50,772 MT bauxite had been illegally excavated from outside the leased areas. Accordingly, the Collector raised (between September 2012 to April 2013) demand of ₹ 9.79 crore for illegal mining. The lessees appealed before the High Court of Gujarat and as per directions¹ of the High Court, the CGM directed (July 2013) the District Geologist to re-measure the leased area in presence of lessee and the District Inspector of Land Records (DILR). However, re-measurement was not done by the Department. Thus, even after lapse of four years, the Department has not re-measured the leased area and could not recover the dues.</p> <p>After this being pointed out, the District Geologist, Kheda stated (October 2016) that after re-measurement of leases, report would be submitted to the Government and action would be taken as per instruction of Government.</p>
2	Kachchh	<p>The Gujarat Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005 (amended in 2010) stipulated that the Department shall not issue the royalty pass, or delivery challan to such lease holders or stockiest who committed violation of rules or breach of any condition of lease deed, until such condition or rule is complied with.</p> <p>In case of a mining lease of limestone granted (November 2011) to a Company for a period of 30 years, the inspection team detected (December 2013) illegal transportation of 245 MT of pozolonic clay with royalty passes of limestone. Further, the inspection team also found (February 2014) that the Company had illegally excavated 40,751.52 MT of pozolonic clay. The Geologist, Kachchh raised (February.2014) demand of penalty (including cost of mineral) of ₹ 28.54 lakh. Aggrieved with the order of Geologist, the lessee appealed (December 2014) to Additional Director (Appeal). The Appellate Authority has not decided the case despite a lapse of three years. The lessee continued to generate royalty passes and excavate from the leased area as the ATR Pass Account was not locked for which no reasons were found on record.</p>
3	Jamnagar	<p>After expiry of period of a quarry lease (10 years) of black trap on Government land admeasuring 6.67 hectare granted to a Company, the lessee applied (February 2012) for surrender of the lease. The Geologist in his inspection (August 2012) found that the lease holder had illegally excavated and dispatched 53,164.64 MT mineral from outside the leased area and raised (January 2013) a demand of ₹ 81.87 lakh. The District Inspector of Land Records (DILR) on request of the Geologist re-measured (December 2013) the area and found that 5,65,972 MT mineral had been illegally excavated by the lease holder from outside the leased area. Accordingly, Geologist raised (July 2015) revised demand of ₹ 8.72 crore. The lease holder did not agree (December 2016) to</p>

¹ The Court directed (July 2013) that the petitioner will submit the relevant documents within three weeks and the matter will be decided by the respondent authority in accordance with law.

		<p>pay the penalty and the Geologist again sought (February 2017) the opinion of DILR which was awaited (May 2017). Thus, even after a lapse of one and half year, after issue of notice, the revenues had not been recovered.</p> <p>After this being pointed out, the Geologist, Jamnagar stated (April 2017) that necessary action would be taken after receipt of clarification from DILR.</p>
4	Banaskantha	<p>In case of three quarry leases granted (April 1990) for excavation of building stone, the District Geologist office during inspection of leases (January 2015) detected illegal excavation of 3,78,537 MT mineral. The District Geologist raised total demand of ₹ 5.83 crore. The DILR opined (April 2015) that during grant of leases, lease areas were incorrectly demarcated. He took up the matter with the Collector to revise the original grant order. However, the Collector levied (August 2016) a penalty of ₹ 58.25 lakh on the quantity of mineral excavated outside the lease area, which was stated to have been wrongly earmarked by the DILR and raised the demand accordingly.</p> <p>Of these, the lessee was allowed to pay the penalty in three installments and was allowed to continue mining operations after payment of one installment while in two cases, recovery was outstanding and their ATR account has been locked.</p>
5	Junagadh	<p>Rule 61 of the GMMCR, 2010 provides for grant of quarry permit (QP). One of the prescribed conditions for QP stipulates that as soon as the removal of the material granted under the permit is over, the permit holder shall furnish to the competent officer a complete statement showing the quantity removed, details of transport and parties to whom this material had been sold, and prices obtained thereof. If any excess quantity over that permitted is found to be removed, the material shall be confiscated and the permit holder shall be liable for punishment under the provisions of Indian Penal Code and the GMMCR, 2010.</p> <p>In two QPs granted to a company (January and May 2013) for excavating black trap, the district inspection team while acting on a complaint of illegal mining found (August 2015) that the QP holder had illegally excavated 2,48,692 MT minerals. The Geologist raised (April 2016) demand of ₹ 4.92 crore.</p> <p>Inspection of quarry permit was required to be conducted after excavation of 90 <i>per cent</i> of the approved quantity of mineral or one year, whichever is earlier. Had the Department conducted the inspection, the illegal removal of minerals could have been prevented.</p> <p>After this being pointed out, the Geologist, Junagadh stated that timely inspection could not be done due to shortage of staff.</p>
6	Porbandar	<p>In District Geologist office, Porbandar, in case of six QPs of ordinary earth for a period of 15 to 30 days between April 2015 and March 2016, the inspection team detected (December 2015 to May 2016) that the QP holders excavated 39,926 MT minerals illegally above the permitted quantity. Audit observed that no action was initiated against the QP holders. The cost of mineral amounted to ₹ 27.26 lakh.</p>

Annexure F
(Para 5.2.19)
Role of Flying Squad

(₹ in crore)

Year	Illegal mining cases detected in the State		Illegal mining detected by District officials		Detected by Flying Squad, Gandhinagar		Illegal mining in selected districts		Percentage of illegal mining in the selected districts vis-a-vis Gujarat State	
	No. of cases	Amount Recovered	No. of cases	Amount Recovered	No. of cases	Amount Recovered	No. of cases	Amount Recovered	Cases	Amount
2011-12	3,760	25.64	3,519	21.82	241	3.82	1,524	12.90	40.53	50.30
2012-13	5,367	33.85	5,156	31.55	211	2.30	2,203	14.39	41.05	42.51
2013-14	5,419	25.54	5,322	24.44	97	1.10	2,165	10.87	39.95	42.54
2014-15	6,153	22.04	5,962	20.69	191	1.35	2,053	8.61	33.37	39.07
2015-16	7,622	34.27	7,375	30.36	247	3.91	3,033	14.43	39.79	42.11
Total	28,321	141.35	27,334	128.87	987	12.48	10,978	61.20	38.76	43.30

(Source Annual Review Report published by CGM)

The number of cases of illegal mining detected in the State has increased gradually every year from 3,760 in the year 2011-12 to 7,622 in the year 2015-16. The amount of penalty recovered ranged between ₹ 22.04 crore (2014-15) to ₹ 34.27 crore (2015-16).

In the selected districts, the total number of cases of illegal mining were 10,978 in the five-year period from 2011-12 to 2015-16. An amount of ₹ 61.20 crore was collected by way of penalty.

**Annexure G
(Para 5.2.26.3)**

Short levy of dead rent in case of Major Minerals

(₹ in lakh)

Name of Geologist/ Assistatnt Geologist	No. of leases	Dead rent		
		Leviable	Levied	Short levy
Chhota Udepur	2	5.43	1.91	3.52
Surat	1	24.20	12.10	12.10
Total	3	29.63	14.01	15.62

Non-levy of dead rent in case of Minor Minerals

(₹ in lakh)

Name of Geologist/ Assistatnt Geologist	No. of leases	Dead rent		
		Leviable	Levied	Short levy
Ahmedabad	5	1.19	0	1.19
Bhuj	8	7.62	0	7.62
Bhuj	62	154.08	0	154.08
Chhota Udepur	31	10.68	0	10.68
Mehsana	20	5.41	0	5.41
Nadiad	13	30.43	0	30.43
Navsari	26	11.51	0	11.51
Palanpur	18	14.86	0	14.86
Porbandar	11	18.01	0	18.01
Himatnagar and Surendranagar	69	113.00	0	113.00
Total	263	366.79	0	366.79

Short levy of dead rent in case of Minor Minerals

(₹ in lakh)

Name of Geologist/ Assistatnt Geologist	No. of leases	Dead rent		
		Leviable	Levied	Short levy
Bhuj	3	7.68	3.38	4.30
Mehsana	16	8.35	1.77	6.58
Nadiad	17	24.49	9.30	15.19
Navsari	21	7.49	3.83	3.66
Palanpur	4	2.03	0.59	1.44
Total	61	50.04	18.87	31.17

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