



सत्यमेव जयते

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



**Government of Punjab
Report No. 2 of the year 2017**

**Report of the
Comptroller and Auditor General of India**

on

Revenue Sector

for the year ended 31 March 2017

Government of Punjab
Report No. 2 of the year 2017

TABLE OF CONTENTS

| Description | Reference to | |
|----------------------------------------------------------------------------|--------------|----------|
| | Paragraphs | Page |
| Preface | -- | v |
| Overview | -- | vii - xi |
| Chapter-I General | | |
| Trend of revenue receipts | 1.1 | 1 |
| Analysis of arrears of revenue | 1.2 | 4 |
| Arrears in assessment | 1.3 | 5 |
| Evasion of tax detected by the Department | 1.4 | 6 |
| Refund Cases | 1.5 | 6 |
| Response of the Government/Departments towards audit | 1.6 | 7 |
| Departmental Audit Committee Meetings | 1.6.2 | 8 |
| Non production of records to audit for scrutiny | 1.6.3 | 9 |
| Response of the Departments to the draft audit paragraphs | 1.6.4 | 10 |
| Follow up on the Audit Reports – summarized position | 1.6.5 | 10 |
| Analysis of the mechanism for dealing with the issues raised by audit | 1.7 | 11 |
| Position of Inspection Reports | 1.7.1 | 11 |
| Recovery of accepted cases | 1.7.2 | 11 |
| Action taken on the recommendations accepted by the Departments/Government | 1.7.3 | 12 |
| Audit planning | 1.8 | 12 |
| Internal Audit | 1.9 | 13 |
| Results of audit | 1.10 | 13 |
| Position of local audit conducted during the year | 1.10.1 | 13 |
| Coverage of this Report | 1.11 | 14 |
| Chapter-II Taxes/VAT on Sales, and Trade | | |
| Tax administration | 2.1 | 15 |
| Results of audit | 2.2 | 15 |
| Irregular allowance of concession of tax | 2.3 | 16 |

| Description | Reference to | |
|--------------------------------------------------------------------------------|--------------|-------|
| | Paragraphs | Page |
| Short reversal of input tax credit on branch transfer | 2.4 | 16 |
| Non-reversal of purchase tax | 2.5 | 17 |
| Short levy of tax due to non-utilisation of Information Collection Centre data | 2.6 | 17 |
| Short reversal of ITC on account of manufacturing of tax free goods | 2.7 | 18 |
| Deliberate alteration of figures to evade taxes | 2.8 | 19 |
| Short retention of Purchase Tax/ITC | 2.9 | 19 |
| Inadmissible allowance of input tax credit | 2.10 | 20 |
| Inadmissible allowance of deduction to works contractor | 2.11 | 21 |
| Non-restriction of input tax credit | 2.12 | 21 |
| Short debit to exemption | 2.13 | 22 |
| Inadmissible allowance of entry tax on furnace oil | 2.14 | 22 |
| Non/Short levy of interest | 2.15 | 23 |
| Chapter-III State Excise | | |
| Tax administration | 3.1 | 25 |
| Results of audit | 3.2 | 25 |
| Performance Audit on “Levy and Collection of Excise Duty” | 3.3 | 25-40 |
| Chapter-IV Stamp Duty | | |
| Tax administration | 4.1 | 41 |
| Results of audit | 4.2 | 41 |
| Misappropriation of Government money | 4.3 | 42 |
| Non levy of Additional Stamp Duty for Social Security Fund | 4.4 | 42 |
| Villages for the purpose of Levying Additional Stamp Duty not specified | 4.5 | 43 |
| Short levy of SD and RF due to misclassification of property | 4.6 | 43 |
| Inadmissible remission of stamp duty and registration fees | 4.7 | 44 |
| Inadmissible remission of additional stamp duty and SIC | 4.8 | 45 |
| Chapter-V Taxes on Vehicles | | |
| Tax Administration | 5.1 | 47 |
| Results of audit | 5.2 | 47 |
| Non/Short realisation of motor vehicle tax | 5.3 | 47 |

| Description | Reference to | |
|-----------------------------------------------------------------------------------------------|--------------|-------|
| | Paragraphs | Page |
| Chapter-VI Forest, Other Tax and Non Tax Receipts | | |
| Tax Administration | 6.1 | 49 |
| Results of audit | 6.2 | 49 |
| Short realisation of marriage registration fee | 6.3 | 50 |
| Levy and collection of Entertainments Tax/Duty and Tax on Luxuries | 6.4 | 51 |
| Introduction | 6.4.1 | 51 |
| A. Entertainment Tax | | |
| Irregular grant of exemption to multiplexes | 6.4.2 | 52 |
| Non-realisation of pending arrears of Entertainment Tax from the cinema owners | 6.4.3 | 54 |
| B. Entertainment Duty | | |
| Loss of revenue due to non-identification of potential taxpayers | 6.4.4 | 55 |
| Non/short recovery of Entertainment Duty from cable operators | 6.4.4.1 | 56 |
| C. Luxury Tax | | |
| Loss of revenue due to non-identification of potential taxpayers | 6.4.5 | 57 |
| Hotel owners registered under Sarai Act but not registered under PLT Act | 6.4.5.1 | 57 |
| Marriage palaces/banquet halls registered under State Excise but not registered under PLT Act | 6.4.5.2 | 58 |
| Short realisation of Luxury Tax from proprietors of hotels/marriage palaces and banquet halls | 6.4.6 | 58 |
| Non verification of returns resulting in loss of revenue | 6.4.7 | 59 |
| Inadmissible exemption of Luxury Tax | 6.4.8 | 60 |
| Non-adherence to the penalty provisions for non/delayed filing of returns | 6.4.9 | 60 |
| Glossary | | 63-64 |

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 Punjab under Article 151 of the Constitution of India.

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

The instances mentioned in this Report are those, which came to notice in the course of test audit done during the period 2016-17 as well as those which came to notice in earlier years, but could not be reported in 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

Overview

This Report contains one performance audit on “**Levy and Collection of Excise Duty**” and 22 paragraphs relating to non/short levy of value added tax/central sales tax, excess refunds in VAT, short deposit of license fee, non/short levy of stamp duty, non/short realisation of motor vehicle tax, short levy of marriage registration fee and non-realisation of entertainment duty involving financial effect of ₹ 336.04 crore.

1. Chapter -I

General

The total receipts of the State Government for the year 2016-17 were ₹ 47,985.42 crore. The Government raised ₹ 33,609.86 crore, comprising tax revenue of ₹ 27,746.66 crore and non-tax revenue of ₹ 5,863.20 crore. The State Government received ₹ 9,599.73 crore as State’s share of divisible Union taxes and ₹ 4,775.83 crore as Grants-in-aid from the Government of India.

(Paragraph 1.1.1)

Test check of the records of 288 units administering Sales Tax/Value Added Tax, State Excise, Taxes on Motor Vehicles, Forest Receipts and other Departmental offices conducted during the year 2016-17 showed under assessment /short levy/loss of revenue aggregating ₹ 518.15 crore in 17,624 cases. The Departments recovered ₹ 9.70 crore in 5,107 cases during 2016-17, out of which ₹ 0.07 crore in 14 cases was for the year 2016-17 and rest in earlier years.

(Paragraph 1.10.1)

2. Chapter -II

Taxes/VAT on Sales, Trade etc.

The designated officer allowed irregular concession of ₹ 26.28 lakh on the basis of a non-genuine ‘C’ form which was not obtained from prescribed authority of the issuing State of Haryana.

(Paragraph 2.3)

In three AETCs, ITC of ₹ 12.58 lakh was reversed against the actual amount of reversal of ₹ 83.98 lakh on branch transfer of ₹ 20.51 crore resulting in short levy of tax of ₹ 71.40 lakh.

(Paragraph 2.4)

Purchase tax was not reversed where product manufactured from Schedule-H goods were sold in the course of interstate trade at concessional rate of tax, resulting in short levy of tax of ₹ 1.78 crore.

(Paragraph 2.5)

In four cases, the designated officers reversed ITC of ₹ 48.86 lakh against the reversible of ITC of ₹ 114.94 lakh on tax free sales resulting in short levy of tax of ₹ 66.08 lakh.

(Paragraph 2.7)

A dealer under AETC Fazilka deliberately altered figures of four 'H' forms and increased the value of the export by ₹ 1.61 crore. The designated officer accepted the altered figures and allowed exemption from tax resulting in short levy of tax of ₹ 6.42 lakh.

(Paragraph 2.8)

In seven cases, purchase tax/ITC of ₹ 26.84 crore was retained by designated officers on closing stock of Schedule-H goods against the actual amount of ₹ 42.64 crore, resulting in short levy of tax of ₹ 15.80 crore.

(Paragraph 2.9)

The designated officer allowed set off of ITC of ₹ 149.88 lakh instead of allowable ITC of ₹ 107.52 lakh brought forward from previous year which resulted in short levy of tax of ₹ 42.36 lakh.

(Paragraph 2.10)

In AETC Kapurthala, the designated officer allowed inadmissible deduction of ₹ 2.01 crore to works contractor on account of material supplied by Government Department resulting in short levy of tax of ₹ 8.02 lakh.

(Paragraph 2.11)

Application of incorrect provision relating to levy of interest in assessment orders by 10 AETCs, resulted in short levy of interest of ₹ 190.28 crore in 38 cases.

(Paragraph 2.15)

3. Chapter -III

State Excise

Performance Audit on "**Levy and collection of Excise Duty**" showed the following:

- There were no timeline or penal provision to ensure payment of license fee within reasonable time by the restaurants holding license L-52. Similarly, there was absence of penal provision for delay in payment of overtime fee.

(Paragraphs 3.3.9.1 and 3.3.9.2)

- There was lack of norms for recovery of alcohol from molasses. Norms for recovery of alcohol from grains, though prescribed, were not implemented.

(Paragraphs 3.3.9.3 and 3.3.9.4)

- Rules to levy duty on quantity of beer produced and norms for allowing wastage over the produced quantity were not prescribed by the Department despite having such intention.

(Paragraph 3.3.9.5)

- Deficiency in system of obtaining surety bond put government revenue of ₹ 46.01 crore at stake.

(Paragraph 3.3.10)

- Cow cess of ₹ 9.72 crore was not recovered despite issue of notification by Department of Local Government, Punjab.

(Paragraph 3.3.11)

- License fee of ₹ 1.10 crore was short realized from one licensee as the sale of beer was not taken into account for arriving at license fee of L-1A license.

(Paragraph 3.3.14)

4. Chapter -IV

Stamp Duty

Non-observance of codal provision resulted in misappropriation of Government money of ₹ 0.30 lakh in the office of Sub-Registrar Mansa.

(Paragraph 4.3)

Failure to comply with the Government instructions resulted in non-levy of additional stamp duty for Social Security Fund amounting to ₹ 10.56 lakh.

(Paragraph 4.4)

The Collector did not specify the names of the villages for the purpose of levy of Additional stamp duty (ASD) after extension of boundaries of Phagwara Corporation due to which the Department could not charge ASD of ₹ 28.87 lakh.

(Paragraph 4.5)

19 SRs/JSRs short levied Stamp Duty and Registration Fee of ₹ 7.71 crore in 57 cases due to misclassification of properties.

(Paragraph 4.6)

Failure of SR in not exercising delegated authority in compliance with the Government instructions resulted in inadmissible remission of Stamp Duty and Registration Fee of ₹ 15.92 lakh.

(Paragraph 4.7)

In 28 instruments, 21 SRs/JSRs allowed inadmissible remission of additional stamp duty for Social Security Fund (SSF) and Social Infrastructure Cess (SIC) of ₹ 76.43 lakh despite having clarification of Government on the contrary.

(Paragraph 4.8)

5. Chapter -V

Taxes on Motor Vehicles

In two RTAs and three DTOs, Motor Vehicle Tax of ₹ 38.68 lakh was short realised from four companies/institutes and two state road transport authorities plying buses in Punjab.

(Paragraph 5.3)

6. Chapter -VI

Forest, Other Tax and Non Tax receipts

Non-application of correct rates resulted into short realisation of marriage registration fee of ₹ 10.76 lakh in 769 cases.

(Paragraph 6.3)

Multiplexes availed exemption of ₹ 38.92 crore without obtaining exemption certificates from the Department.

(Paragraph 6.4.2)

Arrears of ₹ 13.55 crore of Entertainment Tax from Cinema owners were not recovered even after the lapse of more than three years.

(Paragraph 6.4.3)

The Department did not take steps to ensure that all the cable operators, hotels and marriage palaces were brought into the tax net which resulted in non-realisation of potential revenue of ₹ 3.06 crore.

(Paragraphs 6.4.4, 6.4.5.2 and 6.4.6)

Penalty of ₹ 1.88 crore was not levied for non/delayed filing of returns by hotels, marriage palaces and banquet hall owners.

(Paragraph 6.4.9)

Chapter-I

General

CHAPTER-I General

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Punjab, the State's share of net proceeds of divisible Union taxes and duties assigned to States and Grants-in-aid received from the Government of India during the year 2016-17 and the corresponding figures for the preceding four years are depicted below.

Table 1.1.1: Trend of revenue receipts

| (₹ in crore) | | | | | | |
|--------------|-----------------------------------------------------------|------------------|------------------|------------------|------------------|----------------------|
| Sl. No | Particulars | 2012-13 | 2013-14 | 2014-15 | 2015-16 | 2016-17 ¹ |
| 1. | Revenue raised by the State Government | | | | | |
| | Tax revenue | 22,587.56 | 24,079.19 | 25,570.20 | 26,690.49 | 27,746.66 |
| | Non-tax revenue | 2,629.21 | 3,191.50 | 2,879.73 | 2,650.27 | 5,863.20 |
| | Total | 25,216.77 | 27,270.69 | 28,449.93 | 29,340.76 | 33,609.86 |
| 2. | Receipts from the Government of India | | | | | |
| | Share of net proceeds of divisible Union taxes and duties | 4,058.81 | 4,431.47 | 4,702.97 | 8,008.90 | 9,599.73 |
| | Grants-in-aid | 2,775.57 | 3,401.38 | 5,869.95 | 4,173.72 | 4,775.83 |
| | Total | 6,834.38 | 7,832.85 | 10,572.92 | 12,182.62 | 14,375.56 |
| 3. | Total revenue receipts of the State Government (1 and 2) | 32,051.15 | 35,103.54 | 39,022.85 | 41,523.38 | 47,985.42 |
| 4. | Percentage of 1 to 3 | 79 | 78 | 73 | 71 | 70 |

It is observed that during the year 2016-17, the State Government raised (₹ 33,609.86 crore) 70 per cent of the total revenue receipts. Balance 30 per cent of the receipts were from the Government of India as share of net proceeds of divisible Union taxes and duties and Grants-in-aid. The share of State's own revenue decreased from 79 per cent of total receipts in 2012-13 to 70 per cent during 2016-17.

1.1.2 Details of the tax revenue raised vis-à-vis the budget estimates during the period from 2012-13 to 2016-17 are depicted below.

¹ Finance Accounts of the State Government

Table 1.1.2: Details of Tax Revenue raised

| (₹ in crore) | | | | | | | | | | | | |
|--------------|----------------------------------|-------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|---------------------------------------------------------------------------|
| Sl. No | Head of revenue | 2012-13 | | 2013-14 | | 2014-15 | | 2015-16 | | 2016-17 | | Percentage increase (+) or decrease (-) of actual in 2016-17 over 2015-16 |
| | | Budget Estimates ² | Actual | Budget Estimates | Actual | Budget Estimates | Actual | Budget Estimates | Actual | Budget Estimates | Actual | |
| 1 | VAT/ Sales tax/Central sales tax | 14,213.00 | 13,217.93 | 17,760.00 | 14,846.70 | 17,760.00 | 15,455.17 | 17,850.96 | 15,856.64 | 18,150.00 | 17,586.71 | (+)10.91 |
| 2 | State excise | 3,800.00 | 3,331.96 | 4,180.00 | 3,764.72 | 4,600.00 | 4,246.11 | 5,100.00 | 4,796.45 | 5,610.00 | 4,406.00 | (-)8.14 |
| 3 | Stamp duty and registration fees | 3,375.00 | 2,920.49 | 3,450.00 | 2,499.50 | 2,760.00 | 2,474.15 | 2,700.00 | 2,448.98 | 2,700.00 | 2,043.61 | (-)16.55 |
| 4 | Taxes and duties on Electricity | 1,540.00 | 2,035.30 | 1,694.00 | 1,710.46 | 1,860.00 | 1,875.23 | 2,050.41 | 1,967.42 | 2,270.00 | 1,993.01 | (+)1.30 |
| 5 | Taxes on Vehicles | 864.00 | 994.72 | 1,350.00 | 1,145.69 | 1,350.00 | 1,393.32 | 1,500.00 | 1,474.83 | 1,650.00 | 1,548.12 | (+)4.97 |
| 6 | Others ³ | 50.00 | 87.16 | 90.00 | 112.12 | 150.00 | 126.22 | 150.57 | 146.17 | 167.35 | 169.21 | (+)15.76 |
| Total | | 23,842.00 | 22,587.56 | 28,524.00 | 24,079.19 | 28,480.00 | 25,570.20 | 29,351.94 | 26,690.49 | 30,547.35 | 27,746.66 | (+)3.96 |

It is observed that VAT/Sales Tax/CST and State Excise are major contributors of revenue and contribute about 79.26 per cent of tax revenue collection. There is fall in State Excise from ₹ 4,796.45 crore to ₹ 4,406.00 crore during 2016-17 compared to 2015-16. There is decrease in revenue from stamp duty and registration fee, revenue from duties on electricity is stagnant over the years. The reasons for variations provided by the respective departments are as under:

State Excise: The Department of Excise and Taxation Commissioner, Punjab attributed the shortfall of 8.14 per cent in revenue receipt to allotment of vends at lesser rates than the reserve price, less receipt of application money and non-receipt of full license fee from some of the contractors.

Stamp Duty and Registration: The Department of Revenue, Punjab attributed the shortfall of 16.55 per cent in receipt to lesser registration of sale deeds.

² Budget Estimates (BEs) are as per Annual Financial Statements of the Government of Punjab (GOP).

³ Revenue Receipts of the three Departments i.e. Land Revenue (₹67.81 crore, which is 22.82 per cent higher than previous year), Other taxes and duties on commodities and services (₹100.78 crore, which is 19.54 per cent higher than previous year) and Taxes on goods and passengers (₹0.62 crore which is 90.69 per cent lower than previous year) are less than five per cent of Total Tax Revenue Receipts. Hence, Revenue Receipts of these Departments have been merged in 'Others'.

Other Departments did not furnish the reasons of variations despite being requested.

1.1.3 The details of the non-tax revenue raised during the period 2012-13 to 2016-17 are depicted below.

Table 1.1.3: Details of Non-Tax revenue raised

| (₹ in crore) | | | | | | | | | | | | |
|--------------|-------------------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|---------------------------------------------------------------------------|
| Sl No | Head of Revenue | 2012-13 | | 2013-14 | | 2014-15 | | 2015-16 | | 2016-17 | | Percentage increase (+) or decrease (-) of Actual in 2016-17 over 2015-16 |
| | | BE | Actual | BE | Actual | BE | Actual | BE | Actual | BE | Actual | |
| 1 | Miscellaneous general services | 516.66 | 1,420.73 | 592.80 | 1,640.32 | 950.00 | 1,473.47 | 2,105.60 | 999.84 | 1,653.20 | 3,028.08 | (+)202.86 |
| 2 | Interest receipts | 182.17 | 170.47 | 183.02 | 174.68 | 180.13 | 193.88 | 179.92 | 225.28 | 339.07 | 1,293.80 | (+)474.31 |
| 3 | Other administrative services | 90.00 | 100.70 | 96.24 | 102.58 | 139.61 | 114.12 | 70.09 | 253.05 | 125.11 | 133.46 | (-)47.25 |
| 4 | Police | 98.00 | 80.76 | 90.00 | 55.26 | 90.00 | 77.23 | 90.00 | 48.45 | 110.00 | 98.52 | (+)103.34 |
| 5 | Medical and Public Health | 79.81 | 79.12 | 79.81 | 151.97 | 265.00 | 116.50 | 171.94 | 184.25 | 284.85 | 135.47 | (-)26.47 |
| 6 | Major and Medium Irrigation | 2.80 | 50.98 | 104.80 | 65.94 | 48.99 | 72.81 | 6.98 | 142.66 | 8.30 | 93.61 | (-)34.48 |
| 7 | Non-ferrous Mining and Metallurgical Industries | 73.00 | 24.02 | 200.00 | 43.83 | 100.00 | 86.44 | 100.00 | 56.64 | 110.00 | 42.08 | (-)25.71 |
| 8 | Public Works | 29.00 | 12.36 | 13.00 | 46.73 | 14.30 | 16.79 | 17.50 | 18.94 | 22.43 | 67.96 | (+)258.81 |
| 9 | Forestry and wildlife | 36.00 | 5.78 | 6.38 | 20.69 | 25.00 | 19.45 | 35.90 | 31.81 | 39.20 | 20.92 | (-)34.23 |
| 10 | Co-operation | 7.00 | 3.29 | 4.40 | 3.44 | 4.12 | 14.16 | 0.45 | 3.24 | 15.68 | 3.37 | (+)4.01 |
| 11 | Dairy Development | 0.12 | 0.12 | 0.13 | 0.06 | 0.12 | 0.11 | 0.12 | 0.10 | 0.12 | 0.03 | (-)70.00 |
| 12 | Education, Sports, Art and Culture | 66.91 | 39.26 | 63.89 | 96.45 | 100.00 | 159.36 | 180.76 | 88.68 | 193.60 | 95.89 | (+)8.13 |
| 13 | Others ⁴ | 1,012.19 | 641.62 | 1,301.39 | 789.55 | 865.73 | 535.41 | 844.25 | 597.33 | 909.34 | 850.01 | (+)37.88 |
| Total | | 2,193.66 | 2,629.21 | 2,735.86 | 3,191.50 | 2,783.00 | 2,879.73 | 3,803.51 | 2,650.27 | 3,810.90 | 5,863.20 | (+) 121.23 |

It is observed that there is more than three times increase in revenue through Misc. General Services in 2016-17 compared to 2015-16. Interest receipts grew more than five times during 2016-17 as compared to 2015-16. In addition to this, major increase was in receipts from Public Works (258.81 per cent) and Police (103.34 per cent) as compared to 2015-16.

The respective Departments reported the following reasons for variations in actual receipts during the year 2016-17:

⁴The receipts which do not come under the Heads of revenue mentioned at Sr. No. 1 to 12 of the table.

- (i) **Miscellaneous General Services:** The Department of Finance (Directorate of lotteries) reported that increase of actual receipt over previous year was due to increase in rates of bumper lottery schemes. Other departments did not furnish any reply.
- (ii) **Interest Receipts:** The increase of 281.44 *per cent* over budget estimate was due to credit of interest amounting to ₹ 1,072.78 crore on Govt. of Punjab Loan against UDAY Bonds for the year 2016-17.
- (iii) **Non-ferrous Mining and Metallurgical Industries:** The Director, Mining reported that the decrease in actual receipts was due to expiry of 68 mining contracts in October 2016. Besides, 16 mining contracts had already expired in January 2016.
- (iv) **Dairy Development:** The Director, Dairy Development reported that the decrease in actual receipts was due to abolition of registration of cattle feed which was main source of revenue of the department. The reason for abolition of registration of cattle feed was amendment of the 'Essential Commodity Act' by the Government of India which rendered the 'Punjab Compounded Cattle Feed, Concentrates and Mineral Mixture Order, 1988' under which State Government was empowered to register cattle feed, inoperative.
- (v) **Police:** The Director General of Police, Punjab, reported (August 2017) that increase in actual receipts was due to recovery of outstanding claims of previous year in respect of deployment charges of Government Railway Police.

The remaining departments⁵ despite being requested (June to July 2017) did not furnish the reasons for variations in receipts from that of the previous year (2016-17).

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2017 in respect of principal heads of revenue were ₹ 6,068.15 crore of which ₹ 867.45 crore was outstanding for more than five years, as depicted below.

⁵ Co-operation, Forestry and Wild life, Major and Medium Irrigation, Medical and Public Health, Public Works and Other Administrative Services

Table 1.2: Arrears of revenue

| (₹ in crore) | | | | |
|--------------|--------------------------------|----------------------------------------|-----------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sl. No. | Head of revenue | Amount outstanding as on 31 March 2017 | Amount outstanding for more than five years as on 31 March 2017 | Reply of the Department |
| 1. | Taxes/VAT on sales, Trade etc. | 5,405.54 | 720.49 | Amount of ₹ 367.11 crore was outstanding on account of cases pending before various appellant courts/authorities. For remaining amount of ₹ 5038.43 crore, no reply was furnished by the department. |
| 2. | Taxes on Vehicles | 137.47 | 106.73 | Recovery of ₹ 69.12 crore was stayed by the Government/department and remaining amount was at different stages of recovery. |
| 3. | Forests and Wildlife | 36.40 | 12.61 | Amount was outstanding against forest contractors. Efforts were being made to recover the amount. |
| 4. | State excise | 272.94 | 17.81 | Recovery proceedings against defaulters in most of the cases had already been initiated under Land Revenue Act. |
| 5. | Land revenue | 215.80 | 9.81 | Amount of ₹ 0.03 crore was non-recoverable and for remaining amount of ₹ 215.77 crore, recovery proceedings were in process. |
| | Total | 6,068.15 | 867.45 | |

It is observed that out of total outstanding arrears of ₹ 5,405.54 crore in Taxes/VAT on sales, trade etc., arrears of ₹ 1,193.84 crore pertained to seven⁶ AETCs, out of which arrears of ₹ 348.33 crore was outstanding for more than five years.

1.3 Arrears in assessment

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 finalization at the end of the year as furnished by the Department of Excise and Taxation in respect of sales tax are depicted below.

Table 1.3: Arrears in Assessment

| Head of revenue | Opening balance | New cases due for assessment during 2016-17 | Total assessments due | Cases disposed of during 2016-17 | Balance at the end of the year | Percentage of disposal (Col. 5 to 4) |
|-------------------------------|-----------------|---------------------------------------------|-----------------------|----------------------------------|--------------------------------|--------------------------------------|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| Taxes/VAT on Sales/Trade etc. | 76,401 | 29,347 | 1,05,748 | 20,597 | 85,151 | 19.47 |

Note: Difference in opening balance is due to change in assessment figures by AETCs Fatehgarh Sahib and Shahid Bhagat Singh Nagar for the previous year as these AETCs had provided assessments figures in excess by 3,541 and 627.

⁶ Amritsar-I, Amritsar-II, Bathinda, Jalandhar-I, Jalandhar-II, Roop Nagar (Ropar) and Sangrur

Out of total 26 AETCs in the State, there were arrears in assessment in 22 AETCs. However, during validation of data in seven⁷ AETCs, it was noticed in five⁸ AETCs that 29,559 cases were pending for assessment as against 1,148 cases already intimated and included in the above data. This is indicative of inaccuracies in the data provided by the department. The Department may reconcile the data of arrears in assessment.

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Excise & Taxation Department and State Transport, cases finalized and the demand for additional tax raised as reported by the Departments are depicted below.

Table 1.4: Evasion of Tax Detected

| Sl. No. | Head of revenue | Cases pending as on 31 March 2016 | Cases detected during 2016-17 | Total | No. of cases in which assessment / investigation completed and additional demand with penalty etc. raised | | No. of cases pending for finalization as on 31 March 2017 |
|---------|--------------------------------|-----------------------------------|-------------------------------|--------------|-----------------------------------------------------------------------------------------------------------|-------------------------------|-----------------------------------------------------------|
| | | | | | No. of cases | Amount of demand (₹ in crore) | |
| 1. | Taxes/VAT on sales, Trade etc. | 484 | 1,385 | 1,869 | 1,415 | 50.32 | 454 |
| 2. | Taxes on Vehicles | 16 | - | 16 | - | - | 16 |
| | Total | 500 | 1,385 | 1,885 | 1,415 | 50.32 | 470 |

Note: The office of Excise and Taxation Commissioner, Punjab, Patiala intimated (July 2017) that AETC, Gurdaspur inadvertently intimated 17 cases of evasion of Excise duty/fee in 2015-16.

It is observed that no case was detected/finalised in respect of taxes on vehicles during the year 2016-17.

1.5 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 are depicted below.

⁷ Amritsar-I, Amritsar-II, Bathinda, Jalandhar-1, Jalandhar-II, Roop Nagar (Ropar) and Sangrur

⁸ Amritsar-II, Bathinda, Jalandhar-1, Roop Nagar (Ropar) and Sangrur

Table 1.5: Details of refund cases

| (₹ in crore) | | | | | |
|--------------|-------------------------------------------------|---------------|----------|--------------|--------|
| Sl. No. | Particulars | Sales tax/VAT | | State Excise | |
| | | No. of cases | Amount | No. of cases | Amount |
| 1. | Claims outstanding at the beginning of the year | 3,872 | 448.60* | 144 | 0.91 |
| 2. | Claims received during the year | 9,701 | 1,192.29 | 7 | 1.81 |
| 3. | Refunds made during the year | 6,974 | 670.29 | 9 | 0.37 |
| 4. | Refunds rejected during the year | 1,114 | 265.47 | 0 | 0 |
| 5. | Balance outstanding at the end of year | 5,485 | 705.13 | 142 | 2.35 |

* Excluding ₹ 4.60 crore which was inadvertently included in the closing balance of 2015-16 of AETC, Gurdaspur.

It is observed that number of outstanding cases in Sales Tax/VAT has increased by 42 per cent and amount by 57 per cent during the year. Section 40 of the Punjab Value Added Tax Act, 2005, provides for payment of interest at the rate of 0.5 per cent per month if the excess amount is not refunded to the dealer within 60 days from the date of the application. The Department needs to ensure timely refund to assessee.

The refunds in case of Sales tax/VAT were pending in all 26 excise districts and refunds in case of excise were pending in seven out of 26 excise districts.

1.6 Response of the Government/Departments towards audit

The Principal Accountant General (PAG) Punjab conducts periodical inspection of the Government Departments to test check the transactions. These inspections are followed up with the inspection reports (IRs) incorporating audit findings which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The Head of the office is required to send initial reply to the PAG within four weeks from the date of receipt of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued up to December 2016 disclosed that 15,478 paragraphs involving ₹ 6,001.19 crore relating to 6,170 IRs remained outstanding at the end of June 2017. This, along with the corresponding figures for the preceding two years are depicted below.

Table 1.6: Details of pending Inspection Reports

| | June 2015 | June 2016 | June 2017 |
|------------------------------------------|-----------|-----------|-----------|
| Number of IRs pending for settlement | 5,650 | 5,908 | 6,170 |
| Number of outstanding audit observations | 13,194 | 14,380 | 15,478 |
| Amount of revenue involved (₹ in crore) | 3,609.73 | 5,825.95 | 6,001.19 |

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

Table 1.6.1: Department-wise details of pending IRs

| SI. No | Name of the Department | Nature of receipts | Number of outstanding IRs | Number of outstanding audit observations | Money value (₹ in crore) |
|--------------|----------------------------------|---------------------------------|---------------------------|------------------------------------------|--------------------------|
| 1. | Excise and Taxation | Taxes/VAT on sales, Trade etc. | 1,987 | 4,406 | 1,164.38 |
| | | Entertainment and Luxury Tax | 347 | 576 | 62.14 |
| | | State Excise | 338 | 342 | 470.26 |
| 2. | Revenue | Land Revenue | 735 | 1,457 | 2,315.67 |
| | | Stamp Duty and Registration Fee | 1,707 | 5,331 | 601.08 |
| 3. | Transport | Taxes on motor vehicles | 726 | 2,857 | 687.31 |
| 4. | Finance | State Lotteries | 22 | 58 | 153.29 |
| 5. | Forest and Wildlife Preservation | Forestry and wild life | 308 | 451 | 547.06 |
| Total | | | 6,170 | 15,478 | 6,001.19 |

During 2016-17, audit did not receive even the first reply in respect of 233 IRs out of 288 IRs from the Head of offices within the stipulated time of four weeks. This large pendency of IRs due to non-receipt of replies is indicative of the fact that the Heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the Audit in the IRs. Lack of executive action on audit observations weakens accountability and raises the risk of avoidable loss of revenue. The continuous increase in the number of pending audit paragraphs merits the attention of the Government to ensure effective mechanisms to regularly monitor and review the compliance and settlement of audit observations.

1.6.2 Departmental Audit Committee Meetings

The Government has set up audit committees to monitor and expedite progress of the settlement of the audit observations contained in the IRs. The details of audit committee meetings held during the year 2016-17 and the paragraphs settled are depicted below.

Table 1.6.2: Details of Departmental Audit Committee Meetings

| Head of Revenue | Number of meetings held | Number of outstanding observation | Number of paragraphs settled | Amount (₹ in crore) |
|-------------------------------------|-------------------------|-----------------------------------|------------------------------|---------------------|
| 0030-Stamp Duty & Registration Fees | 6 | 5,331 | 29 | 0.43 |
| 0040-Taxes/VAT on sales, Trade etc. | 3 | 4,406 | 15 | 2.23 |
| 0406-Forestery & Wild Life | 3 | 451 | 15 | 11.74 |
| 0041- Taxes on vehicles | 5 | 2,857 | 06 | 0.24 |
| 0029-Land Revenue | 1 | 1,457 | 15 | 6.02 |
| Total | 18 | 14,502 | 80 | 20.66 |

It is observed that the settlement of outstanding paragraphs was very low in respect of Sales Tax/VAT, Stamp Duty and Registration Fee, Taxes on Vehicles and Land Revenue. No audit committee meeting was convened in respect of State Excise, Luxury and Entertainment Tax and State Lotteries. It is recommended that Government should ensure holding meetings of the Audit committees at regular intervals in all departments.

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 and intimations are issued to the Departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2016-17 as many as 1,233 cases/items of auditable records pertaining to seven Departments were not made available to audit as depicted below.

Table 1.6.3: Details of non-production of records

| Name of the office/Department | Number of cases/items not provided | |
|----------------------------------------------------|------------------------------------|--------------|
| | 2015-16 | 2016-17 |
| Sales Tax/VAT | 147 | 328 |
| Taxes on Vehicles | 15 | 335 |
| Stamps and Registration Fees | 290 | 127 |
| Land Revenue | 11 | 344 |
| State Excise | 7 | 24 |
| Forests and Wild life | 1 | 40 |
| Other Taxes and Duties on Commodities and Services | 20 | 35 |
| Total | 491 | 1,233 |

Non-production of records pertaining to revenue is serious and in the absence of examination, the risk associated cannot be commented upon. It is advised to direct the concerned authorities to provide the record during examination.

1.6.4 Response of the Departments to 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 PAG 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-two draft paragraphs and one Performance Audit were sent to the Principal Secretaries/Secretaries of the respective Departments between May to July 2017. The Principal Secretary/Secretary of the concerned Departments did not reply to these twenty two draft paragraphs and one Performance Audit despite issue of reminders and the same were included in the Report without their response. However, clarifications received during exit conference at the conclusion of the Performance audit and the replies from the concerned Departmental authorities wherever received, have been appropriately included in the report.

1.6.5 Follow up on the Audit Reports – summarized position

The internal working system of the Public Accounts Committee (PAC), notified in August 1992, lays down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs. The action taken notes (ATNs) 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. A total of 163 paragraphs (including Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Punjab for the years ended 31 March 2011 to 2016 were placed before the State Legislative Assembly between 28 March 2012 and 29 March 2017. ATNs in respect of 71 paragraphs from six⁹ departments had not been received. However, remaining 92 ATNs were received with average delay which ranged between 15 days and 5 months.

The PAC discussed 139 selected paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2012-13 between 2011 and 2016, and its recommendations on 46 paragraphs¹⁰ were incorporated in five PAC Reports (2008-09, 2009-10, 2010-11, 2011-12 and 2012-13). However, no ATN on the

⁹ Sales Tax/VAT, Land Revenue, State Excise, Taxes on Vehicles, Stamp Duty and Other tax/non-tax receipts.

¹⁰ Department of Excise and Taxation (16) + Department of Transport (20) + Department of Electricity (10).

recommendations of the PAC on 25 paragraphs for the years 2008-09 to 2012-13 has been received from three Departments¹¹.

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

To analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Report by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years in respect of Taxes on Motor Vehicles was evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 to 1.7.3 discuss performance of the Department of Transport to deal with cases detected in the course of local audit during the last 10 years up to 2016-17 and also the cases included in the Audit Reports for the years 2006-07 to 2015-16.

1.7.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last 10 years, paragraphs included in these reports and status of the same as on 31 March 2017 in respect of Transport Department are depicted below.

Table 1.7.1: Position of Inspection Reports in Transport Department

| Year | (₹ in crore) | | | | | | | | | | | |
|---------|-----------------|-------------|-------------|--------------------------|-------------|-------------|---------------------------|-------------|-------------|---------------------------------|-------------|-------------|
| | Opening balance | | | Addition during the year | | | Clearance during the year | | | Closing balance during the year | | |
| | IRs | Para-graphs | Money value | IRs | Para-graphs | Money value | IRs | Para-graphs | Money value | IRs | Para-graphs | Money value |
| 2007-08 | 663 | 2,140 | 494.42 | 46 | 133 | 72.98 | 24 | 167 | 96.34 | 685 | 2,106 | 471.06 |
| 2008-09 | 685 | 2,106 | 471.06 | 52 | 143 | 49.22 | 23 | 54 | 8.49 | 714 | 2,195 | 511.79 |
| 2009-10 | 714 | 2,195 | 511.79 | 58 | 204 | 12.95 | 5 | 35 | 0.82 | 767 | 2,364 | 523.92 |
| 2010-11 | 767 | 2,364 | 523.92 | 61 | 307 | 22.00 | 17 | 172 | 13.17 | 811 | 2,499 | 532.75 |
| 2011-12 | 811 | 2,499 | 532.75 | 32 | 219 | 6.78 | 251 | 655 | 13.38 | 592 | 2,063 | 526.15 |
| 2012-13 | 592 | 2,063 | 526.15 | 30 | 164 | 21.45 | 3 | 92 | 2.98 | 619 | 2,135 | 544.62 |
| 2013-14 | 619 | 2,135 | 544.62 | 27 | 206 | 78.13 | 0 | 36 | 1.23 | 646 | 2,305 | 621.52 |
| 2014-15 | 646 | 2,305 | 621.52 | 26 | 197 | 38.97 | 0 | 24 | 0.94 | 672 | 2,478 | 659.55 |
| 2015-16 | 672 | 2,478 | 659.55 | 30 | 257 | 41.68 | 0 | 32 | 1.50 | 702 | 2,703 | 699.73 |
| 2016-17 | 702 | 2,703 | 699.73 | 31 | 254 | 19.80 | 0 | 30 | 28.66 | 733 | 2,927 | 690.87 |

It is observed that there is increase in the number of outstanding IRs from 663 in 2007-08 to 733 in 2016-17 and corresponding money value pointed out in IRs has increased from ₹ 494.42 crore to ₹ 690.87 crore.

1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered under the Head 0041- Taxes on Motor Vehicles are depicted below.

¹¹ Department of Excise and Taxation (eight) + Department of Transport (seven) + Department of Electricity (10)

Table 1.7.2: Recovery of accepted cases

| (₹ in crore) | | | | | | | |
|----------------------|-------------------------------|-------------------------------|-------------------------------|------------------------------------|--------------------------------------|------------------------------------------|--------------------------------------------------------------------|
| Year of Audit Report | Number of paragraphs included | Money value of the paragraphs | Number of paragraphs accepted | Money value of accepted paragraphs | Amount recovered up to 31 March 2016 | Amount recovered during the year 2016-17 | Cumulative position of recovery of accepted cases as of 31/03/2017 |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 2006-07 | 01 | 133.49 | 01 | 133.49 | ---- | ---- | PAC decided not to pursue Paras up to the year 2007-08 |
| 2007-08 | 04 | 7.14 | 04 | 7.14 | ---- | ---- | -do- |
| 2008-09 | 06 | 6.53 | 06 | 6.53 | 2.73 | ---- | 2.73 |
| 2009-10 | 07 | 2.62 | 07 | 2.62 | 1.14 | ---- | 1.14 |
| 2010-11 | 06 | 0.83 | 06 | 0.83 | 0.39 | ---- | 0.39 |
| 2011-12 | 01 | 3.12 | 01 | 3.12 | 1.28 | ---- | 1.28 |
| 2012-13 | 03 | 1.11 | 03 | 1.11 | ---- | ---- | Under Discussion of PAC |
| 2013-14 | 01 | 85.13 | 01 | 85.13 | ---- | ---- | -do- |
| 2014-15 | 04 | 7.55 | 04 | 7.55 | ---- | ---- | No reply furnished by the department |
| 2015-16 | 05 | 0.96 | 05 | 0.96 | ---- | ---- | -do- |
| Total | 38 | 248.48 | 38 | 248.48 | 5.54 | | 5.54 |

It is observed that the progress of recovery even in accepted cases was very slow during the last eight years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

1.7.3 Action taken on the recommendations accepted by the Departments/Government

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

The Review titled "Levy and Collection of Motor Vehicle Tax" on the department of Transport, Punjab featured in the report of 2013-14 with four recommendations. The said review is currently under discussion in the PAC.

1.8 Audit planning

The auditable entities under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared

on the basis of risk analysis which *inter-alia* includes critical issues in Government revenues and tax administration i.e. budget speech, white paper on State finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2016-17, there were 492 auditable units, out of which 288 units (58.54 *per cent*) were planned and audited (100 *per cent*).

Besides, the compliance audit mentioned above, one performance audit i.e. Levy and collection of Excise duty was also conducted to examine the efficacy of the Departments concerned in realization of revenue receipts.

1.9 Internal Audit

The Finance Department has an Internal Audit Organization (IAO) under the charge of the Additional Director. This organization is to conduct test check of cases as per approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

During the year 2016-17, out of 1,852 units planned for audit, Internal Audit organization audited 185 units (9.98 *per cent*) as depicted below.

Table 1.9: Internal Audit

| Revenue Head | No. of units Planned | No. of units audited |
|--------------------------|----------------------|----------------------|
| 0030 – Stamp Duty | 332 | 91 |
| 0039 – Excise | 203 | 02 |
| 0040 – VAT/Sales Tax | 551 | 84 |
| 0041 – Motor Vehicle Tax | 569 | 08 |
| 0045 – Entertainment Tax | 197 | 0 |
| Total | 1,852 | 185 |

The Department replied that the targets planned for audit could not be achieved for the year 2016-17 due to acute shortage of staff. Further, special audits are also assigned by the Government from time to time along with routine audit. It is recommended that Government may direct IAO to plan audit by adopting risk analysis technique and to ensure audit of all the planned units.

1.10 Results of audit

1.10.1 Position of local audit conducted during the year

The Principal Accountant General Punjab conducts periodical inspection of the Government Departments to test check the transactions under CAG's (DPC) Act 1971.

Test check of the records of 288 units administering Sales Tax/Value Added Tax, State Excise, Taxes on Motor Vehicles, Forest Receipts and other Departmental offices conducted during the year 2016-17 showed under assessment/short levy/loss of revenue aggregating ₹ 518.15 crore in 17,624 cases. The Departments recovered ₹ 9.70 crore in 5,107 cases during 2016-17, out of which ₹ 0.07 crore in 14 cases were pointed out during 2016-17 and rest in earlier years.

1.11 Coverage of this Report

This Report contains one performance audit on “**Levy and Collection of Excise Duty**” and 22 paragraphs involving financial effect of ₹ 336.04 crore. The Departments have accepted audit observations in four cases involving ₹ 0.87 crore which had been recovered. The replies in the remaining cases have not been received (August 2017). These are discussed in the succeeding Chapters II to VI.

Chapter-II
Taxes/VAT on Sales, Trade etc.

CHAPTER-II

Taxes/VAT on Sales and Trade

2.1 Tax administration

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

2.2 Results of audit

Test check of the records of 43 units relating to Sales Tax/VAT during 2016-17 revealed under-assessment of tax and other irregularities involving ₹ 330.47 crore in 453 cases as depicted below.

Table 2.1: Results of Audit

| Sl. No. | Categories | No. of cases | Amount (₹ in crore) |
|--------------|--------------------------------------------------|--------------|------------------------|
| 1 | Loss of revenue due to excess refund of VAT | 22 | 3.08 |
| 2 | Non/Short levy of Sales Tax/VAT | 75 | 17.68 |
| 3 | Incorrect grant of exemption from Tax | 3 | 0.24 |
| 4 | Non/Short levy of interest/penalty | 85 | 238.52 |
| 5 | Excess/Inadmissible allowance of ITC | 70 | 18.11 |
| 6 | Non/Short reversal of ITC/Short retention of ITC | 52 | 39.79 |
| 7 | Other irregularities | 146 | 13.05 |
| Total | | 453 | 330.47 |

The Department accepted and recovered ₹ 13.94 lakh in 11 cases in 2016-17 out of which ₹ 3.33 lakh involved in one case was pointed out during 2016-17 and rest in earlier years.

Significant cases involving ₹ 210.99 crore are discussed in the succeeding paragraphs:

2.3 Irregular allowance of concession of tax

The Designated Officer allowed irregular concession of ₹26.28 lakh on the basis of a non-genuine 'C' form which was not obtained from prescribed authority of the issuing State of Haryana.

Section 8(4) of the CST Act 1956 read with Rule 12(1) of CST (R&T) Rules 1957 provides that the concessional rate of tax of two *per cent* shall not be admissible unless the dealer selling the goods furnishes a declaration in Form 'C' duly filled in and signed by the registered dealer to whom the goods are sold, in a prescribed form obtained from the prescribed authority.

Scrutiny of records of AETC Ludhiana-III revealed that the DO allowed concessional rate of CST of two *per cent* on one 'C' form for ₹ 6.49 crore for the year 2012-13. The 'C' form showed that the dealer had sold goods worth ₹ 6.49 crore to a registered dealer of Haryana. On cross verification, it was found that the 'C' form was not issued to the registered dealer of Haryana by the prescribed authority of the State. Thus, the DO allowed the concession without ensuring that the form was issued by valid prescribed authority. The irregular allowance of concession resulted in short levy of tax of ₹ 26.28 lakh at the rate of 4.05 *per cent* (6.05 *per cent* minus two *per cent*).

The matter was reported to the Government/Department (April 2017); their replies were awaited.

2.4 Short reversal of input tax credit on branch transfer

In three AETCs, ITC of ₹ 12.58 lakh was reversed against the actual amount of reversal of ₹ 83.98 lakh on branch transfer of ₹ 20.51 crore resulting in short levy of tax of ₹ 71.40 lakh.

Section 13(2) of Punjab Value Added Tax Act 2005 provides that input tax credit shall be allowed only to the extent by which the amount of tax paid in the State exceeds four *per cent* on purchase of goods used in manufacture or in packing of taxable goods sent outside the State other than by way of sale (branch transfer/consignment sale) in the course of interstate trade or commerce or in the course of export out of territory of India.

Scrutiny of records of three¹ AETCs revealed that, in three assessment cases for the years 2008-09, 2010-11 and 2011-12, completed between October 2015 and March 2016, the DO reversed ITC of ₹ 12.58 lakh against branch transfer of ₹ 20.51 crore, whereas an amount of ₹ 83.98 lakh was required to be reversed on this account. Short-reversal of ITC on branch transfer resulted in short levy of tax of ₹ 71.40 lakh.

¹ Fatehgarh Sahib, Ludhiana-II and Sangrur.

The matter was reported to the Government/Department (April and May 2017); their replies were awaited.

2.5 Non-reversal of purchase tax

Purchase tax was not reversed where products manufactured from Schedule-H goods were sold in the course of interstate trade at concessional rate of tax, resulting in short levy of tax of ₹1.78 crore.

Section 19(5) of PVAT Act provides that ITC on goods specified in Schedule-H (paddy, wheat, cotton, sugarcane and milk) or products manufactured therefrom, when sold in the course of inter-state trade or commerce, shall be available only to the extent of central sales tax chargeable under the Central Sales Tax Act, 1956.

Scrutiny of records of two² AETCs revealed that, in two assessment cases for the year 2008-09 and 2012-13, products worth ₹ 692.06 crore, manufactured from Schedule-H goods (cotton), were sold in the course of inter-state sale at concessional rate of tax of two/three *per cent*. However, the DO did not reverse the purchase tax of ₹ 1.78 crore under provision mentioned *ibid*. The non-reversal of purchase tax resulted in short levy of tax of ₹ 1.78 crore.

The matter was reported to the Government/Department (April and May 2017); their replies were awaited.

2.6 Short levy of tax due to non-utilisation of Information Collection Centre data

The Designated Officer did not reconcile sales/purchases with data of Information Collection Centre and trading account which resulted in short levy of tax of ₹57.17 lakh in four cases.

Section 2 (zc) of the PVAT Act provides that return means a true and correct account of business pertaining to the return period in the prescribed form. Further, Rule 48 (1) of PVAT Rules (Rules) provides that the DOs, after considering the objections and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing, determining the tax liability of a person. Further, Rule 51A of the Rules *ibid* envisaged that data available in the Information Collection Center³ (ICC) will be tallied while determining assessment.

Scrutiny of the records of three AETCs revealed that in four cases, the DOs levied short tax of ₹ 57.17 lakh due to non-utilisation of ICC data as depicted below.

² Ludhiana-III and Sangrur.

³ Information Collection Centre is a centre established at entry/exit points of the State under Section 51 of the PVAT Act with a view to prevent or check avoidance or evasion of sales tax/VAT under the Act.

Table 2.2: Short levy of tax

| Sl. No. | Name of unit | Period/ Date of Assessment | Short levy of tax (₹ in lakh)/ (rate of tax) | Nature of Irregularities |
|--------------|-----------------|----------------------------|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Fatehgarh Sahib | 2009-10 08.02.2016 | 6.18 (four <i>per cent</i>) | Interstate purchase as per ICC data was of ₹ 4.27 crore whereas the assessee had shown purchases of ₹ 2.73 crore. Difference of ₹ 1.54 crore was neither verified/reconciled nor taxed. |
| | | 2010-11 08.02.2016 | 6.13 (four <i>per cent</i>) | Interstate purchase as per ICC data was of ₹ 3.39 crore whereas the assessee had shown interstate purchases of ₹ 1.86 crore. Tax on the difference of ₹ 1.53 crore was not levied. |
| 2 | Ludhiana-II | 2010-11 16.10.2015 | 39.02 (6.05 <i>per cent</i>) | Interstate purchase as per ICC data was ₹ 30.24 crore whereas as per trading account, the same was ₹ 23.79 crore. Thus, the difference of ₹ 6.45 crore was neither verified/reconciled nor taxed. |
| 3 | Mohali | 2012-13 30.03.2015 | 5.84 (four <i>per cent</i>) | Interstate sale as per ICC data was ₹ 22.64 crore whereas in assessment order, the interstate sale was shown as ₹ 21.18 crore. Difference of ₹ 1.46 crore was neither verified/reconciled nor anything contrary was mentioned at the time of assessment. |
| Total | | | 57.17 | |

The matter was reported to the Government/Department (between March and April 2017); their replies were awaited.

2.7 Short reversal of ITC on account of manufacturing of tax free goods

In four cases, the designated officers reversed ITC of ₹ 48.86 lakh against the reversal of ITC of ₹ 114.94 lakh on tax free sales resulting in short levy of tax of ₹ 66.08 lakh.

Section 13(5) (h) of PVAT Act 2005 provides that a taxable person shall not qualify for ITC in respect of tax paid on purchase of goods used in manufacturing, processing or packing of tax free goods.

Scrutiny of records of two AETCs⁴ revealed that in four assessment cases, the assessee had shown tax free sales of ₹ 148.28 crore. The DO was required to reverse the ITC of ₹ 1.15 crore on tax free sales as per the provision of Section 13(5) *ibid* but an amount of ₹ 48.86 lakh only was reversed. The short reversal of ITC resulted in short levy of tax of ₹ 66.08 lakh.

⁴ Amritsar-II and Ludhiana-III

The matter was reported to the Government/Department (March 2017); their replies were awaited.

2.8 Deliberate alteration of figures to evade taxes

A dealer under AETC Fazilka deliberately altered figures of four 'H' forms and increased the value of the export by ₹ 1.61 crore. The Designated Officer accepted the altered figures and allowed exemption from tax resulting in short levy of tax of ₹6.42 lakh.

Section 5(3), 5(4) of Central Sales Tax (CST) Act 1956 and Rule 12(10) of CST (R&T) Rules 1957 provides that the last sale or purchase of goods preceding export of those goods out of the territory of India shall also be deemed to be in the course of such export provided the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration in Form-H duly filled and signed by the exporter to whom the goods are sold. Further, Rule 48 of PVAT Rules provides that the DO, after considering the objections and documentary evidence filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person.

Scrutiny of records of AETC Fazilka revealed that, in an assessment case for the year 2008-09, the assessee had claimed the benefit of indirect export of ₹ 3.44 crore on the basis of four 'H' forms which was allowed by the DO in October 2015. However, as per the detail of invoices covered under these forms and list of local and interstate sales in Form VAT-18 and VAT-23 respectively, the actual value of indirect export was ₹ 1.83 crore and was inflated to ₹ 3.44 crore by deliberately altering the figures, which was overlooked by the designated officer. The deliberate alteration of figures resulted in short levy of tax of ₹ 6.42 lakh on inflated value of ₹ 1.61 crore (₹ 3.44 crore - ₹ 1.83 crore).

The matter was reported to the Government/Department (May 2017); their replies were awaited.

2.9 Short retention of Purchase Tax/ITC

In seven cases, purchase tax/ITC of ₹ 26.84 crore was retained by Designated Officers on closing stock of Schedule-H goods against the actual amount of ₹42.64 crore, resulting in short levy of tax of ₹15.80 crore.

(a) Section 19 (4) of PVAT Act, provides that purchase tax paid by a taxable person shall not be admissible as input tax credit, unless the goods are sold within the State or are used for manufacturing of taxable goods in the State for sale or are sold in the course of inter-state trade or commerce or in the course of export.

Scrutiny of records of three⁵ AETCs revealed that in six cases, purchase tax of ₹ 42.44 crore was required to be retained by the DOs on closing stock of Schedule-H goods worth ₹ 1,044.53 crore that were neither sold nor used in manufacturing, processing or packing of taxable goods during the year. However, the DOs retained purchase tax of ₹ 26.72 crore only. The short retention of purchase tax resulted in short levy of tax of ₹ 15.72 crore in the assessment years.

(b) Government of Punjab amended⁶ (November 2013) first proviso to Section 13(1) of PVAT Act 2005 effective from 1 April 2014 whereby input tax credit shall not be available unless such goods are sold within the State or in the course of interstate trade or commerce or in the course of export or are used in manufacture, processing or packing of taxable goods for sale within the State or in the course of inter-state trade or commerce or in the course of export.

Scrutiny of records of AETC Jalandhar-I revealed that, in an assessment case for the year 2014-15, ITC of ₹ 19.06 lakh was required to be retained on closing stock of raw material of ₹ 3.59 crore as per provision *ibid*. However, ITC of only ₹ 10.60 lakh was carried forward. The short retention of ITC resulted in short levy of tax of ₹ 8.46 lakh.

The matter was brought to the notice of the Government/Department (April 2017); their replies were awaited.

2.10 Inadmissible allowance of input tax credit

The Designated Officer allowed set off of ITC of ₹149.88 lakh instead of allowable ITC of ₹107.52 lakh brought forward from previous year which resulted in short levy of tax of ₹42.36 lakh.

Rule 48 (1) of PVAT Rules (Rules) provides that the DOs, after considering the objections and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person.

Scrutiny of records of AETC Sangrur revealed that the DO allowed (November 2015) carry forward of ITC of ₹ 107.52 lakh to next year in an assessment case of a dealer for the year 2008-09. However, in the assessment order of the dealer for the year 2009-10, finalised by the same DO in

⁵ Jalandhar-II, Ropar and Sangrur

⁶ Before amendment the provision stated that “provided that the goods are for sale in the State or in the course of interstate trade or commerce or in the course of export or for use in manufacture, processing or packing of taxable goods for sale within the State or in the course of interstate trade or commerce or in the course of export.”

December 2015, ITC of ₹ 149.88 lakh was brought forward against the available brought forward of ₹ 107.52 lakh from previous year. This resulted in short levy of tax of ₹ 42.36 lakh. The DO failed to link even the last year's assessment order.

The matter was reported to the Government/Department (June 2017); their replies were awaited.

2.11 Inadmissible allowance of deduction to works contractor

In AETC Kapurthala, the Designated Officer allowed inadmissible deduction of ₹ 2.01 crore to works contractor on account of material supplied by Government Department resulting in short levy of tax of ₹8.02 lakh.

Section 8(2-A) of the Punjab Value Added Tax (PVAT) Act 2005 provides that every person executing works contract shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under this Act. Further, Rule 15(4) of PVAT Rules provides the details of deductions that are admissible from gross sales to determine the value of goods incorporated on works. Material supplied by Contractee/Department to contractor for use on works is not listed under Rule 15(4).

Scrutiny of records of AETC Kapurthala revealed that, in three assessment cases of a dealer for the years 2005-06 to 2007-08, the DO allowed inadmissible deduction of ₹ 2.01 crore from gross sales on account of material supplied by Government Department. The omission resulted in short levy of tax of ₹ 8.02 lakh.

The matter was reported to the Government/Department (May 2017). AETC Kapurthala replied (October 2017) that an amount of ₹ 8.02 lakh shall be deducted from the refund of dealer for the year 2015-16. The reply of Government is awaited.

2.12 Non-restriction of input tax credit

In AETC Amritsar-I, the Designated Officer did not restrict ITC to the output tax where sale value of goods was lower than purchase value which resulted in excess carry forward of ITC of ₹6.81 lakh.

Rule 21(2-A) of PVAT Rules provides that input tax credit shall be allowed to a taxable person to the extent of tax payable on the resale of goods or sale value of manufactured/processed goods where such goods by the taxable person are sold at price (i) lower than purchase price of such goods in case of resale or (ii) lower than cost price in the case of manufactured/processed goods.

Scrutiny of records of AETC Amritsar-I revealed that, in an assessment case for the year 2013-14, the DO allowed ITC of ₹ 9.44 crore on goods worth ₹ 99.42 crore whereas the goods were sold for ₹ 98.51 crore and output tax of ₹ 9.37 crore was levied. Since sale value was lower than purchase value, the DO was required to restrict ITC to output tax. Non-restriction of ITC resulted in excess carry forward of ITC of ₹ 6.81 lakh.

The matter was reported to the Government/Department (May 2017); their replies were awaited.

2.13 Short debit to exemption

The Designated Officers did not include output tax while calculating quantum of exemption availed, resulting in excess exemption of ₹21.16 lakh in two cases.

Section 92 (3) of PVAT Act adopted the provisions of the Punjab General Sales Tax (Deferment and Exemption) Rules 1991 (D&E Rules). Rule 2(xii) of the D&E Rules defines the exemption certificate as a certificate granted for availing exemption from payment of sale tax or purchase tax or both as the case may be. Further, Rule 2(xxi) provides *inter-alia* that notional sales tax liability shall mean the amount of tax payable on estimated sales of finished products and estimated purchase of raw material otherwise liable to purchase tax for the purpose of determining exemption from tax.

Scrutiny of records of AETC Muktsar Sahib revealed that, in two assessment cases for the year 2008-09, the DOs at the time of determination of balance exemption available at the end of the year, did not debit output tax of ₹ 21.16 lakh from exemption in contravention of the provision *ibid*. This short debit resulted in excess exemption of tax of ₹ 21.16 lakh.

The matter was reported to the Government/Department (June 2017); their replies were awaited.

2.14 Inadmissible allowance of entry tax on furnace oil

The Designated Officer allowed inadmissible input tax credit of entry tax paid on interstate purchase of furnace oil resulting in short levy of tax of ₹7.12 lakh.

Section 13(4) of PVAT Act 2005 provides that ITC on furnace oil shall be allowed only to the extent by which the amount of tax paid in the State exceeds four⁷ per cent. Further, Section 13-A of the Act provides that entry tax paid on interstate purchases of goods will be available as input tax credit subject to the provisions of the Act.

⁷ The words "four per cent" were substituted by the words "five per cent" vide notification no.-3-Leg/2013 dated 16.01.2013.

Scrutiny of records of AETC Ludhiana-I revealed that, in an assessment case for the year 2011-12, the DO allowed inadmissible input tax credit of ₹ 7.12 lakh on account of entry tax paid on interstate purchase of furnace oil in contravention of the provisions *ibid*. The inadmissible allowance of entry tax resulted in short levy of tax of ₹ 7.12 lakh.

The matter was reported to the Government/Department (June 2017); their replies were awaited.

2.15 Non/Short levy of interest

Application of incorrect provision relating to levy of interest in assessment orders by 10 AETCs, resulted in short levy of interest of ₹190.28 crore in 38 cases.

Section 32(1) of the PVAT Act, 2005 provides that if a person fails to pay the amount of tax due from him as per provisions of this Act, he shall be liable to pay simple interest on the amount of tax at the rate of half *per cent* per month from the due date of payment till the date he actually pays the amount of tax. Further, Section 32(3) provides that if a person fails to declare the amount of tax in a return, which should have been declared, such a person shall be liable to pay simple interest at the rate of one and half *per cent* per month on such amount of tax from the due date of payment till the date he actually pays such amount of tax.

- (i) Scrutiny of records of eight⁸ AETCs revealed that 17 dealers in 36 cases failed to declare the amount of due tax which should have been declared in their annual returns during the period 2006-07, 2008-09 to 2013-14. While assessing the cases, the DOs raised additional tax demands but levied interest of ₹ 15.29 crore at the rate of 0.5 *per cent* per month under section 32(1) of the Act instead of interest of ₹ 50.11 crore at applicable rate of interest of 1.5 *per cent* per month under section 32(3) of the Act. This resulted in short levy of interest of ₹ 34.82 crore.
- (ii) In two⁹ AETCs, though the DO levied interest of ₹ 0.41 crore at the rate of 1.5 *per cent*, he levied it only on part of the additional tax demand i.e. on ₹ 0.63 crore instead of total additional demand of ₹ 9.32 crore. The amount of interest leviable on total additional demand was ₹ 6.12 crore. This resulted in short levy of interest of ₹ 5.71 crore
- (iii) In one assessment case for the year 2012-13 under AETC Mohali, the DO raised additional tax demand of ₹ 285.24 crore stating to have included interest and penalty in it. However, scrutiny of assessment order revealed that no interest or penalty was included in this additional tax demand. This resulted in non-levy of interest of ₹ 149.75 crore.

⁸ Barnala, Bathinda, Fatehgarh Sahib, Gurdaspur, Jalandhar-I, Mohali, Patiala and Ropar.

⁹ Mansa and Patiala.

The matter was brought to the notice of the Department and the Government (April 2017). The AETCs replied (between May and June 2017) that dealers were under appeal against the tax demands. The reply of the AETCs were not tenable as the reason for non-levy of interest or application of incorrect provision relating to levy of interest in the assessment orders was not furnished.

Chapter-III
State Excise

Chapter-III State Excise

3.1 Tax administration

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department. The administration of the Punjab Excise Act, 1914, is carried out by Additional Excise and Taxation Commissioner at Patiala and six Deputy Excise and Taxation Commissioners (DETCs) at Amritsar, Faridkot, Ferozepur, Jalandhar, Ludhiana and Patiala. 26 Assistant Excise and Taxation Commissioners (AETCs), assisted by Excise and Taxation Officers (ETOs) and other allied staff monitor the work at the district level.

3.2 Results of audit

Test check of the records of 25 units relating to State Excise receipts during 2016-17 revealed irregularities involving ₹ 69.94 crore in 425 cases as depicted below.

Table 3.1: Results of audit

| (₹ in crore) | | | |
|--------------|--------------------------------------------------------------------------|--------------|--------------|
| Sl. No. | Categories | No. of cases | Amount |
| 1. | Non/Short levy of License fee | 387 | 10.19 |
| 2. | Irregular retention of Import fee & Export fee out of Government account | 22 | 2.21 |
| 3. | Other irregularities | 15 | 0.05 |
| 4. | <i>Performance Audit titled "Levy and collection of excise duty"</i> | 1 | 57.49 |
| | Total | 425 | 69.94 |

In 2016-17, the Department accepted the observations of ₹ 7.51 lakh in 24 cases and recovered an amount of ₹ 4.26 lakh in 11 cases.

3.3 Performance Audit on "Levy and Collection of Excise Duty"

A performance audit of the Levy and Collection of Excise Duty for the period 2011-16 brought out both systemic and compliance deficiencies that led to loss and leakage of revenues amounting to ₹ 57.45 crore. Some of the significant findings are as follows: -

- **There were no timeline or penal provision to ensure payment of license fee within reasonable time by the restaurants holding license L-52. Similarly, there was absence of penal provision for delay in payment of overtime fee.**

(Para 3.3.9.1 and 3.3.9.2)

- **There was lack of norms for recovery of alcohol from molasses. Norms for recovery of alcohol from grains, though prescribed, were not implemented.**

(Para 3.3.9.3 and 3.3.9.4)

- **Rules to levy duty on quantity of beer produced and norms for allowing wastage over the produced quantity were not prescribed by the Department despite having such intention.**

(Para 3.3.9.5)

- **Deficiency in system of obtaining surety bond put government revenue of ₹ 46.01 crore at stake.**

(Para 3.3.10)

- **Cow cess of ₹ 9.72 crore was not recovered despite issue of notification by Department of Local Government Punjab.**

(Para 3.3.11)

- **License fee of ₹ 1.10 crore was short realized from one licensee as the sale of the beer was not taken into account for arriving at license fee of L-1A license**

(Para 3.3.14)

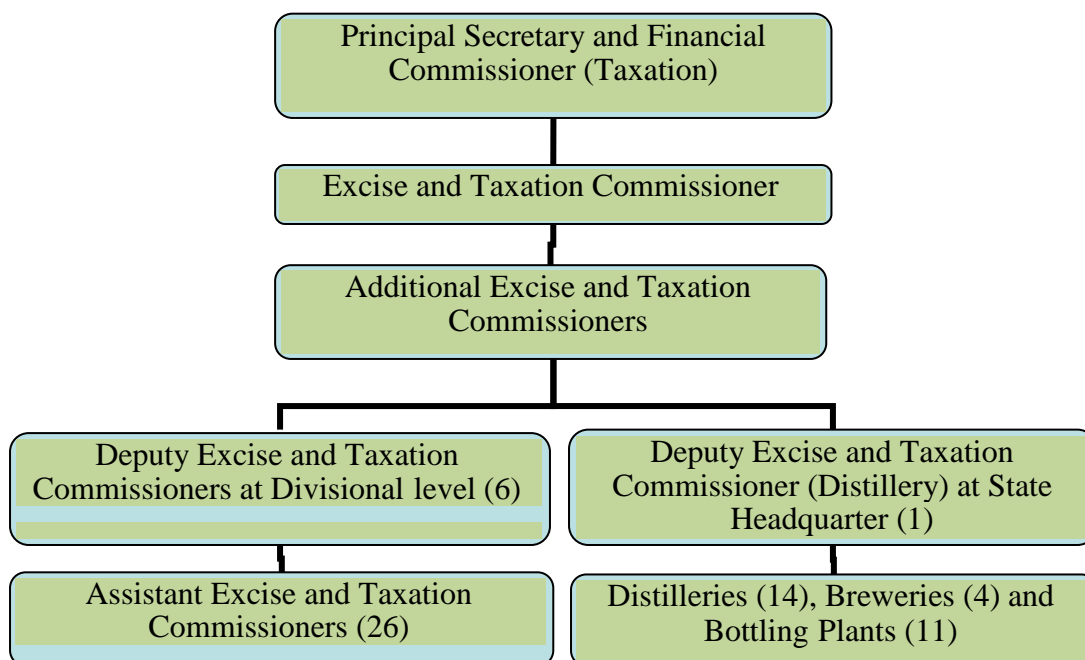
3.3.1 Introduction

State Excise Duty is one of the important sources of tax revenue of the Government of Punjab which is levied and collected on manufacture, storage, sale, import and export of liquor. Excise Duty is levied in shape of license fee which is recovered at various stages from Distilleries, Breweries and Bonded Warehouses (BWH) on production and bottling of Indian Made Foreign Liquor (IMFL), Punjab Made Liquor (PML) and Beer, and from wholesale and retail vends on sale, import and export of liquor. Retail vends are allotted as licensing unit/group/zone through a system of draw of lots. License fee for retail vends is worked out on the basis of quota of liquor allotted in respect of a licensing unit/group/zone. Apart from that, licenses at fixed rate of fee are issued to hotels, clubs, marriage palaces etc. for sale and consumption of liquor. Cess levied by State Government or Local Government is recovered in shape of additional license fee. The levy and collection of excise duty in Punjab is governed by the Punjab Excise Act 1914, the Rules framed there under and the Punjab Excise Fiscal Orders, 1932.

3.3.2 Organisational set up

The Principal Secretary to Government of Punjab, Department of Excise and Taxation (Department) is the administrative head who has also been vested with the power of the Financial Commissioner (Taxation). The Excise and Taxation Commissioner (ETC) is the Head of the Department and is assisted by Additional ETCs, Deputy Excise and Taxation Commissioners (DETCs) and Assistant Excise and Taxation Commissioners (AETCs).

Organogram of the Excise and Taxation Department



3.3.3 Audit Objectives

The Performance Audit was conducted to assess whether:

- the provisions of the Acts, Rules framed thereunder and the prescribed procedure were enforced scrupulously to realize the duties and fee on manufacture and sale of liquor;
- adequate norms existed to govern the production and sale of liquor and these were enforced effectively;
- there were any lacunae in the Acts, Rules and instructions affecting prompt and effective realization of excise duty; and
- internal control mechanism in the Department was adequate and effective to safeguard collection and accountal of excise receipts.

3.3.4 Scope and methodology of audit

The performance audit (PA) was conducted through test check of the records relating to the levy and collection of duty, fees and penalties in the office of ETC Patiala, nine¹ out of 26 AETCs, four out of 14 distilleries, two out of four breweries and four out of 11 bottling plants between January and May 2017 covering the period from 2011-12 to 2015-16. However, findings for subsequent period have also been added wherever found necessary. The units were selected on the basis of probability proportion to

¹ Amritsar-I, Faridkot, Hoshiarpur, Jalandhar-II, Ludhiana-II, Ludhiana-III, Patiala, SAS Nagar and SBS Nagar.

size method of sampling, whereas, distilleries, breweries and bottling plants were selected on the basis of revenue.

An entry conference was held on 10 January 2017 with Joint Excise and Taxation Commissioner in which the scope, methodology and timelines were discussed, besides seeking concerns, if any, of the Department requiring examination by Audit.

The draft Performance audit report was forwarded to the Department/Government on 19 June 2017. An exit conference was held with the Department on 22 June 2017 to discuss the audit findings and recommendations. The replies of the Department and views expressed during exit conference have been incorporated in the report.

3.3.5 Audit Criteria

The audit criteria were derived from the following sources:

- Punjab Excise Act, 1914 and relevant rules framed thereunder;
- Punjab Excise Fiscal Orders, 1932;
- State Excise Policies;
- Punjab Financial Rules; and
- Departmental instructions issued from time to time

3.3.6 Trends of Revenue

Actual receipts *vis-à-vis* budget estimates for receipt of State excise duty and its contribution to the total tax revenue of Punjab during the period 2011-12 to 2016-17 is depicted below.

Table 1: Revenue realised vis-à-vis Budget Estimates

| (₹ in crore) | | | | | | |
|--------------|------------------|----------------|------------------------------------|-------------------------|-----------------------------|---------------------------------------------------|
| Year | Budget Estimates | Actual Receipt | Variation Excess (+) Shortfall (-) | Percentage of variation | Total tax revenue of Punjab | Percentage of actual receipt to total tax revenue |
| 2011-12 | 3,250.00 | 2,754.60 | (-) 495.40 | (-) 15.24 | 18,841.01 | 14.62 |
| 2012-13 | 3,800.00 | 3,331.96 | (-) 468.04 | (-) 12.32 | 22,587.56 | 14.75 |
| 2013-14 | 4,180.00 | 3,764.72 | (-) 415.28 | (-) 9.93 | 24,079.19 | 15.63 |
| 2014-15 | 4,600.00 | 4,246.11 | (-) 353.89 | (-) 7.69 | 25,570.20 | 16.61 |
| 2015-16 | 5,100.00 | 4,796.45 | (-) 303.55 | (-) 5.95 | 26,690.49 | 17.97 |
| 2016-17 | 5,610.00 | 4,406.00 | (-) 1204.00 | (-) 21.46 | 27,746.66 | 15.88 |

Source: Annual Financial Statement and Finance Accounts of the Government of Punjab

Excise receipts increased from ₹ 2,754.60 crore in 2011-12 to ₹ 4,796.45 crore in 2015-16 showing an annual average growth of 14.82 per cent. However,

the revenue decreased from ₹ 4,796.45 crore in 2015-16 to ₹ 4,406.00 crore in 2016-17. The Department of Excise and Taxation Commissioner, Punjab attributed this shortfall of 8.14 *per cent* to allotment of vends at lesser rates than the reserve price, less receipt of application money and non-receipt of complete license fee from some of the contractors. The share of actual excise receipts to the total tax revenue increased from 14.62 *per cent* in 2011-12 to 17.97 *per cent* in 2015-16 but decreased to 15.88 *per cent* in 2016-17. However, the actual receipts for all the years remained less than the budget estimates. The shortfall ranged between 5.95 and 21.46 *per cent*. Reasons for this shortfall were not furnished by the Department (June 2017).

3.3.7 Cost of collection

The gross collection of the State Excise receipts, expenditure incurred on its collection and the percentage of such expenditure to the gross collection during the years 2011-12 to 2015-16 are shown in **Table-2** below.

Table 2: Cost of Collection of State Excise receipts

| (₹ in crore) | | | | |
|--------------|-------------------------------|---------------------------------|------------------------------------------------------|--------------------------------------------------------------------|
| Year | Gross collection (₹ in crore) | Cost of collection (₹ in crore) | Percentage of cost of collection to gross collection | All-India average cost of collection (Percent of gross collection) |
| 2011-12 | 2,754.60 | 30.16 | 1.09 | 2.98 |
| 2012-13 | 3,331.96 | 35.72 | 1.07 | 2.96 |
| 2013-14 | 3,764.72 | 34.67 | 0.92 | 1.81 |
| 2014-15 | 4,246.11 | 35.05 | 0.83 | 2.09 |
| 2015-16 | 4,796.45 | 34.55 ² | 0.72 | 3.21 |

Source: Finance Accounts of the Government of Punjab

The cost of collection in Punjab, which ranged between 0.72 and 1.09 *per cent*, was lower than All-India average cost of collection.

3.3.8 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 was ₹ 17.93 crore out of which ₹ 4.91 crore was analysed in audit in six³ AETCs. Out of this, arrears of ₹ 1.88 crore were more than four decades old and arrears of ₹ 3.03 crore were between seven and 30 years old. However, no significant recoveries were made during previous five years as only ₹ two lakh were recovered.

² Transfer of ₹ 50 crore to Punjab Development Fund (established in January 2015) to meet expenditure on welfare schemes, de-addiction programmes, creation of community assets, and maintenance and development of Punjab's cultural heritage has not been included in calculation of cost of collection.

³ Amritsar-I, Jalandhar-II, Ludhiana-II, Ludhiana-III, Patiala and SAS Nagar

The Department stated (June 2017) that it would initiate the write off process for irrecoverable arrears in consultation with the Finance Department and put in best efforts to recover the arrears which were still recoverable. However, audit noticed that even though arrears of ₹ 44.73 lakh had been declared irrecoverable as long as four decades ago as the defaulters were either not surviving or not traceable, the Department initiated action to write off ₹ 11.73 lakh only.

Audit Findings

Systemic Deficiencies

3.3.9 Gaps/lacunae in Act and Rules

During performance audit it was noticed that there was potential loss of revenue of ₹ 60.98 crore due to gaps and lacunae in the provisions in the Excise Act and Rules made thereunder regarding overtime fee, norms for production of alcohol, norms for wastages and payment of license fee for restaurant. These gaps and lacunae are discussed in the succeeding paragraphs.

3.3.9.1 Absence of penal provisions for delay in payment of overtime fee

Rule 32 A of the Punjab Distillery Rules, 1932, provides that overtime fee for every month shall be payable within seven days of the closure of the month concerned. The Rule applies mutatis mutandis to Breweries and Excise Bonded Warehouses. However, there is no penal provision in the Punjab Distillery Rules providing for levy of interest/penalty in case of delay in deposit of the fee.

Scrutiny of the records in the selected units of distilleries, breweries and bottling plants for the period 2011-12 to 2015-16 revealed that only two distilleries in Mohali and Hoshiarpur districts deposited overtime fees within the prescribed time. The other units deposited the overtime fee of ₹ 67.66 lakh with delays ranging between two and 20 days. However, in the absence of the penal provision for delay in deposit of fee, the Department was not in a position to take any penal action on these delayed deposits.

During exit conference, the Department agreed (June 2017) to incorporate suitable penal provisions in the relevant rules.

3.3.9.2 Absence of timeline for payment of license fee by the proprietors of restaurants for consumption of liquor

Rule 5 of the Punjab Restaurant (Consumption of Liquor) Rules, 1955 provide for payment of fixed license fee by a proprietor of a restaurant or ihata⁴ licensed (in form L-52) for consumption of liquor. However, the rules do not prescribe any timeline for payment of the fee.

⁴ Ihata is a place attached to a retail country liquor and foreign liquor vend where public is admitted for consumption of food or drink for consideration.

Scrutiny of the records of nine⁵ AETCs for the period from 2011-12 to 2015-16 revealed that though 4,102 restaurants deposited license fee of ₹ 11.82 crore within the financial year in which license was issued, the instances of deposit of fee were scattered throughout the year and 91 licensees deposited the license fees of ₹ 0.27 crore after the close of the financial year. In the absence of any time limit for deposit of fee and penal provision for delay in deposit of fee, the Department was not in a position to take any penal action on the delayed deposits.

During exit conference, the Department agreed (June 2017) to incorporate suitable provisions in the Rules.

3.3.9.3 Absence of norms for production of alcohol from molasses

The Government of Punjab substituted (18 March 2011) Rules 35 and 37 of the Punjab Distillery Rules, 1932 with revised rules and introduced norms for production of alcohol from grains. Due to this substitution, the then existing norms for production of alcohol from molasses which provided that one quintal of molasses should yield 36.61 proof litres of spirit stood deleted. One proof litre alcohol had implication of minimum excise duty of ₹ 35.00 in 2015-16.

Audit scrutiny of data of three distilleries in Hoshiarpur, Kapurthala and Mohali districts regarding production of alcohol from molasses during 2011-12 to 2015-16 revealed that there were differences in the yield (production of alcohol in proof litre per quintal of molasses) of alcohol among the distilleries. The minimum and maximum yields in these three distilleries during the period were 32.66-36.71, 34.31-36.40 and 36.62-40.68 proof litres. The average yields of the three distilleries during 2015-16 were 34.72, 35.70 and 38.15 proof litres and the distilleries consumed 1.48, 3.89 and 1.83 lakh quintal of molasses during that period. If the lower yields are compared with the previous existing norm of 36.61 proof litre, there is an implication of excise duty of ₹ 2.14 crore. Hence, it is prudent on the part of the Department to introduce norms for production of alcohol from molasses.

During exit conference, the Department stated (June 2017) that they were considering to address this issue in a scientific manner by installing instruments, such as flow meter, in the distilleries for real-time monitoring of actual production of alcohol. The rules might be amended accordingly after such system was devised.

3.3.9.4 Norms for production of alcohol from grains

The revised rules substituted (18 March 2011) for Rules 35 and 37 of the Punjab Distillery Rules, 1932 prescribed norms for recovery of outturn of a

⁵ Amritsar-I, Faridkot, Hoshiarpur, Jalandhar-II, Ludhiana-II, Ludhiana-III, Patiala, SAS Nagar and SBS Nagar

distillery. Minimum recovery of alcohol is prescribed as 52.47 litres of 100 *per cent* alcohol per quintal of fermentable sugar present in the grains, consumed for production of alcohol.

(a) Non implementation of norms: Scrutiny of the records in three distilleries in Hoshiarpur, Kapurthala and Mohali districts revealed that the Department had not developed any mechanism to monitor the outturn of alcohol as per the prescribed norm. Instead the outturn report was being prepared by the distilleries and the Department was accepting the same without checking its veracity. To implement the norm in letter and spirit, the Department was required to ascertain independently, the quantity of fermentable sugar present in the grains to be used by the distilleries for production of alcohol. For this, the Department was required to draw sample of raw material and get it tested in an independent laboratory approved by Government to determine the presence of fermentable sugar and cross check it with the fermentable sugar declared by the distilleries. Audit observed that in Uttar Pradesh, such testing of samples to check the level of fermentable sugar has been provided for in the rules itself. However, no samples were drawn and tested by the Department in Punjab. Thus, the objective of prescribing the norm was defeated.

During exit conference, the Department stated (June 2017) that there was no laboratory in the State to check the presence of fermentable sugar in the grains. Therefore, the norms could not be implemented.

(b) Unrealistic norm: Audit worked out production of alcohol against the fermentable sugar present in the grains from the material consumption statements of the three distilleries and found that recovery of alcohol per quintal of fermented sugar was considerably higher than the prescribed norms of 52.47 PL. The recovery of alcohol in these distilleries during the years 2011-12 to 2015-16 ranged between 89.40 PL to 104.83 PL per quintal of fermentable sugar present in the grains as per report prepared by the distilleries. The huge difference between the prescribed norms and actual recovery of alcohol indicates that the data of actual recovery was not analysed by the Department before notifying the norms. Thus, there was need to review and revise the norms for production of alcohol from grains because unrealistically low norm carries the risk of suppression of actual production and consequently evasion of excise duty which the Department may not be able to notice.

During exit conference, the Department stated (June 2017) that they were considering addressing this issue in a scientific manner by installing instruments, such as flow meter, in the distilleries for real-time monitoring of actual production of alcohol. The rules might be amended accordingly after such system was devised. However, the reasons for fixing unrealistic norms

were not explained. Further, timeline for putting in place such system for real-time monitoring and amendment of relevant rules was not intimated.

3.3.9.5 Lack of norms for wastage for breweries

Section 32 of the Punjab Excise Act 1914 provides that duty can be levied on the quantity of excisable article imported, exported, transported, collected or manufactured in or issued from a distillery, brewery or warehouse. Further, Section 32 (b) of the Act provides that duty can also be levied on spirit or beer manufactured in any distillery established or any distillery or brewery licensed, under this Act in accordance with such scale or equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the State Government may prescribe.

Audit noticed that neither the Punjab Breweries Rules nor the Punjab Liquor License Rules makes it clear as to whether the duty on beer is leviable under Section 32 or Section 32(b) *ibid*. However, as per Rules 25 and 31 of the Punjab Liquor License Rules, excise duty from breweries is recovered as fixed annual license fee and assessed fee. The annual license fee is recovered from breweries whereas the assessed fee is recovered from wholesale vendors (L-1) at the time of granting permit in form L-32 for lifting the quota of beer from breweries. This indicates that the present system of levy of excise duty on beer is on the quantity of beer issued from breweries.

Scrutiny of the records of two sampled breweries of Ludhiana and Mohali districts for the years 2011-12 to 2015-16 revealed that the Department had been collecting duty from breweries on quantity of beer arrived at by deducting wastage at the rate of eight *per cent* from the quantity of beer produced. The basis for application of the wastage of eight *per cent* was not shown to Audit and hence this system of allowing wastage did not have a statutory grounding. It was observed that the amount of duty involved in wastage allowed by the Department (4.68 to 8.00 *per cent*) in the case of two breweries during the period 2011-12 to 2015-16 was ₹ 58.84 crore. Supreme Court in the case of M/s. Mohan Meakin Ltd. Vs. Excise and Taxation Commissioner and Ors. held that excise duty upon alcoholic liquor arises when excisable article is brought to the stage of human consumption with the requisite alcoholic strength thereof.

There is a provision of wastage of seven *per cent* in the Brewery Rules of the Haryana State, beyond which the licensee is liable to pay duty at the prescribed rates. If the intention of the Department is to levy duty on quantity of beer produced or ought to be produced subject to allowance of prescribed wastage, the Department needs to notify for such levy of duty on beer under Section 32 or 32(b) of the Act and incorporate norm of wastage in the relevant rules.

During exit conference, the Department agreed (June 2017) with the audit observation and assured to incorporate norms for wastage in the Rules.

Compliance Deficiencies

3.3.10 Non recovery of excise dues

The Comptroller and Auditor General of India during its earlier performance audit on ‘Working of the State Excise Department’ which was conducted in 2010-11 noticed instances⁶ of short recovery of licence fee from vend licensees and made a recommendation to put in place a system to recover license fee in lump sum in advance like Maharashtra. In a meeting of the Public Accounts Committee (17 December 2013), the Department assured to examine the system of recovery of license fee in lump sum in advance, and if feasible, put the same in the next excise policy. It was, however, noticed that the Department had not put in place the system for making recovery of license fee in lump sum in advance with the result that the cases of short payment of licence fee were persisting. A significant case involving ₹ 46.01 crore is discussed in the succeeding paragraph.

As per Rule 25(3) of the Punjab Liquor License Rules 1956 a liquor vend licensee is required to lift his entire quota, after paying all excise dues, by 10 March of the following year in which license was granted. In case of failure to lift any part of his quota, he is required to deposit the license fee and all other excise dues. Further, in order to safeguard revenue of the Government, Rule 36 (32) of the Punjab Liquor Licence Rules, 1956 provides for furnishing of surety bond in form M-75 by successful allottees of liquor vends before the commencement of the business.

Scrutiny of records of three⁷ AETCs revealed that during 2015-16 and 2016-17, 22⁸ licensee groups did not pay excise dues of ₹ 46.12⁹ crore which were payable on account of unlifted quota of IMFL, PML and beer. Out of these dues, the AETCs could recover only ₹ 0.11 crore as arrears of land revenue (June 2017) from the defaulters.

It was further noticed that though the Department had obtained surety bonds of ₹ 123.60 crore as per Rule 36 (32) *ibid*, solvency positions to ensure that licensees or their sureties were solvent to the extent of the bond amount were not verified. Such process for verification of solvency position of licensee or his surety is prescribed in the neighboring states of Haryana and Rajasthan.

⁶ Para 4.2 of the Report on ‘Working of the State Excise Department’ for the year ended 31 March 2011.

⁷ Faridkot, Ferozepur and Ludhiana-III.

⁸ Faridkot:17, Ferozepur:2 and Ludhiana-III:3

⁹ 2015-16: Ferozepur-₹ 4.04 crore

2016-17: Faridkot-₹ 21.26 crore and Ludhiana ₹ 20.82 crore.

Thus, non implementation of system of recovery of license fee in lump sum in advance coupled with non verification of solvency position of licensee or his surety to secure Government revenue in case of default in payment, put the Government dues of ₹ 46.01 crore at stake.

During exit conference, the Department assured (June 2017) to place the system for recovery of license fee which was best capable of safeguarding revenue and to provide for verification of the solvency position of the persons standing as sureties to the extent of bond amount in the Punjab Liquor Licence Rules, 1956. The Department further stated that it was in the process of getting the properties of defaulters red marked in land revenue records and best possible efforts would be made to recover the Government dues both from defaulter licensees and their sureties.

3.3.11 Non levy of cow cess on sale of IMFL/PML/Beer

The Department of Local Government, Punjab levied¹⁰ cow cess on bottles of IMFL, PML and beer to be sold in urban areas of SAS Nagar, Jalandhar and Hoshiarpur. The AETC of the concerned district was responsible for collection of cow cess on the bottles of IMFL, PML and beer sold in urban areas.

Scrutiny of records of AETC Hoshiarpur, Jalandhar-II and SAS Nagar revealed that they did not collect cow cess of ₹ 9.72 crore during the years 2015-16 and 2016-17 on the sale of IMFL, PML and beer bottles.

During exit conference, the Department stated (June 2017) that Department of Local Government had levied cow cess in selective urban areas of Punjab. Thus, collection of the cess was fraught with the risk of distorting the liquor business in the State. Therefore, they were examining the feasibility of levying this cess in a centralized manner in coordination with the Department of Local Government. The reply was not tenable as the levy should be in accordance with the notification once issued till revoked.

3.3.12 Short recovery of overtime fee

Rule 32 of Punjab Distillery Rules 1932 as applicable to breweries in terms of Rule 41 of Punjab Brewery Rules, 1956 provides that the overtime fee at the rate of ₹ 5,000 per day or for part of a day is payable for working beyond normal working hours and holidays.

Audit scrutiny of records of one brewery of Ludhiana district revealed that during the years 2011-12 to 2015-16, the Department charged overtime fee at the rate of ₹ 1,000 per day for working beyond normal working hours instead

¹⁰ **Hoshiarpur** - Notification No. 14/118/14-5 S.S.1/604 dated 15.6.2016, **Jalandhar** - Notification No. 14/118/14-5 S.S.1/613 dated 15.6.2016, **SAS Nagar** - Notification No. 14/118/14-5 S.S.1/512447/1 dated 17.6.2015

of applicable rate of ₹ 5,000, resulting in short recovery of overtime fee of ₹ 52.48 lakh. The irregularity continued in 2016-17 and the Department short recovered overtime fee of ₹ 9.60 lakh in this year. The omission resulted in short recovery of overtime fee of ₹ 62.08 lakh.

After the matter was reported, the Department recovered the overtime fee in the case pointed out (August 2017). The Department, may, however check similar irregularity in other breweries.

3.3.13 Renewal of Excise Bonded Warehouse licenses despite deficient securities

As per provision contained below Rule 4(3) of Punjab Excise Bonded Warehouse Rules 1957, the licensee, before the grant or renewal of BWH-2 licence, is required to furnish a security equivalent to 25 *per cent* of the amount of excise duty on the maximum quantity of foreign liquor allowed to be stored at any one time. The security shall be furnished in cash, or in the shape of saving certificates or bank guarantee of a scheduled bank or by hypothecation of assets.

Scrutiny of records revealed that BWH-2 licenses of four Excise Bonded Warehouses of Mohali district were renewed by the Department during the years 2011-12 to 2015-16 without obtaining security equivalent to 25 *per cent* of the amount of excise duty on the maximum quantity of foreign liquor allowed to be stored at any one time. Securities¹¹ furnished by licensees for renewal of licenses were between two and 21 *per cent* instead of the required 25 *per cent*. The total deficient security amount worked out to ₹ 8.60 crore and in individual cases it ranged between ₹ 3.37 lakh to ₹ 2.32 crore. Moreover, it was also noticed that bank guarantees for above security were either not obtained in time or were not renewed before expiry. In one warehouse, bank guarantee amounting to ₹ 9.70 lakh had expired on 11 September 2015 and the same was renewed on 01 April 2016. Similarly, in another warehouse, bank guarantee of ₹ 1.21 crore was obtained on 20 May 2014 instead of 01 April 2014 and subsequently on 30 April 2015 instead of 01 April 2015. Non-renewal or late renewal of bank guarantee carries the risk of non-realisation of excise dues in case of non-payment of the same by the licensee. Moreover, renewal of BWH-2 license without obtaining security of prescribed amount was in contravention of rules.

During exit conference, the Department stated (June 2017) that the proviso below Rule 4(3), referred to above, provides for obtaining security in respect of the amount of excise duty whereas the Department had done away with the system of excise duty and had prescribed system of license fee. Thus, the Department had not been able to enforce the provision pertaining to obtaining

¹¹ Amount of Security worked out considering prevailing minimal excise duty

of security, at prescribed rates, contained in this rule. He further stated that in order to remove such discrepancies or contradictions, the Department was considering to take up legal audit of excise related acts and rules.

The reply of the Department is not tenable as mentioning the word “license fee” instead of “excise duty” in the excise policies does not undermine the intent of the Rule 4(3) *ibid*. Moreover, amount by whatever name collected is a duty under Section 32 of Punjab Excise Act 1914.

3.3.14 Short realization of license fee

Rule 38 (1-A) of the Punjab Liquor License Rules, 1956 stipulates that a license in form L-1A may be granted for wholesale vend of Indian Made Foreign Liquor, Imported Foreign Liquor including BIO¹² brands, beer, wine and ready to drink beverages. Further, Rule 25(1) provides for annual fixed license fee for grant and renewal of licenses. The Government of Punjab notified¹³ (26 March 2015) slab based rates¹⁴ for annual license fee of license L-1A on the basis of quantum of sale.

Scrutiny of records of the AETC Jalandhar-II revealed that a licensee sold 10.84 lakh cases of beer and 9,558 cases of Indian Made Foreign Liquor (IMFL) during the year 2015-16. However, license fee of ₹ 15 lakh, worked out on the basis of quantity of sale of IMFL only, was realized for this period against ₹ 1.25 crore, arrived at after taking into account sale of beer also, resulting in short realization of license fee of ₹ 1.10 crore.

During exit conference, the Department stated (June 2017) that considering wide variation in the prices of beer and IMFL, it was not the intention of the Government to include quantity of sale of beer for arriving at license fee of L-1A. The discrepancy in rules leading to the audit observation would be examined and removed.

Similar point was brought to the notice of the Department vide Para 3.3 of the Report of Comptroller and Auditor General of India on Revenue Sector for the year ended 31 March 2016. However, the Department neither amended the

¹² Bottled in Origin

¹³ Notification No. G.S.R.11/P.A.1/1914/S.59/Amd.(126)/2015 dated 26.3.2015

¹⁴ Annual License Fee for L-1A License

| L-1A license | Rate of license fee during 2015-16 (₹ in lakh) | Rate of license fee dealing exclusively BIO brand | Rate of license fee during 2015-16 (₹ in lakh) |
|------------------------------------------|------------------------------------------------|---------------------------------------------------|------------------------------------------------|
| If sale is upto 50,000 cases | 15.00 | Sale upto 1,000 cases | 4.00 |
| If sale is from 50,001 to 75,000 cases | 25.00 | | |
| If sale is from 75,001 to 1,00,000 cases | 30.00 | If sale is from 1,001 to 50,000 cases | 10.00 |
| If sale is from 1,00,001 cases and above | 125.00 | | |

rule position in accordance with its intention nor recovered the deficient amount as per prevailing rule position.

3.3.15 Internal Control Mechanism

Internal control mechanism in a department is meant to ensure that its activities are carried out according to the prescribed rules and regulations in an economical, efficient and effective manner. Further, inspection is an important tool for internal control in the hands of the administration for ascertaining that the rules and procedures prescribed by the department are followed to safeguard the revenue. Audit noticed that the internal control mechanisms needed strengthening as there was non-reconciliation of deposits with treasury records and shortfall in the number of departmental inspections of liquor vends.

(a) Rule 2.2 (v) of Punjab Financial Rules (Volume-I) provides that by the 15th of every month, head of office should obtain from the treasury a consolidated receipt for all remittances made during the previous month which should be compared with the postings in the cash book. Audit noticed that out of total revenue of ₹ 1,328.09 crore for the period 2011-12 to 2015-16 under State Excise in respect of five out of the 19 selected units, the revenue of ₹ 1,309.91 crore (98.63 *per cent*) were not reconciled by these units. Further, in AETC Patiala, there were differences in receipts ranging from ₹ 8.95 crore to ₹ 176.91 crore between revenue figures of statement of revenue collection (M1 statement) and Daily Cash Registers for which no reasons were furnished. Non-reconciliation with treasury could lead to misappropriation / embezzlement of government money.

The Department stated (June 2017) that concerned officers would be directed to carry out reconciliation.

(b) The Excise and Taxation Commissioner, Punjab had directed (July 2006) the field officers to conduct inspections of liquor vends in the State in order to check the sale of adulterated / spurious liquor or other irregularities. The inspection due and inspections actually conducted are depicted below:

Table 3: Inspections of liquor vends conducted by AETC/ETO/EI¹⁵

| Year | No. of vends to be inspected | No. of vends inspected | Short fall in inspections | |
|---------|------------------------------|------------------------|---------------------------|------------|
| | | | (Nos.) | (per cent) |
| 2011-12 | 1,13,292 | 84,828 | 28,464 | 25 |
| 2012-13 | 1,29,331 | 1,19,732 | 9,599 | 7 |
| 2013-14 | 1,33,572 | 1,20,187 | 13,385 | 10 |
| 2014-15 | 1,37,184 | 1,15,372 | 21,812 | 16 |
| 2015-16 | 54,864 | 75,862 | - | - |

Source: Departmental figures

It is observed that there were shortfalls ranging between 7 and 25 per cent in inspections of liquor vends during the period 2011-12 to 2014-15. The Department stated (June 2017) that there was no shortfall in inspections during the year 2015-16 and assured that such efforts would be continued in future also.

3.3.16 Internal Audit

Internal Audit is a vital component of the internal control mechanism. Internal Audit Organisation (IAO) was set up in October 1981 as an independent organisation under the State Finance Department and was entrusted inter-alia, with the internal audit of revenue receipts to safeguard against any loss or leakage of revenue arising under the various revenue heads including excise duty.

Scrutiny of the information collected from the Deputy Director, Internal Audit (Revenue) as regards to the number of units due for audit and units audited is depicted below:

Table 4: Position of internal audits

| Year | Number of units due for audit | Units audited during the year | Units remained unaudited | Percentage of unaudited units |
|--------------|-------------------------------|-------------------------------|--------------------------|-------------------------------|
| 2011-12 | 177 | 0 | 177 | 100 |
| 2012-13 | 213 | 0 | 213 | 100 |
| 2013-14 | 248 | 1 | 247 | 100 |
| 2014-15 | 285 | 154 | 131 | 46 |
| 2015-16 | 166 | 26 | 140 | 84 |
| Total | 1,089 | 181 | 908 | 83 |

Source: Internal Audit Organisation

¹⁵ Excise Inspector.

It is observed that the shortfall in conducting internal audit by the Finance Department ranged between 46 and 100 *per cent* during the years 2011-12 to 2015-16.

The Deputy Director (IAO) attributed shortfall in conducting internal audit to shortage of staff. The reply is not tenable as IAO should adopt risk analysis technique and ensure audit of all planned units.

Conclusion

The gaps and lacunae in Acts and Rules have resulted in potential loss of revenue. Time line and penal provisions were absent to ensure timely realisation of overtime fee and restaurant (L-52) fee. The norms to regulate production of alcohol from molasses and grain needed attention. The practice of allowing eight *per cent* wastage in production of beer in breweries was not in harmony with the existing Brewery Rules. Further, the existing procedure for levy and collection of excise duty suffered from deficiencies that resulted in non-recovery of revenue aggregating to ₹ 57.45 crore. The system of recovery of license fee from vend licensees needed strengthening.

Recommendations

It is recommended that the Government may consider:

1. introducing penal provision for delay in payment of overtime fee, timeline for payment of license fee for restaurants and norm for production of alcohol from molasses;
2. incorporating rules to levy duty on quantity of beer produced and norms for allowing wastage over the produced quantity;
3. introducing a system for verification of solvency position of licensee or his surety before commencement of business like similar system prevailing in Haryana and Rajasthan; and
4. strengthening internal audit mechanism for greater effectiveness.

Chapter-IV
Stamp Duty

CHAPTER-IV Stamp Duty

4.1 Tax administration

The State Government exercises control over the registration of instruments through the Inspector General of Registration, who is assisted by the Deputy Commissioners (Collectors), Tehsildars and Naib-Tehsildars acting as Registrars, Sub-Registrars (SRs) and Joint Sub-Registrars (JSRs) respectively. The Registrar exercises Superintendence and Control over the SRs and JSRs of the district. For the purpose of levy and collection of Stamp Duty and Registration Fee, the State has been divided into five divisions and 22 districts having 22 Registrars, 82 SRs and 87 JSRs.

4.2 Results of audit

Test check of the records of 102 units relating to Stamp Duty and Registration Fee during 2016-17 brought out irregularities involving ₹ 25.60 crore in 2,355 cases, which broadly fall under the following categories as depicted below.

Table 4.1: Result of audit

| Sl. No. | Categories | Number of cases | Amount (₹ in crore) |
|---------|-----------------------------------------------------------------------------------------------------------|-----------------|---------------------|
| 1. | Non/short levy of stamp duty and registration fee due to misclassification/undervaluation of instruments. | 499 | 15.21 |
| 2. | Non-levy of Stamp Duty on Power of Attorney/Mortgage deeds/Transfer deeds and Lease deeds. | 144 | 4.21 |
| 3. | Irregular exemption of Stamp Duty and Registration Fee. | 71 | 2.81 |
| 4. | Non levy of Social Infrastructure Cess (SIC)/Social Security Fund (SSF) | 323 | 2.56 |
| 5. | Other irregularities | 1,318 | 0.81 |
| | Total | 2,355 | 25.60 |

In 2016-17, the Department accepted non/short levy of stamp duty and registration fee and other deficiencies of ₹ 7.19 crore in 4,526 cases out of which ₹ 1.30 lakh involved in 16 cases were pointed out in 2016-17 and rest in the earlier years. The Department further informed in 2016-17 that they had recovered ₹ 7.18 crore in 4,510 cases pertaining to the earlier years.

A few illustrative cases involving ₹ 9.03 crore are discussed in the succeeding paragraphs:

4.3 Misappropriation of Government money

Non-observance of codal provision resulted in misappropriation of Government money of ₹0.30 lakh.

Rule 2.2 of the Punjab Financial Rules, Volume-I provides that all monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the office. The head of the office should verify the totaling of the cash book or have this done by some responsible subordinate other than the writer of the cash book and initial it as correct. Further, Rule 2.4 provides that the amount received should be deposited in treasury on the same day or the next day.

Scrutiny of records of SR Mansa for the period 2015-16 revealed that copying/pasting/registration fees amounting to ₹ 1.65 lakh were received and entered in cash book on 11 May 2015. However, the amounts were totalled as ₹ 1.35 lakh which was deposited in treasury on 12 May 2015. The wrong totalling of receipts resulted in misappropriation of Government money of ₹ 0.30 lakh.

SR Mansa replied (May 2017) that the authority had not yet decided from whom the recovery was to be made. The matter was reported to the Government/Department (May 2017); their replies were awaited.

4.4 Non levy of Additional Stamp Duty for Social Security Fund

Failure to comply with the Government instructions resulted in non-levy of additional stamp duty for Social Security Fund amounting to ₹10.56 lakh.

The Government of Punjab levied (February 2005) additional stamp duty in the name of Social Security Fund (SSF) at the rate of three *per cent* on every instrument mentioned in entry 23 of Schedule 1-A, if such an instrument was for transfer of properties situated within the jurisdiction of a Municipality or Corporation or within the area of five kilometers from the outer limit of Class-I Municipality or Corporation, as may be specified by the Collector.

Scrutiny of records of Joint Sub Registrar Balianwali (Bathinda) for the period 2015-16 revealed that a sale deed was executed and registered for ₹ 3.52 crore without charging additional stamp duty even when the property was situated within the limits of the Municipality. Failure to comply with the Government instructions resulted in non-levy of additional stamp duty for SSF of ₹ 10.56 lakh.

The matter was reported to the Government/Department (February 2017); their replies were awaited.

4.5 Villages for the purpose of levying Additional Stamp Duty not specified

The Collector did not specify the names of the villages for the purpose of levy of Additional Stamp Duty (ASD) after extension of boundaries of Phagwara Corporation due to which the Department could not charge ASD of ₹28.87 lakh.

As per Section 3(C) of IS Act, ASD at the rate of three *per cent* was leviable for social security fund on every instrument mentioned in Entry 23 of Schedule I-A, if such an instrument was for transfer of properties situated within the jurisdiction of a Municipality or Corporation or within the area of five kilometers from the outer limit of Class-I Municipality or Corporation as may be specified by the Collector. Further, the Government of Punjab had clarified (May 2005) that ASD was not exempt even in cases where SD had been remitted.

Scrutiny of records of Sub Registrar Phagwara for the period 2015-16 revealed that the Department of Local Government, Punjab, upgraded Phagwara Municipality as Corporation and extended (October 2012) its boundaries. Consequent upon this, the Collector did not specify villages falling within the arc of five kilometers of outer limit of extended boundaries for the purpose of levy of ASD even after the lapse of 53 months (up to March 2017) due to which the SR could not charge ASD of ₹ 28.87 lakh in two cases.

The matter was reported to the Government/Department (February 2017). SR Phagwara recovered (June 2017) ₹ 19.34 lakh in one case and sent the other case to Collector under Section 48 of IS Act for recovery of amount as arrear of land revenue.

4.6 Short levy of SD and RF due to misclassification of property

19 SRs/JSRs short levied Stamp Duty and Registration Fee of ₹7.71 crore in 57 cases due to misclassification of properties.

Punjab Government empowered¹ (August 2002) the Collector of a district in consultation with Committee of Experts as defined there under to fix the minimum market rates of land and properties situated in the Urban and Rural areas locality wise and category wise in the District for the purpose of levy of SD and RF on the instruments of transfer of properties.

Scrutiny of records of 19² SRs/JSRs for the period 2014-16 revealed that 57 instruments of transfer of properties were registered at the value of

¹ GSR-30/CA-2/1899/SS-47 and 75/Amd (2)/2002 dated 23 August 2002.

² Amritsar-I, Barnala, Bathinda, Bhikhiwind, Ferozepur, Jagraon, Jalandhar-II, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Malerkotla, Mullanpur Dakhan, Nakodar, Patti, Phagwara, Rajpura, Sangrur, Talwandi Sabo and Zira.

₹ 27.83 crore set forth in these instruments whereas the properties were required to be evaluated for ₹ 114.27 crore. These instruments were registered after applying lower rates whereas higher rates were applicable as these properties were either residential/commercial as per Jamabandi/khasra girdawari or situated in particular locality for which higher rates as fixed by the respective Collectors were applicable. The misclassification of properties resulted in short levy of SD and RF of ₹ 7.71 crore.

The matter was reported to the Government/Department (between March and June 2017). SR Amritsar-I, Bathinda, Jalandhar-II and Malerkotla replied that the cases had been referred to Collector under Section 47-A of Indian Stamp Act. SR Rajpura intimated (September 2017) that full recovery of ₹ 14.79 lakh has been made. Replies in other cases were awaited.

4.7 Inadmissible remission of stamp duty and registration fee

Failure of SR in not exercising delegated authority in compliance with the Government instructions resulted in inadmissible remission of SD and RF of ₹ 15.92 lakh.

The Government of Punjab remitted (February, 1981) stamp duty (SD) and registration fee (RF) chargeable on instruments of conveyance by sale or gift in favour of charitable institutions for charitable purposes. In order to decide whether an institution is a charitable institution within the meaning of Charitable Endowment Act 1890, the Government empowered (May 2010) the Deputy Commissioners (DCs) to decide the same and instructed that prior approval from the concerned DCs in this regard should be obtained before registering an instrument for charitable purposes. Subsequently, the Government observed (August 2014) that SRs/JSRs, instead of obtaining prior approval from DCs, had developed the practice of first registering the instruments without levying stamp duty and registration fee and then sending the same to DC under Section 47-A of Indian Stamp Act 1947 to decide whether the institution was charitable. The Government disapproved this practice and delegated (August 2014) the power to decide the same by passing a specific order before registering the deeds to the SRs/JSRs. The instruction stipulated that the applicant would submit documentary evidence to establish the eligibility of the institution to be classified as charitable as per the criteria stipulated in the instruction *ibid* and the SR/JSR will record specific order as to on which grounds the exemption has been granted.

Scrutiny of the records of SR Batala for the year 2015-16 revealed that the SR registered two instruments of transfer of immovable property in favour of an institution without charging any SD even though he was apparently satisfied that the institution did not fulfill the criteria for remission of SD. Thereafter, within just two days of registration without levy of SD, the SR sent (March 2016) the case to DC Gurdaspur under Section 47-A stating that the

executors of deeds did not return the original deeds which were taken by them on the pretext of checking them. The action of the SR defeated the purpose and objective of the Government instructions as he was required to decide the case himself and register the instrument only after charging proper stamp duty and registration fee. The action of the SR in not levying SD on an institution which he had considered as a non charitable institution resulted in inadmissible remission of stamp duty and registration fee of ₹ 15.92 lakh.

The matter was brought to the notice of the Department and the Government (May 2017); their replies were awaited.

4.8 Inadmissible remission of additional stamp duty and SIC

In 28 instruments, 21 SRs/JSRs allowed inadmissible remission of additional stamp duty for SSF and SIC of ₹ 76.43 lakh despite having clarification of Government on the contrary.

The Government of Punjab levied additional stamp duty for Social Security Fund (SSF) (February 2005) at the rate of three *per cent* and Social Infrastructure Cess (SIC) (February 2013) at the rate of one *per cent* on every instrument mentioned in entry 23 of Schedule 1-A. SSF is leviable if the instrument is for transfer of properties situated within the jurisdiction of a Municipality/ Corporation or within the area of five kilometers from the outer limit of Municipality/ Corporation, as may be specified by the Collector. Further, the Government while issuing clarification regarding levy of SSF clarified (May 2005) that where remission from payment of stamp duty has been given from time to time under provision of Indian Stamp Act, such remission is for stamp duty only.

Scrutiny of the records of 21 SRs/JSRs³ for the year 2014-15 and 2015-16 revealed that 28 instruments for transfer of property were registered in the names of charitable institutions/trusts where stamp duty was exempted, without levying additional stamp duty of ₹ 42.72 lakh and SIC of ₹ 33.72 lakh in contravention of the provision and clarification *ibid*. This resulted in short realisation of additional stamp duty and SIC of ₹ 76.43 lakh.

The matter was brought to the notice of the Government/Department (between February and June 2017); SR Banga intimated (May 2017) recovery of ₹ 6.03 lakh in one case. SR Bathinda replied that SSF was not applicable in two cases. The reply was not tenable as the villages were within the five kilometers of the boundary of the Municipal Corporation. Replies in the remaining cases were awaited.

³ Ajnala, Amargarh, Baba Bakala, Banga, Bathinda, Chamkaur Sahib, Dirba, Ferozepur, Garhshanakar, Gidderbaha, Hoshiarpur, Jagraon, Kharar, Ludhiana (East), Mansa, Moga, Mukerian, Mullanpur Dakhan, Noormahal, Pathankot and Sangrur.

Chapter-V
Taxes on Vehicles, Goods and Passengers

Chapter–V Taxes on Motor Vehicles

5.1 Tax administration

The overall charge of the Transport Department vests with the State Transport Commissioner (STC), Punjab, Chandigarh. There are 22 districts each headed by a District Transport Officer (DTO) who monitors due observance of the Punjab Motor Vehicles Taxation Act, 1924 and the Rules made thereunder and maintains the records of receipt of motor vehicles taxes and various fees. In addition, there are four Regional Transport Authorities (RTAs) for regulating the transport vehicles in the State in conformity with the Act and collection of motor vehicles taxes in respect of buses of other States.

5.2 Results of audit

Test check of the records of 29 units relating to taxes on vehicles during 2016-17 revealed irregularities involving ₹ 18.83 crore in 4,301 cases, which broadly fall under the following categories as depicted below:

Table 5.1: Results of audit

| Sl. No. | Categories | No. of cases | Amount (₹ in crore) |
|---------|--------------------------------------------|--------------|------------------------|
| 1. | Non/Short realisation of Motor Vehicle Tax | 3,753 | 9.23 |
| 2. | Irregular retention of Government money | 33 | 7.35 |
| 3. | Other irregularities | 515 | 2.25 |
| | Total | 4,301 | 18.83 |

In 2016-17, the Department informed audit that they have accepted and recovered, by issuing demand notices in cases of short/non-recovery of MVT and other deficiencies, ₹ 2.26 crore involved in 560 cases, out of which ₹ 3.72 lakh involved in 11 cases were pointed out in 2016-17 and rest in the earlier years.

Some illustrative cases involving ₹ 38.68 lakh are discussed in the succeeding paragraphs.

5.3 Non/Short realisation of motor vehicle tax

In two RTAs and three DTOs, Motor Vehicle Tax of ₹38.68 lakh was short realised from four companies/institutes and two state road transport authorities plying buses in Punjab.

Section 3 of the Punjab Motor Vehicle Taxation Act, 1924, provides for imposition of tax on every motor vehicle and empowers the Government of Punjab to determine the rate and manner of payment of the tax. The Government, in exercise of these powers, notified the rates of Motor Vehicle

Tax (MVT) for stage carriage buses, private service vehicles, vehicles used by educational institutions and buses of other States plying in Punjab having permits which were countersigned under reciprocal agreements.

- (i) Scrutiny of records of District Transport Officers (DTOs) Ludhiana and Sangrur revealed that MVT of ₹ 17.52 lakh was realised from two private transport companies for the period 2013-14 to 2015-16 in respect of 10 permits of stage carriage buses with a total of 4172 permitted kilometers per day whereas MVT of ₹ 31.79 lakh was required to be realised from them for the permitted kilometers on the basis of prevalent rates¹ of MVT. This resulted in short realisation of MVT of ₹ 14.27 lakh.

The matter was reported to the Government/Department (February 2016 and May 2017). DTO Ludhiana replied (April 2017) that recovery of ₹ 4.35 lakh had been made and balance would be recovered shortly. DTO Sangrur replied (May 2017) that notice to concerned transport company had been issued.

- (ii) Scrutiny of records of DTO Ludhiana and Mansa revealed that MVT of ₹ 11.83 lakh was due in respect of two private service vehicles of a company and 13 vehicles of an educational institution for the period 2015-16 but the same was not realized by the department.

- (iii) In Regional Transport Authorities (RTAs), Ferozepur and Jalandhar, MVT of ₹ 16.07 lakh was realised during 2014-16 against the due MVT of ₹ 28.65 lakh on the basis of kilometers permitted to be covered on two routes in Punjab under the reciprocal agreement with the Himachal Roads Transport Corporation and the Rajasthan State Road Transport Corporation. This resulted into short realisation of MVT of ₹ 12.58 lakh.

The matter was reported to the Government/Department (February 2017). RTA Ferozepur replied (March 2017) that concerned authority had been asked to deposit the due MVT.

¹

| Period | Ordinary Buses (Rates in ₹) |
|---------------------------------|--------------------------------|
| Upto 7 August 2013 | 2.75 |
| 8 August 2013 to 2 July 2014 | 3.00 |
| 3 July 2014 to 31 December 2014 | 3.13 |
| 1 January 2015 onwards | 3.03 |

Chapter-VI
Forest, Other Tax and Non-Tax Receipts

CHAPTER - VI Forest, Other Tax and Non Tax Receipts

6.1 Tax Administration

This chapter consists of receipts from Forest, Land Revenue, Entertainment and Luxury Tax, Marriage Registration, State Lotteries etc. The tax administration is governed by Acts and Rules framed separately for each Department.

6.2 Results of audit

Test check of records of 89 units relating to Forest receipts, Land Revenue, Entertainment and Luxury Tax, State Lotteries, Marriage Registration etc. during 2016-17 showed irregularities involving ₹ 73.31 crore in 10,090 cases, which fall under the following categories as depicted below.

Table 6.1: Results of audit

| (₹ in crore) | | | |
|----------------------------------------------------------------|-------------------------------------------------------------------|--------------|--------------|
| Sl. No. | Categories | No. of cases | Amount |
| A: Forest Receipts | | | |
| 1. | Non/short realisation of royalty | 18 | 1.48 |
| 2. | Outstanding recoveries against contractors and officers/officials | 25 | 0.42 |
| 3. | Non-adherence of codal provision | 5 | 2.45 |
| 4. | Other irregularities | 4,627 | 1.84 |
| TOTAL (A) | | 4,675 | 6.19 |
| B: Other Tax Receipts | | | |
| (i) Land Revenue | | | |
| 1. | Non/short recovery of chowkidara tax | 114 | 7.13 |
| 2. | Short realisation of marriage registration fee | 1,970 | 0.48 |
| 3. | Other irregularities | 2,841 | 0.67 |
| TOTAL B(i) | | 4,925 | 8.28 |
| (ii) Other taxes and duties on commodities and services | | | |
| 1. | Non/short realisation of entertainment tax/duty | 401 | 0.59 |
| 2. | Other irregularities | 81 | 0.05 |
| 3. | Levy and collection of Entertainment Tax/Duty and Tax on Luxuries | 1 | 58.07 |
| TOTAL B(ii) | | 483 | 58.71 |
| TOTAL (B) | | 5,408 | 66.99 |

| Sl. No. | Categories | No. of cases | Amount |
|----------------------------------------------|----------------------------------------------|---------------|--------------|
| C: Non-tax Receipts (State Lotteries) | | | |
| 1. | Irregular expenditure in printing of tickets | 7 | 0.13 |
| TOTAL (C) | | 7 | 0.13 |
| GRAND TOTAL (A+B+C) | | 10,090 | 73.31 |

In 2016-17, the Department accepted the observations of ₹ 8.20 lakh in 21 cases pertaining to Entertainment, Luxury Tax/Land Revenue, and Forest and recovered an amount of ₹ 7.73 lakh in 15 cases out of which ₹ 0.21 lakh in one case was pointed out in 2016-17 and the rest were pointed out in earlier years.

Significant cases involving ₹ 58.18 crore are discussed in succeeding paragraphs:

6.3 Short realisation of marriage registration fee

Non-application of correct rates resulted into short realisation of marriage registration fee of ₹ 10.76 lakh in 769 cases.

Punjab Government notified (27 June 2013) the Punjab Compulsory Registration of Marriages Rules, 2013, for compulsory registration of marriages in the State of Punjab. These Rules provide that the parties to a marriage or any of their parents or relations, as the case may be, shall present the memorandum in Form-I, before the Registrar of Marriages concerned for registration of marriage within a period of three months from the date of such marriage accompanied with a fee of ₹ 1,500 in the form of court fee stamps. If the memorandum is not submitted within the prescribed time limit, late fee¹ shall be levied in addition to the normal fee.

Scrutiny of the records of Tehsildar Ludhiana (West) for the period 2013-16 revealed that 769 marriages were registered between 28 June 2013 and 13 March 2014. Registration fee of ₹ 120 per case was levied instead of ₹ 1,500 per case as notified by the Government. Further, the Tehsildar did not charge any late fee in cases in which applications for registration of marriages were submitted after the expiry of three months from the date of marriage. Non-application of correct rates resulted into short realisation of marriage registration fee of ₹ 10.76 lakh including late fee of ₹ 0.15 lakh.

¹ ₹1,000, if memorandum is submitted after three months from marriage date but not after six months.

₹1,500, if memorandum is submitted after six months from marriage date but not after one year.

₹ 2,000, if memorandum is submitted after one year from marriage date subject to prior permission of Chief Registrar of Marriage.

The matter was reported to the Government/Department (April 2017); their replies were awaited.

6.4 Levy and collection of Entertainments Tax/Duty and Tax on Luxuries

Multiplexes availed exemption of ₹ 38.92 crore without obtaining exemption certificates from the Department. Arrears of ₹13.55 crore were not recovered even after the lapse of more than three years. The Department did not take steps to ensure that all the cable operators, hotels and marriage palaces were brought into the tax net which resulted in non-realisation of potential revenue of ₹ 3.06 crore. Inadmissible exemption of luxury tax of ₹20.45 lakh was allowed to one proprietor Non-scrutiny of returns resulted in non-realisation of potential revenue of ₹2.34 crore.

6.4.1 Introduction

The Punjab Entertainments Tax (Cinematograph Shows) Act, 1954 (PET Act) and the Punjab Entertainment Duty Act, 1955 (PED Act) provide for levy of entertainment tax (ET) and entertainment duty (ED) respectively in Punjab on all payments for admission to any entertainment which includes exhibition, performance, amusement, cinematograph exhibition.

The Punjab Tax on Luxuries Act 2009 (PTL Act) and Rules made there-against provide for levy of luxury tax (LT) on luxury provided in hotels/marriage palaces and banquet halls, at the prescribed rate.

In order to assess the adequacy and effectiveness of the process of the levy and collection of ET/ED/LT under the relevant Acts and Rules, an audit of the “Levy and collection of Entertainment Tax/Duty and Tax on Luxuries” was conducted covering seven² AETCs selected out of 26 AETCs on the basis of Probability Proportional to Size (PPS) method. Audit examined records for the period from 2013-14 to 2015-16. However, findings for the subsequent period and of similar nature in respect of other than selected districts have also been included, wherever necessary.

Our examination of records showed lack of control in bringing all potential tax payers in the tax net; cases of irregular exemption/short/non realisation of ET/ED, LT; non scrutiny of returns and non maintenance of proper records. which have been discussed in the following paragraphs:

² Barnala, Bathinda, Gurdaspur, Jalandhar-II, Ludhiana-II, Mohali and Ropar.

A. Entertainment Tax

6.4.2 Irregular grant of exemption to multiplexes

Section 6 (2) of the PET Act read with Rule 13 (2) of Punjab Entertainment Tax Rules 1956 (PET Rules) provides that the State Government may by general or special orders exempt any show or class of shows or any proprietor or class of proprietors from the operation of any or all of the provisions of the Act subject to the condition that any proprietor claiming such exemption shall make an application to Excise and Taxation Commissioner at least twenty days before the date of exhibition of first show.

Audit scrutiny for the year 2013-14 to 2016-17 revealed that the Department did not adhere to the provisions of the PET Act and Rules made thereunder regarding grant of exemption and did not ensure that the exemption granted by the Government as per notifications *ibid* was availed by the multiplexes after obtaining valid exemption certificates. The multiplexes took the exemptions for granted and availed the same without applying for and obtaining any exemption certificate from the Department. The Department did not raise demands even in cases where exemption certificate was not issued by it. This resulted in non-realisation of entertainment tax of ₹ 38.92 (at the rate of 13 *per cent*) crore as discussed in **Table 6.2** below.

Table 6.2: Irregular grant of exemption

| Sl. No. | Provision involved | Nature of deficiency | Amount involved (₹ in crore) |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| 1 | The Industrial Policy-2003 (September 2003) envisaged exemption from ET under Section 6 (2) of the PET Act subject to grant of eligibility certificate by Department of Industries and Commerce, on the basis of which the proprietor was to apply to the Excise and Taxation Department (Department) for grant of certificate of exemption under Section 6(2) <i>ibid</i> . | Twelve proprietors under six ³ AETCs availed exemption from payment of entertainment tax of ₹ 33.54 crore without obtaining certificate of exemption from the Department. In order to ascertain whether these proprietors were issued eligibility certificates and were eligible to obtain certificate of exemption, records of Department of Industries and Commerce were cross checked which revealed the following: | 33.54 |

³ Bhatinda, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II and Mohali.

| | | | |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| | | <p>In one case of AETC Jalandhar-II, exemption of ₹ 2.41 crore was availed by a cinema owner during the period 2013-14 to 2015-16 even though no eligibility certificate had been issued to him. Clarification was also issued by the Department of Industries and Commerce to ETC, Punjab that the exemption from payment of entertainment tax was available only to the proprietor in whose name the eligibility certificate had been issued. However, the Department of Excise and Taxation did not raise any demand of entertainment tax from the cinema owner.</p> <p>In another case of AETC Ludhiana-II, though exemption was not available, the multiplex cinema owner did not pay tax of ₹ 4.76 crore and the AETC also did not demand the due tax from the cinema owners during the period 2013-14 to 2015-16 in spite of having a clarification⁴ of his own Department.</p> <p>Similarly, AETCs Jalandhar-I and Ludhiana-II did not raise demand of tax of ₹ 5.05 crore and ₹ 3.64 crore respectively from a cinema owner even when the eligibility certificate had not been issued to that cinema owner.</p> <p>In eight cases, proprietors availed exemption from payment of ET of ₹ 17.68 crore without obtaining any certificate of exemption from the Department.</p> <p>Thus, the Department allowed irregular exemptions to proprietors from payment of ET to the tune of ₹ 33.54 crore despite not issuing any exemption certificate to them.</p> | |
| 2 | <p>The Government of Punjab, in exercise of the powers conferred by Section <i>ibid</i>, issued (1 April 2003) notification which exempted proprietor of an integrated entertainment and shopping centre or complex from entertainment tax for five years from the date such complex</p> | <p>(i) AETC Barnala did not realise entertainment tax from a proprietor who did not fulfill the criteria of minimum seating capacity of 1000 seats as the multiplex had only three theatres with 522 seats. This resulted in non-realisation of entertainment tax of ₹ 45.98 lakh.</p> | 0.46 |

⁴ Letter no. 2/68/2015 AK 2(7)/7876 dated 12 April 2016.

| | | | |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| | <p>came into operations subject to the condition that the multiplex should have at least three cinema halls with total minimum capacity of 1000 seats set up in an area of 4000 square yards or above with a minimum investment of ₹ 20 crore.</p> | <p>(ii) Three⁵ AETCs did not realise entertainment tax from three proprietors even though their exemption period of five years had been over. AETC Ludhiana-II recovered tax of ₹ 1.44 crore from one out of the above three proprietors for the period from 10 August 2012 to 15 October 2013 at the time of renewal of license. However, due tax of ₹ 1.34 crore from 16 October 2013 to 31 March 2016 was not realised. In remaining two cases the tax due was ₹ 1.08 crore and ₹ 2.50 crore. The Department did not take concrete action to recover the tax despite the provisions contained in Section-17 of the PET Act which resulted in non-realisation of entertainment tax of ₹ 4.92 crore.</p> | <p>4.92</p> |
| Total | | | 38.92 |

6.4.3 Non-realisation of pending arrears of Entertainment Tax from the cinema owners

Section 17 of the PET Act provides that any sum due under this Act shall be recoverable as arrears of land revenue. A proposal was made by the Government of Punjab in the annual budget for the year 2003-04 that if the ET was deposited in lump sum, a concession of 33 *per cent* would be given to cinema proprietors in ET. The cinema proprietors accordingly started depositing ET availing a rebate of 33 *per cent* whereas no notification was issued by the Government of Punjab. A demand was raised by the Department (September 2004) for depositing the remaining 33 *per cent* tax. Cinema proprietors filed writ petition in 2005 in Punjab and Haryana High Court against the demand raised by the Department which was dismissed (7 May 2013) by the Hon'ble Court. Accordingly, the cinema proprietors were required to deposit 33 *per cent* of remaining ET which was withheld by the cinema proprietors for the period from 2003-04 to 2007-08.

Audit scrutiny of examination of records revealed that five⁶ AETCs had to recover outstanding arrear of ₹ 14.90 crore as on 1 April 2015 out of which only ₹ 1.36 crore had been recovered by four AETCs⁷ leaving a balance amount of ₹ 13.55 crore to be recovered as on 31 March 2016 even after the

⁵ Bhatinda, Ludhiana-II and Patiala.

⁶ Amritsar-I, Jalandhar-I, Ludhiana-I, Ludhiana-II and Patiala.

⁷ Jalandhar-I, Ludhiana-I, Ludhiana-II and Patiala.

lapse of more than three years of the decision of Hon'ble Court as well as issuance of directions by the Commissioner, Excise and Taxation, Punjab. Non realisation of ET not only deprived the State exchequer of a revenue of ₹ 13.55 crore but also extended undue benefit to the defaulters to retain State revenue for no reasons. Though this matter in respect of AETC Ludhiana-I had been raised in paragraph 6.6 of the Report of the Comptroller and Auditor General of India on Revenue Sector for the year ended 31 March 2014, yet the pace of recovery was extremely slow and no action was taken to recover these amounts by treating them as arrears of land revenue.

On being pointed out, AETCs stated that the notices would be served to the defaulters.

B. Entertainment Duty

6.4.4 Loss of revenue due to non-identification of potential taxpayers

Section 3 (3-B) of the PED Act provides that ED at the rate of ₹ 15,000 per annum is payable by the proprietor for providing entertainment with the aid of antenna or cable television to a connection holder. Further, Section 14 (1) of the Act provides that for the purpose of ensuring that the provisions of the Act or Rules made thereunder are being complied with, the prescribed officers of Excise and Taxation Department may enter into, inspect and search any place of entertainment at any reasonable time while the entertainment is proceeding. Since the Excise and Taxation Department does not register cable operators, it becomes imperative for the department to take steps to ascertain, to the extent possible, the actual number of cable operators and ensure that the tax due under the provisions of the Act is levied and collected. However, the Department took no steps to ensure that all the cable operators were brought into the tax net. This resulted in loss of revenue to the state exchequer as discussed in the succeeding paragraphs:

6.4.4.1 Non/short recovery of Entertainment Duty from cable operators

(i) Scrutiny of the list of cable operators registered in General Post Offices and records relating to ED of seven⁸ AETCs for the period 2013-14 to 2016-17 revealed that 417 cable operators were registered with the head post offices of Bathinda, Gurdaspur, Ludhiana, Mohali and Ropar. However, 413 out of above 417 cable operators did not pay ED. As per PED Act mentioned *ibid*, these cable operators were required to pay ED at the rate of ₹ 15,000 per annum. This resulted in short realisation of ED of ₹ 76.96 lakh.

(ii) Scrutiny of the list of cable operators registered in the Department of Customs and Central Excise and records relating to ED of ten⁹ AETCs revealed that ED was not collected from 1459 cable operators registered with divisional offices of Customs and Central Excise at Bathinda, Gurdaspur, Jalandhar, Ludhiana, Mohali and Ropar during 2016-17. These cable operators were not registered in respective General Post Offices also. As per PED Act mentioned *ibid*, these cable operators were required to pay ED at the rate of ₹ 15,000 per annum. This resulted in short realisation of ED of ₹ 2.19 crore. On being pointed out, the AETCs stated that recoveries would be made.

The above audit findings included in paragraphs 6.4.3.1 (i) and (ii) are in respect of seven¹⁰ districts only. Given the potential quantum of loss of revenue, it is incumbent upon the Department to undertake a comprehensive survey on office of the other Departments to assess levy of ED from cable operators in accordance with the PED Act. The Department may take action at its own level to recover ED from cable operators of the remaining districts.

This matter was also taken up (September 2016) with the Excise and Taxation Commissioner, Punjab; reply was awaited.

⁸ Bathinda, Gurdaspur, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali and Ropar

⁹ Bathinda, Barnala, Gurdaspur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali and Ropar.

¹⁰ Barnala, Bathinda, Gurdaspur, Jalandhar, Ludhiana, Mohali and Ropar.

C. Luxury Tax

6.4.5 Loss of revenue due to non-identification of potential taxpayers

Section 26(1) of the Punjab Tax on Luxuries Act, 2009 (PLT Act) empowers the assessing authority to require any proprietor to produce before it, the records of accounts, registers or other documents or to furnish any other information relating to his business, as may be necessary for the purpose of this Act. Further, as per Rule 4.1 of the Punjab Financial Rules, Volume-I, it is primarily the responsibility of the departmental authorities to see that all revenue due to the Government is regularly and promptly assessed, realized and credited into the Government account.

Scrutiny of records revealed that non-action on the part of the Department resulted in loss of revenue due to non-identification of potential taxpayers as detailed in succeeding paragraphs:

6.4.5.1 Hotel owners registered under Sarai Act but not registered under PLT Act

Cross verification of list obtained from Municipal Corporation Amritsar (MC) in respect of hotels/guest houses/resorts registered under Sarai¹¹ Act 1867 with the records of AETC Amritsar-I for the year 2015-16 revealed that 139 proprietors of Hotels/Guest Houses/Resorts falling under the jurisdiction of the AETC, were registered with the MC whereas only 68 out of 139 proprietors had got themselves registered under the PLT Act. However, the AETC did not investigate any case to ascertain whether the remaining 71 proprietors were liable to get registered under PLT Act and were eligible to pay luxury tax (LT).

On being pointed out, the AETC stated that only those hotels were required to be registered under the Act which charged ₹ 200 or more per day for providing luxury in the hotel/banquet hall. As these were small hotels, they are not required to be registered under the Act. He, however, assured that a survey would be conducted. The reply furnished by the AETC was not convincing as the rates at which luxuries were being provided in these hotels could have been ascertained by conducting a survey of the hotels already registered under the Sarai Act with the Municipal Corporation.

¹¹ "Sarai" means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a building is used as a sarai, the part so used of such building.

6.4.5.2 Marriage palaces/banquet halls registered under State Excise but not registered under PLT Act

The owners of marriage palaces or banquet halls are required to get them registered with the Excise Department and obtain license in form L-5D¹² for allowing consumption of liquor at these places on special occasions.

Scrutiny of records of AETC Gurdaspur revealed that 119 proprietors were registered in State Excise and were holding license in form L-5D during the year 2016-17. However, only 75 out of the 119 proprietors had got themselves registered under the PLT Act. The AETC did not cross verify the records of State Excise, which are maintained in the same office, with the records of luxury tax or conduct any inspection at these places and thus failed to get the remaining 44 proprietors registered under Section 8 of PLT Act. Non-registration of these proprietors not only resulted in loss of registration fee of ₹ 0.88¹³ lakh but also loss of LT that could have been realised had these proprietors been registered under PLT Act.

6.4.6 Short realisation of luxury tax from proprietors of hotels/marriage palaces and banquet halls

The Government of Punjab levied (November 2008) luxury tax at the rate of eight *per cent* on all the proprietors of the marriage palaces and banquet halls in respect of luxuries provided by them.

Scrutiny of records of five¹⁴ AETCs revealed that 487 permits (L-50A¹⁵) were issued to 43 hotels/banquet halls/marriage palaces during the year 2015-16 and 2016-17 for purchase and transport of liquor for celebration of special occasions in these places. The function charges were chargeable by the proprietor for celebration of each function as per the rates¹⁶ given in the Excise Policy for respective years. However, considering even the minimum rate chargeable by the owners of these establishments for hosting functions, corresponding to the license fee paid, audit noticed that 12 out of those

¹² The license L-5D is a license for allowing consumption of liquor on special occasion in a marriage palace or a banquet hall.

¹³ Registration fee of ₹ 2000 is payable under Rule 3(2) of Punjab Luxury Tax Rules 2009.

¹⁴ Barnala, Gurdaspur, Mohali, Patiala and Ropar

¹⁵ L-50A is issued to Marriage Palace, Banquet Hall or any place where function is celebrated with or without charges.

¹⁶ Rates of license fee chargeable for issue of license (L-50A) per function

| Year | Charges per function | | | |
|---------|----------------------|-------------------------------|---------------------------------|------------------|
| | Up to ₹ 25,000 | Between ₹ 25,001 and ₹ 50,000 | Between ₹ 50,001 and ₹ 1,00,000 | Above ₹ 1,00,000 |
| 2015-16 | 2,000 | 5,000 | 10,000 | 10,000 |
| 2016-17 | 2,000 | 5,000 | 10,000 | 20,000 |

43 proprietors had under reported the gross amount under PLT Act and did not make full payment of due LT. The AETC failed to cross verify the records of State Excise and Luxury Tax, both of which were under his own control. This resulted in short realisation of LT of ₹ 9.34 lakh.

The AETCs stated that notices would be issued and recovery would be made after assessment/provisional assessment.

6.4.7 Non verification of returns resulting in loss of revenue

Section 13(4) of the PLT Act provides that every proprietor shall make monthly payment of tax within a period of 15 days from the date of expiry of the month and shall furnish a statement in the prescribed form. Such statement shall be accompanied by a satisfactory proof of payment of the full amount of due tax. Further, Rule 9(3) of the PLT Rules provides that the assessing authority shall verify every return. If on scrutiny of return, it is found that tax has been paid less than the tax actually payable, the assessing authority shall serve a notice upon the proprietor concerned directing him to rectify the same and to pay the amount of balance tax alongwith interest and produce the treasury receipt before the assessing authority within the period, specified in the said notice.

Scrutiny of the records of AETC Mohali revealed that the proprietor of a hotel had filed his monthly statements for the year 2014-15 showing a receipt of ₹ 8.26 crore during the year on account of providing luxuries in the hotel and had self-assessed luxury tax liability of ₹ 59.31 lakh. However, the proprietor paid ₹ 36.59 lakh only on account of LT against the self-assessed amount. The assessing authority did not verify the return as required under the PLT Rules and thus could not detect short deposit of tax. This resulted in short realisation of luxury tax amounting to ₹ 22.72 lakh, besides interest of ₹ 23.32 lakh was also leviable.

The ETO stated that proceedings would be initiated for recovery of the outstanding amount.

Similarly, AETC, Ludhiana-II did not levy LT of ₹ 1.29 lakh from one hotel for the year 2015-16. The ETO stated that the notice would be issued for recovery of outstanding amount.

6.4.8 Inadmissible exemption of LT

Scrutiny of records of the AETC, Mohali, revealed that a proprietor had been claiming exemption from the payment of 75 per cent of LT since its establishment (1 October 2016) whereas PLT Act does not provide any exemption from payment of LT. The AETC admitted the claim of the proprietor for exemption on his plea of having eligibility certificate issued by the Department of Industry and Commerce. However, the eligibility certificate issued by the Department did not provide any exemption of LT to the proprietor. This resulted in inadmissible exemption of LT of ₹ 20.45 lakh.

6.4.9 Non-adherence to the penalty provisions for non/delayed filing of returns

Section 29 of the PLT Act provides that if a proprietor without any sufficient cause fails to furnish any return or annual statement by the specified date, the Commissioner or the assessing authority, as the case may be, may direct him to pay in addition to the tax, interest and penalty under any of the provisions of this Act, a further penalty of a sum of rupees one hundred per day for such default, subject to the maximum sum of ten thousand rupees.

Scrutiny of the records of eight¹⁷ AETC's revealed that 339 proprietors of hotels, marriage palaces and banquet halls had either not submitted monthly or annual return or submitted with delay ranging between 64 and 365 days. However, the AETCs did not enquire into the reason of non/delayed filing of returns even in a single case. The inaction on the part of the Department deprived the Government of ₹ 1.88 crore on account of penalty that could have been realized, had the action been taken by the AETC under Section *ibid*.

The AETCs stated that the notices for imposing the penalty would be issued to the defaulters.

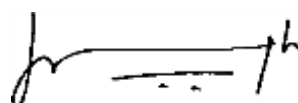
Conclusion

Multiplexes availed exemption of ₹ 34.00 crore without obtaining exemption certificates from the Department. The Department did not initiate actions to recover ET of ₹ 4.92 crore from multiplexes whose exemption periods had been over. Arrears of ₹ 13.55 crore were not recovered even after the lapse of more than three years. The Department did not take steps to ensure that

¹⁷ Barnala, Bathinda, Gurdaspur, Jalandhar-II, Ludhiana-II, Mohali, Patiala and Ropar

all the cable operators, hotels and marriage palaces were brought into the tax net which resulted in non-realisation of potential revenue of ₹ 3.06 crore. Moreover, irregular exemption of LT of ₹ 20.45 lakh was allowed to one proprietor though the eligibility certificate issued by the Department did not provide any exemption from LT. Non-scrutiny of returns by the Department resulted in non-realisation of potential revenue of ₹ 2.34 crore.

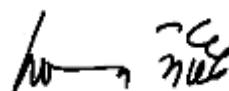
The above points were reported to the Government/Department (June 2017); their replies were awaited.



Chandigarh
The 23 JAN 2018

(JAGBANS SINGH)
Principal Accountant General (Audit), Punjab

Countersigned



New Delhi
The 24 JAN 2018

(RAJIV MEHRISHI)
Comptroller and Auditor General of India

Glossary

GLOSSARY OF ABBREVIATIONS

| | |
|----------------|---------------------------------------------------|
| AETC | Assistant Excise and Taxation Commissioner |
| ATNs | Action Taken Notes |
| ASD | Additional Stamp Duty |
| BIO | Bottled in Origin |
| CMVR | Central Motor Vehicles Rules, 1989 |
| CST Act | Central Sales Tax Act, 1956 |
| DETC | Deputy Excise and Taxation Commissioner |
| DC | Deputy Commissioner |
| DO | Designated Officer |
| DTO | District Transport Officer |
| ETC | Excise and Taxation Commissioner |
| ET | Entertainment Tax |
| ED | Entertainment Duty |
| GOI | Government of India |
| GTO | Gross Turnover |
| ICC | Information Collection Centre |
| IGR | Inspector General of Registration |
| IMFL | Indian Made Foreign Liquor |
| IR Act | Indian Registration Act, 1908 |
| IRs | Inspection Reports |
| IS Act | Indian Stamp Act, 1899 |
| ITC | Input Tax Credit |
| JSR | Joint Sub Registrar |
| LT | Luxury Tax |
| MC | Municipal Corporation |
| MVT | Motor Vehicles Tax |
| PA | Performance Audit |
| PAC | Public Accounts Committee |
| PAG | Principal Accountant General (Audit) |
| PED Act | Punjab Entertainment Duty Act |
| PGT | Passengers and Goods Tax |
| PLR Act | Punjab Land Revenue Act, 1887 |

| | |
|-----------------|-------------------------------------------------------|
| PLT Act | Punjab Luxury Tax Act |
| PMVT Act | Punjab Motor Vehicles Taxation Act, 1924 |
| PPGT Act | Punjab Passengers and Goods Taxation Act, 1952 |
| RC | Registration Certificate |
| RF | Registration Fee |
| RLA | Registering and Licensing Authority |
| RTA | Regional Transport Authority |
| SD | Stamp Duty |
| SED | State Excise Duty |
| SR | Sub Registrar |
| SIC | Social Infrastructure Cess |
| SSF | Social Security Fund |
| TINXSYS | Tax Information Exchange System |
| VAT | Value Added Tax |

©

COMPTROLLER AND AUDITOR GENERAL OF INDIA

www.cag.gov.in

www.agpunjab.gov.in