



सत्यमेव जयते

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended 31 March 2020**



लोकहितार्थ सत्यनिष्ठा
Dedicated to Truth in Public Interest



Government of Himachal Pradesh
Report No. 5 of the year 2021

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

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PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2020 has been prepared for submission to the Governor of Himachal Pradesh under article 151 of the Constitution of India.

This 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 2019-20 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2019-20 have also been included, wherever necessary.

The audit has been conducted in conformity with the Regulations on Audit and Accounts, 2007 and Auditing Standards issued by the Comptroller and Auditor General of India.

Overview

OVERVIEW

This Report contains 18 paragraphs relating to non/short levy of VAT/CST, State excise, stamp duty and registration fee and passenger and goods tax with revenue implication of ₹168.27 crore.

I General

The total revenue receipts of the Government for the year 2019- 20 was ₹30,745.36 crore as compared to ₹30,950.28 crore during the previous year. Out of this, 33 per cent was raised through tax revenue (₹7,626.78 crore) and non-tax revenue (₹2,501.50 crore). The balance 67 per cent was received from the Government of India as State's share of divisible Union taxes (₹4,677.56 crore) and Grants-in-Aid (₹15,939.52 crore). There was a decrease in Revenue Receipts over the previous year by ₹204.92 crore.

(Paragraph 1.1)

Test check of the records of 204 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, and Goods & Passengers Tax conducted during the year 2019- 20 revealed under-assessment/short levy/loss of revenue aggregating ₹541.95 crore in 1,159 cases. During the year, the Departments concerned accepted under-assessment and other deficiencies of ₹55.70 crore in 311 cases out of which ₹0.03 crore in 11 cases was recovered. The Departments concerned also accepted and recovered an amount of ₹3.39 crore in 276 cases pertaining to audit findings of previous years.

(Paragraph 1.10)

II Taxes/VAT on Sales and Trade

Assessing Authorities did not properly take into consideration unsold local purchases in closing stock at the end of the tax period, which resulted in excess allowance of ITC by ₹8.45 crore to 333 dealers.

(Paragraph 2.3)

Failure of the Assessing Authorities to correctly classify the nature of manufactured goods led to illegitimate allowance of concessional rate of tax, which resulted in under assessment of tax of ₹2.83 crore.

(Paragraph 2.4)

Acceptance of invalid and defective statutory forms by the Assessing Authorities and allowance of concessional rate of tax on inter-state sale resulted in short levy of tax of ₹2.38 crore. In addition, interest of ₹2.36 crore was required to be levied.

(Paragraph 2.5)

Assessing Authorities assessed the Gross Turnover lesser than the actual turnover as depicted in certified accounts of the dealers, resulting in loss of revenue of ₹1.40 crore.

(Paragraph 2.6)

Allowance of inadmissible deductions and excess deductions against labour charges resulted in underassessment of tax by ₹1.33 crore. Besides, interest of ₹1.41 crore was also leviable.

(Paragraph 2.7)

Failure of Assessing Authorities to disallow ITC on branch transfer resulted in inadmissible allowance of ITC of ₹87.03 lakh. Besides, interest of ₹1.24 crore was also leviable.

(Paragraph 2.8)

Assessing Authorities levied interest of ₹ 17.38 lakh instead of leviable interest of ₹72.02 lakh on additional demand created, resulting in short levy of interest of ₹54.64 lakh.

(Paragraph 2.9)

Underreporting of sales and closing stock worth ₹4.55 crore in the annual returns enabled tax evasion of ₹32.82 lakh. Consequently, interest of ₹25.89 lakh and penalty of ₹32.82 lakh also became due on the evaded tax.

(Paragraph 2.10)

III State Excise

The Department did not levy penalty of ₹58.50 crore for short lifting of 19,13,244 proof litres of liquor against benchmark of 100 per cent by the licensees of 765 vends. Additional Penalty of ₹2.32 crore was also leviable for short lifting against benchmark of 85 per cent.

(Paragraph 3.3)

The Assessing Authorities did not take any action either to seal vends or cancel/suspend the permit for re-selling the license, to recover the short deposited license fee of ₹ 31.27 crore from 36 licensees.

(Paragraph 3.4)

Failure to undertake reconciliation of challans with treasury receipts in Government Accounts i.e. e-kosh website, and acceptance of forged challans, resulted in loss of government revenue of ₹2.72 crore.

(Paragraph 3.5)

Interest amounting to ₹89.70 lakh on delayed payment of license fee and ₹44.55 lakh on delayed payment of bottling fee was not demanded by the Department from the licensees of 282 vends & seven bottling plants/ distilleries respectively, resulting in non-levy of interest to that extent.

(Paragraph 3.6)

IV Stamp Duty

The Department does not have a mechanism in place for transparent allotment and effective monitoring of government land given on lease, resulting in revenue loss of ₹35.44 crore.

(Paragraph 4.3)

Adoption of incorrect market rates for built-up residential and non-residential structures by Sub-Registrars resulted in short realisation of Stamp Duty and Registration Fee of ₹6.44 crore.

(Paragraph 4.4)

Incorrect valuation on the basis of incorrect circle rates and false affidavits regarding distance of the land from road resulted in short realisation of Stamp Duty and Registration Fee of ₹ 6.20 crore.

(Paragraph 4.5)

Market rates were not used to calculate stamp duty and registration fees due on lease deeds resulting in short recovery of ₹ 5.12 crore.

(Paragraph 4.6)

V Taxes on Vehicles, Passengers and Goods

The passengers and goods tax amounting to ₹34.73 lakh for the period 2017- 19 was neither paid by the owners of 572 commercial vehicles nor demanded by the Department.

(Paragraph 5.3)

Chapter-I

General

CHAPTER-1

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Himachal Pradesh during the year 2019-20, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-Aid received from the Government of India during the year and the corresponding figures for the preceding four years are depicted in **Table 1.1**.

Table 1.1: Trend of revenue receipts

(₹ in crore)						
Sr. No.	Particular	2015-16	2016-17	2017-18	2018-19	2019-20 ¹
1.	Revenue raised by the State Government					
	Tax revenue	6,695.81	7,039.05	7,107.67	7575.61	7,626.78 ²
	Non-tax revenue	1,837.15	1,717.24	2,363.85	2,830.04	2,501.50
	Total	8,532.96	8,756.29	9,471.52	10,405.65	10,128.28
2.	Receipts from the Government of India					
	Share of net proceeds of divisible Union taxes and duties	3,611.17	4,343.70	4,801.31	5,426.97	4,677.56 ³
	Grants-in-Aid	11,296.35	13,164.35	13,094.23	15,117.66	15,939.52 ⁴
	Total	14,907.52	17,508.05	17,895.54	20,544.63	20,617.08
3.	Total revenue receipts of the State Government (1 and 2)	23,440.48	26,264.34	27,367.06	30,950.28	30,745.36
4.	Percentage of 1 out of 3	36	33	35	34	33

Source: Finance Accounts

During the year 2019-20, the revenue raised by the State Government (₹ 10,128.28 crore) was 33 per cent of the total revenue receipts. The balance 67 per cent of the receipts was from the Government of India as share of net proceeds of divisible union taxes and Grants-in-Aid. The percentage of revenue receipts of the State Government from its own resources to total revenue receipts declined from 36 to 33 per cent during 2015-2020. The overall trends of revenue receipts from 2015-16 to 2019-20 is depicted in **Chart 1.1**.

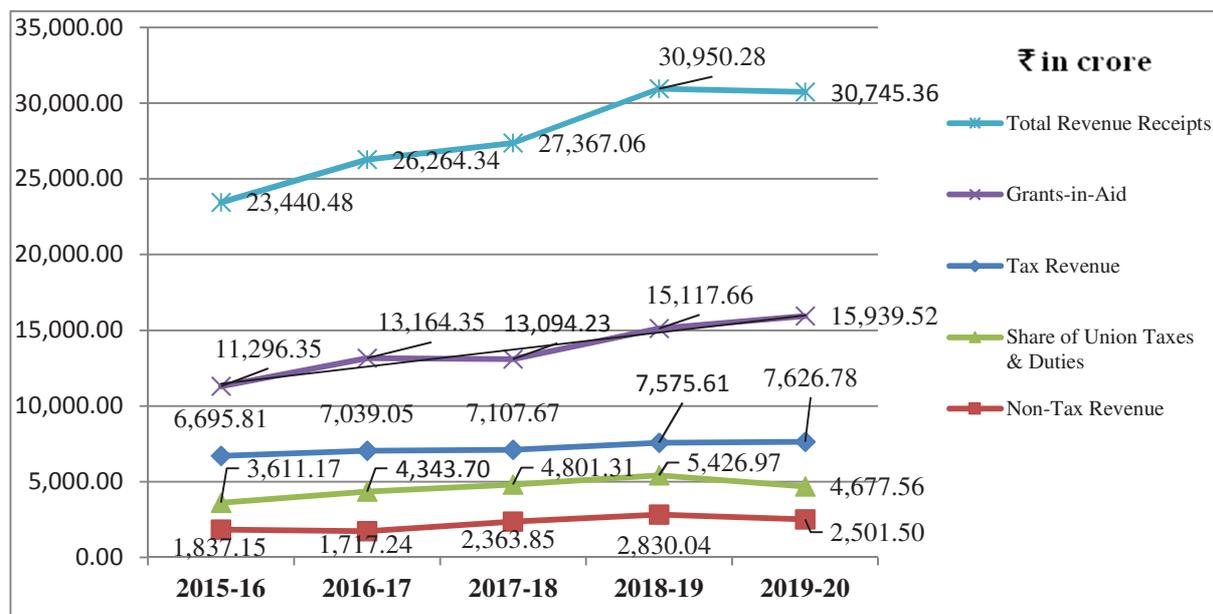
¹ Finance Accounts of the State Government.

² This includes amount of ₹ 3,550.34 crore received under Major Receipt Head '0006-State Goods and Services Tax'.

³ The details are as shown in Appendix 1.1.

⁴ This includes amount of ₹ 1,877.33 crore received from Government of India as compensation of loss due to implementation of Goods and Services Tax. Total compensation receivable was ₹ 2619.10 crore.

Chart 1.1



Source: Finance Accounts

Tax Revenue

1.1.2 The details of the tax revenue raised during the period 2015-16 to 2019-20 are depicted in Table 1.2.

Table 1.2: Details of Tax Revenue Receipts

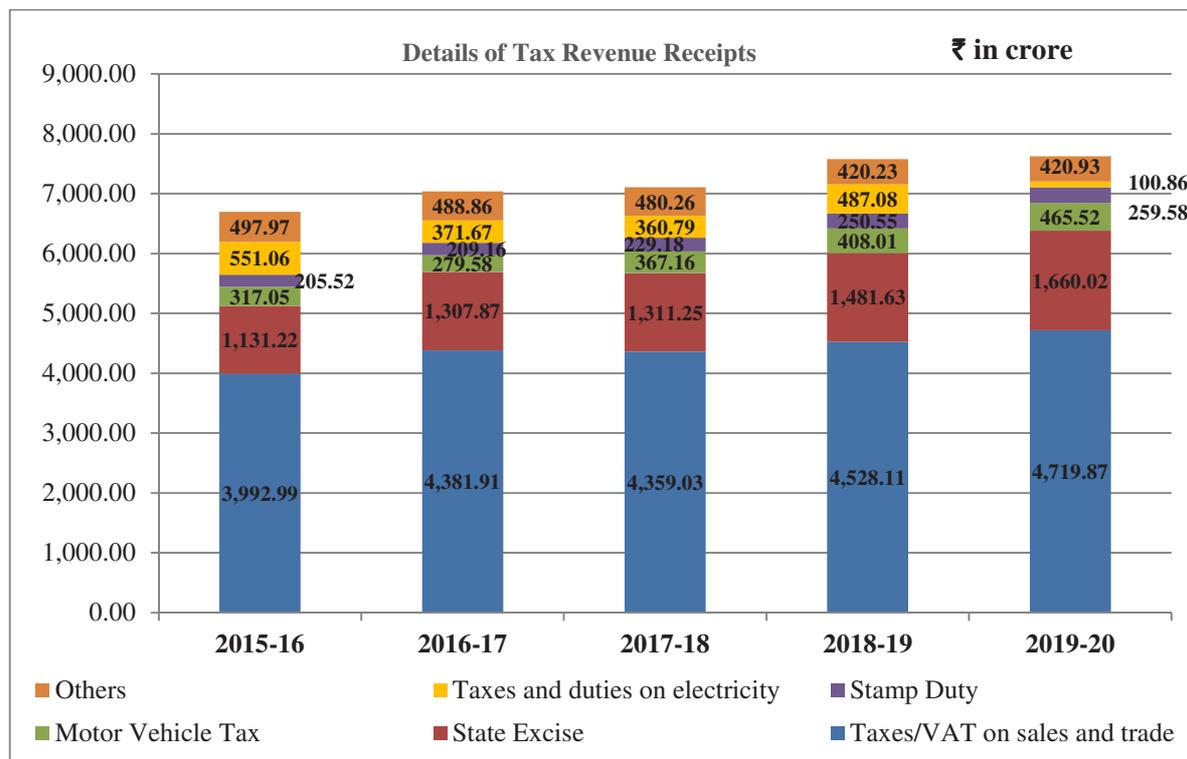
Sr. No.	Major Head of revenue receipts	Tax Revenue Receipts (percentage to total tax revenue receipts)					Percentage of increase (+) or decrease (-) in 2019-20 over actual of 2018-19
		2015-16	2016-17	2017-18	2018-19	2019-20	
1.	VAT on sales and trade	3,992.99 (59.63)	4,381.91 (62.25)	2525.87 (35.53)	1,185.43 (15.64)	1,169.53 (15.33)	(-)
	State Goods and Service Tax			1,833.16 (25.79)	3,342.68 (44.12)	3,550.34 (46.55)	6
2.	State Excise	1,131.22 (16.89)	1,307.87 (18.58)	1,311.25 (18.45)	1,481.63 (19.55)	1,660.02 (21.77)	12
3.	Motor vehicles tax	317.05 (4.74)	279.58 (3.97)	367.16 (5.17)	408.01 (5.39)	465.52 (6.10)	14
4.	Stamp Duty	205.52 (3.07)	209.16 (2.97)	229.18 (3.22)	250.55 (3.31)	259.58 (3.40)	4
5.	Taxes and Duties on electricity	551.06 (8.23)	371.67 (5.28)	360.79 (5.08)	487.08 (6.43)	100.86 (1.32)	(-)
6.	Others	497.97 (7.44)	488.86 (6.94)	480.26 (6.76)	420.23 (5.55)	420.93 ⁵ (5.52)	0
	Total	6,695.81	7,039.05	7,107.67	7,575.61	7,626.78	0.68
	<i>per cent increase over previous year</i>	12.72	5.13	0.97	6.58	0.68	
	Average annual receipt and average growth rate for five years.						7,208.98/ 5.22

Source: Finance Accounts

⁵ Other Receipts-Land Revenue: ₹ 4.79 crore, Taxes on Goods and Passengers: ₹ 104.03 crore and Other Taxes and Duties on Commodities and Services: ₹ 312.10 crore (excluding share of net proceeds of divisible Union taxes and duties)

The year-wise trend of various tax revenues is depicted in **Chart 1.2**.

Chart 1.2



Source: Finance Accounts

The tax revenue increased by ₹ 930.97 crore (13.90 per cent) during the years 2015-16 to 2019-20 with an average rate of growth of 5.22 per cent. The rate of growth for 2019-20 was mere 0.68 per cent mainly due to decline in annual growth rate of Taxes and Duties on electricity which declined by (-) 79.29 per cent during 2019-20 as compared to a rise of 35 per cent during 2018-19. This decline in Taxes and duties on electricity was due to non-payment of electricity duty by Himachal Pradesh State Electricity Board Limited (HPSEBL). The respective Departments reported the following reasons for variations during the year:

- **SGST:** The increase is mainly due to receipt of penalty and interest under GST, and increase in tax collection due to better enforcement of rules and regulations.
- **State Excise:** The increase is mainly due to better monitoring of Licence Fee and Excise Duty, and better enforcement of Excise Policy 2019-20.
- **Motor Vehicle Tax:** The increase in collection is due to rise in sale of vehicles by 3,041 vehicles in 2019-20 as compared to 2018-19.
- **Taxes and duties on electricity:** The decrease in receipt is due to non-payment of electricity duty by Himachal Pradesh State Electricity Board Limited (HPSEBL) owing to poor financial condition of HPSEBL⁶.

⁶ As state government had not paid the roll back subsidy to HPSEBL, HPSEBL was unable to pay electricity duty during 2019 - 20 and later adjusted the amount of ₹ 218.85 crore in the year 2020 - 21 with the roll back subsidy to be paid by State Government.

Non-Tax Revenue

1.1.3 Details of the non-tax revenue raised during the period 2015-16 to 2019-20 are depicted in Table 1.3.

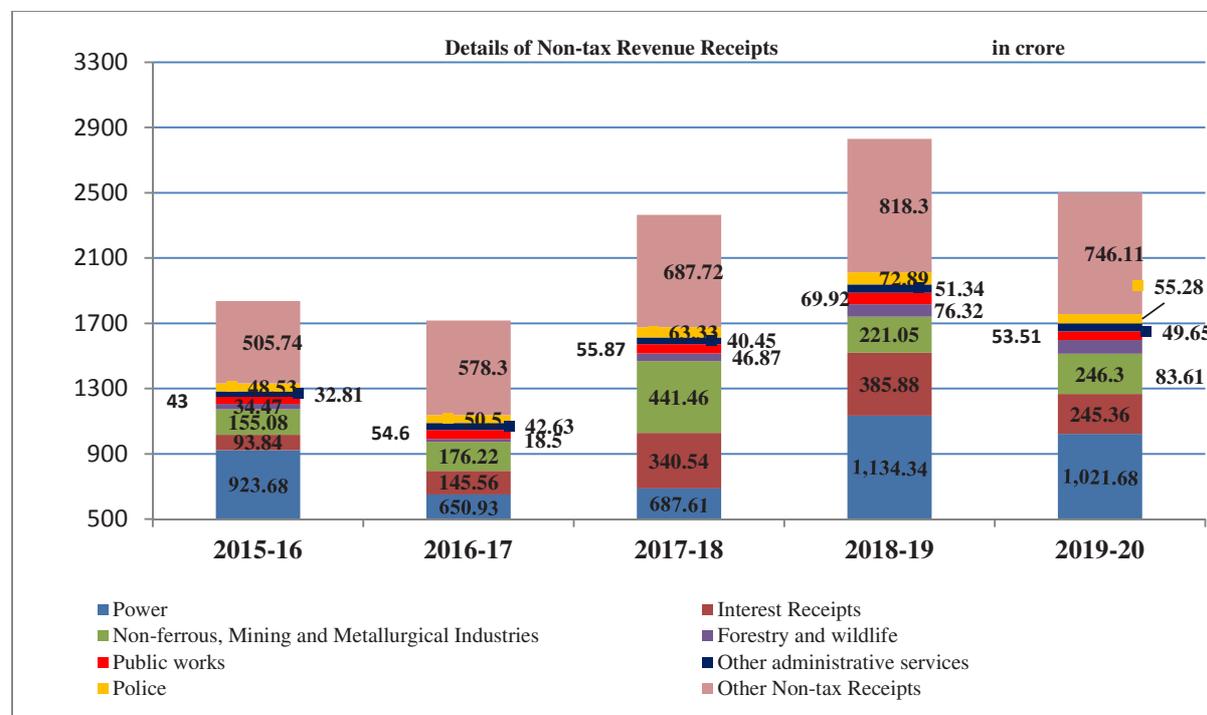
Table 1.3: Non-Tax Revenue raised

Sr. No.	Major Head of revenue receipts	Non-tax Revenue Receipts (percentage to total Non-tax Revenue Receipts)					Percentage of increase (+) or decrease (-) in 2019-20 over actual of 2018-19
		2015-16	2016-17	2017-18	2018-19	2019-20	
1.	Power	923.68 (50.28)	650.93 (37.91)	687.61 (29.09)	1,134.34 (40.08)	1,021.68 (40.84)	(-)9.93
2.	Interest receipts	93.84 (5.11)	145.56 (8.48)	340.54 (14.41)	385.88 (13.64)	245.36 (9.81)	(-)36.42
3.	Non-ferrous, Mining and Metallurgical Industries	155.08 (8.44)	176.22 (10.26)	441.46 (18.68)	221.05 (7.81)	246.30 (9.85)	11.42
4.	Forestry and Wildlife	34.47 (1.88)	18.50 (1.08)	46.87 (1.98)	76.32 (2.70)	83.61 (3.34)	9.55
5.	Public works	43.00 (2.34)	54.60 (3.18)	55.87 (2.36)	69.92 (2.47)	53.51 (2.14)	(-)23.47
6.	Other administrative services	32.81 (1.79)	42.63 (2.48)	40.45 (1.71)	51.34 (1.81)	49.65 (1.98)	(-)3.29
7.	Police	48.53 (2.64)	50.50 (2.94)	63.33 (2.68)	72.89 (2.58)	55.28 (2.21)	(-)24.16
8.	Other Non-tax revenue ⁷	505.74 (27.53)	578.30 (33.68)	687.72 (29.09)	818.30 (28.91)	746.11 (29.83)	(-)8.82
Total		1,837.15	1,717.24	2,363.85	2,830.04	2,501.50	(-)11.61

Source: Finance accounts

The year-wise trend of non-tax revenue during 2015-16 to 2019-20 is depicted in Chart 1.3.

Chart 1.3



Source: Finance Accounts

⁷ The details of Other Non-tax revenue are in Appendix 1.2.

The overall non-tax revenue receipts decreased from ₹ 2,830.04 crore in 2018-19 to ₹ 2,501.50 crore in 2019-20 (11.61 per cent). Power (40.84 per cent), Non-ferrous, Mining and Metallurgical Industries (9.85 per cent) and Interest receipts (9.81 per cent) are the main contributors to non-tax revenue and contribute 60.50 per cent to total non-tax revenue.

The respective Departments reported the following reasons for variations during the year.

- **Forest and Wildlife:** The increase is due to more purchasing of timber/wood by State Forest Corporation & others, realisation of more royalty/money from forest produce, sanction fee and receipt of more money from seized timber/wood.
- **Police:** The decrease was due to less recoveries from Bhakra Beas Management Board for guards, Railway police and other Departments.
- **Public works:** The decrease was due to less collection under Sub-head 800 "Miscellaneous receipts" in 2019-20 as compared to 2018-19. The receipt under the sub-head was decreased from ₹ 30.52 crore in 2018-19 to ₹ 15.49 crore during 2019-20. The reasons for decrease under Misc. Receipts were not provided by the Department.
- **Cooperation:** The decrease from ₹ 24.65 crore in 2018-19 to ₹ 6.84 crore in 2019-20 was due to receipt of less grant from National Cooperative Development Cooperation, New Delhi for implementation of Integrated Cooperative Development projects in the state in 2019-20 as compared to 2018-19.
- **Education, Sports, Art and Culture:** Increase in receipts is mainly due to receipts of reimbursement of expenses from State Project Director, SSA scheme, recovery of overpayment and Miscellaneous receipt. However, the details of overpayment and miscellaneous receipts was not provided by the Department.
- **Medical & Public Health:** The increase is due to receipt from sale of scrap stock and fee from licence and medical examination.

The other Departments did not intimate reasons for variations of actual receipts from the previous year (April 2021).

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2020 realizable under some Major Receipt Heads amounted to ₹ 4,843 crore, of which ₹ 2,726.67 crore was outstanding for more than five years as depicted in **Table 1.4**.

Table 1.4: Arrears of revenue

₹ in crore				
Sr. No.	Major Head of revenue receipts	Amount outstanding as on 31 March 2020	Amount outstanding for more than five years as on 31 March 2020	Replies of the Departments
1.	Taxes/VAT on Sales and Trade	3,790.19	2,351.48	An arrear amounting to ₹ 274 crore has been recovered during 2019-20 and most of the cases have been declared arrears of land revenue. Due to introduction of
2.	State Excise	268.03	39.76	

3.	Other Taxes and Duties on Commodities and Services	83.90	47.01	GST, focus was on GST implementation. In addition, traders and tax petitioners waited for incentive schemes leading to low percentage of disposals. Some cases are also pending for adjudication in various courts. The arrears of ₹ 215.46 crore and ₹ 203.25 crore was outstanding for more than five years in DCSTE Sirmour and Baddi, respectively. However, no specific reasons was provided by the units.
4.	Taxes on Goods and Passengers	7.51	6.45	
5.	Water supply, Sanitation, Housing and Minor Irrigation	324.82	235.25	₹ 306.31 crore is outstanding from the Municipal Corporations and Municipal Committees. Notices have been issued to the consumers by the Department. Due to shortage of Field Staff, the outstanding amount had not been recovered.
6.	Taxes and duties on electricity	218.85	0	HPSEBL has adjusted the amount of ₹ 218.85 crore in the year 2020-21 with the roll back subsidy to be paid by State Government.
7.	Forestry and Wildlife	123.07	41.21	The amount involved is recoverable from HPSFDC Ltd., Government Departments and Contractors. Out of ₹ 41.21 crore, ₹ 38.22 crore is recoverable from HPSFDC Limited and is being deposited in a phased manner. Amount recoverable from other departments and contractors refers to very old cases and, in some cases, very petty amount is involved for recovery. Some of the cases for recovery from contractors are pending in various courts and some has been sent to GoHP for writing off.
8.	Police	14.69	2.29	Arrears of ₹ 10.80 crore pending from Battalions of Junga, Bangarh, Sakoh, Pandoh and Beri. Efforts are being made for recovery.
9.	Village and Small Industries	0.05	0.02	Arrears accumulated from the year 1980-81. Arrears pertain to rent of sheds (Industrial Estate), rent of Government accommodation/receipt of sale of Mulberry plants etc.
10.	Printing and Stationery	6.42	0.77	Arrears of ₹ 3.71 crore from the SSA, Lal pani, ₹ 2.71 crore from other Industries/Departments/Corporations were recoverable and efforts are being made for recovery.
11.	Non-ferrous, Mining and Metallurgical Industries	0.88	0.68	Arrears accumulated from the year 1983-84. Arrears pertain to Geological Wing and DDO (Headquarters) Geological Wing, Directorate of industries on account of recovery of royalty/drilling charges etc.
12.	Public Works	0.28	0.15	Efforts are being made to liquidate the outstanding amount.
13.	Industries	5.08	1.60	Arrears accumulated from the year 1989-90. Arrears pertained to outstanding premium of plots (Industrial areas) etc.
Total		4,843	2,726.67	

Source: Departmental figures

1.3 Arrears in assessments

From various departments of tax receipt e.g. Revenue, Transport and Excise and Taxation, only Excise and Taxation Department has provision of filing of returns and their subsequent assessments by authorities, hence an analysis of arrears of assessments under various heads of Excise and Taxation Department was carried out. 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 Excise Department in respect of Sales Tax, Motor Spirit Tax, Luxury Tax and Tax on Works Contracts are depicted in **Table 1.5**.

Table 1.5: Arrears in assessments

Major Head of revenue receipts	Opening balance	New cases due for assessment during 2019-20	Total assessments due	Cases disposed of during 2019-20	Balance at the end of the year	Percentage of disposal (col. 5 by 4)
1	2	3	4	5	6	7 = (5/4)
Taxes/VAT on Sales and Trade	1,71,389	12,902	1,84,291	35,829	1,48,462	19
CST	1,52,169	6,147	1,58,316	36,856	1,21,460	23
Luxury Tax	3,812	553	4,365	1,419	2,946	33
Tax on Works Contracts	1,135	0	1,135	163	972	14
Motor Spirit Tax	30	71	101	34	67	34
Total	3,28,535	19,673	3,48,208	74,301	2,73,907	21

Source: Departmental figures

The low percentage of disposal (14 per cent in the case of Tax on Works Contracts and 19 per cent in VAT) was a matter of serious concern as state was deprived of potential revenue due to huge pendency of cases and it was affecting the efficiency of GST assessments due to engagement of manpower in VAT assessments. The percentage of disposal decreased from 25 per cent in 2018-19 to 21 per cent in 2019-20 which shows poor efficiency of the Department in disposing legacy cases of pre-GST era.

1.3.1 Pending appeal cases

Audit scrutiny revealed that 538 cases are pending at Departmental level. Out of these, 366 cases related to the year prior to 1996-97. The high number of pending appeal cases showed that no strenuous efforts have been made by the Appellate Authority for early disposal of the aforesaid cases.

Thus, the State Government was deprived of revenue due to huge pendency of cases. Had the Department taken timely initiative, revenue could have been realized in time.

1.3.2 Pendency of arrear under cases detected by Economic Intelligence Unit (EIU)

As per information supplied by the Department, 298 cases were detected by EIU during the year 2019-20. Out of these, only 22 cases were finalised and created and recovered an additional demand of ₹ 64.37 crore, leading to pendency of remaining 276 cases (93 per cent). The laxity in finalisation of cases detected by EIU is reflected in the poor rate of finalisation of cases (7 per cent) as stated above.

Despite a lapse of four years since introduction of GST, 1,48,462 cases of VAT and 1,21,460 cases of CST are pending for assessments which may take another five years to clear the pending assessments at the current rate (20-25 per cent) of disposal of cases. The Department may take necessary steps to clear the arrears under VAT assessment at faster pace as new regime of GST assessments has been introduced.

1.4 Evasion of tax

The details of cases of evasion of tax detected by Excise & Taxation Department, cases finalized and demands for additional tax raised by the Department are depicted in **Table 1.6**.

Table 1.6: Evasion of Tax

Sr. No.	Major Head of revenue receipts	Opening balance as on 1 April 2019	Cases detected during 2019-20	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalization as on 31 March 2020
					Number of cases	Amount (₹ in crore)	
1.	Taxes/VAT on Sales and Trade	65	731	796	731	3.25	65
2.	State Excise	72	838	910	848	2.46	62
3.	Passengers and Goods Tax	36	16,571	16,607	16,586	7.23	21
4.	Other Taxes and Duties on Commodities and Services	7	1,268	1,275	1,239	5.57	36
Total		180	19,408	19,588	19,404	18.51	184

Source: Departmental figures

In Excise and Taxation Department, the total number of cases pending for finalization had increased from 180 at the beginning of financial year to 184 at the end of the financial year 2019-20. The details of evasion of tax under the head “Land Revenue” was not provided by the Revenue Department.

1.5 Refund cases

The details of refund cases pending at the beginning of the year 2019-20, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2019-20, are depicted in Table 1.7.

Table 1.7: Pendency of refund cases

Sr. No.	Particulars	Sales Tax/VAT		State Excise	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
1.	Claims outstanding at the beginning of the year	48	11.51	23	1.08
2.	Claims received during the year	197	59.69	54	3.42
3.	Refunds made during the year	195	48.27	71	4.31
4.	Balance outstanding at the end of year	50	22.93	6	0.20

Source: Departmental figures

The number of cases outstanding at the end of the financial year 2019-20 had increased for Sales Tax/VAT and decreased for State Excise as compared to cases outstanding at the beginning of the financial year.

1.6 Response of Government/Departments towards Audit

The Principal Accountant General (Audit), Himachal Pradesh (PAG), conducts periodic inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action.

The heads of the offices are required to comply with the observations contained in the IRs 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. Draft audit paragraphs proposed for inclusion in the Audit Report of the Comptroller and Auditor General of India are forwarded by the PAG to the Principal Secretaries/Secretaries of the Departments concerned drawing their attention to the audit findings and requesting them to send their response within six weeks.

The issue of non-receipt of replies from the Departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report. 7,240 audit observations involving ₹ 1,652.13 crore relating to 2,174 Inspection Reports issued up to March 2020, remained outstanding at the end of June 2020 as shown in **Table 1.8** along with the corresponding figures for the preceding two years.

Table 1.8: Details of pending Inspection Reports

	June 2018	June 2019	June 2020 ⁸
Number of IRs pending for settlement	2,660	2,742	2,174
Number of outstanding audit observations	7,924	8,439	7,240
Amount of revenue involved (₹ in crore)	1,958.98	2,209.43	1,652.13

Source: Inspection Reports

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2020 and the amounts involved are mentioned in **Table 1.9**.

Table 1.9: Department-wise details of pending Inspection Reports

Sr. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Excise and Taxation	Taxes/VAT on Sales and Trade	183	1236	567.08
		State Excise	88	396	592.73
		Passengers & Goods Tax	193	464	72.28
		Other Taxes & Duties on Commodities and Services	94	125	0.01
		Entertainment and Luxury tax etc.	83	178	14.00
2.	Revenue	Land Revenue	43	95	0.83
		Stamp and Registration Fees	737	1,829	65.19
3.	Transport	Taxes on Motor Vehicles	753	2,917	340.01
Total			2,174	7,240	1,652.13

Source: Inspection Reports

Audit did not receive even the first reply⁹ from the respective Heads of Offices after the stipulated time of four weeks in respect of 140 IRs out of 204 IRs issued during the year 2019-20.

The purpose of audit is to check whether prescribed rules, laws and procedures are being adhered to, and to highlight cases of non-compliance, systemic weaknesses, and failures. The large number of pending IRs and audit observations pending settlement indicate inadequate response to audit observations. The lack of action on these audit observations weakens accountability and raises the risk of loss of revenue. Increasing pendency of audit paragraphs merits urgent attention of the Government for addressing the issues consistently raised by Audit.

⁸ It does not include figures related to the Forest Department

⁹ The officer in charge of an auditable entity is supposed to send the reply to an audit note or inspection report within four weeks of its receipt.

1.6.1 Departmental audit committee meetings

The Government had set up audit committees under the Chairmanship of the Secretary of the concerned Department to monitor and expedite the settlement of audit observations included in the IRs. The details of audit committee meetings held during the year 2019-20 and the observations settled are depicted in **Table 1.10**.

Table 1.10: Details of Departmental Audit Committee meetings

Sr. No.	Department	Number of meetings held	Number of observations outstanding	Number of observations settled	Amount (₹in crore)
1.	Excise & Taxation	1	2,352	174	1.28
2.	Revenue	1	1,589	51	0.12
3.	Transport	1	2,598	20	0.02
	Total	3	6,539	245	1.42

Source: Revenue and Economic (Non-PSU) Sectors, Shimla

In 2019-20, out of 6,539 outstanding audit observations as on April 2019, 245 observations (3.75 per cent) involving an amount of ₹ 1.42 crore were settled in three Audit Committee meetings held for above mentioned Departments.

The Government should ensure holding meetings of the Audit Committee at regular intervals for all the Departments.

1.6.2 Response of Departments to draft audit paragraphs

Twenty-seven paragraphs were sent to the Principal Secretaries/Secretaries of the respective Departments between February 2021 and May 2021 of which, 18 paragraphs have featured in this Report.

1.6.3 Follow-up on the Audit Reports-summarised position

The Public Accounts Committee notified (December 2002) that after the presentation of the Audit Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and action taken notes thereon should be submitted by the Government within three months of the tabling the Report, for the consideration of the Committee. However, despite these provisions, the action taken notes on audit paragraphs of the Reports were inordinately delayed. A total of 112 paragraphs (including Performance Audits) included in the Audit Reports on Revenue Sector of the Comptroller and Auditor General of India of the Government of Himachal Pradesh for the years ended 31 March 2014, 2015, 2016, 2017 and 2018 were placed before the State Legislative Assembly between 10 April 2015 and 14 December 2019. Action taken notes on these paragraphs were, however, received very late from the Departments as depicted in **Table 1.11**.

Table 1.11: Delay in Receipt of ATNs

Sr. No.	Report of CAG on Revenue Sector for the Year ended	Date of laying of Audit Report in legislature	ATNs received during the period	Delay in Receipt of ATN
1.	2014	10 April 2015	2015 to 2018	1 to 37 Months
2.	2015	07 April 2016	2016 to 2018	2 to 24 Months
3.	2016	31 March 2017	2017 to 2018	5 to 15 Months
4.	2017	05 April 2018	2018 to 2019	0 to 14 Months
5.	2018	14 December 2019	2020 to 2021	6 to 13 Months
6.	2019	13 August 2021	Yet to be received	

The PAC had discussed 30 paragraphs pertaining to the Audit Reports (2008-09 to 2016-17) on Revenue Sector during the year 2019-20.

1.7 Action taken by the Departments on issues raised by Audit: Detailed status for VAT under Major Receipt Head '0040'

The action taken on the Paragraphs and Performance Audits included in the Audit Reports of the last 10 years for the Excise Department under *Major Receipt Head '0040-Taxes/VAT on Sales, trade etc.'* was evaluated and is detailed in the succeeding paragraphs 1.7.1 to 1.7.3.

1.7.1 Inspection Reports

The summarized position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2020, relating to VAT is depicted in *Appendix 1.3*.

Against 144 IRs with 718 paragraphs outstanding as on start of 2010-11, the number of outstanding IRs increased to 149 with 947 paragraphs at the end of 2019-20. The corresponding money value pointed out in IRs increased from ₹ 57.17 crore to ₹ 616.15 crore.

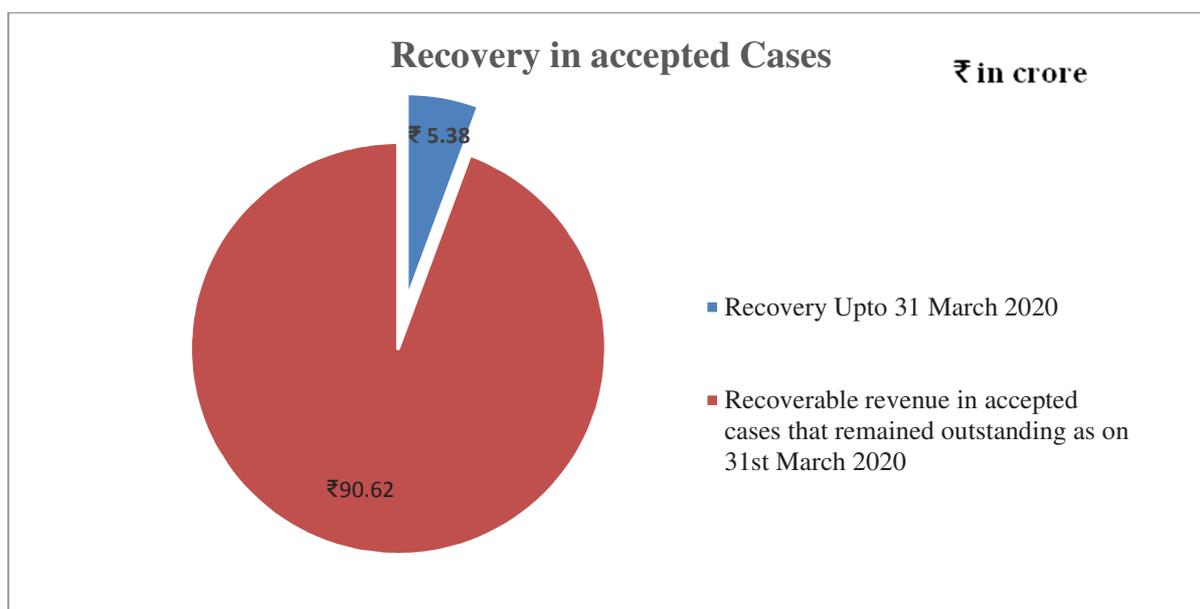
1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Excise and Taxation Department and the amount recovered is depicted in *Appendix 1.4*.

The progress of recovery even in accepted cases was low as only ₹ 5.38 crore were recovered upto 31 March 2020 against the total recoverable revenue of ₹ 96 crore in accepted paragraphs.

The recovery of accepted cases and the amount recovered by the Excise Department is depicted in **Chart 1.4**.

Chart 1.4



Source: PAC, Revenue Sector, Shimla

1.7.3 Action taken on audit recommendations accepted by the Department/ Government

The draft report of Performance Audit conducted by the PAG is forwarded to the concerned Department/Government with a request to furnish their replies. The Performance Audit Report is also discussed in exit conference and the Department/Government's views are included while finalising the Performance audit for the Audit Report.

Audit recommendations were included in Performance Audit on **VAT under Major Receipt Head '0040'** which featured in the Audit Report for the year 2014-15, as depicted in **Table 1.12**.

Table 1.12: Action taken on the recommendations

Sr. No.	Year of Audit Report	Title of the Performance audit	Number of recommendations made in PA	Remarks
1	2014-15	System of assessment under VAT	Five	Department has accepted three recommendations out of five

Audit's recommendation regarding implementation of HSN codes have been complied with through implementation of GST. In reference with Audit recommendation regarding non-registration of dealers and timely issuance of notices, the Department had issued instructions to field offices for inspection and monitoring.

1.8 Internal Audit

Internal Audit Cells (IAC) in the Departments under the charge of the Assistant Controller (F&A), were required to conduct test check of the cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee to ensure adherence to the provisions of the Acts and Rules as well as Departmental instructions issued from time to time.

Name of the Department	Total auditable units	No. of units planned for audit	No. of units audited	Shortfall
Excise and Taxation	13	6	2	4
Revenue	173	25	-	25
Transport				

Source: Departmental figures

The Excise and Taxation Department and Revenue Department attributed the shortfall in internal audit to shortage of staff. Information regarding internal audit was not provided by the Transport Department.

1.9 Audit planning

There are a total of 506 auditable units in the State of Himachal Pradesh, of which 204 units¹⁰ were planned and audited during 2019-20. The units were selected on the basis of risk analysis.

¹⁰ These units comprise subordinate offices of three departments - Excise, Transport and Revenue Department, Shimla

1.10 Results of audit

Audit of 204 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, and Goods and Passengers Tax were conducted during the year 2019-20 through test check of records. The total revenue loss on account of the deficiencies highlighted by Audit through IRs during 2019-20 amounted to ₹ 541.95 crore¹¹ in 1,159 cases.

During the year 2019-20, the Departments concerned accepted audit observations of ₹ 55.70 crore in 311 cases, of which ₹ 0.03 crore in 11 cases was recovered. The Departments concerned also accepted and recovered an amount of ₹ 3.39 crore in 276 cases¹² pertaining to audit findings of previous years.

1.11 Coverage of this Report

This Report contains 18 paragraphs having a total revenue implication of ₹ 168.27 crore. The Departments/Government accepted audit observations involving ₹ 133.59 crore, of which ₹ 34.48 crore was recovered in 14 paragraphs.

¹¹ Taxes/VAT on sales and Trade: amount: ₹ 127.77 crore: cases: 296; State Excise: amount: ₹ 313.97 crore: cases:119; Stamp Duty: amount: ₹ 59.19 crore: cases: 487; Taxes on vehicles, Passenger and Goods: amount: ₹ 41.02 crore cases:257

¹² Stamp Duty and Registration fee ₹ 68.58 lakh, cases 106; MVT ₹ 91.01 lakh, cases 07; SED ₹ 82.32 lakh, case 07; VAT ₹ 96.64 lakh, cases 156

Chapter-II
Taxes/VAT on Sales and Trade

CHAPTER-II

TAXES/VAT ON SALES AND TRADE

2.1 Tax administration

The Principal Secretary (Excise and Taxation) administers State GST and Excise at the Government level. The Commissioner of State Taxes and Excise (CSTE) is the Head of the Excise and Taxation Department and is assisted by three Additional CSTE, two Joint CSTE, and five Deputy CSTE. There are 12 Deputy CSTE at District level in the field, assisted by 119 Assistant CSTE. In addition, there are State Taxes and Excise Officers and Assistant State Taxes and Excise Officers in the field to control all the activities of Department and other allied staff for administering the relevant tax laws and rules.

2.2 Results of Audit

There were 88 auditable units in the Department. Out of these, audit selected 35 units involving receipt of ₹ 1,920.02 crore during the year 2019-20. Test check of 21,516 cases out of the total 55,376 cases, related to VAT/GST, Multipurpose Barrier and Luxury tax revealed under assessment of tax and other irregularities involving ₹ 127.77 crore in 296 cases which fall under the following categories as depicted in **Table 2.1**.

Table 2.1: Results of audit

			₹ in crore	
Sr. No.	Categories	Number of cases	Amount	
1	Under assessment of tax	27	11.82	
2	Acceptance of defective statutory forms C, D, F and I	20	42.51	
3	Evasion of tax due to suppression of sale/purchase	23	33.92	
4	Irregular/incorrect/excess allowance of ITC	42	10.27	
5	Application of incorrect rate of tax	15	12.37	
6	Other irregularities	118	15.54	
Total		245	126.43	
Others Tax and Non-Tax				
1.	Entertainment Tax	15	0.02	
2.	Multipurpose barriers and Luxury tax	36	1.32	
Total		51	1.34	
Grand Total		296	127.77	

Source: Inspection Reports

During the year 2019-20, the Department accepted and recovered under-assessment and other deficiencies of ₹ 96.64 lakh in 156 cases related to audit findings of earlier years. The Department also accepted under-assessment and other deficiencies of ₹ 15.55 crore in 85 cases related to audit findings of 2019-20 out of which ₹ 0.72 lakh in three cases was recovered.

Significant cases (eight Paragraphs), involving an amount of ₹ 18.13 crore, are discussed in the following paragraphs.

2.3 Excess allowance of Input Tax Credit

Assessing Authorities did not properly take into consideration unsold local purchases in closing stock at the end of the tax period, which resulted in excess allowance of ITC by ₹8.45 crore to 333 dealers.

Section 11 of the HPVAT Act, 2005, provides that input tax credit (ITC) is claimed on the input tax paid on local purchases, but this claim can be made by a dealer only at the time of sale of those local purchases. Therefore, if there is unsold stock of local purchases, which is reflected in the closing stock of the dealer during a tax period, the ITC on the unsold closing stock should be withheld for that tax period and may be allowed in a subsequent tax period when the sale is made. Rule 23 of HP VAT Rules provides that where a registered dealer has used the goods purchased partially for taxable sales and is unable to maintain accounts and the sale by him includes sale of tax free goods and taxable goods and/or branch transfers, then it shall be presumed that goods so purchased during the tax period have been used in the proportion of turnover of sales of tax free goods, taxable goods and branch transfers respectively of the tax period and the ITC shall be calculated and claimed in that proportion accordingly. Further, Section 19 provides for payment of interest if a dealer fails to pay the tax due by the prescribed date.

The Additional Excise and Taxation Commissioner-cum-Appellate Authority clarified in a judgment dated 12 April 2012, that if a dealer claims ITC on the unsold stock of local purchases made during the year, then interest under Section 19 on excess ITC claimed should be charged up to the period when the stock was sold and not till the period when assessment was carried out.

Audit scrutiny of records of 12 DCSTEs¹ during 2017-19 revealed that Assessing Authorities (AAs), while finalizing the assessments of 333 dealers for the tax period between 2009-10 to 2017-18, withheld ITC of only ₹ 9.11 crore on closing stock. Audit calculated that on the basis of proportion of local purchases lying unsold in closing stock, AAs should have withheld ITC of ₹ 17.56 crore on closing stock. Thus, AAs allowed excess ITC of ₹ 8.45 crore in contravention of Section 11 of the Act, *ibid*, for which no justification was found on record. The excess allowance of ITC on unsold stock also enabled the dealers to defer their tax liability by at least a year, due to which interest amounting to ₹ 1.35 crore also became leviable as per judgment, *ibid*.

The matter was referred to Government in March 2021. The Government replied (September 2021) that notices had been issued to dealers in all the cases objected by Audit and ₹ 20.32 lakh had been recovered in 122 cases.

¹ DCSTEs: **2017 - 18:** Baddi (two cases: ₹ 25.72 lakh), Chamba (15 cases: ₹ 26.22 lakh), Mandi (98 cases: ₹ 1.87 crore), Nahan (four cases: ₹ 6.48 lakh), Reckong Peo (nine cases: ₹ 15.81 lakh), Shimla (23 cases: ₹ 50.41 lakh), Solan (50 cases: ₹ 98.68 lakh) and Una (13 cases: ₹ 57.00 lakh)
2018 - 19: Baddi (five cases: ₹ 51.11 lakh), Chamba (six cases: ₹ 10.60 lakh), Hamirpur (28 cases: ₹ 13.92 lakh), Kangra at Dharamshala (29 cases: ₹ 66.85 lakh), Kullu (two cases: ₹ 2.16 lakh), Nahan (10 cases: ₹ 80.25 lakh), Nurpur at Kangra (four cases: ₹ 3.91 lakh), Shimla (23 cases: ₹ 70.45 lakh) and Solan (12 cases: ₹ 78.20 lakh)

The Department should strictly adhere to provisions with regard to allowance of ITC during a tax period to protect revenue due to the Govt. in that tax period.

2.4 Wrong allowance of concessional rate of tax

Failure of the Assessing Authorities to correctly classify the nature of manufactured goods led to illegitimate allowance of concessional rate of tax, which resulted in under assessment of tax of ₹2.83 crore.

Excise and Taxation Department notified in April 2013 a concessional rate of tax of one and a half *per cent* on interstate sale of goods, except the goods specified in negative list², which would continue to attract *Central Sales Tax (CST)* of two *per cent*.

Scrutiny of records for the period 2017-19 of four Deputy Commissioners of State Taxes & Excise (DCSTEs)³ carried out in 2019 revealed that the AA while finalising the assessments (2018-19) for the year 2013-14 to 2017-18, in 36 cases of 20 dealers, allowed a concessional rate of tax of one and a half *per cent* on interstate sale of items falling in the negative list, which should have attracted a CST of two *per cent*. On these negative list items worth ₹ 565.82 crore, the AAs levied tax of ₹ 8.49 crore at one and a half *per cent*, instead of leviable tax of ₹ 11.32 crore at two *per cent*, which resulted in short levy of tax of ₹ 2.83 crore⁴.

The matter was reported to the Government (January 2021); Government replied (September 2021) that notices had been issued in all cases objected by Audit and recovery of ₹ 1.24 lakh had been made in one case.

The Government may consider creating a mechanism for ensuring accountability of officials for failure to implement the provisions of the VAT Act/Rules.

2.5 Grant of concessions without statutory forms

Acceptance of invalid and defective statutory forms by the Assessing Authorities and allowance of concessional rate of tax on inter-state sale resulted in short levy of tax of ₹ 2.38 crore. In addition, interest of ₹ 2.36 crore was required to be levied.

Central Sales Tax (CST) Act 1956 provides for certain tax exemptions in case of sale in the course of interstate trade or commerce on production of certain forms. These forms are issued in three parts i.e., *Original, Duplicate* and *Counterfoil*. It has been directed by Supreme Court⁵ that production of original forms containing full particulars like date of issue, transaction details, name of selling and purchasing dealers, value of form and period to which these forms pertain etc. is mandatory for claiming concessional rate of tax.

² list of items prescribed by the Department of Industries, GoHP which will attract two *per cent* CST

³ Baddi, Nahan, Nurpur (Kangra) and Solan

⁴ Baddi: ₹ 2.21 crores; Nahan: ₹ 0.13 crore; Nurpur (Kangra): ₹ 0.22 crore and Solan ₹ 0.27 crore

⁵ Commissioner Sale Tax v/s M/s Prabhu Dayal Prem Narayan (1988) 71 STC (SC) and Delhi Automobiles Private Limited v/s Commissioner of Sales Tax (1997) 104 STC 75 (SC).

Form 'C'

Section 6 of CST Act, 1956 prescribes that in the course of interstate trade or business, the selling dealer has to submit *form 'C'* obtained from the purchasing dealer to avail concessional rate of tax, otherwise tax at full rate is to be paid. Further, a single *form 'C'* is meant to cover transactions of only one quarter.

Scrutiny of records in 2019-20 showed that in four District Commissionerates of State Taxes and Excise⁶ (DCSTEs), the Assessing Authorities (AAs), while finalizing assessments (between August 17 to February 19) of six dealers, having Gross turnover (GTO) of ₹ 46.06 crore for the tax period 2009-10 to 2016-17, allowed concessional rate on sales of ₹ 2.75 crore, on the basis of ineligible *form 'C'*. These forms either did not pertain to the relevant period, or transactions covered in a single form was of more than one quarter. These forms should have been rejected at the time of assessment. Instead, the AAs levied tax of ₹ 4.58 lakh at the concessional rate of one and half *per cent* or two *per cent* on sales of ₹ 2.75 crore based on these ineligible *form 'C'*, whereas tax of ₹ 30.90 lakh at the rate of four, five and 13.75 *per cent* should have been levied. This resulted in short levy of tax of ₹ 26.31 lakh. Besides, interest of ₹ 22.52 lakh also required to be levied.

Form 'F'

Section 8 of CST Act 1956, read with the CST Rules 1957, prescribes tax exemption to a registered dealer in case of branch transfer/consignment sale, provided these are supported by declaration in *form 'F'*. Further, a single *form 'F'* is to cover transactions of only one calendar month.

Scrutiny of records (2019-20) of two DCSTEs⁷ showed that AAs while finalising assessment (between May 2018 to November 2018) of six dealers having GTO of ₹ 236.97 crore for the tax periods 2009-10 to 2017-18, allowed exemption of tax of ₹ 62.99 lakh on stock transfer of ₹ 12.65 crore on the basis of declaration in *form 'F'*. Audit observed that these *form 'F'* should have been rejected at the time of assessment as single form covered transactions for more than one calendar month. This resulted in non-levy of tax of ₹ 62.99 lakh. Besides, interest of ₹ 66.96 lakh was also required to be levied.

Form 'H'

Under Section 5 of CST Act 1956, read with Rule 12(10) of the CST (Registration and Turnover) Rules 1957, a dealer is exempt from tax in the course of export of goods out of the territory of India if he submits *form 'H'* duly filled and signed by the exporter along with the evidence of export of such goods.

Scrutiny of records in 2019-20 of two DCSTEs,⁸ showed that while finalising assessments (between June 18 and February 19) of two dealers having GTO ₹ 65.65 crore for the tax period

⁶ DCSTEs: Nahan (one case: ₹ 16.85 lakh), Nurpur (three cases: ₹ 5.29 lakh), Shimla (three case: ₹ 1.34 lakh) and Solan (one case: ₹ 2.84 lakh).

⁷ DCSTEs: Baddi (four cases: ₹ 46.98 lakh) and Solan (three cases: ₹ 16.01 lakh).

⁸ DCSTEs: Baddi (one case: ₹ 0.04 crore) and Shimla (three cases: ₹ 1.39 crore).

2012-13 to 2014-15, the AAs allowed tax exemption of ₹ 1.43 crore on export of stock worth ₹ 28.64 crore. In one case no Form 'H' was found and in three cases, bill of lading was not found in the file as a proof of export. This resulted in non-levy of tax of ₹ 1.43 crore. Besides, interest of ₹ 1.42 crore was also leviable.

Form 'D'

Under *Rule 6(21)(a)* of CST Rules 1970, a dealer has to submit *form 'D'* for sales made to the government under *Section 8(1)(a)* of CST Act 1956. As per Schedule "A" Part II of HPVAT Act 2005, the sale of such goods made to the Government of Himachal Pradesh, subject to furnishing of certificate in *form 'D'*, shall be taxed at five *per cent*.

Scrutiny of records (2019-20) of DCSTE Shimla showed that while finalising assessments (June 2018) of a dealer having GTO ₹ 4.38 crore for the tax period 2012-13 to 2017-18, the AA allowed tax exemption of ₹ 5.72 lakh on government sale amounting to ₹ 65.46 lakh without accompanying declaration in *form 'D'*. This resulted in non-levy of tax of ₹ 5.72 lakh. Besides, interest of ₹ 5.16 lakh under *Section 19(2)* of the HPVAT Act 2005 was also leviable.

Failure of the AAs to reject invalid and defective statutory forms resulted in irregular allowance of concessional rate of tax of ₹ 2.38 crore. Besides interest of ₹ 2.36 crore was also leviable.

The matter was reported to the Government in June 2021; the Government replied (September 2021) that notices had been issued to dealers in all cases objected by Audit and recovery of ₹ 1.35 lakh had been made in eight cases.

The Government may consider issuing necessary directions to the Department to ensure that the dealers submit the respective mandatory Forms and fulfil the conditions mandated in the notifications before allowing concessional rates of tax at the time of finalising any assessment.

2.6 Incorrect determination of turnover

Assessing Authorities assessed the Gross Turnover lesser than the actual turnover as depicted in certified accounts of the dealers, resulting in loss of revenue of ₹ 1.40 crore.

As per *Section 2(v)(zd)* of HPVAT Act, 2005 "turnover" means the aggregate amount of sales, purchases and parts of sales and purchases made by any dealer and includes any sum charged on account of freight, storage, demurrage, insurance and for anything done by the dealer in respect of the goods at the time of or before delivery thereof. Further, *Section 19* provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month, and 1.5 *per cent* per month thereafter, till the default continues.

Test-check of records (between May 2019 to March 2020) of six DCSTEs⁹ revealed that Assessing Authorities (AAs), while finalizing the assessments (2018-19) of 11 cases for the years 2010-11 to 2016-17, assessed lower GTO of ₹ 343.27 crore as shown by the assesses in their returns. Audit scrutiny found that GTO of ₹ 371.27 crore should have been assessed instead, as per the submitted certified accounts or in the Form STXI-B¹⁰ of the dealers/contractors. However, no justification for taking lower GTO for assessment was found in the assessment orders. Thus, there was short assessment of GTO of ₹ 28 crore leading to short levy of tax by ₹ 1.40 crore (calculated at the minimum rate of 5 *per cent*). Besides, on account of incorrect reporting of gross turnover, and consequent default in payment of tax due by the dealers, interest of ₹ 1.75 crore as per section 19 of the Act was also leviable.

The matter was reported to the Government (June 2021); the Government replied (September 2021) that notices had been issued to the dealers in all the cases objected by Audit and recovery of ₹ 2.76 lakh had been made in three cases.

The Government may consider setting up a mechanism to monitor turnover and a system to cross-check annual tax returns with certified accounts of the dealers and action should be taken against the officers, responsible for causing loss of Government revenue.

2.7 Allowance of Inadmissible deductions and Excess deduction of labour charges in case of work contractors

Allowance of inadmissible deductions and excess deductions against labour charges resulted in underassessment of tax by ₹ 1.33 crore. Besides, interest of ₹1.41 crore was also leviable.

Rule 17(4)(a) of the Himachal Pradesh VAT Rules, 2005 provides that the value of the goods involved in execution of a works contract shall be determined by taking into account the value of the entire works contract and deducting therefrom the components of payment made towards labour and services, amount paid to a sub-contractor for labour, charges for planning, designing and architect fee, hiring of machinery and tools, cost of consumables such as water, electricity and fuel, cost of establishment of the contractor and profit earned by the contractor on supply of labour and services as specified in it. *Rule 69(2)* provides that where labour charges are not determinable from the accounts of the works contractors, or seem unreasonably high considering the nature of the contract, the deductions towards labour charges shall be allowed by the Assessing Authorities (AAs) according to limits prescribed for that type of contract in the Rules, *ibid*. Further, *Section 19* of the HPVAT Act, 2005 provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month, and one and a half *per cent* per month thereafter, as long as the default continues.

⁹ DCSTEs - Baddi: three cases, ₹ 26.03 lakh; Kangra: two cases, ₹ 3.35 lakh; Nurpur: one case, ₹ 66.82 lakh; Shimla: two cases, ₹ 1.34 lakh; Sirmour at Nahan: one case, ₹ 2.11 lakh; and Solan: two cases, ₹ 40.37 lakh.

¹⁰ Given by the work awarding agency to works contractors to certify their TDS (work contract tax)

I. Inadmissible deductions

Scrutiny of records of four¹¹ DCSTEs in 2019-20 revealed that the AAs while finalising assessments (2018-19) of 20 works contractors for the tax period from 2005-06 to 2017-18, allowed miscellaneous deductions¹² worth ₹ 19.03 crore. *Rule 17(4)*, *ibid*, clearly lists out the deductions allowed to a works contractor in determining gross turnover (GTO). However, the deductions allowed by the AAs were inadmissible under *Rule 17(4)*. Reasons for allowing such deductions in contravention of the rules were not found in the assessment orders. This resulted in under assessment of tax by ₹ 1.17¹³ crore. Besides, on account of inadmissible deductions and consequent default in payment of the tax due by the dealers, interest of ₹ 1.34 crore was also leviable.

II. Excess deductions against labour charges

Scrutiny of records of DCSTE Shimla revealed that AAs while finalizing the assessments (2018-19) of four dealers for the year 2008-09 to 2017-18, allowed deductions against labour charges worth ₹ 12.62 crore, whereas the labour charges as per the certified accounts of these dealers was only ₹ 10.92 crore. This difference of ₹ 1.70 crore resulted in under assessment of tax by ₹ 16.49 lakh. Besides, interest of ₹ 7.88 lakh was also leviable.

Thus, allowance of inadmissible deductions and non-verification of labour charges resulted in under assessment of tax by ₹ 1.33 crore (₹ 1.17 crore+₹ 16.49 lakh).

On being pointed out the DCSTEs (Kullu, Shimla and Una) intimated that action will be taken as per rules/Acts. DCSTE (Kullu) admitted the observations in nine cases and assured that compliance after reassessment would be intimated to audit.

DCSTE, Mandi replied that in four cases, TDS was deducted from the GTO under *Section 6* of HPVAT Act and further cited the judgement in case of M/s. Larsen and Toubro *Versus* State of Karnataka regarding deduction from GTO. The reply of DCSTE Mandi was not relevant since all admissible deductions on GTO are specified in *Rule 17(4)* of HPVAT Rules and allowance of TDS is not mentioned in it. Further, the Larsen and Toubro case pertains to tax on the sale of flats and does not mention any deduction on account of TDS from GTO.

The matter was reported to the Government (between August 2019 to June 2020); the Government replied (September 2021) that notices had been issued to dealers in all the cases objected by Audit and recovery of ₹ 7.84 lakh had been made in five cases.

The Government may consider issuing necessary directions to the Department to carefully examine the assessments of the dealers and to avoid allowance of inadmissible deductions and excess allowance of labour charges.

¹¹ Kullu, Mandi, Shimla and Una

¹² Tax deducted at source on WCT, administrative charges, vehicle running & maintenance charges, material purchased in state, royalty with VAT, machinery repair and maintenance, travelling expenses, labour cess etc.

¹³ Tax leviable = inadmissible deduction x rate of tax(minimum) Kullu: six cases, ₹ 4.17 lakh; Mandi: four cases, ₹ 17.05 lakh; Shimla: 46 cases, ₹ 85.76 lakh; Una: 10 cases, ₹ 10.58 lakh

2.8 Inadmissible allowance of Input Tax Credit (ITC) on branch transfer

Failure of Assessing Authorities to disallow ITC on branch transfer resulted in inadmissible allowance of ITC of ₹87.03 lakh. Besides, interest of ₹1.24 crore was also leviable.

Section 11(4) of the Himachal Pradesh VAT Act, 2005, provides that notwithstanding anything contained in sub-section, ITC shall be allowed only to the extent by which the amount of input tax paid in the State exceeds four *per cent* on purchase of goods sent outside the State otherwise than by way of sale in the course of inter-state trade. Section 19 provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* and thereafter one and half *per cent* till the default continues.

Audit scrutiny (2017-19) of records of five DCSTEs¹⁴ revealed that the AAs while finalising assessments (between July 2017 and May 2019) of 11 dealers for the years 2006-07 to 2016-17, allowed ITC of ₹ 3.68 crore, on the goods sent as branch transfer, whereas the AA were required to disallow four *per cent* of ITC involved in the branch transferred goods, as per Section 11(4), *ibid*. The allowable ITC was ₹ 2.81 crore. This resulted in excess benefit of ITC of ₹ 0.87 crore. Besides, due to under assessment of tax on account of excess allowance of ITC, interest of ₹ 1.24 crore under Section 19 of the Act, *ibid* was also leviable.

The matter was reported to the Government in March 2021; the Government replied (September 2021) that notices had been issued to dealers in all the cases objected by Audit and recovery of ₹ 5.39 lakh had been made in two cases.

The Department may consider issuing necessary directions to the concerned officials to pay due attention to the ineligible items while making adjustment of ITC.

2.9 Short/Non levy of Interest on additional demand of tax

Assessing Authorities levied interest of ₹ 17.38 lakh instead of leviable interest of ₹ 72.02 lakh on additional demand created, resulting in short levy of interest of ₹ 54.64 lakh.

As per Section 19 of the HPVAT Act 2005, if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* for a period of one month, and one and a half *per cent* per month thereafter, while the default continues.

Scrutiny of records (between May 2019 to December 2019) of two DCSTEs¹⁵ revealed that the AAs while finalising assessments of 15 dealers for the tax period 2009-10 to 2016-17, raised additional tax demands of ₹ 84.02 lakh. AAs levied interest of ₹ 17.38 lakh for the period ranging from 12 to 35 months against the leviable interest of ₹ 72.02 lakh for a period ranging from 14 to 98 months *i.e.* upto the date of assessment. Further, it was noticed that the

¹⁴ Baddi, Nahan, Nurpur(Kangra), Solan and Una

¹⁵ DCSTEs Baddi and Nahan

department did not levy interest in four cases. Thus, there was short/non-levy of interest of ₹ 54.64 lakh¹⁶ (₹ 72.02 lakh - ₹ 17.38 lakh).

No reasons were recorded in the assessment orders by the AAs for short/non-levy of interest. Audit has pointed out similar lapses in Inspection Reports/Audit Reports since 2011-12, however, the Department did not take any action to test-check assessments, which indicates indifference to guarding against revenue loss.

The Government replied (September 2021) that notices had been issued to dealers in all the cases objected by Audit and recovery of ₹ 16.27 lakh had been made in three cases

The Government may consider issuing necessary directions to the Department to follow the provisions of the Act and exercise appropriate checks before finalising any assessment and responsibility of the erring officials may be fixed.

2.10 Suppression of sale and stock

Under-reporting of sales and closing stock worth ₹ 4.55 crore in the annual returns enabled tax evasion of ₹ 32.82 lakh. Consequently, interest of ₹ 25.89 lakh and penalty of ₹ 32.82 lakh also became due on the evaded tax.

Section 16(8) of the HPVAT Act, 2005 provides that if a dealer has maintained false or incorrect accounts with a view to suppress his sales, purchases or stocks of goods or has furnished return which is false or incorrect in any way, then he is liable to pay a penalty of upto twice the amount of tax but which shall not be less than one hundred *per cent* of such tax amount. Further as per Schedule A to Section 6(1)(a), sale of scrap is taxable at the rate of five *per cent*.

Scrutiny of records during May 2019 to February 2020 revealed that:

- I. In three Deputy Commissionerates of State Taxes and Excise (DCSTEs¹⁷), 12 dealers having cumulative Gross Turnover (GTO) of ₹ 794.93 crore had not disclosed sales of ₹ 2.98 crore in 18 annual returns filed between 2010-11 to 2016-17, which were otherwise depicted in their Trading, Profit and Loss accounts as sale of assets (Vehicles, Plant and Machinery). These sales should have been taxed at the minimum rate of five *per cent* under Schedule 'A' of HPVAT Act, 2005. Thus, there was under assessment of tax of ₹ 14.88¹⁸ lakh. Besides, interest of ₹ 16.51 lakh under Section 19, and penalty of ₹ 14.88 lakh under Section 16(8) of the Act, *ibid*, were due to be levied.
- II. In two DCSTEs¹⁹, two dealers having cumulative GTO of ₹ 20.51 crore in the tax years between 2013-14 to 2016-17, had declared opening stock of ₹ 98.89 lakh in their respective annual returns filed, but their certified accounts of the immediately preceding years showed closing stock of ₹ 2.56 crore. There was altogether a difference of

¹⁶ DCSTEs Baddi: ₹ 11.06 lakh and Sirmour at Nahan: ₹ 43.58 lakh

¹⁷ DCSTEs: Baddi, Nahan and Shimla.

¹⁸ Baddi : eight cases, ₹ 9.94 lakh; Nahan : four cases, ₹ 4.00 lakh and Shimla : six cases, ₹ 0.94 lakh

¹⁹ DCSTEs: Mandi, Shimla

₹ 1.57 crore in their closing and opening stocks during the tax period, which was tantamount to suppression of stocks of goods under Section 16 (8) of the Act, *ibid*. The Assessing Authority was required to check these details at the time of assessment as all the records were available. Applying the minimum applicable rate of tax on the suppressed GTO, under assessment of tax worth ₹ 17.94²⁰ lakh was found. Besides, interest of ₹ 9.38 lakh under Section 19 of the Act *ibid*, and minimum penalty of ₹ 17.94 lakh under Section 16(8) of the Act *ibid*, were also leviable.

Thus, lack of due diligence by the Assessing Authorities (AAs) in identifying suppression of sales and stocks worth ₹ 4.55 crore (₹ 2.98 crore + ₹ 1.57 crore) in their assessments, resulted in undue benefit to dealers and enabled tax evasion of ₹ 32.82 lakh (₹ 14.88 lakh + ₹ 17.94 lakh). Besides, penalty of ₹ 32.82 lakh (₹ 14.88 lakh + ₹ 17.94 lakh) under Section 16(8) and interest of ₹ 25.89 lakh (₹ 16.51 lakh + ₹ 9.38 lakh) under Section 19 has since become due on the evaded tax.

The AAs did not cross-check the tax returns with the certified accounts of the dealers for calculation of tax and interest during the tax period, even though all the records were available with the Department. This issue has been highlighted in the Audit Report on State Revenues of the last two years, and so its persistence would suggest wilful disregard of the same.

The matter was reported to the Government in January 2021; the Government replied (September 2021) that notices had been issued to dealers in all the cases objected by Audit.

The Government may consider creating a mechanism for ensuring accountability of officials for failure to implement the provisions of the VAT Act/Rules.

²⁰ DCSTEs : Mandi : one case, ₹ 17.83 lakh and Shimla : one case, ₹ 0.11 lakh

Chapter- III
State Excise

CHAPTER-III

STATE EXCISE

3.1 Tax administration

The Principal Secretary (Excise and Taxation) administers State GST and Excise at the Government level. The Commissioner of State Taxes and Excise (CSTE) is the Head of the Excise and Taxation Department and is assisted by three Additional CSTE, two Joint CSTE, and five Deputy CSTE. There are 12 Deputy CSTE at District level in the field, assisted by 119 Assistant CSTE. In addition, there are State Taxes and Excise Officers and Assistant State Taxes and Excise Officers in the field to control all the activities of Department and other allied staff for administering the relevant tax laws and rules.

3.2 Results of Audit

There were a total 13 auditable units (DCSTEs) in the Department. Out of these, audit selected 10 units involving receipt of ₹ 1,423.72 crore during the year 2019-20. Test check of 911 cases out of the total 1,804 cases relating to State Excise Department revealed evasion of excise duty/loss of revenue due to injudicious fixation of Ex-distillery price (EDP)/short allotment of Minimum Guarantee Quota (MGQ), non/short recovery of retail excise duty/bottling fee/application fee/additional retail excise duty/interest/penalty and other irregularities involving ₹ 313.97 crore in 119 cases as detailed in **Table 3.1**.

Table 3.1: Results of audit

Sr. No.	Categories	Number of cases	₹ in crore
			Amount
1.	Evasion of excise duty/loss of revenue due to injudicious fixation of EDP/Short allotment of MGQ	12	102.80
2.	Non/short recovery of retail excise duty/bottling fee/application fee/additional retail excise duty/ interest/penalty etc.	54	135.88
3.	Other irregularities	53	75.29
Total		119	313.97

Source: Inspection Reports

During the year 2019-20, the Department accepted under-assessment and other deficiencies worth ₹ 82.32 lakh in seven cases pertaining to audit findings of earlier years and recovered the same. The Department also accepted under-assessment and other deficiencies of ₹ 3.16 crore in 12 cases related to audit findings of 2019-20.

Significant cases (five paragraphs) involving an amount of ₹ 96.59 crore are discussed in the following paragraphs.

3.3 Non-levy of penalty and additional penalty on short lifting of Minimum Guaranteed Quota

The Department did not levy penalty of ₹58.50 crore for short lifting of 19,13,244 proof litres of liquor against benchmark of 100 per cent by the licensees of 765 vends. Additional Penalty of ₹2.32 crore was also leviable for short lifting against benchmark of 85 per cent.

Para 4.3 of the Excise Announcement (EA) 2018-19 of the Government of Himachal Pradesh, stipulates that each licensee shall be required to lift 100 per cent of Minimum Guaranteed Quota (MGQ) both of Country Liquor (CL) and Indian made Foreign Liquor (IMFL) as fixed for each vend. Failing this, he shall be liable to pay a penalty equivalent to the Retail Excise Duty (RED) on the un-lifted quota, which has fallen short of 100 per cent MGQ. If the lifting falls further short of 85 per cent of the MGQ, the licensee shall be liable to pay an additional penalty equivalent to 10 per cent of the RED. The concerned district in-charge is to review the lifting of MGQ on a quarterly basis and ensure recovery of the penalty as well as additional penalty on un-lifted MGQ.

Scrutiny of records of seven DCSTEs¹ revealed that 765 out of 1064 vends under these DCSTEs had lifted 1,51,12,002 proof litres² (pls) of liquor against the fixed annual MGQ of 1,70,25,246 proof litres, thus falling short by 19,13,244 proof litres, during the year 2018-19. Penalty of ₹ 58.50 crore was required to be levied on these 765 licensees for short lifting of quota. Further, 288 vends out of these 765 vends lifted quota below 85 per cent benchmark by 7,31,857 proof litres. Additional penalty of ₹ 2.32 crore was also leviable on these 288 licensees.

MGQ fixed, short-lifted and penalty/additional penalty levied

Types of Liquor	MGQ fixed (in pls)	MGQ lifted (in pls)	MGQ lifted short of 100 per cent (in pls)	Rate of RED leviable per proof litre	Penalty (in ₹)	MGQ lifted further short of 85 per cent (in pls)	Additional Penalty (in ₹)
1	2	3	4 = 2 - 3	5	6 = 4 x 5	7	8 ³
CL	91,61,051	83,73,894	7,87,157	241	18,97,04,796	2,24,783	54,07,346
IMFL	78,64,195	67,38,108	11,26,087	351	39,52,58,134	5,07,074	1,77,83,339
TOTAL	1,70,25,246	1,51,12,002	19,13,244	-	58,49,62,930	7,31,857	2,31,90,685

In violation of the provisions of the EA, DCSTE/ACSTEO had not reviewed the quota lifting position of MGQ on a quarterly basis, even though Audit has pointed out the same deficiencies in the last six years. Thus, failure on the part of DCSTE/ACSTEO to strictly enforce

¹ Baddi: 70 vends ₹ 7.68 crore; Kangra 152 vends ₹ 0.98 crore; Mandi 176 vends ₹ 17.10 crore; Sirmour 39 vends ₹ 9.05 crore; Solan 81 vends ₹ 14.51 crore; Shimla 137 vends ₹ 8.13 crore and Una 110 vends ₹ 3.36 crore.

² Strength of alcohol is measured in terms of 'Degree Proof'. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 Degree F. is assigned 100 Degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength 100 Degree is called LPL or PL.

³ Formula for CL: Quantity lifted short of 85% x ₹ 241 x 0.1, Formula for IMFL: Quantity lifted short of 85% x ₹ 351 x 0.1

government rules resulted in non-realisation of penalty and additional penalty of ₹ 60.82 crore (₹ 58.50 crore + ₹ 2.32 crore).

The matter was reported to the Government in January 2021; the Government replied (September 2021) that recovery of ₹ 25.08 crore had been made by four DCSTEs.

The Department may fix accountability for the repeated failures in this regard and review the position of remaining vends to ensure recovery of due license fee amounts in light of the above observations.

3.4 Short recovery of Retail Excise Duty

The Assessing Authorities did not take any action either to seal vends or cancel/suspend the permit, to recover the short deposited license fee of ₹ 31.27 crore from 36 licensees.

As per Excise Announcement (EA) 2018-19 of the Government of Himachal Pradesh, Retail Excise Duty (RED) to be paid by a particular vend shall be determined based on the Minimum Guaranteed Quota (MGQ) of liquor fixed for each vend for the whole year. The fee so fixed will be levied in 12 monthly instalments to be paid by the last day of each month and last instalment for the month of March has to be paid in full by 15 March. If the licensee fails to pay the RED by the last day of the next month, or the last instalment by 15th March, the DCSTE in-charge of the District or any other officer authorised by him would ordinarily seal vend on 1st day of the following month or 16th March as the case may be. The defaulting allottee shall be liable to make up the loss of revenue to the government and it will be recoverable from him as Arrears of Land Revenue (ALR).

During 2019-20, scrutiny of M-2 registers⁴ of eight DCSTEs⁵ showed that against RED of ₹ 98.53 crore due from 36 licensees for the year 2018-19, the Department could realise RED of only ₹ 67.26 crore. None of the DCSTEs took steps to cancel/suspend the permits or seal the vends of the defaulting licensees. Only DCSTE Solan declared ₹ 10.12 crore as ALR for seven licensees. Thus, failure to follow the rules, resulted in short recovery of RED of ₹ 31.27 crore.

The matter was reported to the Government in January 2021; the Government replied (September 2021) that recovery of ₹ 7.87 crore from 36 licensees had been made and efforts are being made to recover the balance amount.

The Government may consider setting up a mechanism for periodic review of recoveries from the licensees on monthly basis to safeguard its revenue and responsibility may be fixed for not following the set provisions of the Act/Rule.

⁴ A register showing the quantity of Foreign Spirit including IMFL and CL issued for sale, amount of additional license fee payable and received during the month.

⁵ Baddi: one unit: ₹ 6.97 crore, Chamba: one unit: ₹ 0.60 crore, Kangra: two units: ₹ 0.23 crore, Kullu: two units: ₹ 1.03 crore, Mandi: two units: ₹ 0.09 crore, Sirmour at Nahan two units ₹ 8.37 crore, Solan: 17 units: ₹ 12.07 crore and Una: nine units: ₹ 1.91 crore.

3.5 Non-Verification of Treasury Challans

Failure to undertake reconciliation of challans with treasury receipts in Government Accounts i.e. e-kosh website, and acceptance of forged challans, resulted in loss of government revenue of ₹2.72 crore

The retail licensee deposits the retail excise duty/license fee for lifting of quota from the wholesaler directly in the bank under head 0039-State Excise Duty. On presentation of the challans, for the amount so deposited, to the Excise Department, the Excise and Taxation Inspector issues permit for lifting of liquor. All such challans deposited by licensee are entered in a prescribed register called M-2 register⁶. Rule 2.2(v) of Himachal Pradesh Financial Rules Vol-I 1971 stipulates that when Government money is deposited into the treasury, Head of the office should compare such amounts deposited into the treasury with the entries made in the M-2 register and should satisfy himself that the amount has actually been credited into Government account. He should also obtain a consolidated statement (TA-2) from the treasury by the 15th of every month for all remittances made during the previous month which should be compared with the amount posted in M-2 register. These provisions have been made to detect *inter-alia* false/fraud challans and correctness of classification. After the computerization of treasury work, the challans can be verified online through *e-kosh*⁷ portal of the HP Government.

Scrutiny of records of DCSTE Una in July 2019 revealed that ₹ 107.30 crore was stated to have been realized during 2018-19 but the reconciliation with treasury had not been done by the Department. On cross verification of the receipts with treasury records i.e. *e-kosh* by Audit, it was noticed that 55 receipts/challans, amounting to ₹ 35.64 lakh, submitted by two licensees to the DCSTE and entered in M-2 register for the year 2018-19, were not appearing in the treasury records. On this being pointed out (July 2019), DCSTE cross verified (between July 2019 and September 2019) all receipts/challans submitted by licensees with treasury records and found that 291 receipts/ challans submitted by two licensees to the DCSTE involving amount of ₹ 2.72 crore were forged. The department lodged an FIR (September 2019) with the Police Station State Vigilance and Anti-Corruption Bureau, Una and recovered an amount of ₹ 29.30 lakh (Feb 2020). Further, 10 cheques for ₹ 87.24 crore were deposited by one licensee in August 2019 and when these were presented to bank (28-29 August 2019), the same were dishonoured by the bank (29-30 August 2019). Department stated that proceedings were initiated against the licensee under section 138 of the Negotiable Instruments Act, 1881 and the matter is pending with the Hon'ble District Court at Una.

Had the Department undertaken reconciliation of receipts/challans submitted by licensees with treasury records as stipulated in the rules, such irregularities could have been detected at the initial stage.

⁶ M-2 register: register maintained at each district headquarter showing annual, monthly license fee due and paid by the licensee.

⁷ E-Kosh: the website of H.P. govt. showing the receipts of all deposits made into the Govt. Account by each department

Further, test check of records of six DCSTEs⁸ for the period 2014-15 to 2018-19 (between July 2019 and March 2020) showed that these DCSTEs had also not undertaken reconciliation of receipt entries made in the M-2 register with the treasury records. In the absence of such reconciliation, there was no check to verify that the entries for amounts received from licensees had actually been deposited in the treasury and credited into Government account, and there was a risk of forged receipts/challans being accepted as in the case of DCSTE, Una.

In this regard, it may be highlighted that reconciliation was not being undertaken despite the fact that details of all challans deposited into Government Account were available on the web portal (*e-kosh*) of the Directorate of Treasuries.

The para was issued to the Government in April 2021; the Government accepted (September 2021) the audit observations and stated that all challans being submitted by licensees were now being verified from the *e-Kosh* portal of the Directorate of Treasuries. Further, necessary action is being pursued in the case.

The Government may issue instructions for verifying the receipts on the treasury portal before allowing lifting of the quota in order to safeguard against fraud.

3.6 Non-levy of interest on delayed payment

Interest amounting to ₹89.70 lakh on delayed payment of license fee and ₹44.55 lakh on delayed payment of bottling fee was not demanded by the Department from the licensees of 282 vends & seven bottling plants/ distilleries respectively, resulting in non-levy of interest to that extent.

As per the Excise Announcement (EA) 2018-19 of the State Government if the licensee is unable to lift the MGQ within a month, he shall be required to pay the full instalment of Retail Excise Duty (RED) for that month by the last day of the month, and RED for the month of March shall be paid in full by 15 March. Para 4.5(a) further, provides that if the licensee fails to pay the amount of RED or part thereof on due dates, interest at the rate of 14 *per cent* up to one month and 18 *per cent* per annum from the date of expiry of one month's period thereafter shall be leviable. If the licensee fails to pay the RED by the last day of the next month, or the last instalment by 15th March, the DCSTE in-charge of the District or any other officer authorised by him would ordinarily seal vend on 1st day of the following month or 16th March as the case may be. Rule 9.5(6a) of the Punjab Distillery Rules, 1932 as applicable to Himachal Pradesh provides that bottling fee at the rates prescribed shall be payable on quarterly basis i.e. within seven days of the expiry of each quarter of the financial year. Rule 9.5(8) further provides that in the event of failure to pay the bottling fee or part thereof by the due date, interest at the rate of 12 *per cent* per annum for a period of one month from the date of default, and if the default in the payment of fee exceeds one month, then interest at the rate of 18 *per cent* per annum from the initial date of default in payment, shall be payable till the default continues.

⁸ DCSTEs: Baddi, Nurpur, Shimla, Sirmour, Solan and Una

Scrutiny of records of four DCSTEs⁹ for the year 2018-19 revealed that out of 536 vends, the licensees of 282 vends had deposited RED of ₹ 47.01 crore after the due dates. The delay ranged between two and 196 days. In 45 cases the delay in depositing RED was more than 100 days¹⁰. Therefore, these licensees were liable to pay interest of ₹ 89.70 lakh on the delayed payments under Para 4.5(a) of the EA.

Similarly, seven bottling plants/ distilleries under three DCSTEs¹¹ had deposited bottling fees of ₹ 7.17 crore with delay ranging from three to 389 days. Interest of ₹ 44.55 lakh was not levied on the belated payment of the bottling fees as required under Para 4.5(a) of the EA.

Thus, total interest of ₹ 1.34 crore (₹ 89.70 lakh on RED and ₹ 44.55 lakh on bottling fees) was not recovered by the Department for the years 2016 to 2019. DCSTEs/AAs did not review the same deficiencies even though this was pointed out repeatedly in Audit in the last five years, indicating negligence in applying the provisions of EA and failure to prevent revenue loss. The concerned DCSTEs had neither raised any demand for the same nor did they seal vends as per the provisions of the EA.

The matter was reported to the Government in January 2021; the Government replied (September 2021) that recovery of ₹ 20.75 lakh had been made by five DCSTEs.

The Government may consider conducting periodic review of recoveries from retailers, distilleries, breweries, bottling plants to safeguard its revenue.

3.7 Low yield of spirit (Extra Neutral Alcohol) from molasses

Low yield of spirit (Extra Neutral Alcohol) from molasses resulting in loss of ₹43.95 lakhs.

Rule 9.37 of the Punjab Distillery Rule (PDR) 1932, as applicable to Himachal Pradesh provides that one mound of molasses (0.373 quintals) shall be considered equal to 3.5 London Proof Gallons of country spirit {15.391 proof litres (pls)}. Rule 9.101 provides that if the wastage in any distillery is found to be excessive, the Financial Commissioner may prescribe a scale of wastage and the licensee shall pay duty in respect of all losses attributed to wastage in excess of the scale fixed.

Audit scrutiny of records of two DCSTEs¹² revealed that two distilleries used 75,747 quintals of molasses for manufacturing spirit (Extra Neutral Alcohol or ENA) during 2017-18 and 2018-19. As opposed to the expected yield of 31,25,528 pls¹³ under the Rule, these distilleries reported actual yield of only 26,10,023 pls of spirit. Thus, 5,15,505 pls of spirit was short

⁹ RED - DCSTEs: Baddi 32 Vends; ₹ 27.28 lakh, Chamba four Vends; ₹ 7.1 lakh, Shimla 229 Vends; ₹ 49.20 lakh and Solan 17 Vends; ₹ 6.13 lakh.

¹⁰ DCSTE Baddi: 34 cases; DCSTE Chamba: nine cases; DCSTE Shimla: one case; DCSTE Solan: one case.

¹¹ Bottling fees - DCSTEs: Baddi four manufacturers; ₹ 34.01 lakh, Nurpur two manufacturers; ₹ 9.91 lakh and Sirmour one manufacturer; ₹ 0.63 lakh

¹² DCSTE Baddi and Una

¹³ Strength of Alcohol is measured in 'Degree proof'. Strength of such alcohol; 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength of 100 degree is called LPL or PL.

produced, involving excise duty of ₹ 43.95 lakh¹⁴ calculated with rates specified in the Excise Announcements of the ETC, as depicted in the table below:

Production of spirit from molasses

Year	Quantity of molasses used (in quintals)	Expected yield of spirit as per Rule 9.37 (in pls)	Actual yield of spirit (in pls)	Shortfall in production (in pls)	Conversion of shortfall from proof litres to bulk litres (in bls ¹⁵)	Rate of excise duty applicable per bls ¹⁶ (per cent)	Excise duty leviable (in ₹)
1	2	3	4	5 = (3-4)	6 = (5/1.68)	7	8 = (6*7)
2017-18	36,231	14,94,990	12,62,550	2,32,440	1,38,357	13.50	18,67,820
2018-19	39,516	16,30,538	13,47,473	2,83,065	1,68,491	15.00	25,27,365
Total	75,747	31,25,528	26,10,023	5,15,505	3,06,848		43,95,185

On this being pointed out, the Department stated (September 2020) that the quality of molasses in Himachal Pradesh is not as good as compared with other states, causing low production of spirit against the norms. Further, the distilleries concerned are very old and are being run by outdated technology. The Department assured that a pilot study would be done within three months and a committee would be formed to examine the possibility of revising the production norms as the norms fixed in 1932 would no longer be realistic in today's scenario. The reply is not tenable as the issue was also highlighted in Audit Reports in 2009 and 2017. The Government stated in 2017 that it was not possible to adhere to the norms of yield fixed under PDR, 1932 anymore and that steps would be taken to re-fix the norms. However, the Department had not taken any steps to revise the production norms from molasses till the date of Audit.

The Government intimated (March 2021) that directions have been given to the department for necessary action.

¹⁴ DCSTEs Baddi: ₹ 4.40 lakh and Una: ₹ 39.55 lakh

¹⁵ one bls = one pls/1.68; (conversion needs to be done since yield from molasses is given in PDR, 1932 in proof litres, while excise duty is prescribed in the Excise Announcements on basis of bulk litres)

¹⁶ Under Excise Announcements brought out by ETC each year

Chapter-IV
Stamp Duty

CHAPTER-IV

STAMP DUTY

4.1 Tax administration

The State Government exercises control over the registration of instruments through the Additional Chief Secretary (Revenue) at Government level. The Inspector General of Registration (IGR) is the Head of the Revenue Department who is assisted by Deputy Commissioners (Collectors) and Sub-Registrars (SRs) respectively. He is empowered with the task of superintendence and administration of registration work. For levy and collection of Stamp duty and Registration Fee, State has 12 Collectors and 142 *Tehsildars/Naib-Tehsildars* acting as the Registrars and SRs respectively.

4.2 Results of Audit

There were a total of 298 auditable units in the Department relating to Stamp Duty and Registration fee and Land Revenue. Out of these, audit selected 115 units involving receipt of ₹ 147.74 crore, during the year 2019-20. Test-check of 53,765 cases out of the total 1,36,121 cases in the Revenue Department, showed non/short levy of Stamp Duty and Registration Fee, non/short recovery of Stamp Duty on lease deeds, loss of revenue due to non-realization of leases and other irregularities involving ₹ 59.19 crore in 487 cases, which fall under the following categories as depicted in **Table 4.1**.

Table-4.1

₹ in crore			
0030-Stamp Duty & Registration Fee			
Sr. No.	Categories	Number of cases	Amount
1	Non/short levy of stamp duty and registration fee	160	17.76
2	Non/short recovery of stamp duty on lease deeds	30	5.20
3	Other irregularities	201	0.00
Total		391	22.96
0029-Land Revenue			
1	Allotment of Government land on Lease	1	35.44
2	Loss of revenue due to non-realization of lease money	6	0.79
3	Other irregularities	89	0.00
Total		96	36.23
Grand Total		487	59.19

Source: Inspection Reports

During the year 2019-20, the Department accepted non/short levy of Stamp Duty and Registration Fee, non/short recovery of Stamp Duty on lease deeds, loss of revenue due to non-realization of leases and other irregularities with revenue implications of ₹ 68.58 lakh in 106 cases related to audit findings of earlier years and ₹11.13 lakh in 22 cases related to audit findings of 2019-20. An amount of ₹ 68.58 lakh was realized in 106 cases related to audit

findings of earlier years and an amount of ₹ 2.52 lakh was realized in eight cases related to audit findings of 2019-20.

Significant cases (four paragraphs) involving ₹ 53.20 crore are discussed in the following paragraphs.

4.3 Allotment of Government land on Lease

Failure of Revenue Department to effectively monitor government leases has resulted in various irregularities, along with revenue implication of ₹35.44 crore.

Government land is leased out by the Revenue Department for development purposes, and it earns revenue through lease rent, stamp duty (SD), registration fee (RF), etc. Allotment of government land on lease in Himachal Pradesh is governed by Himachal Pradesh Lease Rules (HPLR), as notified / revised in 1993, 2011 and 2013.

District-wise record of government land available for leasing out for various purposes is maintained by the State Government. On receipt of application for land on lease, lease is sanctioned by the state government in favour of the applicant after ensuring the eligibility of applicant. After sanction of lease, a lease deed must be executed between the allottee and the State government through Deputy Commissioner of the district within six months of lease sanction. Possession of the land should not be given to the allottee before execution of lease deed. If the allottee does not get the lease deed executed and take possession of land within six months, the state government may cancel the lease and resume possession of land. As per HPLR 1993 and 2011, lease rent shall be fixed at the prescribed percentage on latest highest market value of the land leased, or double the average market value of five years, whichever is less. As per the updated HPLR 2013, lease rent shall be fixed at 10 per cent of current circle rate provided that for the hydroelectric projects of the capacity upto 5 MW, which are exclusively reserved for bona fide Himachalis/Cooperative societies comprising of bona fide Himachalis, lease amount shall be 5 per cent of the current circle rate. Allottee must pay lease rent fixed at the time of execution of deed, this will be revised as per lease rules and terms and condition mentioned in the lease sanction letter. Lease deed must be renewed or surrendered after expiry of lease.

In 2019-20, Audit test-checked 370 lease deeds¹ on random basis in six² out of 12 District Revenue Offices (DROs) in the State and noticed observations in 66³ lease deeds. Audit scrutiny revealed that due to non-execution of leases, non/short-recovery of lease money, non-revision of lease money, allowing irregular possession of government land, and failure to resume government land etc. the Revenue Department has failed to safeguard government resources and revenue from lease deeds.

The findings on the 66 lease deeds mentioned above are detailed in the following paragraphs.

¹ Shimla 50 deeds, Solan 50 deeds, Bilaspur 45 deeds, Kangra 150 deeds, Mandi 40 deeds, Kullu 35 deeds

² Shimla, Solan, Kangra, Kullu, Mandi, and Bilaspur

³ Shimla 8 deeds, Solan 21 deeds, Mandi 15 deeds, Kangra 10 deeds, Bilaspur 03 deeds, Kullu 09 deeds

I Non-execution of lease deeds

As per *Rule 18* of HPLR 1993 and *Rule 13* of HPLR 2011 and 2013, the Collector shall execute a lease within a period of six months from the date of sanction by the competent authority. Possession of land shall not be given to the applicant until the lease has been executed.

During test check, Audit observed (2019-20) that in 10 cases in three DROs⁴, the lessees had taken possession of leased land without execution of the lease and paid lease rent of ₹ 5.33 lakh, but the Department had not taken steps to get the lease deeds executed. Without execution of lease deeds, the terms of a lease cannot be finalized, lease rent cannot be levied, and SD and RF cannot be determined. Moreover, the Revenue Department took no action to ensure execution of leases before lapse of the prescribed period of six months.

Thus, non-execution of lease deeds by DROs resulted in loss of lease money⁵ of ₹ 32.28 lakh⁶. The lessees had taken possession of land without execution of lease deed, which is in contravention of the rule, *ibid*. Besides, there was loss of SD and RF, which would have been leviable upon execution of the lease deeds.

II Non / short-recovery and non-revision of lease money

As per HPLR, the lease holder will pay the lease money directly in the Bank and submit the copy of challan to the Tehsildar concerned. Tehsildar will forward the copy of the challan to the concerned DRO. The lease rent is to be periodically revised as per terms and conditions of the lease deed, or as per provisions of HPLR prevailing at the time of execution of the lease deed. The District Collector may initiate recovery proceedings by issuing demand notices to defaulters and in case of failure, can attach/auction the property under the HP Land Revenue Act, 1954 and the Revenue Recovery Act, 1890.

- a) **Non/short-recovery** - During test check, Audit observed that five DROs⁷ had not recovered lease rent due for the period 2005-2020 from 24 lessees (including private parties and public sector units), on lease deeds registered for the period ranging between 5 to 99 years and having validity till the year 2026 to 2112. Out of these, the demand notices were issued in 2019-20 to only 10 lessees to deposit arrears of lease money. The DROs neither took action to recover the lease money nor to terminate the defaulting leases and resume possession of Government land. This led to non/short recovery of ₹ 13.64 crore from 24 lessees.
- b) **Non-revision** - Scrutiny of records of six DROs⁸ revealed that in 15 lease deeds registered for the period ranging between 20 to 99 years and valid till the year 2022 to 2107, the lease rent was to be revised every five or 10 years as per the terms of the lease

⁴ Kangra, Mandi and Solan

⁵ Without execution of lease deed, government cannot recover lease money for the period of non-execution, which is an irrevocable loss of revenue to the government

⁶ Seven cases @ five *per cent*; one case @ 10 *per cent*; one case @ 18 *per cent* of Market value of the property per annum and one case @ ₹ 1 per Sq Meter per annum

⁷ Kangra, Kullu, Mandi, Solan and Shimla

⁸ Bilaspur, Kangra at Dharamshala, Kullu, Mandi, Shimla and Solan

deeds but the DROs had not taken any steps to revise the lease rent after the stipulated period and had continued to accept payment of unrevised lease rent. These lease deeds were required to be revised between 2007 to 2020. The revenue of ₹ 17.94 crore was foregone by the Department due to non-revision of lease rent. Further, in four of these 15 lease deeds, apart from non-revision of lease rent, the DROs also failed to recover ₹ 10.38 lakh of lease rent that the lessees were required to pay before the leases were due for revision leading to total loss of ₹ 18.04 crore (₹ 17.94 crore+₹ 10.38 lakh).

III Allowing possession of government land without renewal of lease deed

As per Rule 25 of HPLR 1993, in case the lessee does not apply for extension/renewal of lease after expiry of lease period, the government may resume the land and take back possession.

During test check, Audit noticed that 13 lease deeds in five DROs⁹ had expired between 2009 and 2019. Out of these 13 cases, 12 lessees had applied for renewal of lease between November 2008 to June 2020. However, the DROs neither initiated action to renew the leases nor resumed possession of government land on expiry of the leases. The lessees are continuing to utilize the government land even after expiry of their leases without paying any lease rent for the same. Had the DROs renewed the leases on expiry, the government could have earned ₹ 2.75 crore as lease money. Besides, government could have also earned revenue on SD and RF which would have become leviable upon renewal of these lease deeds.

IV Incorrect application of rules in allotment of lease

Rule 8 of HPLR 1993, 2011 and 2013, details how the lease amount to be charged from the lessee shall be arrived at.

During test check, Audit observed that three lease deeds in three DROs¹⁰ were executed between 1989 and 2015 ranging from 50 years to 99 years, on which the Revenue department had fixed lease rent¹¹ in contravention of the provisions of Rule 8, *ibid*. Contrary to the applicable lease rent of ₹ 1.90 crore, payable on the basis of provisions of HPLR, the Department received ₹ 1.22 crore based on the nominal and arbitrary lease rent fixed without giving any justification for the same. This resulted in loss of revenue of ₹ 68.34 lakh in lease rent till 31 March 2020.

Government accepted the observations and assured (August 2021) that the monitoring mechanism for compliance of rules will be strengthened. Government also acknowledged that there was a lot of scope for augmenting revenue through lease deeds by updating records and reviving proper monitoring mechanisms.

⁹ Kangra, Kullu, Mandi, Solan and Shimla

¹⁰ Kangra, Solan and Shimla

¹¹ in the year 1988, 2009 and 2015. The annual lease rent was fixed at ₹1,001, ₹1, ₹ 13,40,453 and ₹ 27,03,214 against the leviable lease rent of ₹ 22,582, ₹ 56,779, ₹ 30,16,020 and ₹ 29,73,536, respectively.

4.4 Short realisation of Stamp Duty and Registration Fee on built-up structures

Adoption of incorrect market rates for built-up residential and non-residential structures by Sub-Registrars resulted in short realisation of Stamp Duty and Registration Fee of ₹6.44 crore.

Under Rule 4(c) of Himachal Pradesh Stamp (Prevention of Undervaluation of Instruments) Amendment Rules, 1992, notification of Revenue Department (June 2013), stipulates that certain factors are to be taken into consideration for fixing the rates of valuation of residential/non-residential buildings such as (i) classification of buildings into *Pucca*, *Semi Pucca* and *Kutchra*; (ii) area in which buildings are located; (iii) latest plinth area rates notified by Himachal Pradesh Public Works Department (HPPWD), (iv) Premium for annual increase and (v) land area occupied by the structure (proportionately or wholly) to arrive at minimum cost of building/structures. The Revenue Department notified the built-up structure rates as ₹ 12,746 per square meter (sqm) for the year 2013-14. The HPPWD had revised structure rates to ₹ 24,436 per sqm. for residential buildings in August 2014.

During 2017-19, audit scrutiny of deeds of 128 SRs, revealed that 40 SRs,¹² levied short Stamp Duty and Registration Fee on built up structures in 499 sale deeds. These deeds were registered between September 2013 and December 2018 for a consideration amount of ₹ 122.35 crore calculated on the basis of valuation of properties prepared by private architects. The valuation was not based on rates for built-up structures as notified by the Department. On the basis of plinth area rates fixed/revised by HPPWD or DCs of concerned Districts, the actual value of the properties, including value of built-up structures, worked out to ₹ 215.70 crore. However, SRs while registering these sale deeds did not verify the consideration amount with reference to fixed/revised plinth area rates of built-up structures which led to short realisation of Stamp Duty and Registration Fee of ₹ 4.63 crore and ₹ 1.81 crore respectively.

The Department replied (between May 2019 and August 2021) that 22 SRs¹³ had recovered an amount of ₹ 37.22 lakh. The remaining SRs stated that cases would be reviewed. The

¹² SRs: (2017 - 18) Aut: 20 cases ₹ 0.10 crore, Baddi: 32 cases ₹ 1.51 crore, Barsar: seven cases ₹ 0.03 crore, Bhoranj: 14 cases ₹ 0.05 crore, Chamba: 13 cases ₹ 0.18 crore, Chauhari: eight cases ₹ 0.04 crore, Dharamshala: four cases ₹ 0.02 crore, Jubbal: three cases ₹ 0.02 crore, Junga: five cases ₹ 0.18 crore, Kangra: three cases ₹ 0.03 crore, Mandi: eight cases ₹ 0.04 crore, Namhol: four cases ₹ 0.05 crore, Sarkaghat: eight cases ₹ 0.04 crore, Sunni: three cases ₹ 0.05 crore, Swarghat: one case ₹ 0.07 crore.

(2018 - 19) Baddi: 69 cases, ₹ 1.97 crore, Baijnath: five cases ₹ 0.04 crore, Bhuntar: six cases ₹ 0.08 crore, Dalhousie: 10 cases ₹ 0.06 crore, Darlaghat: eight cases ₹ 0.06 crore, Ghumarwin: seven cases ₹ 0.04 crore, Gohar: nine cases ₹ 0.03 crore, Hamirpur: 37 cases ₹ 0.21 crore, Ishpur: 22 cases ₹ 0.09 crore, Jwali: 10 cases ₹ 0.02 crore, Jhanduta: seven cases ₹ 0.05 crore, Jol: 28 cases ₹ 0.07 crore, Kasuali: 11 cases ₹ 0.06 crore, Kullu: nine cases ₹ 0.06 crore Mandi: 15 cases ₹ 0.05 crore, Manali: five cases, ₹ 0.08 crore Nahan: 19 cases ₹ 0.29 crore, Nalagarh: 14 cases ₹ 0.17 crore, Paonta Sahib: five cases ₹ 0.08 crore, Rajgarh: 19 cases ₹ 0.21 crore, Rampur: seven cases ₹ 0.03 crore, Shimla (Urban): nine cases ₹ 0.03 crore, Solan: ten cases ₹ 0.10 crore, Theog: four cases ₹ 0.02 crore Una: 21 cases ₹ 0.13 crore

¹³ SRs: (2017 - 18) Aut: ₹ 5.36 lakh, Barsar: ₹ 1.25 lakh, Bhoranj: ₹ 1.93 lakh, Chuhari: ₹ 1.51 lakh, Junga: ₹ 0.23 lakh, Kangra: ₹ 1.46 lakh, Mandi: ₹ 0.31 lakh, Namhol: ₹ 2.28 lakh, Sarkaghat: ₹ 2.37 lakh, Sunni: ₹ 0.25 lakh (2018 - 19) Baijnath: ₹ 0.43 lakh, Bhunter: ₹ 0.81 lakh, Darlaghat: ₹ 1.38 lakh, Ghumarwin: ₹ 0.81 lakh, Gohar: ₹ 1.15 lakh, Hamirpur: ₹ 3.40 lakh, Jawali: ₹ 0.75 lakh, Jhanduta: ₹ 0.61 lakh, Jol: ₹ 3.6 lakh, Kasuali: ₹ 2.53 lakh, Kullu: ₹ 3.38 lakh, Mandi: ₹ 1.33 lakh

Government intimated (July 2021) that instructions have been issued to department for necessary action.

The Government may consider prescribing a mechanism to ensure valuation of stamp duty and registration fee on registration of built-up structures in accordance with prescribed rates and responsibility may be fixed for not following the set provisions of the Act/Rules.

4.5 Short determination of market value of properties

Incorrect valuation on the basis of incorrect circle rates and false affidavits regarding distance of the land from road resulted in short realisation of Stamp Duty and Registration Fee of ₹6.20 crore.

Department of Revenue issued notification in January 2016 classifying land in rural and urban areas into five categories for calculation of Stamp Duty and Registration Fee (SDRF), depending upon its location/distance from any road viz. land situated (i) up to 25 meters; (ii) 25 metres to 50 metres; (iii) 50 metres to 100 metres; (iv) 100 metres to 1000 metres; and (v) more than 1000 metres from any road in the Revenue Estate. The roads are in turn categorised as National Highway (NH), State Highway (SH) and Other Road (OR). The purchaser is required to file affidavit stating the distance of the relevant land or holding from a NH, SH or Other Roads (OR) for calculation of Stamp Duty. If the affidavit of purchaser is found false, penalty up to 50 per cent of the applicable Stamp Duty/ Registration Fee is to be levied and recovered.

I. Short levy of SDRF due to acceptance of false affidavits-

Audit scrutiny during 2018-19 revealed that in 36 Sub-Registrars (SRs)¹⁴, 540 deeds were registered between 2016 and 2018 on the basis of self-affidavits filed by the purchasers declaring distance of land holding from different categories of roads. These deeds were registered for a consideration amount of ₹ 109.55 crore, on which SD and RF of ₹ 7.54 crore was levied. Audit cross-verified the affidavits with maps (*latha*) available with the *Kanungo* (Revenue Authority) and found that the valuation of the properties should have been done at ₹ 183.89 crore on the basis of location/distance of land from different categories of road, on which SD and RF of ₹ 13.32 crore was required to be levied. Audit observed that even though the revenue records (*latha*) and land rates were available with the Department, the SRs did not cross-verify the affidavits before registration of deeds, and instead, relied on the information in

¹⁴ SRs: Dharamshala: three cases: ₹ 8.91 lakh, Nichar: seven cases: ₹ 6.96 lakh, Amb: six cases: ₹ 6.54 lakh, Baddi: 42 cases: ₹72.78 lakh, Baijnath: 28 cases: ₹11.59 lakh, Bhunter: four cases: ₹14.73 lakh, Dehra: nine cases: ₹ 2.51 lakh, Dalhousie: nine cases: ₹3.05 lakh, Dhami: four cases: ₹18.69 lakh, Fatehpur: 58 cases: ₹ 25.31 lakh, Ishpur: eight cases: ₹ 3.25 lakh, Joul: five cases: ₹2.97 lakh, Jaisinghpur: 27 cases: ₹2.93 lakh, Jhanduta: 11 cases: ₹2.46 lakh, Kangra: 31 cases: ₹ 72.05 lakh, Kandaghat: six cases: ₹ 5.60 lakh, Kotkhair: 24 cases: ₹ 29.91 lakh, Kotla: nine cases: ₹ 46.69 lakh, Karsog: 16 cases: ₹ 3.09 lakh, Kumarsain: seven cases: ₹ 7.51 lakh, Kasauli: eight cases: ₹ 2.73 lakh, Krishangarh: five cases: ₹ 3.72 lakh, Manali: 18 cases: ₹ 22.05 lakh, Mandi: 11 cases: ₹ 8.26 lakh, Nurpur: 16 cases: ₹ 6.33 lakh, Nahan: 11 cases: ₹ 13.40 lakh, Nalagarh: 45 cases: ₹ 28.48 lakh, Paonta Sahib: 27 cases: ₹ 15.20 lakh, Rajgarh: 12 cases: ₹ 2.94 lakh, Rakkad: 21 cases: ₹ 9.34 lakh, Rampur: five cases: ₹ 74.34 lakh, Shahpur: seven cases: ₹ 3.87 lakh, Solan: 15 cases: ₹ 28.41 lakh, Shimla(U): 15 cases: ₹8.62 lakh.and Una: 10 cases: ₹ 2.14 lakh

the self-affidavits filed by the purchasers. This led to short levy of SD and RF of ₹ 5.77 crore (SD ₹ 4.24 crore + RF ₹ 1.53 crore). In addition, penalty of ₹ 6.66 crore at the rate of 50 per cent of applicable SD and RF also became leviable.

II. Short levy of SD and RF due to application of incorrect rates

Audit scrutiny of the records of six SRs¹⁵ (between March 2018 and March 2020) revealed that 57 deeds were registered (between 2015 and 2018) for a consideration amount of ₹ 9.50 crore. The SRs, while registering these sale deeds ignored/overlooked the supporting documents such as self-affidavits declaring location/distance of land from different categories of road, and *Jamabandis* declaring cultivated/uncultivated nature of the land. This resulted in wrong valuation at ₹ 9.50 crore against actual valuation of ₹ 15.08 crore, which led to short realisation of SD and RF of ₹ 42.66 lakh (SD: ₹ 30.64 lakh, RF: ₹ 12.02 lakh).

On this being pointed out, 11 SRs¹⁶ replied that an amount of ₹ 30.94 lakh (April 2018 to September 2018) in 91 cases has been recovered. Remaining SRs stated that doubtful affidavits would be examined by the concerned revenue authority and action taken accordingly after ascertaining the exact location of land in due course of time under intimation to audit.

Joint Secretary Revenue accepted (August 2021) that the current mechanism of submission of affidavits is not adequate and stated that fresh SOPs are being issued for submission of distance affidavits and its verification by tehsildars. This mechanism will take a few months to come into force.

The Government may consider setting up a mechanism to verify the actual distance of lands from the roads.

4.6 Short realisation of Stamp Duty and Registration Fee on Lease Deeds

Market rates were not used to calculate stamp duty and registration fees due on lease deeds resulting in short recovery of ₹ 5.12 crore.

Department of Revenue notified in January 2012 that Stamp Duty (SD) at five per cent and Registration Fees (RF) at two per cent would be leviable on the market value of the property for registration of all lease deeds¹⁷.

Out of test checked 55 SRs, in 11 SRs in 53 cases, land was leased out between 2017 and 2018 for periods ranging from three years to 99 years. On registration of these lease deeds, the SRs levied SD and RF of ₹ 0.94 crore (SD ₹ 0.69 crore + RF ₹ 0.25 crore) instead of leviable SD and RF of ₹ 6.06 crore (SD ₹ 4.33 crore + RF ₹ 1.73 crore) on the basis of market value of ₹ 237.50 crore of land. Audit observed that the SRs calculated SD and RF on the basis of

¹⁵ SRs: Barsar: four cases: ₹2.23 lakh, Deha: five cases: ₹3.47 lakh, Manali: six cases: ₹2.14 lakh, Nurpur: five cases: ₹11.50 lakh, Nahan: nine cases: ₹8.15 lakh, Paonta Sahib: 28 cases: ₹15.18 lakh

¹⁶ SR: Baijnath: ₹3.57 lakh, Barsar: ₹0.89 lakh, Bhunter: ₹2.59 lakh, Fatehpur: ₹12.35 lakh, Jaisinghpur: ₹0.48 lakh, Jhanduta: ₹1.59 lakh, Karsog: ₹1.82 lakh, Krishanganj: ₹0.35 lakh, Mandi: ₹2.56 lakh, Rakkad: ₹2.00 lakh and Kangra: ₹2.73 lakh

¹⁷ Formula: Stamp duty @ 5% x Market Value x Period of lease / 100

arbitrary market values, even though the current circle rates of the land to calculate the correct market value were available with the Department. This resulted in short realisation of SD and RF of ₹ 5.12 crore¹⁸ (SD: ₹ 3.64 crore + RF: ₹ 1.48 crore).

Same issue was highlighted in the Audit Report on State Revenues of previous years, but the SRs continue to deviate from the rule position. No reasons were found on record for the persistence of such deviations.

The SD and RF for both sale deeds and lease deeds are calculated on the HIMRIS software. In case of lease deeds, the formula for calculation of SD and RF needs two values – the market value and the period of lease. In the current system, both values are manually fed into the software, which gives rise to risk of arbitrariness in the market value fed by the SRs. Instead, the software should be programmed to automatically calculate the market value¹⁹, i.e., to automatically fetch the market value based on the circle rates notified by the DC, which should be pre-fed in the system. This would take away discretion of the SRs and ensure that the correct SD and RF are levied.

The system in its current form shows indifference towards safeguarding the government revenue.

On this being pointed out, the Department intimated (July 2021) that four SRs recovered (between August 2020 and October 2020) an amount of ₹ 2.85 lakh²⁰, however, no justification was offered for non-adherence to departmental notification, *ibid*. The Government intimated (July 2021) that instructions have been issued to the Department for necessary action.

The Government may examine the reasons for persistent non-adherence to the departmental notification by field offices and initiate corrective action.

¹⁸ Baddi : nine cases, ₹ 35.12 lakh; Bilaspur: one case, ₹ 13.63 lakh; Dehra: two cases, ₹ 9.31 lakh; Darlaghat : one case, ₹ 4.15 crore; Kumarsain : two cases, ₹ 4.57 lakh; Kasauli : eight cases, ₹ 7.10 lakh; Nahan : 12 cases, ₹ 7.87 lakh; Nagrota Suriya : two cases, ₹ 3.68 lakh; Nalagarh: two cases, ₹ 2.10 lakh; Rampur : two cases, ₹ 3.02 lakh and Solan: 12 cases, ₹ 10.82 lakh

¹⁹ Market value = surface area x circle rate

SRs should only be required to feed the circle rate determined by the DC, and the surface area of the property

²⁰ Nagrota Suriya : ₹ 1.36 lakh and Kumarsain : ₹ 1.00 lakh, Junga and Baleri- ₹ 0.49 lakh

Chapter-V
Taxes on Vehicles, Passengers and
Goods

CHAPTER-V

TAXES ON VEHICLES, PASSENGERS AND GOODS

5.1 Tax administration

Principal Secretary (Transport) is the administrative head at the Government level. The Department consists of a State Transport Authority, an Additional District Magistrate (Special Road Tax), Regional Transport Officers and Registering and Licensing Authorities to regulate the receipts of the Department under the provisions of the Central and the State Motor Vehicle Acts and Rules. The DCSTEs under the administrative control of Commissioner (State Taxes and Excise) regulate the receipts of Passengers and Goods Taxation Act, 1955.

5.2 Results of Audit

Test check of records of 44 units, out of 107 auditable units, having receipt of ₹ 322.94 crore during the year 2019-20 brought out under-assessment of tax and other irregularities relating to Token tax, Special Road Tax, Registration Fee, Permit Fee, Penalties and Composite Fee under the National Permit Scheme involving ₹ 41.02 crore in 257 cases which are depicted below:

Table 5.1: Results of audit

₹ in crore			
Sr. No.	Categories	Number of cases	Amount
1.	Non/short realisation of		
	• Token Tax and Composite Fee	116	11.22
	• Special Road Tax	27	23.96
	• Passengers and Goods tax	11	2.02
2.	Evasion of		
	• Token Tax	9	0.52
	• Passenger and Goods tax	21	1.88
3.	Other Irregularities		
	• Vehicles Tax and Passengers and Goods tax	73	1.42
	Total	257	41.02

Source: Inspection Reports

During the year 2019-20, the Department accepted under-assessments and other deficiencies involving amount of ₹ 36.90 crore in 192 cases related to audit findings of current year and ₹ 91.17 lakh in seven cases relate to audit findings of earlier years. An amount of ₹ 91.01 lakh was realised in seven cases pertaining to audit findings of earlier years.

One Significant case involving an amount of ₹ 34.73 lakh is discussed below.

5.3 Non-realization of Passengers and Goods Tax

The passengers and goods tax amounting to ₹34.73 lakh for the period 2017-19 was neither paid by the owners of 572 commercial vehicles nor demanded by the Department.

Under the Himachal Pradesh Passengers and Goods Taxation (HPPGT) Act, 1955 commercial vehicle owners are required to pay Passengers and Goods Tax (PGT) on all fares and freight at the prescribed rates either quarterly or annually. If the owner fails to pay the tax he shall be liable to pay a minimum penalty of five hundred rupees. The HPPGT Rules, 1957 further specify that vehicle owners shall inform the Assessing Authorities (AAs) concerned as soon as the vehicle goes out of use for exemption from payment of tax for that period. Any arrears or penalty imposed under this Act shall be recoverable as an Arrear of Land Revenue (ALR) under the Act, *ibid*.

Scrutiny of records of 2,377 vehicles maintained in five Deputy Commissioners of State Taxes and Excise (DCSTEs) revealed that PGT amounting to ₹ 34.73 lakh for the period 2017-19 was not paid by 572¹ commercial vehicle owners as depicted below:

Table 5.2: Details of vehicles for which Passengers and Goods Tax was not realized

₹ in lakh						
Sr. No.	Category of vehicles	No. of vehicles not paying PGT (Test Checked)	Amount recoverable			
			Passenger tax	Goods tax	Total amount recoverable	Minimum penalty @ ₹ 500/-per vehicle
1.	Passenger Vehicles (Maxi Cabs/Taxi/Educational Institution Buses)	217 (732)	13.94	-	13.94	1.08
2.	Goods vehicles (HGV/MGV/LGV/Tractors)	355 (1,645)	-	20.79	20.79	1.78
Total		572 (2,377)	13.94	20.79	34.73	2.86

These owners had also not sought exemption from tax for non-use of the vehicles during the tax period. AAs had neither issued demand notices to the owners nor referred the cases to the District Collector for recovery as ALR. DCSTEs had not developed an effective mechanism to verify the amount of tax due and tax collected from tax payers in spite of Audit having pointed out the irregularity in the last five years.

¹ Chamba: 132 vehicles: ₹ 9.99 lakh; Kinnaur: 123 vehicles: ₹ 9.33 lakh; Kullu: 149 vehicles: ₹ 5.87 lakh; Mandi: 80 vehicles: ₹ 4.95 lakh and Nurpur: 88 vehicles: ₹ 4.59 lakh

On this being pointed out, all five DCSTEs replied (between September 2019 and November 2019) that notices were being issued to the defaulters for payment of PGT. The Government replied (September 2021) that recovery of ₹ 7.28 lakh had been made from 128 vehicles.

The Government may issue necessary directions to the Department to develop an effective mechanism to assess the tax due and follow the provision of the Act to safeguard its revenue.

**Shimla
The 26 November 2021**


**(RITU DHILLON)
Principal Accountant General (Audit),
Himachal Pradesh**

Countersigned

**New Delhi
The 10 December 2021**


**(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India**

Appendices

Appendices

Appendix 1.1

(Referred to in paragraph 1.1)
Trend of revenue receipts

(₹ in crore)

Details of Share of net proceeds of divisible Union taxes and duties		
S. No.	Major Receipt Head	Actual Amount
1.	0005-901-Central Goods and Services Tax	1,327.34
2.	0008-901- Integrated Goods and Services Tax	0.00
3.	0020-901-Corporation Tax	1,594.86
4.	0021-901-Taxes on Income other than Corporation Tax	1,249.68
5.	0028-901-Other Taxes on Income and Expenditure	0.00
6.	0032-901-Taxes on Wealth	0.07
7.	0037-901-Customs	296.49
8.	0038-901-Union Excise Duties	206.16
9.	0044-901-Service Tax	0.00
10	0045-901- Other Taxes and Duties on Commodities and Services	2.96
Grand Total		4,677.56

Appendix 1.2

(Referred to in paragraph 1.1.3)
Trend of revenue receipts

(₹ in crore)

Details of Other Non-Tax Revenue Receipts			
S. No.	Major Receipt Head	Actual Amount 2018-19	Actual Amount 2019-20
1.	0050-Dividends and Profit	181.92	248.44
2.	0051- Public Service Commission	13.86	8.65
3.	0056- Jail	0.29	0.23
4.	0057- Supplies and Disposals	0.11	0.03
5.	0058- Stationery and Printing	11.30	12.04
6.	0071-Contributions & Recoveries towards Pension and other	27.60	12.02
7.	0075-Miscellaneous general services	20.76	5.17
8.	0202-Education, Sports, Art and culture	214.59	238.59
9.	0210- Medical and public health	12.02	24.79
10.	0211- Family Welfare	0.03	-0.02
11.	0215-Water supply and Sanitation	62.13	67.07
12.	0216-Housing	3.64	3.55
13.	0217-Urban Development	4.29	6.62
14.	0220-Information and Publicity	2.08	2.41
15.	0230-Labour and Employment	7.99	7.8
16.	0235-Social Security and Welfare	9.61	38.79
17.	0250- Other Social Services	0.01	0.02
18.	0401-Crop Husbandry	10.94	8.48
19.	0403-Animal Husbandry	1.18	0.98
20.	0405-Fisheries	3.38	3.16
21.	0407-Plantation	0.01	0.01
22.	0408-Food Storage and Warehousing	98.37	0.03
23.	0425-Co-operation	24.65	6.84
24.	0435-Other Agricultural Programmes	0.52	0.63
25.	0515-Other Rural Development Programmes	5.18	3.51
26.	0575-Other Special Areas Programmes	0.18	0.11
27.	0700-Major irrigation	0.12	1.36
28.	0701-Medium irrigation	0.07	0.15
29.	0702-Minor Irrigation	0.84	0.84
30.	0851-Village and Small Industries	0.93	1.89
31.	0852-Industries	8.69	7.3
32.	1054-Roads and Bridges	80.72	12.44
33.	1055-Road Transport	0.38	0.64
34.	1425-Other Scientific Research	0.00	0.21
35.	1452-Tourism	1.33	5.89
36.	1456-Civil Supplies	0.07	2.08
37.	1475-Other General Economic Services	8.52	13.36
Grand Total		818.31	746.11

Appendix 1.3

(Referred to in paragraphs 1.7.1)
Inspection Reports

Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during		
	IRs	Para	MV	IRs	Para	MV	IRs	Para	MV	IRs	Para	MV
2010-11	144	718	57.17	12	252	55.72	16	273	41.83	140	697	71.06
2011-12	140	697	71.06	10	202	87.34	30	177	27.82	120	722	130.58
2012-13	120	722	130.58	11	241	22.26	14	140	9.51	117	823	143.33
2013-14	117	823	143.33	12	215	109.71	7	267	48.42	122	771	204.66
2014-15	122	771	204.66	9	259	54.5	8	76	2.46	123	954	256.66
2015-16	123	954	256.66	15	373	70.84	19	458	3.8	119	869	323.7
2016-17	119	869	323.7	14	243	53.45	7	247	3.36	126	865	373.79
2017-18	126	865	373.79	15	270	79.22	12	375	14.51	129	760	438.49
2018-19	129	760	438.49	14	245	70.55	6	89	8.43	137	916	500.62
2019-20	137	916	500.62	16	210	126.43	4	179	10.89	149	947	616.15

Note: IRs: Inspection Report; Para: Paragraph and MV: Money Value

Appendix 1.4

(Reference Paragraph-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 during the year**	Position of recovery of accepted cases as of 31 March 2020**
1	2	3	4	5	6	7
2009-10	8	34.06	7	0.96	0	0.33
2010-11	9	69.00	8	0.68	0	0.55
2011-12	9	17.31	8	9.20	0	0.39
2012-13	10	33.83	4	3.75	0	0.26
2013-14	12	20.28	3	4.53	0	0.66
2014-15	6	16.34	6	16.04	0	2.44
2015-16	4	5.36	4	5.36	0	0.13
2016-17	6	15.64	6	15.64	0	0.0005
2017-18	8	39.84	8	39.84	0	0.62
2018-19*	8	8.93	-	-	0-	-
Total	80	260.59	56	96	0	5.38

*Report laid on 13.08.2021.

** PAC meeting of Excise and Taxation department was conducted in July 2021 after a gap of 10 years and latest status of recovery has been sought for.

Glossary of Abbreviations

Glossary of Abbreviations	
AAs	Assessing Authorities
ACSTE	Assistant Commissioner of State Taxes and Excise
AD	Additional demand
ALR	Arrears of Land Revenue
ATN	Action taken notes
BBMB	Bhakra Beas Management Board
BBN	Baddi, Barotiwala and Nalagarh
BEs	Budget Estimates
CL	Country Liquor
CS	Country Spirit
CST	Central Sales Tax
CSTE	Commissioner of State Taxes and Excise
CZ	Central Zone
DC	Deputy Commissioner
DCR	Demand and Collection Register
DCSTE	Deputy Commissioner of State Taxes and Excise
DDO	Drawing and Disbursing Officer
DROs	District Revenue Officers
EA	Excise Announcement
ED	Electricity Duty
EDP	Ex-Distillery Price
EIU	Economic Intelligence Unit
ENA	Extra Neutral Alcohol
ETD	Excise and Taxation Department
ETI	Excise and Taxation Inspector
GoHP	Government of Himachal Pradesh
GOI	Government of India
GST	Goods and Service Tax
GTO	Gross Turn Over
HIMTAS	Himachal Pradesh Tax Administration System
HoD	Head of the Department
HP	Himachal Pradesh
HPLR	Himachal Pradesh Lease Rules
HPGST	Himachal Pradesh General Sales Tax
HPVAT	Himachal Pradesh Value Added Tax
HPMVR	Himachal Pradesh Motor Vehicle Rules
HPMVT	Himachal Pradesh Motor Vehicles Taxation
HPPGT	Himachal Pradesh Passengers and Goods Taxation
HPPGTR	Himachal Pradesh Passengers and Goods Tax Rules
HPPWD	Himachal Pradesh Public Works Department
HPSEBL	Himachal Pradesh State Electricity Board Ltd.
HPSFDCL	Himachal Pradesh State Forest Development Corporation Limited
HRTC	Himachal Road Transport Corporation
HSN	Harmonized System of Nomenclature
IAC	Internal Audit Cells
ICDP	Integrated Co-operative Development Projects

IGR	Inspector General of Registration
IMFL	Indian Made Foreign Liquor
IR Act	Indian Registration Act
IRs	Inspection Reports
IS Act	Indian Stamp Act
ISS	Inter State Sales
IT	Information and Technology
ITC	Input Tax Credit
LRA	Land Revenue Act
MGQ	Minimum Guaranteed Quota
MPP and Power	Multi-Purpose Projects and Power
MT	Metric Tonne
MVT	Motor Vehicles Tax
NH	National Highway
NOC	No Objection Certificate
NZ	North Zone
OR	Other Road
OTD	Other Taxes and Duties
PA	Performance Audit
PAG	Principal Accountant General
PAC	Public Accounts Committee
PDR	Punjab Distillery Rules
PGT	Passenger and Goods Tax
PLs	Proof Liters
PSCs	Private Stage Carriages
RC	Registration Certificate
RED	Retail Excise Duty
RF	Registration Fee
RLAs	Registering and Licensing Authorities
RR	Rural Road
RTOs	Regional Transport Officers
SD	Stamp Duty
SED	State Excise Duty
SGST	State Goods and Service Tax
SH	State Highway
SOP	Standard operating procedure
SRs	Sub Registrars
SRT	Special Road Tax
SSA	Sarv Siksha Abhiyan
STA	State Transport Authority
SZ	South Zone
TDN	Tax Demand Notice
TDS	Tax Deducted at Source
TTO	Taxable Turn Over
VAT	Value Added Tax
WCT	Work Contract Tax

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