PREFACE

This Report for the year ended 31 March 2010 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

This Report presents the results of audit of receipts comprising Sales Tax / VAT, State Excise, Land Revenue, Taxes on Motor Vehicles, Stamp Duty and Registration fees, other Tax and Non-Tax Receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2009-2010 as well as those which came to notice in earlier years but could not be included in previous years' Reports.

OVERVIEW

This Report contains 64 paragraphs and one review relating to under assessments/non-realisation/short realisation of penalties, taxes, duties etc. The total money value involved is ₹ 1,036.25 crore. Some of the major findings are mentioned below:

1. GENERAL

➢ During the year 2009-10, the total revenue raised by the State Government (₹ 719.38 crore) was 20.87 *per cent* of the total revenue receipts (₹ 3,447.35 crore). The balance 79.13 *per cent* of receipts during 2009-10 comprised of State's share of divisible taxes and duties amounting to ₹ 612.38 crore and grants-in-aid amounting to ₹ 2115.59 crore. The revenue raised by the State Government in 2009-10 as compared to 2008-09 was 20.96 *per cent* higher.

(Paragraph 1.1)

➢ Test check of the records of sales tax, state excise, motor vehicles tax, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2009-10 revealed underassessment / short / non-levy / loss of revenue amounting to ₹ 903.26 crore in 169 cases. During the year, the departments accepted assessments / short / non levy / loss of revenue of ₹ 31.37 crore in 15 cases pointed out in 2009-10 and earlier years, and recovered ₹ 0.26 crore.

(Paragraph 1.5.1)

2. TAXES ON SALE, TRADE/VAT ETC

A review of "Exemptions, Concessions and Remissions under the Meghalaya Industrial Policy 1997 and the schemes framed thereunder" and audit of Sales Tax Department revealed the following irregularities:

➢ Non-fulfilment of export obligation by industrial units set up in Export Promotion Industrial Park led to exemptions of ₹ 76.93 crore being irregularly allowed.

(Paragraph 2.9.7.2)

➢ Lack of clarity in the schemes of 2001 and 2006 regarding period for which incentives are to be allowed led to revenue loss of ₹ 9.97 crore.

(Paragraph 2.9.7.3)

➢ Inconsistencies between the Industrial Policy 1997 and the Meghalaya Industries (Tax Remission) Scheme, 2006 led to tax incentive of ₹ 5.31 crore being irregularly allowed.

(Paragraph 2.9.7.4)

➢ Eight industrial units irregularly availed incentives of ₹ 85.28 crore though they failed to employ local tribal people as per prescribed norms.

(Paragraph 2.9.7.6)

- 23 manufacturing units did not appoint any local tribal in the Board of Directors but were allowed by the Single Window Agency to avail tax incentives of ₹ 27.49 crore.

(Paragraph 2.9.7.7)

- Tax exemption benefit was irregularly extended to goods taxable under Purchase Tax Act leading to loss of revenue of ₹ 6.91 crore

(Paragraph 2.9.8.2)

- Two units claimed tax remission beyond the eligible period leading to loss of revenue of ₹ 1.06 crore.

(Paragraph 2.9.8.5)

- Exemption and concession of ₹ 8.57 crore was granted to 62 manufacturing units on the strength of invalid declarations.

(Paragraph 2.9.8.11)

Three bottling plants sold 9,07,076 cases of IMFL worth ₹ 99.49 crore on which tax of ₹ 19.89 crore was not levied.

(Paragraph 2.11)

Two dealers concealed sales of ₹ 5.33 crore on which tax of ₹ 63.67 lakh and interest of ₹ 65.43 lakh was leviable. Besides penalty of ₹ 95.51 lakh could also be levied.

(Paragraph 2.22)

68 dealers concealed sales turnover of ₹ 1589.93 crore on which tax of ₹ 63.60 crore was leviable. Besides, penalty of ₹ 127.20 crore was also leviable for concealment of turnover.

(Paragraph 2.30)

24 dealers furnished fake declaration forms/misutilised declaration forms in the course of interstate trade and evaded tax ₹ of 3.90 crore on which interest of ₹ 5.31 crore was leviable.

(Paragraph 2.31)

141 exporters not registered under the CST Act exported 9,58,880 MT of coal to Bangladesh resulting in loss of revenue of ₹ 11.51 crore.

(Paragraph 2.36.2)

3. OTHER TAXES AND DUTIES

Two lessees did not register the lease agreements with the concerned Registrars. This resulted in evasion of stamp duty of ₹ 0.37 crore.

(Paragraph 3.4)

Incorrect classification of a deed resulted in non-realisation of stamp duty of ₹ 0.35 crore on rent and security deposit.

(Paragraph 3.5)

4. STATE EXCISE

Non-inclusion of import pass fee as an element of cost price led to loss of revenue of ₹ 3.15 crore.

(Paragraph 4.7)

Import pass fee of ₹ 52.14 lakh was not realised on import of IMFL and beer.

(Paragraph 4.8)

5. MOTOR VEHICLES RECEIPTS

Fine of ₹ 395.09 crore was not levied on 5,15,394 trucks for carrying 29,20,139 MT of coal beyond the permissible limit.

(Paragraph 5.7)

Unauthorised retention of sale proceeds from helicopter services and utilisation of revenue for departmental expenditure by the MTC led to temporary misappropriation of ₹ 1.16 crore.

(Paragraph 5.14)

6. FOREST RECEIPTS

Export of limestone without transit pass fee led to non-realisation of revenue of ₹ 1.38 crore.

(Paragraph 6.6)

Non-settlement/operation of *mahals* led to loss of revenue of ₹ 0.17 crore.

(Paragraphs 6.7 & 6.8)

7. RECEIPTS FROM MINES AND MINERALS

Delay in implementation of revised rate of royalty on coal and cess on limestone etc., led to loss of revenue of ₹ 133.16 crore.

(Paragraph 7.6)

Non-realisation of royalty on 3,53,894.55 MT of coal and 98,218.24 MT of limestone exported to Bangladesh led to loss of revenue of ₹ 13.47crore in the form of royalty, cess and penalty.

(Paragraph 7.7)

Lack of co-ordination between Mining & Geology and Forest departments led to non-realisation of cess of ₹ 47.80 lakh on 9.56 lakh MT of limestone extracted.

(Paragraph 7.11)

CHAPTER I-GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Meghalaya during the year 2009-10, 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 mentioned below:

Table 1.1

(Rupees in crore)

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10[1]
1.	**Revenue raised by the State Government**					
	• Tax revenue	252.67	304.74	319.10	369.44	444.29
	• Non-tax revenue	146.01	184.37	199.35	225.31	275.09
	Total	**398.68**	**489.11**	**518.45**	**594.75**	**719.38**
2.	**Receipts from the Government of India**					
	• Share of net proceeds of divisible Union taxes and duties	350.57	447.18	564.07	595.23	612.38
	• Grants-in-aid	997.69	1,205.90	1,358.86	1,620.66	2115.59
	Total	**1,348.26**	**1,653.08**	**1,922.93**	**2,215.89**	**2727.97**
3.	**Total revenue receipts of the State Government (1 and 2)**	**1,746.94**	**2,142.19**	**2,441.38**	**2,810.64**	**3447.35**
4.	**Percentage of 1 to 3**	**22.82**	**22.83**	**21.24**	**21.16**	**20.87**

Thus, during the year 2009-10, the revenue raised by the State Government (₹ 719.38 crore) was 20.87 *per cent* of the total revenue receipts against 21.16 *per cent* in the preceding year. The balance 79.13 *per cent* of receipts during 2009-10 was from the Government of India.

[1] For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Meghalaya for the year 2009-10. Figures under the head 0020 - Corporation tax; 0021 - Taxes on income other than corporation tax; 0032 - Taxes on wealth; 0037 - Customs; 0038 - Union excise duties; 0044 - Service tax and 0045 - Other taxes and duties on commodities and services - 901 Share of net proceeds assigned to the States booked in the Finance Accounts under A-tax revenue have been excluded from the revenue raised by the State Government and included in the State's share of divisible Union taxes.

1.1.2 The following table presents the details of tax revenue raised during the period 2005-06 to 2009-10:

Table 1.2

(Rupees in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+) or decrease (-) in 2009-10 over 2008-09
1.	Tax on sales, trade etc.	173.37	215.82	234.90	281.83	321.40	(+) 14.04
2.	State excise	59.16	53.95	58.62	69.79	90.29	(+) 29.37
3.	Stamp duty and registration fees	5.48	6.49	5.99	5.54	11.02	(+) 98.92
4.	Taxes and duties on electricity	0.04	0.03	0.03	0.03	0.05	(+) 66.67
5.	Taxes on vehicles	8.73	9.34	11.35	13.21	13.61	(+) 3.03
6.	Taxes on goods and passengers	2.76	2.79	3.58	3.31	3.50	(+) 5.74
7.	Land revenue	0.33	5.58	2.12	0.50	0.26	(-) 48.00
8.	Others	2.80	10.74	2.51	(-) 4.77	4.16	(+) 187.21
Total		**252.67**	**304.74**	**319.10**	**369.44**	**444.29**	

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

Stamps and Registration: The increase was due to increase in the number of registrations and valuation of the properties.

The other departments did not inform (October 2010) the reasons for variation, despite being requested (April 2010).

1.1.3 The following table presents the details of major non-tax revenue raised during the period 2005-06 to 2009-10:

Table 1.3

(Rupees in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/decrease (-) in 2009-10 over 2008-09
1.	Miscellaneous general services including State lotteries	7.92	17.96	18.98	24.13	0.16	(-) 99.34
2.	Forestry and wild life	15.30	16.66	15.60	17.36	20.03	(+) 15.38
3.	Interest receipts	6.67	13.36	15.38	17.82	23.28	(+) 30.64
4.	Mining Receipts	97.56	109.03	123.66	132.73	198.21	(+) 49.33
5.	Public works	4.33	5.11	4.24	6.70	7.02	(+) 4.78
6.	Medical and public health	0.70	1.08	0.56	0.74	0.56	(-) 24.32
7.	Education, sports, art and culture	0.55	0.91	0.53	0.93	0.77	(-) 17.20
8.	Crop husbandry	1.99	2.21	2.38	3.22	2.80	(-) 13.04
9.	Animal husbandry	1.32	1.56	1.47	1.37	1.54	(+) 12.41
10.	Others	9.67	16.49	16.55	20.31	20.72	(+) 2.02
Total		**146.01**	**184.37**	**199.35**	**225.31**	**275.09**	

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

Mining and Geology: The increase was due to increase in the rate of royalty on coal due to revision.

The other departments did not inform (October 2010) the reasons for variation despite being requested (April 2010).

1.2 Response of the Government and assurances

1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

The Principal Accountant General (PAG) (Audit), Meghalaya conducts periodic inspection of the various offices of the Government departments to test check the correctness of assessments, levy and collection of tax and non-tax receipts, and verify the maintenance of accounts and records as per the Acts, Rules and procedures prescribed by the Government. These inspections are followed up with the inspection reports (IRs) issued to the heads of offices inspected with copies to the higher authorities. Serious irregularities noticed in audit are also brought to the notice of the Government/head of the department by the office of

the PAG (Audit). An annual report regarding pending IRs is sent to the Secretaries of the concerned Government departments to facilitate monitoring and settlement of the audit observations raised in these IRs through the intervention of the Government.

IRs issued upto March 2010 pertaining to the offices under eight departments[2] disclosed that 302 IRs involving money value of ₹ 1,831.81 crore remained unsettled at the end of June 2010. Of these, 38 IRs containing 149 observations involving money value of ₹ 44.18 crore pertaining to the offices under seven departments[3] had not been settled for more than five years.

In respect of 19 IRs involving money value of ₹ 479.68 crore issued during 2009-10, even the first reply has not been received from the departments / Government (October 2010). The status regarding position of old outstanding IRs/paragraphs was reported to the Government in August 2010; their reply has not been received (October 2010).

1.2.2 Departmental audit committee meetings

In order to expedite the settlement of the outstanding audit observations contained in the IRs, departmental audit committees have been constituted by the Government. These committees are chaired by the secretaries of the concerned administrative departments and their meetings are attended by the concerned officers of the State Government and officers of the PAG.

During the year 2009-10, no audit committee meeting was held, despite being requested. Thus, the concerned departments failed to take advantage of the system of Audit Committee meetings. This is reflected in accumulation of large number of outstanding paragraphs as mentioned in paragraph 1.2.3 below:

1.2.3 Position of Inspection Reports

The summarised position of inspection reports issued during the year 2009-10 including those of previous four years and their status as on 1 April 2010 are tabulated below:

Table 1.4

(Rupees in crore)

Year	Opening balance			Addition			Clearance			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2005-06	219	645	781.95	44	137	409.84	8	64	357.26	255	718	834.53
2006-07	255	718	834.53	41	192	517.94	21	206	140.86	275	704	1,211.61
2007-08	275	704	1,211.61	38	122	748.75	43	133	273.79	270	693	1,686.57
2008-09	270	693	1,686.57	50	246	980.08	10	122	1,359.79	310	817	1,306.86
2009-10	310	817	1,306.86	38	161	804.30	46	98	279.35	302	880	1,831.81

[2] Forest, Land Revenue, Mining & Geology, Sales Tax, Stamps & Registration, State Excise, State Lottery and Transport departments.

[3] Forest, Land Revenue, Mining & Geology, Sales Tax, Stamps & Registration, State Excise, and Transport departments.

Thus, against the opening balance of 219 IRs with 645 paragraphs involving ₹ 781.95 crore, there were closing balance of 302 IRs with 880 paragraphs involving ₹ 1,831.81 crore. The balance increased due to apathy on the part of the departments/Government to initiate action for early settlement of audit observations which includes non-response to our requests for audit committee meetings as highlighted above.

1.2.4 Response of the departments to the draft audit paragraphs

The draft paragraphs are forwarded to the secretaries of the concerned departments through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the departments is invariably indicated at the end of each such paragraph included in the Audit Report.

64 audit paragraphs and one review proposed to be included in the Report of the Comptroller and Auditor General of India for the year ended March 2010, Government of Meghalaya were forwarded to the Secretaries of the respective departments in June 2010. Out of these, replies were furnished to only three paragraphs and one review upto October 2010. The remaining 61 paragraphs have been included without the response of the Government.

1.2.5 Follow up on Audit Reports-summarised position

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the various Audit Reports, the Public Accounts Committee (PAC) issued instructions in July 1993 for submission of *suo motu* replies by the concerned departments from 1986-87 onwards. The PAC specified the time frame as six weeks upto 32nd Report and six months in the 33rd Report for submission of action taken notes (ATN) on the recommendations of the PAC.

A review of outstanding ATNs as of September 2010 on the paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts), Government of Meghalaya disclosed that the concerned departments of the State Government had not submitted *suo motu* explanatory notes on 286 paragraphs of Audit Reports for the years from 1992-93 to 2008-09 as mentioned below:

Table 1.5

Year of Audit Report	Date of presentation of the Audit Report to the Legislature	Number of paragraphs/reviews included in the Audit Report		Number of paragraphs/reviews for which *suo motu* replies are awaited	
		Paragraphs	Reviews	Paragraphs	Reviews
1992-93	16 September 1994	6	…	6	…
1993-94	08 September 1995	8	…	…	…
1994-95	20 September 1996	10	…	4	…
1995-96	07 April 1997	14	2	3	2
1996-97	12 June 1998	21	1	17	1
1997-98	09 April 1999	8	1	1	…

1998-99	12 April 2000	8	1	8	1
1999-2000	07 December 2001	23	2	22	2
2000-01	01 April 2002	20	1	18	1
2001-02	20 June 2003	25	…	8	…
2002-03	11 June 2004	30	1	30	1
2003-04	14 October 2005	29	…	27	…
2004-05	27 March 2006	23	…	5	…
2005-06	19 April 2007	33	1	6	1
2006-07	12 May 2008	34	3	30	3
2007-08	24 June2009	41	1	41	1
2008-09	28 May 2010	45	2	45	2
Total		**378**	**16**	**271**	**15**

The departments failed to submit ATN on 29 out of 30 paragraphs pertaining to revenue receipts for the years from 1982-83 to 1997-98 on which recommendations had been made by the PAC in their 16th to 33rd Reports presented before the State Legislature between December 1988 and June 2000, as mentioned below:

Table 1.6

Year of Audit Report	Number of paragraphs on which recommendations were made by the PAC but ATNs are awaited	Number of PAC Report in which recommendations were made
1982-83	2	16th
1984-85	9	26th 19th
1987-88	1	26th
1988-89	1	20th
1989-90	1	20th
1990-91	11	26th 20th
1991-92	3	26th 20th
1997-98	1	33rd
Total	**29**	

Thus, failure of the concerned departments to comply with the instructions of the PAC defeated the objective of ensuring accountability of the executive.

1.3 Status of assurances by the Department/Government on the issues highlighted in the Audit Reports

In order to analyse the system of addressing the issues highlighted in the Inspection Reports (IRs)/Audit Reports by the Department/Government the action taken on the paragraphs included in the Inspection Reports/Audit Reports by the Mining & Geology Department is shown in the succeeding paragraphs.

- During the last five years, 13 IRs containing 26 paragraphs involving money value of ₹ 120.20 crore were issued to the Department/Government.

- Out of the 13 IRs issued during the last five years, even first reply has not been received in respect of four IRs involving money value of ₹ 117.09 crore.

➢ Out of 26 paragraphs involving money value of ₹ 120.20 crore, the Department has accepted paragraphs involving money value of ₹ 10.16 lakh against which, no recovery has been made (October 2010). No intimation in respect of the remaining has been given to audit (October 2010).

➢ During 2005-06 to 2009-10, 25 paragraphs and one review involving money value of ₹ 238.24 crore in respect of Mining & Geology Department have been featured in the Audit Reports of the Comptroller and Auditor General of India, Government of Meghalaya. The Department accepted four paragraphs involving money value of ₹ 6.79 crore and recovered ₹ 5 lakh. No reply has been received in respect of the remaining paragraphs.

We recommend that the Government may consider taking suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.

1.3.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years (including current year's report), those accepted by the department and the amount recovered are mentioned below:

Table 1.7

(Rupees in crore)

Year of AR	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value accepted paragraphs	Amount recovered during the year
2005-06	34	262.43	11	10.90	0.05
2006-07	40	6,847.81	14	736.18	3.98
2007-08	42	829.85	5	729.73	-
2008-09	47	1,175.55	13	827.77	0.10
2009-10	65	1,036.25	07	1.96	0.29
Total	**228**	**10,151.89**	**50**	**2306.54**	**4.42**

Thus, against the accepted cases involving ₹ 2306.54 crore the departments / Government could recover a paltry sum of ₹ 4.42 crore.

This shows that the departments/Government have failed to recover the dues even in those cases where they have accepted audit observations.

We recommend that the department may take immediate action to install a mechanism to pursue and monitor prompt recovery of dues involved in accepted cases.

1.3.2 Action taken on the recommendations accepted by the departments / Government

The reviews conducted by this office are forwarded to the concerned departments/Government for their information with a request to furnish their replies. These reviews are also discussed in Exit Conferences and the departments'/Government's views are included while finalising the reviews for the Audit Report.

During the period from 2005-06 to 2009-10, six reviews pertaining to Taxation, Mining & Geology, Transport, Lottery and Excise Departments containing 39 recommendations were discussed with the departments/Government. All the recommendations were accepted with an assurance to look into them.

Based on audit recommendations, the departments/Government put the following system in place:

- Meghalaya Excise Rules, 1973 were amended in keeping with audit contention. Establishment Charges were done away with retrospectively and security deposit was increased manifold.

- Input Tax Credit allowed to industries / manufacturing units availing tax remission has been done away with.

Though the concerned departments/Government accepted all the remaining recommendations, they are yet to streamline the system/amend the provisions as recommended by us.

We recommend that the Government put in place a monitoring mechanism to watch and ensure timely action on the recommendations accepted by the concerned departments in the best interest of the revenue of the State.

1.4 Planning for audit during 2009-10

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

During the year 2009-10, out of 168 auditable units, 93 units were planned and audited which is 55 *per cent* of the total auditable units. Besides, a review on "Exemptions, concessions and remissions under the Meghalaya Industrial Policy 1997 and schemes framed thereunder" was also conducted.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

Test check of the records of taxes on sales, trade etc;, state excise, motor vehicles tax, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2009-10 revealed underassessment/short/non-levy/loss of revenue amounting to ₹ 903.26 crore in 169 cases. During the year, the departments accepted underassessments/short/non levy/loss of revenue of ₹ 31.37 crore in 15 cases pointed out in 2009-10 and earlier years, and recovered ₹ 26 lakh.

1.5.2 This Report

This Report contains 64 paragraphs and one review involving ₹ 1,036.25 crore. The departments/Government accepted audit observations involving ₹ 98.67 lakh, and recovered ₹ 7.68 lakh. Audit observations with a total revenue effect of ₹ 2.42 crore have not been accepted by the departments, but their contention have been found to be at variance with the facts or legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (October 2010). These are discussed in the succeeding chapters.

CHAPTER II
TAXES ON SALE, TRADE/VAT ETC

2.1 Tax Administration

Commercial Taxes Department is the most important revenue-earning department of the State. The Principal Secretary to the Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department, is in overall charge of the Sales Tax Department at the Government level. The Commissioner of Taxes (COT) is the administrative head of the Department. He is assisted by two Deputy Commissioners of Taxes (DCT) and two Assistant Commissioners of Taxes (ACT). One of the ACT, functions as the appellate authority. At the district level, the Superintendents of Taxes (ST) have been entrusted with the work of registration, scrutiny of returns, collection of taxes, levy of interest and penalty, issue of road permits/declaration forms etc. The collection of tax, interest and penalty etc., in the State is governed by the provisions of the Central Sales Tax (CST) Act, 1956, the CST Rules, 1957, the Meghalaya Value Added Tax (MVAT) Act, 2003 and the MVAT Rules, 2005. Before the introduction of VAT on 1 May 2005, the Meghalaya Sales Tax (MST) Act and the Meghalaya Finance (Sales Tax) (MFST) Act were in place, which have, since been repealed with the introduction of VAT. However, assessments under the MST Act and MFST Act are still being made. The STs are the Assessing Officers (AO) under the repealed acts. However, with the introduction of VAT, an audit team with the DCT as its head has been constituted to assess the dealers while the STs have been vested with the power to scrutinise returns furnished by the dealers.

2.2 Trend of receipts

Actual receipts from VAT during the last five years 2005-06 to 2009-10 alongwith the total tax receipts during the same period is exhibited in the following table and graph.

Table 2.1

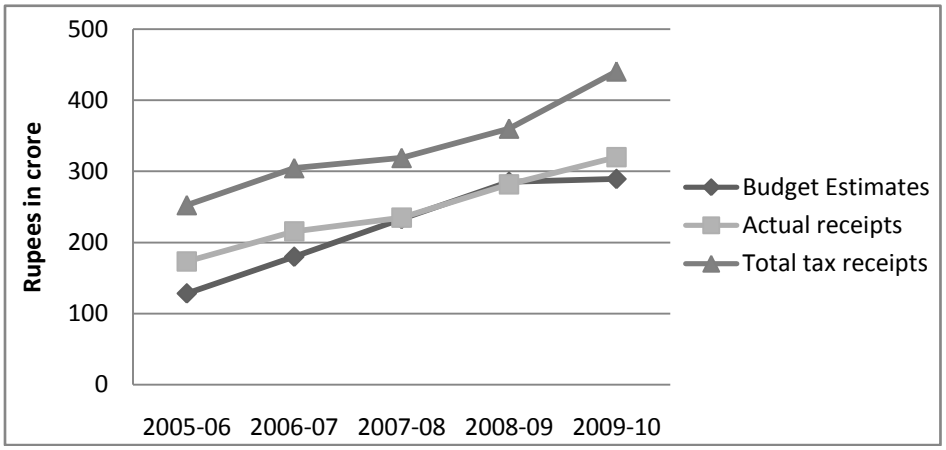
(Rupees in crore)

Year	Budget estim-ates	Actual receipts	Variation excess (+) / shortfall (-)	Percen-tage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax receipts
2005-06	128.50	173.37	(+) 44.87	35	252.67	68.62
2006-07	180.00	215.82	(+) 35.82	20	304.74	70.82
2007-08	233.16	234.90	(+) 1.73	1	319.10	73.61
2008-09	285.42	281.83	(-) 3.59	1	369.44	76.29
2009-10	289.42	321.40	(+) 31.98	11	444.29	72.34

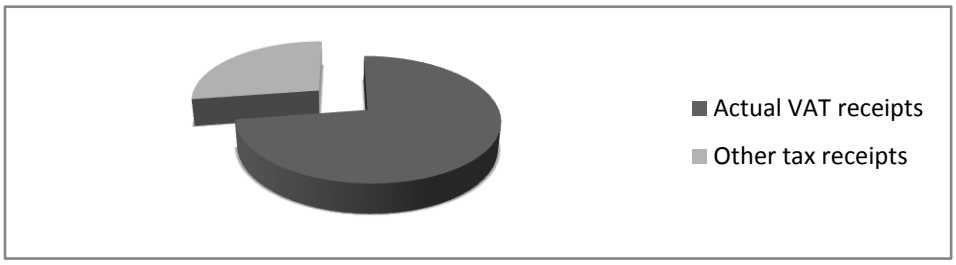
Thus, the percentage of variation which was as high as 35 *per cent* in 2005-06 came down to the negligible level of one *per cent* during the

years 2007-08 and 2008-09. However, due to marginal increase in the BE in 2009-10 over 2008-09 (the reasons of which could not be understood), there was a further increase in variation at 11 *per cent*.

A line graph showing the budget estimates of the State vis-à-vis the total receipts of the State and the actual tax receipts of the State may be seen below:



Also, a pie chart showing the position of VAT receipt vis-à-vis the other tax receipts during the year may be seen below:



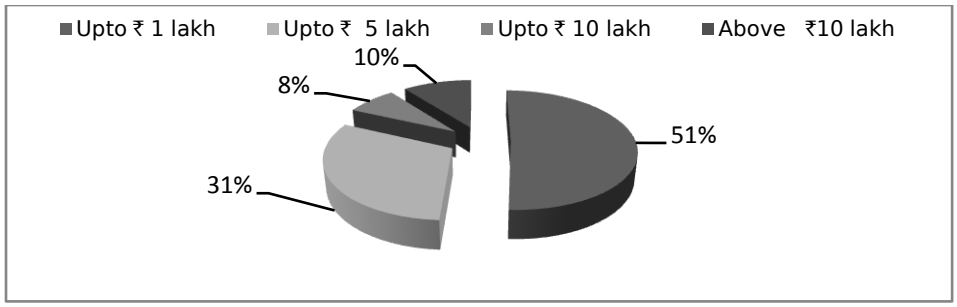
2.3 Assessee profile

As per information furnished by the department the number of the VAT/sales tax assesses that were registered during 2009-10 was 6,358. The breakup of these assesses based on their annual turnover is mentioned as under:

Table 2.2

NUMBER OF VAT/SALES TAX ASSESSEE IN 2009-10			
Upto ₹ 1 lakh	**Upto ₹ 5 lakh**	**Upto ₹ 10 lakh**	**Above ₹ 10 lakh**
3,175	1,933	482	656

A pie-chart showing the number of dealers registered in 2009-10 vis-à-vis the annual turnover may be seen below:



As would be seen from the above, a sizeable number of the dealers (51% of the total dealers) registered with the Taxation Department are small dealers i.e. having turnover upto ₹ 1 lakh. As per the MVAT Act, dealers having turnover above the threshold of ₹ 1 lakh are required to pay tax. The Department, therefore, needs to keep a close watch on the turnover of the dealers constantly in this segment to ensure that none of the dealers, liable to pay tax, escapes the tax net.

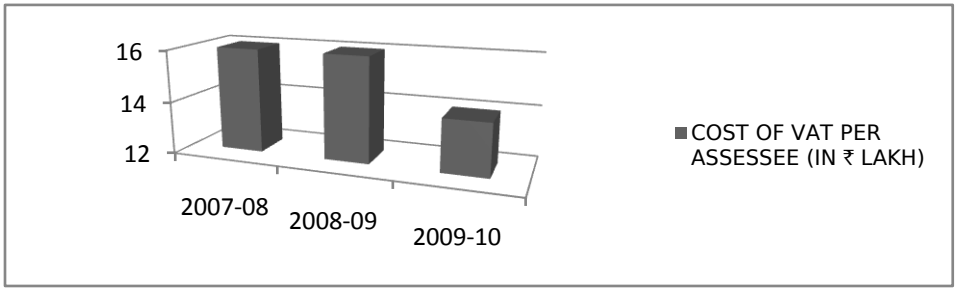
2.4 VAT per assessee

The VAT per assessee during the year and the preceding two years is shown below:

Table 2.3

(Rupees in crore)

Year	Total no of assessees	Total VAT collection	Cost of VAT per assessee
2007-08	13,730	216.89	0.016
2008-09	17,89	271.07	0.016
2009-10	20,060	298.44	0.015



It may be seen that compared to 2007-08 and 2008-09 the cost of VAT per assessee has come down during 2009-10 with the increase in the number of assessees under VAT. The department needs to look into this aspect.

2.5 Arrears in assessment

The information furnished by the Department relating to the position of arrears in assessment during the year 2009-10 is as under:

Table 2.4

(No. of assessments)

Category of cases under the Acts	Opening balance at the beginning of the year	Additions during the year	Total	Finalised during the year	Pending at the end of the year	Percentage of finalised cases to the total cases
CST/MST/ VAT	2,90,044	43,731	3,33,775	7,973	3,25,802	2.39
MSL	10,847	469	11,316	247	11,069	2.31
Total	3,00,891	44,200	3,45,091	8,220	3,36,871	2.38

The finalisation of pending cases during 2009-10 was only 2.38 *per cent* of the total cases due for assessment which is very low.

The Department needs to take prompt measures to finalise the pending assessment cases at an early date, especially VAT assessments that may become time-barred if not finalised within a period of five years.

2.6 Cost of collection

The cost of collection (expenditure incurred on collection) of the Taxation Department during 2009-10 is shown below:

Table 2.5

(Rupees in crore)

Year	Actual revenue	Cost of collection	Percentage of expenditure on collection	All India average percentage during the preceding year
2007-08	234.89	4.09	1.74	0.82
2008-09	281.83	4.46	1.58	0.83
2009-10	321.40	6.80	2.12	0.88

The cost of collection of the Department has been steadily increasing. Besides, the cost of collection when compared to the all India average percentage during the preceding years is on the higher side.

2.7 Impact of audit report

2.7.1 Revenue Impact

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 1,878.87 crore in 115 paragraphs. Of these, the Department/Government had accepted audit observations in 22 paragraphs involving ₹ 962.49 crore, in respect of which, no recovery has been made. The details are shown in the following table:

Table 2.6

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	20	34.27	5	3.81	Negligible	
2006-07	21	20.68	6	1.67		
2007-08	22	540.70	2	474.06		
2008-09	23	784.99	5	481.98		
2009-10	29	498.23	4	0.97		
Total	**115**	**1,878.87**	**22**	**962.49**		

The recovery in accepted cases *vis-à-vis* the accepted money value was almost negligible.

We recommend that there is a need for the department to revamp the revenue recovery mechanism to ensure that the amount involved in the accepted cases is at least recovered immediately.

2.7.2 Amendments in the Acts/Rules/notification/orders issued by the Government at the instance of audit

Based on audit observations, the Government notified the following change:

- Input tax credit allowed to industries/manufacturing units availing tax remission has been done away with.

2.8 Results of audit

Test check of the records of 55 units relating to VAT revealed under-assessment of tax and other irregularities involving ₹ 327.48 crore in 50 cases which fall under the following categories:

Table 2.7

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Exemptions, concessions and remissions under the Meghalaya Industrial Policy 1997 and the schemes framed thereunder (a review)	1	204.77
2.	Short realisation of tax	7	31.96
3.	Evasion of tax	3	24.53
4.	Non realisation of tax	6	2.17
5.	Other irregularities	33	64.05
Total		**50**	**327.48**

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 31.02 crore in 14 cases. An amount of ₹ 26 lakh was realised in seven cases during the year 2009-10.

A review of "Exemption and Concessions under the Meghalaya Industrial Incentive Schemes" with financial impact of ₹ 204.77 crore and a few illustrative cases involving ₹ 272.82 crore are mentioned in the following paragraphs.

2.9 "Exemptions, concessions and remissions under the Meghalaya Industrial Policy 1997 and the schemes framed thereunder"

Highlights

- Non-fulfilment of export obligation by industrial units set up in Export Promotion Industrial Park led to exemptions of ₹ 76.93 crore being irregularly allowed.

(Paragraph 2.9.7.2)

- Lack of clarity in the schemes of 2001 and 2006 regarding period for which incentives are to be allowed led to revenue loss of ₹ 9.97 crore.

(Paragraph 2.9.7.3)

- Inconsistencies between the Industrial Policy 1997 and the Meghalaya Industries (Tax Remission) Scheme, 2006 led to tax incentive of ₹ 5.31 crore being irregularly allowed.

(Paragraph 2.9.7.4)

- Eight industrial units irregularly availed incentives of ₹ 85.28 crore though they failed to employ local tribal people as per prescribed norms.

(Paragraph 2.9.7.6)

- 23 manufacturing units did not appoint any local tribal in the Board of Directors but were allowed by the Single Window Agency to avail tax incentives of ₹ 27.49 crore.

(Paragraph 2.9.7.7)

- Tax exemption benefit was irregularly extended to goods taxable under Purchase Tax Act leading to loss of revenue of ₹ 6.91 crore

(Paragraph 2.9.8.2)

- Two units claimed tax remission beyond the eligible period leading to loss of revenue of ₹ 1.06 crore.

(Paragraph 2.9.8.5)

- Exemption and concession of ₹ 8.57 crore was granted to 62 manufacturing units on the strength of invalid declarations.

(Paragraph 2.9.8.11)

2.9.1 Introduction

To take advantage of the liberalised economic scenario in the country and to keep pace with developments in the national industrial sector, the Government of Meghalaya introduced a new 'Industrial Policy 1997'[1] effective from 15 August 1997. Under the policy, new units set up on or after 15 August 1997 and existing units undertaking expansion, modernisation or diversification would be eligible for incentives under the 'Meghalaya Incentive Scheme 1997'. The State Government on 12 April 2001 notified the 'Meghalaya Industrial (Sales Tax Exemption) Schemes, 2001'[2] to partly or fully exempt any industrial unit, eligible for benefits under the Industrial Policy 1997, from the liability to pay any tax to the extent as provided in the 'Meghalaya Incentive Scheme 2001'. With the introduction of Value Added Tax (VAT) in Meghalaya in May 2005, the Scheme of 2001 was substituted by the 'Meghalaya Industries (Tax Remission) Scheme, 2006'[3]. This scheme was introduced to provide alternative benefits in lieu of benefits enjoyed by the eligible industrial units under the Scheme of 2001 by way of remission by retaining the tax collected as subsidy to eligible units without breaking the VAT chain.

The salient features of the 2001 and 2006 schemes relating to tax incentives were as below:

Table 2.8

Incentive scheme	Type of industries	Tax incentives	Eligibility criteria	Period of exemption
Meghalaya Industrial (Sales Tax Exemption) Schemes, 2001	**Small Scale Industries (SSI)**	Total Sales Tax exemption on sale of finished products within the State or in course of interstate trade which are taxable under the Meghalaya Sales Tax (MST) or Meghalaya Finance (Sales Tax) (MFST) and the Central Sales Tax (CST) Act limited to goods actually produced in the eligible unit not exceeding its installed capacity.	Only new Industries set up on or after 15 August 1997 and existing industries undertaking expansion, modernisation or diversification.	Nine years from the date of commercial production.
	Large & Medium Scale Industries (LMSI)	-do-	-do-	Seven years from the date of commercial production.
Meghalaya Industries (Tax Remission)	**Both SSI & LMSI**	99 *per cent* of tax payable by eligible unit shall be retained as subsidy by the unit and the balance one *per cent* of the tax	Eligible industrial units having commenced commercial production before commencement of	Seven years from the date of commercial production.

[1] Replacing the 'Industrial Policy 1988'.
[2] Deemed to have come into force from 12 August 1997.
[3] Applicable from 01 October 2006.

Scheme, 2006		payable shall be deposited into Government account. However, cement/clinker manufacturing units having installed capacity of more than 600 tonnes per day shall retain 96 *per cent* as subsidy and balance four *per cent* to be deposited into Government account. In respect of sales to registered dealers in course of interstate trade, tax shall be levied at the rate of one *per cent*.	the Meghalaya Value added Tax Act, 2003 or industrial units approved by the Single Window Agency on or before 30 April 2005.	

2.9.2 Procedure for setting up an industrial unit

The Government of Meghalaya on 16 August 1997 set up a Single Window Agency (SWA) under the chairmanship of the Chief Minister[4] to provide time-bound decisions and clearances to investment proposals received from prospective entrepreneurs. After the SWA's approval, clearances from the Meghalaya State Pollution Control Board, the Forest, Urban and Revenue Departments and the concerned District Council are to be submitted by the entrepreneurs to the Industries Department. After ensuring that all required eligibility norms have been fulfilled, an Eligibility Certificate (EC) is issued by the Director of Industries for a SSI unit and by the Managing Director, Meghalaya Industrial Development Corporation Ltd. for a LMSI unit for the purpose of availing tax incentives.

2.9.3 Organisational set up

The Principal Secretary, Excise, Registration, Taxation and Stamps (ERTS) is the overall in-charge of Taxation Department at the Government level. The Commissioner of Taxes (COT) is the administrative head of the Taxation Department. He is assisted by two Deputy Commissioners of Taxes (DCT) and two Assistant Commissioners of Taxes (ACT). After the issue of the EC by the appropriate authorities, the Superintendents of Taxes (ST) at the district level are entrusted with the work of registration, issue of Certificate of Authorisation (COA) and Certificate of Entitlement (COE), scrutiny of returns, assessment of sales tax incentives under 2001 and 2006 schemes, collection of tax, interest and penalty, issue of road permits and declaration forms etc. The STs are assisted by the Inspectors of Taxes (IT) for survey, inspection and other

[4] With the Parliamentary Secretary in-charge Commerce and Industries Department as vice-chairman; Director of Commerce and Industries as member secretary; Commissioner and Secretary, Commerce and Industries Department, the Managing Director, Meghalaya Industrial Development Corporation (MIDC) Ltd. and Secretary General, Confederation of Industries in Meghalaya as members.

ancillary works in relation to registration, assessments and collection of taxes.

2.9.4 Audit objectives

We carried out the review to ascertain whether:

- incentives sanctioned by the implementing agencies were as per norms laid down in the Meghalaya Industrial Policy 1997 and the schemes of 2001 and 2006;
- quantum of incentives claimed by the eligible units were properly assessed;
- exemptions and concessions were allowed as per provisions of the MST, MFST, MVAT and the CST Acts and Rules;
- a system existed for sharing of information between sales tax authorities and other concerned agencies;
- the declaration forms and returns furnished by the industrial units for availing exemptions and concessions were genuine and correct; and
- internal control system was effective in preventing leakage of revenue and misuse of the provisions of the schemes.

2.9.5 Scope of audit

The review was limited to the incentive schemes of 2001 and 2006. Between April 2010 and June 2010, we test checked all the 340 assessments finalised during 2004-05 to 2009-10 under the MST, MFST, MVAT and the CST Acts in five[5] out of eight offices of STs. We also checked the records of the Industries Department to verify the quantum of benefits availed on finished products by the industrial units and fulfilment of the terms and conditions prescribed under the Meghalaya Industrial Policy, 1997.

2.9.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Taxation Department in providing the necessary information and records for audit. We held an entry conference on 10 May 2010 in which the objectives, scope and methodology of audit were explained. The conference was attended by the Secretary to the Government of Meghalaya, ERTS Department, the COT and the DCT. The draft review report was sent to the Government/department on 20 August 2010 for their response. An exit conference was held on 17

[5] Jowai, Khliehriat, Nongpoh, Shillong and Williamnagar –manufacturing units in the State which availed of tax incentives during the period covered by this review under the aforesaid schemes were all registered only with these five offices

October 2010 with the Commissioner and Secretary, ERTS, the COT, the DCT, the Director of Industries and the Managing Director, Meghalaya Industrial Development Corporation in which the results of audit and recommendations were discussed. The Government/departments have accepted most of the audit findings/recommendations and assured to take action. The cases in which they have furnished specific replies or have countered the contention of audit (October 2010) have been appropriately included in this report under the respective paragraphs.

Audit findings

The system and compliance deficiencies noticed during the review are discussed in the ensuing paragraphs.

SYSTEM DEFICIENCIES

2.9.7.1 Absence of database of incentives availed

Under the schemes of 2001 and 2006, eligible industrial units were totally exempted from payment of MST, MFST, CST upto 30 September 2006 and thereafter, were permitted to retain 99 *per cent* of the tax payable under the MVAT Act, and pay a concessional rate of one *per cent* under the CST Act subject to certain terms and conditions specified in the schemes.

In order to be in a position to evaluate the impact of the Meghalaya Industrial Policy 1997 and whether its objectives were being achieved, monitor implementation of the schemes of 2001 and 2006 framed thereunder and assess the quantum of revenues foregone by the State as a result of the tax incentives given under the schemes, it was essential to have an up-to-date database of tax incentives given and tax incentives progressively availed by every eligible manufacturing unit, information on units closed prematurely and recoveries effected from those closed units, tax to be recovered from defaulting units, etc.

We noticed that neither the Taxation nor Industries Departments maintained any database in this regard in the absence of which we were not in a position to assess the effect of the Industrial Policy 1997 and the incentives given under it on the pace of industrialisation of the State, impact on local employment and other objectives set out in the policy. In the absence of a database, even the departments was in no position to keep tabs on the performance of the manufacturing units or even arrive at an approximation of revenues foregone by the State in the form of concessions/exemptions nor was it possible for them or Audit to carry out a systematic analysis on these issues.

After we pointed out the case, the Government while admitting the facts stated that the database of tax incentives availed by industrial units was being processed.

We recommend that a centralised database may be created to achieve the objectives mentioned in the preceding paragraphs.

2.9.7.2 Non-fulfilment of export obligation by industrial units set up in Export Promotion Industrial Park

The Government of India in 1996 circulated the guidelines for the establishment of Export Promotion Industrial Parks (EPIP) by the State Governments. As per the guidelines, a precondition for setting up a unit in the EPIP was for a legal undertaking to be submitted by the promoter(s) to export not less than 25 *per cent* of the unit's total production outside the country. Tax incentives were to be offered to EPIP units subject to the fulfilment of this obligation. As per the guidelines of the Government of India for establishment of EPIPs, 25 *per cent* of the units set up in the Park were to be monitored by the implementing agency on an annual basis for a period of five years from the date of commencement of commercial production by each unit. The unit should achieve the obligation within this period. State Level Committee (SLC) was to prescribe monitoring formats to be collected on half-yearly basis from the EPIP units for watching export performance.

The Government of Meghalaya in accordance with the above guidelines established an EPIP at Byrnihat in Ri-Bhoi district in 1996 and tax incentives under the Meghalaya Industries (Exemption of Sales Tax) Schemes, 2001 was offered to units to be set up in the EPIP. Twenty-eight industrial units, all registered with ST at Nongpoh, were established in the EPIP. The units sold goods valued at ₹ 1,923.23 crore between April 2004 and March 2010 against which goods valued at ₹ 88.56 lakh was exported by only one unit during the aforesaid period. Though none of the 28 units fulfilled the 25 *per cent* export obligation, the AO exempted them from payment of tax to the tune of ₹ 76.93 crore resulting in a revenue loss to that extent.

Thus, failure of the Industries Department (the implementing agency) to monitor the fulfilment of export obligations by the units on an annual basis, laxity on the part of the SLC to prescribe any monitoring formats for this purpose and compounded with the irregularity committed by the AO, resulted in tax exemptions totalling ₹ 76.93 crore being allowed to 28 manufacturing units who were otherwise not eligible for the same.

After we pointed out the case, the Government stated that the tax exemption granted to industrial units was correct as 25 *per cent* export obligation on the part of the industrial units set up in the EPIP area was not incorporated in the Industrial Policy of 1997. The reply is not tenable

as tax incentives availed by EPIP units were subject to fulfilment of their export obligations.

2.9.7.3 Undue advantage to industrial units due to lack of clarity in the schemes of 2001 and 2006 regarding period for which incentives are to be allowed

As per Meghalaya Industrial (Sales Tax Exemption) Schemes, 2001, existing industries which undertake expansion, modernisation or diversification will be eligible for tax incentives from the date of commercial production for seven and nine years in the case of SSI and LMSI units respectively. The scheme is silent as to whether the total production or the proportionate increase in production over the existing capacity was to be considered for the purpose of tax incentives. Lack of clarity on this point has resulted in industrial units exploiting this loophole and availing tax incentives for more than the stipulated period of seven or nine years as illustrated in the cases below.

- A LMSI cement manufacturing unit with a capacity of 270 tonnes per day (TPD) registered with the ST, Williamnagar started commercial production in 31 March 1998. Under the scheme of 2001, it was thus eligible for tax incentives upto 28 February 2005. The unit undertook an expansion programme and enhanced its capacity to 355 TPD from March 2006 (month of commercial production). Between April 2006 and September 2009, the unit sold cement valued at ₹ 108.97 crore. The AO exempted the entire amount from payment of tax, instead of ₹ 34.37 crore which would have been the case had the tax incentives been allowed only in respect of the additional capacity created. The unit by undertaking the expansion program not only became eligible for tax incentives on its enhanced capacity but in effect, also extended tax incentives on its original capacity of 270 TPD which was originally scheduled to expire in February 2005 to February 2013. In this case, the loss of revenue as a result of extending the tax incentives on the total enhanced production of the unit worked out to ₹ 9.33 crore.

- A SSI unit registered with ST, Nongpoh started commercial production in December 1997 and was thus eligible for tax incentives upto December 2006. It was seen that its average annual turnover during 1998-99 to 2003-04 was ₹ 62.86 lakh per year. The unit undertook an expansion programme and commenced commercial production at enhanced capacity from February 2005 and its average annual turnover for the period 2005-06 to 2008-09 consequently increased to ₹ 1.66 crore per year. Between April 2005 and March 2009, the unit sold goods valued at ₹ 8.29 crore and the entire amount was exempted from payment of tax . Had the AO allowed the tax incentives only on the increased turnover, only ₹ 3.14 crore would have been exempted from tax. Here also, the unit

by undertaking an expansion programme, in effect, extended the tax incentives enjoyed by it from December 2006 to February 2012[6] on its total enhanced turnover. The loss of revenue as a result of extending the tax incentives on the total turnover of the unit worked out to ₹ 64.44 lakh.

After we pointed out the case, the Government, while admitting the facts, stated that the modalities of a new industrial policy in harmony with the tax scheme were being worked out and the new policy should be in place by 2012.

2.9.7.4 Inconsistencies between the Industrial Policy 1997 and the Meghalaya Industries (Tax Remission) Scheme, 2006

The Industrial Policy 1997, though initially envisaged for a period of five years, has till date not undergone any revisions or amendments. The various stipulations of the Meghalaya (Sales Tax Exemption) Schemes, 2001 are in harmony with the provisions of the Industrial Policy 1997. However, we observed the following inconsistencies between the Meghalaya Industrial (Tax Remission) Scheme, 2006 (which replaced the scheme of 2001) and the Industrial Policy 1997.

- The Industrial Policy 1997 states that industries undertaking expansion, modernisation or diversification will be eligible for tax exemption for a further period of seven years and this provision was also incorporated in the scheme of 2001. However, even though the Industrial Policy 1997 has not undergone any changes, the Meghalaya Industrial (Tax Remission) Scheme, 2006 is silent on this aspect leading to confusion on the issue as illustrated in the following case.

An LMSI unit registered with ST, Nongpoh started commercial production from 1 January 2001 and was granted tax exemption upto 31 December 2007, *i.e.*, for a period of seven years. It undertook expansion from 1 February 2007 (after the Meghalaya Industrial (Tax Remission) Scheme, 2006 was introduced) and was granted tax exemption for a further period of seven years. Between January 2008 and March 2009, the unit sold goods valued at ₹ 93.84 crore and was allowed tax incentives of ₹ 4.18 crore. Since the scheme of 2006 is silent on the issue of further tax exemptions to units undertaking expansion, modernisation or diversification (notwithstanding the fact that the Industrial Policy 1997 has not undergone any changes to this effect), a view can be taken that the tax incentives of ₹ 4.18 crore allowed in this case was not in order.

- Under the Meghalaya Industrial (Tax Remission) Scheme, 2006, an industrial unit approved by the SWA on or before 30 April 2005 or having started commercial production before 1 May 2005 shall be deemed as an eligible unit for availing tax incentives. On the other hand, the

[6] The unit after the expansion programme was converted from a SSI unit to a LMSI unit.

Industrial Policy of 1997 has not undergone any change/amendment to this effect. As far as the policy stands, all manufacturing units set up in the State in accordance with the stipulations and conditions spelt out in the policy, are eligible units irrespective of when they were/are set up. This ambiguity leads to a piquant situation as in the case below.

Two industrial unit s registered with ST, Nongpoh were approved by the SWA on 24 April 2006 and 15 July 2007 respectively and ECs and COEs were accordingly issued to them by the concerned authorities. Since the units were approved after 30 April 2005 and going by the scheme of 2006, the grant of EC s and COEs in these two cases was incorrect. Between January 2008 and March 2010 the two unit s sold goods valued at ₹ 93.45 crore and availed tax incentive of ₹ 1.13 crore – a benefit which can be taken to be irregular.

After we pointed out the case, the Government, while admitting the facts, agreed to harmonise the tax incentive scheme with the Industrial Policy.

We recommend that the Government may take steps to harmonise and sync the SWA guidelines with the provisions of the Industrial Policy 1997 and the scheme of 2006.

2.9.7.5 Check post set up at an inappropriate location

For transporting raw materials, machineries etc. from outside the State and for sale of manufactured goods in course of interstate trade etc, every manufacturer is required to file before the officer-in-charge of a Sales Tax check post, a declaration of the goods imported or exported. A copy of the declaration is to be sent to the concerned AO where the unit is registered for cross verifying the particulars furnished with reference to the accounts/records furnished by the manufacturer at the time of a ssessment. As such the proper location of the check post is vital from the revenue standpoint.

Out of 170 industrial units in the State as on March 2010, 95 units (all established after the announcement of the Industrial Policy 1997) are located between the Byrnihat checkpost and the border with Assam . The Byrnihat check post is itself about six kilometre s away from the Assam border and thus not ideally located. The inconvenient location of the check post leaves open the possibility that some industrial units may not be submitting the prescribed declarations at the check post on every required occasion with the result that in such cases, the AO will have no alternative but to accept the returns furnished by the manufacturers during assessment.

After we pointed out the case, the Government, while admitting the facts, stated that a committee with the COT as convenor has been formed to identify a strategic location for setting up of an integrated check post.

We recommend that the Taxation Department may relocate the check post to a more strategic location.

2.9.7.6 Absence of provision in the Industrial Policy of 1997 to verify genuine employment of local tribal people in the industrial units

An important objective of the Industrial Policy of 1997 was to provide employment to the local people. To ensure this, the policy stipulated that a unit eligible for incentives under the policy must employ local tribal people to the extent of

- 60 *per cent* in non-managerial cadres at the inception stage;
- in the managerial cadre, 60 *per cent* employment of local tribal people in non-technical posts and 50 *per cent* in technical/supervisory/skilled categories.

A unit was to give an undertaking that if this condition was violated, State government subsidies/incentives availed of by it would be fully refunded. Further, to obtain approval from SWA a letter of commitment in respect of employment of local people is mandatory.

It follows that given the pre-eminence of this objective, it would be expected that a stringent reporting and monitoring system would have been prescribed by the Government to provide for submission and verification of the periodical returns/reports by the units on employment of local tribal people and spot inspections/crosschecks by and between implementing agencies. We found that this was not the case. The commitment to employ local tribal people was not being watched at any level.

We requested the Regional Provident Fund Commissioner and Khasi Hills Autonomous District Council to give us access to their records so as to check the compliance of this condition. From the records of nine units provided by these agencies, it was seen that these units employed a total of 1,357 employees out of which 340 (25 *per cent*) were local employees. Out of the nine units, only one unit employed 62 *per cent* local tribal employees. In the remaining eight units, employment of local people varied from 3 to 51 *per cent*. The eight defaulting units sold goods valued at ₹ 1,226.92 crore between April 2005 and September 2009 and availed ₹ 85.28 crore as tax incentives thereon. Thus, laxity on the part of the implementing agencies to verify the actual employment of local tribal people led to a revenue loss of ₹ 85.28 crore besides non-fulfilment of an important policy objective.

2.9.7.7 Defect in SWA clearance

One of the guidelines for obtaining SWA clearance is that the unit should have at least one local tribal promoter/director/partner. However, the

guidelines are silent regarding penal action to be taken when a local tribal promoter/director/partner is subsequently replaced by a non-tribal after the SWA clearance is accorded.

- 23 manufacturing units registered with ST, Nongpoh did not have any local tribal on their Board of Directors since inception as intimated by the Registrar of Companies, Shillong. The SWA however, overlooked this requirement and irregularly gave clearance for these units to be set up. Based on the clearance given by the SWA, the implementing agencies as well as the Taxation Department issued EC/COA/COE and granted tax incentives to these units under the Industrial Policy 1997. These 23 units sold goods valued at ₹ 562.36 crore between May 2002 and March 2010 and availed tax exemption/concession and remissions of ₹ 27.49 crore during the aforesaid period.

- In ST, Nongpoh a manufacturing unit registered under the Companies Act, 1956 appointed a local tribal as one of the directors of the company in August 2004. We noticed that the local tribal director had resigned and in his place a non-tribal director was appointed in September 2004.

- Another unit in Nongpoh appointed a local tribal in September 2003 as one of the directors of the company. From November 2009, he ceased to be a director and in his place no local tribal was appointed till date (October 2010).

No action could be initiated by the implementing agencies as the SWA guidelines, policy or schemes did not contemplate or provide for such a situation.

After we pointed out the case, the Government, while admitting the facts, stated that action will be taken against defaulting industrial units.

2.9.7.8 Irregular exemption on sale of raw material in transit

The Industrial Policy 1997 and the schemes of 2001 and 2006 framed thereunder, stipulate that eligible units can only avail of tax exemption on sale of finished products within the State or in the course of Inter-State trade or commerce. In the following two cases the units ordered import of raw materials for manufacture of finished goods but sold a portion of the raw material in transit.

- A unit manufacturing ferro-alloys and registered with the ST, Nongpoh, imported manganese ore valued at ₹ 5.36 crore between April 2007 and March 2009 as raw material for manufacture of finished goods. The manufacturer, however, sold a portion of the raw material valued at ₹ 3.03 crore to the dealers of West Bengal and Orissa in transit and balance ₹ 2.33 crore within the State. While the Assessing Officer (AO) assessed the unit to tax of ₹ 2.33 crore on local sale of raw materials, it

was exempted from tax on the sale of ₹ 3.03 crore of raw material made in transit outside the State.

➢ Another unit manufacturing paraffin and foot oil[7] and registered with ST, Nongpoh imported 25 consignments of wax valued at ₹ 85.46 lakh between April 2005 and March 2007 from two dealers in West Bengal. Out of 25 consignments, 13 consignments amounting to ₹ 41.92 lakh was sold in transit to dealers of other States. The AO in his assessment exempted the sale of ₹ 41.92 lakh from payment of tax which was irregular.

➢ Another unit manufacturing steel tubes and registered with ST, Nongpoh, imported zinc and nickel valued at ₹ 3.64 crore between April 2006 and March 2007 as raw material and sold the entire consignment during transit. The AO in his assessment exempted the tax on sale of the entire amount which was irregular.

Since the policy and schemes did not allow for availing tax exemption on sale of raw material, the exemption granted by the AO in the above two cases were irregular and resulted in a revenue loss of ₹ 28.34 lakh.

After we pointed out the case, the Government stated that the matter had been brought to the notice of the concerned AO to initiate necessary action.

COMPLIANCE DEFICIENCIES

2.9.8.1 Non-initiation of action to cancel COA/COE despite breach of conditions

As per provisions of the schemes of 2001 and 2006, eligible industrial units shall submit to the AO annual returns showing the total sales tax exemption claimed on sale of finished goods within a period of 30 days after the end of a financial year in prescribed format besides the audited annual statement of accounts and balance sheet to be submitted within six months from the close of the financial year. Failure on the part of the eligible units to submit any of these documents within the specified time frame shall entail termination of the COA or COE as the case may be.

Between April 2004 and March 2010, a total of 170 units in the State were sanctioned tax incentives under the schemes of 2001 and 2006. The units were required to submit 1,020 annual returns and 850 audited accounts during the aforesaid period against which 219 returns and 149 audited annual statements were submitted (position upto June 2010). It was seen that although the AOs formally reminded the defaulting units to submit

[7] A light yellow oil obtained from the feet and shinbones of cattle, used chiefly to dress leather

their returns, audited accounts and financial statements from time to time and despite these notices not being heeded by the units, the AOs did not take steps to terminate the COAs/COEs, an action which was open to them under the schemes of 2001 and 2006.

After we pointed out the case, the Government stated that reply would be furnished after verification of the matter.

2.9.8.2 Tax exemption benefit irregularly extended to goods taxable under Purchase Tax Act

The Meghalaya Industrial Policy, 1997 and the Meghalaya Industries (Sales Tax Exemption) Scheme, 2001 specifically stipulate that only intra or inter-state sale of finished goods which are taxable under the MST and MFST Acts are exempted from payment of tax. It therefore, follows that the benefit of exemption cannot be extended to goods taxable under the Purchase Tax (PT) Act.

In ST, Williamnagar and ST Circle-VIII, Shillong we noticed that one and nine industrial units respectively manufacturing processed lime and lime powder from limestone were taxable under the PT Act. These units were therefore, clearly not eligible for any incentives. However, ECs, COAs and COEs were issued to them by the concerned authorities thus rendering them eligible for the tax incentives. These units sold goods valued at ₹ 88.67 crore between June 2002 and September 2008[8] and were exempted from purchase tax to the tune of ₹ 6.91 crore which was irregular and resulted in revenue loss to that extent.

After we pointed out the case, the Government stated that the exemption from payment of tax was allowed only under the CST Act and not under the PT Act. The reply is not tenable as interstate sale of goods which are otherwise taxable under the PT Act are not exempted from payment of tax under the tax incentive schemes.

2.9.8.3 Delay in assessment

The correctness of tax incentives availed by an eligible unit can be checked by authorities after the AO completes the tax assessment of that unit. It is therefore, imperative that assessments should be completed in a timely manner and not allowed to fall in arrears to protect tax revenues and to check manufacturing units from availing incentives in excess of what is admissible to them. As per provision of the MVAT Act and the rules made thereunder, tax assessments are to be completed within five years by the AOs irrespective of whether units file their returns or not.

[8] Period for which assessments were completed by Assessing Officers during period covered by this review

Against 1,700 cases[9] upto the assessment year 2008-09 due for assessment by March 2010 in the State, 340 cases only had been assessed. Not a single assessment was made in respect of units registered with ST, Williamnagar and ST, Jowai. In STs Khliehriat and Shillong, against 672 cases due for assessment, only eight were assessed. Due to non-finalisation of timely assessment, incentives availed by these units in excess of what was admissible to them, if any, could not be ascertained. Though the status of pending assessment cases is watched by the COT, no effective steps were taken to reduce the arrears in assessment.

➢ Two manufacturing units registered with ST, Nongpoh closed down in March 2005 and September 2007. The units neither intimated the date of closure nor surrendered the eligibility certificates issued to them, which was a pre-condition for closure as laid down in the schemes of 2001 and 2006. It was seen that the AO assessed both the units belatedly between January and February 2009 and assessed tax of ₹ 14.17 lakh and interest of ₹ 12.01 lakh. Since the industries had already closed down, there was no possibility to recover the assessed tax and interest nor could penal action be initiated. Thus, due to delay in assessment, there was revenue loss of ₹ 26.19 lakh.

After we pointed out the case, the Government, while admitting the facts, stated that steps were being taken to complete the assessments.

2.9.8.4 Irregular grant of exemption

Under the incentive schemes of 2001 and 2006, eligible industries are entitled to tax benefits on sales of finished products limited to the goods actually produced in the units not exceeding the installed capacity (or not exceeding a specified level of turnover[10]).

➢ A cement plant registered with ST, Circle-III, Shillong was exempted from payment of tax for production of 2,200 MT of cement annually. During 2004-05 to 2007-08, the unit was to get exemption on sale of 8,800 MT of cement; instead, the plant produced 53,468 MT of cement valued at ₹ 11.86 crore and the entire turnover was exempted from payment of tax. Thus, the unit was allowed tax exemption on an extra 44,668 MT of cement leading to underassessment of tax of ₹ 1.24 crore.

➢ A unit registered with ST, Nongpoh was exempted from tax for production of 1,086 MT of corrugated iron (CI) sheets annually. During 2008-09, the unit produced and sold 3,620 MT of CI sheets and sale of entire quantity was exempted from payment of tax. Thus, 2,535 MT of CI sheets valued at ₹ 17 crore was irregularly exempted resulting in underassessment of tax of ₹ 67.98 lakh.

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[9] In the sample of five of ST offices covered by the review
[10] As seen from approvals granted by SWA

➢ An oxygen-manufacturing unit registered with ST, Nongpoh was exempted from payment of tax on sale of finished goods valued at ₹ 92.40 lakh annually. During 2002-03, the unit manufactured and sold goods valued at ₹ 1.36 crore. The AO exempted the entire turnover from payment of tax. As a result, goods valued at ₹ 44 lakh was irregularly exempted leading to underassessment of tax of ₹ 3.51 lakh.

After we pointed out the case, the Government stated that reply would be furnished after verification of the matter.

2.9.8.5 Inadmissible remission of tax

Under the Meghalaya Industries (Tax Remission) Scheme, 2006, LMSI units are eligible to remission by way of retaining 99 *per cent* of the tax collected as subsidy for a period of seven years from the date of commencement of commercial production.

➢ A manufacturing unit registered with ST, Nongpoh started commercial production on 2 September 2002 and was allowed to avail of tax incentives for a period of seven years from 2 September 2002 to 1 September 2009. The unit, however, continued to claim remission upto 31 March 2010, which was not detected by the AO. Between October 2009 and March 2010 the unit sold goods valued at ₹ 1.06 crore and irregularly retained tax of ₹ 2.98 lakh in violation of the scheme provisions.

➢ A manufacturing unit registered with ST, Williamnagar started commercial production on 1 March 1998 and was allowed to avail tax incentives for a period of seven years from 1 March 1998 to 28 February 2005. The unit, however, continued to claim remission upto 28 February 2006 which was not detected by the AO. Between March 2005 and February 2006, the unit sold goods valued at ₹ 8.20 crore and irregularly retained tax of ₹ 1.03 crore in violation of scheme provisions.

After we pointed out the case, the Government stated that the matter would be re-examined by the concerned AOs.

2.9.8.6 Undue benefit given to a manufacturing unit

As per provision of the Meghalaya Industries (Sales Tax) Exemption Schemes, 2001, LMSI units (with minimum capital investment of ₹ 1 crore) were granted tax exemption for a period of seven years and SSI units (with capital investment below ₹ 1 crore) were to be granted tax exemption for a period of nine years from the date of commercial production.

➢ A manufacturing unit registered with ST, Nongpoh and having fixed capital investment of ₹ 1.94 crore started commercial production from 15 January 1998. The unit was wrongly classified as SSI unit by the Director of Industries and EC was issued to it for a period of nine years

upto 14 January 2007 instead of seven years *i.e.*, upto 14 January 2005. Between 15 January 2005 and 14 January 2007, the unit sold goods valued at ₹ 1.52 crore and the entire turnover was irregularly exempted by the AO while making assessment in October 2008.

2.9.8.7 Irregular grant of remission under the CST Act

Under the scheme of 2006, industrial units shall be eligible for retaining 99 *per cent* of the tax collected as subsidy in respect of intra state sale in respect of sale of finished products manufactured by those units within the State. In respect of inter-state sale to registered dealers, tax is leviable at a concessional rate of one *per cent* on the turnover.

➢ An industrial unit registered with ST, Khliehriat sold finished goods valued at ₹ 16.32 crore between April 2007 and June 2009 in course of inter-state trade. The AO while assessing the unit in January 2010, allowed remission by way of retaining 99 *per cent* of tax collected as subsidy instead of assessing one *per cent* on turnover. As a result tax of ₹ 40,000 were assessed instead of ₹ 16.32 lakh. This resulted in underassessment of tax of ₹ 15.92 lakh.

After we pointed out the case, the Government stated that the concerned AO had been asked to look into the case records of the dealer.

2.9.8.8 Non-levy of tax on sales made before commercial production

Under the schemes of 2001 and 2006, eligible industrial units are entitled to tax exemption on sale of finished goods produced from the date of commencement of commercial production.

➢ A manufacturing unit registered with ST, Nongpoh started commercial production from 1 April 2004. The unit however, sold finished goods valued at ₹ 31.29 lakh in February 2004 before commencement of commercial production and thereby was not entitled to get exemption from the payment of tax. The AO, however, exempted the turnover from payment of tax, leading to non-levy of tax of ₹ 3.91 lakh.

After we pointed out the case, the Government stated that necessary action would be taken after verification of dealer's accounts.

2.9.8.9 Irregular issue of COE

Under the Meghalaya Industries (Tax Remission) Scheme, 2006, a manufacturing unit is required to sequentially obtain the following clearances before being considered an eligible unit for tax exemptions:

- Eligibility Certificate (EC) from the Industries Department/MIDC;
- Certificate of Authorisation (COA) and Certificate of Entitlement (COE) from the Taxation Department.

➢ Six industrial units registered with the ST, Nongpoh applied for COEs to the AO, which were issued accordingly. None of the units obtained COAs before issue of COE. As such, issue of COE without COA was irregular. The units sold goods valued at ₹ 121.10 crore between October 2006 and 31 March 2010 and availed tax incentives amounting to ₹ 2 crore.

➢ A manufacturing unit registered with the ST, Nongpoh neither applied for COE nor was one issued to it. The unit sold finished goods valued at ₹ 3.14 crore between October 2006 and June 2007. The AO levied tax of ₹ 12,000 and allowed it tax exemptions to the tune of ₹ 12.44 lakh.

After we pointed out the case, the Department, while admitting the facts, stated that administrative orders would be issued to prevent such lapses in future.

2.9.8.10 Inadmissible exemption

As per schemes of 2001 and 2006, eligible industries shall be entitled to the benefit of tax incentive on sale of manufactured finished goods.

➢ A cement manufacturing unit registered with ST Khliehriat was exempted from payment of tax on sale of cement only. But the company, in addition to cement, sold clinker valued at ₹ 147.93 crore between April 2007 and March 2009 and tax exemption of ₹ 5.91 crore was irregularly allowed by the AO.

After we pointed out the case, the Government stated that the concerned AO had been asked to re-examine the case records of the dealer and submit report.

2.9.8.11 Exemption and concession granted to eligible industrial units under the CST Act

Under the Meghalaya Industries (Sales Tax Exemption) Scheme, 2001, eligible industrial units are exempted from payment of tax in respect of sales in course of inter-state trade which are supported by declaration in form 'C' or 'D'[11] as the case may be. Under the Meghalaya Industries (Tax Remission) Scheme, 2006, tax at concessional rate of one *per cent* is to be levied in respect of inter-state sales made by eligible units provided the sale is made to a registered dealer or to the Government duly by covered a declaration.

The CST Act provides that the 'C' form shall be furnished to the prescribed authority in the prescribed manner duly filled and signed by the

[11] A 'C' form is issued by a registered purchaser to a registered seller in course of interstate trade. A 'D' form is issued by a purchasing government department to a registered seller in course of inter-state trade (since withdrawn from 1 April 2007).

registered dealer to whom goods were sold, containing the prescribed particulars in prescribed form obtained from the prescribed authority. The C-form marked "original" shall be submitted to avail exemption/concession by the unit. Each single declaration shall contain transaction of sale of one quarter.

If any unit fails to furnish valid declarations in form 'C' or 'D' tax is leviable at the following rate(s):

Table 2.9

Period	Type of goods	Rate of tax
Upto 31 March 2007	**Declared goods**	Twice the rate applicable to sale of goods within the State.
	Other goods	At 10 *per cent* or at the rate applicable to sale of goods within the State whichever is greater.
From 01 April 2007	In both the cases, the rate applicable to sale of goods within the State.	

We scrutinised the assessment records of eligible units in the five selected ST offices and found that 62 eligible units sold goods valued at ₹ 164.64 crore in course of inter-state trade. Although the units did not comply with the statutory requirements for availing tax exemptions/concessions, yet, the AOs granted them concessions/exemptions resulting in under assessment of tax of ₹ 8.57 crore as summarised below:

Table 2.10

(Rupees in crore)

Sl. No.	Period/Circle	Nature of observation	Amount	Tax effect
1.	April 2004 & March 2009 **Nongpoh**	32 units submitted incomplete 'C' forms which were accepted by the AO.	98.81	3.95
2.	April 2006 & March 2009 **Nongpoh**	Two units failed to furnish 'C' forms in support of interstate sales but the AO irregularly allowed concessional rate of tax during assessment.	14.56	0.61
3.	Jan 2006 & Dec 2007 **Nongpoh**	A unit sold IMFL in course of interstate trade to unregistered dealers but the AO applied incorrect rate of tax of 12.5 *per cent* during assessment instead of 20 *per cent.*	0.16	0.01
4.	April 2006 & March 2007 **Circle III**	A unit sold cement in course of interstate trade to two unregistered dealers in Arunachal Pradesh and produced 'C' forms in support of sales. Though the information regarding the purchasing dealers being unregistered was available with the AO, yet he accepted the invalid 'C' forms and irregularly exempted the unit from payment of tax.	2.50	0.05
5.	Oct 2005 & March 2007 **Nongpoh**	Three units furnished 12 'C' forms in support of interstate sales. However, the purchasing dealers were not registered on the date of purchase and	1.48	0.14

		thus the 'C' forms were invalid. The information was available with the AO but he did not take it into account and irregularly accepted the invalid forms resulting in underassessment of tax.		
6.	April 2006 & June 2008 **Circle-III, Shillong & Nongpoh**	Five units furnished eight 'C' forms in support of interstate sales. The 'C' forms were not in prescribed format as provided under the CST Act, but the AO accepted the invalid forms and assessed the units accordingly.	3.04	0.13
7.	Jan 2008 & March 2009 **Circle-III, Shillong & Nongpoh**	Nine units made inter-state sales from their offices based at Guwahati and Kolkata. Though the interstate sales were made by these units from other States and thus were not eligible for exemption/concession in Meghalaya, yet, the units furnished 'C' and 'D' forms to the AOs in support of such sales and the AOs irregularly accepted the forms and assessed these units accordingly.	27.35	1.97
8.	April 2004 & March 2009 **Nongpoh**	Seven units made interstate sales and furnished 'DUPLICATE' copies of 'C' forms instead of 'ORIGINAL' and the AO accepted the forms. Since production of 'ORIGINAL' copies of 'C' forms is mandatory for availing tax incentives as pronounced by the apex court[12], acceptance of 'DUPLICATE' copies of forms was irregular.	8.51	0.82
9.	April 2005 & March 2006 **Circle-III, Shillong & Nongpoh**	Two units furnished two 'C' forms in support of interstate sales which covered transactions of more than one quarter and were thus invalid. The AO irregularly accepted the forms and exempted the units from payment of tax.	8.23	0.89
TOTAL			**164.64**	**8.57**

2.9.9 Conclusion

There were instances of lack of clarity in the industrial policy and schemes of 2001 and 2006 that affected the assessment and collection of revenue. The Meghalaya Industries (Tax Remission) Scheme, 2006 was not in sync with the industrial policy. Though the Industrial Policy 1997 was for a period of five years, no new policy was formulated even after expiry of this period nor had the Government notified the continuation of the policy.

[12] M/s India Agencies Vs Additional Commissioner of Commercial Taxes, Bangalore (139 STC 329 [2005] SC)

No central database of tax incentives sanctioned and availed was maintained either by the implementing agencies or by the Taxation Department for evaluation, monitoring and proper implementation of the policy and schemes. Co-ordination between Taxation Department and implementing agencies was non-existent. There was no mechanism to ascertain periodic submission of returns by the manufacturing units and timely completion of tax assessments by the AOs.

2.9.10 Summary of recommendations

We suggest implementation of the following recommendations for addressing the system and compliance issues brought out in this review:

- **creating a centralised database for the purposes of assessing the impact of the Industrial Policy 1997, the achievement of the objectives set out thereunder and the revenues foregone by the State under the schemes of 2001 and 2006;**
- **Government should take steps to harmonise and sync the SWA guidelines with the provisions of the Industrial Policy 1997 and the scheme of 2006;**
- **prescribing guidelines for effective coordination between implementing agencies and the Taxation Department;**
- **imposing penal action on defaulting industries set up in EPIP who fail to fulfil minimum export obligations; and**
- **relocating the Byrnihat check post to a more suitable location.**

2.10 Other audit observations

Scrutiny of the assessment records of the Taxation Department indicated cases of non-observance of the provisions of the Acts / Rules, non/short levy of tax, turnover escaping assessment, concealment of turnover etc., which are mentioned in the succeeding paragraphs. Such omissions on the part of the AOs are pointed out in audit each year but not only do the irregularities persist, these remain undetected till an audit is conducted. There is a need for the Government to streamline the functioning of the Department so as to ensure that such omissions are detected, rectified and avoided in future.

MEGHALAYA VALUE ADDED TAX ACT

2.11 Non-realisation of tax on sale of liquor

We obtained information from the Commissioner of Excise, Meghalaya in April 2010 and found that three bottling plants sold 9,07,076 cases of liquor between April 2009 and January 2010 valued at ₹ 99.49 crore to the dealers within the State. The bottling plants were required to pay tax of ₹ 19.89 crore. However, we cross-verified the records of ST, Nongpoh and ST, Circle-VI, Shillong and found that the bottling plants neither paid any tax nor was any action initiated by the AOs to complete assessments and realise the tax. This resulted in non-realisation of tax of ₹ 19.89 crore. There was no system of cross-verification of transactions between the departments to check such evasions of tax.

Under Section 44 of the MVAT Act, goods specified in schedule-V are taxable at the first point of sale. As per the Item 1 of the schedule V of the Act, liquor is taxable at the rate of 20 *per cent*.

We recommend that the Government may put in place a system of cross-verification of transactions between the departments to check evasion of tax.

We reported the case to the Department/Government in May 2010 but their reply has not been received (October 2010).

2.12 Short realisation of penalty

2.12.1 During test check of the offence case registers of STs, Byrnihat and Umkiang check posts in December 2009 we found that the officers-in-charge of the check posts detected 12,469 cases between April 2007 and March 2009 in which the transporters carried taxable goods without proper particulars. The officers-in-charge levied and collected composition money of ₹ 23 lakh instead of ₹ 6.23 crore calculated at the minimum rate of ₹ 5,000. While levying lesser amounts than those prescribed, the assessing officer (AO) did not mention the reasons for such deviation from the provisions of the Act. This resulted in short realisation of composition money of ₹ 6 crore.

> Under Section 75(1) of the MVAT Act, no person shall transport any consignment of goods through the check post except in accordance with conditions as prescribed in the Act. Further, under Section 80(b) of the Act, if a dealer transports any goods in contravention of section 75 *ibid*, the Commissioner may accept from such dealer, a sum not exceeding ₹ 5,000 or double the amount of tax, whichever is greater, by way of composition of offence.

2.12.2 We observed during test check of records of the STs, Byrnihat and Umkiang check posts that 76,509 MT of limestone and 55,396 MT of coal having tax effect of ₹ 98.07 lakh was carried beyond the permissible limit of 15 MT in each truck between April 2007 and March 2009. The excess load carried was without any *challan*, bill of sale, etc. and the truckers were liable to pay penalty of ₹ 4.90 crore against which the department collected ₹ 96.13 lakh. This led to short-realisation of penalty of ₹ 3.94 crore.

> Further, under Section 76(5) of the MVAT Act, if the driver or the person in charge of vehicles fails to produce records of taxable goods being carried including challans, bills of sale, declaration forms etc., the officer-in-charge of the taxation checkpost shall impose penalty equal to five times the tax leviable on such goods or 20 *per cent* of the value of goods, whichever is greater.

2.12.3 We noticed during test check of records of the ST, Byrnihat check post, that 310 consignments of taxable goods valued at ₹ 2.63 crore and having a tax effect of ₹ 21.90 lakh crossed the check post between April 2007 and March 2010. The goods carried were not supported by any *challan*, bill of sale, etc. and the transporters were liable to pay penalty of ₹ 1.10 crore against which the department collected ₹ 1.77 lakh. This led to short-realisation of penalty of ₹ 1.08 crore.

We reported the cases to the Department/Government between September 2008 and January 2010 but their reply has not been received (October 2010).

2.13 Non-levy of penalty for belated submission of returns

Under the MVAT Act, every registered dealer shall submit quarterly return within 21 days from the close of quarter. If the dealer fails to furnish the return by the prescribed date, the Commissioner may direct him to pay a penalty of ₹ 100 per day of default subject to a maximum of ₹ 10,000.

We collected information from seven[13] unit offices between May and July 2009 and found that 222 dealers furnished 2616 quarterly returns for return period ending between 30 June 2005 and 31 December 2008 belatedly with an average delay of 253 days as shown below:

Table 2.12

Sl No.	Period of delay	No. of returns	No of dealers
1.	< 30 days	186	14
2.	> 30 days & < 180 days	1428	145
3.	> 180 days & < 1 year	558	35
4.	> 1 year & < 5 years	444	28
Total		**2616**	**222**

For belated submission of the returns, penalty of ₹ 2.58 crore was leviable. However, the AOs did not initiate any action to levy penalty against the defaulters. This resulted in non-levy of penalty of ₹ 2.58 crore.

We reported the case to the Department/Government in December 2009 but their reply has not been received (October 2010).

2.14 Loss of revenue due to non-registration of dealers

While auditing Taxation Department, we took into account the information available such as vouchers audited by Central Audit Party of our office which gave us the idea of dealers making sales/supplies to Government Departments. Other than this, we integrated the information made available to us by Civil and Commercial Audit Wings and cross-verified the same with the records of the STs and noticed that in STs, Circle VI, Shillong, Jowai and Tura, 86

Under the MVAT Act, no dealer, liable to pay tax, shall carry on business, unless he has been registered and possesses a certificate of registration.

[13] STs, Circles I, II, III, IV & VI, Jowai, Nongpoh and Shillong.

unregistered dealers evaded tax of ₹ 52.31 lakh by selling taxable goods for which, penalty of ₹ 91.16 lakh was also leviable

The MVAT Act, and the rules or instructions made thereunder do not provide any system of co-ordination between the Taxation Department and other Government Departments/Companies/Corporations for registration of unregistered suppliers/dealers in order to avoid evasion of tax.

Absence of this provision and laxity on the part of the departmental authorities resulted in non-realisation of tax as mentioned in the following paragraphs:-

2.14.1 A Government cement manufacturing company purchased 45,959 MT of coal and 19,700 MT of clay valued at ₹ 8.90 crore and ₹ 51.47 lakh respectively between April 2007 and March 2009 from 80 unregistered dealers on which tax of ₹ 37.64 lakh was required to be deducted at source and deposited into Govern-ment account. The comp-any neither deducted tax at source, nor did the dealers apply for regist-ration and pay the due tax. Thus, failure of the company to deduct tax at source as well as non-registration of the dealers by the department led to loss of revenue of ₹ 37.64 lakh. Besides, penalty of ₹ 75.28 lakh was also leviable.

> The MVAT Act, and the rules framed provide that if any dealer liable to pay tax has failed to get himself registered, the registering authority shall register such dealer and direct him to pay, by way of penalty, a sum equal to twice the tax collected in addition to the amount of tax for which he may be liable. Further, every Government department, company, corporation etc. shall deduct tax at source at prescribed rate while making payment to the dealer and deposit it into Government account.

2.14.2 We cross-verified the records of ST, Circle-VI with those of ST, Circle-I, Shillong and noticed that two dealers sold stone aggregate valued at ₹ 29.62 lakh between March 2007 and September 2008 to a construction company. The dealers neither applied for registration nor paid the due tax. Thus, failure on the part of the department to register the dealers led to loss of revenue of ₹ 3.70 lakh. Besides, penalty of ₹ 7.40 lakh was also leviable.

2.14.3 We obtained information from Meghalaya Legislative Assembly and found that a dealer supplied tea and snacks valued at ₹ 49.94 lakh to the Assembly Secretariat betw-een May 2005 and May

> Food items are not covered by First, Second, Third and Fourth Schedule and are taxable at the rate of 12.5 *per cent*.

2007. We cross-verified the same with the records of ST, Circle-VI and noticed that the dealer was not registered. The Government department, however, deducted tax at the rate of four *per cent* instead of 12.5 *per cent*. Thus, application of incorrect rate as well as non-registration of the dealer led to short realisation of tax of ₹ 4.24 lakh. Besides, the dealer was also liable to pay penalty of ₹ 8.48 lakh.

2.14.4 We obtained information from the DC, West Garo Hills, Tura and cross-verified the same with the records of the ST, Tura in October 2009 and noticed that a dealer sold computers, etc. valued at ₹ 93.21 lakh between October 2003 and October 2005 to the DC who did not deduct the tax at source while making payment. The dealer neither applied for registration nor was any action initiated by the ST to register the dealer and recover the tax. This resulted in loss of revenue of ₹ 6.73 lakh.

2.14.5 We obtained information from the Divisional Forest Officers, Khasi and Jaintia Hills Forest Divisions between July and October 2009, and found that the two divisions sold stones, sand and clay having royalty value of ₹ 2.93 crore between 2007 and July 2009 to the permit holders. We cross-verified the same with the records of ST, Circle-VI and ST, Jowai and found that the neither the DFOs were registered as dealers nor did the DFOs realise the VAT while collecting the royalty from the permit holders. This led to non-realisation of revenue of ₹ 32.23 lakh.

The Government may consider introducing a system of co-ordination between the Taxation Department and other Government Departments/Companies/Corporations for cross verification of the transactions made by the dealers in order to check evasion of tax by unregistered suppliers/dealers.

We forwarded the cases to the Department/Government between May and October 2009 but their reply has not been received (October 2010).

2.15 Suppression of purchase

We noticed during test check of records of the STs, Tura and Williamnagar between January and February 2010 that two registered dealers did not disclose purchase of ₹ 2.64 crore in their returns. This resulted in evasion of tax of ₹ 26.08 lakh on which, penalty of ₹ 52.16 lakh was also leviable as mentioned in the table below:

> Under the MVAT Act, if a dealer furnishes false return or false statement of declaration, the Commissioner may accept penalty by way of composition of offence, a sum not exceeding ₹ 5,000 or double the amount of tax, whichever is greater.

Table 2.13

(Rupees in lakh)

Sl. No.	Return period	Nature of observation	Suppression of purchase	Tax effect /penalty
1.	April 2006 to March 2007	A cement dealer[14] disclosed purchase of cement valued at ₹ 78.77 lakh. Cross-verification with Sales Tax Office, Guwahati revealed that the dealer actually imported cement valued at ₹ 1.52 crore during the same period by utilising four 'C' forms. Thus, there was suppression of purchase.	152	12.16 24.32
2.	April 2006 to March 2009	A dealer[15] purchased motor vehicles, motor parts, tyre tubes valued at ₹ 1.12 crore by utilising a 'C' form. The same was not disclosed by him in his quarterly returns. Thus, there was suppression of purchase.	112	13.92 27.84

We reported the case to the Department/Government between March and May 2010 but their reply has not been received (October 2010).

2.16 Irregular claim of input tax credit

We noticed during audit of ST, Williamnagar in February 2010 that a dealer purchased coal valued at ₹ 2.72 crore between February and September 2009 from registered dealers within the State and claimed input tax credit of ₹ 10.78 lakh through quarterly returns submitted to the AO for scrutiny. We further noticed that the dealer neither furnished any evidence in support of his claim for input tax credit nor did the AO scrutinise the returns. As such, the input tax credit

Under the MVAT Act, a registered dealer who claims input tax credit shall maintain accounts, evidence and other records such as tax invoice in prescribed format, cash memo or bill. Further, each and every return furnished by a registered dealer shall be subject to scrutiny by the AO to verify the correctness of calculation, application of correct rate of tax, interest and input tax credit claimed thereunder. Unregistered dealers are not entitled to any input tax credit.

[14] Registered under ST, Tura
[15] Registered under ST, Williamnagar

claimed by the dealer was not admissible. Thus, failure of the AO to verify the correctness of returns led to non-detection of inadmissible claim of input tax credit of ₹ 10.78 lakh.

We reported the case (May 2010) to the AO who justified the claim of ITC and furnished a detailed statement of invoices from three dealers in support of his argument. However a scrutiny of these statements revealed that one of these dealers was not registered while the remaining two dealers had not disclosed any local sales during the aforesaid period for which ITC was claimed and as such the ITC claim was not admissible to the dealer.

We reported the case to the Government in May 2010 but their reply has not been received (October 2010).

2.17 Non-forfeiture of tax

Under the provisions of Section 61 of the MVAT Act, if any sum is collected by a dealer in contravention of the provisions of the Act, such sum shall be forfeited to the State Government. For contravention of the provisions of Section 61, the Commissioner may impose a penalty not exceeding twice the tax liability.

We noticed in ST, Circle III, Shillong in January 2010 that a dealer sold goods valued at ₹ 1.65 crore between August 2005 and October 2007. He collected tax at the rates higher than the prescribed one. This resulted in excess collection of tax of ₹ 8.96 lakh. The AO did not detect the omission at the time of submission of returns. Thus, the amount could not be forfeited. Besides, penalty of ₹ 17.92 lakh was also leviable.

We reported the case to the Department/Government in March 2009 but their reply has not been received (October 2010).

2.18 Incorrect application of rate of tax

We noticed during audit of the ST, Circle VI, Shillong in March 2010 that a dealer executed works contract and supplied furniture valued at ₹ 3.27 crore to a Government department between November 2005 and October 2007 and charged tax at the rate of four *per cent* instead of 12.5 *per cent* and the tax was accordingly deducted for ₹ 13.06 lakh instead of ₹ 40.82 lakh. Thus, application of incorrect rate of tax led to short deduction of tax of ₹ 27.76 lakh.

In Meghalaya, works contracts and furniture are taxable at the rate of 12.5 *per cent*.

We reported the case to the Department/Government in May 2010 but their reply has not been received (October 2010).

2.19 Non-deduction of tax at source

We obtained information from the Civil Audit Wing and cross-checked the same with the records of the STs, Circle-VI, Shillong and Tura and noticed that two buying Departments did not deduct tax at source while purchasing goods worth ₹ 1.70 crore from two dealers. The dealers also did not disclose the turnover in their returns resulting in evasion of tax of ₹ 8.46 lakh. Besides, penalty of ₹ 12.69 lakh was also leviable as mentioned in the table below:

> The Government of Meghalaya, Taxation Department instructed in January 1995 that the buying Government department should deduct tax at source at the rates prescribed in the Act while making payment to the supplier and deposit the tax into Government account. The MVAT Act also incorporated the aforesaid provision.

Table 2.14

(Rupees in lakh)

Sl. No.	Period	Nature of observation	Turnover concealed	Tax/penalty evaded
1.	October '03 to October '05	A dealer[16] sold computers etc. worth ₹ 53.02 lakh to the Deputy Commissioner, Tura. The DC did not deduct tax at source while making payment and the sales were not reflected in the dealer's returns resulting in evasion of tax.	53.02	3.76 5.64
2.	October 2008 to march 2009	A dealer[17] sold medical equipments worth ₹ 1.17 crore to North East Indira Gandhi Regional Institute of Health and Medical sciences. The institute did not deduct tax at source while making payment and the sales were not reflected in the dealer's returns resulting in evasion of tax.	1.17	4.70 7.05

We reported the case to the Department/Government in May 2010 but their reply has not been received (October 2010).

[16] Registered under ST, Circle-VI, Shillong
[17] Registered under ST, Tura

2.20 Loss of revenue under the MVAT Act

We test checked (December 2009) the TP registers of the ST, Byrnihat check post and noticed that out of 332 TPs issued between April 2008 and March 2009, 81 TPs had not been received back. Thus, these vehicles carrying taxable goods had delivered the goods within the State. Out of 81 vehicles, four vehicles did not furnish detailed particulars and value of goods carried. The remaining 77 vehicles carried taxable goods valued at ₹ 2.32 crore and evaded tax of ₹ 12.64 lakh. The department had made no efforts to trace the vehicles though the State Government has established Enforcement Branches (EBs) which was entrusted with the functions of intelligence gathering and interception of the vehicles carrying goods on transit between entry and exit check posts. Thus failure of the department to trace the vehicles resulted in loss of revenue of ₹ 12.64 lakh.

Under Section 77 of the MVAT Act, when a vehicle carrying goods from another State, meant for delivery outside the State, passes through Meghalaya, the driver of the vehicle is required to obtain a transit pass (TP) at the entry check post and produce it to the exit check post and obtain his endorsement with seal and signature as a proof of such exit within 30 days from the date of entry, failing which, the goods are to be deemed as sold within the State.

We reported the case to the department/Government in March 2009 but their reply has not been received (October 2010).

MEGHALAYA FINANCE (SALES TAX) ACT

2.21 Short-levy of tax due to suppression of purchase under the MFST Act

We obtained information from Sales Tax Office at Guwahati and from the taxation check post at Byrnihat and cross-verified the same with records of ST, Circle-IV, Shillong and ST, Tura. We noticed that four dealers did not disclose correct statement of purchases made by them in their returns. This resulted in suppression of turnover amounting to ₹ 3.71 crore leading to short levy of tax of ₹ 43.37 lakh as detailed below:

Under the provisions of Meghalaya Finance (Sales Tax) (MFST) Act, in case of willful concealment of turnover or deliberate furnishing of inaccurate particulars of turnover, the dealer shall be liable to pay penalty not exceeding one and half times the tax

Table 2.15

(Rupees in lakh)

Sl. No.	Assessment Period / Date of assessment	Nature of observation	Suppression of turnover	Short levy of tax / Penalty
1.	Apr 03 to Mar 05 October 2007	A dealer[18] had not submitted returns for the period from April 2003 to September 2004 but had submitted the return for the period from October 2004 to March 2005 and was assessed for ₹ 40.78 lakh. We noticed from the way bills / road permits received from the check post at Byrnihat that the dealer had actually imported onions valued at ₹ 68.64 lakh. The AO did not take into account the check post records resulting in under assessment of turnover.	27.86	2.23 3.35
Remarks: After we reported the matter, the Government while accepting the audit observation (May 2010) issued a show-cause notice to the dealer for re-assessment. A report on further action taken has not been received.				
2.	Apr 03 to Mar 04 Jul 07	We obtained information regarding the purchase of cement valued at ₹ 2.54 crore on 'C' forms by two dealers[19] from Sales Tax office, Unit-A, Guwahati and cross-verified the same with the records of the two purchasing dealers. It revealed that the dealers had not disclosed the purchase turnover in their returns.	254	30.48 45.72
3.	Oct 05 to Sep 07 May 06 to Nov 07	A dealer[20] disclosed turnover of ₹ 15.02 lakh in his returns and was assessed accordingly. While arriving at the taxable turnover, the dealer showed purchases of ₹ 19.56 lakh. However, we noticed from the utilisation statements and information obtained from Sales Tax office at Guwahati that the dealer had purchased goods valued at ₹ 1.08 crore on 'C' forms during the same period. Thus, the dealer concealed taxable turnover of ₹ 88.80 lakh resulting in underassessment of turnover.	88.80	10.66 15.99
Total			**370.66**	**43.37** **65.06**

[18] Registered under ST, Circle-I, Shillong
[19] Registered under ST, Tura
[20] Registered in ST, Circle-IV, Shillong

2.22 Concealment of sales turnover under the MFST Act

We noticed from the records of the STs, Circle III and VI, Shillong in January 2009 and January 2010 that two dealers disclosed turnover of ₹ 3.94 crore in their return from April 2004 to March 2005 and they were assessed accordingly between October 2005 and November 2006. However, as per the statement furnished by the dealers and the sale invoices/vouchers issued by them, we found that the dealers sold goods valued at ₹ 9.27 crore during the aforesaid periods. The dealers concealed turnover of ₹ 5.33 crore having tax effect of ₹ 63.67 lakh. Besides, interest of ₹ 65.43 lakh and penalty of ₹ 95.51 lakh was also leviable.

We reported the cases to the Department/Government between April 2009 and May 2010 but their reply has not been received (October 2010).

2.23 Short levy of interest under the MFST Act

We noticed during scrutiny of the assessment records of the ST, Circle VI, Shillong in February 2009, that a dealer was assessed to tax of ₹ 13.21 crore for the period from October 2002 to April 2005. The dealer paid the due tax belatedly between January 2004 and August 2007. For belated payment of tax, interest of ₹ 1.05 crore was leviable, against which only ₹ 65.41 lakh was levied. This resulted in short-levy of interest of ₹ 39.59 lakh.

Under Section 22A of the MFST Act, if any registered dealer fails to pay the full amount of tax, he is liable to pay interest at prescribed rates, varying between 6 and 24 *per cent* per annum for the period of default on the amount by which the tax paid falls short.

We reported the case to the Department/Government in March 2009 but their reply has not been received (October 2010).

2.24 Non-forfeiture of surcharge/tax under the MFST Act

2.24.1 We noticed during scrutiny of assessment records of a dealer registered under ST, Circle VI Shillong that he collected tax of ₹ 89.87 lakh and surcharge of ₹ 8.99 lakh in February 2009 on declared goods[21] for the period from 2001-02 to 2004-05. Although the surcharge collected was required to be forfeited to the Govern-

Under the provisions of MFST Act, if any sum is collected by a dealer in contravention of the provisions of the Act, such sum shall be forfeited to the State Government and the Commissioner may impose a penalty not exceeding twice the tax liability.

[21] Corrugated Galvanised Iron Sheets

ment, the AO, while finalising assessments for the aforesaid period in April 2007 incorrectly adjusted the amount against the tax liability of the dealer. This resulted in non-realisation of revenue of ₹ 8.99 lakh due to non-forfeiture of surcharge so collected. Besides penalty though leviable was not levied.

2.24.2 We noticed during scrutiny of the assessment records of the ST, Circle VI, Shillong in February 2009 that a dealer sold goods valued at ₹ 3.65 crore between April 2003 and March 2004. He collected tax at rates higher than the prescribed one. This resulted in excess collection of tax of ₹ 5.95 lakh. The AO instead of forfeiting the excess tax of ₹ 5.95 lakh so collected, adjusted the amount against due tax. Such irregular assessment resulted in non-forfeiture of excess tax. Besides, penalty of ₹ 11.90 lakh was also leviable.

We reported both the cases to the Department/Government in March 2009 but their reply has not been received (October 2010).

2.25 Irregular grant of exemption on sale of tax paid goods

We noticed during scrutiny of the records of the ST, Circle-III, Shillong in January 2009, that a registered dealer claimed exemption from payment of tax on sale of computer and accessories valued at ₹ 1.11 crore between April 2004 and March 2005 as the goods were purchased from two dealers registered in Circle-IV, Shillong and the AO assessed the dealer accordingly in April 2007. We cross-verified the records of two selling dealers and found that they disclosed total sale of ₹ 7.94 lakh only during the aforesaid period. Though the records of both dealers were available in the office, the AO had made no effort to cross-verify the same and detect suppression/ incorrect exemption on turnover of ₹ 1.03 crore resulting in evasion of tax of ₹ 8.88 lakh. Besides, interest of ₹ 6.99 lakh and penalty of ₹ 13.32 lakh was also leviable.

Under the MFST Act, if the COT is satisfied that any dealer has evaded, in any way, the liability to pay tax, he may direct that such dealer shall pay by way of penalty in addition to tax payable by him, a sum not exceeding one and half times that amount.

We reported the case to the department/Government in March 2009 but their reply has not been received (October 2010).

2.26 Short realisation of surcharge

We noticed during scrutiny of records of the STs, Circle III and Circle VI, Shillong in February 2009 that two dealers dealing in medical equipments, furniture, carpets, electrical goods etc., collected tax of ₹ 61.25 lakh between October 2004 and April 2005. The dealers were liable to pay surcharge at the rate of 20 *per cent* of tax instead of 10 *per cent* paid by them. The AO, while finalising the assessments between October 2005 and January 2007 failed to detect the omission, resulting in short realisation of surcharge of ₹ 6.13 lakh.

The Government of Meghalaya, Taxation Department in their notification dated 25 August 2004 enhanced the rate of surcharge from 10 *per cent* to 20 *per cent* on the tax on sale of all the goods except declared goods.

We reported the case to the department/Government in March 2009 but their reply has not been received (October 2010).

MEGHALAYA (SALES OF PETROLEUM, LUBRICANTS INCLUDING MOTOR SPIRITS) ACT

2.27 Suppression of purchase under the Meghalaya (Sales of Petroleum, Lubricants etc.) Act

2.27.1 We noticed during test check of the records of the ST, Tura in January 2009 that a dealer disclosed interstate purchase of petroleum products of ₹ 46.88 lakh between October 2005 and March 2006. We cross-verified the particulars of purchase with the records of the Bharat Petroleum Limited, Bongaigaon and found that the dealer actually purchased petroleum product worth ₹ 2.73 crore during the aforesaid period. The dealer, thus, concealed purchase of petroleum products of ₹ 2.26 crore, thereby concealing turnover of sales of at least ₹ 2.26 crore and evaded tax of ₹ 28.25 lakh. Besides, interest of ₹ 28.25 lakh and penalty of ₹ 92.38 lakh was also leviable.

Under Section 16 of the Meghalaya (Sales of Petroleum, Lubricants etc.) (MSL) Act, if the Commissioner is satisfied that any dealer has concealed the particulars of his sale or deliberately furnished inaccurate particulars of such turnover or has evaded in anyway the liability to pay tax, he may direct that such dealer shall pay, by way of penalty, in addition to the tax payable by him, a sum not exceeding one and a half times of the tax sought to be evaded.

2.27.2 We obtained copies of 'C' forms from Bharat Petroleum Limited and cross-verified the same with the records of a dealer registered in ST, Jowai in July 2007 and noticed that the dealer disclosed interstate purchase of petroleum products valued at ₹ 25.85 lakh between October 2005 and March 2006 whereas he actually purchased goods valued at ₹ 2.32 crore during the aforesaid periods. The dealer, thus, concealed purchase of petroleum products worth ₹ 2.07 crore, thereby concealing turnover of sales of at least ₹ 2.07 crore and evading tax of ₹ 25.88 lakh. Besides, interest of ₹ 19.02 lakh and penalty of ₹ 38.82 lakh was also leviable.

We reported both the cases to the Department/Government between November 2009 and March 2010 but their reply has not been received (October 2010).

2.28 Loss of revenue due to discontinuation of business by dealers

We obtained information from Reliance Industries Ltd. regarding sales of petroleum products and cross-verified the same with the records of four dealers in ST, Tura in March 2010 and noticed that the dealers imported petroleum products valued at ₹ 4.47 crore between June 2006 and March 2008. But the dealers disclosed purchase of ₹ 1.44 crore in their returns for the aforesaid period. The dealers, thus, concealed purchase of ₹ 3.03 crore on which they were liable to pay tax of ₹ 37.88 lakh. As per the records, the dealers discontinued their business and as such, there is no possibility of recovery of tax. The Department also made no efforts to cross-verify the particulars of transaction and complete assessments accordingly. Thus, absence of the provision for time-bound completion of assessments resulted in loss of revenue of ₹ 37.91 lakh.

Under the MSL Act, if a dealer fails to make a return or having made the return, fails to produce books of accounts in support of the return, the Commissioner shall, by an order in writing, assess the dealer to the best of his judgement and determine the tax payable by him on the basis of such assessment. However no time limit has been fixed for completion of assessment.

After we pointed out the cases, the AO, while accepting the audit observation stated in March 2010 that the dealers were not traceable.

We also reported the cases to the Government in March 2010 but their reply has not been received (October 2010)..

The department may consider putting in place a system of cross-verification of transactions between the selling and purchasing dealers and also fix a time limit for completion of assessments.

2.29 Incorrect computation of tax

We noticed during test check of the records of the ST, Tura in January 2010 that the AO made computational mistakes in determining the tax of five dealers dealing in petroleum products. We found from the assessment records that the dealers were liable to pay tax of ₹ 1.32 crore for the period from August 2008 and October 2009 but the AO levied tax of ₹ 1.11 crore. Such irregular assessment resulted in under assessment of tax of ₹ 21 lakh.

After we pointed out the case, the AO, while admitting the facts, stated in March 2010 that steps had already been initiated to rectify the assessments. We have not received any report on rectification of assessment and realisation of tax.

We also reported the case to the Government in March 2009 but their reply has not been received (October 2010).

CENTRAL SALES TAX

2.30 Concealment of turnover under the CST Act

We noticed while auditing the records of four[22] Sales Tax offices in March 2010 that 68 dealers sold 62,90,407 MT of coal between October 2007 and March 2009 in the course of interstate trade. The dealers disclosed turnover of ₹ 423 crore in their returns for the aforesaid period, duly supported by forms 'C' instead of ₹ 2,012.93 crore at the rate of ₹ 3,200 per MT being pithead price fixed by the Government. The AO, while completing the assessments between January 2008 and March 2010 ignored the rate fixed by the State Government. This resulted in concealment of turnover of ₹ 1,589.93 crore and evasion of tax of ₹ 63.60 crore. Besides, penalty of ₹ 127.20 crore was also leviable for concealment of turnover. The tax effect would be even more, if actual sale price could be ascertained.

The Government of India, Ministry of coal revised the rate of royalty per MT of coal from ₹ 165 to ₹ 130 plus five *per cent* of pithead price of coal with effect from 1 August 2007. Accordingly, the royalty per MT of coal was fixed at ₹ 290 by the State Government by considering pithead price of per MT of coal at ₹ 3,200. Under the MVAT Act, if any dealer conceals the particulars of his turnover, he shall be liable to pay penalty not exceeding ₹ 5,000 or double the amount of tax, whichever is greater.

[22] STs, Jowai, Shillong, Tura and Williamnagar.

We reported the case to the Department/Government in May 2010 but their reply has not been received (October 2010).

2.31 Evasion of tax by misutilisation of 'C' forms

2.31.1 We noticed while test checking the records of the ST, Circle-V, Shillong in March 2009, that 22 dealers sold coal in course of interstate trade valued at ₹ 90.32 crore to dealers of Punjab and Haryana and claimed concessional rate of tax by furnishing declarations in form 'C'. The AO accepted the declaration forms and assessed the dealers accordingly on different dates between May 2004 and February 2007. We obtained information relating to these forms from the Commissioner of Tax and Excise, Punjab and Haryana and found that these dealers were neither registered nor were any declaration forms issued to them. Thus, the declaration forms submitted by the dealers of Meghalaya and accepted by the AO were fake and tax should have been levied at the rate of eight *per cent* instead of four *per cent*. This resulted in evasion of tax of ₹ 3.61 crore. In addition, penalty of ₹ 7.22 crore and interest of ₹ 5.26 crore was also leviable for deliberate submission of fake 'C' forms and evasion of payment of tax.

> A declaration in form 'C' is issued by a purchasing dealer to a selling dealer in the course of interstate trade on the strength of which concessional rate of tax can be availed. For furnishing false declaration(s), a dealer may be imposed a penalty not exceeding ₹ 1000 or double the amount of tax, whichever is greater. For belated payments interest at the prescribed rates is leviable.

2.31.2 While scrutiny of the records of the ST, Circle V, Shillong in January 2009, we noticed that a dealer sold coal valued at ₹ 6.04 crore in course of interstate trade to a dealer of Haryana between October and December 2005 duly supported by a declaration in form 'C'. The dealer claimed assessment at concessional rate of four *per cent* and the AO assessed the dealer accordingly in June 2007. On further scrutiny, we noticed that the 'C' form was not in prescribed form as it did not contain the portion "purchased from you as per bill/cash memo/challan No. ____ dated ____ as stated below supplied under your challan No ____ dt _____ are for". Though the above portion was missing in the declaration form submitted by the dealer the AO accepted the invalid form, resulting in under assessment of tax of ₹ 24.16 lakh.

2.31.3 We noticed during test check of the records of the ST, Tura in January 2010 that a dealer obtained 18 declarations in form 'C' for purchase of goods at concessional rate from outside the State on different dates between January and September 2005. The dealer did not furnish utilisation statement of 'C' forms before issue of fresh forms. The ownership of the business was transferred on 15 July 2005 and the dealer

surrendered three unused 'C' forms for cancellation. We, however obtained information from the Sales Tax Office at Tezpur, Assam and found that the dealer imported cement valued at ₹ 43.79 lakh between June and December 2005 from an Assam based dealer by utilising two declaration forms pertained to the period prior to the date of transfer of business. The AO did not check proper utilisation of forms submitted by the dealer and thus the purchase escaped his notice. This resulted in evasion of tax of ₹ 5.47 lakh. Besides, penalty of ₹ 10.94 lakh and interest of ₹ 5.15 lakh was also leviable.

We reported the cases to the Department/Government between March 2009 and May 2010 but their reply has not been received (October 2010).

2.32 Suppression of sales turnover under the CST Act

We noticed during the test check of audit of records of ST, Circle-V, Shillong that fifteen dealers did not disclose inter-state turnover of ₹ 28.09 crore in their returns during various periods between 2006-07 and 2008-09. The same could not be detected by the AO while finalising the assessments on various dates between May 2006 and November 2007 though the information was available to him in the form of monthly returns[23] submitted by check post authorities. This resulted in short levy of tax of ₹ 2.24 crore. Besides, penalty of ₹ 4.48 crore was also leviable for suppression of turnover as mentioned below:-

> The provisions of levy of interest and penalty Meghalaya Value Added Tax (MVAT) Act, 2003, apply *mutatis mutandis* in case of assessment and reassessment under the Central Sales Tax (CST) Act, 1956.

Table 2.16

(Rupees in crore)

Sl. No.	Assessment Period / Date of assessment	Nature of observation	Suppression of turnover	Short levy of tax / penalty
1.	July to Sept '06 January 2007	The dealer had not submitted any return for the period. The assessment was finalised on best judgement basis as per books of accounts furnished by the dealer. The AO while finalising the assessment did not take into account the despatch of coal valued at ₹ 3.28 crore through the Umkiang and Byrnihat check post.	3.28	0.32 0.64
Remarks: The AO stated (November 2009) that coal had actually been despatched during				

[23] The monthly returns are prepared by the check post authorities and indicate the quantity/kind of goods dispatched through the check post and are sent to the concerned AOs for their information.

the period from July to September 2006 but it was in pursuance of a sale agreement executed in the previous quarter. As such, the sale does not pertain to the period in question. The reply of the Department is not correct as the trucks had transported coal during the period from July to September 2006 and thus it was a sale for that period. The fact was communicated to the AO in January 2010.				
2.	Apr 06 to Mar 07 Sept 06 to Nov 07	Seven dealers did not disclose despatch of 56,595 MT of coal valued at ₹ 7.92 crore in their turnover. The quantity was transported through Umkiang check post but the AO did not take the same into account while finalising assessments.	7.92	0.64 1.28
Remarks: The ST stated (November 2009) that the question of coal being transported through the check post was immaterial since the dealers were assessed at the local rate of tax of 4 *per cent*. The reply is not correct as neither the quantity transported was disclosed in the returns nor was it assessed by the AO. The fact was communicated to the AO in January 2010.				
3.	Oct 05 to Sep 07 May 06 to Nov 07	Seven dealers did not disclose sale of coal valued at ₹ 17.04 crore in their turnover. The quantity was transported through Umkiang and Byrnihat check posts and information was sent to the concerned ST through the monthly returns but the AO did not take the same into account while finalising assessments.	17.04	1.28 2.56
Remarks: The AO stated (November 2009) that the sales turnover was determined as per books of accounts of the concerned dealers and as such, it was correct. The reply is not correct as the AO had not cross-verified the despatch of coal with the monthly returns received from the check posts which were available in the files. Thus, failure of the AO to do so resulted in under assessment of tax. The fact was communicated to the AO in January 2010.				
Total			**28.09**	**2.24** **4.48**

We reported the cases to the Government in May 2010 but their reply has not been received (October 2010).

2.33 Irregular grant of exemption in respect of goods returned

We noticed during scrutiny of the assessment records of the ST, Circle I, Shillong in February 2009, that a dealer claimed deduction of ₹ 3.32 crore being the value of goods refunded by him for the period from October 2004 to March 2005. Though the claim was not supported by

As per Section 6A of the CST Act, form 'F' is required to be furnished in respect of all stock transfers, otherwise than by way of sale including goods returned for claiming exemption from payment of tax.

declaration in form 'F', the AO incorrectly allowed exemption from tax on the aforesaid turnover in February 2007. This resulted in under assessment of tax of ₹ 36.19 lakh.

After we reported the case (March 2009), the Government accepted the audit observation (May 2010) and issued a show-cause notice to the dealer under Section 8(2) of the MF (ST) Act. The dealer has however, sought time for the reply.

2.34 Non-levy of penalty under the CST Act

We noticed during scrutiny of the records of the ST, Circle VI, Shillong in February 2009, that a dealer imported air conditioners and generator sets valued at ₹ 47.64 lakh between September 2004 and July 2007 against declaration in form 'C' but the goods imported were not included in his certificate of registration under the CST Act. The dealer, thus, falsely represented while purchasing those goods that goods of such class are covered by his certificate of registration and as such, he is liable to pay tax of ₹ 4.32 lakh. Besides, maximum penalty of ₹ 5.69 lakh is also leviable for misuse of declaration form.

Under Further, under Section 10 (b) of the CST Act, if any person being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration, he is liable to pay penalty not exceeding one and half times the amount of tax which would have been levied in *lieu* of prosecution.

After we pointed out the matter, the AO stated in June 2009 that air conditioners are electrical goods and included in the registration certificate of the dealer and the import of generators was permitted as a special case. The reply is not correct as air conditioners are electronic goods as held by the apex court[24], and special permission granted for import of goods not covered by registration certificate was irregular.

We reported the case to the Department/Government in March 2009 but their reply has not been received (October 2010).

[24] An item is considered as an electronic item if its functions are controlled by a microprocessor [BPL Limited Vs State of Andhra Pradesh 121 STC 450 (SC)]

2.35 Under assessment of tax due to incorrect deduction

We noticed during a test check of records of the ST, Ri-Bhoi District, Nongpoh in August 2009, that the AO while finalising the assessment of three dealers between December 2008 and March 2009 allowed deduction of ₹ 2.63 crore from the sales turnover though the sales were exclusive of the tax element. Such inadmissible deduction resulted in under assessment of tax of ₹ 21.90 lakh.

> Section 8A of the CST Act provides that in determining the turnover of a dealer, deduction shall be made from the aggregate of sale price in accordance with the prescribed formula. However, no deduction on the basis of the formula shall be made if the sales are not inclusive of the tax element.

When we reported the matter (March 2009), the AO stated (April 2010) that the aggregate of sale prices received by the dealers was treated as inclusive of tax element and deduction was given accordingly. The reply is not correct as the dealers were exempted from payment of tax under the Meghalaya Industrial (Sales Tax) Exemption Scheme and had not also shown any tax collection in their returns. As such, they were not eligible for any deduction.

We reported the case to the Department/Government in March 2009 but their reply has not been received (October 2010).

2.36 Non-registration of dealers under the CST Act

2.36.1 We noticed during test check of assessment records of the ST, Nongpoh in August 2009 that a dealer was not registered under Section 7(1) of the CST Act. The dealer however made interstate sales valued at ₹ 1.43 crore between September 2006 and March 2008. The AO assessed the dealer in December 2008 and levied tax of ₹ 12.28 lakh but did not levy penalty of ₹ 18.42 lakh.

> A dealer intending to make inter-state sales has to register himself under Section 7(1) of the CST Act otherwise he shall be liable to a penalty of one and half times the tax.

2.36.2 We cross-verified the records of the Director of Mineral Resources, Meghalaya, Shillong with records of four[25] unit offices in November 2009 and noticed that 141 dealers obtained coal transport challans from the DMR for export of 9,58,880 MT of coal to Bangladesh but the dealers were not registered under the CST Act. The dealers neither obtained 'P' forms for transportation of coal or payment of advance tax nor furnished any certificate from land customs authority re-garding actual export of coal to Bangladesh for exemption of tax under CST Act. The AO also did not initiate any action to register the dealers and realise advance tax at the prescribed rate from them. This resulted in loss of revenue of ₹ 11.51 crore.

Under Section 5(1) of the CST Act, for claiming exemption in respect of sale of goods in the course of export under this Act. a dealer, is required to furnish evidence of export of goods in support of his claim Further, the COT vide notification dated 26 September003, directed that each truck load of 15 MT of coal would be allowed to be transported.

We reported the case to the Department/Government between March 2009 and May 2010 but their reply has not been received (October 2010).

2.37 Under assessment of tax on sale not supported by 'C' forms

We noticed during audit of the records of the ST, Tura in November 2008 and January 2009, that 15 coal dealers sold coal valued at ₹ 47.80 crore in course of interstate trade between June 2007 and March 2009 not supported by 'C' forms but the AO assessed the dealers at concessional rate of three or two *per cent* instead of the local rate of four *per cent*. This resulted in under assessment of tax of ₹ 66.69 lakh.

Under the CST Act, on interstate sale of goods covered by declaration in form 'C', tax is leviable at three *per cent* upto 31 May 2008 and two *per cent* thereafter. The Act further provides that tax is leviable at the local rate of four *per cent* on coal if the interstate sale is not covered by each declaration in form 'C.

We reported the case to the Department/Government between January 2009 and March 2010 but their reply has not been received (October 2010).

[25] STs, Circle-V, Shillong, Jowai, Tura, and Williamnagar.

2.38 Incorrect application of rate under the CST Act

We noticed during the audit of records of the ST, Tura in January 2010 that two dealers sold coal valued at ₹ 3.81 crore between April and May 2008 in course of interstate trade and furnished declaration in form 'C' in support of sale. The AO, while assessing the dealers in July 2008 calculated tax at the concessional rate of two *per cent* instead of three *per cent*. Thus, due to incorrect application of rate, tax of ₹ 3.81 lakh was under assessed.

We reported the case to the Department/Government in March 2010 but their reply has not been received (October 2010).

2.39 Non-realisation of additional security on coal

The COT, Meghalaya notified in September 2003 that all coal traders carrying coal in excess of 15 MT per truck in course of interstate trade shall pay at the check post, additional security for the excess load so carried at the rate of ₹ 120 per MT. This additional security was in addition to the advance tax of ₹ 1,800 per truck carrying 15 MT of coal. As per Rule 58 of the Meghalaya Financial Rules, all check posts are required to issue receipts in form TR 4 while collecting money on behalf of the Government. The receipt shall be duly signed by an authorised officer and the amount collected shall be entered in the Cash Book.

2.39.1 We noticed during test checking the records of the officer-in-charge, Dainadubi check post in February 2010 that 1,55,845 commercial trucks carried 2,92,847 MT of coal in excess of permissible limit and paid ₹ 3.51 crore as advance tax in the form of additional security at the check post during the period between April 2007 and March 2009. However, on cross-verification of records of the DMR check post located at the same station, we noticed that 1,58,128 commercial trucks actually carried 3,26,094 MT of coal in excess of the permissible limit and paid royalty of ₹ 5.38 crore at the DMR check post. Thus, at least 33,247 MT of excess load of coal escaped notice of the taxation check post authorities leading to non-realisation of additional security of ₹ 39.90 lakh.

2.39.2 We further noticed during scrutiny of the records of the ST, Dainadubi check post in February 2010, that 79,123 commercial trucks carried 2,06,076 MT of coal in excess of permissible limit between April 2008 and March 2009. But the officer-in-charge of the check post issued 77,300 numbers of receipts while collecting additional security on excess load beyond 15 MT. Thus, 1,823 vehicles carrying excess load of 4,748 MT were allowed to cross the check posts without payment of additional security. This resulted in non-realisation of security of ₹ 5.70 lakh.

We reported the case to the Department/Government in May 2010 but their reply has not been received (October 2010).

CHAPTER-III: OTHER TAXES AND DUTIES

3.1 Impact of audit reports

During the last five years (including the current year's report), audit through its audit reports had pointed out[1] non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 6144.43 crore in 17 paragraphs. Of these, the departments/Government had accepted audit observations in three paragraphs involving ₹ 23.85 crore and had since recovered ₹ 3.94 crore. The details are shown in the following table:

Table 3.1

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	2	45.72	-	--	-	--
2006-07	3	6,089.71	1	20.86	1	3.94
2007-08	3	1.77	-	--	-	--
2008-09	5	4.53	2	2.99	-	--
2009-10	4	2.70	-	--	-	--
Total	**17**	**6,144.43**	**3**	**23.85**	**1**	**3.94**

Thus, against accepted cases involving ₹ 23.85 crore, the concerned departments/Government recovered an amount of ₹ 3.94 crore only which is 16.51 per cent.

We recommend that the concerned departments need to revamp their revenue recovery mechanism to ensure that at least the revenue involved in the accepted cases is promptly recovered.

3.2 Results of audit

Test check of the records relating to the Taxation Department and four units of the Stamps & Registration Department including cross-verification with other departments during the year 2009-10 revealed non/short realisation, evasion of taxes, duties, etc., amounting to ₹ 5.18 crore in nine cases which can be categorised as under:

[1] Paragraphs on amusement and betting tax, professional tax and stamps and registration.

Table 3.2

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Loss of revenue	3	1.10
2.	Short realisation of tax/duties	3	3.2
3.	Evasion of tax/duties	3	0.88
Total		**9**	**5.18**

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 35 lakh in one case. No recovery has been intimated (October 2010).

A few illustrative audit observations involving ₹ 2.65 crore are mentioned in the following paragraphs.

3.3 Audit observations

Scrutiny of the records in various offices of the Taxation Department and Stamps and Registration Department revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy/realisation, evasion of taxes, duties etc., as have been mentioned in the ensuing paragraphs of the chapter. These cases are illustrative, based on test check carried out by us. Though we point out such omissions each year, yet the irregularities continue to persist. We feel there is a need for the Government to consider directing the departments to improve the internal control system so that such omissions can be detected, avoided, and corrected.

3.4 Loss of revenue

Under the Indian Stamp Act, 1899, 'lease' means a lease of an immovable property and includes undertaking in writing to cultivate, occupy or pay or deliver rent for the immovable property.

3.4.1 We scrutinised the records of the Shillong Municipal Board (SMB) in January 2010 and observed that the SMB executed a lease agreement with a lessee in February 2009, under which it transferred 72,000 sq. feet of the existing SMB office plot at Shillong to the lessee for a period of thirty years at an annual lease rent of ₹ 61.92 lakh, subject to an escalation of 10 *per cent* in a block of every three years. The average annual lease rent for the purpose of stamp duty works out to ₹ 98.68 lakh for which stamp duty of ₹ 29.31 lakh was leviable. Cross-check of records of the District Registrar, East Khasi Hills district,

Clause 35(a) (v) of the Act *ibid*, lays down that stamp duty on lease, where, the lease purports to be for a term exceeding twenty years but not exceeding thirty years shall be calculated at the rate of ₹ 99 per ₹ 1,000 for a consideration equal to three times the amount or value of the average annual rent reserved.

Shillong, however, revealed that the aforesaid lease agreement was not registered, thereby leading to evasion of stamp duty of ₹ 29.31 lakh.

3.4.2 We noticed, during the cross verification of the records of the Registrar/Sub-Registrar, East Khasi Hills, Shillong with the records of the Superintendent of Taxes, Shillong in October 2009, that a lease agreement was executed between M/S Hotel Eldorado Private Limited and M/s Vishal Retail Limited under which the lessor transferred to the lessee a commercial building measuring area of 20,900 square feet for a period of nine years for an annual consideration of ₹ 62.70 lakh subject to escalation of 15 *per cent* applicable after a block of every three years. Thus, the lease rent for the purpose of stamp duty would be ₹ 72.58 lakh for which stamp duty of ₹ 7.19 lakh was leviable. But the lessee did not register the aforesaid lease agreement with the Registrar. This resulted in evasion of stamp duty of ₹ 7.19 lakh.

Clause 35 (a) (iii) of the Indian Stamp (Meghalaya Amendment) Act 1993, lays down that the stamp duty on lease where the lease purports to be for a term exceeding five years and not exceeding ten years, the duty is chargeable at the rate of ₹ 99 per ₹ 1000 for a consideration equal to the amount or value of the average annual rent received.

We reported the cases to the Department/Government between November 2009 and April 2010 but their replies have not been received (October 2010).

3.5 Non-levy of stamp duty

We noticed during scrutiny of the records of the Registrar, East Khasi Hills, Shillong in October 2009 that a deed of agreement was executed in January 2009. The recitals of the agreement indicated that Shillong Club would hand over land measuring 9,297 square metres to a private party for construction of a five-star hotel at a cost of ₹ 30 crore for a period of 28 years. An annual fee of ₹ 7 lakh was to be paid by the second party during the first four years, and thereafter, ₹ 63.33 lakh subject to escalation of 10 *per cent* after every five years. The second party was free to run the hotel in their own name and style including the name of first party and to obtain loans or other financial assistance of its choice for carrying out the development and the construction of the said hotel without any liability to the first party. Thus, the deed should have been classified as a lease deed and stamp duty of ₹ 19.80 lakh levied. But the Registrar classified the deed as a 'licence' and

The distinction* between lease and licence is "if the document creates an interest in the property, it is a lease but, if it only permits another to make use of the property of which the legal possession continues with the owner, it is a licence".

*"Supreme court of India judgment in Associated hotels of India v/s R. N Kapoor case (1959) (SC) (1262)"

exempted it from stamp duty. Thus, incorrect classification of the deed resulted in non-levy of stamp duty of ₹ 19.80 lakh.

After we pointed out the case, the Registrar stated (March 2010) that the said agreement could not be construed as lease as it did not transfer any interest in favour of the licensee. The reply furnished is not correct as the recitals of the deed indicated that the second party was free to run the hotel in their own name and style including the name of first party and to obtain loans or other financial assistance of its choice for carrying out the development and the construction of the said hotel without any liability to the first party. Moreover, the deed also indicated that the hotel shall be operated by the second party for profit.

We also noticed that the second party had also deposited a security deposit of ₹ 1.50 crore by way of bank guarantee against satisfactory completion of the construction works within the stipulated period of 48 months in the demised land. However, the Registrar did not levy stamp duty on the security paid. This resulted in non-levy of stamp duty of ₹ 14.85 lakh.

We reported the cases to the Government in October 2009 and April 2010 but their reply has not been received (October 2010).

3.6 Non-realisation of renewal fee

We noticed from the test check of the records of the ST, Circle-VIII, Shillong in April 2010 that out of 8607 licensed bookmakers, only 2,257 licensees applied for renewal of the licences between 2005-06 and 2009-10 and 767 applied for cancellation of licences. The remaining 5,583 bookmakers neither applied for renewal of their licences, nor surrendered the licences for closure of business. Though the information was available with the ST, he initiated no action either to ascertain the facts of discontinuance of business or to realise the renewal fee. Hence, in the absence of a proper monitoring, renewal fee of ₹ 1.90 crore realisable for the aforesaid period was not realised.

Under Rules 39 (7) and 45 of the Meghalaya Amusement and Betting Tax Rules, 1982, application for renewal of the licence of bookmaker of arrow shooting or the game of *teer* shall be submitted before 30 days of the expiry of the period of validity of licence, to the Commissioner of Taxes. The fee for renewal of the licence shall be ₹ 3,400 per annum which is payable upto the date of renewal/cancellation of licence.

We reported the case to the Department/Government in April 2010 but their replies have not been received (October 2010).

3.7 Non-levy of professional tax

We test checked the records of the ST, Circle-II, Shillong in March 2010 and noticed that about 200 employees of Shillong Municipal Board (SMB) had neither furnished returns for professional tax nor paid tax under the Act during the period 2002-03 to 2008-09. The Drawing and Disbursing Officer of the SMB also did not deduct the tax from the pay bills of the employees. The AO did not issue any notice to the defaulting office to furnish returns and payment of tax. Thus, inaction on the part of the AO resulted in non-realisation of professional tax of ₹ 7.01 lakh, of which, ₹ 4.03 lakh is a loss of revenue to the government as provision in the Act prohibits assessment beyond three years. Similarly, we also noticed that employees of two commercial banks had defaulted in payment of professional tax, of which, one of the banks had not paid tax since 8 years *i.e.*, from 2001-02 to 2008-09 while the other since 17 years *i.e.*, from 1992-93 to 2008-09. The AO did not take any action to complete the assessment to the best of his judgement and to recover the assessed tax. This resulted in non-realisation of professional tax of ₹ 2.40 lakh, of which ₹ 1.87 lakh was a loss of revenue as the Acts prohibits assessment/reassessment beyond three years.

Under the Meghalaya Professions, Trades, Callings and Employments Tax Act, every person in employment in any government, local body, company, firm and other association of persons is liable to pay professional tax. Further, every person liable to pay tax under this Act, shall submit to the AO, a return within 60 days of the commencement of the financial year. If any person fails to submit the return, the AO shall assess to the best of his judgement and determine the tax payable by him. The Act further provides that the notice in respect of escaped tax can only be issued within three years of the end of the year for which assessment or reassessment is proposed to be made.

We reported the cases to the Department/Government in May 2010 but their replies have not been received (October 2010).

CHAPTER IV: STATE EXCISE

4.1 Tax administration

The Principal Secretary, Excise, Registration, Taxation and Stamps (ERTS) Department is the head of the Excise Department at the Government level. At the Department level, the Commissioner of Excise (CE) monitors the functioning of the Department. The implementing authority at the district level is the Superintendent of Excise (SE), who is responsible for the collection of all excise duties and fees as also for the proper functioning of the bonded warehouses and distilleries. The Assam Excise Act and Rules, the Assam Distillery Rules and the Assam Bonded Warehouse Rules (adopted by Meghalaya) regulate all excise related activities including revenue collection in the State. The Excise Department is one of the highest revenue earning departments in the State, after Taxation and Mining & Geology departments.

4.2 Trend of receipts

Actual receipts from excise during the years 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

Table 4.1

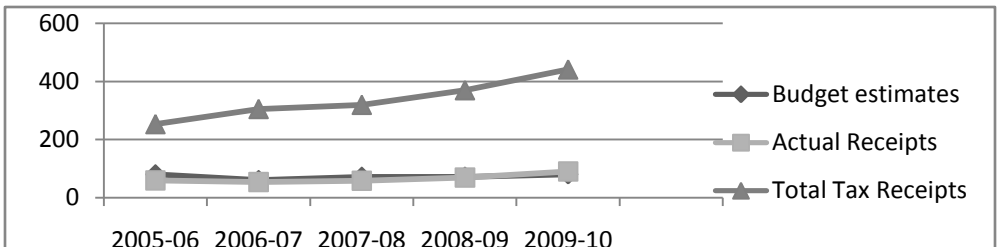
(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	80.00	59.16	(-) 20.84	26	252.67	23
2006-07	60.00	53.95	(-) 6.04	10	304.74	18
2007-08	71.58	58.62	(-) 12.96	18	319.10	18
2008-09	71.57	69.79	(-) 1.78	2	369.44	19
2009-10	80.15	90.29	(+) 10.14	13	444.29	20

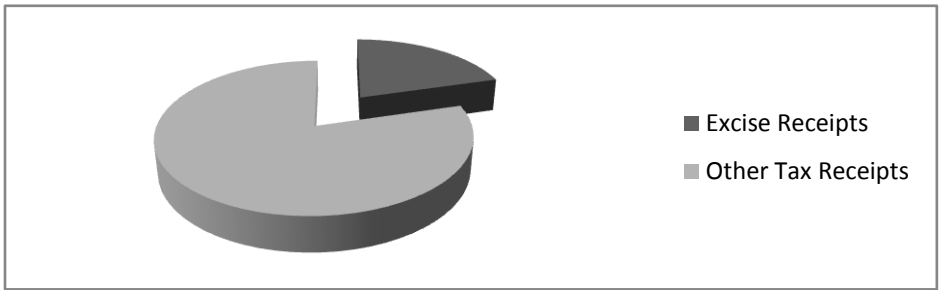
Thus, the percentage variation which was (-) 26 *per cent* in 2005-06 had shown correction and went up to the level of (+) 13 *per cent* in 2009-10. This indicates that the budget estimates were not framed considering the past trends and the future potential.

Excise receipts formed 23 *per cent* of the total tax receipts of the State during 2005-06 but in subsequent years it marginally declined to the range of 18-20 *per cent*.

A line graph of budget estimates, vis-à-vis the actual receipts and total tax receipts of the State may be seen below:



Also a pie chart showing the position of actual excise receipts vis-à-vis the total tax receipts during the year 2009-10 may be seen below:



4.3 Cost of collection

The cost of collection (expenditure incurred on collection) of the Excise Department during the year and the preceding two years may be seen below:

Table 4.2

Year	Actual revenue (in crore)	Cost of collection (in crore)[1]	Percentage of expenditure on collection	All India average percentage of preceding years
2007-08	58.62	4.42	7.54	3.30
2008-09	69.79	6.21	8.90	3.27
2009-10	90.29	7.23	8.19	3.66

4.4 Impact of audit reports

4.4.1 Revenue impact

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation etc., with revenue implication of ₹ 82.16 crore in 20 paragraphs. Of these, the Department/Government had accepted audit observations in seven paragraphs involving ₹ 72.85 crore and had since recovered ₹ 22 lakh. The details are shown in the following table:

[1] Departmental figure

Table 4.3

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	4	4.27	2	0.10	-	--
2006-07	4	3.98	2	3.68	-	--
2007-08	3	0.43	1	0.16	-	--
2008-09	1	68.66	1	68.59	1	0.16
2009-10	8	4.82	1	0.32	1	0.06
Total	**20**	**82.16**	**7**	**72.85**	**2**	**0.22**

Thus, against the accepted cases involving ₹ 72.85 crore, the Department/ Government has recovered an amount of ₹ 22 lakh which is 0.30 *per cent*.

We recommend that the Department needs to revamp its revenue recovery mechanism to ensure that they could recover at least the amount involved in the accepted cases.

4.4.2 Amendments in the Acts/Rules/notifications by the Government at the instance of audit

Based on our audit observations, the State Government made the following amendments to the Meghalaya Excise Rules 1973:

- Establishment charges were done away with retrospectively.
- Security deposit was increased manifold.

4.5 Results of audit

Test check of the assessment cases and other records of 08 units relating to the Excise Department during the year 2009-10 revealed non-realisation of duties, fees etc., amounting to ₹ 34.87 crore in 31 cases, which can be categorised as under:

Table 4.4

(Rupees in crore)

Sl. No.	Category	Number of Cases	Amount
1.	Non-realisation of fees/duties etc.	15	27.86
2.	Non-renewal of licences	8	1.11
3.	Other irregularities	8	5.9
Total		**31**	**34.87**

A few illustrative audit observations involving ₹ 4.88 crore are mentioned in the succeeding paragraphs.

4.6 Audit observations

Scrutiny of the records in the offices of the Excise Department revealed several cases of non-observance of the provisions of the Act/Rules, resulting in non/short levy of fees and duties, etc., as mentioned in the succeeding paragraphs of this chapter. These cases are only illustrative, based on test check carried out by us, reflecting the flaws in the working of the Department. Although we point out similar cases every year, but the irregularities persist. As such, we feel the Department needs to improve its internal control system, in order to guard against the recurrence of such lapses in future.

4.7 Misclassification of IMFL

Under provision of the Assam Excise Act (as adapted in Meghalaya), excise duty at different rates[2] is payable, based on the cost price of different brands of IMFL. The term 'cost price' has, however, not been defined in the Meghalaya Excise Act. According to the taxation laws of the State, 'cost price' means the price in terms of money value or valuable consideration paid or payable by a dealer for any purchase of taxable goods including any sum charged for anything done by the seller with or in respect of the goods at the time of or before delivery thereof.

Import fee is required to be paid by the licensee of a bonded warehouse at the rate of ₹ 54 per case for import from distilleries within the State and ₹ 108 per case for import from distilleries outside the State and thus, should form an element of cost price. The cost price of general brand (GB), deluxe brand (DB) and premium brand (PB) of IMFL ranges from ₹ 336 to ₹ 635, ₹ 636 to ₹ 1135 and ₹ 1136 to ₹ 3000 per case respectively.

Mention was made in the Audit Reports for the Government of Meghalaya for the years 2007-08[3] and 2008-09[4] regarding absence of a precise definition of cost price and the resultant loss of revenue. However the Government has not yet taken any steps to define cost price in the Acts and Rules to prevent the loss of revenue.

We noticed during test check of the records of nine bonded warehouses under Superintendent of Excise, Tura, Jowai and Khliehriat between November 2009 and January 2010, that the bonded warehouses sold 2,04,276 cases of GB and 61,425 cases of DB for the period from April 2008 to March 2009 and paid excise duty on the basis of 'cost price' which, however, did not include the element of

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[2] General brand : ₹ 399 per case
Deluxe brand: ₹ 447 per case
Premium brand: ₹ 801 per case

[3] Paragraph 6.3

[4] Paragraph 4.2.8

import fee. Inclusion of import fee in the cost price would result in the said GB liquor being classified as DB and DB liquor as PB with consequent higher rate of excise duty. Thus, absence of definition of 'cost price' led to loss of revenue of ₹ 3.15 crore[5].

We also reported the case to the Department/Government between December and January 2010, but their replies have not been received (September 2010).

We recommend that the Government may consider defining the "cost price" and also mention the ingredients that constitute the 'cost price'

4.8 Non-realisation of import pass fee

Rule 370 of the Meghalaya Excise (Amendment) Rules, 1975, empowers the State Government to levy import pass fee for import of IMFL. The rate of import pass fee was ₹ 108 per case of IMFL from 16 March 2007 and ₹ 31.20 per case of beer from 25 April 2003. The State Government has not exempted the defence / para military organisations from payment of import pass fee.

Mention was made in Audit Reports for the Government of Meghalaya for the year 2006-07[6] and 2008-09[7] regarding the non-levy of import pass fee on IMFL and beer lifted by defence and para military organisations from outside the State. However, we noticed that no follow up action was initiated by the Department and import permits continue to be issued to the defence/para military organisations without realising import pass.

We noticed from the records of the ACE, Shillong and SE, Nongpoh in June 2009 that the concerned authorities issued permits to the defence and para-military organisations stationed in Meghalaya to import 45,840 cases of IMFL and 8,216 cases of beer from outside the State between April 2008 and March 2009. Import fee of ₹ 52.14 lakh was however, not realised while issuing the permits resulting in non-realisation of revenue of ₹ 52.14 lakh.

We reported the case to the Department/Government in July 2009 but their replies have not been received (October 2010).

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[5] ₹ (447 – 399) X 2,02,276 G.B cases = ₹ 97,09,248
₹ (801 - 447) X 61,425 D.B cases = ₹ 2,17,44,450
=.₹ 3,14,53,698

[6] Paragraph 6.14

[7] Paragraph 4.2.19

4.9 Non-renewal of brand names

We noticed during test check of the records of the CE, Shillong in May 2009 that 146 brands of IMFL and beer manufactured/sold by the companies within the State had not been renewed during 2008-09. Though the manufacturing companies were required to apply for renewal of brand names before the last day of the preceding year, none of the companies applied for the same. We also found that the CE neither issued demand notices to the companies nor cancelled the certificate of sale within the State. This resulted in non-realisation of revenue of ₹ 32.12 lakh.

Under Section 363 (1) of the Meghalaya Excise Rules, the brand name and the label granted by the department to a licensee remains valid up to 31 March of the next year after which it may be renewed on the request of the licensee on payment of renewal fee of ₹ 22,000 for all categories of IMFL and beer.

After we reported the case, the CE, while admitting the facts stated in July 2009 that notices had been issued to the companies/distilleries/bottling plants to renew their brand names and labels. We have, however, not received any intimation regarding recovery of the revenue.

We also reported the case to the Government in June 2009 but their replies have not been received (October 2010).

4.10 Non-realisation of outstanding dues

We noticed while test checking the records of the ACE, Shillong in May 2009, that the Government of Meghalaya, ERTS Department in February 2005 instructed the CE to realise outstanding revenue of ₹ 29.25 lakh through annual instalments of ₹ 2 lakh per year starting March 2005 from the owner of a bonded warehouse at Nongpoh, as the licensee had failed to pay the dues at a time. We further noticed that the owner of the bonded warehouse paid the first and second instalment in March 2005 and March 2007 and the balance of ₹ 25.25 lakh was left unrecovered without any recorded reasons. The CE did not initiate any action to recover the amount, either by sale of his movable property or as an arrear of land revenue ,and the case record was left unattended. Thus, failure to initiate action as per the provision in the Act led to non-realisation of revenue of ₹ 25.25 lakh.

Under Section 35 of the Assam Excise Act, (as adapted in the State of Meghalaya), all excise revenue including any loss that may accrue due to default by any person, shall be recovered from the person primarily responsible to pay the same either by sale of his movable property or as an arrear of land revenue.

We reported the case to the Department/Government in May 2009 but their replies have not been received (October 2010).

4.11 Non-realisation of licence fee

4.11.1 We noticed during test check of the records of the CE in May 2009 that two bottling plants had not renewed their licences for the period 2008-09 and 2009-10. The CE neither issued demand notice to the licence owners to pay the fees nor cancelled the licences. Also, these plants were allowed to manufacture and sell IMFL/beer during the period which was irregular. Thus, laxity on the part of the CE resulted in unauthorised operation of these plants, besides non-realisation of licence fee of ₹ 14.10 lakh.

A bottling plant is required to pay in advance, an annual fee at the rates prescribed from time to time, for renewal of licence. The validity period of licence is from April of a year to March of the next year. As per instruction No 141 of the Excise Act, if the licensee fails to pay licence fee before the start of the next financial year, his establishment is to be closed with the approval of CE till the fee is paid and on failure to pay fee promptly, the licence is required to be cancelled.

4.11.2 We found during test check of the records of the ACE, Shillong, and SE, Nongpoh between June and November 2009 that 22 IMFL retail shops did not renew their licences for different periods between April 1998 and March 2009. An amount of ₹ 35.60 lakh in the form of annual licence fee was recoverable from the licensees. The State Government cancelled the licensees belatedly between April 2008 and April 2009 without realising the outstanding licence fee. No action was taken to recover the dues as arrears of land revenue.

After we pointed out the cases, the ACE Shillong stated in February 2010 that licences were cancelled forthwith to avoid further loss of revenue as suggested by audit. We have not received reply from SE, Nongpoh.

We reported the case to the Government in June 2009 but their replies have not been received (October 2010).

4.12 Non-payment of excise duty

We noticed during scrutiny of records of ACE, Shillong in June 2009 that three bonded warehouses placed order for import of 925 cases of IMFL in November 2008 from a Maharashtra based company under bond for the payment of excise duty in Meghalaya. The truck despatched by the company to carry IMFL met with an accident on the way and 825 cases involving excise duty of ₹ 7.59 lakh were damaged. The CE, instead of asking the three importing bonded warehouses to make payment of excise duty on IMFL lost in transit, requested the exporting company in February 2009 to pay the said amount. Since the exporting company was not liable to pay excise duty on damaged liquor in transit, the demand made by the CE was irregular, thereby resulting in non-payment of excise duty of ₹ 7.59 lakh.

Under the Assam Excise Act (as adapted in Meghalaya) and Rules made thereunder, IMFL may be imported only with the permission of the CE and under a bond for the payment of excise duty in Meghalaya. The importers shall also be liable to pay duty on any quantity representing the excess loss in transit.

When we reported the matter (June 2009), the Department stated in June 2010 that an amount of ₹ 5.91 lakh has been deposited by two bonded warehouses. We have however, not received any intimation regarding realisation of the balance amount (October 2010).

We reported the case to the Government in June 2009 but their replies have not been received (October 2010).

4.13 Irregular adjustment of licence fee

We noticed during test check of the records of a bottling plant in the office of the CE in May 2009 that the bottling plant paid licence fee of ₹ 2.95 lakh for the year 2004-05. As the bottling plant could not start commercial production during the aforesaid period, the State Government issued orders to adjust the licence fee deposited by the licensee against license fee payable for the year 2005-06. Since there is no provision in the Excise Act for adjustment of refund against any amount payable by the bottling plants, the orders for adjustment were irregular and resulted in loss of revenue of ₹ 2.95 lakh.

As per Section 24 of the Assam Excise Act, 1910 (as adapted by Meghalaya), every licence granted under the provision of the Act shall remain in force for the period for which it was granted. In addition, Section 29 (3) stipulates that the holder of licence shall not be entitled to refund of any fee paid in respect thereof.

We reported the case to the Department/Government in June 2009, but their replies have not been received (October 2010).

4.14 Irregular grant of exemption

We noticed during test check of the records of the ACE, East Khasi Hills, Shillong in May 2009 that a commercial firm imported 2,667 cases of absolute alcohol between October 2007 and February 2009 for use in manufacture of drugs and medicine. For import of the said spirit, two import permits were issued without realisation of import pass fee. Since import pass fee is exempted for the purpose of import of denatured spirit only, the grant of exemption was irregular; and resulted in loss of revenue of ₹ 2.88 lakh.

Under Rule 27 of the Meghalaya Excise Rules, import of foreign liquor shall be covered by a pass and the State Government is empowered to grant exemptions from payment of pass fee for the import of denatured spirit only. Under Rule 370, a pass fee of ₹ 12 per BL is leviable on liquor imported into Meghalaya.

We reported the case to the Government in June 2009 but their replies have not been received (October 2010).

CHAPTER-V: MOTOR VEHICLE RECEIPTS

5.1 Tax administration

The Secretary, Transport Department is the head of the Department at the Government level. At the Department level, the Commissioner of Transport (CT) is the administrative in-charge and is responsible for overseeing the functioning of various wings of the Department. The Deputy Commissioner of Transport, who is also the ex-officio secretary, State Transport Authority (STA), assists him. At the district level, the District Transport Officer (DTO), who is also the secretary, Regional Transport Authority (RTA) is responsible for collection of receipts under the provisions of the various acts and rules. The administration of the Department and collection of receipts are regulated by the Motor Vehicles (MV) Act, 1988 and the Assam Motor Vehicles Taxation (AMVT) Act, 1936 (as adopted by the Government of Meghalaya) and various rules made thereunder. In addition, the Department has an Enforcement Branch (EB) headed by a DTO, for enforcement of the rules in force.

5.2 Trend of receipts

Actual receipts of the Transport Department during the years 2005-06 to 2009-10 alongwith the total tax receipts during the same period is exhibited in the following table and graph.

Table 5.1

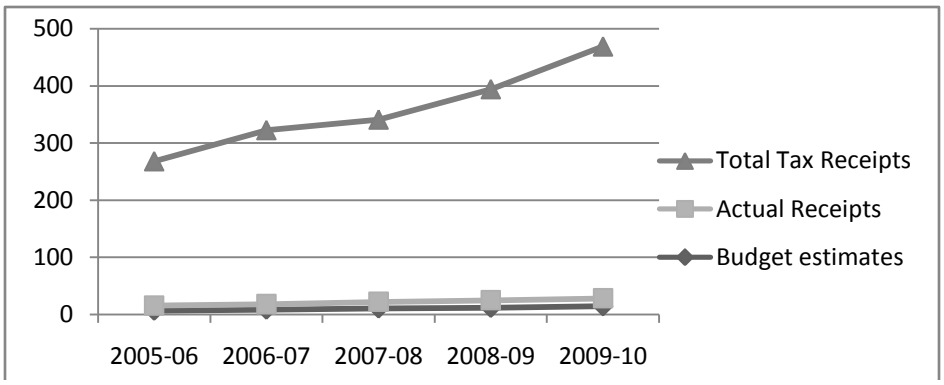
(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2005-06	6.66	8.73	(+) 2.07	31	252.67	3
2006-07	8.50	9.34	(+) 0.84	10	304.74	3
2007-08	10.56	11.35	(+) 0.79	7	319.10	4
2008-09	11.62	13.21	(+) 1.59	14	369.44	4
2009-10	14.48	13.61	(-) 0.87	6	444.29	3

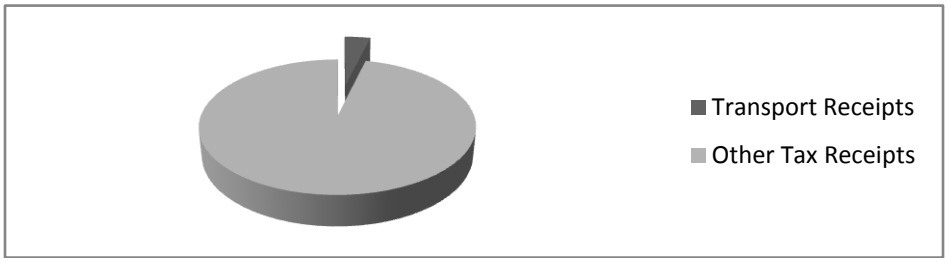
Thus, the percentage variation which was 31 *per cent* in 2005-06 came down to the level of seven *per cent* in 2007-08. After rising to the level of 14 *per cent* in 2008-09, it abruptly went down to (-) six *per cent* in 2009-10.

Motor vehicles receipts formed about 3-4 *per cent* of the total tax receipts of the State during the period 2005-06 to 2009-10.

A line graph of budget estimates, vis-à-vis the actual receipts and total tax receipts of the State may be seen below:



Also a pie chart showing the position of actual transport receipts vis-à-vis the total tax receipts during the year 2009-10 may be seen below:



5.3 Cost of collection

The cost of collection (expenditure incurred on collection) of the Transport Department during the year and the preceding two years is shown below:

Table 5.2

Year	Actual revenue (₹ in crore)	Cost of collection (₹ in crore)	Percentage of expenditure on collection	All India average percentage of preceding year
2007-08	11.35	6.57	57.89	2.47
2008-09	13.21	3.14	23.77	2.58
2009-10	13.61	2.80[1]	20.57	2.93

Thus, the cost of collection during all the three years remained well above the all India average percentage. The Government needs to take appropriate measures to bring down the cost of collection.

[1] Department figures

5.4 Impact of audit reports

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation of taxes, fees and fines, loss of revenue etc., with revenue implication of ₹ 1,806.1 crore in 22 paragraphs. Of these, the Department/Government had accepted audit observations in 7 paragraphs involving ₹ 1,236.43 crore and had since recovered ₹ 4 lakh. The details are shown in the following table:

Table 5.3

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	3	165.62	-	--	-	--
2006-07	1	714.15	1	708.38	1	0.04
2007-08	3	255.67	2	255.51	-	--
2008-09	7	272.69	3	272.33	-	--
2009-10	8	397.97	1	0.21	-	--
Total	**22**	**1,806.10**	**7**	**1,236.43**	**1**	**0.04**

Thus, against the accepted cases involving ₹ 1,236.43 crore, the Department/ Government has recovered an amount of ₹ 4 lakh which is 0.32 *per cent*.

We recommend that the department needs to revamp its revenue recovery mechanism to ensure that they could recover atleast the amount involved in the accepted cases.

5.5 Results of audit

Test check of the combined registers and other records of 08 units relating to the Transport Department during the year 2009-10 revealed non-realisation of taxes, fees and fines etc., amounting to ₹ 398.57 crore in 33 cases, which can be categorised as under:

Table 5.4

(Rupees in crore)

Sl. No.	Category	Number of Cases	Amount
1.	Non-imposition of penalty	9	395.38
2.	Non-realisation of fees/duties etc.	8	1.89
3.	Other irregularities	16	1.3
Total		**33**	**398.57**

During the year 2009-10, reply in respect of only one DTO[2] has been received.

[2] DTO, Jowai

A few illustrative audit observations involving ₹ 397.98 crore are mentioned in the succeeding paragraphs.

5.6 Audit observations

Our scrutiny of the records in the offices of Transport Department revealed several cases of non-observance of the provisions of the Act/Rules, resulting in non/short levy of fees and fines, etc., as mentioned in the succeeding paragraphs of this chapter. These cases are only illustrative, based on test check carried out by us, reflecting the flaws in the working of the Department. Although we point out similar cases every year, the irregularities persist. As such, we feel the Department needs to improve its internal control system, in order to guard against the recurrence of such lapses.

5.7 Non-levy of fine on trucks carrying excess load of coal

We cross verified the records of the Commissioner of Transport, Meghalaya, Shillong with those of the Director of Mineral Resources (DMR) checkposts at Dainadubi, Dawki, Mookyndur, Umkiang and Umling in March 2010 and noticed that 5,15,394 commercial trucks carried 80,74,079 MT of coal against the maximum permissible limit of 51,53,940 MT between April 2008 and March 2009. But the excess load of 29,20,139 MT carried by these trucks beyond the permissible limit escaped notice of the Enforcement Wing of the Transport Department, resulting in non-levy and consequent non-realisation of minimum fine of ₹ 395.09 crore.

Under Section 194 of the MV Act, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven carrying load in excess of the permissible limit shall be liable to pay a minimum fine of ₹ 2,000 and additional fine of ₹ 1,000 per MT of excess load. In Meghalaya, all commercial trucks are registered by the DTO with maximum permissible payload of 10 MT on which road tax is payable under the Assam Motor Vehicles Taxation Act, 1936 (as adopted by the state).

We reported the case to the Department/Government in April 2010 but their replies have not been received. (October 2010).

5.8 Short levy of fine

While auditing the records of the CT and Secretary, STA, Shillong in March 2009, we observed that the enforcement staff detected 1,006 vehicles plying in contravention of provisions of Sections 39 and 66 (1) of the Act. However, the enforcement staff, instead of realising minimum fine of ₹ 20.12 lakh, realised ₹ 10.09 lakh only. This was in violation of provision of Section 192 A and resulted in short realisation of fine of ₹ 10.03 lakh.

Under Section 192 A of the MV Act, plying a motor vehicle without permit in contravention of the provisions of Sections 39 and 66 (1) of the Act *ibid* shall be punishable for the first offence with a fine which may extend to ₹ 5,000 but shall not be less than ₹ 2,000.

We reported the case to the Department/Government in April 2010; but their replies have not been received. (October 2010).

5.9 Short-realisation of composite fee

During scrutiny of the records of the Secretary, STA, Meghalaya, Shillong in March 2010, we noticed that in 485 cases, the STAs of Assam and Mizoram realised CF of ₹ 28.03 lakh instead of ₹ 58.20 lakh on tourist vehicles authorised to ply under national permits in Meghalaya between April 2008 and March 2009 and remitted the same to the STA, Meghalaya. The STA, Meghalaya, however, did not take up the matter with his counterparts of the concerned States for recovery of the balance amount. This resulted in short realisation of CF of ₹ 30.17 lakh.

The Government of Meghalaya, Transport Department in their notification dated 15 May 2002 fixed annual composite fee (CF) on tourist taxi cab, tourist maxi cab and tourist omnibus at ₹ 1,200, ₹ 12,000 and ₹ 48,000 respectively to ply in Meghalaya under the national permits granted by the STAs of other states. The CF is realised by the Secretary, STA of the State which grants the national permit and remitted to the STA, Meghalaya through bank drafts.

We reported the case to the Department/Government in April 2010 but their replies have not been received. (October 2010).

5.10 Non-receipt of bank drafts sent for revalidation

While auditing the records of the Secretary, STA, Shillong in March 2010, we noticed that the STA did not maintain the register of valuables. We also noticed that the Department did not deposit the bank drafts into the Government account in time. As a result, 296 bank drafts amounting to ₹ 8.95 lakh pertaining to the period from June 2005 to August 2009 became time-barred. The Department returned the bank drafts between January 2006 and February 2010 to the concerned STAs for revalidation but none of the bank drafts were returned after revalidation. The Department also did not initiate any follow up action to get back the bank drafts after revalidation, resulting in non-realisation of revenue of ₹ 8.95 lakh.

Commercial trucks/tourist vehicles authorised to ply in Meghalaya under national permits granted by the STA of other States are required to pay CF at prescribed rates. The CF is payable by bank draft and remitted to the STA, Meghalaya Shillong. The STA is required to maintain the register of valuables to watch the receipt of bank drafts from other states and ensure prompt credit of the amount into Government account.

We reported the case to the Department/Government in April 2010 but their replies have not been received. (October 2010).

5.11 Non–levy of fine for non-renewal of permits

As per Section 66 of the MV Act, no owner of a motor vehicle shall use his vehicle as a transport vehicle in any public place without a valid permit whether or not such vehicle is actually carrying any passenger or goods.

The validity of a permit is five years and may be renewed on an application made not less than 15 days before the date of expiry of the permit. Plying of the vehicles without a valid permit attracts the provision of Section 192 A of the Act, under which, a minimum penalty of ₹ 2,000 shall be levied.

During scrutiny of the records of five DTOs[3] between August 2008 and March 2010, we noticed that 1,058 transport vehicles were plying without their permits renewed. Further, there were no recorded reasons for non-renewal of the permits of the vehicles nor were these vehicles declared off road. No action was taken by the DTOs to detect these vehicles plying without permits and to recover the fine from the defaulters. This resulted in non-levy of fine of ₹ 21.16 lakh.

After we pointed out the cases in September 2009, the DTO, Jowai, admitted the facts and stated in October 2009 that maximum penalty would be imposed on

[3] Jowai, Nongpoh, Shillong, Tura and Williamnagar.

defaulters to recover the loss of Government revenue. A report on imposition of penalty and its recovery thereof has not been intimated. In case of other DTOs, no reply has been received (October 2010).

We reported the cases to the Government between September 2008 and April 2010 but their replies have not been received. (October 2010).

5.12 Non–realisation of road tax

During scrutiny of the records of the DTO, Shillong in March 2009, we noticed that arrear taxes of ₹ 99.69 lakh had accumulated against Meghalaya Transport Corporation (MTC) from April 1990 to March 2009. We also noticed that there was no system for periodical review of payment of arrears by the DTO and consequently, timely demand notices had not been issued to them. The DTO neither suspended the registration certificates of the vehicles nor referred the cases to the certificate officer to realise the dues as arrears of land revenue. Thus, due to inaction on the part of DTO to monitor payment of dues, the vehicles belonging to the MTC continued to ply without payment of road tax resulting in non-realisation of revenue of ₹ 99.69 lakh.

> The MV Act and the AMVT Act and the rules made there under lay down that every owner of a registered vehicle shall pay road tax in advance either annually or quarterly in four equal instalments. On failure of the Department to recover tax, the cases are to be forwarded to the certificate officer to realise the dues as arrears of land revenue.

We reported the case to the Department and Government in September 2008 and April 2010 but their replies have not been received. (October 2010).

5.13 Non–imposition of penalty

We test checked the vehicle files of each registered owner available in the DTO, Jowai in August 2009 and noticed that 125 vehicles were sold by the firms/dealers to the purchasers without temporary/permanent registration between September 2007 and July 2008. In all these cases, the vehicles were registered by the DTO after average delays of 300 days from the date of delivery. Despite specific provision prohibiting delivery of vehicles without a valid registration, the dealers sold these vehicles, thereby, violating the provisions of the MV Act and the CMV Rules. This not only

> As per Rule 42 of the CMV Rules, no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent. Further, as per Section 192 of the MV Act, whoever drives or allows a motor vehicle to be driven without registration shall be punishable for the first offence with a fine extendable upto ₹ 5,000 but not less than ₹ 2,000.

resulted in plying of these vehicles without valid registration but also led to non-levy of minimum penalty of ₹ 2.50 lakh.

We reported the case to the Department/Government in August 2009 but their replies have not been received. (October 2010).

5.14 Non–deposit of Government money

We cross verified (March 2010) the records of the MTC, Shillong with those of the CT, Meghalaya, Shillong and noticed that ₹ 1.16 crore collected by the MTC as sale proceeds of tickets for helicopter services between April 2006 and December 2009, were not only kept outside the Government accounts, but also unauthorisedly utilised to meet various departmental charges in violation of standing provisions of GFR. Such irregular retention of revenue and utilisation of the same to meet departmental expenditure tantamount to temporary misappropriation of Government money; bypassing the approval of the legislature. We also noticed that no action was initiated by the CT to realise the amount from the MTC.

As per the provision of the General Financial Rules, all moneys collected on behalf of the Government shall be immediately credited into the Government accounts. In February 1999, the Government of Meghalaya, Transport Department introduced helicopter services of M/s Pawan Hans Helicopter Limited (PHHL) in the State to operate between Shillong, Guwahati and Tura. The Meghalaya Transport Corporation was appointed as an agent for operating the helicopter services, including selling of tickets and other ancillary works, on the basis of commission payable at the rate of nine *per cent* of the sale proceeds of tickets.

We reported the matter to the Department/Government in April 2010 but their replies have not been received. (October 2010).

CHAPTER-VI: FOREST RECEIPTS

6.1 Tax administration

The Principal Secretary, Forest and Environment Department is the head of the Forest Department at the Government level. At the Department level, the Principal Chief Conservator of Forests (PCCF) monitors the overall implementation of forest related projects including forest receipts. The implementing authorities at the district level are the Divisional Forest Officers (DFO). All forest related activities including revenue collection are regulated by the Meghalaya Forest Regulation (Application and Amendment) Act, 1973, the Assam Settlement of Forest Coupes[1] and *Mahals*[2] by Tender System Rules, 1967 (as adopted), the Meghalaya Forest (Ejectment of Unauthorised Person) Rules, the Meghalaya Tree (Preservation) Act, 1976 and the Meghalaya Removal of Timber Regulation Act, 1981 and various Rules made thereunder.

6.2 Trend of receipts

Actual receipts from Forest Department during the years 2005-06 to 2009-10 along with the total non-tax receipts during the same period is exhibited in the following table and graph.

Table 6.1

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non tax receipts
2005-06	13.00	15.30	(+) 2.30	18	146.01	10
2006-07	14.30	16.66	(+) 2.36	17	184.37	9
2007-08	17.85	15.60	(-) 2.25	13	199.35	8
2008-09	19.27	17.36	(-) 1.91	10	225.31	8
2009-10	20.35	20.03	(-) 0.32	2	275.09	7

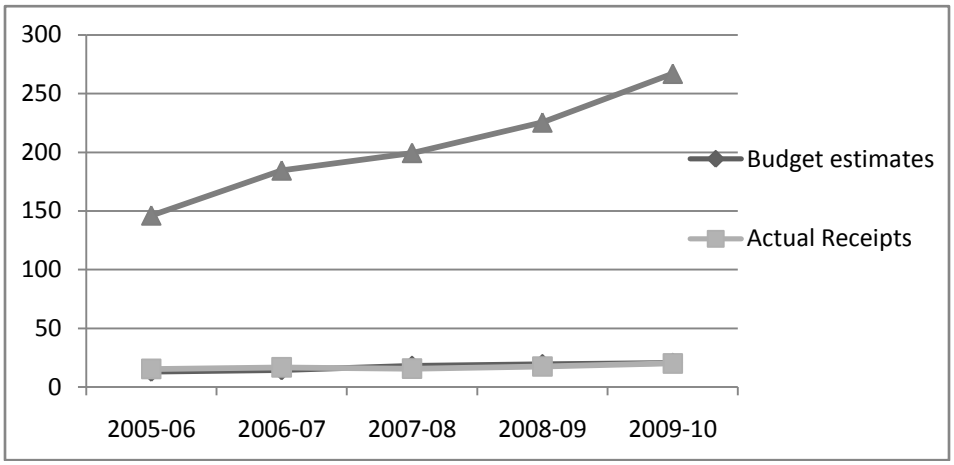
Thus, the percentage variation which was 18 *per cent* in 2005-06 came down consistently to the level of (-) 2 *per cent* in 2009-10. The high level of variation between the budget estimates and actual reflects that the Department needs to frame the budgets prudently based on past trends and future potential.

[1] A compact area where a number of trees are pre marked for sale by way of auction or tender on condition of their removal within a specified period.

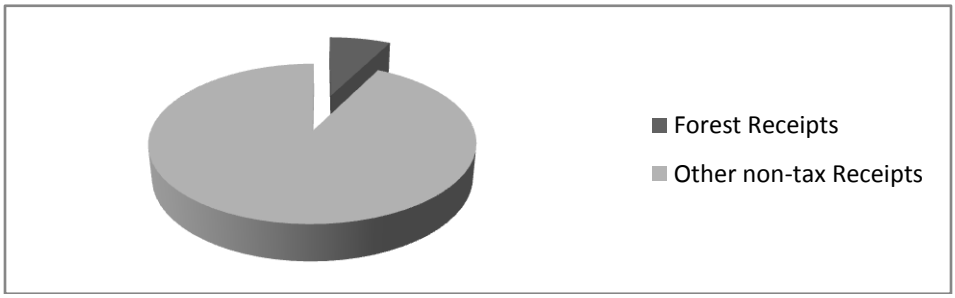
[2] A well defined area wherefrom certain types of forest produce are sold on condition of their removal within a specified period.

Forest receipts formed about 7-10 *per cent* of the total non-tax receipts of the State during the period 2005-06 to 2009-10.

A line graph of budget estimates, vis-à-vis the actual receipts and total non-tax receipts of the State may be seen below:



Also a pie chart showing the position of actual forests receipts vis-à-vis other non-tax receipts during the year 2009-10 may be seen below:



6.3 Impact of audit reports

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation of royalty, fees etc., with revenue implication of ₹ 15.59 crore in 27 paragraphs. Of these, the Department/ Government had accepted audit observations in seven paragraphs involving ₹ 4.13 crore, in respect of which, no recovery has been made. The details are shown in the following table:

Table 6.3

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	3	2.00	2	0.85	-	--
2006-07	7	5.49-	3	1.40	-	--
2007-08	6	9.93	-	--	-	--
2008-09	6	3.56	2	1.88		
2009-10	5	2.10	-	--		
Total	**27**	**15.59**	**7**	**4.13**	**-**	**--**

Thus, though the Department/Government have accepted paragraphs involving revenue of ₹ 4.13 crore, no recovery could be made during the past five years. This reflects that there is a need for the Department/Government to revamp the revenue recovery mechanism to ensure that at least the revenue involved in the accepted cases is recovered.

6.4 Results of audit

Test check of the records of 16 units relating to the Forest Department during the year 2009-10 revealed non-realisation of royalties, fees etc., amounting to ₹ 13.26 crore in 23 cases which can be categorised as under:

Table 6.4

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	Non-realisation of fees	4	8.36
2.	Non-deposit of forest royalty	4	1.23
3.	Loss of revenue	7	1.16
4.	Other irregularities	8	2.51
Total		**23**	**13.26**

During the year 2009-10, the Department furnished replies to 11 observations involving money value of ₹ 3.15 crore.

A few illustrative audit observations involving ₹ 1.77 crore are mentioned in the succeeding paragraphs.

6.5 Audit observations

Our scrutiny of the records in the offices of Forest Department revealed several cases of non-observance of the provisions of the Act/Rules, resulting in non/short levy of fees and royalties and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative, based on test check carried out by us. We point out similar omissions reflecting the gaps in revenue collection mechanism every year, but the irregularities persist. We feel the department needs to improve its internal control system.

6.6 Non-realisation of export fee

During test check of the records of the PCCF, Shillong in August 2009, we noticed that 45,939 trucks of limestone were exported from the State between April 2008 and December 2008, but transit passes were issued to these trucks without realising ₹ 300 per truck. This resulted in non-realisation of revenue of ₹ 1.38 crore.

Under the Meghalaya Forest Regulations, 'forest produce' includes rock and minerals including limestone when found in or brought from a forest. In October 1999, the Government of Meghalaya, Forest and Environment Department, notified that for removal of any forest produce outside the State, a transit pass shall be issued on realisation of ₹ 300 per truck.

We pointed out the case to the department/Government in December 2009; but their replies have not been received (October 2010).

6.7 Loss of revenue due to non-settlement of boulder *mahals*

While auditing the records of the DFO, Jaintia Hills Territorial Division in July 2009, we noticed that the DFO proposed to the Government in November 2006 to constitute two stone boulder *mahals* on Umngot and Rongpani rivers with stipulated quantity of 3,000 cubic metre (cum) boulder each as the stone boulders available in these rivers were constantly drained into Bangladesh by river current. The State Government in April 2008 issued a notification and constituted the two *mahals* as proposed and approved the tender notice for

As per Assam Settlement of Coupes and *Mahals* by Tender System Rules, 1967 (as adopted by the Government of Meghalaya), *mahals* are to be settled by inviting tenders. Sand/stone boulders in a river bed are in a constant process of accumulation and depletion due to river current. If the *mahals* are not settled during the specified working period, the sand/stone is carried away downstream by the river current, resulting in revenue loss.

sale. The DFO intimated the Conservator of Forests (CF), in October 2008 that the tender notice could not be circulated due to strong resentment amongst the people residing near both the *mahal* areas. The CF in turn, instructed the DFO in January 2009 to meet the Deputy Commissioner of Jaintia Hills in order to work out a solution within six days. Further action taken in this regard to find out a way to operate the *mahals* was not found on records. The two riverine *mahals* remained un-operated during the working periods 2007-08 and 2008-09, leading to loss of revenue of at least ₹ 9.60 lakh.

We reported the case to the Department and the Government in July 2009; their replies have not been received (October 2010).

6.8 Loss of revenue due to non-finalisation of *phuljharu* mahal

We noticed during test check of the records of the PCCF, Shillong in August 2009, that the *phuljharu mahal* in Garo Hills Forest Division was put up for sale by inviting tenders in November 2008 for the period upto June 2009. In response, four bids were received, out of which the highest bidder offered ₹ 7.11 lakh. The DFO, Garo Hills Territorial Division, recommended settlement of the *mahal* with the highest bidder to the PCCF in January 2009 for necessary approval. The PCCF forwarded the case to the Government in February 2009 to accord necessary sanction for settlement of the *mahal* after a lapse of more than one month. However the Government asked the PCCF in July 2009 to inform the procedure adopted for settlement of the *mahals* in the earlier cases who in turn informed the Government that the procedures adopted in settlement of the *mahal* was the same as was adopted in earlier years. He further informed the Government that due to delay in settlement of the *mahal*, the season for collection of *phuljharu*[3] was already over for the year 2008-09. Thus, delay in finalising the settlement of the *mahal* by the Government led to loss of revenue of ₹ 7.11 lakh.

Mahals are settled by inviting tenders. *Phuljharu* is a seasonal plant and if not harvested before the onset of monsoon, it withers away and loses its commercial value, leading to loss of revenue.

We reported the case to the Department and to the Government in December 2009 but their replies have not been received (October 2010).

[3] Broomstick.

6.9 Short realisation of revenue

We cross verified the records of an user agency[4] with those of the DFO, Khasi Hills Forest Division in September 2009 and noticed that 5,766.22 cum of stone and 960.24 cum of sand were extracted and utilised for various works by the contractors between April 2008 and March 2009. The user agency realised royalty of ₹ 1.85 lakh instead of ₹ 4.90 lakh from the contractors' bills and forwarded the same to the Forest Department. No effective steps were initiated by the Forest Department to recover the balance revenue. Thus, failure of the user agency to realise royalty at the prescribed rate resulted in short realisation of royalty of ₹ 3.05 lakh.

The Government of Meghalaya, Forests and Environment Department in their notification dated 12 November 1998, fixed the rate of royalty per cum of sand and stone at ₹ 30 and ₹ 80 respectively.

The Forest Department contended that the user agencies were responsible to recover the loss but we noticed that no coordinated steps had been taken either by the Forest Department or by the user agencies to identify and resolve the issues due to which the Government is sustaining loss of revenue year after year, which may become irrecoverable with the passage of time.

We reported the case to the Department/Government in October 2009 but their replies have not been received (October 2010).

6.10 Illicit felling and removal of timber

During scrutiny of the records of the DFO, Garo Hills Forest Division in January 2010, we noticed that 411.458 cum of timber of mixed species involving royalty of ₹ 19.70 lakh was illegally felled by miscreants from the reserve forests under the Division between April 2008 and March 2009 and the entire outturn was removed during the aforesaid period. Illegal felling and removal of such a large quantity of timber by miscreants from the State reserve forest indicates poor enforcement measures and also resulted in loss of revenue of ₹ 19.70 lakh.

Under the provisions of the Meghalaya Forest Regulations and Rules made thereunder, felling and removal of trees from a reserve forest without a valid pass constitutes a forest offence punishable with fine. To prevent such illegal removal of the forest produce, erection of forest check gates at all the vital points is the primary responsibility of the Forest Department.

We reported the matter to the Department/Government in March 2010 but their replies have not been received (October 2010).

[4] EE, PWD Roads, Mairang Division.

CHAPTER VII: RECEIPTS FROM MINES AND MINERALS

7.1 Tax administration

The State of Meghalaya is endowed with rich mineral deposits, particularly coal and limestone. Constitutionally, the State Government is the owner of the minerals and as such receives rent and royalty accruing from grant of prospecting and mining rights to individuals and firms. The Constitution of India, however, empowers the Parliament of India to make laws for regulation of mines and minerals. Under this power, the Central Government enacted the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, and the Mineral Concession (MC) Rules, 1960. Subsequently, the State Government introduced the Meghalaya Minerals Cess (MMC) Act, 1988 to mobilise additional revenue. In Meghalaya, the royalty and cess on coal were ₹ 165 and ₹ 55 per MT respectively, and royalty and cess on limestone were ₹ 45 and ₹ 20 respectively, with effect from 6 January 2009. The rate of royalty on coal was further revised to ₹ 290 per MT with effect from 1 September 2009 while the cess was withdrawn.

7.2 Trend of receipts

Actual receipts from Mining & Geology Department during the years 2005-06 to 2009-10 alongwith the non-tax receipts during the same period is exhibited in the following table and graph.

Table 7.1

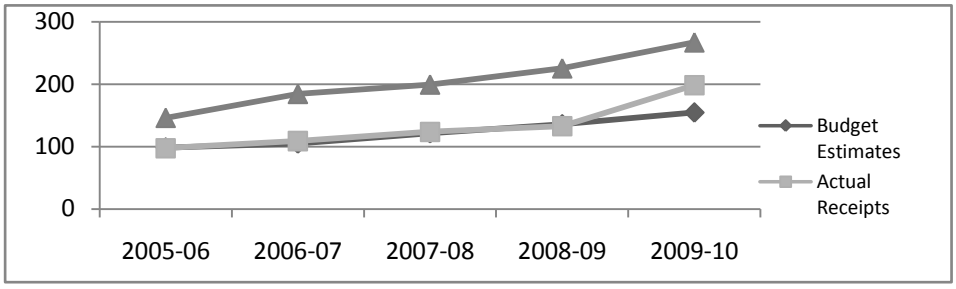
(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non tax receipts
2005-06	98.50	97.56	(-) 0.94	0.95	146.01	67
2006-07	105.00	109.03	(+) 4.03	4	184.37	59
2007-08	121.43	123.66	(+) 2.23	2	199.35	62
2008-09	135.69	132.73	(-) 2.96	2	225.31	59
2009-10	154.63	198.21	(+) 43.58	28	275.09	72

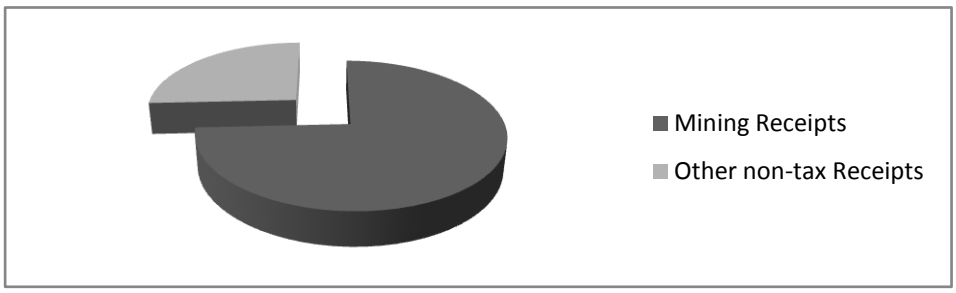
Thus, the percentage of variation which was (-) 0.95 *per cent* has shown correction in subsequent years and reached the level of (+) 28 *per cent* in 2009-10.

Mines and minerals receipts formed about 60-72 *per cent* of the total non-tax receipts of the State during the last five years.

A line graph of budget estimates, actual receipts and total non-tax receipts may be seen below:



Also a pie chart showing the position of actual mining receipts *vis-à-vis* the other non-tax receipts of the State during the 2009-10 may be seen below:



7.3 Impact of audit reports

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 238.24 crore in 26 paragraphs. Of these, the Department / Government had accepted audit observations in 4 paragraphs involving ₹ 6.79 crore and had since recovered ₹ 0.05 crore. The details are shown in the following table:

Table 7.3

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	2	10.55	2	6.14	1	0.05
2006-07	4	13.80	1	0.19	-	--
2007-08	5	21.35	-	-	-	--
2008-09	5	41.12	-	-	-	--
2009-10	10	151.42	1	0.46	-	--
Total	**26**	**238.24**	**4**	**6.79**	**1**	**0.05**

Thus, against the accepted cases involving ₹ 6.79 crore, the Department/Government has recovered an amount of ₹ 5 lakh which is 0.74 *per cent*.

We recommend that the Department needs to revamp its revenue recovery mechanism to ensure that they could recover atleast the amount involved in the accepted cases.

7.4 Results of audit

Test check of the records of two units relating to Mining & Geology Department during the year 2009-10 revealed non-realisation of duties, royalties etc., amounting to ₹ 123.90 crore in 23 cases which can be categorised as under:

Table 7.4

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non-revision of royalty rate	05	22.08
2.	Leakage of revenue	03	21.53
3.	Non-realisation of royalty	03	0.34
4.	Other irregularities	12	79.95
Total		**23**	**123.90**

During the year 2009-10, the Department failed to respond to any of the irregularities brought to their notice.

A few illustrative audit observations involving ₹ 151.39 crore are discussed in the succeeding paragraphs.

7.5 Audit observations

Scrutiny of the records in various offices of the Mining and Geology Department revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy/realisation of royalty/cess/dead rent and other cases as have been mentioned in the ensuing paragraphs of the chapter. These cases are illustrative, based on test check carried out by us. Though we point out such omissions each year, yet the irregularities continue to persist. We feel there is a need for the Government to consider directing the Department to improve the internal control system so that such omissions can be detected, corrected and / or avoided.

7.6 Loss of revenue due to delay in issue of notification

7.6.1 Mention was made in Paragraph 5.11 of the Audit Report, Government of Meghalaya for the year ended 31 March 2004 regarding loss of revenue of ₹ 18.56 crore due to delay on the part of the State Government in circulating the change in the rate of royalty of coal as notified by the Government of India. We further noticed a case of delay in circulating a notification enhancing the rate of royalty as mentioned under:-

The Government of India, Ministry of Coal revised the rate of royalty per metric tonne (MT) of coal from ₹ 165 to ₹ 130 plus five *per cent* of pithead price of coal with effect from 1 August 2007**.**

We noticed during scrutiny of records of the Director of Mineral Resources (DMR), Meghalaya, Shillong in November 2009 that that the Government of Meghalaya, Mining and Geology Department, notified in August 2009, the applicability of the revised rate of royalty from ₹ 165 to ₹ 290 per MT with effect from 1 September 2009 after a delay of 25 months. We further noticed that between August 2007 and March 2009, the DMR issued Coal Transport Challans (CTC) for despatch of 104.62 lakh MT of coal at the pre revised rate of ₹ 165 per MT and realised royalty of ₹172.63 crore as against ₹ 303.41 crore at revised rate of ₹ 290 per MT. Thus, delay on the part of the State Government to implement the revised rate of royalty resulted in loss of revenue of ₹ 130.78 crore.

7.6.2 We noticed during scrutiny of records of the DMR in November 2009 that in contravention of the Government notification dated 6 January 2009, the DMR through a public notice, revised the rate of cess on limestone and sillimanite and levied cess on coal from 28 January 2009. We further noticed that 4,22,441 MT of coal, 1,491 MT of limestone and 37 MT of sillimanite were dispatched from the State during the period without realisation of cess/revised rate of cess due to delay on the part of DMR in implementation of revised rate of cess on

The Government of Meghalaya vide notification dated 6 January 2009 levied cess on coal at ₹ 55 per MT and revised the rate of cess on limestone and sillimanite.

limestone and sillimanite and levy of cess on coal. This resulted in loss of revenue of ₹2.33 crore

We also noticed that the DMR check post at Dawki incorrectly allowed 16 exporters to export 9,177 MT of coal to Bangladesh between 28 January 2009 and 2 February 2009 without realisation of cess, resulting in loss of revenue of ₹ 5.05 lakh.

We reported both the cases to the Department / Government in December 2009 but we have not received their replies (October 2010).

7.7 Non-realisation of royalty on minerals exported

There are two checkposts at Borsora, Jaintia Hills District-one belonging to the DMR and the other Land Custom Station (LCS) belonging to the Customs Department. The mining checkpost sends monthly returns to the DMR while the LCS sends the information regarding exports to the Customs Department.

The MMDR Act and the notifications issued thereunder provide that every licensee or permit holder or lessee shall pay the prescribed royalty in advance on the quantity of minerals removed or consumed by him and in case of default the licensee shall in addition to royalty pay penalty at the rate of 25 to 100 *per cent* of the royalty.

We obtained information from the Customs Department regarding the export of coal and limestone to Bangladesh through LCS at Borsora and found that 3,92,202.55 MT of coal and 98,218.24 MT of limestone were exported during the period from March 2009 to October 2009. Cross-verification of these exports revealed that DMR recorded export of 38,308 MT of coal by the permit holders after payment of royalty of ₹ 63.21 lakh. Thus, the export of 3,53,894.55 MT coal and 98,218.24 MT lime stone were reflected less in the records of the DMR. The DMR had at no time made any effort to cross-check the exports made through the Customs check post. This resulted in a loss of revenue of ₹ 13.47 crore in the form of royalty and cess and penalty.

We noticed that there was no coordination/reconciliation of figures of the exports liable to pay royalty that were taking place through two check posts viz the Mining checkpost and the Customs checkpost with the result evasion of tax in the mining checkpost remained undetected.

We recommend that the Government may consider putting in place a mechanism for coordination / reconciliation of the figures of the exports that were liable to pay royalty and were taking place through the Mining checkpost and the Customs checkpost to check the evasion of royalty.

We reported the case to the Department/Government in December 2009 but we have not received their replies (October 2010).

7.8 Loss of revenue due to illegal extraction of coal

We noticed from scrutiny of records of the DMR, Meghalaya, Shillong in November 2009 that a lease agreement was executed in March 1988 with M/s Coal India Limited (CIL) for a term of 20 years in Nangwalbibra area of South Garo Hills district but the CIL could not carry out mining operations because of law and order problem in the area. The DMO, Williamnagar visited the area on 28, 29 and 30 November 2007 and apprised the DMR of illegal extraction and despatch of at least 48,000 MT of coal between December 2007 and March 2009 from the leased area. Not only did the DMR fail to detect unauthorised extraction in time, but the departmental checkposts also failed to prevent transportation of illegally extracted coal. The DMR reported the matter to the Government in February 2008 but till date (August 2010) the Government has not taken any action. This led to minimum loss of revenue of ₹ 99 lakh. Besides, penalty of ₹ 24.75 lakh is also leviable.

Under the MMDR Act, if coal is transported without payment of royalty, the officer in charge of the check gate shall collect royalty plus a minimum penalty of 25 *per cent* of royalty involved.

We reported the matter to the Department/Government in December 2009 but we have not received their replies (October 2010).

7.9 Incorrect waiver of interest

While auditing the records of the DMR Shillong in November 2009, we noticed that the CIL did not extract any coal from the leasehold land at Nangwalbibra and was liable to pay dead rent of ₹ 79.78 lakh upto March 2008. For non-payment of dues, simple interest of ₹ 81.65 lakh was also payable by the lessee.

The MMDR Act, and rules framed there under provides that if the dues payable by the lessee are not paid within the time specified, simple interest at the rate of 24 *per cent* per annum may be charged on the amount remaining unpaid from the sixtieth day of the expiry of the date fixed for payment of such dues. The Act does not provide for waiver of interest.

The lessee paid the dead rent in June 2009 and prayed for waiver of the interest payable for delayed payment of dead rent. The State Government waived payment of interest although there was no provision for waiver of interest in the Act. This resulted in loss of revenue of ₹ 81.65 lakh.

We reported the matter to the Department/Government in December 2009, but we have not received their replies (October 2010).

7.10 Non-levy of royalty on minerals consumed

We obtained information from M/s Mawmluh Cherra Cement Limited[1] and noticed that the company utilised 45,959 MT of coal and 19,700 MT of clay between April 2007 and March 2009 from eighty-three private suppliers. We cross-checked the information with the CTC registers in DMR, Shillong and found that neither any CTC had been issued nor was any royalty realised from the private suppliers for the said supply. Thus unauthorised extraction of coal and clay resulted in non-realisation of royalty of ₹ 82.13 lakh. Besides, minimum penalty of ₹ 18.96 lakh was also leviable for non-payment of royalty on coal.

We reported the case to the Department/Government in December 2009 but their replies have not been received (October 2010).

7.11 Non-realisation of cess on limestone

We obtained information from Jaintia Hills and Khasi Hills Territorial Forest Divisions and found that the two forest divisions collected royalty on 9.56 lakh MT of limestone extracted between April 2007 and December 2008 from areas within their jurisdiction. We cross-verified the information with the records of DMR, Shillong in November 2009 and found that the Department did not have any records relating to extraction, consumption and export of limestone from the areas under the jurisdiction of forest division and collection of cess there from. Thus, lack of co-ordination between two departments led to non-realisation of cess of ₹ 47.80 lakh.

Under the Meghalaya Mineral Cess Act, cess on limestone has been fixed at ₹ 5 per MT from 1 April 1992. In Meghalaya, royalty on limestone is collected both by forest divisions (for limestone extracted from areas under the jurisdiction of forest division) and the DMR (for remaining areas).

We reported the matter to the Department and to the Government in December 2009 but their replies have not been received (October 2010).

[1] A cement company based in Shillong

7.12 Non–realisation of royalty on limestone

We noticed during scrutiny of records of the DMO, Williamnagar in December 2008 that permit holders/lessees extracted and removed 1,01,284 MT of limestone between April 2006 and March 2008. Though, the DMO realised cess he did not levy and collect royalty on limestone. This resulted in non-levy of royalty of ₹ 45.58 lakh.

The Government of India, Ministry of Mines vide notification dated 14 October 2004 revised the rate of royalty on limestone from ₹ 40 to ₹ 45 which was circulated and made effective by the DMR, Meghalaya on 19 November 2004. Cess on limestone was being realised at the rate of ₹ 5 per MT upto 18 January 2009 in pursuance of State Government notification dated 1 April

After we reported the case, the DMO admitted the facts and stated in March 2009 that royalty on limestone was not collected by him due to non-receipt of any notification to the effect from the DMR.

We reported the matter to the Department and to the Government in January 2009 but we have not received their replies (October 2010).

7.13 Variation in records maintained by the Minerals and Taxation check posts

Taxation check posts are maintaining composition registers. Separate registers are maintained for coal, limestone etc. Likewise, the Mines and Minerals check post maintains composition registers.

Section 9 (2) of the MMDR Act, 1957 lays down that every licensee or permit holder or lessee shall pay the royalty at the rates prescribed in the Act in respect of any mineral removed or consumed by him otherwise penalty along with royalty is required to be collected at the check post.

We collected information in November 2009 from Mineral check post at Umkiang regarding the excess coal carried by trucks during the period from April 2007 to March 2008 and found that 21,430 trucks crossed the check post carrying excess load of 21,549 MT. On cross verification of records with the Taxation check post at Umkiang we found that 20,461 trucks carrying excess load of 41,030 MT crossed the check post during the aforesaid period. Thus, 19,481 MT of coal carried in excess of permissible limit for which royalty and penalty required to be collected, escaped the notice of the officer-in-charge of the Mineral check post. This resulted in loss of revenue of ₹ 40.18 lakh.

We reported the case to the department/Government in April 2009. We have not received their replies (October 2010).

7.14 Non-levy of penalty

We noticed during test check of records of DMR in November 2009 that a cement manufacturing company situated at Lumshnong, Jaintia Hills District consumed 6,46,534 MT of limestone between December 2004 and March 2008 and was, thus, liable to pay cess of ₹ 32.33 lakh. The Company paid the amount belatedly by 5 to 41 months in November 2008. For belated payment of dues, penalty of ₹ 32.33 lakh was also leviable.

Under Section 7 of the Meghalaya Minerals Cess Act, 1988, if any dues (cess) payable under the Act are not paid within the due date, these shall be deemed as arrears and the prescribed authority may impose penalty not exceeding the amount of dues.

We reported the case to the Department/Government in December 2009 but we have not received their replies (October 2010).

7.15 Non-realisation of dead rent

We noticed during scrutiny of the records of the DMR in March 2009 that three lessees did not extract any mineral from the leased areas between January 2006 and December 2006. As such, the lessees were liable to pay dead rent of ₹ 2.25 lakh. Neither did any of the lessees pay the dead rent; nor did the department initiate any action to recover the dues. For non-payment of dues, interest of ₹ 0.98 lakh was leviable but was not levied.

We reported the case to the Department/Government in December 2009 but we have not received their replies (October 2010).

Shillong
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