

CHAPTER – IV

REVENUE RECEIPTS

4.1 Trend of revenue receipts

4.1.1 The tax and non-tax revenue raised by the Government of Sikkim during the year 2010-11, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India (GOI) during the year and the corresponding figures for the preceding four years are mentioned below:

Table - 4.1

(₹ in crore)

Sl. No.		2006-07	2007-08	2008-09	2009-10	2010-11
I.	Revenue raised by the State Government					
	♦ Tax revenue	173.18	197.86	199.19	223.65	279.54
	♦ Non-tax revenue	1,085.04	1,413.74	1,205.31	1,356.44	1,137.76
	Total	1,258.22	1,611.60	1,404.50	1,580.09	1,417.30
II.	Receipts from the Government of India					
	♦ State's share of divisible Union taxes	222.78	345.12	364.20	374.68	524.99
	♦ Grants-in-aid	635.54	742.71	902.55	1,299.62	1,105.02
	Total	858.32	1,087.83	1,266.75	1,674.30	1,630.01
III.	Total receipts of the State	2,116.54	2,699.43	2,671.25	3,254.39	3,047.31
IV.	Percentage of I to III	59	60	53	49	47

The above table indicates that during the year 2010-11, the revenue raised by the State Government (₹ 1,417.30 crore) was 47 *per cent* of the total revenue receipts against 49 *per cent* in the preceding year. The balance 53 *per cent* of receipts during 2010-11 were from the GOI.

4.1.2 The following table presents the details of tax revenue raised during the period from 2006-07 to 2010-11:

Table - 4.2

(₹ in crore)

Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Sales Tax/VAT	74.66	81.32	101.14	121.07	142.74	17.90
2.	Taxes on Income other than Corporation Tax	46.71	49.10	16.16	2.84	4.94	73.94
3.	State Excise	33.31	37.94	46.47	57.27	70.64	23.35
4.	Stamps and Registration Fees	2.52	4.26	4.35	4.48	5.70	27.23
5.	Taxes on Vehicles	5.95	6.22	6.94	7.88	10.67	35.41
6.	Other Taxes and Duties on Commodities and Services	9.25	16.26	22.18	27.39	37.52	36.98
7.	Land Revenue	0.78	2.75	1.95	2.71	7.33	170.48
Total		173.18	197.85	199.19	223.64	279.54	

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

Sales Tax/VAT: Increased tax base and improvement in monitoring mechanism.

State Excise: Extensive inspection, touring and better management.

Stamp and Registration Fees: Increase in registration charges and involvement of more sale transactions.

The other Departments did not inform (November 2011) the reasons for variation, despite being requested (May and July 2011).

4.1.3 The following table presents the details of non-tax revenue raised during the period from 2006-07 to 2010-11:

Table-4.3

(₹ in crore)

Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Interest Receipts	5.34	15.10	25.94	44.18	28.14	(-) 36.31
2.	Road Transport	14.86	15.62	17.64	20.29	24.76	(+) 22.03
3.	Plantations	1.95	2.10	2.35	1.80	2.90	(+) 61.11
4.	Dividends & Profits	0.76	0.68	1.31	0.46	2.37	(+) 415.22
5.	Forestry and Wild Life	9.50	10.95	11.26	8.79	12.25	(+) 39.36
6.	Tourism	0.87	1.18	2.11	1.62	3.00	(+) 85.19
7.	Crop Husbandry	0.50	1.64	0.71	0.40	0.51	(+) 27.5
8.	Power	58.16	97.66	154.74	285.83	87.86	(-) 69.26
9.	Printing & Stationery	1.69	1.98	1.50	2.27	1.52	(-) 33.04
10.	Medical and Public Health	0.60	1.14	0.96	1.02	0.72	(-) 29.41
11.	Village & Small Industries	0.10	0.23	0.08	0.09	0.07	(-) 22.22
12.	Public Works	3.74	4.32	4.97	2.89	3.48	(+) 20.42
13.	Police	13.90	14.64	11.68	14.52	9.57	(-) 34.09
14.	Animal Husbandry	0.39	0.43	0.30	0.32	0.38	(+) 18.75
15.	Industries	0.02	0.01	0.25	0.18	0.27	(+) 50
16.	State Lotteries ¹	963.30 (50.01)	1,232.55 (30.84)	957.00 (43.95)	949.92 (40.90)	938.15 (42.54)	(-) 1.24
17.	Others	9.36	13.51	12.51	74.82	21.81	(-) 0.23
Total		1,085.04	1,413.74	1,205.31	1,356.44	1,137.76	(-) 16.12

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

Road Transport: Increase in traffic flow in the later part of the year.

Tourism: Leasing out of new properties.

Power: Comparatively lesser energy trading rate received by the Department coupled with

¹ Figures in brackets represent net receipts.

suppressed demand of energy in the market.

Printing and Stationary: Non-receipt of dues from LR, SNT, STNM, Home and BACs.

Public Works: Increase in tariff rate.

Police: Receipts being based on reimbursement of actual expenditure incurred on deployment of IRB personnel by NHPC.

State Lotteries: Closure of Lottery market in Kerala and other States.

The other Departments did not inform (September 2011) the reasons for variation, despite being requested (May and July 2011).

4.2 Response of the Departments/ Government towards Audit

Annotated replies of the audit observations are to be submitted by the Government Departments to the Office of the Accountant General (Audit), Sikkim within one month from the date of issue of Inspection Reports (IRs).

In case the annotated replies of the audit observations are satisfactory and the documents in support of the replies are duly attested by the competent authority, the paragraph is settled after verification of the documents.

The audit observations are also settled during Audit Committee Meetings, if the reply of Department is satisfactory.

The observations which are subjudice remain pending till the decision of the court is obtained.

At the time of next audit, rest of the audit observations are reviewed by the audit party at length and after verification of the records, these are recommended for settlement.

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

The Accountant General (AG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the IRs incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the Heads of the Offices inspected with copies to the next higher authorities for taking prompt corrective action. The Heads of the Offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date from the issue of the IRs. Serious financial irregularities are reported to the Head of the Department and the Government.

IRs issued upto December 2010 disclosed that 248 paragraphs involving ₹ 281.70 crore relating to 110 IRs remained outstanding at the end of June 2011 as mentioned in the following table along with the corresponding figures for the preceding two years.

Table-4.4

	June 2009	June 2010	June 2011
Number of outstanding IRs	94	100	110
Number of outstanding audit observations	209	245	248
Amount involved (₹ in crore)	429.42	511.41	281.70

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2011 and the amount involved are mentioned in the following table:

Table-4.5

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1	Finance, Revenue and Expenditure (Commercial Tax Division)	VAT/Taxes on Sales, Trade, etc.	9	40	76.05
2	Finance, Revenue and Expenditure (Income Tax Division)	Income Tax	13	52	19.76
3	Excise (Abkari)	State Excise	06	14	1.95
4	Land Revenue and Disaster Management	Land Revenue	16	17	0.72
5	Transport	Taxes on Motor vehicles	4	12	1.25
6	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	3	4	0.6
7	Forest, Environment and Wildlife Management	Forestry and Wildlife	37	60	44.86
8	Finance, Revenue and Expenditure (State Lotteries Division)	Lottery	4	5	56.26
9	Energy and Power	Power	9	23	72.12
10	Urban Development and Housing	Urban Development	9	21	8.13
	Total		110	248	281.70

Even the first replies required to be received from the Heads of Offices within one month from the date of issue of the IRs were not received for seven IRs issued (during 2010-11) upto December 2010. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the Heads of Offices and Heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

It is recommended that the Government takes 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.

4.2.2 Departmental Audit Committee Meetings

The Government sets up Audit Committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the Audit Committee Meetings held during the year 2010-11 and the paragraphs settled are mentioned in the following table:

Table-4.6

Head of revenue	Number of meetings held	Number of paragraphs settled		Amount (₹ in crore)
		IR	Paragraphs	
Sales Tax/VAT	1	0	18	15.25

4.2.3 Non –production of records to Audit for scrutiny

The programme of local audit is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2010-11, following records in respect of Chungthang Sub-Division were not produced during the audit of District Land Revenue Officer, North District.

1. Records relating to revenue realisation of land rent (khazana)
2. Records relating to revenue realisation of land registration
3. Records relating to land assessment and compensation paid for land acquisition
4. Records relating to revenue realisation of land mutation

4.2.4 Response of the Department to the draft audit paragraphs

Draft audit paragraphs are issued to the concerned Heads of the Departments with a copy to the Finance, Revenue and Expenditure Department (FRED), the replies to which are to be communicated to the AG within six weeks of the date of their receipt.

Seven draft paragraphs and one Review on “Utilisation of Declaration Forms in Inter State Trade and Commerce” proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended March 2011 were forwarded to the Secretaries of the respective Departments in July 2011 through demi-official letters. The administrative Secretaries responded to four paragraphs featuring in this Chapter.

4.2.5 Follow up on Audit Reports – summarised position

The administrative Departments are required to submit explanatory notes on paragraphs and reviews included in the Audit Reports (ARs) after its presentation in the State Legislature.

As at the end of 2010-11, ARs for the period upto 2007-08 were discussed and recommendations made.

4.2.6 Compliance with the earlier Audit Reports

During the years from 2005-06 to 2009-10, the Departments/Government accepted audit observations involving ₹ 12.91 crore of which only ₹ 0.48 crore had been recovered till March 2011 as mentioned below.

Table – 4.7

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2005-06	9.95	6.80	0.48
2006-07	22.31	5.39	0.00
2007-08	1.33	0.32	0.00
2008-09	8.48	0.25	0.00
2009-10	7.08	0.15	0.00
Total	49.15	12.91	0.48

The fact that only 3.72 *per cent* of the accepted amount has been recovered, points to the need for the Government to take concerted action in this regard.

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

In order to analyse the system of addressing the issues highlighted in the IRs/ARs by the Departments/Government, the action taken on the paragraphs and reviews included in the ARs of the last 10 years in respect of **Commercial Tax Division** (of Finance, Revenue and Expenditure Department – FRED) is evaluated and included in this Report.

The succeeding paragraphs discuss the performance of the Commercial Tax Division to deal with the cases detected in course of local audit conducted during the last seven years and also the cases included in the ARs for the years 2001-02 to 2010-11.

4.3.1 Position of Inspection Reports

The summarised position of IRs issued during the last seven years, paragraphs included in these reports and their status as on March 2011 are tabulated in the following table:

Table-4.8

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2004-05	8	36	15.74	1	7	6.43	-	1	0.01	9	42	22.16
2005-06	9	42	22.16	1	11	5.40	-	2	0.07	10	51	27.49
2006-07	10	51	27.49	1	6	0.81	-	2	0.24	11	55	28.06
2007-08	11	55	28.06	1	13	87.11	2	8	3.42	10	60	111.75
2008-09	10	60	111.75	1	8	6.08	-	2	5.65	11	66	112.18
2009-10	11	66	112.18	1	15	6.83	-	2	2.70	12	79	116.31
2010-11	12	79	116.31	0	0	0.00	-	18	15.25	12	61	101.06

During 2010-11, the Department had not taken any initiative to conduct more Audit Committee Meetings to clear huge outstanding paragraphs.

4.3.2 Assurance given by the Department/Government on the issues highlighted in the Audit Reports

4.3.2.1 Recovery of accepted cases

The position of paragraphs included in the ARs of the last 10 years, those accepted by the Department and the amount recovered are mentioned below:

Table-4.9

Year of AR	Number of paragraphs included	Money value of the paragraphs (₹ in crore)	Number of paragraphs accepted (money value ₹ in crore)	Money value of accepted paragraphs (₹ in crore)	Amount recovered during the year (₹ in crore)	Cumulative position of recovery of accepted cases
2000-01	4	7.56	4 (0.03)	0.03	-	-
2001-02	0	NA	-	-	-	-
2002-03	3	0.80	3 (0.52)	0.52	-	-
2003-04	3	9.66	3 (9.66)	9.66	-	-
2004-05	1	0.26	1 (0.26)	0.26	-	-
2005-06	2	5.41	2 (5.41)	5.41	0.48	0.48
2006-07	2	0.49	2 (0.00)	0.00	-	0.48
2007-08	0	NA	-	-	-	0.48
2008-09	3	5.97	3 (4.95)	4.95	-	0.48
2009-10	1	6.83	0 (0.00)	0.00	-	0.48

The Department stated (September 2011) that the accepted cases are handed over to the concerned Sections/Assessing Officer for early remedial action. The accepted cases are being given priority to have them rectified duly serving notice to the concerned party/dealer to present his case if contrary to the observations made by the AG. The loss in revenue, if any, is recovered through review of the assessment orders, etc. Review meetings are conducted periodically and datelines fixed for the purpose.

The fact remains that Government have not taken action on the outstanding paragraphs and even in the accepted cases to recover the revenue involved.

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

The Draft report on performance reviews conducted by the AG are forwarded to the concerned Departments/Government for their information with a request to furnish their replies. These reviews are also discussed in an Exit Conference and the Department's/ Government's views are included while finalising the reviews for the ARs.

The following paragraphs discuss the issues highlighted in the reviews on the Commercial Tax Division, FRED featured in the last 10 ARs including the recommendations and action taken by the Department on the recommendations accepted by it as well as the Government:

Table-4.10

Year of AR	Name of the Review	Number of Recommendations	Details of the recommendations accepted	Status (as informed by the Department)
2000-01	Internal controls and the system of registration, assessment and collection of sales tax	15	6.6.7 to 6.6.8 There was no proper management information system and consequently the effective and efficient functioning of the Department suffered to this extent.	The process of allotment and cancellation of registration is fully automated since 2005. The list of all registered dealers in the State is available in the database. Application for registration is not rejected because it will cause loss of revenue
			6.6.9 Lack of market survey for registration	Authorities do visit the place of business of registered and unregistered dealers as and when required.
			6.6.10 Non - registration of contractor dealer	Are being registered and returns filed.
			6.6.11 Non-maintenance of registers	All records are now available in database under the NEVAT scheme.
			6.6.13 Inadequate monitoring of Quarterly Returns resulting in non-levy of uniform penalty.	VAT software does not accept return unless the dealer has paid the penalty.
			6.6.14 Lack of monitoring of bank receipts	Commercial Taxes Division owns software programme under which the details of challan is captured from the Department's copy for verification against the payment details filed by the dealer in form of payer's copy of challan.
			6.6.15 Non levy of penalty for non-submission of returns by 39 dealers	Department has not replied whether the penalty was realised.
			6.6.16 Mechanism for Assessment of Sales Tax being deficient resulted in shortcomings leading to loss to Government.	Assessment process has been regularised after implementation of VAT.
			6.6.17 & 6.6.18 Inadequate monitoring of cases due for assessment	SVAT Act 2005 provides for selective assessment, hence backlog assessment is not relevant now.
			6.6.19 to 6.6.25 Losses on assessment of Inter State sales	The sale price of Cardamom fluctuates with the changes in demand and supply. Annual average of the sale price notified by Central Spices Board cannot be accepted for determination of taxable sale price.

			6.6.26 & 6.6.27 Concealment of turnover	Concealment of sales to departments of the State Government should not have caused loss of revenue as the paying authority of the indenting Department is liable to deduct the tax from the payment made against such sale.
			6.6.28 Non realisation of sales tax on sale of lottery tickets	As per the decision of the Hon'ble High Court of Sikkim, levy and collection of Sales Tax on sale of lottery ticket is inappropriate.
			6.6.29 to 6.6.36 Irregular/incorrect deduction and exemption	The audit observation has been noted to ensure that similar irregularity does not continue in future.
			6.6.37 to 6.6.42 Non-recovery of assessed tax or delay in recovery of assessed tax	The commercial Taxes Division is following the case for full realisation of assessed tax along with interest.
			6.6.43 to 6.6.47 Sale and purchase of goods not covered under SST Registration	The audit observation has been noted to ensure that similar irregularity does not continue in future.
2008-09	Performance Audit on transition from Sales Tax to VAT	8	Implement computerisation of VAT system completely and effectively in all areas	Under the NEVAT project of the Union Government the project of computerising Commercial Taxes Division of Sikkim is responsibility of National Informatics Centre
			Establish effective mechanism to review database at periodic interval and to prepare database of dubious/risky dealers	Software being developed encompassing all such mechanism
			Establish effective mechanism to ensure submission of regular and timely returns by all the dealers	The return module of VAT software designed by NIC is properly monitoring filing of quarterly returns
			Establish effective mechanism for scrutiny of every returns submitted by the dealers, assessment of dealers and VAT audit of selective dealers	-
			Fix responsibility at various levels in the Department for strict compliance of codal provisions to avoid tax evasion by any dealer	Regular coordination meeting is held every month and sometimes in-between to disseminate information and discuss potential loss of revenue by evasion
			Ensure fixing the quantum of minimum penalty for each and every kind of offences and to constitute VAT Fraud Task Force	Penalty is subjected to <i>mens rea</i> , so fixing of minimum quantum is not appropriate. Constitution of VAT fraud task force comes within purview of functional line of working arrangement, which is already in process.

			Strengthen internal control mechanism including internal audit	The functional line of working arrangement conceptualised during various training and exposure trip also aims at building up robust internal control mechanism
			Review and rectify various loopholes/deficiencies of SVAT Act and Rules	This is a continuous process. Loopholes and deficiencies are relative concept in terms of changing socio-economic scenario. A good practical feasible system at present may turn out to be decrepit with change in underlying factors with passage of time. Commercial Taxes Division has always put best efforts to update the SVAT Act and rules as well as the SST Act, 1983, the STIDF ACT, 2004, the SEF&ED Act 2005 and the STPTC&E Act 2006 and the rules made there under.

Regarding system to monitor the action taken/to be taken on the assurance given by it as well as the Government on the recommendations included in the Performance Audit, the Department stated that the Commercial Taxes Division has been holding monthly coordination meetings since 2000 which are attended by all the Officers and Inspectors of Head Office as well as by Head of the Office of Jorethang Circle office and Rongpo Charge-cum-Check Post office. The meeting requires all participants to report the progress in the assignment entrusted to each personnel. There had been occasions that the Special Commissioners had called for and held meetings especially for updation of progress made in assignment in respect of audit observation.

In order to avoid loss of revenue, Government may consider framing suitable time frame for disposal of the pending cases.

4.4 Audit planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter alia* includes critical issues in Government revenues and tax administration i.e., Budget Speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), Recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years, etc.

During the year 2010-11, the audit universe comprised of 19 auditable units, of which 16 units were planned and 11 audited during the year which is 58 *per cent* of the total auditable units.

4.5 Results of audit

Test check of the records of 11 units under Revenue Departments conducted during the year

2010-11 revealed non-assessment/short levy/loss of revenue and other deficiencies aggregating ₹ 479.98 crore in 57 cases. During the course of the year, the Departments concerned accepted non-assessments and other deficiencies of ₹ 0.24 crore involved in one case which was pointed out in audit during 2010-11.

This Chapter contains seven paragraphs and one Performance Audit on “Utilisation of Declaration Forms in Inter State trade and Commerce” relating to non-assessment, loss of revenue and other compliance deficiencies involving financial effect of ₹ 84.59 crore and ₹ 1.44 crore respectively.

The Departments/Government have accepted audit observation involving ₹ 0.24 crore. These are discussed in succeeding paragraphs.

FINANCE, REVENUE AND EXPENDITURE DEPARTMENT (COMMERCIAL TAXES DIVISION)

4.6 Sales Tax/Value Added Tax

4.6.1 Tax administration

Commercial Taxes Division is one of the wings of the Finance, Revenue and Expenditure Department (FRED). The Division is entrusted with the enforcement of the following Acts for the purpose of the collection of tax revenue.

- Sikkim Sales Tax Act, 1983
- Central Sales Tax Act, 1956
- Sikkim Value Added Tax Act, 2005
- Sikkim Ecology Fund and Environment Cess Act, 2005
- Sikkim Tax on Professions, Trades, Callings and Employment Act, 2006
- Sikkim Transport Infrastructure Development Fund Act, 2004
- State Income Tax Manual, 1948 (Discontinued w.e.f. 16 June 2008)

The Division is headed by the Special Commissioner of Commercial Taxes and assisted by Additional Commissioner, Joint Commissioners, Deputy Commissioners, Assistant Commissioners and Inspectors.

4.6.2 Analysis of budget preparation

As reported by the Division, the Budget estimate is prepared by the FRED. Revision of Budget Estimate is prepared in consultation with the Division.

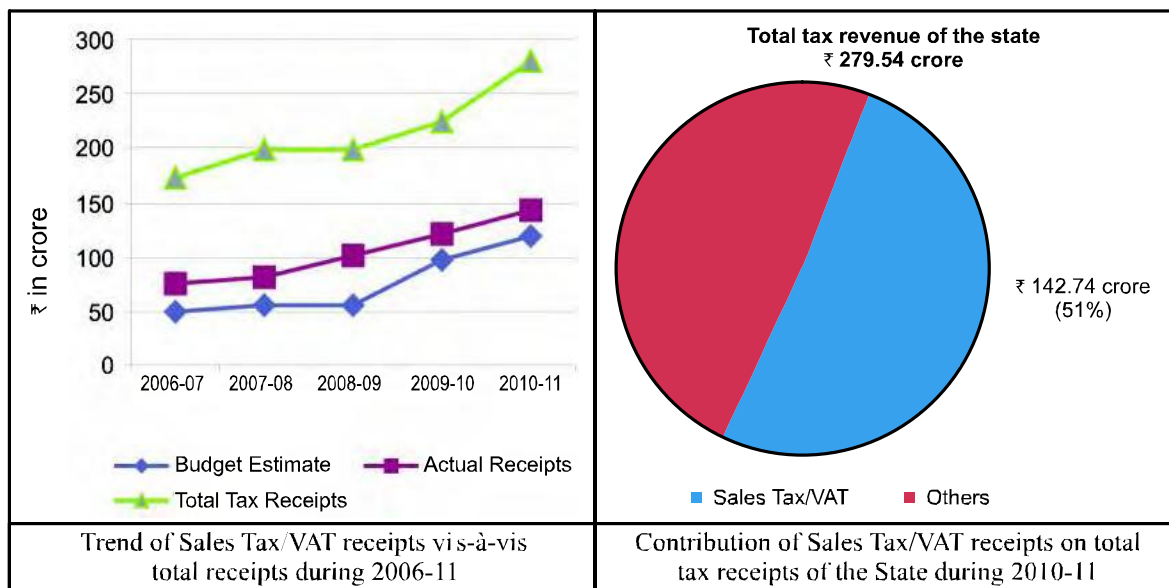
4.6.3 Trend of receipts

Actual receipts from Sales Tax/VAT during the last five years i.e. 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graph:

Table-4.11

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation – Excess (+)/ Shortfall (-)	Total tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax receipts
2006-07	50.00	74.66	(+) 24.66	173.18	43.11
2007-08	56.00	81.32	(+) 25.32	197.86	41.10
2008-09	56.00	101.14	(+) 45.14	199.19	50.77
2009-10	96.50	121.07	(+) 24.57	223.65	54.13
2010-11	118.50	142.74	(+) 24.24	279.54	51.06
Total		520.93		1,073.42	



It can be observed from the above table that the actual receipt exceeded the budget estimate during all five years. The reasons reported by the Department were frequent monitoring of target and achievement, input of information technology, monthly review meetings, TDS verifications, workshops relating to manner and procedures of making TDS and remittance of taxes, strict monitoring of import and export of goods in the check posts, focus on capacity building of the tax officials, streamlining of VAT system, returns monitoring, computerisation of tax administration, monitoring of check posts affairs through VSAT (2006-07); improvement of mode of payment of tax by introducing clearance through private/public banks and improvement in monitoring mechanism (2009-10). The Department may take into account all the inputs while preparing the budget so as to be realistic and reduce the variation with reference to the actual receipts.

4.6.4 Analysis of Arrears of Revenue

The arrears of revenue as of 31 March 2011 amounted to ₹ 0.38 crore of which ₹ 0.16 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2006-07 to 2010-11.

Table-4.12

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears
2006-07	3.22	2.72	0.50
2007-08	0.50	0.08	0.42
2008-09	0.42	0.01	0.41
2009-10	0.41	0.01	0.40
2010-11	0.40	0.02	0.38

The Department may take effective steps to recover the arrears.

4.6.5 Assessee profile

The following table shows the information on assessee profile:

Table-4.13

No. of dealers registered during the year	No of dealers required to file returns	No of returns received	Action taken by the Department to issue notices to the dealers who failed to furnish returns
548	5,226	1 st quarter: 3,297 2 nd quarter: 3,067 3 rd quarter: 2,896 4 th quarter: 2,796	Survey and inspection conducted. TIN Blocked. No Inter State sales permitted. Penalty u/s 30 (8) imposed.

4.6.6 Cost of VAT per assessee

The following table shows the information on cost of VAT per assessee:

Table-4.14

Year	Number of assessee	Cost of VAT collection	Cost of VAT collection per assessee
2010-11	5,226	₹ 2,75,05,088	₹ 5,263.12

4.6.7 Arrears in assessment

The Department reported no arrears in assessment on the plea that under the SVAT Act, 2005 it is not mandatory to assess the dealers. However, all the returns filed by the dealers are scrutinised.

4.6.8 Cost of collection

The following table shows the information on cost of collection of Sales Tax/VAT receipts:

Table-4.15

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure to gross collection of preceding year
Sales Tax/VAT	2008-09	101.14	1.95	1.93	0.83
	2009-10	121.07	3.75	3.10	0.88
	2010-11	142.74	3.28	2.30	0.96

Thus, percentage of expenditure on collection during all the three years as compared to the corresponding All India Average percentage of preceding year was high which the Government needs to look into.

4.6.9 Analysis of collection

The break-up of total collection at the pre-assessment stage and after regular assessment of the year 2010-11 and the corresponding figures for the preceding two years as furnished by the Department is given in the following table :

Table-4.16

(₹ in crore)

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of 3 to 7
1	2	3	4	5	6	7	8
Sales Tax/VAT	2008-09	1.91	1.99	1.35	1.24	4.01	47.63
	2009-10	36.79	0.64	0.21	0.75	36.89	99.76
	2010-11	89.28	9.91	0.17	-	99.36	89.85

4.6.10 Impact of Audit

4.6.10.1 Position of IRs

During the last three years, we, through the IRs, have pointed out non/short levy, non/short realisation, under-assessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation, etc. with revenue implication of ₹ 106.23 crore in 53 cases. Of these, the Department/Government had accepted audit observations in 53 cases involving ₹ 106.23 crore and had since recovered ₹ 1.92 crore. The details are shown in the following table:

Table-4.17

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		Cases	Amount (₹ in crore)	Cases	Amount (₹ in crore)	Cases	Amount (₹)
2005-06	01	11	5.40	11	5.40	01	9,191
2006-07	01	06	0.81	06	0.81	01	22,069
2007-08	01	13	87.11	13	87.11	--	--
2008-09	01	08	6.08	08	6.08	03	1,91,88,416
2009-10	01	15	6.83	15	6.83	--	--

The above table indicates that during the last five years 1.81 *per cent* recovery was effected by the Department. The Department had also not taken any initiative for clearance of the cases pointed out by Audit.

4.6.10.2 Position of Audit Reports

In the ARs 2005-06 to 2009-10 the cases of under/non-assessment, loss of revenue and non-

levy of penalty were indicated, involving ₹ 18.70 crore. The Department has accepted the observations of ₹ 10.36 crore of which ₹ 0.48 crore were recovered till March 2011 as shown in the following table:

Table-4.18

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	2	5.41	2	5.41	1	0.48
2006-07	2	0.49	0	0.00	0	0.00
2007-08	0	0.00	0	0.00	0	0.00
2008-09	3	5.97	2	4.95	0	0.00
2009-10	1	6.83	0	0.00	0	0.00
Total	8	18.70	4	10.36	1	0.48

The above table indicates that during the year 2005-11, only ₹ 0.48 crore was recovered by the Department. The Department had not taken any initiative to recover the amount as pointed out in ARs.

4.6.10.3 Amendments in the Acts/Rules/Notification/Order issued by the Government at the instance of Audit

The Division has inserted Section 64 A - survey and verification in the Sikkim Value Added Tax Act, 2005, which enables the Commissioner to undertake survey from time to time for the purpose of identifying dealers who are liable to pay tax, verification of documents in the business premises or stock of goods for sale kept in a store.

4.6.11 Working of Internal Audit Wing

As reported by the Department, no internal audit of the Department has been conducted so far.

The Government may issue necessary instruction to the Internal Audit Wing for conducting internal audit of the Department frequently.

4.6.12 Results of audit

Test check of records of one unit relating to VAT revealed non-assessment of tax, loss of revenue and other irregularities involving ₹ 210.56 crore in 32 cases which fall under the following categories:

Table-4.19

(₹ in crore)

Sl No.	Categories	No. of cases	Amount
1	Non- assessment	10	100.61
2	Loss of Govt. revenue	8	88.12
3	Others	14	21.83

A few illustrative cases contained in five paragraphs involving ₹ 76.85 crore and one Performance Audit on “Utilisation of Declaration forms in Inter State trade and Commerce” involving ₹ 1.44 crore are mentioned in the succeeding paragraphs.

4.6.13 Performance Audit on Utilisation of Declaration Forms in Inter State Trade and Commerce

Highlights

The Division did not have data bank of dealers involved in Inter State trade and commerce.

(Paragraph 4.6.13.8.1)

The Commercial Taxes Division got printed declaration forms long back during 1983 without assessing its requirement and these forms could not be fully utilised even after 28 years and also the Division did not maintain the clear position of stock available with them. However, since April 2011, after destroying unused old declaration forms, the Division had got printed new set of forms which are issued to the dealers post transactions.

(Paragraph 4.6.13.8.2)

The Division had issued declaration forms to the dealers without ensuring submission of details of utilisation of declaration forms issued earlier and issue register of declaration forms was also not being maintained properly.

(Paragraph 4.6.13.8.3)

The Division had not installed a system of verification of each and every declaration form submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax. The 'C' forms issued by Sikkim dealers were not being uploaded in the website.

(Paragraph 4.6.13.8.4)

The Division did not ensure submission of CST returns by each and every dealer regularly. The Division also did not scrutinise CST returns and assessments of only 14 out of 75 CST dealers were done. The Division had not established any Investigation/Intelligence Wing to assist the offices in cross verification of interstate transactions.

(Paragraphs 4.6.13.8.5; 4.6.13.8.6)

The Division did not cross verify the genuineness of form 'C' declarations resulting in evasion of tax liability of ₹ 0.15 lakh. The assessing authority irregularly granted exemption/concession without production of 'C' forms resulting in under assessment of tax of ₹ 17.85 lakh.

(Paragraphs 4.6.13.8.7; 4.6.13.8.8)

The Division did not cross verify the genuineness of the form 'F' declarations and we, on cross verification, came across instances of utilisation of forms which were issued to

unregistered dealers or forms were not found to be issued to the dealers to whom they were shown to be issued. Tax liability in these cases was ₹ 47.70 lakh.

(Paragraph 4.6.13.8.10)

The Division did not cross verify the genuineness and amount of the form 'F' declarations. We, on cross verification, found that the dealer had inflated the transaction figures in the declaration forms and the tax liability in these cases was ₹ 23.23 lakh.

(Paragraph 4.6.13.8.11)

In relation to Inter State trade and commerce, the Division could computerise information and data relating to Way Bill issue since April 2006, Way Bill endorsement since April 2006, details of issue of 'C' forms since July 2009 and details of utilisation of 'C' forms since 2009. However, schemes for online issue of statutory forms, filing of e-Return etc. have not so far been introduced in the State.

(Paragraph 4.6.13.9)

4.6.13.1 Introduction

Under the Central Sales Tax Act, 1956, (CST Act) registered dealers are eligible to certain concessions and exemptions of tax on Inter State transactions on submission of prescribed declarations in Forms 'C', 'E-I'/'E-II' and 'F'. The State Governments grant these incentives to dealers for furtherance of trade and commerce, on production of these declaration forms. It is the responsibility of the Commercial Tax Department to ensure proper accountal of declaration forms and to take adequate safeguards against misutilisation of declaration forms/certificates against which tax relief is allowed involving large amount of revenue to the State exchequer.

Form 'C'

Under the provisions of the CST Act, every dealer, who in the course of Inter State trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the concessional rate of four *per cent* (two *per cent* since June 2008) of such turnover provided such sales are supported by declarations in form 'C'.

Form 'E-I' or 'E-II'

Under the CST Act, if a purchasing dealer makes a subsequent Inter State sale by transfer of documents of title to the goods during their movement from one State to another, no tax shall be leviable subject to the production of the prescribed certificates in form 'E-I' or 'E-II' along with declarations in form 'C' to be issued by the selling and purchasing dealer.

Form 'E-I' is issued (in duplicate) (i) by the selling dealer who first moved the goods from one State to another or (ii) by the dealer who makes the first Inter State sale during the movement of the goods from one State to another.

Form 'E-II' is issued (in duplicate) (i) by the first or subsequent transferor in the series of sales or second or subsequent transfer in the series of sales in the course of Inter State trade or commerce.

Form 'F'

Under Section 6A of CST (Amendment) Act 1972, transfer of goods not by reason of sales by a registered dealer to any other place of his business outside the State or to his agent or principal in other States is exempt from tax on production of declaration in form 'F', duly filled in and signed by the principal officer of the other place of business or his agent or principal as the case may be, along with evidence of despatch of such goods. Filing of declarations in form 'F' was not mandatory upto May 2002. However, the Act provided for the assessing authority to make such enquiries as he deemed necessary to satisfy himself about bonafides of the transfer such as sale *patties*, despatch particulars, way bills, etc.

Maintenance of accounts of receipts and use of declaration forms:

- The forms are obtained by the Commercial Tax Department from the State Government press and supplied to the Divisions for distribution amongst the circle offices under their jurisdiction.
- Declaration forms are issued to registered dealers by Circle offices to enable them to issue it to another registered dealer for purposes specified in their registration certificate in order to avail of exemption from levy of tax or to pay tax at concessional rate. Dealers have to submit periodical utilisation certificate to the circle office concerned for the declaration forms received and utilised by them, and the same is to be properly recorded by the Assessing Officer. No declaration form is to be issued by the Circle office to the dealers till accounts of the utilisation of forms issued earlier to the dealer is submitted by him. The receipt and issue of the aforesaid declaration forms are accounted for in separate stock registers by the Division and circle offices indicating receipt and issue of various declaration forms.

Tax Information Exchange System (TINXSYS) is a centralised exchange of all Inter State dealers spread across the various States and Union territories of India. TINXSYS is an exchange authored by the Empowered Committee (EC) of State Finance Ministers as a repository of Inter State transactions taking place among various States and Union Territories. The website was designed to help the Commercial Tax Departments of various States and Union Territories to effectively monitor the Inter State trade. TINXSYS can be used by any dealer to verify the counter party Inter State dealer in any other State. Apart from dealer verification, Commercial Tax Department officials use TINXSYS for verification of Central Statutory Forms issued by other State Commercial Tax Departments and submitted to them by the dealers in support of claim for concessions. TINXSYS also provides MIS and Business Intelligence Reports to the Commercial Tax Departments to monitor Inter State trade movements and enables the EC to monitor the trends in Inter State trade.

4.6.13.2 Organisational set up

Commercial Taxes Division of Finance, Revenue and Expenditure Department (FRED) is responsible for implementation of CST Act in the State. The FRED is headed by Additional Chief Secretary and the Division is headed by a Special Commissioner who is assisted by one Joint Commissioner, six Deputy Commissioners, 10 Assistant Commissioners and other subordinate staff who are posted at Division Headquarter at Gangtok, two Circle Offices at Gangtok and Jorethang, check post including charge office at Rangpo and check post at Melli.

4.6.13.3 Audit Objectives

The Performance Audit aimed to ascertain whether:

- there existed a foolproof system for custody and issue of the declaration forms;
- exemption/concession of tax granted by the assessing authorities was supported by the original declaration forms;
- there is a system of cross verification for ascertaining genuineness of the forms for preventing evasion of tax;
- there is a system of uploading the particulars in the TINXSYS website and the data available there is utilised for verifying the correctness of the forms;
- appropriate steps are taken on receipt and detection of fake, invalid and defective (without proper or insufficient details) forms; and
- there existed an effective and adequate internal control mechanism.

4.6.13.4 Audit Criteria

We referred to the following Acts and Rules for the Performance Audit:

- Central Sales Tax act, 1956 and Rules thereunder;
- Sikkim Sales Tax Act, 1983 and Rules thereunder;
- Sikkim Value added Tax, 2005 and Rules thereunder; and
- Departmental Manuals/Notifications.

4.6.13.5 Scope and methodology of audit

The Performance Audit on utilisation of declaration forms in Inter State Trade and Commerce in Sikkim for the assessments completed during the period 2007-08 to 2009-10, where exemptions/ concessions were granted under the CST Act, was conducted between November 2010-January 2011 and June-July 2011 with reference to the records maintained at Commercial Taxes Division, FRED, Gangtok, Circle office, Jorethang and Charge office, Rangpo.

Records of all the 14 dealers (three industrial dealers, eight cardamom dealers and three scrap dealers) for which assessments were done by the Division office, Gangtok, Charge office, Rangpo and Circle office, Jorethang were taken up for detailed scrutiny.

The Performance Audit was conducted through issue of requisitions for data and the records, analysis of data with reference to original records, scrutiny of files and other records maintained in the Division office, Gangtok, Circle office, Jorethang and Charge office, Rangpo, taking into account the cross verification results received from various State Accountant General offices.

4.6.13.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Division in providing necessary information and records for Audit. Performance Audit commenced with the letter of engagement (01 November 2010) followed by an Entry Conference (11 November 2010) with Special Commissioner, Commercial Tax Division. Audit programme, scope, objectives and criteria of Audit were discussed in the Entry Conference and their agreement obtained. The audit findings were communicated to the Division on 01 February 2011 and 18 August 2011 and discussed with the Special Commissioner and other officers of the Division in the Exit Conference held on 24 August 2011. The Performance Audit Report was finalised duly taking into consideration the replies of the Division and discussion with the Division in the Exit Conference.

4.6.13.7 Trend of revenue under CST

The year-wise budget estimates and actual realisation under CST for the period 2006-07 to 2010-11 was as given in the following table:

Table-4.20

(₹ in crore)

Year	Budget estimate	Actuals	Excess (+)/ Shortfall (-)
2006-07	3.00	4.67	(+) 1.67
2007-08	4.00	5.99	(+) 1.99
2008-09	2.00	4.55	(+) 2.55
2009-10	2.00	7.65	(+) 5.65
2010-11	8.80	8.50	(-) 0.30
Total	19.80	31.36	

The reasons for such huge variation in the budget estimates and actuals during the years 2006-07 to 2009-10 were not stated by the Division. However, we observed that the Division had been fixing its budget estimates too low without considering trend of its actual realisations during the preceding years just to project maximum realisation.

Further, the Division had not been maintaining any record/ database of the year-wise position of sales against 'C'/ 'F' forms through which the revenue forgone on account of concessions/ exemptions could be ascertained.

We suggest that budget estimates for realisation of CST be fixed taking into account the trend of revenue realisations in the preceding years and records/ database of revenue forgone on account of concessions/ exemptions allowed against declaration forms under the CST Act, be maintained.

4.6.13.8 Audit findings

System deficiencies

4.6.13.8.1 Data bank of Inter State dealers

The Division did not have any data bank of dealers involved in Inter State trades and commerce. However, from the data of manufacturers and export way bills endorsement details available in the computerised data of the Division, scrutiny of individual files and after discussion with the Divisional officers, it was gathered that 75 dealers (57 industrial dealers, 11 cardamom dealers and seven scrap dealers) in the State were involved in the Inter State trades and commerce.

We recommend that a data bank of dealers involved in Inter State trades and commerce be maintained for the State.

4.6.13.8.2 Printing and custody of declaration forms

During the period under Review no printing of declaration forms was done by the Division. After discussion with the Divisional officers, we found that last printing of declaration forms was done sometimes during 1983 from Government of India Press, Nasik, records of which were not available with the Division. The stock printed during 1983 was still lying unused. The Division was not having any data of declaration forms printed during 1983, forms utilised till March 2010 and forms lying unused with the Division. From the above it was evident that printing of declaration forms during 1983 was done without assessing the pace of issue of declaration forms. The declaration forms were printed in such a huge quantity that even after issue of such forms during last 28 years, it could not be fully utilised. However, since April 2011, after destroying unused old declaration forms, the Division had got printed new set of forms which are issued to the dealers post transactions.

The declaration forms were being kept in the central store in metal boxes under lock and key at the Division office and from there these were being issued to the various unit offices.

We suggest that the Division maintains a clear position of declaration forms printed, forms issued during a particular period and forms available at a particular date.

4.6.13.8.3 Issue and accounting of declaration forms by the Division-Non maintenance of complete records of issue and balance of forms/utilisation statements not verified

The declaration forms are issued only to the registered dealers on receipt of proper application from the dealer with required fees. However, it was seen that assessing authorities did not ensure complete utilisation of earlier issued declaration forms at the time of issue of subsequent declaration forms. Test check of records of 50 dealers revealed that till March 2010, 11,385 declaration forms were issued to these dealers, of which, utilisation details for 5,141 declaration forms only were submitted to the Division till December 2010, and utilisation details for 6,244 declaration forms were wanting. It was further seen that at the time

of applying for issue of declaration forms, 33 dealers either had not furnished details of utilisation of earlier issued declaration forms or attached utilisation details of such forms but despite this, the assessing authorities continued to issue declaration forms to these dealers. Due to this, misuse of declaration forms by the dealers could not be ruled out.

The Division did not maintain the Register properly as no opening balance, receipt, issue, closing balance, etc. was being shown. Further, declaration forms were not being issued chronologically either from central store or from any of the unit offices as the declaration forms were being issued randomly. The Division stated (February 2011) that it was not possible to issue declaration forms chronologically because the same had been kept in stock since the time it was first printed in the Division.

4.6.13.8.4 Cross verification of Declaration Forms and TINXSYS website-Absence of cross verification of Declaration Forms

The assessing authorities did not ensure verification of utilisation statements of declaration forms as no scrutiny of returns/tax audit was ever conducted. Further, there was no system of sending details of utilisation of declaration forms of a dealer to the other concerned dealer of other circle for cross verification of such transactions at the time of his assessment.

No information regarding dealers and forms issued to the dealers had been uploaded on the TINXSYS website. While verifying the data relating to the State of Sikkim available on the website, it was seen that no dealer details were uploaded on the website for the year 2005 to 2010. Only numbers of dealers available in the State for the years from 2007 to 2010 were uploaded in the website. Other details like, issue and utilisation of various statutory forms, periodic returns, commodity master², district master³, office master⁴, etc. were not uploaded for any of the year. Non-uploading of data on the site deprived other States to have access to the database of declaration forms issued to dealers of Sikkim which defeated the objective of creation of the website. However, after March 2011, the Division has now started uploading the details of 'C' forms issued to the dealers.

We suggest that declaration forms be issued only after ensuring receipt of details of utilisation of declaration forms issued earlier. Issue register of declaration forms may be maintained properly showing clearly opening balance, receipt, issue, closing balance, etc. and forms should be issued chronologically. The Division may upload the dealers' details and forms issued to the dealers on the TINXSYS website and utilise the website for cross verification purposes.

4.6.13.8.5 CST returns verification and assessment>Returns not furnished and assessments of dealers not done

While scrutinising assessment and other records of the CST dealers, we observed that most of

²Each and every item is given a code number in schedule of rates under VAT Act.

³Name of the Charge Office with its code under whose jurisdiction such dealers fall.

⁴Name of the Circle Office with its code under whose jurisdiction the said Charge Office is located.

the dealers either did not submit CST returns or submitted CST returns irregularly. The Division did not scrutinise any CST return of any dealer to verify, *prima facie*, correctness of the returns. The Division conducted assessments of only 14 (three industrial dealers, eight cardamom dealers and three scrap dealers) out of 75 CST dealers during 2007-08 to 2009-10. The Division stated (February 2011) that most of the industrial dealers had been exporting their products as stock transfer and hence, their non-assessment did not have adverse effect on revenue. However, necessary action was being taken for assessment of the remaining dealers.

The Division may ensure submission of CST returns by each and every CST dealer regularly and scrutinise each and every CST return and complete assessment of all dealers involved in Inter State trades and commerce.

4.6.13.8.6 Enforcement measures

The Division could not detect any dealer found utilising invalid/ fake declaration forms in the past and hence no dealer could be blacklisted and name of such dealer could be circulated among various units of the States.

The State Government/ Department has not so far established/ created any Inter State Investigation Wing/ Investigation Wing/ Intelligence Wing to assist the Division in cross verification of transactions with different States.

Compliance deficiencies

4.6.13.8.7 Irregular grant of exemption by misutilisation of 'C' forms

The cases in these paragraphs relate to deficiencies/irregularities on 'C' forms. Scrutiny of assessment records of a dealer dealing in “large cardamoms” revealed that the dealer was assessed (June 2010) under CST Act for the year 2009-10 for a gross turnover of ₹ 46.41 lakh, and tax amount of ₹ 0.93 lakh was assessed by the assessing authority at the rate of two *per cent* on production of 'C' forms in support of such transactions. Cross verification revealed that two 'C' forms amounting to ₹ 7.27 lakh shown as issued by two dealers of Maharashtra were found not issued by them to the dealer. Accordingly, the dealer had evaded a tax liability of ₹ 0.15 lakh as given in the following table and was also liable to pay penalty under CST Act for misutilisation of forms:

Table-4.21

(Amount in ₹)

Name of the assessed dealer	'C' form No.	Name of the dealer by whom shown as issued	Amount of the 'C' form	Tax payable at the rate of four <i>per cent</i>	Tax paid at the rate of two <i>per cent</i>	Tax less paid
M/s P D Enterprise, Jorethang	MH09/0321885	M/s S Narendra Kr & Co., Mazgoan	3,75,503	15,020	7,510	7,510
-do-	MH09/0543615	M/s Panchseel Trading Co., Mazgoan	3,51,737	14,070	7,035	7,035
Total			7,27,240	29,090	14,545	14,545

4.6.13.8.8 Irregular grant of concession/exemption without production of 'C' forms and under assessment of tax due to wrong calculation of taxable turnover

Four cardamom dealers were assessed under CST Act for the years 2004-05 and 2006-07 to 2008-09 during 2007-08 to 2009-10 for a gross turnover of ₹ 183.83 lakh and taxes levied accordingly. However, while verifying the assessment records of the dealers, it was seen that no 'C' forms were available in support of their Inter State transactions for ₹ 80.45 lakh. In the absence of 'C' forms, the dealers were liable to be assessed at the rate of 10 *per cent* and 4 *per cent* for the year 2004-05 and 2006-07 to 2008-09 respectively. Further, it was also seen that in four cases, the dealers declared excess turnover (with reference to turnover assessed by the assessing authorities) for a particular year either in their returns or in the 'C' forms submitted to the assessing authorities. The details are given in the following table:

Table-4.22

(Amount in ₹)

Name of dealer	Accounting year	Date of assessment	Turnover assessed	Turnover as per returns	Amount for which 'C' form produced	Tax assessed by the Division	Tax liable to be assessed	Tax under-assessed
Bikash Enterprises, Rangpo	2004-05	06.06.07	6,21,665	6,21,665	Nil	18,650	62,167	43,517
Dipchand Basudeo, Gyalshing	2006-07	11.05.07	35,08,752	29,30,332	15,68,100	1,05,262	1,24,669	19,407
	2007-08	09.09.07	29,98,436	--	Nil	75,047	1,19,937	44,890
Shree Trade Agencies, Jorethang	2006-07	11.06.07	9,99,104	9,94,817	93,200	29,975	39,029	9,054
	2007-08	11.06.07	10,38,096	12,32,972	5,77,922	31,144	43,540	12,396
P.D. Enterprises, Jorethang	2006-07	11.05.07	12,82,432	13,44,410	13,79,885	38,473	41,397	2,924
	2007-08	02.05.08	20,21,120	23,12,377	19,80,781	60,634	72,687	12,053
	2008-09	05.06.10	59,13,666	59,13,606	47,38,594	1,18,279	1,41,780	23,501
Total			1,83,83,271	1,53,50,179	1,03,38,482	4,77,464	6,45,206	1,67,742

From the above statement it could be seen that these irregular grants of exemptions without submission of 'C' forms and under valuation of taxable turnover have resulted in under assessment of tax of ₹ 1.68 lakh.

Further scrutiny of assessment records and quarterly returns submitted by M/S SBL (SKM) Private Limited, Majhitar, for the period of assessment (except for the quarters September 2003, December 2003 and March 2004) revealed that during the assessed period the dealer disclosed its Inter State turnover of ₹ 741.64 lakh in its quarterly returns. Taking into account the Departmental assessed figures for the above three quarters at ₹ 46.88 lakh for the year 2003-04, dealer's total turnover for the years 1995-96 to 2004-05 as calculated by us worked out to ₹ 788.52 lakh. The under valuation of turnover of ₹ 161.70 lakh of the dealer for which 'C' forms were also not submitted and accordingly, the dealer was liable to be assessed for above turnover at the rate of 10 *per cent* with an additional tax liability of ₹ 16.17 lakh.

The Division stated (February 2011) that the audit observation had been noted and assessing

authorities were verifying the factual details after which necessary action would be taken.

4.6.13.8.9 Non-payment of assessed tax by the dealers and short assessment of tax due to wrong calculation of turnover of the dealer

SBL (SKM) Private Limited, Majhitar, a manufacturer of homeopathic medicines, was assessed (2008-09) under CST Act for a gross turnover of ₹ 626.82 lakh for the years 1995-96 to 2004-05, and tax of ₹ 28.69 lakh at the rate of four *per cent*, including penalty of ₹ 3.61 lakh, on the basis of production of 'C' forms in support of their transaction was assessed by the assessing authority. A demand notice for the payment of the above assessed tax was issued to the dealer on 14 July 2008. The dealer did not pay the assessed tax and represented (August 2009) for grant of exemption for the assessed tax. His representation was turned down and the dealer was intimated (September 2009) the decision of the Division with direction to pay the assessed tax immediately. The dealer had not paid the assessed tax till January 2011. Similarly, in respect of Sikkim Jewels Limited, Gangtok an assessed amount of ₹ 25.90 lakh (August 2009/December 2010) remained un-realised from the dealer till September 2011. Thus, the demands of assessed tax of ₹ 54.59 lakh raised (during July 2008 to December 2010) were not realised by the Division till November 2011. The Division stated (February 2011) that necessary action was being taken to realise the assessed tax.

4.6.13.8.10 Evasion of tax by misutilisation of 'F' forms

M/s C G Foods India Private Limited, Rangpo, a manufacturer of ready to eat foods, was assessed (March 2010) under CST Act for the assessment years 2007-08 and 2008-09 for a gross turnover of ₹ 23.59 crore and ₹ 37.95 crore respectively of which exemption of CST was given on stock transfer of ₹ 18.08 crore and ₹ 26.96 crore respectively which was supported with declaration forms 'F'. Cross verification of these forms revealed that 14 'F' forms amounting to ₹ 131.69 lakh for the year 2007-08 and two 'F' forms amounting to ₹ 21.54 lakh for the year 2008-09 shown as issued by the dealers of Nagaland were found to be from the unregistered dealers. Accordingly, the dealer evaded a tax liability of ₹ 19.15 lakh at the normal VAT rate of 12.5 *per cent* on the above turnover of ₹ 153.23 lakh by utilisation of forms which were shown as issued by the dealers of other State found to be unregistered dealers. The dealer was also liable to pay penalty under CST Act for misutilisation of 'F' forms.

Further, three 'F' forms of a dealer of Bihar, utilised by the above assessed dealer amounting to ₹ 4.13 lakh, were found not having been issued to the dealer. Accordingly, the dealer evaded a tax liability of ₹ 0.52 lakh at the normal VAT rate of 12.5 *per cent* on the above turnover as given in the following table and was also liable to pay penalty under CST Act for misutilisation of forms:

Table-4.23

Assessment year	'F' form No.	Value of the 'F' form (In ₹)	Name of the form issuing dealer	Name of the form issuing office
2007-08	GOB/F 156365	2,29,010	Laxmi Agency (RC No. 10301182139)	Muzaffarpur West Circle, Bihar
2008-09	GOB/F 156366	1,49,118	-do-	-do-
-do-	GOB/F 156367	34,617	-do-	-do-
	Total	4,12,745		

Similarly, cross verification in respect of 'F' forms used by M/s C G Foods India Private Limited, Rangpo revealed that three 'F' forms amounting to ₹ 97.29 lakh for the year 2007-08 shown as issued by the dealers of Mizoram and five 'F' forms amounting to ₹ 126.98 lakh for the year 2008-09 shown as issued by the dealers of Nagaland were found to be issued to dealers other than those to whom these were shown as issued. Accordingly, the dealer evaded a tax liability of ₹ 28.03 lakh at the normal VAT rate of 12.5 per cent on the above turnover of ₹ 224.26 lakh by mis- utilisation of 'F' forms and also was liable to pay penalty under CST Act.

All the cases require verification by the Department for realisation of correct tax dues including penalties for misutilisation of Forms.

4.6.13.8.11 Variation between the figures of the 'F' forms as disclosed by the issuing dealers and those disclosed by the utilising dealers

Cross verification in respect of 'F' forms used by M/s C G Foods India Private Limited, Rangpo (Sikkim dealer) revealed that in case of 23 'F' forms the dealer had shown stock transfer for an amount of ₹ 323.09 lakh whereas cross verification results revealed that ₹ 137.23 lakh only was shown as stock receipts by the issuing dealers of the respective States against the said 'F' forms. The excess stock transfer of ₹ 185.86 lakh shown by the Sikkim dealer led to evasion of a tax liability of ₹ 23.23 lakh on the inference that the goods were sold locally, for which penalty under CST Act is also leviable for inflating the transaction figures in the forms. Details are given below:

Table-4.24

(₹ in lakh)

Name of the issuing State	Assessment year	No. of 'F' forms	Amount shown as transfer by the utilising/ assessed dealer	Amount shown as transfer by the issuing dealer	Difference in amount	Tax evaded
Mizoram	2007-08	1	19.23	14.85	4.38	0.55
-do-	2008-09	4	127.10	94.47	32.63	4.08
Manipur	2007-08	7	42.94	6.11	36.83	4.60
-do-	2008-09	11	133.82	21.80	112.02	14.00
Total		23	323.09	137.23	185.86	23.23

Cross verification further revealed that in case of two 'F' forms the amount disclosed by the utilising dealer was less than the amount disclosed by the issuing dealers as given in the following table:

Table-4.25

(Amount in ₹)

Name of the issuing State	Assessment year	'F' form no.	Amount shown as transfer by the issuing dealer	Amount shown as transfer by the utilising/ assessed dealer	Difference in amount
Uttarakhand	2008-09	D049183	8,18,084	4,14,220	4,03,864
Manipur	2008-09	S015779	2,47,896	2,26,578	21,318
Total			10,65,980	6,40,798	4,25,182

As the Sikkim dealer had suppressed the value of goods transferred on 'F' forms outside the State, suppression of sales within the State cannot be ruled out. Hence, the Division needs to investigate these cases to determine the consequential actual tax foregone.

4.6.13.9 Computerisation

In relation to Inter State trade and commerce, the Division could computerise information and data relating to Way Bill issue (since April 2006), Way Bill endorsement (since April 2006), details of issue of 'C' form (since July 2009) and details of utilisation of 'C' form (since 2009) only. Schemes for online issue of statutory forms, filing of e-Return etc. have not so far been introduced in the State as other States like Gujarat.

The Division stated (February 2011) that the provision for online issue of statutory forms and filling of e-return would be catered by Mission Mode Project for Commercial Tax under which the Division had been working with NIC, Karnataka in accordance with project approved by the Ministry of Finance.

4.6.13.10 Conclusion

The Division did not maintain data bank of dealers involved in Inter State trade and commerce. The Division got printed declaration forms long back during 1983 without assessing its requirement taking into account the pace of issue of declaration forms, which could not be fully utilised even after 28 years and the Division did not also maintain the clear position of stock available with them. The Division continued to issue declaration forms to the dealers without ensuring submission of details of utilisation of declaration forms issued earlier and issue register of declaration forms was also not being maintained properly. The Division has not installed a system of verification of each and every declaration form submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax. The Division has also not installed a system of picking up samples of declaration forms and taking them up for further verification with the concerned States and also a system of uploading the details of utilisation of declaration forms in the TINXSYS website.

The Division did not ensure submission of CST returns by each and every dealer and failed to assess all dealers involved in Inter State trade and commerce as out of 75 dealers, only 14 dealers were assessed during 2007-08 to 2009-10. The assessments of dealers were completed without cross verification of declaration forms submitted and forms were not on record in some cases pointed out by us. Demands raised were not realised for long periods.

4.6.13.11 Recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:

- Maintain data bank of dealer involved in Inter State trade and commerce;
- Print declaration forms assessing its requirements taking into account pace of issue of declaration forms;
- Maintain proper records of declaration forms printed, issued and closing stock;
- Ensure issue of declaration forms to the dealers only after receipt of details of utilisation of declaration forms issued earlier;
- Issue declaration forms chronologically and not randomly to have a track of declaration forms;
- Install a system of verification of each and every declaration form submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax;
- Install a system of picking up a sample of declaration forms and taking them up for further verification with the concerned States and also a system of uploading the details of utilisation of declaration forms in the TINXSYS website; and
- Ensure submission of CST returns by every dealer and assess all dealers involved in Inter State trade and commerce.

4.6.14 Evasion of tax due to concealment of turnover

Non-detection of the concealment of purchase turnover by the Commercial Taxes Division led to evasion of tax of ₹ 4.77 crore.

According to Section 37 of the Sikkim Value Added Tax (VAT) Act 2005, the prescribed authority shall, within the time and in the manner prescribed, scrutinise every return filed under Section 30. Further, the Division has a system of issue and utilisation of import way bills for importing any goods from outside the State and export way bills for exporting any goods from the State and each and every such way bill is entered in the computerised data of the Division maintained at their Check Posts. For complete scrutiny of returns, the Division should cross verify the figures of the way bills with the figures of the returns.

Scrutiny of records (February-March 2011) in respect of the Division revealed that a number of dealers involved in various trades such as vehicle trade, wholesale trade, electronic items, hardware, furniture, etc., were not assessed. However, our scrutiny, on the basis of computerised details of the import way bills endorsement for the period 2007-08 onwards revealed that the dealers had been concealing their purchases and consequent sales turnovers. The Division had never cross checked the correctness of the turnovers with reference to the import way bills endorsement details of the individual dealers.

A test check of records done by us revealed that 10 dealers during the period 2007-08 to 2009-

10 had concealed their purchase turnovers to the extent of ₹ 38.16 crore with consequential evasion of VAT of ₹ 4.77 crore.

The matter was reported to the Government/Department (May 2011); their reply has not been received (November 2011).

4.6.15 Irregular grant of exemption and non-assessment/non-payment of Central Sales Tax

Irregular grant of CST exemption and non-submission of quarterly returns, 'C' forms in support of Inter State trade, non-assessment of dealer led to loss of revenue of ₹ 6.41 crore.

Sections 6 and 6A of CST Act, 1956 provides that every dealer who claims exemption/concession of tax shall furnish a proof in the form of declaration in respect of subsequent sales. Rule 11 of CST (Sikkim) Rules, 1983 further stipulates that every dealer liable to pay tax and every dealer registered under the Act shall furnish a return in Form I in respect of each period of his turnover as referred to Rule 11 of CST (Registration and Turnover) Rules, 1957 to the appropriate Sales Tax Officer quarterly within fifteen days from the expiry of each quarter.

On scrutiny (March 2011) of records we observed that one industry⁵ had approached the Government for issue of notification exempting it from payment of any tax including CST under CST Act in pursuance of the State Industrial Policies. The Cabinet approved exemption on 25 January 2008 to the said industry for payment of CST for a period of seven years from the date of its commercial production. In this connection, we observed that granting of CST exemption by the Government under Clause 10 of the Annexure vide notification dated 18 December 1996 was irregular since Government itself had clarified in Clause 2(iv) of the said notification that it was applicable only to those industries which had started their commercial production on or before 31 March 1996. Since this industry had started its commercial production on 10 December 2003, it did not come under the ambit of the said notification. Further, the notification of December 1996 was repealed vide subsequent notifications dated 6 July 2000 and 13 August 2003 both of which did not have any provision for exemption of CST.

Scrutiny of records further revealed that during the period 2006-07 to 2009-10, the industry did not submit any return to the Division except CST returns for the quarters ending March 2008, September 2008, March 2009 and VAT return for the quarter ending December 2007. Scrutiny of the above returns revealed that the industry had been exhibiting its entire production as sale through Inter State trade. However, the industry had neither submitted any 'C' form in support of its Inter State trade till May 2011, nor was any CST paid towards its tax liability.

Scrutiny of export way bills endorsement details of the industry available in the computerised data of the Division itself revealed that during the period 2006-07 to 2009-10, the industry

⁵ M/s Akshay Ispat and Ferro Alloys Private Limited, Manring, an industry registered as dealer under Central Sales Tax (CST) Act for manufacture of ferro silicon, which started its commercial production since 10 December 2003.

made an Inter State trade of ₹ 139.53 crore. In the absence of any return and 'C' form in support of these transactions, the industry was liable to pay CST amounting to ₹ 6.41 crore (₹ 1.38 crore at the rate of 10 *per cent* on the turnover of ₹ 13.75 crore for the year 2006-07 and ₹ 5.03 crore at the normal tax rate of VAT of 4 *per cent* chargeable on its products on the turnover of ₹ 125.78 crore for the period 2007-08 to 2009-10).

The Division replied (September 2011) that the decision taken by the State Government was in exercise of its power conferred by the CST Act and such decision is not subject to audit observation.

The reply of the Division is not acceptable since the notification of the December 1996 was already repealed. Thus, inaction of the Division in realising Government revenue resulted in a non-recovery of ₹ 6.41 crore.

Our verification and discussion with the Division revealed that the industry has closed down and hence, recovery of the taxes due now appears doubtful.

4.6.16 Undue financial benefit

Non-assessment of M/s Sikkim Distilleries Limited (SDL) by Commercial Tax Division provided undue financial benefit to it with consequential non-realisation of SST/ CST of ₹ 46.40 crore over a period of three to 11 years.

M/s Sikkim Distilleries Limited (SDL), Rangpo was registered as a manufacturer of India Made Foreign Liquor (IMFL) under Central Sales Tax (CST) and Sikkim Sales Tax (SST) Acts.

Rule 11 of CST (Sikkim) Rules, 1983 stipulates that every dealer liable to pay tax and every dealer registered under the Act shall furnish a return in Form I in respect of each period of his turnover as referred to Rule 11 of CST (Registration and Turnover) Rules, 1957 to the appropriate Sales Tax Officer quarterly within fifteen days from the expiry of each quarter. Sections 6 and 6A of CST Act 1956 further provide that every dealer claiming exemption/ concession of tax shall furnish a proof in the form of declaration form in respect of the subsequent sale of goods. Furthermore, under Section 11 of Sikkim Sales Tax Act 1983, every registered dealer shall furnish such returns in prescribed form in respect of each period of his turnover and before furnishing such return, shall pay to the Government prescribed amount of tax due under this Act for such period.

Despite specific requisitions and personal persuasions up to the level of Special Commissioner (February/ March 2011), except sales turnover for the period 1999-2000 to 2007-08, the Commercial Tax Division could neither furnish any detail regarding the payments of various taxes by the SDL, nor could they furnish the reason for non-furnishing/ non-maintenance of records and/ or non-payment of any tax by the SDL. The details of tax liability are given in the following table:

Table-4.26

(Amount of ₹)

Particulars	Amount of tax
Sikkim Sales Tax @ 20 per cent on local sales turnover of ₹ 2,07,56,21,678 during the period 1999-2000 to 2007-08	₹ 41,51,24,336
CST @ 10 per cent on the Inter State turnover of ₹ 40,72,45,580 for the period 1999-2000 to 2004-05 for which no 'C'/'F'/'H' forms furnished	₹ 4,07,24,558
CST @ 20 per cent on the Inter State turnover of ₹ 4,09,81,739 for the period 2005-06 to 2007-08 for which no 'C'/'F'/'H' forms furnished	₹ 81,96,348
Total CST payable	₹ 4,89,20,906
Total tax payable	₹ 46,40,45,242

Thus, due to non-maintenance of relevant records, non-assessment of tax and non-issuance of demand notice, an amount of ₹ 46.40 crore could not be realised from the SDL over a period ranging from three to 11 years. While non-assessment and non-issuance of demand notice over such a long period is an undue financial benefit of deferral payment extended to the unit and is fraught with the risk of non-realisation, the Division did not realise the Government revenue.

In its reply, the Commercial Taxes Division stated (September 2011) that SDL went through financial crisis during 2007-08 to 2009-10 as financial misappropriation by successive management was allegedly detected. The State Government had to interfere by taking over the management directly under itself for two years. During this period, the company failed to remit the tax regularly. Subsequently, as the new management of the company approached the State Government for relief from arrear tax in compensation of the loss of partial benefit, the company was eligible as per industrial policy under notification no. GO/2-DI/1996-97. The request was under consideration with the State Government.

The reply is not acceptable as the Division has not stated as to whether the dealer has submitted any return for the period 1999-2000 to 2007-08 and paid any tax for the period 1999-2000 to 2007-08 which indicates that the dealer has not submitted any return and has not paid any tax liability for the period 1999-2000 to 2007-08. Further, exemption from CST, if any, was possible prior to the commencement of business and any post-facto exemption, if given by Government, would be irregular and would facilitate covering up of the tax arrears.

4.6.17 Non-realisation of Environment Cess

Non-registration of industrial dealers under Environment Cess Act and concealment of sales turnover by other dealers led to non/short realisation of cess of ₹ 11.43 crore.

Since April 2007, the State Government introduced 'The Sikkim Ecology Fund and Environment Cess Act 2005'. Under this Act, all the dealers, including manufacturers, who were involved in the procurement and sale of non-biodegradable materials as specified in the schedule II of the Act in the State of Sikkim, were liable to be registered under this Act and were also liable to pay Environment Cess at the rate of one *per cent* of its sales turnover in the State. However, under notification dated 10 April 2008 (Gazetted on 16 April 2008) issued by Law Department, the Government amended the said Act and as per the amended provisions, the persons engaged in the business of manufacturing of goods as specified in Schedule II shall

pay Cess at the rate of 0.50 *per cent* on the total purchase invoice value with effect from 16 April 2008. In view of above, it was clear that from the period 2008-09 onwards, the manufacturing industries were liable to pay cess at the rate of 0.50 *per cent* of its purchased invoice value. The Commercial Tax Division, FRED was responsible for implementation of this Act.

(a) Test check (March 2011) of records of 26 such industrial units revealed that these industries had neither been registered under Environment Cess Act nor had they paid the Cess to the Government so far. There was no document to prove that the Division had ever taken any action to get all the industrial units registered under this Act and to realise the amount of Cess payable by these industries. However, from the import way bill endorsement details of these industries available in the computerised data of the Division, it was seen that during the period 2008-09 to 2009-10, these industries had made import of various raw materials worth ₹ 1,732.56 crore for its use in the manufacturing process on which these industries were liable to pay the Cess of ₹ 8.66 crore at the rate of 0.50 *per cent* of its purchase invoice value. Due to not taking any action for registration of these industries under Environment Cess Act, the amount of ₹ 8.66 crore could not be realised by the Division.

(b) Our scrutiny further revealed that five major motor vehicle dealers registered under the Act, who collected Cess on sale of vehicles and spare parts, either short deposited or did not deposit the amount of Cess in the Government account. The total sales turnover as declared in the quarterly returns by these dealers during 2007-08 to 2009-10 was found to be lesser than the actual turnover verified by Audit from the import way bill endorsement details of these dealers available in the computerised data of the Division. As per records available with the Division, the dealers deposited ₹ 1.66 crore against the actual liability of ₹ 2.78 crore towards Cess leading to a short/ non-deposit of Cess amounting to ₹ 1.12 crore. It was further seen that during 2007-08 to 2009-10, 15 other major dealers of various items also had not shown their actual sales turnover as compared to the volume of business done by these dealers on the basis of purchases made by them which led to an additional short/ non-deposit of Cess to the tune of ₹ 1.65 crore.

Thus, inaction of the Division in getting the industrial dealers registered under the Environment Cess Act and acceptance of incorrect turnovers in the returns of the other dealers led to an aggregated non/ short realisation of cess to the tune of ₹ 11.43 crore.

The matter was reported to the Government/ Department (May 2011); their reply has not been received (November 2011).

4.6.18 Non-payment of tax liabilities

Non-assessment of dealer led to non-payment of CST liability of ₹ 7.84 crore.

Rule 11 of CST (Sikkim) Rules 1983 stipulates that every dealer liable to pay tax and every dealer registered under the Act shall furnish a return in Form I in respect of each period of his turnover to the appropriate Sales Tax Officer quarterly within fifteen days from the expiry of each quarter. Sections 6 and 6A of CST Act 1956 further provides that every dealer who claims

exemption/ concession of tax shall furnish a proof in the form of declaration form in respect of subsequent sales.

M/s Sheela Foam Private Limited, Bagheykhola⁶ submitted its quarterly CST returns for the period 2003-04 to 2009-10 exhibiting most of its turnover as sale in the course of Inter State trade, stock transfer and few transactions as export outside India, without payment/ short payment of tax on its Inter State trade and without submission of the supporting Inter State declaration forms. As per industrial policies of the Government, notified on 13 August 2003 and amended on 1 May 2007, the industry was not eligible for exemption from payment of CST. However, vide letter dated 19 May 2004, the Commerce and Industries Department intimated the Division that the industry was exempted from paying local sales tax and CST. While letter issued by an executive cannot supersede the notification(s) issued earlier, on the basis of this letter, the industry had been approaching the Division for exemption of CST on its Inter State trade. Despite the clarification of the Division about its ineligibility for any exemption, the industry did not pay any CST. Finally, the Division assessed (8 February 2011) its Inter State turnover for the period 2003-04 and 2004-05. The Division assessed for the period of 2003-04 and 2004-05 only in February 2011 without taking into account the period of 2005-06 to 2009-10 which was stated to be due owing to the reason that the firm could provide complete record for assessment for those two financial years only and issued (11 February 2011) demand notice for payment of CST of ₹ 49.62 lakh. The same was, however, not paid by the firm. Instead, the firm filed review petition (3 March 2011) and considering the petition a superseding order was passed (16 July 2011). From the returns of the industry, it was seen that the industry made a sale of ₹ 66.75 crore in course of Inter State trade during the period 2005-06 to 2009-10 without submission of 'C' forms in support of Inter State trade, 'F' forms in support of stock transfer and 'H' forms in support of export outside India. In the absence of requisite declarations, the industry was liable to pay CST at the normal rate of 12.5 *per cent* of VAT or 10 *per cent* whichever was lower for the period up to March 2007 and at VAT rate of 12.5 *per cent* for the period 2007-08 onwards. Taking into account the tax rate of 10 *per cent* upto March 2007 and 12.5 *per cent* from 2007-08 onwards, the industry was liable to pay CST of ₹ 7.84 crore as given in the following table:

⁶ An industry registered under CST and VAT Acts for manufacture of mattresses and other items of coir and PU foam, started its commercial production on 7 October 2003.

Table-4.27

(Amount in ₹)

Gross turnover declared in quarterly returns for the period 2005-06 to 2009-10	69,68,42,356
Less sales within Sikkim	2,93,75,567
Net turnover in the Inter State trade (IST)	66,74,66,789
Turnover shown as export outside India without submission of 'H' forms	24,76,529
IST shown as stock transfer without submission of 'F' forms	3,63,39,321
IST shown as exempted sale without submission of 'C' forms	66,74,66,789
IST on which tax paid but not supported by 'C' forms	97,33,995
Amount of tax paid on above IST	4,14,458
Since no supporting declaration forms produced, 10 <i>per cent</i> chargeable tax on net IST of ₹ 18,57,75,699 for the year 2005-06 to 2006-07	1,85,77,570
Since no supporting declaration forms produced, 12.5 <i>per cent</i> chargeable tax on net IST of ₹ 48,16,91,090 for the years 2007-08 to 2009-10	6,02,11,386
Total CST payable	7,87,88,956
Less tax already paid	4,14,458
Net CST payable by the industry	7,83,74,498

Despite the industry being defaulter in submission of requisite forms and payment of CST, the Division continued to issue all statutory forms to the industry which led to non-payment of tax liability to the tune of ₹ 7.84 crore.

The Division replied (September 2011) that loss of revenue estimated in the observation for the financial years 2005-06 to 2009-10 by computing CST at ten *per cent* due to non-submission of Form 'C', 'F' or 'H' is not appropriate. The dealer has filed relevant declaration forms for major part of the turnover. It has requested for time to obtain the forms for residual part of turnover. The Division also replied that not only did it stop issue of statutory declaration forms, it also initiated the process of cancellation of CST and VAT registration of the dealer on account of non-payment of tax. In recourse of the plea of the dealer that it has applied for order of the State Government for exemption from levy of CST, the Division required the dealer to furnish security against payment of CST, if the order is denied. By withholding issue of declaration forms the dealer was compelled to furnish security deposit of ₹ 30 lakh and ₹ one crore.

The Division's reply is not acceptable as it failed to furnish the copy of the original declaration forms which would have indicated that the dealer had not submitted the same and hence, normal rate of tax was payable by the dealer. Further, fact remained that the export way bill endorsement details of the said industry available in the computerised data of the Division itself showed that the dealer had regularly been issued export way bills. It was also seen that the dealer had been issued 'C' forms as and when requested for. The security deposit is not the payment of tax liability.

Thus, inaction of the Division led to non-payment of CST liability by the industry to the tune of ₹ 7.84 crore.

EXCISE (ABKARI) DEPARTMENT

4.7 State Excise

4.7.1 Tax administration

Excise (Abkari) Department is one of the major revenue earning Departments of the State and the contribution of the Excise receipts to the total tax revenue of the State during the last five years were between 19.18 and 25.61 *per cent*. The Department is responsible for implementation of the following State/Central Acts in the State:

- (a) Sikkim Excise Act, 1992;
- (b) Medicinal & Toiletries Preparation Act, 1955 (Central Act); and
- (c) Narcotic and Psychotropic Substances Act, 1985 (Central Act).

The State Excise Act provides for manufacture, possession, sale, transport, import and export of alcoholic liquor and imposition of duty of Excise therein and for matter connected therewith. The revenue to the State Government by way of Excise duty, vend fee, export fee, license fee, etc. is collected by the State Government on alcoholic liquor under the provision of the Sikkim Excise Act. As far as the Medicinal and Toilet Preparation Act is concerned, it is an enactment of the Central Government which provides for manufacture, possession, sale, etc. of all the alcoholic medicinal and toiletries products. The implementation of the Act is done by the State Government through the Excise Department and Excise Revenue as per the rates prescribed under the Rule is collected and retained by the State Government. The Narcotic and Psychotropic Substances Act is a Central Act and it provides for the control on trafficking and consumption of narcotic and psychotropic substances defined thereunder. The Narcotic and Psychotropic Substances Act is implemented at the State level through Excise, Health and Police Departments. As per the allocation of business for the Departments of the Government of Sikkim, the responsibility for implementation and co-ordination with the State level agencies and the Central Government is that of the Excise Department.

4.7.2 Analysis of budget preparation

Budget is prepared with the previous year's budget as a base in consultation with the FRED and the revenue budget for the current year is increased by 12.5 *per cent* of previous year.

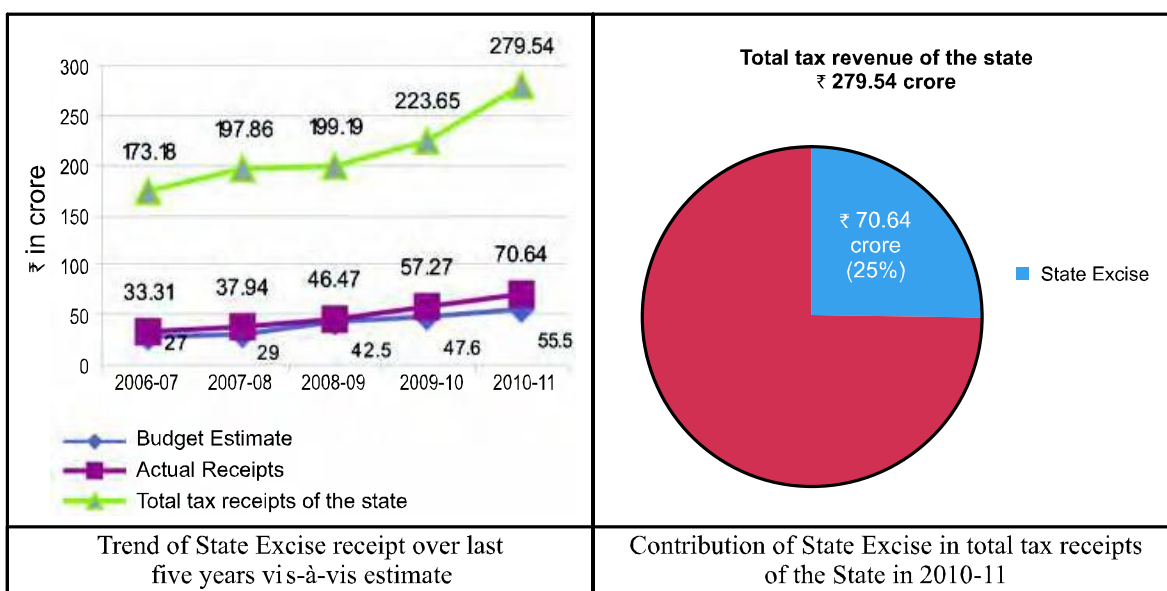
4.7.3 Trend of receipts

Actual receipts from State Excise during years 2006-07 to 2010-11 along with the total tax receipts during the period is exhibited in the following table:

Table-4.28

₹ in crore)

Year	Budget estimate	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the state	Percentage of the actual receipts vis-à-vis total tax
2006-07	27.00	33.31	6.31	27.37	173.18	19.23
2007-08	29.00	37.94	8.94	30.83	197.86	19.18
2008-09	42.50	46.47	3.96	9.32	199.19	23.33
2009-10	47.60	57.27	9.67	20.32	223.65	25.61
2010-11	55.50	70.64	15.14	29.16	279.54	25.27



It can be observed from the above table that the actual receipts exceeded the budget estimate during all the five years. The reasons reported by the Department were better management of revenue (for 2006-07, 2009-10, 2010-11) and addition of more industries (for 2006-07). It clearly indicates that the Department had not taken into account all the inputs while preparing the budget and this resulted in variation in the budget figures and the actual receipts.

4.7.4 Analysis of arrears of revenue

As reported by the Department, there were no arrears of revenue as the duty is collected at source before issuing permits for importing or manufacturing.

4.7.5 Cost of collection

The gross collection in respect of State Excise receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant All India average percentage of expenditure on collection to gross collection of preceding years is indicated in the following table :

Table-4.29

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure to gross collection of preceding year
2008-09	46.47	2.36	5.08	3.27
2009-10	57.27	3.62	6.32	3.66
2010-11	70.64	3.93	5.56	3.64

Thus, the percentage of expenditure on collection during all three years was higher than the All India averages which the Government needs to look into. The reason for excess in 2010-11 as reported by the Department was due to extensive touring and training of Excise personnel for collection of revenue.

4.7.6 Impact of audit

4.7.6.1 Position of IRs

During the last five years, we, through the IRs, have pointed out deficiencies with revenue implication of ₹ 2.01 crore in 19 cases. Of these, the Department/Government had accepted audit observations in 19 cases involving ₹ 2.01 crore and had since recovered ₹ 0.05 crore. The details are shown in the following table:

Table-4.30

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		Cases	Amount	Cases	Amount	Cases	Amount
2005-06	01	03	0.19	03	0.19	-	-
2006-07	01	03	0.57	03	0.57	-	-
2007-08	01	05	0.27	05	0.27	01	0.02
2008-09	01	04	0.27	04	0.27	01	0.03
2009-10	01	04	0.71	04	0.71		

The above table indicates that during the last five years only 3 per cent of the accepted amount was recovered by the Department.

4.7.6.2 Position of Audit Reports

In the ARs 2005-06 to 2009-10 the cases of under/non-assessment, loss of revenue, non-levy of penalty, etc. were indicated, involving ₹ 1.75 crore. The Department has accepted the observations of ₹ 0.26 crore of which no recovery was made till March 2011 as shown in the following table:

Table-4.31

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	1	1.49	0	0	-	0.00
2006-07	-	-	-	-	-	-
2007-08	1	0.26	1	0.26	-	0.00
2008-09	-	-	-	-	-	-
2009-10	-	-	-	-	-	-

The above table indicates that during the year 2005-10 no recovery was made by the Department. The Department had not taken any initiative to recover the amount as pointed out in ARs.

The Government needs to look into the recovery of arrears of revenue.

4.7.7 Internal audit

There is no separate Internal Audit Wing in the Department. Internal audit of all the Departments are conducted by the Internal Audit Wing of FRED.

The Government may issue necessary instruction to the Internal Audit Wing for conducting internal audit of the Department frequently.

4.7.8 Results of audit

Test check of the records of one unit relating to Excise Department revealed loss of revenue and other deficiencies amounting to ₹ 15.82 crore in three cases which fall under the following categories:

Table-4.32

(₹ in crore)

Sl. No.	Category	No of cases	Amount
1	Loss of Government revenue	02	7.33
2	Others	01	8.49

An illustrative case involving ₹ 7.50 crore is mentioned in the following paragraph.

4.7.9 Loss of revenue

Non-fixation of norm for production of beer resulted in a revenue loss of ₹ 6.67 crore on excise duty and ₹ 83.19 lakh on education cess.

Production of beer by breweries in Sikkim is regulated under the Sikkim Excise Act, 1992 and Sikkim Excise (Brewery) Rules, 2000. The Act and Rule of the State did not prescribe any norm for minimum yield of beer from the raw materials used in the brewing process. The executive instructions issued by the Government of West Bengal (Excise Manual) in 1918 (WBEM) under Bengal Excise (BE) Act, 1909 and the rules made thereunder prescribe that the average yield from the raw materials of 15.42 kg malt or 14.52 kg rice flake or 12.70 kg sugar would be 81.823 bulk liters (BL) of wort⁷. Further, under the West Bengal Excise (Foreign Liquor) Rules (WBEFL Rules), the minimum yield of beer should be 92 *per cent* of wort accepted for fermentation.

Scrutiny of records revealed (April 2011) that M/s Yuksum Breweries Limited, Melli brewed 2,61,03,000 BL of wort during 2009-10 by consuming 37,37,475 kg malt, 12,33,960 kg rice flake and 7,71,225 kg sugar. As compared with the norms for brewing fermentable wort prescribed in the WBEM, the yield should have been 3,17,54,545.18 BL of wort. Taking into

⁷Wort means liquor obtained by the exhaustion of malt or grain by the solution of sugar in the process of brewing.

account of the minimum of 92 *per cent* of the fermentable wort, the shortfall of 56,51,545.18 BL of wort resulted in short yield of 51,99,421.57 BL of beer as given in the following table:

Table – 4.33

Name of raw materials	Raw materials to be consumed for production of 81.823 BL of worts (Kg)	Raw materials used (Kg)	Wort to be produced with raw materials used (BL)	Wort actually produced (BL)	Short production (BL)	Short production of beer due to short production of wort (BL)*
Malt	15.42	37,37,475	1,98,32,128.21	2,61,03,000	56,51,545.18	51,99,421.57
Rice flake	14.52	12,33,960	69,53,602.55			
Sugar	12.70	7,71,225	49,68,814.42			
Total			3,17,54,545.18			

*Taking into account of the minimum of 92 *per cent* of fermentable wort

Thus, non-fixation of norm for yield from the raw materials used in the production process, the Government sustained a loss of revenue to the extent of ₹ 6.67 crore towards excise duty (@ ₹ 100 per 7.8 BL of beer) and ₹ 83.19 lakh towards education cess (@ ₹ 1.60 per BL of beer) that could have been charged on the value of production.

The matter was reported to the Government/ Department (June 2011); their reply has not been received (September 2011).

We recommend that the Government reviews the matter regarding fixation of production norms in interest of revenue involved.

FINANCE, REVENUE AND EXPENDITURE DEPARTMENT (DIRECTORATE OF STATE LOTTERIES)

4.8 State Lotteries

4.8.1 Tax administration

The Lottery Division of FRED has been organising and conducting lotteries through distributors with whom agreement is entered into from time to time. Lottery is one of the most important sources of non-tax revenue of the State and comprises mainly of minimum assured revenue from marketing agents, unclaimed prize money, interest on default payment of prize money in time. The lottery business is not stable; there are always ups and downs in the market of the lottery.

4.8.2 Analysis of budget preparation

As per prevailing system, estimate of receipts are prepared by the Directorate, Sikkim State Lotteries taking into consideration the actual revenue transferred to the Government account after distributing prize money and release of payment towards cost of paper, printing and transportation of tickets from the different printing press to the destination of the distributor and stockist.

4.8.3 Trend of receipts

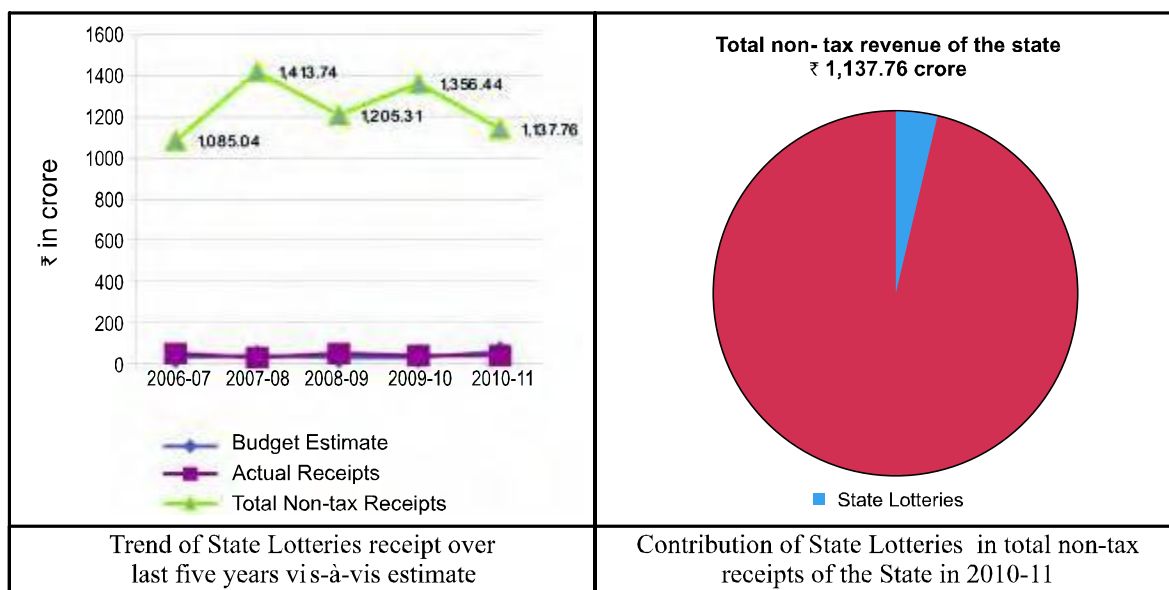
Actual receipts from State lotteries during years 2006-07 to 2010-11 along with the total non-tax receipts during the period is exhibited in the following table and graph:

Table-4.34

(₹ in crore)

Year	Budget estimate*	Actual receipts*	Variation: excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the state	Percentage of the actual receipts vis-à-vis total tax
2006-07	30.00	50.01	20.01	66.70	1,085.04	4.61
2007-08	35.00	30.84	(-) 4.16	(-)11.89	1,413.74	2.18
2008-09	30.00	43.95	13.95	46.50	1,205.31	3.65
2009-10	30.00	40.90	10.90	36.33	1,356.44	3.02
2010-11	60.00	42.54	(-)17.46	(-)29.10	1,137.76	3.74

*Figures represent net of expenditure



The shortfall in achievement of revenue estimate during 2010-11 was attributed by the Department to closure of lottery market in Kerala and other States. It can be observed from the above table that the actual receipts varied with the budget estimate during all the five years. It clearly indicates that the Department had not taken into account all the inputs while preparing the budget and this resulted in variation in the budget figures and the actual receipts.

4.8.4 Analysis of arrears of revenue

The arrear of revenue as on 31 March 2011 amounted to ₹ 27.27 crore, none of which was outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2006-07 to 2010-11:

Table-4.35

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrear
2006-07	41.52	50.00	21.52
2007-08	21.52	30.79	25.73
2008-09	25.73	38.09	17.64
2009-10	17.64	40.89	6.75
2010-11	6.75	39.48	27.27

4.8.5 Impact of audit

4.8.5.1 Position of IRs

During the last five years, audit through its IRs had pointed out deficiencies with revenue implication of ₹ 176.10 crore in 17 cases. Of these, the Department/ Government had accepted audit observations in all these cases involving ₹ 176.10 crore and had since recovered ₹ 4.52 crore. The details are shown in the following table:

Table-4.36

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		Cases	Amount	Cases	Amount	Cases	Amount
2005-06	01	03	132.64	03	132.64	-	-
2006-07	01	05	21.84	05	21.84	01	4.20
2007-08	01	01	0.63	01	0.63	-	-
2008-09	01	04	3.49	04	3.49	-	-
2009-10	01	04	17.45	04	17.45	01	0.32

The above table indicates that during the last five years only 3 per cent of the accepted amount was recovered by the Department.

4.8.5.2 Position of Audit Reports

In the ARs 2005-06 to 2009-10, the cases of under/non-assessment, loss of revenue and non-levy of penalty involving ₹ 103.29 crore were indicated. The Department has accepted the observations of ₹ 71.92 crore, none of which were recovered till March 2011 as shown in the following table:

Table-4.37

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	-	-	-	-	-	-
2006-07	1	15.70	-	-	-	-
2007-08	-	-	-	-	-	-
2008-09	-	-	-	-	-	-
2009-10	3	87.59	1	71.92	-	-

The Department had not taken any initiative to recover the amount as pointed out in ARs.

The Government needs to look into the recovery of arrears of revenue.

4.8.6 Internal audit

There is no separate Internal Audit Wing in the Department. Internal audit of all the Departments are conducted by the Internal Audit Wing of FRED.

The Government may issue necessary instruction to the Internal Audit Wing for conducting internal audit of the Department frequently.

4.8.7 Results of audit

Test check of the records of one unit relating to Directorate of State Lotteries revealed loss of revenue and other deficiencies amounting to ₹ 28.34 crore in three cases which fall under the following categories:

Table-4.38

(₹ in lakh)

Sl No	Category	No of cases	Amount
1	Loss of Government revenue	01	24.14
2	Others	02	2,809.60

During the year, the Department accepted deficiencies of ₹ 0.24 crore in one case.

An illustrative case involving ₹ 0.24 crore is mentioned in the succeeding paragraph.

4.8.8 Undue benefit

Defective agreement with a marketing agent resulted in delay in realisation of Government dues of ₹ 25.79 crore besides a loss of ₹ 24.14 lakh towards non-imposition of interest with consequential extension of undue financial benefit.

With an objective to generate revenue for the State, the Government of Sikkim entered into (9 May 2005) an agreement with a Marketing Agent (MA)⁸ for a period of seven years for Computerised Network Lottery for sale of tickets to a variety of users through a process of Online Computerised Lottery System. As per clause 12 of the agreement, the MA shall deposit the sale proceeds (except prizes payable upto ₹ 5,000) in the Government account on a monthly basis. The agreement was revised (April 2008) in which government revenue was reduced to 0.25 *per cent* from 0.50 *per cent* on additional turnover of ₹ 10 crore.

Scrutiny (February 2011) of the agreement revealed that no penal provisions for delayed payments of any Government dues was inserted in the terms of agreement despite the fact that in the agreement drawn (9 May 2005) with the same MA for other lotteries and agreements drawn with other MA⁹, the penal clauses i.e., imposition of interest at 12 *per cent* against default in payment or terms of agreement was inserted.

The MA retained ₹ 25.79 crore¹⁰ beyond 30 days of the dates of draws, the delay in deposit

⁸ M/s Sugai and Damini, a partnership firm of New Delhi.

⁹ with M/s Martin Lottery Agencies Ltd. in February 2001, October 2004.

¹⁰ Government revenue ₹ 22.60 crore and Draw expenses ₹ 3.19 crore

ranging from 7 to 95 days. There being no provision in either of the original and supplementary agreements to safeguard the Government's interest against delay in payment of Government dues, the Department did not take any action on the MA. Thus, the defective agreement resulted into undue financial benefit to the MA and the Government suffered a loss of ₹ 24.14 lakh¹¹ towards interest.

In reply, the Department stated (July 2011) that penal interest at the rate of 12 *per cent* against all the defaulting payments have been imposed and a clause in this regard was incorporated in the supplementary agreement. The fact remained that delayed action in imposing penalty from October 2010 resulted in undue retention of Government money by the MA and a loss of interest to Government.

¹¹Calculated at 12 per cent per annum stipulated in agreements drawn with other marketing agents.