



सत्यमेव जयते

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended 31 March 2012**



**Government of Uttar Pradesh
Report No. 3 of the year 2013**

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Comptroller and Auditor General
of India**

For the year ended 31 March 2012

(Revenue Sector)

Government of Uttar Pradesh
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PREFACE

This Report for the year ended 31 March 2012 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue sector of the State Government is conducted under Section 13 and 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts and expenditure comprising Commercial Tax/Value Added Tax, State Excise, Taxes on Vehicles, Taxes on Goods and Passengers, Stamps and Registration Fees, Mining Receipts and Other Tax and Non Tax Receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2011-12 as well as those which came to notice in earlier years but could not be included in the previous Audit Reports.

OVERVIEW

This Report contains 56 paragraphs including one Performance Audit on “**Working of Stamps and Registration Department**” relating to short/non-levy of tax, duty and interest, penalty etc. involving financial effect of ₹ 857.95 crore. The Departments/Government have accepted audit observations involving ₹ 438.41 crore out of which ₹ 2.60 crore has been recovered. Some of the major findings are mentioned below:

I. General

The total receipts of the Government of Uttar Pradesh for the year 2011-12 were ₹ 1,30,869.70 crore against ₹ 1,11,183.76 crore during 2010-11. The revenue raised by the State Government amounted to ₹ 62,758.73 crore comprising tax revenue of ₹ 52,613.43 crore and non-tax revenue of ₹ 10,145.30 crore. The receipts from the Government of India were ₹ 68,110.97 crore (State’s share of divisible Union taxes: ₹ 50,350.95 crore and grants-in-aid: ₹ 17,760.02 crore). Thus, the State Government could raise only 48 *per cent* of the total revenue. Commercial Tax/Value Added Tax (₹ 33,107.34 crore) and miscellaneous general services (₹ 4,035.23 crore) were the major source of tax and non-tax revenue respectively during the year 2011-12.

(Paragraph 1.1)

At the end of June 2012, 28,455 audit observations involving ₹ 5,234.12 crore relating to 11,538 Inspection Reports issued upto December 2011 remained outstanding.

(Paragraph 1.2)

Our test check of the records of 1,356 units relating to Commercial Tax/Value Added Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamps and Registration fees, Mining Receipts and Other Tax and Non Tax Receipts conducted during the year 2011-12 revealed underassessments/short levy/loss of revenue aggregating ₹ 1,754.31 crore in 4,878 cases. During the course of the year, the Departments concerned accepted underassessments and other deficiencies of ₹ 33.83 crore involved in 637 cases of which 78 cases involving ₹ 30.68 crore were pointed out in audit during 2011-12 and the rest in the earlier years. The Departments collected ₹ 3.79 crore in 326 cases during 2011-12 of which 44 cases involving ₹ 25.79 lakh were pointed out in audit during 2011-12 and the rest in the earlier years.

(Paragraph 1.5.1)

II. Commercial Tax/Value Added Tax

Application of incorrect rate of tax led to non/short levy of TT/VAT of ₹ 3.32 crore in respect of 55 Commercial Tax Offices in the case of 79 dealers for the period 2002-03 to 2009-10.

(Paragraph 2.10.1)

There was non-imposition of penalty of ₹ 1.36 crore for non deposit of works contract tax in 11 Commercial Tax Offices in the case of 13 dealers for the period 2007-08 and 2008-09.

(Paragraph 2.11.5)

There was irregular exemption/concession of central sales tax of ₹ 2.67 crore in five Commercial Tax Offices in the case of five dealers for the period 2005-06 to 2007-08.

(Paragraph 2.12.2)

There was non-levy of entry tax of ₹ 1.56 crore in respect of six Commercial Tax Offices in the case of seven dealers for the period 2004-05 to 2007-08.

(Paragraph 2.13)

There was non-reversal of inadmissible ITC and non-imposition of penalty and interest of ₹ 1.55 crore in six Commercial Tax Offices in the case of six dealers for the period 2007-08 and 2008-09.

(Paragraph 2.16.3)

III. State Excise

There was short levy of licence fee of ₹ 1.54 crore in 10 District Excise Offices on 27 model shops for the period from 2010-11 to 2011-12.

(Paragraph 3.8)

There was short levy/realisation of licence fee of ₹ 80 lakh for FL-2 licences in seven and eight districts during the year 2010-11 and 2011-12 respectively.

(Paragraph 3.14)

There was non/short levy of licence fee of ₹ 9.25 crore on wholesale supply of beer in 52 and 54 districts during the year 2009-10 and 2010-11 respectively.

(Paragraph 3.15)

IV. Taxes on Vehicles, Goods and Passengers

There was short levy of tax of ₹ 99.71 lakh in 27 Regional Transport Offices/ Assistant Regional Transport Offices in 3,467 vehicles due to adoption of lesser seating capacity during the period from October 2009 to February 2012.

(Paragraph 4.8)

There was non-realisation of tax/additional tax of ₹ 2.29 crore in 33 Regional Transport Offices/Assistant Regional Transport Offices in respect of 753 vehicles surrendered for periods beyond three months during the period from April 2010 to March 2012.

(Paragraph 4.9)

There was non/short imposition of penalty of ₹ 2.14 crore in 12 Regional Transport Offices/Assistant Regional Transport Offices in respect of 2,248 vehicles carrying excess load which not only led to the hazardous plying of overloaded vehicles but also may cause loss of human life and damage to the roads during the period from April 2008 to January 2012.

(Paragraph 4.10)

Tax and fines of ₹ 29.05 lakh was not levied in 12 Regional Transport Offices/Assistant Regional Transport Offices in respect of 533 tractors registered for agricultural purposes but engaged in commercial activities during the period from April 2008 to January 2012.

(Paragraph 4.12)

V. Stamps and Registration Fees

A Performance Audit on "**Working of Stamps and Registration Department**" revealed that:

- Non-levy of Stamp Duty and Registration Fees on sale deeds resulted in non realisation of revenue of ₹ 23.13 crore.

(Paragraph 5.5.12)

- There was loss of ₹ 12.48 crore of Stamp Duty and Registration Fees on different kinds of leases.

(Paragraph 5.5.16)

- Undervaluation of properties resulted in short levy of stamp duty and registration fees of ₹ 19.69 crore.

(Paragraph 5.5.19)

- Misclassification of documents resulted in short levy of stamp duty of ₹ 44.79 lakh.

(Paragraph 5.5.20)

- Loss of Stamp Duty due to irregular exercise of power by Collector resulted in loss of revenue of ₹ 2.81 crore.

(Paragraph 5.5.22)

VI. Mining Receipts

There was non-levy of penalty of ₹ 159.79 crore due to illegal removal of brick earth by brick kiln owners in 13 district Mining offices during the period 2005-06 to 2010-11.

(Paragraph 6.7)

The Government was deprived of revenue of ₹ 2.48 crore due to absence of provision for payment of Stamp duty and Registration fees in respect of 122 leases in 11 District Mining offices during the period from 2005-06 to 2009-10.

(Paragraph 6.8)

There was loss of revenue of ₹ 50.93 crore due to non-renewal/grant of fresh leases in respect of 602 quarry leases during the period from 2005 to 2012.

(Paragraph 6.10)

There was loss of revenue of ₹ 77.87 crore due to non-recovery of cost of excavated mineral for unauthorised extraction in respect of 22 cases in five District Mining Offices during the period from 2005-06 to 2010-11.

(Paragraph 6.12.1)

There was absence of mechanism to curb transportation of illegally mined minerals against irregular MM-11 forms in 21 districts during the period between October 2010 and January 2012.

(Paragraph 6.17)

VII. Other Tax and Non-tax Receipts

There was short realisation of royalty of ₹ 46.64 crore on Tendu Leaves due to non-calculation of royalty as per formula by Forest Department.

(Paragraph 7.4)

There was wasteful expenditure of ₹ 97.44 lakh on raising and maintenance of 39.29 lakh plants which became unfit for plantation in Forest Department.

(Paragraph 7.5)

There was avoidable expenditure of ₹ 1.13 crore on growing and maintaining of 33.99 lakh new plants without requirement in Forest Circle, Agra.

(Paragraph 7.6)

There was short levy of user charges of ₹ 28.99 crore in 251 Chief Medical Superintendents (CMS), Community Health Centres and Primary Health Centres during 2005-06 to 2011-12.

(Paragraph 7.7)

There was short levy of service charge of ₹ 2.65 crore on transfusion of blood and blood components in 22 Chief Medical Superintendents (CMS) during the period April 2008 to December 2010.

(Paragraph 7.8)

There was non-imposition of penalty of ₹ 40.95 lakh on 226 institutions running without registration in 16 CMOs.

(Paragraph 7.9.1)

CHAPTER-I GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Uttar Pradesh during the year 2011-12, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)

Sl. No.	Particulars	2007-08	2008-09	2009-10	2010-11	2011-12
1. Revenue raised by the State Government						
	• Tax revenue	24,959.32	28,658.97	33,877.60	41,355.00	52,613.43
	• Non-tax revenue	5,816.01	6,766.55	13,601.09	11,176.21	10,145.30
	Total	30,775.33	35,425.52	47,478.69	52,531.21	62,758.73
2. Receipts from the Government of India						
	• State's share of divisible Union taxes	29,287.74	30,905.72	31,796.67	43,218.90	50,350.95 ¹
	• Grants-in-aid	8,609.40	11,499.49	17,145.59	15,433.65	17,760.02
	Total	37,897.14	42,405.21	48,942.26	58,652.55	68,110.97
3.	Total receipts of the State (1 and 2)	68,672.47	77,830.73	96,420.95	1,11,183.76	1,30,869.70
4.	Percentage of 1 to 3	45	46	49	47	48

Source: Finance Accounts of the Government of Uttar Pradesh.

The above table indicates that during the year 2011-12, the revenue raised by the State Government was 48 *per cent* of the total revenue receipts (₹ 1,30,869.70 crore) against 47 *per cent* in the preceding year. The balance 52 *per cent* of receipts during 2011-12 was from the Government of India.

¹ For details, please see Statement No. 11 - detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Uttar Pradesh for the year 2011-12. Figures under the major heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0028 - Other taxes on income and expenditure, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties, 0044 - Service tax and 0045 - Other taxes and duties on commodities and services - Share of net proceeds assigned to States booked in the Finance Accounts under 'A - Tax revenue' have been excluded from revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period 2007-08 to 2011-12:

(₹ in crore)

Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Increase (+) or decrease (-) in 2011-12 with reference to 2010-11	Percentage of increase or decrease with reference to 2010-11
1.	Commercial tax/VAT	15,023.10	17,482.05	20,825.18	24,836.52	33,107.34	(+) 8,270.82	33.30
2.	State excise	3,948.40	4,720.01	5,666.06	6,723.49	8,139.20	(+) 1,415.71	21.06
3.	Stamps and registration fees	3,976.68	4,138.27	4,562.23	5,974.66	7,694.40	(+) 1,719.74	28.78
4.	Taxes on vehicles	1,145.84	1,124.66	1,403.50	1,816.89	2,375.86	(+) 558.97	30.77
5.	Taxes on goods and passengers	109.65	266.49	271.05	241.69	4.81	(-) 236.88	(-) 98.01
6.	Taxes and duties on electricity	206.65	216.72	272.16	357.00	458.20	(+) 101.20	28.35
7.	Land revenue	392.53	549.28	663.14	1,134.16	490.68	(-) 643.48	(-) 56.74
8.	Other taxes and duties on commodities and services	137.50	140.58	193.34	245.15	312.46	(+) 67.31	27.46
9.	Other (hotel receipts, corporation tax, etc.)	18.97	20.91	20.94	25.44	30.46	(+) 5.02	19.75
Total		24,959.32	28,658.97	33,877.60	41,355.00	52,613.43²	11,258.43	27.22

Source: Finance Accounts of the Government of Uttar Pradesh.

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

Commercial Tax/VAT: The increase was due to more collections on account of UPVAT.

State Excise: The increase was due to realisation of more revenue on account of “Country Spirits” and “Foreign liquor and Spirits”.

Stamps and Registration Fees: The increase was due to sale of more Non-judicial Stamps.

Taxes on Vehicles: The increase was due to realisation of more taxes on sale of vehicles and collection of taxes under the State Motor Vehicle Taxation Act.

Taxes on Goods and Passengers: The accounts head ‘Taxes on vehicles’ was fixed for deposit of the revenue of this head from 2011-12, therefore, there was ‘NIL’ provision in the Budget Estimates and revenue receipt was only ₹ 4.81 crore under this head.

² The difference of ₹ 0.02 crore in vertical total of tax revenue in the column is due to rounding off the actual figures in crore rupees.

Land Revenue: The decrease was due to less collection of fixed charges, realisation of arrears from Improvement Trust, Ghaziabad and Housing Boards.

The other Departments did not inform the reasons for variation (February 2013).

1.1.3 : The following table presents the details of the non-tax revenue raised during the period 2007-08 to 2011-12:

(₹ in crore)

Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Increase (+) or decrease (-) in 2011-12 with reference to 2010-11	Percentage of increase/decrease with reference to 2010-11
1.	Misc. general services	1,153.53	1,698.79	8,075.13	5,120.67	4,035.23	(-) 1,085.44	(-) 21.20
2.	Interest receipts	1,247.84	963.87	603.66	689.32	789.22	(+) 99.90	14.49
3.	Forestry and wild life	294.80	271.92	271.29	280.34	285.88	(+) 5.54	1.97
4.	Medium irrigation	319.43	260.91	240.21	148.62	145.52	(-) 3.10	(-) 2.08
5.	Education, sports, art and culture	1,217.62	1,080.61	2,339.86	2,614.11	2,008.55	(-) 605.56	(-) 23.16
6.	Other administrative services	146.10	145.04	147.19	374.46	542.65	(+) 168.19	44.91
7.	Non-ferrous mining and metallurgical industries	395.20	427.31	604.97	653.39	593.28	(-) 60.11	(-) 9.20
8.	Police	147.17	160.78	119.34	177.13	196.30	(+) 19.17	10.82
9.	Crop husbandry	51.03	49.64	37.60	42.18	58.66	(+) 16.48	39.07
10.	Social security and welfare	19.73	34.06	39.69	49.56	154.03	(+) 104.47	210.79
11.	Medical and public health	72.11	618.84	94.35	101.35	107.93	(+) 6.58	6.49
12.	Minor irrigation	31.41	31.65	25.26	36.00	47.94	(+) 11.94	33.18
13.	Roads and bridges	74.24	60.69	87.10	98.51	152.85	(+) 54.34	55.16
14.	Public works	34.03	57.52	72.80	69.45	69.97	(+) 0.52	0.75
15.	Co-operation	6.33	26.46	16.39	9.38	9.78	(+) 0.40	4.29
16.	Others	605.44	878.46	826.25	711.74	947.51	(+) 235.77	33.13
Total		5,816.01	6,766.55	13,601.09	11,176.21	10,145.30	(-) 1,030.91	(-) 9.22

Source: Finance Accounts of the Government of Uttar Pradesh.

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

Miscellaneous General Services: Decrease was due to less collection under Other Receipts.

Education, Sports, Art and Culture: Decrease was due to less realisation of miscellaneous receipts under Elementary Education.

The other Departments did not inform the reasons for variation (February 2013).

1.2 Response of the Department/Government towards Audit

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

The Accountant General (E&RSA), Uttar Pradesh (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 inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the Heads of the Office 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 of issue of the IRs. Serious financial irregularities are reported to the Heads of the Department and the Government.

We reviewed the IRs issued upto December 2011 and found that 28,455 paragraphs involving ₹ 5,234.12 crore relating to 11,538 IRs remained outstanding at the end of June 2012, as mentioned below along with the corresponding figures for the preceding two years:

Sl. No.	Description	2010	2011	2012
1.	Number of inspection reports pending settlement	9,287	10,349	11,538
2.	Number of outstanding audit observations	22,484	25,501	28,455
3.	Amount of revenue involved (₹ in crore)	3,757.81	4,445.39	5,234.12

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amounts involved are mentioned below:

Sl. No.	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Amount of revenue involved (₹ in crore)	Year to which the observations relate
1.	Commercial Tax/VAT including Entry tax	4,138	12,856	1,951.88	1984-85 to 2011-12
2.	State Excise	1,048	2,075	331.16	1984-85 to 2011-12
3.	Land revenue	542	772	28.09	1987-88 to 2011-12
4.	Taxes on vehicle, goods and passengers	1,001	3,259	702.81	1984-85 to 2011-12
5.	Public works	468	921	64.48	1986-87 to 2011-12
6.	Irrigation	350	748	108.51	1984-85 to 2011-12
7.	Taxes on purchase of sugarcane	97	112	54.29	1985-86 to 2011-12
8.	Stamps and registration fees	2,577	4,731	228.90	1984-85 to 2011-12
9.	Agriculture	182	309	22.21	1985-86 to 2011-12
10.	Electricity duty	174	215	170.15	1988-89 to 2011-12
11.	Food and civil supplies	105	179	19.76	1991-92 to 2011-12
12.	Co-operative	93	114	5.96	1985-86 to 2011-12
13.	Entertainment tax	134	210	10.54	1997-98 to 2011-12
14.	Non-ferrous Mining and Metallurgical Industries	15	89	97.71	2010-11 to 2011-12
15.	Medical and public health	116	480	10.40	2002-03 to 2011-12
16.	Forestry and wild life	495	1,382	1,427.25	2003-04 to 2011-12
17.	Jail	3	3	0.02	2002-03 to 2011-12
	Total	11,538	28,455	5,234.12	

This large pendency of the IRs is indicative of the fact that the concerned Heads of Office/Heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

We recommend that the Government may take suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as initiate action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.

1.2.2 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 2011-12 and the paragraphs settled are mentioned below:

Name of Department	Number of meetings held	Number of paras under consideration	Number of paras settled	Amount (₹ in crore)
Commercial Tax	27	221	221	3.40
Land revenue	6	45	28	0.48
Public works	4	57	37	0.16
Total	37	323	286	4.04

In addition to audit committee meetings, 767 paras of value ₹ 33.67 crore were settled during the year 2011-12 through spot discussions and replies received from the Departments as detailed below:

Name of Department	Number of paras settled	Amount (₹ in crore)
Commercial Tax	488	9.55
Stamps and registration	127	4.10
State excise	74	17.27
Transport	24	0.39
Land revenue	7	2.14
Geology and Mining	38	0.16
Entertainment Tax	9	0.06
Total	767	33.67

In order to expedite clearance of outstanding audit observations, it is necessary that audit committees should meet regularly and ensure appropriate action on all audit observations leading to their settlement.

1.2.3 Response of the Departments to the draft audit paragraphs

The Department of Finance issued directions to all the Departments to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. We forward the draft paragraphs to the Secretaries of the concerned Departments through demi-official letters by the AG, drawing their attention to the audit findings and requesting them to send their response within six weeks. In case of non-receipt of replies from the Departments the fact is invariably indicated at the end of each paragraph included in the Audit Report.

Fifty five draft paragraphs and one Performance Audit included in this Report for the year ended 31 March 2012 were forwarded to the Secretaries of the concerned Departments between June 2011 and May 2012 through demi-official letters. The Secretaries of the concerned Departments sent replies against the Performance Audit and 15 draft paragraphs, while replies against 32 draft paragraphs have been received from Departments. Replies of one, five and two draft paragraphs have not been received from the Departments of Transport, Geology and Mining and Forest respectively.

1.2.4 Follow-up on Audit Reports - summarised position

To ensure accountability of the executive in respect of all the issues dealt in the various Audit Reports (ARs), the Department of Finance issued instructions in June 1987 to initiate *suo moto* action on all paragraphs/performance audits figuring in the Audit Reports irrespective of whether the cases were taken up for examination by the Public Accounts Committee (PAC) or not. Out of 109 paragraphs/performance audits included in Audit Reports relating to the period 2006-07 to 2010-11 which have already been laid before the State Legislature, no explanatory notes (ENs) in respect of 75 paragraphs/performance audits were received in our office as on October 2012. The outstanding ENs dating back to 2006-07 are as mentioned below:

Year of Report	Date of presentation of Audit Report to the legislature	No. of paragraphs/performance audits included in the Audit Reports	No. of paragraphs/performance audits on which ENs have been received from the Departments	No. of paragraphs/performance audits on which ENs have not been received from the Departments
2006-07	15 February 2008	24	12	12
2007-08	17 February 2009	16	14	2
2008-09	28 January 2010	13	8	5
2008-09 (Stand Alone Report on State Excise)	5 August 2011	1	0	1
2009-10	8 August 2011	20	0	20
2010-11	30 May 2012	35	0	35
Total		109	34	75

1.2.5 Compliance with the earlier Audit Reports

In our Audit Reports 2006-07 to 2010-11 cases of underassessment, non/short levy of taxes, loss of revenue, failure to raise demands, etc. involving ₹ 2,751.67 crore were reported. As of October 2012, the Departments concerned have accepted observations of ₹ 959.69 crore and recovered ₹ 14.11crore. Audit Report-wise details of cases accepted and recovered are mentioned in the following table:

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2006-07	92.18	1.74	0.37
2007-08	1,035.85	927.83	12.83
2008-09	109.07	4.26	0.03
2008-09 (Stand Alone Report on State Excise)	1,344.56	--	--
2009-10	69.51	8.77	0.16
2010-11	100.50	17.09	0.72
Total	2,751.67	959.69	14.11

The recovery in respect of the accepted cases is extremely low (1.47 per cent).

The Government needs to take necessary steps for prompt recovery of the amounts involved, specially in the accepted cases.

1.3 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 Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last five years in respect of one Department has been evaluated and included in this Audit Report.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Transport Department** in dealing with the cases detected in the course of local audit conducted during the last six years and also the cases included in the Audit Reports for the years 2006-07 to 2010-11.

1.3.1 Position of Inspection Reports

The summarised position of Inspection reports issued during the last six years, paragraphs included in these reports and their status as on March 2012 are tabulated below:

(₹ 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
2006-07	904	2710	102.72	61	171	9.22	1	4	0.01	964	2877	111.93
2007-08	964	2877	111.93	67	295	11.35	6	12	0.10	1025	3160	123.18
2008-09	1025	3160	123.18	74	245	107.19	208	546	10.73	891	2859	219.65
2009-10	891	2859	219.65	78	360	25.74	39	111	11.15	930	3108	234.24
2010-11	930	3108	234.24	60	183	8.34	132	610	15.57	858	2681	227.01
2011-12	858	2681	227.01	71	510	87.47	4	24	0.39	925	3167	314.09

During the years 2008-09 to 2011-12, 920 paragraphs involving money value ₹ 26.16 crore were settled in 18 Audit committee meetings.

1.3.2 Assurances given by the Department/Government on the issues highlighted in the Audit Reports

1.3.2.1 Recovery of accepted cases

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

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2006-07	2	6.11	-	-	-	-
2007-08	2	82.02	1	73.22	1	8.80
2008-09	1	5.80	-	-	-	-
2009-10	1	15.60	1	5.49	-	-
2010-11	8	2.15	3	0.57	-	-
Total	14	111.68	5	79.28	1	8.80

The analysis of the above table shows that the percentage of the paragraphs accepted and their money value is very low. The amount of recovery in relation to the money value of accepted para is 11.10 *per cent*.

We recommend that the Department ensure that it recovers at least the amounts involved in the accepted paragraphs.

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

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

The details of issues highlighted in the Performance Audit on "**Working of Transport Department**" and "**Computerisation in Motor Vehicles Department**" featured in the Audit Report 2009-10 and 2010-11 respectively including the recommendations made and the recommendations accepted by the Department are mentioned below:

Year of Audit Report	Title of the Performance Audit	Number of recommendations	Number of recommendations accepted
2009-10	Working of Transport Department	8	6
2010-11	Computerisation in Motor Vehicles Department	8	8

The Department has not yet communicated the action taken on the recommendations given in these Reports.

1.4 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* include critical issues in Government revenues and tax administration i.e. budget speech, White Paper on State finances, reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2011-12, the audit universe comprised of 1972 auditable units, of which 1356 units were audited. The details are shown in the following table:

Sl. No.	Departments	Total number of auditable units	Total number of audited units
1.	Commercial Tax	987	615
2.	State Excise including distilleries	282	200
3.	Transport	97	96
4.	Entertainment tax	63	29
5.	Stamps and Registration	404	339
6.	Geology and Mining	26	17
7.	Forest	113	60
	Total	1,972	1,356

Besides the compliance audit mentioned above, a Performance Audit on “Working of Stamps and Registration Department” has also been attempted.

1.5 Results of Audit

1.5.1 Position of local audit conducted during the year

Our test check of the records of 1,356 units relating to Commercial Tax/Value Added Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamps and Registration fees, Mining Receipts and Other Tax and Non Tax Receipts conducted during the year 2011-12 revealed underassessments/short levy/loss of revenue aggregating ₹ 1,754.31 crore in 4,878 cases. During the course of the year, the Departments concerned accepted underassessments and other deficiencies of ₹ 33.83 crore involved in 637 cases of which 78 cases involving ₹ 30.68 crore were pointed out in audit during 2011-12 and the rest in the earlier years. The Departments collected ₹ 3.79 crore in 326 cases during 2011-12 of which 44 cases involving ₹ 25.79 lakh were pointed out in audit during 2011-12 and the rest in the earlier years.

1.5.2 This report

This Report contains 56 paragraphs including one Performance Audit on “**Working of Stamps and Registration Department**” relating to short/non-levy of tax, duty, interest and penalty etc., involving financial effect of ₹ 857.95 crore. The Departments/Government have accepted audit observations involving ₹ 438.41 crore out of which ₹ 2.60 crore has been recovered. The replies in the remaining cases have not been received (February 2013). These cases are discussed in the succeeding Chapters II to VII.

CHAPTER-II COMMERCIAL TAX / VALUE ADDED TAX

2.1 Tax administration

Trade Tax (TT) (known as Commercial Tax after December 2007) is the major source of revenue of the State and accounted for 62.93 *per cent* (₹ 33,107.34 crore) of the total tax revenue (₹ 52,613.43 crore) of the State during the year 2011-12. The levy of commercial tax is governed by the provisions of the Uttar Pradesh Trade Tax Act, 1948 (UPTT Act) and rules made thereunder upto 31 December 2007, and thereafter by the provisions of the Uttar Pradesh Value Added Tax Act, 2008 (UPVAT Act) implemented from 1 January 2008. The levy of Central Sales Tax is regulated by the provisions of the Central Sales Tax Act, 1956 (CST Act) and the rules made thereunder.

The Principal Secretary *Vanijaya Evam Manoranjan Kar* Uttar Pradesh, is the administrative head at Government level. The overall control and direction of the Commercial Tax Department vests with Commissioner, Commercial Tax (CCT), Uttar Pradesh with headquarters at Lucknow. He is assisted by 104 Additional Commissioners, 157 Joint Commissioners (JCs), 494 Deputy Commissioners (DCs), 964 Assistant Commissioners (ACs) and 1275 Commercial Tax Officers (CTOs).

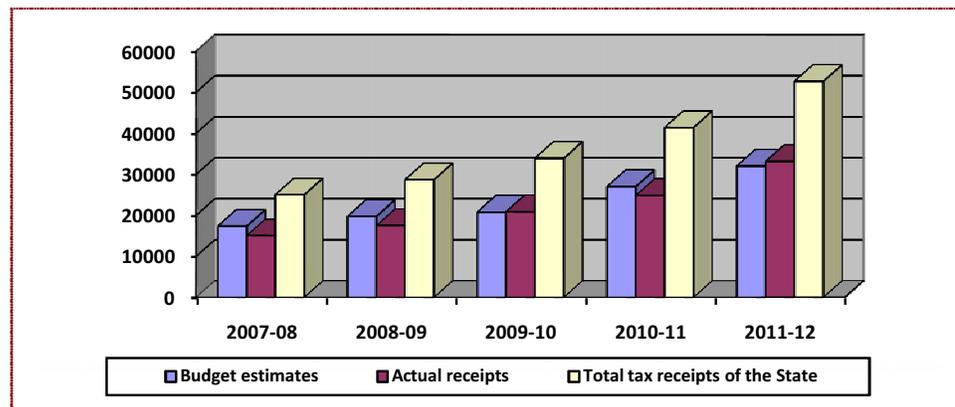
2.2 Trend of receipts

Actual receipts from TT/Value Added Tax (VAT) during the last five years from 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and bar diagram:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual TT/VAT receipts vis-à-vis total tax receipts
2007-08	17,314.10	15,023.10	(-) 2,291.00	(-) 13.23	24,959.32	60.19
2008-09	19,705.00	17,482.05	(-) 2,222.95	(-) 11.28	28,658.97	61.00
2009-10	20,741.27	20,825.18	(+) 83.91	0.40	33,877.60	61.47
2010-11	26,978.34	24,836.52	(-) 2,141.82	(-) 7.94	41,355.00	60.06
2011-12	32,000.00	33,107.34	(+) 1,107.34	3.46	52,613.43	62.93

Source: Finance Accounts of the Government of Uttar Pradesh.



It is evident from the table that there were abnormal variations during 2007-08 and 2011-12 between budget estimates and actual receipts ranged between (-) 13.23 and 3.46 per cent.

2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 18,960.28 crore of which ₹ 11,803.03 crore was outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12:

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears
2007-08	14,569.19	3,487.63	11,081.94
2008-09	11,081.94	4,307.91	15,389.85
2009-10	15,389.85	1,063.45	16,453.30
2010-11	16,453.30	1,350.97	16,665.41
2011-12	16,665.41	1,700.51	18,960.28

Source: Information provided by the Department.

The Department stated that the demand certified for recovery as arrears of land revenue of ₹ 1,576.23 crore has been issued, ₹ 4,260.46 crore had been stayed by the Courts and Government, recovery outstanding on Government Departments and semi-Government Departments was ₹ 495.62 crore, recovery certificates of ₹ 913.17 crore were sent to other States, recovery certificates of ₹ 69.93 crore were on transporters in the State, demand of ₹ 1,498.03 crore is likely to be written-off and rest of the arrear amount of ₹ 10,146.84 crore was pending for specific action by the Department.

2.4 Cost of VAT per assessee

The cost of VAT per assessee during the period from 2009-10 to 2011-12 is tabulated below:

Year	Number of dealers	Gross collection (₹ in crore)	Expenditure on collection (₹ in crore)	Cost per assessee (in ₹)
2009-10	5,75,434	20,825.18	358.43	6,228.86
2010-11	5,94,695	24,836.52	391.45	6,582.37
2011-12	6,42,645	33,107.34	440.89	6,860.55

Source: Finance Accounts of the Government of Uttar Pradesh and information provided by the Department.

2.5 Arrears in assessment

The details of assessments relating to commercial tax pending at the beginning of the year, additional cases that became due for assessment during the year, cases disposed during the year and cases pending at the end of the year as furnished by the Commercial Tax Department during 2007-08 to 2011-12 are mentioned in the following table:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed of during the year	Cases pending at the close of the year
2007-08	5,76,968	6,19,710	11,96,678	2,58,011	9,38,667
2008-09	9,38,667	5,33,358	14,72,025	9,50,313	5,21,712
2009-10	5,21,712	1,83,378	7,05,090	6,92,704	12,386
2010-11	12,386	5,44,458	5,56,844	5,50,802	6,042
2011-12	6,042	6,54,378	6,60,420	4,76,368	1,84,052

Source: Information provided by the Department.

The Department needs to complete the pending assessment cases within the prescribed time limit.

2.6 Cost of collection

The gross collection in respect of TT/VAT receipts, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12 along with the relevant all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the previous year
2007-08	15,023.10	228.19	1.52	0.82
2008-09	17,482.05	272.54	1.56	0.83
2009-10	20,825.18	358.43	1.72	0.88
2010-11	24,836.52	406.65	1.64	0.96
2011-12	33,107.34	440.89	1.33	0.75

Source: Finance Accounts of the Government of Uttar Pradesh and information provided by the Department.

The percentage of expenditure on collection was higher than the all India average in all the five years.

The Government needs to take appropriate measures to bring down the cost of collection.

2.7 Revenue impact of audit

During the period 2006-07 to 2010-11 we had pointed out through our Inspection Reports non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc. with revenue implication of ₹ 1,502.44 crore in 10,084 cases. Of these, the Department/Government had accepted audit observations in 1,359 cases involving ₹ 15.23 crore and had since recovered ₹ 2.05 crore in 508 cases. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	473	1,548	74.60	38	0.36	6	0.02
2007-08	489	1,210	1,191.14	124	0.51	114	0.46
2008-09	591	1,967	64.65	202	5.60	128	0.68
2009-10	685	2,711	77.32	559	7.13	112	0.36
2010-11	892	2,648	94.73	436	1.63	148	0.53
Total	3,130	10,084	1,502.44	1,359	15.23	508	2.05

2.8 Results of audit

Test check of the assessments and other records of commercial tax offices, conducted during 2011-12, revealed non/short levy of tax, non/short levy of tax due to misclassification of goods and incorrect rate of tax, irregular exemption, etc. of ₹ 132.67 crore in 2,451 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short levy of penalty/interest	949	39.21
2.	Non/short levy of tax	230	7.41
3.	Irregular grant of exemption from tax	263	32.37
4.	Incorrect classification of rate of goods	256	13.26
5.	Misclassification of goods	38	1.68
6.	Irregularities relating to central sales tax	31	0.86
7.	Mistake in computation	06	0.06
8.	Turnover escaping tax	14	0.59
9.	Other irregularities	664	37.23
Total		2,451	132.67

During the year 2011-12, the Department accepted underassessments and other deficiencies of ₹ 3.06 crore involved in 522 cases of which 21 cases involving ₹ 5.42 lakh had been pointed out during 2011-12 and the remaining in the earlier years. The Department recovered ₹ 44.68 lakh in 230 cases during the year 2011-12, of which 6 cases involving ₹ 2.02 lakh related to the year 2011-12 and the remaining to the earlier years.

A few illustrative cases involving financial impact of ₹ 16.76 crore are mentioned in the following paragraphs.

2.9 Audit observations

Our scrutiny of the assessment records of the Commercial Tax Department revealed several cases of non-observance of the provisions of the Acts/Rules, non/short levy of tax/penalty/interest, irregular exemption, incorrect application of rate of tax, etc. and a case of idle expenditure as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on our test check. Such omissions on the part of Assessing Authorities (AAs) have been pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. We feel that there is need for the Government to improve the internal control system including strengthening of internal audit.

2.10 Non/Short levy of tax due to application of incorrect rate of tax and misclassification of goods

The Assessing Authorities (AAs) while finalising the assessments, did not apply the correct rate of tax given in the schedule of rates, in some cases lower rate of tax was applied due to misclassification of goods and in some of the cases no tax was levied which resulted in non/short levy of tax of ₹ 5.04 crore as mentioned in the following paragraphs:

2.10.1 Non/Short levy of TT/VAT due to application of incorrect rate of tax

Under Section 3A of UP Trade Tax (UPTT) Act, 1948, tax on classified goods is leviable as prescribed in the schedule of rates notified by the Government from time to time. The goods not classified in the prescribed schedule of rates, are taxable at the rate of 10 *per cent* with effect from 1 December 1998. Under Section 4(1) of UP Value Added Tax (UPVAT) Act, 2008, goods mentioned in schedule-I are tax free, goods mentioned in Schedule- II are taxable at the rate of four *per cent*, goods mentioned in schedule-III are taxable at the rate of one *per cent* and those mentioned under schedule-IV are taxable at the rate notified by the Government from time to time. Goods not mentioned in any of the above schedules are covered under schedule-V and are taxable at the rate of 12.5 *per cent* with effect from 1 January 2008.

We observed in 55 Commercial Tax Offices ¹ (CTOs) that for the period 2002-03 to 2009-10, the concerned AAs, while finalising the assessments ² between August 2004 and March 2011, applied incorrect rate of tax on sale of goods worth ₹ 60.77 crore. This resulted in non/short levy of trade tax (TT)/value added tax (VAT) of ₹ 3.32 crore as shown in **Appendix-I.**

¹ AC Sec. 10 Agra, DC Sec. 11 Agra, DC Sec.17 Agra, DC Sec.19 Agra, AC Sec. 1 Aligarh, DC Sec. 1 Allahabad, AC Sec. 7 Allahabad, DC Sec. 14 Allahabad, DC Sec. 10 Bareilly, DC Sec. 2 Gautam Budh Nagar, DC Sec.3 Gautam Budh Nagar, JC (CC)-A Ghaziabad, AC Sec. 4 Ghaziabad, DC Sec.5 Ghaziabad, AC Sec. 7 Ghaziabad, DC Sec. 8 Ghaziabad, AC Sec. 8 Ghaziabad, DC Sec. 9 Ghaziabad, DC Sec. 14 Ghaziabad, DC Sec. 13 Ghaziabad, DC Sec. 15 Ghaziabad, AC Sec. 15 Ghaziabad, DC Sec. 16 Ghaziabad, DC Sec. 17 Ghaziabad, DC Sec.17 Ghaziabad, JC (CC) Gorakhpur, AC Sec. 1 Hapur, DC Sec. 2 Kanpur, AC Sec 3 Kanpur, DC Sec.7 Kanpur, DC Sec. 20 Kanpur, DC Sec. 25 Kanpur, DC Sec. 28 Kanpur, DC Sec. 29 Kanpur, DC Sec.30 Kanpur, JC (CC)-I Lucknow, DC Sec. 4 Lucknow, DC Sec. 5 Lucknow, DC Sec.16 Lucknow, AC Sec. 9 Meerut, JC (CC)-A Noida, DC Sec. 4 Noida, DC Sec.5 Noida, DC Sec. 6 Noida, DC Sec.7 Noida, DC Sec. 11 Noida, DC Sec. 12 Noida, DC Sec. 13 Noida, AC Sec. 13 Noida, AC Sec. 4 Rampur, DC Sec.4 Saharanpur, DC Sec.12 Saharanpur, DC Sec.2 Varanasi and AC Sec. 5 Varanasi.

² For 79 dealers.

After we pointed out the cases to the Department/Government between March 2007 and May 2012, the Department replied between January 2011 and August 2012 that TT/VAT of ₹ 33.16 lakh in 11 cases³ has been levied and ₹ 2.75 lakh out of this has already been recovered. We have not received the report on recovery and reply in other cases (February 2013).

2.10.2 Short-levy of TT/VAT due to misclassification of goods

We observed in 15 CTOs⁴ between August 2009 and September 2011 that in the cases of 17 dealers for the period 2005-06 to 2007-08, the AAs while finalising the assessments between September 2008 and March 2011, applied incorrect rate of tax due to misclassification on sale of goods worth ₹ 12.67 crore. This resulted in short levy of TT/VAT of ₹ 81.42 lakh as shown in **Appendix-II.**

After we pointed out these cases⁵, the Department replied (November 2012) that TT/VAT of ₹ 52.26 lakh has been levied in 13 cases⁶ and ₹ 3.35 lakh has been recovered so far. Department further replied that action is under process in cases related to four AAs⁷. However, we have not received report on final action taken (February 2013).

2.10.3 Non/Short levy of CST due to application of incorrect rate of tax

Under Section 8(1) of Central Sales Tax (CST) Act, 1956 tax on inter-State sale of goods (other than declared goods) covered with Form 'C' is leviable at the rate of four *per cent* upto 31 March 2007 and from 1 April 2007 at the rate of three *per cent* and under Section 8(2) of CST Act, goods not covered by declaration in Form 'C' is leviable at the rate of 10 *per cent* or at the rate applicable on sale or purchase of such goods inside the appropriate State, whichever is higher up to 31 March 2007 and from 1 April 2007, tax at the rate applicable on sale or purchase of such goods inside the appropriate State.

We observed in 13 CTOs⁸ between March 2007 and January 2012 that 13 dealers made inter-State sale of goods worth ₹ 15.23 crore during the years 2002-03 to 2007-08. The AAs while finalising the assessments between August 2004 and March 2011 levied CST at lower rates instead of the rates applicable or granted exemption of tax on sale. This resulted in non/short levy of CST

amounting to ₹ 90.65 lakh as detailed in **Appendix-III.**

³ DC Sec.2 Gautam Budh Nagar, DC Sec.3 Gautam Budh Nagar (Two cases), JC(CC)-A Ghaziabad, DC Sec.18 Ghaziabad (One case), AC Sec.3 Kanpur(One case), DC Sec. 4 Lucknow, DC Sec. 5 Lucknow, DC Sec. 5 Noida, DC Sec.7 Noida (One case) and AC Sec.5 Varanasi.

⁴ DC Sec.2 Ghaziabad, DC Sec.6 Ghaziabad, AC Sec.15 Kanpur, DC Sec.20, Kanpur, DC Sec.2 Lucknow, AC Sec.2 Lucknow, DC Sec.12 Lucknow, DC Sec.19 Lucknow, DC Sec.1 Meerut, AC Sec.12 Meerut, DC Sec.2 Mirzapur, DC Modinagar, DC Sec.2 Noida, DC Sec.5 Noida and DC Sec.13 Noida.

⁵ Between October 2009 and December 2011.

⁶ DC Sec. 2 Ghaziabad, AC Sec.15 Kanpur, DC Sec. 20 Kanpur, DC Sec.2 Lucknow, AC Sec. 2 Lucknow, AC Sec. 12 Meerut, DC Sec. 2 Mirzapur, DC Modinagar, DC Sec. 2 Noida, DC Sec. 5 Noida (Three cases) and DC Sec. 13 Noida.

⁷ DC Sec. 6 Ghaziabad, DC Sec. 12 Lucknow, DC Sec. 19 Lucknow and DC Sec. 1 Meerut.

⁸ DC Sec.1 Allahabad, CTO Sec.1 Ghaziabad, DC Sec.13Ghaziabad, DC Sec.15 Ghaziabad, AC Sec.15 Ghaziabad, DC Sec.17 Ghaziabad, DC Sec.6 Kanpur, DC Sec.16 Kanpur, DC Sec.26 Kanpur, DC Kosikalan, DC Modinagar, DC Sec.2 Noida and DC Sec.5 Noida.

After we reported the matter⁹, the Department replied (November 2012) that CST of ₹ 82.88 lakh has been levied in 10 cases¹⁰ and ₹ 20.30 lakh already recovered. The Department further replied that in cases of two AAs¹¹ action is under process. However, we have not received report on final action taken (February 2013).

2.11 Non-imposition of penalty and non-charging of interest

The AAs while finalising the assessments, did not notice the offences committed by the dealers i.e. irregular transactions, transactions out of accounts books, transactions against the provisions of the Act and Rules etc. Though there are clear cut provisions for imposition of penalties and charging of interest in the Act, no action was initiated in this regard, resulting in non-imposition of penalty and non-charging of interest amounting to ₹ 4.34 crore as mentioned in the following paragraphs:

2.11.1 Non-imposition of penalty for delayed deposit of tax

Under Section 15 (A) (1) (a) of the UPTT Act and Section 54 (1) (1) of UPVAT Act, if the Assessing Authority is satisfied that any dealer or other person has, without reasonable cause, failed to furnish the return of his turnover or fails to deposit the tax under the provision of these Acts, he may direct the dealer to pay by way of penalty in addition to tax, if any payable by him, a sum which shall not be less than 10 per cent but not exceeding 25 per cent of tax due, if the tax due is up to ₹ 10,000 and 50 per cent if it is above ₹ 10,000 under UPTT Act and a sum equal to 20 per cent of tax due under UPVAT Act.

We observed in 13 CTOs¹² between September 2009 and February 2012 that 15 dealers had not deposited their admitted tax of ₹ 4.19 crore for the period 2005-06 to 2009-10 in time. The delay ranged between three and 759 days. The AAs while finalising the assessments between December 2008 and March 2011 did not impose minimum penalty of ₹ 59.18 lakh in

addition to the tax leviable as detailed in **Appendix- IV**.

After we reported the matter¹³, the Department replied (November 2012) that the penalty of ₹ 54.84 lakh has been imposed and ₹ 7.99 lakh out of this has been recovered. We have not received report on final action taken in case of AC Sector 21 Lucknow (February 2013).

⁹ Between March 2007 and August 2012.

¹⁰ DC Sec.1 Allahabad, CTO Sec.1 Ghaziabad, DC Sec.15 Ghaziabad, AC Sec.15 Ghaziabad, DC Sec.6 Kanpur, DC Sec.16 Kanpur, DC Sec.26 Kanpur, DC Kosikalan, DC Sec.2 Noida and DC Sec.5 Noida.

¹¹ DC Sector 13 and 15 Ghaziabad.

¹² DC Sec.3 Bareilly, DC Sec.2 Chandausi (Two cases), DC Sec.4 Firozabad, DC Sec.2 Gautam Budh Nagar, DC Sec.1 Gorakhpur, AC Sec.5 Jhansi, JC(CC)-II Kanpur(Two cases), DC Sec.5 Kanpur, JC(CC)-Oil Sector Lucknow, DC Sec.2 Lucknow, AC Sec.21 Lucknow, DC Sec.2 Mathura and DC Sec.5 Noida.

¹³ Between August 2010 and March 2012.

2.11.2 Non-imposition of penalty on concealed turnover

Under Section 15 A (1) (C) of the UPTT Act, if the AAs is satisfied that a dealer has concealed his turnover or has deliberately furnished incorrect particulars of his turnover, he may direct such dealer to pay by way of penalty, in addition to tax, a sum not less than 50 *per cent* but not exceeding 200 *per cent* of the amount of tax.

From the final assessment orders of the dealers, judgment of Commercial Tax Tribunal and orders of Appellate Authorities, we observed that three dealers had concealed sales turnover of ₹ 6.23 crore during the years 1997-98 to 2003-04. The AAs while finalising their

assessments between November 1998 and November 2009 levied TT of ₹ 43.18 lakh on concealed turnover. Though the Tribunal and Appellate Authority has confirmed (between December 2008 and October 2010) that dealers had concealed their sales turnover, the AAs did not impose even the minimum penalty of ₹ 21.59 lakh, as shown below:

(₹ in lakh)							
Sl. No.	Name of the unit	Number of dealers	Assessment year (Month and year of assessment)	Concealed turnover	Name of the commodity	Tax levied on concealed turnover	Minimum penalty leviable
1.	AC Sec.8 Agra	1	1997-98 (November 1998)	25.00	Diesel engine spares	1.88	0.94
		1	1998-99 (September 2005)	500.00	Footwear	38.00	19.00
2.	DC Sec.1 Sitapur	1	2003-04 (November 2009)	97.88	Mentha oil and pulses	3.30	1.65
	Total	3		622.88		43.18	21.59

After we reported the matter¹⁴, the Department replied (October 2012) that minimum penalty of ₹ 21.59 lakh has been imposed in all the cases. We have not received report on its recovery (February 2013).

2.11.3 Non-imposition of penalty on issuance of false declaration

Under Section 15 A (1) (I) of the UPTT Act, any dealer who issues or furnishes a false certificate or declaration, by reason of which tax ceases to be leviable, shall pay by way of penalty in addition to tax, a sum not less than 50 *per cent* but not exceeding 200 *per cent* of the amount of tax, which would thereby have been avoided.

We observed between September 2010 and November 2011 that two dealers had issued or furnished false declarations by which tax on sale or purchase ceased to be levied which worked out to ₹ 69.18 lakh during the years

2002-03 and 2007-08 (up to December 2007). Though the AAs while finalising the assessment of these dealers between March 2009 and May 2010 levied TT of ₹ 33.32 lakh in case of DC Sector 16, Kanpur but did not impose the minimum penalty of ₹ 16.66 lakh. In other case both the TT of ₹ 35.86 lakh and minimum penalty of ₹ 17.92 lakh was not imposed. Details are as shown in the following table:

¹⁴ Between March 2011 and November 2011.

(₹ in lakh)

Sl. No.	Name of the unit	Assessment year (month & year of assessment)	Name of commodity	Value of goods	Tax avoided by furnishing false certificate/ declaration	Minimum penalty leviable
1.	DC Sec.8, CT Ghaziabad	2006-07 (March 2009)	Plant, machinery and its parts	289.52	28.95	14.47
		2007-08(UPTT) (March 2010)	-do-	76.74	6.91	3.45
2.	DC Sec.16, CT Kanpur	2002-03 (May 2010)	Petroleum based oil	208.23	33.32	16.66
Total				574.49	69.18	34.58

After we reported the matter¹⁵, the Department replied (October 2012) that DC Sector 8 Ghaziabad had levied TT of ₹ 35.86 lakh and imposed maximum penalty of ₹ 71.72 lakh, but the demand has been stayed in September 2012, in the another case action is in process. However, we have not received report on final action taken (February 2013).

2.11.4 Non-imposition of penalty under CST

Under Section 10 & 10 A of the CST Act, a registered dealer may purchase any good from outside the State at concessional rate of tax against declaration in Form 'C'. If such goods are not covered by his Registration Certificate under the CST Act or the goods purchased from outside the State at concessional rate of tax are used for the purpose other than that for which the registration certificate is granted, the dealer is liable to be prosecuted. However, in lieu of prosecution, if the Assessing Authority deems it fit, he may impose penalty up to one and a half times of the tax payable on the sale of such goods.

We observed between November 2009 and January 2012 that during the years 2005-06 and 2007-08, eight dealers purchased goods valued at ₹ 7.21 crore at concessional rate of CST against declaration in Form 'C'. These goods were not covered by their certificates of registration under CST Act. The AAs

while finalising the assessments between February 2009 and March 2011 did not recommend prosecution or impose the penalty of ₹ 1.12 crore as shown below:

(₹ in lakh)

Sl. No.	Name of the unit	No of dealers	Assessment year (Month and year of assessment)	Name of the commodity	Amount of purchase	Rate of tax (per cent)	Penalty leviable
1.	JC (CC)-B, Gautam Budh Nagar	1	2007-08 (UPTT) (March 2011)	Office bunk house, scaffolding	36.77	10	5.52
				Coating powder, E.P.S.,E.P.S resin etc.	493.09	10	73.96
				Paint	40.34	12	7.26
2.	DC Sec.16 Kanpur	1	2007-08(UPTT) (March 2009)	Construction material	0.27	10	0.04
				Stone	4.27	8	0.51
				Steel structure	0.20	4	0.01

¹⁵ Between November 2010 and March 2012.

Sl. No.	Name of the unit	No of dealers	Assessment year (Month and year of assessment)	Name of the commodity	Amount of purchase	Rate of tax (per cent)	Penalty leviable
3.	DC Sec.21 Lucknow	1	2007-08(UPTT) (March 2010)	Chassis	78.26	12	14.08
4.	DC Sec.2, Noida	1	2006-07 (June 2010)	Aluminum section	5.92	10	0.89
5.	AC Sec.8, Noida	1	2005-06 (April 2010)	Air conditioner, tiles	10.39	16	2.49
				Channel, furniture, R.O. system	6.52	10	0.98
6.	DC Sec.9, Noida	1	2006-07 (February 2009)	CPI, bearing, solvent cement	9.39	10	1.41
7.	DC Sec.11, Noida	1	2007-08(UPTT) (February 2010)	Machinery, dies, oil, chemical, c.i. casting	24.64	10	3.70
				Wood	1.58	16	0.38
				Furniture	0.29	8	0.03
				Machinery, dies (01.04.2007 to 31.12.2007)	1.10	9	0.15
				Chemical (01.04.2007 to 31.12.2007)	7.65	4	0.46
				Total	8		

After we pointed this out¹⁶, the Department replied (October 2012) that the penalty of ₹ 1.05 crore has been imposed and ₹ 3.47 lakh out of this has been recovered. We have not received report on final recovery (February 2013).

2.11.5 Non-imposition of penalty on delayed deposit of works contract tax

Under section 8D (6) of the UPTT Act and 34(8) of UPVAT Act, a person responsible for making payment to a contractor, for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of works contract, shall deduct an amount equal to four *per cent* of such sum, payable under the Act, on account of such works contract. In case of failure to deduct the amount or deposit the amount so deducted into the Government treasury before the expiry of the month following the month that in which deduction is made in UPTT Act and before the expiry of 20th day of the month following the month that in which the deduction was made in UPVAT Act, the AAs may direct that such person shall pay by way of penalty a sum not exceeding twice the amount so deducted.

We observed from the assessment orders between March 2011 and December 2011 in 11 CTOs¹⁷ that 13 dealers while making payment to the contractors, deducted works contract tax (WCT) of ₹ 68.07 lakh at source, during the years 2007-08 and 2008-09 but did not deposit the same into the Government treasury within the prescribed time. The delay ranged between five to 311 days. The AAs while finalising the assessments between

¹⁶ Between April 2011 and March 2012.

¹⁷ DC Sec.11Agra, DC Sec.16 Ghaziabad, AC Sec.18 Ghaziabad, DC Sec.17 Kanpur, AC Sec.7 Muzaffarnagar, DC Sec.2 Noida, DC Sec.9 Noida (Three cases), DC Paliakalan, AC Sec.12 Saharanpur and AC Sec.1 Shamli and DC Sec.14 Varanasi.

December 2009 and March 2011 did not impose the maximum penalty of ₹ 1.36 crore in 13 cases on the delayed deposit as detailed in **Appendix-V**.

After we reported the matter¹⁸, the Department replied (October 2012) that the penalty of ₹ 1.34 crore has been imposed in 12 cases and ₹ 1.78 lakh out of this has been recovered. We have not received reply in the remaining case (February 2013).

2.11.6 Non-levy of interest on delayed deposit of tax

Under Section 8(1) of the UPTT Act and Section 33(2) of UPVAT Act, the tax admittedly payable by the dealer, shall be deposited within the time prescribed, failing which simple interest shall become due and be payable on unpaid amount with effect from the day immediately following the last date prescribed till the date of payment of such amount at the rate of two *per cent* per mensum upto 11 August 2004, 14 *per cent* per annum upto 31 December 2007 and thereafter one and quarter *per cent* per mensum.

We observed in nine CTOs¹⁹ between February 2011 and January 2012 that nine dealers, who were assessed between October 2009 and January 2011 for the assessment years 1980-81 to 2007-08 had deposited the admitted tax of ₹ 62.33 lakh after delay ranging between 465 and 10,987 days.

The AAs did not issue notice for payment of interest on the belated payment in any of these cases. The belated payment of admitted tax attracted interest of ₹ 62.52 lakh, which was not levied by the AAs.

After we reported the matter²⁰, the Department replied (October 2012) that interest of ₹ 61.55 lakh has been levied in all the cases and ₹ 8.69 lakh out of this has been recovered. We have not received report on recovery in the remaining cases (February 2013).

¹⁸ Between April 2011 and June 2012.

¹⁹ JC(CC) Agra, DC Sec.18 Ghaziabad, DC Sec.5 Kanpur, DC Sec.3 Mathura, AC Sec.5 Noida, DC Sec.12 Noida, DC Sec.14 Noida, AC Sec.2 Rampur and DC Sec.4 Sonbhadra.

²⁰ Between March 2011 and May 2012.

2.11.7 Non-imposition of penalty on wrong adjustment of tax

Under Section 43(1) of UPVAT Act, where any amount has been realised from any person by any dealer, purporting to do so by way of realisation of tax on the sale or purchase of goods, in contravention of provisions of the Act, such dealer shall deposit the entire amount so realised in the manner and within the period prescribed. Under the provision of Section 54(1)(16) of UPVAT Act, if any dealer realises any amount as tax in contravention of the provision of this Act will be liable to pay by way of penalty, an amount three times of the tax so realised. Further, under Section 25 of UPVAT Act, where in respect of any tax period of an assessment year, preliminary examination of tax return, by the assessing authority, reveals that computations shown in the tax return are wrong or amount of input tax credit claimed or tax payable shown is incorrect, the assessing authority may, after making such inquiry as it may deem fit and after giving a reasonable opportunity of being heard to the dealer, determine the amount of tax payable and amount of input tax credit admissible, in any other case, by passing a provisional order of assessment for such tax period.

While checking the assessment orders and concerned file of the dealers registered in the Office of the Deputy Commissioner, Commercial Tax, Sector 16 Kanpur in November 2011, we observed that a dealer had realised VAT in excess amounting to ₹ 2.79 lakh on sale of goods during January 2008 and deposited it in the prescribed time. The dealer further wrongly adjusted it against tax payable by him in the next month i.e. February 2008. As per provisions of sub section 2, 3 and 4 of section 43, any amount deposited by dealer to the extent it is not due tax, is to be held by State

Government in trust for the person on whom such liability has been passed ultimately, with reference to the goods concerned and on claiming the same, the amount will be refunded in the manner prescribed to the person on whom the liability has been ultimately passed.

Disregarding these provisions, while passing the assessment order in February 2011, adjustment of ₹ 2.79 lakh of tax, wrongly availed as adjusted was not disallowed by AA and the penalty of ₹ 8.37 lakh as per provision of section 54(1)(16) was also not imposed.

After we reported the matter²¹, the Department replied (October 2012) that the penalty of ₹ 8.37 lakh has been imposed and Input Tax Credit of ₹ 2.79 lakh has also been reversed. However, we have not received report on its recovery (February 2013).

²¹ In January 2012.

2.12 Irregular exemption/concession of tax on various declaration forms

2.12.1 Irregular exemption/concession against Form 'C'

Under Rule 12(1) of CST (Registration & Turnover) Rules, 1957, a single declaration in form 'C' may cover all transactions of sale, which take place in a quarter of a financial year between the same two dealers.

We observed between October 2010 and March 2011 that six dealers made inter-State sale of goods worth ₹ 4.29 crore between 2006-07 and 2007-08 (upto December

2007) at concessional rate against 12 form 'C'. These covered transactions for more than one quarter and as per the provisions of the Rule, the transactions covered beyond one quarter and claimed for concession in same Form 'C' were not eligible for concession. In contravention of the rules, the AAs while finalising assessment between February 2009 and March 2010 levied CST at concessional rate on the transactions covered beyond one quarter. This resulted in irregular allowance of concession of ₹ 7.45 lakh as shown below:

(₹ in lakh)

Sl. No.	Name of the unit	Number of dealer	Assessment year (month & year of assessment)	Name of commodity	Total Value of goods covered by objected Forms	Transaction covered after allowing benefit of quarter's transaction beneficial to dealer	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Differential rate of tax	Irregular concession allowed to the dealers
1.	DC Sec.8 Bareilly	1	2006-07 (February 2009)	Mentha Oil	115.73	8.91	10	4	6	0.53
2.	DC Sec.3 Fatehgarh	1	2007-08(UPTT) (December 2009)	Tobacco	47.45	7.47	32.5	3	29.5	2.20
3.	DC Sec. 9 Hardoi	1	2007-08(UPTT) (December 2009)	Wheat	91.39	34.42	4	0	4	1.38
4.	DC Sec.1 Lalitpur	1	2007-08(UPTT) (January 2010)	Wheat, jowar	12.58	4.99	4	0	4	0.20
			-do-	Pulses	80.13	29.29	2	0	2	0.59
5.	JC(CC)-A Noida	1	2006-07 (March 2009)	Electronic goods/Scrap/ Machinery	53.15	12.77	10	4	6	0.77
6.	DC Sec.1 Siddhartnagar	1	2007-08(UPTT) (March 2010)	Timber	28.93	13.66	16	3	13	1.78
Total		6			429.36	111.51				7.45

After we reported the matter²², the Department replied (October 2012) that the CST of ₹ 6.13 lakh has been levied²³, ₹ 77000 out of this has been recovered²⁴ and action is in process in the remaining cases. However, we have not received report on final action taken (February 2013).

²² Between November 2010 and April 2012.

²³ In cases of Sl. No. 2, 3, 5 and 6.

²⁴ In case of Sl. No. 5.

2.12.2 Irregular exemption/concession against Form 'F'

Under Rule 12(5) of CST (Registration & Turnover) Rules, 1957, a single declaration in form 'F' may cover transfer of goods, by a dealer, to any other place of his business or to his agent or principal as the case may be, effected during a period of one calendar month.

We observed between December 2008 and December 2011 that five dealers transferred goods out of State worth ₹ 68.22 crore during the years 2005-06 and 2007-08

against 12 form 'F'. These covered transactions for more than one month and as per the provisions of the Rule, the transactions covered beyond one month and claimed for concession in same Form 'F' were not eligible for concession. In contravention of the rules, the AAs while finalising the assessments between July 2007 and January 2011 allowed transaction of more than one calendar month on a single form 'F'. This resulted in irregular exemption of CST of ₹ 2.67 crore on transactions of ₹ 30.54 crore as detailed below:

(₹ in lakh)

Sl. No.	Name of the unit	Number of dealers	Assessment year (Month & year of assessment)	Name of commodity	Total Value of goods covered by objected Forms	Transaction covered after allowing benefit of month's transaction beneficial to dealer	Rate of tax leviable (per cent)	Irregular exemption allowed to the dealers
1.	AC Sec.2, Barabanki	1	2005-06 (July 2007)	Mentha oil	2,955.80	1,184.38	10	118.40
2.	DC Sec. 28, Kanpur	1	2005-06 (December 2009)	Detergent powder	26.66	2.52	10	0.25
3.	DC, Kosikalan	1	2007-08(UPTT) (January 2011)	Unfinished wooden furniture	139.04	74.03	8	5.92
4.	DC Sec. 20, Lucknow	1	2006-07 (February 2009)	Rice	3,660.39	1,770.12	8	141.61
5.	JC (CC) Moradabad	1	2007-08(VAT) (December 2009)	Packing material	40.24	22.75	4	0.91
	Total	5			6,822.13	3,053.8		267.09

After we pointed out these cases²⁵, the Department replied (October 2012) that the CST of ₹ 2.66 crore has been levied²⁶, ₹ 25000 out of this has been recovered²⁷ and action is under process in the remaining case. However, we have not received report on final action taken (February 2013).

²⁵ Between January 2009 and December 2011.

²⁶ In cases of Sl. No. 1, 2, 3 and 4.

²⁷ In case of Sl. No. 2.

2.12.3 Irregular concession of tax granted on time barred declaration forms

Under Rule 25-B(1) of UPTT Rules, where a dealer holding a recognition certificate purchases any goods for use as raw material for the purpose of manufacture of any notified goods, he shall, if he wishes to avail of the concession, furnish to the selling dealer a certificate in Form III-B and under Rule 25-B(3) any single declaration form III-B issued to dealers in a financial year shall be valid for the transactions of purchase or sale made during that financial year as also made during two financial years immediately preceding and succeeding that financial year.

We observed in nine CTOs²⁸ between January 2011 and May 2011 that nine dealers sold goods valued at ₹ 8.83 crore at concessional rates between 2004-05 and 2007-08 (upto 31 December 2007) against form III-B²⁹. The 50 declaration forms used by the dealers for the transaction were time barred and not eligible

for concessional rate of TT. However the AAs, while finalising the assessments levied TT at concessional rates. This resulted in irregular allowance of concession of ₹ 40.85 lakh.

After we reported the matter between April 2011 and December 2011, the Department replied (October 2012) that the TT of ₹ 40.80 lakh has been levied in all the cases and ₹ 83000 out of this has been recovered.

2.12.4 Irregular concession of tax granted on declaration forms for transactions exceeding prescribed monetary limit

Under Section 3-G (1) of UPTT Act, tax on the turnover of sales of goods to a Department of the Central Government or of a State Government or to a Corporation or Undertaking, established or constituted by or under a Central Act or Uttar Pradesh Act, or to a Government Company, shall, if the dealer furnishes to the AA a certificate in Form III D or Form III D(1), be levied and paid at the rate for the time being specified in sub section (1) of Section 8 of CST Act or at such rate as the State Government may, by notification, specify. As per provisions of Rule 12-C (3) of UPTT Rules, no single certificate in Form III D or Form III D(1) shall cover transactions of purchase or sale of more than one assessment year and of value exceeding rupees five lakh. As per rule 12-C (8) of UPTT only provisions of sub-rules (3) to (6) and (10) to (20) of Rule 12-A applies to a declaration form.

We observed between May 2011 and September 2011 that six dealers sold goods valued at ₹ 7.07 crore at concessional rate between 2005-06 and 2007-08 (upto December 2007) against 19 Form III-D and III-D (1)³⁰. As each of these forms III-D and III-D (1) covered transactions exceeding ₹ 5 lakh per form they were not eligible for concession in TT.

²⁸ DC Sec.4, Ghaziabad AC Sec.4, Ghaziabad, DC Sec.4, Hardoi, DC Sec.5, Kanpur, DC Sec.30, Kanpur, DC Sec.2, Khatauli, DC Modinagar, DC Sec.7, Muzaffarnagar and DC Sec.3 Raebareli.

²⁹ To provide special relief to certain manufacturers, Form III B is issued to them by the Commercial Tax Department. By issuing it to another dealer they can purchase goods at concessional rate or be wholly or partly exempt from tax.

³⁰ To provide special rate of tax facility to the Department of Central Government or a State Government or to a Corporation or Undertaking, established or constituted by or under a Central Act or Uttar Pradesh Act, or to a Government Company, Form III D or III D(1) facility has been given to them.

The AAs while finalising assessment between December 2009 and December 2010, incorrectly levied concessional rate of TT on the transactions above ₹ 5 lakh per form. This resulted in irregular allowance of concession of ₹ 38.38 lakh as shown below:

(₹ in lakh)

Sl. No.	Name of the unit	No. of dealers	Assessment Year (Month and year of Assessment)	Name of the commodity	Transactions covered after deducting allowed ₹ five lakh per Form	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Irregular concession allowed to the dealers
1.	AC Sec.2, Bulandshahar	1	2005-06 (January 2010)	Rodi Badarpur	2.63	8	4	0.11
			2006-07 (January 2010)	-do-	20.32	8	4	0.81
2.	DC Sec.1, Deoria	1	2005-06 (November 2010)	Stone and Gitti	30.51	8	4	1.22
			2006-07 (July 2010)	-do-	46.56	8	4	1.86
			2007-08(UPTT) (July 2010)	-do-	10.90	8	4	0.43
3.	DC Sec.6, Kanpur	1	2007-08(UPTT) (December 2009)	Diesel locomotive machinery	575.50	9	4	28.77
4.	DC, Kosikalan	1	2007-08(UPTT) (October 2010)	Bitumen	16.98	20	4	2.72
5.	DC Sec.8, Lucknow	1	2007-08(UPTT) (December 2009)	Electrical goods	17.05	10	4	1.02
6.	AC Sec.2 Rampur	1	2007-08(UPTT) (December 2010)	Interlocking Blocks	97.96	10	4	5.87
Total		6			707.49			38.38

After we reported the matter³¹, the Department replied (October 2012) that the TT of ₹ 32.41 lakh has been levied in cases at Sl. No. 1, 3 and 4. In cases of Sl. No. 2, 5 and 6, Department further replied that the sale is made to a Government undertaking with turnover more than ₹ 5 crore, and under rule 12-A (7)(i) of UPTT Rules, the limit of money value of ₹ 5 lakh in a single declaration form does not apply. We do not agree with this reply as under Rule 12-C (8) of UPTT Rules only the provisions of sub-rules (3) to (6) and (10) to (20) of Rule 12-A apply to a declaration form and not provisions of sub rule (7) of rule 12-A.

2.13 Non-levy of entry tax

Under Section 4 of the UP Tax on Entry of Goods Act 2001, entry tax on value of goods is leviable as per schedule of rates notified by the Government from time to time.

We observed between February 2010 and January 2012 that during 2004-05 to 2007-08 seven dealers purchased goods worth ₹ 32.70 crore from outside

local area. The AAs, while finalising the assessment between October 2008 and March 2011, did not levy entry tax of ₹ 1.56 crore as detailed in table:

³¹ Between May 2011 and December 2011.

(₹ in lakh)

Sl. No.	Name of the unit	No. of dealer	Assessment year (Month and year of assessment)	Name of the commodity	Taxable turnover	Rate of tax leviable (per cent)	Amount of tax not levied
1.	DC Sec.2, Chandpur, Bijnore	1	2005-06 (October 2008)	LDO	65.01	5	3.25
		1	2007-08 (March 2010)	Machinery	25.01	2	0.50
2.	DC Sec.3, Etawah	1	2004-05 (March 2009)	Furnace Oil HSD & Bitumen	151.95	5	7.60
			2006-07 (March 2009)	-do-	1,473.61	5	73.68
3.	AC Sec.17, Ghaziabad	1	2007-08 (January 2010)	Natural gas	12.58	5	0.63
4.	DC Sec.6, Kanpur	1	2007-08 (March 2011)	Finished Leather	236.68	2	4.73
5.	DC Sec.18, Kanpur	1	2007-08 (March 2010)	Furnace Oil	68.02	5	3.40
6.	JC (CC), Noida	1	2007-08 (March 2010)	Furnace Oil	1,237.10	5	61.86
Total		7			3,269.96		155.65

After we reported the matter³², the Department replied (October 2012) that entry tax of ₹ 85.66 lakh has been levied in four cases³³ and action is under process in the remaining cases. However, we have not received report on final action taken (February 2013).

2.14 Non-levy of State Development Tax

Under section 3-H of the UPTT Act read with the Commissioner's circular dated 3 May 2005 as applicable from 1 May 2005, State Development Tax (SDT) at the rate of one *per cent* of the taxable turnover shall be levied on a dealer whose annual aggregate turnover exceeds ₹ 50 lakh. The SDT shall be realised in addition to the tax payable under any other provision of this Act.

We observed between March 2010 and August 2011 that in the cases of 10 dealers whose annual aggregate turnover exceeded ₹ 50 lakh, the AAs, while finalising the assessments for the years 2005-06, 2006-07 and 2007-08 (up to December 2007), between January 2009

and January 2011, did not levy SDT on taxable turnover of ₹ 16.72 crore. This omission resulted in non levy of SDT of ₹ 16.72 lakh as shown below:

(₹ in lakh)

Sl. No.	Name of the unit	No. of dealers	Year of assessment (Month and year of assessment)	Taxable turnover	Development tax leviable
1.	AC, Sec.4, Ghaziabad	1	2006-07 (June 2010)	80.26	0.80
2.	DC, Sec.18, Ghaziabad	1	2006-07 (February 2010)	140.64	1.41
			2007-08(UPTT) (March 2010)	20.45	0.20
3.	DC, Sec.8, Kanpur	1	2006-07 (October 2010)	96.47	0.97
			2007-08(UPTT) (January 2011)	39.79	0.40
4.	DC, Sec.30, Kanpur	1	2005-06 (January 2009)	44.28	0.44

³² Between February 2010 and February 2012.

³³ Sl. No. 1, 2 and 3.

Sl. No.	Name of the unit	No. of dealers	Year of assessment (Month and year of assessment)	Taxable turnover	Development tax leviable
5.	DC, Modinagar	1	2006-07 (March 2009)	53.27	0.53
		1	2007-08(UPTT) (March 2010)	127.67	1.28
6.	AC, Sec.3, Noida	1	2005-06 (July 2010)	163.83	1.64
			2006-07 (July 2010)	111.43	1.11
		1	2005-06 (April 2010)	31.58	0.32
			2006-07 (April 2010)	68.71	0.69
7.	DC, Sec.3, Raebareli	1	2005-06 (March 2009)	110.33	1.10
8.	DC, Sec.12, Saharanpur	1	2007-08(UPTT) (October 2009)	583.13	5.83
Total		10		1,671.84	16.72

After we reported these cases³⁴, the Department replied (October 2012) that SDT of ₹ 15.12 lakh has been levied, ₹ 12.78 lakh out of this has been recovered and in the remaining case³⁵ action is under process. However, we have not received report on final action taken (February 2013).

2.15 Irregular grant of Registration/Recognition Certificate

2.15.1 Irregular authorisation to purchase cement in Central Registration Certificate

Under Section 7(3) of CST Act, any person intended to purchase goods on concessional rate of tax from another State shall apply for registration under this Act. The registering authority shall register the applicant and grant him a certificate of registration in the prescribed form which shall specify the class or classes of goods for being intended for resale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power.

Further, Commissioner, Commercial Tax (CCT) issued (1992) instructions to all the Assessing Authorities vide circular No. 17 dated 04 December 1992 that the facility of Form 'C' for purchase of cement and other building materials will not be given to the manufacturers/dealers for construction of buildings.

While checking the records of the office of the Joint Commissioner (CC) Commercial Tax, Lucknow (October 2011) we observed that a dealer³⁶ was granted Central Registration Certificate (CRC) in July 2003, for purchase of raw material which also includes purchase of all kinds of building materials. On the basis of this wrong item included in CRC, the dealer purchased cement of ₹ 1.52 crore during the year 2006-07 and

³⁴ Between May 2010 and September 2011.

³⁵ Sl. No. 3.

³⁶ Bajaj Hindustan Limited

2007-08 for use in construction of machinery foundation/ building. He claimed CST at concessional rate (four *per cent* for 2006-07 and three *per cent* for 2007-08) on this purchase.

The dealer was manufacturer of sugar, molasses and bagasse from sugar cane³⁷ and cement is not a raw material used in manufacture of the said goods. The facility of Form 'C' to a manufacturer is only for purchase of those goods which are used by him in the manufacture or processing of goods intended for sale. The authorisation to purchase cement given by AA under the CRC was in contravention of the provisions of the Act as well as orders of the CCT. The AA did not detect the error while passing the AOs for the year 2007-08. This omission of AA resulted in undue benefit to the dealer to the extent of ₹ 12.21 lakh.

After we reported the matter in January 2012, the Department stated (November 2012) that the penalty of ₹ 28.47 lakh has been imposed and notice for deletion of cement from CRC has also been issued.

2.15.2 Irregular grant of Recognition Certificate

The Government notification dated 21 May 1994 issued under Section-4B of the UPTT Act provides for special relief in tax to the manufacturer on purchase of raw material, processing material, consumable stores, machinery, plant, equipment, spare parts, accessories, components, fuel or lubricants for use in the manufacture of specified goods.

While checking the assessment orders and concerned files of the dealers of two CTOs in January 2011, we observed that two dealers were granted Recognition Certificate for purchase of raw material at concessional rate of TT

for conversion of MS Rod into MS Wire by drawing process. It has been judicially held³⁸ that conversion of MS Rod into MS Wire does not amount to manufacture. Since the dealers were not engaged in any manufacturing process, they were not entitled to concessional rate of TT on purchase of raw material valued at ₹ 8.95 crore during the years 2005-06 to 2007-08. This resulted in irregular grant of recognition certificate and loss of revenue of ₹ 17.89 lakh as detailed below:

(₹ in lakh)

Sl. No.	Name of the unit	Number of dealers	Assessment Year (Month and year of Assessment)	Name of the commodity	Value of goods covered by form	Rate of tax leviable (<i>per cent</i>)	Rate of tax levied (<i>per cent</i>)	Tax short levied
1.	AC Sec. 4 CT Allahabad	1	2005-06 (August 2008)	Wire Rod	336.06	4	2	6.72
2.	DC Sec.14 CT, Allahabad	1	2006-07 (March 2009)	-do-	306.96	4	2	6.13
			2007-08 (January 2010)	-do-	252.12	4	2	5.04
Total		2			895.14			17.89

After we reported the matter³⁹, the Department replied (October 2012) that the TT of ₹ 11.18 lakh has been levied in case at Sl. No. 2 and action is under

³⁷ As per AO dated 27 March 2010.

³⁸ CTT vs. Decent Industries STI 2005 All. H.C. 205:2005 NTN (Vol. 26) 202 All. H.C.

³⁹ Between January 2011 and July 2011.

process in another case. However, we have not received report on final action taken (February 2013).

2.16 Irregularities related to Input Tax Credit claims

With the introduction of VAT in UP w.e.f. 1 January 2008, the dealers registered with the Department became eligible to claim Input Tax Credit (ITC) under section 13 of the UPVAT Act. In order to ensure that the claim of ITC made by the dealers is accurate, various forms have been prescribed and Department has from time to time issued orders to the Assessing Authorities with respect to maintaining the ITC database, verification of ITC claims, etc. Our scrutiny of the records of the Department revealed several cases of irregularities regarding ITC claims like irregular/non admissible ITC claims, excess claims, non-reversal of ITC etc. We have also noticed that Departmental orders regarding maintenance of ITC database, verification of ITC claims, tax audit, etc have not been followed in a large percentage of the field offices of the Department. A few cases are mentioned below. These are merely illustrative and based on our test check. We feel that there is a need for the Government and Department to ensure that the Act/Rules and various orders regarding ITC claims are effectively implemented.

2.16.1 Absence of Database regarding earned, adjusted and balance ITC.

Commissioner, Commercial Tax vide Circular No. 414 dated 23-07-2008 instructed every Additional Commissioner Grade-1 to ensure that a permanent register is maintained by every Assessing Authority in a format having monthly information of opening, earned, utilised and closing balance of Input Tax Credit (ITC) in respect of every dealer and Zone wise information of the same is submitted on 10th of every month to *Sankhya Anubhag*. Further, another circular No. 809060 dated 03-09-2008 requires details to be recorded in respect of all the dealers, in form R-2 register having tax period wise data of returns submitted, tax deposited, ITC earned and its adjustment, till the returns are not fed in computer.

To review the compliance of above orders, we collected information from 51 Commercial Tax Offices⁴⁰ audited between January 2012 and March 2012 and found that except for one AA⁴¹ the remaining 50 AAs did not comply with the orders to maintain database of earned, adjusted and balance ITC and to submit it to *Sankhya Anubhag* in prescribed format. Therefore the Department is not

readily able to ascertain the amount of ITC earned and adjusted by the dealers. Despite specific orders all these 50 AAs stated that there is no order or prescribed format for compilation of above database.

⁴⁰ DC Sec. 1 & 2 Agra, AC Sec. 11 Agra, DC Sec.10 Aligarh, AC Sec.10 Aligarh, AC Sec.2 Azamgarh, DC Sec.2 Barabanki, AC Sec.2 Barabanki, AC Sec. 6, 7 & 10 Bareilly, AC Sec.14 & 17 Ghaziabad, AC Sec. 1 & 2 Kannauj, DC Sec. 6 Kanpur, AC Sec.9, 16, 17, 18, 23 & 29 Kanpur, DC Sec.3, 6, 9 & 10 Lucknow, AC Sec.1, 6, 14, 15, 16, 18 & 19 Lucknow, CTO Sec.6 Lucknow, AC Sec.10 & 13 Meerut, DC Sec.4 & 10 Moradabad, AC Sec.3, 4 & 5 Moradabad, DC Sec.1 & 3 Pilibhit, AC Sec.1 Pilibhit, DC Sec.2 Pratapgarh, AC Sec.1 Raebareli, AC Sec.3 Rampur, AC Sec.2 Sitapur, DC Sec.1 Unnao, DC Sec.1 Varanasi and AC Sec.15 Varanasi.

⁴¹ AC Sec.11 Agra.

After we reported the matter in June 2012, the Department replied that the instructions have been reiterated.

2.16.2 Non-verification of Input Tax Credit despite orders

Section 13 of the UPVAT Act prescribes certain conditions to claim input tax credit by the dealers and its adjustment against the payable tax. Commissioner, Commercial Tax, UP also issued instructions in 2008-09 in the larger interest of revenue vide letter No. VAT-input tax credit/2008-09/755/080974/CT dated 22 October 2008, VAT Circular Part-2 (08-09)-774/080977/CT dated 31 October 2008 and letter No. JC (SIB/Mu./Sa.Pa./2009&10/1593/*vanijyakar* dated 18 September 2009 regarding verification of Input Tax Credit by AAs and maintenance of a database regarding the same.

The Commercial Tax Department utilised ₹ 45 crore for the computerisation project by providing WEB based Citizen Centric Services to enhance the efficiency of the Department. All the information with respect to Department is available on the website, (comtax.up.nic) for the public and VYAS (*Vanijkar* Automation

System) for the Department's use.

Vide the orders of the CCT cited above, every Deputy Commissioner was instructed to ensure that hundred *per cent* verification of the Annexure-A (purchase list) with the Annexure-B (Sale list) was done for top 20 dealers who claimed the highest ITC and a database created⁴² by feeding the above details using either an outsourced agency or Departmental employees. Apart from this *cent per cent* checking and verification was also to be done of cases covered by a random statistical method.

During the test check (2011-12) for the period 2007-08⁴³ to 2009-10, we observed that:

- There is no online checking system for the transactions of the dealers from within the State as a result in case of 137 dealers of 78 Commercial Tax Offices⁴⁴, AAs passed the assessment orders adjusting ITC of ₹ 14.06 crore against the payable VAT, without on line verification.

No computerised database of the top 20 dealers was made and no information of the verification made by designed random statistical method was available. As a result, in the cases of 279 dealers⁴⁵ we noticed the following:

⁴² Vide letter No. Bank and UPTT integration-volume-II (2008-09)/1330/CT dated 2 March 2009.

⁴³ (01.01.08 to 31.03.08)

⁴⁴ DC: Sec.13 Agra, Sec.5 Allahabad, Sec.2 Barabanki, Sec.1 Bulandshahar, Sec.1 Gonda, Sec.5 & 6 Gorakhpur, Sec. 5, 16, 17, 18, 19, 20, 22, 24, 25, 26, 27, 28 & 30 Kanpur, Sec.3, 6, 10, 12, 13, 16 & 21 Lucknow, Sec.2 Mahrajganj Sec.3 & 6 Mathura, Sec.4, 5, 6, 7 & 8 Moradabad, Sec.2 Rampur, Sec.9, 10, 11 & 12 Saharanpur, and Sec.1 Siddharth Nagar.

AC: Sec.15, 17, 18 & 19 Agra, Sec.6 Aligarh, Sec.5 & 17 Allahabad, Sec.2 Barabanki, Sec.6 Gorakhpur, Sec.1 Gonda, Sec.1 Hapur, Sec.5 & 26 Kanpur, Sec.1, 6, 12, 13, 14, 16, 18 & 19 Lucknow, Sec.2 Maharajganj, Sec.3 Mathura, Sec.7 & 8 Meerut, Sec. 5 Moradabad, Sec.6 Muzaffarnagar, Sec.10, 12 & 14 Noida, Sec.2 Rampur and Sec.4 Shahjahanpur.

JC (Corp. Circle): Bareilly, Etawah, Lucknow, Meerut and Muzaffarnagar.

⁴⁵ In 100 Commercial Tax Offices

- For 86 dealers of 45 CTOs⁴⁶, AAs passed the assessment orders where ITC of ₹ 13.70 crore was adjusted with their payable tax without any attempt to verify the ITC claims.
- For 193 dealers pertaining to 64 CTOs⁴⁷, AAs passed the assessment orders where ITC of ₹ 24.06 crore was adjusted with their payable tax but the instructions given for verification were not followed.

AAs passed the orders for the adjustment of ITC worth ₹ 51.02 crore without getting the same verified.

After we reported the matter in July 2012, the Department accepted (September 2012) our observation and replied that while there were difficulties in implementing these orders the instructions for the compliance are being reiterated.

2.16.3 Non-reversal of inadmissible ITC and non-imposition of penalty and interest on claiming inadmissible ITC

Under Section 54(1) (19) of UPVAT Act, if the Assessing Authority is satisfied that any dealer or any other person, as the case may be, falsely or fraudulently claims an amount as ITC he may direct that such dealer or person shall, in addition to the tax, if any, payable by him, pay by way of penalty, a sum equal to five times of amount of ITC. Further under Section 14(2) of Act if any dealer has wrongly claimed ITC in respect of any goods, benefit of ITC to the extent it is not admissible, shall stand reversed along with simple interest at a rate of 15 per cent per annum.

We observed between July 2010 and January 2012 that six dealers, claimed ITC of ₹ 27.78 lakh during the year 2007-08 and 2008-09 on the basis of tax paid on goods which were not admissible for ITC. The AAs while finalising the assessment between July 2008 and August 2011 were required to reverse this non admissible ITC and

direct the dealers to pay penalty and interest. We noticed that in four cases the AAs reversed only the ITC but did not levy interest (₹ 14.41 lakh) and penalty (₹ 1.32 crore). In the remaining two cases the AAs did not reverse the ITC (₹ 1.43 lakh), did not levy interest (₹ 73000) and penalty (₹ 7.15 lakh). The details are as follows:

⁴⁶ DC: Sec.4 Bareilly, Sec.1 & 2 Gautam Budh Nagar, Sec.1, 2, 6, 7 & 9 Ghaziabad, Sec.2 Hardoi, Sec. 2, 3, 4 & 29 Kanpur, Sec.3, 4, 5 & 17 Lucknow, Sec.2 & 3 Mathura, Sec.1 & 5 Meerut, Sec.3 Moradabad, Sec. 4 Muzaffarnagar, Sec.4, 5, 7 & 11 Noida and Sec.7 & 8 Varanasi.

AC: Sec.6 Agra, Sec.1 Aligarh, Sec.7 Ghaziabad, Sec.1 Hapur, Sec.2 Kanpur, Sec.1 Lalitpur, Sec.8 Muzaffarnagar, Sec.7 Noida, Sec.2 Shahjahanpur, Sec.2 Rampur and Sec.6 & 8 Varanasi.

JC (Corp. Circle): Gautam Budh Nagar, Agra 1st Ghaziabad and 2nd Kanpur.

⁴⁷ DC: Sec.2, 5, & 10 Aligarh, Sec.1 Amroha, Sec.3 Pilibhit, Sec.2 & 3 Sitapur, Sec.1 Gautam Budh Nagar, Sec.1 Hathras, Sec.2, 3, 4, 5, 6, 8, 15 & 25 Kanpur, Kosikalan Mathura, Sec.2, 3, 4, 16 & 22 Lucknow, Sec.4 Meerut, Sec.4 Moradabad, Sec.4 & 8 Muzaffarnagar, Sec.1 Noida, , Sardhna Meerut, Sec.2, 4 & 10 Saharanpur and Sec.2, 3 & 4 Shahjahanpur .

AC: Sec.6, 11 & 17 Agra, Sec.2, 3, 5 & 10 Aligarh, Sec.4 Firozabad, Sec.2 & 14 Ghaziabad, Sec.2 Hapur, Sec.3 Hardoi, Sec.3, 6, 16, 21 & 27 Kanpur, Sec.8 Lucknow, Sec.5 Mathura, Sec.6 & 8 Meerut, Sec.3 Moradabad, Sec.3 Pilibhit, Sec.3 Rampur, Sec.2 Shahjahanpur and Sec.2 Sitapur.

JC (Corp. Circle): Agra, Bareilly and 2nd Kanpur.

(₹ in lakh)

Sl. No.	Name of the office	Number of dealer	Assessment year (month and year of assessment)	Amount of falsely or fraudulently claimed ITC	RITC done by AAs	RITC not done by AAs	Interest ⁴⁸ leviable	Penalty leviable
1.	AC Sec. 16 Agra	1	2008-09 (February 2011)	0.41	0.41	-	0.20	2.05
2.	DC Sec. 1, Ghaziabad	1	2008-09 (January 2011)	15.46	15.46	-	7.53	77.30
3.	AC Sec. 2, Ghaziabad	1	2007-08(VAT) (March 2011)	0.16	0.16	-	0.10	0.80
4.	AC Sec. 5, Ghaziabad	1	2007-08(VAT) (July 2008)	10.32	10.32	-	6.58	51.60
5.	DC Sec. 4, Noida	1	2008-09 (August 2011)	1.23	-	1.23	0.60	6.15
6.	AC Sec. 8, Noida	1	2007-08(VAT) (March 2011)	0.20	-	0.20	0.13	1.00
	Total	6		27.78	26.35	1.43	15.14	138.90

After we pointed out these cases⁴⁹, the Department replied (November 2012) that the penalty of ₹ 1.36 crore has been imposed in all the cases, RITC of ₹ 1.23 lakh been done and ₹ 58,000 out of this has been recovered.

2.17 Non/short levy of tax due to non-registration of dealers

Under Section 3A of UPTT Act, tax on classified goods is leviable as prescribed in the schedule of rates notified by the Government from time to time. The goods not classified in the prescribed schedule of rates, are taxable at the rate of 10 *per cent* with effect from 1 December 1998.

With a view to check whether the dealers engaged in building construction and developing work and registered in Income Tax Department (ITD), are registered in Commercial Tax Department (CTD)

and submitting their returns in CTD according to the turnover submitted in ITD, we collected the copy of the balance sheets of five dealers for the year 2004-05 and 2005-06 from ITD and cross checked the same with the assessment orders passed by the AAs of five⁵⁰ CTD and found that two AAs⁵¹ had passed assessment order correctly after taking all aspects into account. In the remaining three cases⁵², two dealers were unregistered and in one case the AO was incorrect. This resulted in non/short levy of TT of ₹ 26.13 lakh as discussed below:

- As per balance sheet of the two dealers submitted in ITD for the year 2005-06 they purchased and consumed goods of ₹ 2.03 crore for construction of flats/ buildings. As these dealers were running their

⁴⁸ Calculated from 1st April of the year following the assessment year at the rate of 15 *per cent* per annum up to 30th June 2012.

⁴⁹ Between August 2010 and April 2012.

⁵⁰ DC 13 Lucknow, DC 14 Lucknow, DC 20 Lucknow, DC 16 Kanpur and DC 11 Varanasi.

⁵¹ DC 13 Lucknow and DC 11 Varanasi.

⁵² M/s Jugul Kishor Industries, University Road, Lucknow (DC 14 Lucknow), M/s Raj Ganga Developers, Gomti Nagar Lucknow (DC 20 Lucknow) and M/s Dolphin developers Ltd. Kanpur (DC 16 Kanpur).

activities without getting registration in CTD, no TT was assessed by the AAs while they were liable to pay TT of ₹ 22.16 lakh.

- A dealer having activities of construction of flats/buildings without getting registration in CTD purchased wood of ₹ 38.18 lakh during the year 2005-06 and making doors and windows of it used in constructions of flats. AA while finalising assessment did not levied tax of ₹ 3.97 lakh leviable on ₹ 49.63⁵³ lakh being sale value of doors and windows.

After we reported the matter (June 2012), the Department accepted (October 2012) our point and replied that the TT of ₹ 48.61 lakh has been imposed in the first two cases (October 2012). In the third case the Department has replied that the tax has been correctly levied. However, the Department has not examined the fact that TT of ₹ 3.97 lakh leviable on ₹ 49.63 lakh being sale value of doors and windows used in constructions of flats manufactured from wood purchased within State has not been levied.

2.18 Absence of provision for confirmation of deposit of tax

Under the provision of Section 3(1) of UPTT Act and Section 3(1) of UPVAT Act, every dealer shall be liable to pay tax under the Acts, for each assessment year, on his taxable turnover of sale or purchase or both, as the case may be, of taxable goods, at prescribed rates. But in both the Acts, no provision is there for ascertaining the deposit of tax in Government treasury, realised on sale of goods, bearing Maximum Retail Price (MRP) received under any scheme as free of cost.

We observed during audit in two CTOs⁵⁴ in September 2011 that during 2007-08 two dealers sold medicines worth ₹ 47.71 crore and along with that distributed medicines valued at ₹ 4 crore, free of cost to the purchasing dealers under the free bonus scheme. But there was

no mechanism for assurance regarding deposit of tax realised in case of its sale by the receiving dealers.

In order to ensure the disposal of such medicines, which were given free of cost, we test checked the assessment files of eight dealers of Allahabad and two dealers of Meerut for the year 2007-08, who had purchased medicines from two dealers of Noida and Meerut, and found that, they did not disclose in their returns regarding receipt and disposal of such medicines which were received by them as free of cost. Due to non-disclosure of such transactions, chances of non-remittance of tax realised on sale, if any, of such medicines, cannot be ruled out.

As there is no provision in the Act for ensuring the realisation of tax on its sale if any, the dealers did not disclose this fact in their returns nor there is any column in the returns for providing such information.

We feel that there should be a mechanism to ascertain the realisation and remittance of tax on such transactions.

After we pointed this out in December 2011, the Department issued order dated 25 September 2012 to ensure the recovery of tax realised in such cases.

⁵³ Cost of wood + 30 per cent labour cost as per CCT letter No. 1340 dated 24 September 1992.

⁵⁴ JC(CC) Meerut and DC Sec.5 Noida.

2.19 Non-conducting of tax audit

Section 44(1) of UPVAT Act states that for the purpose of examining the correctness of tax return or returns filed by a dealer or class of dealers and to verify admissibility of various claims including claim of input tax credit made by a dealer or class of dealers, tax audit shall be made of such number of dealers as may be prescribed. Rule 43 of UPVAT Rules 2008 prescribes the Rank of the Departmental officers conducting tax audit and the modalities, regarding name of selection of dealers. Duties and responsibilities of the officers and the manner of selection of dealers are described in Chapter 4 and 5 of Tax Audit Manual, issued by the Department of Commercial Tax, Uttar Pradesh.

In order to examine the application of provisions and orders regarding tax audit between January 2012 and March 2012, we collected information from 148 offices of Commercial Tax Department and found that only in nine offices⁵⁵ files were selected for tax audit by the tax audit wing and in 139 offices⁵⁶ no files were called for conducting tax audit. Thus, the main aim of tax audit to verify the

purchase, sale and admitted tax of dealers with his account books and related documents to check the evasion of tax was not fulfilled. This shows that the Department has not complied with the provisions of the Act despite the assurance given to us in December 2010 that it has been made functional.

After we reported the matter (in June 2012), the Department replied in September 2012 that the tax audit of 1790 dealers were completed up to March 2012 and irregularities in respect of 1082 dealers involving money value of ₹ 874.15 crore were found. The reply is general and the Department is silent on the fact that tax audit was not conducted in 94 *per cent* of the offices we test checked. Moreover tax audit of 1790 dealers out of 6.43 lakh registered dealers of the State is negligible and shows that the Department has not taken any concrete steps to ensure that the aims of tax audit were fulfilled.

Effective implementation of tax audit would have increased the sample size and ensured that more cases of revenue loss were detected and rectified by the Department itself.

⁵⁵ AC Sec.15 Agra, DC Sec.4 Gorakhpur, DC Sec.3 & 4 Hardoi, AC Sec.9 Meerut, DC Sec.4 Muzaffarnagar, DC Sec.1 and AC Sec.1 & 2 Padrauna.

⁵⁶ AC Sec.6, 7, 10, 11, 13, 14, 17, 18, 19 & 20 Agra, DC Sec.5 & 10 Aligarh, AC Sec.5, 6 & 10 Aligarh, AC Sec.11, Allahabad, DC Sec.2 Azamgarh, AC Sec.2 Azamgarh, DC Sec.2 Barabanki, AC Sec.2 Barabanki, AC Sec.5, 6, 7, 8, 9 & 10 Bareilly, DC Sec.2 Chandauli, AC Sec.2 Chandauli, DC Sec.2 Firozabad, AC Sec.2 Firozabad, AC Sec.8, 15, 17, 18 & 19 Ghaziabad, DC Sec.1 Gonda, AC Sec.1 Gonda, DC Sec. 5 & 6 Gorakhpur, AC Sec.4, 6, 7, 8 & 9 Gorakhpur, DC Sec.4 Hapur, AC Sec.4 Hapur, AC Sec.3 & 4 Hardoi, AC Sec.4 Jhansi, DC Sec.1 Kannauj, AC Sec.1 & 2 Kannauj, DC Sec.23 Kanpur, AC Sec. 9, 16, 17, 18, 20, 23, 25, 26, 28, 29 & 30 Kanpur, AC Sec.1 Lalitpur, DC Sec. 3, 9 & 10 Lucknow, AC Sec.1, 12, 13, 14, 16, 18, & 19 Lucknow, DC Sec.2 Mahrajganj, AC Sec.2 Mahrajganj, DC Sec.3 Mainpuri, DC Sec.3 & 6 Mathura, AC Sec. 3, 4 & 6 Mathura, AC Sec. 7, 8, 10, 12 & 13 Meerut, DC Sec.2 Mirzapur, DC Sec.3, 4, 5, 9 & 10 Moradabad, AC Sec. 3, 4, 5, 6, 7, 8, 9 & 10 Moradabad, AC Sec.4, 5, 6, 7 & 8 Muzaffarnagar, AC Sec.10, 12 & 14 Noida, DC Sec.1 & 3 Pilibhit, AC Sec.1 & 3 Pilibhit, DC Sec.2 Pratapgarh, AC Sec.3 Rampur, AC Sec.8, 9, 10, 11 & 12 Saharanpur, DC Sec.3 Sant Ravidas Nagar, AC Sec.2, 3 & 4 Shahjahanpur, DC Sec.1 Siddharth Nagar, DC Sec.1 Sikohabad, DC Sec.3 Sonebhadra, AC Sec.3 Sonebhadra, DC Sec.3 Sultanpur and AC Sec.11, 12, 13, 14, 15, 17, 18, 20 & 21 Varanasi.

2.20 Idle expenditure

With a view to provide hostel facility to the Departmental officials/officers administrative and financial sanction of ₹ 80.09 lakh was accorded by the Government for maintenance of old hostel of training institute of Commercial Tax Officers against which ₹ 35 lakh was released in November 2009 and balance ₹ 45.09 lakh in February 2011 to executing agency Construction and Design Services Unit-26, Uttar Pradesh Jal Nigam, Lucknow.

We scrutinised (August 2011) the records of the Joint Director (Training), Commercial Tax, Lucknow and observed that the executing agency completed the maintenance of 24 rooms, kitchen and mess of old hostel in May 2010 at a cost of

₹ 35 lakh against the amount released as first installment and requested (June 2010) the Department to take it over. The Department did not take over the 24 rooms, kitchen, and mess of old hostel even after a lapse of 14 months till the date of Audit (August 2011) citing the reason that there were no technical staff available to examine the quality of work done by the executing agency.

The Department needed these 24 rooms urgently as there were more trainees than available rooms, despite that the Department had not taken any step to take over the completed rooms even after the expiry of 14 months, the work was completed, rendering ₹ 35 lakh expenditure idle.

After we reported the matter to the Department/Government in September 2011, the Department replied in October 2012 that the possession has been taken over in September 2012. The reply confirms the fact that the expenditure on renovation was idle for 26 months after renovation.

CHAPTER-III STATE EXCISE

3.1 Tax administration

Excise duty on liquor for human consumption, fees in case of other intoxicants such as *charas*, *bhang* and *ganja* etc. and confiscation imposed or ordered is levied under the UP Excise Act, 1910 and rules made thereunder. These rules have been made in order to have a proper check over leakages of revenue in the Department by enforcing control over illicit production, import and export of alcohol, illegal purchase and sale of liquor and other intoxicants.

Alcohol is produced in distilleries mainly from molasses obtained as a byproduct during manufacturing of sugar. Various kinds of liquor, such as country liquor (CL) and Indian made foreign liquor (IMFL) like whisky, brandy, rum and gin are manufactured from alcohol. Excise duty on production of alcohol and liquor in distilleries forms a major part of excise revenue. Liquor for human consumption is issued from distilleries either under bond without excise duty or on pre-payment thereof at the prescribed rates. Apart from excise duty, licence fee also forms part of excise revenue. The District Collector (DC) with the assistance of the District Excise Officer (DEO) is responsible for settlement of liquor shops in the district.

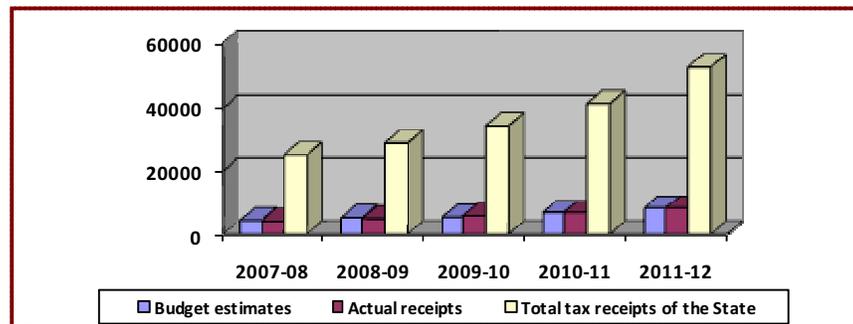
The Principal Secretary, State Excise Department is the administrative head at Government level. The collection of duty, fee and other taxes is administered and monitored by the Commissioner, Excise who is assisted by two Additional Excise Commissioners, three Joint Excise Commissioners (JECs), 10 Deputy Excise Commissioners (DECs) and six Assistant Excise Commissioners (AECs) at headquarters. For the purpose of effective administration, the State is divided into four zones and 17 circles. At the district level the DEOs/AECs are posted to assess, levy and collect revenue. At the distillery, the AEC/officer incharge (inspector) is posted for levy and collection of excise duty.

3.2 Trend of receipts

Actual receipts from State Excise during the years 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	4,192.00	3,948.40	(-) 243.60	(-) 5.81	24,959.32	15.82
2008-09	5,040.00	4,720.01	(-) 319.99	(-) 6.35	28,658.97	16.47
2009-10	5,176.45	5,666.06	(+) 489.61	9.46	33,877.60	16.73
2010-11	6,763.23	6,723.49	(-) 39.74	(-) 0.59	41,355.00	16.26
2011-12	8,124.08	8,139.20	(+) 15.12	0.19	52,613.43	15.47

Source: Finance Accounts of the Government of Uttar Pradesh.



It can be seen that while the actual receipts show an increasing trend, the percentage of actual receipts of the Department to the total tax receipts of the State shows a decreasing trend in the year 2010-11 and 2011-12. However, in the last two years the estimation is broadly correct.

3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 54.82 crore of which ₹ 51.87 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12.

(₹ in crore)				
Year	Opening balance of arrears	Addition during the year	Amount collected during the year	Closing balance of arrears
2007-08	60.89	0.56	0.06	61.39
2008-09	61.39	0.59	0.03	61.95
2009-10	61.95	1.35	0.07	63.23
2010-11	63.23	0.45	6.96	56.72
2011-12	56.72	0.03	1.93	54.82

Source: Information provided by the Department.

We recommend that the Government may consider taking appropriate steps for early recovery of the arrears.

3.4 Cost of collection

The gross collection from State Excise, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant all India average percentage of cost of collection to gross collection for the previous years are mentioned below:

(₹ in crore)				
Year	Gross collection	Cost of collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection for the previous year
2009-10	5,666.06	70.86	1.25	3.66
2010-11	6,723.49	95.72	1.42	3.64
2011-12	8,139.10	101.26	1.24	3.05

Source: Finance Accounts of the Government of Uttar Pradesh and information provided by the Department.

We noted that the cost of collection for the State Excise Department is well below the all India average.

3.5 Revenue impact of audit

During the period 2006-07 to 2010-11, we had pointed out through our Inspection Reports non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax, incorrect computation etc. with revenue implication of ₹ 1,749.80 crore in 979 cases. Of these, the Department/Government had accepted audit observations in 87 cases involving ₹ 2.54 crore and had since recovered the amount. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	80	122	60.68	Nil	Nil	Nil	Nil
2007-08	82	93	18.8	12	0.06	12	0.06
2008-09	118	189	1,372.36	9	0.2	9	0.2
2009-10	119	140	66.93	20	0.95	20	0.95
2010-11	190	435	231.03	46	1.33	46	1.33
Total	589	979	1,749.80	87	2.54	87	2.54

3.6 Results of audit

Our test check of the records of 200 units relating to State Excise receipts during 2011-12 revealed underassessments of tax and other irregularities involving ₹ 97.34 crore in 383 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Low recovery of alcohol from molasses	33	27.75
2.	Non-imposition of penalty	16	0.54
3.	Short levy of licence fee on shops of foreign liquor	88	14.35
4.	Non-levy of interest	16	0.73
5.	Other irregularities	230	53.97
Total		383	97.34

During the year 2011-12, the Department accepted and recovered underassessment and other deficiencies of ₹ 11.18 lakh involved in 21 cases of which three cases involving ₹ 35045 had been pointed out during 2011-12 and the remaining in the earlier years.

A few illustrative cases involving ₹ 12.08 crore are mentioned in the succeeding paragraphs.

3.7 Audit Observation

Our scrutiny of records in the offices of the State Excise Department revealed cases of low yield of alcohol, loss of revenue due to loss of total reducing sugar, non-imposition of penalty/interest, etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

3.8 Short levy of licence fee on the model shops

As per the State Excise Policies notified on 26 February 2010 and 12 March, 2011, the licence fee for setting up a model shop for the year 2010-11 and 2011-12 or part thereof was fixed as ₹ 8 lakh and ₹ 9 lakh respectively or the highest licence fee among the settled retail shops in the city/town for the same year for both foreign liquor and beer whichever was higher, but it could not be more than ₹ 22 lakh and ₹ 25 lakh respectively in those years.

We observed from the records¹ of 10 District Excise Offices (DEOs)² between April 2011 and March 2012 that licence fee of 27 model shops³ of foreign liquor and beer was fixed/realised as ₹ 2.96 crore for the years 2010-11 and 2011-12, whereas it comes to ₹ 4.50 crore as

per excise policy. The DEOs have ignored the actual sale by these model shops in the preceding year while calculating the highest sale by settled retail shops in the city/town. They have taken into account the sale by other shops of the city/town to fix the licence fee, however these model shops are also settled retail shops, sale by model shops was required to be taken into account while fixing the licence fee prior to regulating it with ceiling. This resulted in short levy/realisation of revenue of ₹ 1.54 crore. Details are given in **Appendix-VI**.

After we pointed this out (between June 2011 and April 2012) the Government stated in July 2012 that levy and collection of licence fee of model shops settled was done as per excise policy issued by the Government. We do not agree with the reply as the actual sale of the model shops, which are also settled retail shops, during previous 12 months has not been taken into account while calculating the licence fees.

¹ Model shops, Settlement files, Excise policies and Sales reports/returns.

² DEO: Mathura, Faizabad, Etah, Lakhimpur Kheri, Raebareli, Jhansi, Lucknow, Ghazipur, Rampur and Kanshi Ram Nagar.

³ Model shop is a licenced shop situated in the commercially approved area of the corporation, city or municipality having at least 600 sq.ft. carpet area and consumption facility also.

3.9 Loss of licence fee on shops of foreign liquor

Under the provisions of the Uttar Pradesh Excise (Settlement of Licences of retail sale of Foreign Liquor) Rules, 2002 (as amended) annual licence fee in respect of the retail shops of foreign liquor is leviable on the basis of number of bottles sold out in the current year. As per the new Excise policy, 2009-10 and 2010-11 the number of the bottles was to be calculated on the basis of actual sale of 10 months i.e. from April to January and calculated sale of February and March by 1/5 of April to January. Similarly As per the state Excise Policy notified on 12 March 2011 for the year 2011-12, the number of the bottles was to be calculated on the basis of actual sale of 11 months i.e. from April to February and calculated sale of March by 1/11 of April to February.

We observed from the records⁴ of six DEOs⁵ and information collected from office of the Excise Commissioner that annual licence fee of all the retail shops of foreign liquor of the State was fixed on the basis of actual sale of bottles of 10 months i.e. April to January of preceding year plus the calculated⁶ sale of February and March of that year for the years 2009-10 and 2010-11. Similarly for 2011-12, the licence fee was based on actual sale of

April 2010 to February 2011 plus the calculated sale of March 2011. The licence fee based on the number of bottles actually sold during previous 12 calendar months at the time of settlement of liquor shops, worked out to ₹ 175 crore, ₹ 233.78 crore and ₹ 321.87 crore for the year 2009-10, 2010-11 and 2011-12 respectively as against the fixed licence fee of ₹ 170.83 crore, ₹ 229.04 crore and ₹ 317.66 crore for the respective years. The information regarding actual sale of bottles for a calendar year was available with the Department at the time of fixing the basis of the calculation. However, the same was ignored and calculated sale for two and one month respectively for 2009-10 to 2010-11 and 2011-12 was taken as a basis for calculation. Due to this, Government was deprived of revenue of ₹ 13.12 crore (₹ 4.17 crore + ₹ 4.74 crore + ₹ 4.21 crore) by way of licence fee during 2009-10 to 2011-12.

After we pointed this out (between August 2011 and May 2012) the Government stated in July 2012 that the settlement was made as per excise policies issued by the Government. The reply is in contradiction to the reply given by the Department last year wherein they had stated that action will be taken as per our suggestion after study of statistical data and our observation is supported by the statistical analysis.

We recommend that in the interest of revenue the Government should fix the licence fee for the year based on the actual sale for the previous 12 months.

⁴ Foreign liquor settlement files, Excise policies and Sales reports/ returns.

⁵ DEO: Lucknow, Kaushambi, Etawah, Jalaun, Gonda and Lalitpur.

⁶ Calculated sale for 2009-10 and 2010-11 - fixed on the basis of formula: Actual sale of 10 months (April to January) + 2 x Average of actual sale of 10 months.

Calculated sale for 2011-12: Actual sale of 11 months (April to February) + Average of actual sale of 11 months.

3.10 Non-levy of interest on belated payment of excise revenue

Under Section 38 (A) of the U P Excise Act, 1910, where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate of 18 *per cent* per annum is recoverable from the date on which such excise revenue becomes payable.

We observed (January 2012 to April 2012) from the records⁷ of four DEOs that excise revenue of ₹ 25.20 lakh pertaining to the period 1987-88 to 2010-11 was deposited after a delay that ranged between

three months and 273 months by 91 licensees from August 2004 to February 2012. However, interest amounting to ₹ 27.04 lakh on the belated payment was not levied and realised by the Department as detailed below:

Sl. No.	Name of office	Number of shops/ licensees	Period when excise revenue was due	Amount of excise revenue (In ₹)	Delay in months after which the amount was realised	Amount of interest not imposed/ realised (In ₹)
1	DEO Raebareli	8	2002-03 to 2003-04	11,09,433	79 – 100	15,81,876
2	DEO Fatehpur	55	1987-88 to 2008-09	4,03,783	03 – 273	2,43,396
3	DEO Gonda	25	2002-03 to 2010-11	6,18,965	04 – 107	5,26,259
4	DEO Ballia	3	2001-02 to 2004-05	3,87,731	29 – 71	3,52,917
Total		91		25,19,912	03 - 273	27,04,448

After we pointed this out (February 2012 to May 2012) the Government accepted in July 2012 our contention and stated that process of recovery of interest in Ballia and Raebareli has begun and notices for recovery of interest have been issued in remaining two districts.

3.11 Transit and storage loss of Total Reducing Sugar (TRS)

3.11.1 Loss during transit of Molasses

Rule 8, 20 and 25 of the Uttar Pradesh *Sheera Niyantaran Niyamawali*, 1974 does not provide for any loss of Total Reducing Sugar (TRS) present in molasses during transit or storage of molasses. Rule 15 (b) 3 of Uttar Pradesh Excise Working Distilleries (Amendment) Rules, 1978 prescribes that every quintal of fermentable sugar content present in molasses shall yield 52.5 Alcoholic Litre (AL) alcohol. Further, as per the Excise Commissioner's circular issued in May 1995, maximum 12 *per cent* non-fermentable sugar is present in TRS.

During the audit (April 2011 to February 2012) of records⁸ of three distilleries⁹, we observed that while transporting molasses during August 2010 to March 2011, there was a loss of TRS that ranged between 0.11 to 5.90 *per cent* of the quantities shown in the transport passes issued by the sugar factories

⁷ G-6, Arrear register, Receipt book, Cash book and Treasury Statement.

⁸ Laboratory report and MF-4 passes.

⁹ Lord's Distillery, Nandganj, Ghazipur, Wave Aswani & Breweries Ltd. Ahmadpura Aligarh and Mohan Mekin Distillery, Mohan Nagar, Ghaziabad.

from where the molasses was dispatched. These were certified by the Inspectors at the distilleries. The distilleries received 1,835.72 quintals of TRS short from which 84,810.26 AL¹⁰ of alcohol could have been produced, which has been derived from the orders of the Excise Commissioner¹¹. After bifurcating this in the same ratio as that of the total production of potable and industrial alcohol of these distilleries¹², we found that 84,749 AL of potable alcohol involving excise revenue of ₹ 3.56 crore as shown in **Appendix-VII(A)**, could have been produced.

3.11.2 Loss during storage of Molasses

During the audit (April 2011 to October 2011) of records¹³ of four distilleries¹⁴, we observed that distilleries stored 3,58,030 quintals of molasses during the period March 2010 to October 2011. There was loss of fermentable sugar during storage of molasses that ranged between 0.08 and 0.98 *per cent*. This amounted to 3,197.882 quintals of Fermentable Sugar from which 1,67,888.829 AL alcohol could have been produced. After bifurcating this in the same ratio as that of the total production of potable and industrial alcohol of these distilleries¹⁵, we found that 1,53,988.341 AL of potable alcohol involving excise revenue of ₹ 6.47 crore as shown in **Appendix-VII(B)**, could have been produced.

After we pointed this out (August 2011 to March 2012) the Government replied in July 2012 that recovery of alcohol is based on the fermentable sugar and not on the basis of TRS content dispatched from Sugar factories or received/stored in distilleries. The reply of the Government is not based on the circular of Excise Commissioner issued in 1995 which provides that minimum 88 *per cent* fermentable sugar is present in TRS. Since the circular is in force as on date, the Government has suffered a loss in revenue by not ensuring the optimum production as laid down in the circular.

¹⁰ 1,835.72 x 46.2 = 84,810.26 AL.

¹¹ Maximum 12 *per cent* non-fermentable sugar is present in molasses as such there is 88 Kg. Fermentable Sugar in one quintal of TRS from which 46.2 AL spirit may be produced as every quintal of FS yields alcohol of 52.5 AL as per Rule 15 (b) 3 of Uttar Pradesh Excise Working Distilleries (Amendment) Rules, 1978.

¹² Percentage of potable alcohol: Lord's Distillery, Nandganj, Ghazipur - 99.9, Wave Aswani & Breweries Ltd. Ahmadpura Aligarh - 100, Mohan Mekin Distillery, Mohan Nagar, Ghaziabad - 100.

¹³ COT Register.

¹⁴ Lord's Distillery, Nandganj, Ghazipur, Wave Aswani & Breweries Ltd. Ahmadpura Aligarh, Unnao Distillery & Breweries Ltd. Unnao and Kesar Enterprises Ltd. Baheri Bareilly.

¹⁵ Percentage of potable alcohol: Lord's Distillery, Nandganj, Ghazipur -99.9, Wave Aswani & Breweries Ltd. Ahmadpura Aligarh-100, Unnao Distillery & Breweries Ltd. Unnao-100 and Kesar Enterprises Ltd. Baheri Bareilly-62.26.

3.12 Low yield of alcohol from molasses

Under Rule 15 (b) 3 of UP Excise Working of Distilleries (Amendment) Rules, 1978, every quintal of fermentable sugar content present in molasses shall yield alcohol of 52.5 Alcoholic Litre (AL). For this purpose, composite samples of molasses are required to be drawn by the officer-in-charge of the distillery and sent for examination to the Alcohol Technologist. Failure to maintain the minimum yield of alcohol from molasses consumed entails cancellation of licence and forfeiture of security deposit besides other penalties.

We observed from the records¹⁶ of four distilleries¹⁷ between April 2011 and February 2012 that during the period April 2010 to February 2012, 24 composite samples of molasses were sent to the Alcohol Technologist for determination of sugar content of 5.13 lakh quintal of molasses. On the basis of their reports,

out of 1.90 lakh quintal of fermentable sugar content present in molasses, 99.60 lakh AL of alcohol should have been produced. Against this actual production of alcohol was 96.32 lakh AL leading to total short production of 3.27 lakh AL. After dividing this in the same ratio as that of the total production of potable and industrial alcohol of these distilleries¹⁸, we found that there was short production of potable alcohol of 3.24 lakh AL involving revenue of ₹ 13.60 crore. Eleven cases were compounded by the Excise Commissioner and penalty totaling to ₹ 47,000¹⁹ was imposed and part forfeiture of security deposit of ₹ 1.85 lakh²⁰ was ordered which was very low in comparison to total revenue loss. The Department did not cancel the licences of these distilleries as required under the Act.

After we pointed this out (between August 2011 and March 2012) the Government replied in July 2012 that the duty on low yield of alcohol could not be levied because it is not actual but notional production. They also stated that this occurred due to temporary disorder of the plant and machinery, interruption in operation process of plant etc. The reply, regarding temporary disorder and interruption in operation process of plant and machinery, of the Government is not based on facts as in three out of the four distilleries the same issue was raised by us last year and rectification of the faults has not been carried out.

¹⁶ COT Register and AT Lab Reports.

¹⁷ Lords Distillery, Ghazipur, Unnao Distillery and Breweries Ltd, Unnao, Modi Distillery, Ghaziabad and Wave Distillery and Breweries Ltd., Ahmadpura, Aligarh.

¹⁸ Percentage of potable alcohol: Lords Distillery, Ghazipur-99.9, Unnao Distillery and Breweries Ltd, Unnao-100, Modi Distillery, Ghaziabad-61.37 and Wave Distillery and Breweries Ltd., Ahmadpura, Aligarh-100.

¹⁹ Compounding: Lords Distillery, Ghazipur (in both cases - ₹ 3,000), Unnao Distillery and Breweries Ltd, Unnao (in both cases - ₹ 10,000) and Wave Distillery and Breweries Ltd., Ahmadpura, Aligarh (in seven cases out of 14 cases - ₹ 34,000).

²⁰ Forfeiture of security deposit: Unnao Distillery and Breweries Ltd, Unnao (in both cases - ₹ 45,000) and Wave Distillery and Breweries Ltd., Ahmadpura, Aligarh (in seven cases out of 14 cases - ₹ 1.40 lakh).

3.13 Short realisation of testing fee

Three regional laboratories at Gorakhpur, Lucknow and Meerut are established to conduct chemical examination of molasses, alcohol, beer and other chemicals received from distilleries, breweries, sugar factories, liquor shops and alcohol based industries to ensure quality maintenance and proper control. A central laboratory at Allahabad co-ordinates and controls the regional laboratories.

As per Government order issued on 06 October 2006, rates of samples' testing fee were revised from ₹ 80 per sample to ₹ 160 per sample. The revised rates were effective from 06 October 2006. A sample was to be received in the laboratory along with requisite testing fee.

During the audit (April 2011) of the records (AT Lab Reports) in the office of the Excise Commissioner and information collected (November 2012) there from we observed that during the period 2008-09 to 2011-12, 36,635 samples were tested by Alcohol Technologists (ATs) and against due amount of ₹ 58.62 lakh as testing fee, realised only ₹ 36.55 lakh. Thus, there was short

realisation of testing fee of ₹ 22.06 lakh.

After we pointed this out (November 2011) the Government accepted our observation in July 2012 and stated that testing fee of ₹ 12.03 lakh for the year 2009-10 and 2010-11 has been realised. We have not received report on recovery for the year 2008-09 and 2011-12 (February 2013).

3.14 Short levy/realisation of licence fee for FL-2 licences

As per Rule 4(C) of Uttar Pradesh Excise (Settlement of licences for wholesale supply of foreign liquor) Rules, 2002 (as amended) licence would be given in FL-2 form for wholesale supply of foreign liquor, beer and wine. Further under Rule 6 (Grant of licence) of the Rules ibid FL-2 licence would be issued district-wise.

As per Excise Policy 2010-11 and 2011-12, the licence fee for wholesale supply of IMFL (FL-2 licence) was to be fixed on the basis of consumption of estimated number of bottles sold by retailers of the district during previous year as described below:

Sl. No.	Estimated number of bottles sold by retailers during previous years in district	Licence fee (₹ in lakh)
1.	Up to 7 lakh bottles	05.00
2.	Between 7 lakh to 15 lakh bottles	10.00
3.	Between 15 lakh to 25 lakh bottles	20.00
4.	Between 25 lakh to 30 lakh bottles	30.00
5.	More than 30 lakh bottles	40.00

During test check (April 2011) of records²¹ of office of the Excise Commissioner and information collected there from, we observed that FL-2 licences were not settled for the years 2010-11 and 2011-2012 in 20 and 21 districts of the State respectively. On examining the records we noticed that in seven and eight districts²² respectively for years 2010-11 and 2011-2012 there was short realisation of revenue due to non realisation of the

correct licence fee. The Excise Commissioner authorised the FL-2 licensees of the neighbouring districts for supply of IMFL in these districts having no FL-2 licences but the licence fee for these was not correctly levied/realised from such licensees. The basis of computation of licence fee was number of bottles sold in the original district covered under their licences only. As these licensees were authorised to supply the IMFL to a different district also, their total sales increased. Hence in computing the licence fees to be paid by the licensee in the original district, the sales figures for both original and additional district were needed to be taken into account and licence fee revised accordingly. This omission resulted in short realisation of revenue of ₹ 80 lakh as detailed in **Appendix-VIII**.

After we pointed this out (July 2011) the Government replied (August 2012) that FL-2 licences are not compulsory for every district and as per condition 11 of FL-2 licence, the licensee may sell foreign liquor to the retail licensees outside his jurisdiction on permission of the Excise Commissioner. The reply of the Government has not addressed our point which was on the incorrect licence fee computation as the total number of bottles sold by the FL-2 licensee in original district and additionally permitted districts were not compiled for computation of the levy of the licence fee.

²¹ Files of settlement of licences, Sale / consumption statement, Receipt book and Cash book.

²² 2010-11 and 2011-12 – Lakhimpur Kheri, Pratapgarh and Siddharth Nagar.
2010-11 – Hardoi, Chandauli, Kanshiram Nagar and Ambedkar Nagar.
2011-12 – Pilibhit, Sant Kabir Nagar, Chitrakoot, Hamirpur and Mahoba.

3.15 Non/short levy of licence fee on wholesale supply of beer

As per Rule 4(C) of Uttar Pradesh Excise (settlement of Licences for wholesale supply of foreign liquor) Rules, 2002 (as amended) the settlement of wholesale supply of foreign liquor, beer and wine can be made by the FL-2 licensees.

As per Excise Policy 2009-10 and 2010-11, the licence fee for FL-2 licence was to be fixed on the basis of estimated number of bottles sold by retail shops during previous year as detailed below:

Sl. No.	Estimated number of bottles sold by retailers during previous year in district	Licence fee (₹ in lakh)
1.	Up to 7 lakh bottles	5.00
2.	Between 7 lakh to 15 lakh bottles	10.00
3.	Between 15 lakh to 25 lakh bottles	20.00
4.	Between 25 lakh to 30 lakh bottles	30.00
5.	More than 30 lakh bottles	40.00

Further, as per Rule 4 (E) of the Rules *ibid*, for the wholesale supply of beer only, licences in form FL-2B shall be granted on payment of ₹ 5 lakh as licence fee.

During test check (September 2011 to November 2011) of records²³ in the offices of five District Excise Officers and information collected from office of the Excise Commissioner, we observed that during the year 2009-10 and 2010-11, in 52 and 54 districts respectively, FL-2 licensees were also authorised to supply beer along with IMFL to retail shops. The licence fees for FL-2 licensees were recovered on the basis of estimated number of bottles of IMFL alone sold during previous year, without taking into account the total number of beer bottles sold by the licensees. Also no separate FL-2B licences were granted in these districts. This resulted in short-realisation of revenue of ₹ 9.25 crore as detailed in **Appendix-IX**.

After we pointed this out (October and November 2011) the Government replied (August 2012) that licence fee for FL-2 licence was to be fixed on the basis of estimated number of bottles of IMFL alone sold during previous year. We do not agree with the reply of the Government as the excise policy of the relevant years does not specify that only IMFL bottles sold will form the basis of calculation of the licence fee of FL-2 licensees. Since in these districts FL-2B licences were also not granted, there has been no licence fee imposed on the sale of beer bottles with a consequent loss of revenue.

²³ Files of settlement of licences, Sale/consumption statement, Receipt book and Cash book.

CHAPTER-IV TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1 Tax administration

The Uttar Pradesh Motor Vehicles Taxation Act, 1997 (UPMVT Act), UP Motor Vehicles Taxation Rules, 1998 (UPMVT Rules), Motor Vehicles Act, 1988 and Motor Vehicles Rules, 1989 provide for levy of various types of taxes viz. goods tax, additional tax (passenger tax) and fees etc. in the State.

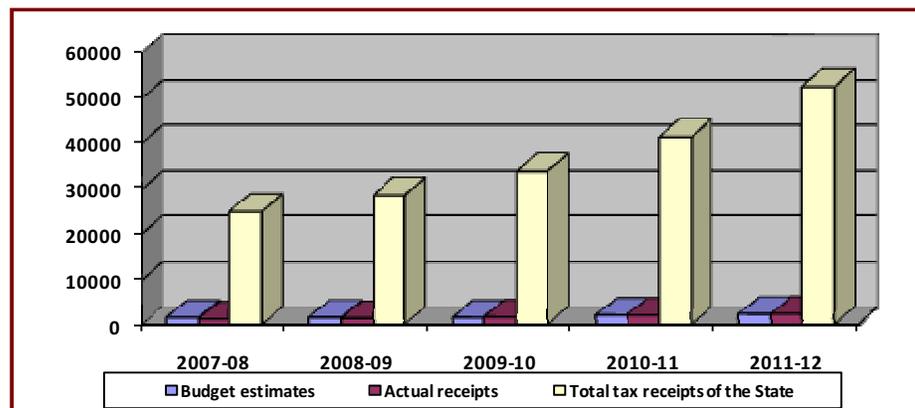
The Principal Secretary, Transport, Uttar Pradesh is the administrative head at Government level. The entire process of assessment and collection of taxes and fees is administered and monitored by the Transport Commissioner of UP, Lucknow, who is assisted by two Additional Transport Commissioners at Headquarters and six Deputy Transport Commissioners (DTCs), 19 Regional Transport Officers (RTOs) and 72 Assistant Regional Transport Officers (ARTOs) (Administration) in the field.

4.2 Trend of receipts

Actual receipts from Taxes on Vehicles, Goods and Passengers during the years 2007-08 to 2011-12 along with the total tax receipt during the same period is exhibited in the following table and graph.

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	1,533.31	1,255.49	(-) 277.82	(-)18.12	24,959.32	5.03
2008-09	1,600.00	1,391.15	(-) 208.85	(-)13.05	28,658.97	4.85
2009-10	1,574.89	1,674.55	99.66	6.33	33,877.60	4.94
2010-11	2,089.90	2,058.58	(-) 31.32	(-)1.50	41,355.00	4.98
2011-12	2,329.95	2,380.67	50.72	2.18	52,613.43	4.52

Source: Finance Accounts of the Government of Uttar Pradesh.



It can be seen that while the actual receipts show an increasing trend, the percentage of actual receipts of the Department to the total tax receipts of the State shows a decreasing trend in the year 2011-12. However, in the last two years the estimation is broadly correct.

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 29.69 crore. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12.

(₹ in crore)

Year	Opening balance of arrears	Addition during the year	Amount collected during the year	Closing balance of arrears
2007-08	23.00	1,304.23	1,255.49	71.74
2008-09	71.74	1,380.02	1,391.15	60.61
2009-10	60.61	1,661.41	1,674.55	47.47
2010-11	47.47	2,040.78	2,058.58	29.67
2011-12	29.67	2,380.69	2,380.67	29.69

Source: Finance Accounts and Information provided by the Department.

We recommend that the Government may consider taking appropriate steps for early recovery of the arrears.

4.4 Cost of collection

The gross collection from taxes on vehicles, goods and passengers, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2007-08 to 2011-12 along with the relevant all India average percentage of cost of collection to gross collection for the relevant previous year are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection for the previous year
2007-08	1,255.49	36.15	2.87	2.47
2008-09	1,391.15	50.43	3.62	2.58
2009-10	1,674.55	69.16	4.13	2.93
2010-11	2,058.58	78.13	3.80	3.07
2011-12	2,380.67	79.86	3.35	3.71

Source: Finance Accounts of the Government of Uttar Pradesh and information provided by the Department.

The above indicates that during the year 2011-12 the percentage of expenditure on collection is below the All India average for the previous year.

4.5 Revenue impact of audit

During the period 2006-07 to 2010-11, we had pointed out through our Inspection Reports short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax, incorrect computation etc. with revenue implication of ₹ 282.80 crore in 1,414 cases. Of these, the Department/Government had accepted audit observations in 458 cases involving ₹ 10.24 crore and had since recovered ₹ 10.21 crore out of these cases. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	48	243	14.01	3	0.21	3	0.18
2007-08	62	213	94.45	4	0.25	4	0.25
2008-09	71	344	118.34	148	2.49	148	2.49
2009-10	71	245	26.46	40	0.85	40	0.85
2010-11	71	369	29.54	263	6.44	263	6.44
Total	323	1414	282.80	458	10.24	458	10.21

In view of the large number of pending audit observations, the Government may ensure holding of audit committee meetings at regular intervals for expeditious settlement of the pending paragraphs.

4.6 Results of audit

Test check of the records of 96 units relating to the Transport Department during the period 2011-12 revealed underassessment of tax and other irregularities involving ₹ 130.66 crore in 648 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Non/short levy of passenger tax/additional tax	187	37.68
2.	Underassessment of road tax	63	2.22
3.	Short levy of goods tax	49	4.15
4.	Other irregularities	349	86.61
	Total	648	130.66

During the year 2011-12, the Department accepted no case of under assessment and other deficiencies.

A few illustrative cases involving ₹ 15.43 crore are mentioned in the succeeding paragraphs.

4.7 Audit observations

Our scrutiny of the records in the office of the Transport Department revealed several cases of non/short levy/non-realisation of tax/additional tax, vehicles plying without fitness certificate, etc. and a case of unproductive expenditure as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

4.8 Short levy of tax due to adoption of lesser seating capacity of Tata Magic Vehicle

Under the provisions of the Uttar Pradesh Motor Vehicles Taxation Act (UPMVT Act), 1997 (as amended on 28 October 2009) no transport vehicle shall be used in any public place in Uttar Pradesh unless a tax prescribed under sub section (2) of Section 4 of the Act has been paid. The rate of tax applicable to motor cab (excluding three wheelers motor cab) and maxi cab was ₹ 550 per seat/per quarter upto 7 November 2010 and ₹ 660 per seat per quarter from 8 November 2010. The Transport Commissioner vide order dated 30 July 2007 and 24 May 2010 permitted eight seats in all for Tata Magic vehicle (basic model) having kerb weight of 1000 kilogram.

We scrutinised the records¹ of five Regional Transport Offices (RTOs)² and 22 Assistant Regional Transport Offices (ARTOs)³ between April 2011 and March 2012 and noticed that during the period from October 2009 to February 2012, taxes in respect of 3,467 Tata Magic vehicles (basic model) having

kerb weight of 1000 kilogram were assessed and realised on the seating capacity of seven instead of eight in contravention of the orders of the Transport Commissioner dated 30 July 2007 and 24 May 2010. This resulted in short realisation of tax of ₹ 99.71 lakh as detailed in **Appendix-X**.

After we pointed this out (between April 2011 and May 2012) the Department replied in November 2012 that ₹ 23.86 lakh has been levied and realised against 571 such Tata Magic vehicles in 11 RTOs⁴/ARTOs⁵ and recovery

¹ Passenger tax register, vehicles files and vehicles database.

² RTO: Meerut, Mirzapur, Azamgarh, Gorakhpur and Allahabad.

³ ARTO: Etawah, Sant Kabir Nagar, Maharajanj, Hamirpur, Ambedkar Nagar, Siddharth Nagar, Mainpuri, Rampur, Kushinagar, Bagpat, Bulandshahar, Jalaun (Orai), Auraiya, Ghazipur, Ballia, Raebareli, Deoria, Lakhimpur Kheri, Chandauli, Kaushambi, Kanshi Ram Nagar and Lalitpur.

⁴ RTO: Allahabad and Meerut.

⁵ ARTO: Auraiya, Bagpat, Bulandshahar, Etawah, Hamirpur, Kaushambi, Lakhimpur Kheri, Mainpuri and Raebareli.

proceedings in 10 ARTOs⁶ and one RTO⁷ have begun. Action in the remaining RTOs⁸/ARTOs⁹ is awaited (February 2013).

4.9 Non-realisation of tax/additional tax in respect of vehicles surrendered beyond three months

Rule 22 of the Uttar Pradesh Motor Vehicles Taxation Rules (UPMVT Rules), 1998, modified in October 2009, provides that when the owner of a transport vehicle withdraws his motor vehicle from use for one month or more, the certificate of registration, tax certificate, additional tax certificate, fitness certificate and permit, if any must be surrendered to the Taxation Officer. The Taxation Officer shall not accept the intimation of non-use of any vehicle for more than three calendar months, within a calendar year, however, the period beyond three calendar months may be accepted by the Regional Transport Officer of the region concerned, if the owner makes an application with requisite fee to the Taxation Officer. If any such vehicle remains surrendered for more than three calendar months during a year without extension of acceptance of surrender by Regional Transport Officer it shall be deemed to be revoked and the owner shall be liable to pay tax and additional tax, as the case may be. Further, subject to the provision of sub-rule (4), the owner of a surrendered vehicle in respect of which intimation of non-use has already been accepted, shall be liable to pay tax and additional tax for the period beyond three calendar months during any calendar year, whether the possession of the surrendered documents has been taken from the taxation officer or not.

We scrutinised the records¹⁰ of 10 RTOs¹¹ and 23 ARTOs¹² between November 2010 and March 2012 and noticed that 753 vehicles were surrendered for periods beyond three calendar months during the period from April 2010 to March 2012. However, despite the fact that extension of acceptance of surrender beyond three months was not granted by concerned RTO, the Taxation Officers¹³ did not initiate any action to realise the tax/ additional tax due thereon. This resulted in non-realisation of revenue amounting to ₹ 2.29 crore¹⁴ as detailed in

Appendix-XI.

⁶ ARTO: Auraiya, Bagpat, Bulandshahar, Etawah, Hamirpur, Kaushambi, Lakhimpur Kheri, Mainpuri and Raebareli.

⁷ RTO: Allahabad.

⁸ RTO: Azamgarh, Gorakhpur and Mirzapur.

⁹ ARTO: Ambedkar Nagar, Ballia, Chandauli, Deoria, Ghazipur, Kushinagar, Lalitpur, Maharajganj, Orai and Sant Kabir Nagar.

¹⁰ Surrender register, vehicles files, passenger tax register and goods tax register.

¹¹ RTO: Ghaziabad, Meerut, Lucknow, Kanpur Nagar, Agra, Bareilly, Saharanpur, Gorakhpur, Allahabad and Banda.

¹² ARTO: Hamirpur, Unnao, Deoria, Mainpuri, Farrukhabad, Bagpat, Mathura, Rampur, Balrampur, Auraiya, Kushinagar, Bijnor, Fatehpur, Firozabad, Muzaffarnagar, Pilibhit, Sitapur, Etawah, Bulandshahar, Shahjahanpur, Bahraich, Raebareli and Janapur.

¹³ Taxation Officer: RTO or ARTO is defined as Taxation Officer within the local limits of their respective region or sub-region under UPMVT Rules, 1998.

¹⁴ Period for which tax leviable calculated from April 2010 as rule came into force in October 2009 and after leaving first three months of the calendar year from the date of surrender.

After we pointed this out (between May 2011 and April 2012) the Department replied in November 2012 that 265 vehicles of 19 RTOs/ARTOs has been released after realising an amount of ₹ 20.62 lakh and action to recover the tax due in a further 223 vehicles has started. We have not received final position of recovery of tax against these vehicles (February 2013).

4.10 Vehicles carrying excess load

4.10.1 Non-imposition of penalty on the vehicles carrying excess load

Section 113 of the Motor Vehicles Act, 1988 (MV Act), defines the limits of weight and limitation of use, which are laid down by the Transport Commissioner (TC) who prescribes conditions for issue of permits for transport vehicles in the state. Section 113 (3) (b) states that no person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer, the laden weight exceeds the gross vehicle weight specified in the certificate of registration.

As per provisions made under Section 194 (1) of the MV Act, 1988, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with a load exceeding permissible weight, shall be punishable with minimum fine of two thousand rupees and an additional amount of one thousand rupees per ton of excess load, together with the liability to pay charges for off-loading of the excess load.

As per the certificate of registration issued by the TC for the vehicles the maximum laden weight for the vehicles is fixed and the maximum limit of weight of sub minerals transported by different categories of vehicles is as below:

(In Tonnes)

Sl. No.	Minor mineral	Two Wheel Tractor	Four Wheel Tractor	Six Wheel Truck	10 Wheel Truck
1.	Ordinary Sand	3.00	5.25	13	19
2.	<i>Morrum</i>	3.00	5.25	13	19
3.	Ordinary Soil	3.00	5.25	13	19

We scrutinised the records¹⁵ of one RTO¹⁶ and 10 ARTOs¹⁷ and MM-11 issued to the vehicles for carrying sub minerals¹⁸ in respective District Mines Offices between July 2011 and March 2012 and observed that in 2,113 cases, transportation of sub-mineral sand and ordinary soil was carried out during the period April 2008 to January 2012 by different categories of vehicles.

In all these cases the actual load¹⁹ carried by these vehicles as evidenced by the MM-11 forms²⁰ issued was higher than the permitted load as per their Registration Certificates. Hence all these vehicles were liable for action under Section 194(1) of the Motor Vehicles Act, 1988.

We noticed that these vehicles were not mentioned in the Prosecution book, Crime or Seizure registers of the respective RTO/ARTO offices as having

¹⁵ Prosecution Books, Crime and Seizure Registers.

¹⁶ RTO Lucknow.

¹⁷ ARTO: Raebareli, Unnao, Pratapgarh, Balrampur, Auraiya, Hardoi, Lalitpur, Siddharth Nagar, Shravasti and Sant Kabir Nagar

¹⁸ Sand and ordinary soil.

¹⁹ Conversion of volume to weight for sand/*morrum* 1 m³=2 tonnes and 1 m³ of ordinary soil = 1.70 tons.

²⁰ Transit Pass issued by the holder of the mining lease or mining permit or prospecting licence as the case may be.

been checked and booked as overloaded and charged for off loading of the excess load. The RTO/ARTOs did not take action to stop and off load these vehicles carrying greater than permissible load and penalise them.

The plying of overloaded vehicles compromised public safety. These vehicles were liable for imposition of penalty of ₹ 2.04 crore as detailed in **Appendix-XII**.

After we pointed this out to the Department/Government (between October 2011 and April 2012), the Department in November 2012 has forwarded the replies of the RTOs/ARTOs concerned which state that these vehicles were not detected plying on road by the enforcement squads hence there is no loss. The reply itself shows the Departmental lapse in detecting the overloaded vehicles and taking necessary action as per the MV Act. The fact that the vehicles were overloaded is proven on basis of documentation available at the respective DMOs.

We recommend that the Department develop a system to cross verify the same with the DMO offices and take action against overloaded vehicles plying in contravention of the MV Act.

4.10.2 Short levy of penalty due to incorrect computation of excess load

As per G.O. No. 1844/M-5 issued by Director, Geology and Mining, Lucknow dated 16 February 2004 one cubic meter volume of *Morrum* and *Gitti* will be equivalent to two ton and 1.70 ton in weight respectively for these sub minerals. Further, as per provisions made under section 194 (1) of the MV Act, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with a load exceeding permissible weight, shall be punishable with minimum fine of two thousand rupees and an additional amount of one thousand rupees per ton of excess load, together with the liability to pay charges for off loading of the excess load.

We scrutinised the records²¹ in the ARTO Fatehpur in January 2012 and observed that during the period January 2011 to June 2011, 135 vehicles transporting the sub minerals (*morrum* and *gitti*) were compounded for carrying excess load. We noticed that the weight of *morrum* and *gitti* was quantified wrongly²² as the

correct conversion factor of two ton and 1.70 tons for per cubic meter of *morrum* and *gitti* respectively was not used. This resulted short levy and short realisation of penalty amounting to ₹ 10.16 lakh.

After we pointed this out (February, 2012) the Government accepted our point and stated in August 2012 that notices for realisation of differential amount of compounding fee have been issued. The recovery is awaited (February 2013).

²¹ Prosecution Books, Crime and Seizure Registers, compounding files, receipt books and cash book.

²² ARTO used 1.5 ton per cubic meter instead of 2 and 1.70 ton per cubic meter.

4.11 Absence of monitoring and follow up mechanism for realisation of arrears

Under the provisions of Section 20 of the UPMVT Act, arrears of any tax or additional tax or penalty shall be recoverable as arrears of land revenue. Further, the taxation officer shall raise a demand in the form as may be prescribed from the owner or operator, as the case may be, for the arrears of tax and additional tax and penalty of each year, which shall also include the arrears of tax, additional tax or penalty, if any of preceding years.

Section 22 authorises the taxation officer to seize and detain the vehicle and to get the dues recovered by auction of the vehicle if the dues are not paid within 45 days from the date of seizure or detention of the vehicle.

We scrutinised records²³ of two RTOs²⁴ and five ARTOs²⁵ between February 2011 and December 2011 and observed that there were arrears of tax/additional tax amounting to ₹ 8.32 crore in 2,220 cases for which Recovery Certificates (RCs) were issued during the period 2002 to 2011. Recovery of the outstanding dues could not be made. No evidence of regular follow up with the

revenue authorities for the recovery of these outstanding RCs was seen on file. The taxation officer of the district did not initiate any action under section 22 regarding seizure of vehicles etc against the motor vehicle owners who had defaulted on their dues. No provision for a time frame regarding issue of RCs was made in the Rules and the Department also had no system to monitor the issue of the RCs within a specified time frame. RCs were issued after three months to 17 years from the date of revenue became due. Absence of monitoring mechanism led to non-realisation of revenue amounting to ₹ 8.32 crore as shown in table below:

Sl. No.	Name of office	No of RCs issued	Amount of RCs (₹ in lakh)	Time taken in issuing RCs
1.	RTO Faizabad	914	189.04	10 months to 17 years
2.	RTO Gorakhpur	490	205.63	7 months to 12 years
3.	ARTO Kushinagar	293	313.94	5 months to 10 years
4.	ARTO Mahrajganj	48	23.23	3 months to 8 years
5.	ARTO Ramabai Nagar (Kanpur Dehat)	200	17.73	Not mentioned
6.	ARTO Shahjahanpur	33	10.57	1 year to 8 years
7.	ARTO Siddharth Nagar	242	71.76	Not mentioned
Total		2220	831.90	

After we pointed this out (between July 2011 and January 2012), the Department replied in November 2012 that in three ARTOs²⁶ ₹ 8.76 lakh was recovered in 36 cases out of 568 cases and agreed that the action for recovery will be taken. The reply regarding the other districts is awaited (February 2013).

²³ Tax register, arrear register, recovery certificate issue register and vehicles files.

²⁴ RTO: Gorakhpur and Faizabad.

²⁵ ARTO: Kushinagar, Shahjahanpur, Siddharth Nagar, Ramabai Nagar (Kanpur Dehat) and Mahrajganj.

²⁶ ARTO: Kushinagar, Shahjahanpur and Siddharth Nagar.

4.12 Non-levy of tax and fines on the tractors registered for agricultural purposes which were engaged in commercial activities

Under the provisions of the UPMVT Act, (as amended on 28 October 2009) no transport vehicle shall be used in any public place in Uttar Pradesh unless a tax prescribed under sub section (2) of Section 4 of the Act has been paid. The rate of tax applicable to tractor used for commercial purposes other than agricultural purposes, for every metric ton of the unladen weight of the vehicle or part thereof is ₹ 500 per quarter or ₹ 1,800 per annum. Further, Section 192-A of the MV Act, postulates that whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of sub-section (1) of Section 66 or in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall be punishable for the first offence with a fine of ₹ 2,500 which was raised to ₹ 4,000 w.e.f. 25 August 2010. (As per UP *Shashan* Notification No 1452/30-4-10-172/89 dated 25 August 2010).

We scrutinised the records²⁷ of one RTO²⁸ and 11 ARTOs²⁹ between July 2011 to March 2012 and observed that during the period April 2008 to January 2012, in 533 cases, tractors registered for agricultural purposes were engaged in the commercial activities of transporting sub-mineral (Sand and ordinary soil). The fact was verified by the MM-11 issued by the respective District Mines Officers. Department did not initiate any action for levy and collection of tax as commercial vehicles and also did

not impose the necessary fines for violation of act. This inaction led to non-realisation of tax and fines of ₹ 29.05 lakh³⁰ as detailed in **Appendix-XIII**.

After we pointed this out (between October 2011 to April 2012), the Department forwarded the replies of the RTOs/ARTOs (November 2012) which stated that an amount of ₹ 1 lakh has been realised in case of 25 vehicles against notices issued in two RTO/ARTOs. Other units stated that challans of these vehicles were not done hence compounding fees can not be imposed/realised.

The reply of the units that since these vehicles were not challaned, the compounding fee cannot be realised shows that the Department has not appreciated the fact that these vehicles were clearly engaged in commercial activities³¹ and hence should be registered as such.

²⁷ Registration register, tax register and Prosecution Books, Crime and Seizure Registers.

²⁸ RTO Allahabad.

²⁹ ARTO Mathura, Unnao, Hardoi, Raebareli, Lucknow, Auraiya, Rampur, Mainpuri, Siddharth Nagar, Sant Kabir Nagar and Shravasti.

³⁰ ₹ 5.33 lakh tax and ₹ 23.72 lakh fine.

³¹ As per documents available at the offices of DMOs.

4.13 Non realisation of permit fee on school vehicles

Under the provisions of the UPMVT Act, as amended in 2000 in respect of notification No. 27/2000 of Government of India, no Educational Institute shall use vehicles for transportation of students without proper permit. Further, Rule 125 of the UPMVT Rules, (as amended on 31 December, 2010) prescribes ₹ 3,750 for issue of new permit, its renewal and countersignature.

We scrutinised the records³² of four RTOs³³ and eight ARTOs³⁴ between August 2011 and March 2012 and observed that during the period January 2010 to February 2012, 421 school

vehicles were plying in sub regions without permit. This resulted in non realisation of permit fees of ₹ 15.79 lakh.

After we pointed this out (November 2011 to April 2012), the Department stated in November 2012 that permit fees of ₹ 4.38 lakh have been realised from 108 vehicles and action initiated in other cases. Further report on recovery is awaited (February 2013).

4.14 Non/short realisation of penalty from vehicles registered late

As per Section 9 (1)(i) of the UPMVT Act, the tax payable for registration of a private vehicle shall be paid at the time of the registration of vehicle under the Motor Vehicles Act, 1988.

As per Section 9 (3) where the tax or additional tax in respect of a Motor Vehicle is not paid within the period specified in sub-section (1) in addition to the tax or the additional tax due, a penalty at such rate not exceeding the due amount, as may be prescribed, shall be payable. Further, as per Rule 24 of the UPMVT Rules, where the tax or additional tax in respect of a motor vehicle is not paid within the period specified in sub-section (1) of section 9, a penalty at the rate of five *per cent* of the due tax/additional tax, per month or part thereof shall be payable.

As per Section 43 temporary registration may be given to a vehicle which shall be valid only for a period not exceeding one month, and shall not be renewable except a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month.

We scrutinised the records³⁵ of two ARTOs³⁶ between November 2011 and April 2012 and observed that during the period November 2010 to March 2012, 173 private vehicles were brought for registration to concerned ARTOs. They were registered one to 98 months after the date of their purchase. The transport authorities failed to detect this and impose/realise an amount of ₹ 7.99 lakh payable as penalty as per rule for paying the belated one-time tax. This resulted in

³² Vehicles files, permit register and vehicles database.

³³ RTO: Saharanpur, Allahabad, Agra and Banda.

³⁴ ARTO: Raebareli, Etah, Auraiya, Unnao, Bagpat, Fatehpur, Shahjahanpur and Pratapgarh.

³⁵ Tax register, vehicles files and vehicles database, receipt books and cash book.

³⁶ ARTO: Chandauli and Bahraich.

non/short realisation of Government revenue to the tune of ₹ 7.99 lakh³⁷.

After we pointed this out (December 2011 to May 2012) the Department stated (November 2012) that as per instruction issued by the Transport Commissioner dated 09 June 2011, fine payable for late in temporary registration should be realised at the time of permanent registration.

We do not agree with the reply because as per Rule 24 of UPMVT Rules, 1998, fine for late registration was to be imposed/realised at the time of permanent registration of a vehicle and the order of Transport Commissioner dated 09 June 2011 is clarificatory.

4.15 Non-realisation of revenue due to non renewal of authorisation of National Permit

Central Motor Vehicles Rules, 1989 was amended vide Government of India's notification no. G.S.R. 386-E dated 07 May 2010 to implement the new national permit system. Under this scheme a composite fee of ₹ 15,000 per annum along with renewal fee for authorisation amounting to ₹ 1,000 is to be deposited in the Government account for authorisation of national permit.

As per orders of Transport Commissioner dated 12 February 2000, in case the National Permit is not renewed within 15 days of its expiry, action to cancel the said permit under Section 86 of MV Act, 1988 must be initiated.

We scrutinised the records³⁸ of three RTOs³⁹ between July 2011 and March 2012 and observed that during the period November 2010 to February 2012, 73 goods vehicles were plying on road without renewal of authorisation of national permit even after completion of validity period. This resulted in non-realisation of renewal and composite fees

amounting to ₹ 11.68 lakh and unauthorised operation of these vehicles. The Department also did not take action as prescribed in the Transport Commissioner's order of February 2000.

After we pointed this out (October 2011 and April 2012), the Department stated in November 2012 that permits of 15 vehicles have been cancelled, 10 permits have been renewed after realising renewal fees and notices have been issued in 30 other cases. Action⁴⁰ in other cases is awaited (February 2013).

³⁷ Calculated after giving benefit of validity period of temporary registration (one month from the date of purchase), as specified under Section 43 of MV Act, 1988.

³⁸ Vehicles files, permit register, receipt books and cash-book.

³⁹ RTO: Allahabad, Lucknow and Banda.

⁴⁰ As prescribed under section 86 of MV Act, 1988.

4.16 Non-realisation of revenue due to vehicles plying without certificate of fitness

Under the provisions of the MV Act and the CMV Rules made thereunder, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness. A fitness certificate granted in respect of a newly registered transport vehicle is valid for two years and is required to be renewed every year. Thereafter payment of the prescribed fee of ₹ 200, ₹ 300 and ₹ 400 and fee of ₹ 100 is required to be made for issuing certificate of fitness for light, medium and heavy vehicles respectively. In case of default, an additional amount equal to the prescribed fee is also leviable. Plying a vehicle without certificate of fitness is compoundable under the MV Act at the rate of ₹ 2,500 per offence.

We scrutinised the records⁴¹ of five RTOs⁴² and 24 ARTOs⁴³, and observed that 16,285 vehicles plying between February 2011 and March 2012 without valid fitness certificates and only the tax due was realised. There is no system in the Department to check whether there is a valid fitness certificate while accepting payment of tax due. Plying of

such vehicles compromised public safety. These vehicles were liable for levy of fitness fee of ₹ 1.03 crore and imposition of penalty of ₹ 4.07 crore.

After we pointed this out the Department replied in November 2012 that in 2,735 cases of 21 RTOs/ARTOs ₹ 13.97 lakh has been realised and in the remaining cases action has been initiated. We have not received final position of recovery (February 2013).

Observations on Expenditure

4.17 Unproductive expenditure on pay and allowances

During scrutiny (April 2011) of records⁴⁴ of ARTO Mahrajganj, we observed that no vehicle was available in the office since its inception. The Department posted a driver (September 2007) to ARTO Mahrajganj by transferring him from another office and incurred ₹ 6.29 lakh on his pay and allowances without any work during the period from September 2007 to March 2011.

Thus, the amount incurred on the pay and allowances of the driver without having a vehicle with the office was unproductive.

We reported the matter to the Department and the Government (August, 2011). We have not received any reply (February 2013).

⁴¹ Tax register, vehicles files, vehicles database, receipt books and cash-book.

⁴² RTO: Kanpur Nagar, Gorakhpur, Meerut, Jhansi and Lucknow.

⁴³ ARTO: Ambedkar Nagar, Siddharth Nagar, Mahoba, Hardoi, Firozabad, Kanpur Dehat, Gautam Budh Nagar, Aligarh, Bulandshahar, Mathura, Bagpat, Bijnore, Kushinagar, Mainpuri, Lalitpur, Kannauj and Fatehpur. Mahrajganj, Chitrakoot, Shahajahanpur, Etawah, Deoria, Raebareilly and Bahraich.

⁴⁴ Assets and Dead Stock Register, Transfer and Posting file, Pay Bill Register and Treasury Statement.

CHAPTER-V STAMPS AND REGISTRATION FEES

5.1 Tax administration

Receipts from Stamps and Registration Fees in the State are regulated under the Indian Stamp Act (IS Act) 1899, Indian Registration Act (IR Act) 1908, the UP Stamp (Valuation of Property) (SVOP) Rules, 1997 and circulars and orders of the Government of Uttar Pradesh, issued from time to time. Stamp duty is leviable on the execution of instruments at the prescribed rates. Evasion of stamp duty is commonly effected through undervaluation of properties, non-presentation of documents in the office of the registering authority and non/short payment of stamp duty by the executants on the documents submitted before the registering authorities.

The determination of policy, monitoring and control at the Government level is done by the Principal Secretary, *Kar evam Nibandhan*. The Inspector General, Registration (IGR) is the head of the Stamps and Registration Department and exercises overall superintendence and control over the working of the Department. He is assisted by an Additional Inspector General (Addl. IG), 24 Deputy Inspector Generals (DIGs) at the divisional level, 96 Assistant Inspector Generals (AIGs) at the district level and 354 Sub-Registrars (SRs) at the district and *tehsil* level.

5.2 Cost of collection

The gross collection from Stamps and Registration Fees, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2009-10, 2010-11 and 2011-12 along with the all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned below:

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection for the previous year
Stamps and registration fees	2009-10	4,562.23	120.73	2.65	2.77
	2010-11	5,974.66	145.46	2.43	2.47
	2011-12	7,694.40	149.10	1.94	1.60

Source: Information provided by the Department and Finance Accounts of respective years

It can be seen from the above table that the cost of collection of Stamps and Registration Fees was below the all India average during 2009-10 and 2010-11 whereas it was higher during the year 2011-12.

5.3 Revenue impact of audit

5.3.1 Position of Inspection Reports

We had reported cases of non/short assessment of stamp duty and registration fees due to misclassification of documents and undervaluation of properties and other irregularities involving ₹ 37.43 crore through Inspection Reports during the period 2008-09 to 2010-11. Of these, as on December 2011, the

Department has accepted observations of ₹ 49.08 lakh and recovered ₹ 41.48 lakh. The details are shown below:

(₹ in lakh)

Year of Inspection Report	Total money value	Accepted money value	Recovery made
2008-09	1074.00	7.73	0.13
2009-10	1496.00	3.56	3.56
2010-11	1173.00	37.79	37.79
Total	3743.00	49.08	41.48

The Department should make efforts so that money value involved in accepted cases is recovered without delay.

5.3.2 Position of Audit Reports

We had reported cases of non/short assessment/realisation of stamp duty and registration fees and other irregularities involving ₹ 15.09 crore in the Audit Reports for the years 2008-09 to 2010-11. Of these, the Department has accepted observations of ₹ 6.67 crore and recovered ₹ 10.13 lakh. The details of cases accepted and recovered are mentioned below:

(₹ in lakh)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2008-09	404.68	0.00	0.00
2009-10	68.61	0.00	0.00
2010-11	1036.00	666.91	10.13
Total	1509.29	666.91	10.13

The Department should make efforts so that money value involved in accepted cases is recovered without delay.

5.4 Results of audit

Our test check of the records of the offices of Stamps and Registration Department, conducted during the year 2011-12 revealed cases of short levy of Stamp duty and registration fees due to misclassification of documents/undervaluation of properties and other irregularities amounting to ₹ 460.01 crore in 881 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1	Working of Stamps and Registration Department (A Performance Audit)	1	415.42
2.	Short levy of stamp duty and registration fees due to misclassification of documents	156	5.01
3.	Short levy of stamp duty and registration fees due to undervaluation of properties	213	14.59
4.	Other irregularities	511	24.99
Total		881	460.01

During the year 2011-12, the Department recovered ₹ 4.64 lakh, involved in 34 cases of short levy of Stamp Duty and Registration Fees due to misclassification of documents/undervaluation of properties and other irregularities, pointed out by us in the earlier years.

A Performance Audit on “**Working of Stamps and Registration Department**” involving an amount of ₹ 415.42 crore is mentioned in the succeeding paragraphs.

5.5 Performance Audit on “Working of Stamps and Registration Department”

Highlights

- Non-levy of Stamp Duty and Registration Fees on sale deeds resulted in non-realisation of revenue of ₹ 23.13 crore.
(Paragraph 5.5.12)
- There was loss of ₹ 12.48 crore of Stamp Duty and Registration Fees on different kinds of leases.
(Paragraph 5.5.16)
- Undervaluation of properties resulted in short levy of stamp duty and registration fees of ₹ 19.69 crore.
(Paragraph 5.5.19)
- Misclassification of documents resulted in short levy of stamp duty of ₹ 44.79 lakh.
(Paragraph 5.5.20)
- Loss of Stamp Duty due to irregular exercise of power by Collector resulted in loss of revenue of ₹ 2.81 crore.

(Paragraph 5.5.22)

5.5.1 Introduction

Stamp Duties other than duties or fees collected by means of judicial stamps is a subject included in the Concurrent List of the Seventh Schedule of the Constitution of India. The Indian Stamp Act, 1899 and the State Acts impose duty on various instruments at the rates specified therein. Such duties are paid by executors of instruments by either using impressed stamp paper of proper denomination or by affixing stamps of proper denomination. The State Governments have made rules for the purpose of the Act by virtue of powers vested in them. These rules lay down the detailed procedure for determination and collection of Stamp Duty. The Indian Registration Act, 1908 and rules made thereunder by the State Governments, broadly outline the system of assessment and collection of Registration Fees. The Sub-Registrar or the registering authority examines the documents presented before them to see that they have been presented within the time allowed and that the instruments have been properly stamped as required under the Indian Stamp Act.

Receipts from Stamps and Registration Fees is the third largest source of revenue for the Government of Uttar Pradesh after Value Added Tax and State Excise. The revenue of the Department has gone up from ₹ 972.70 crore in 1997-98 to ₹ 5974.66 crore in 2010-11. This increase in receipts led to the conducting of this Performance Audit.

5.5.2 Organisational setup

Determination of policy, monitoring and control at the Government level is done by the Principal Secretary, *Kar evam Nibandhan*. The Inspector General of Registration (IGR)/Commissioner of Stamps/Joint Secretary, Board of Revenue (BOR) is the administrative head of Stamps and Registration Department. He is assisted by four Additional Inspector Generals (Addl. IGs), 24 Deputy Inspector General's (DIGs) of Registration/Deputy Commissioner of Stamp at divisional level, 96 Assistant Inspector General's (AIGs) of Registration/Assistant Commissioner of Stamps, 72 District Stamp Officers (DSO)/District Registrars (DRs) at district level and 354 Sub-Registrars Officers (SROs) at sub district (*tehsil*) level. The SROs is the place where all the registration works take place and having the maximum interface with the common public.

5.5.3 Audit objectives

This Performance Audit was conducted with a view to ascertain whether:

- the registering authorities were discharging their functions of levy and collection of Stamp Duty and Registration Fees in accordance with the provisions of the Act, Rules, Circulars, Government and Departmental orders;
- a suitable internal control mechanism exists for levy and realisation of stamp duty and registration fees; and
- a system exists in the Department to check the document not presented in the office of the registering authority.

5.5.4 Audit criteria

We conducted the Performance Audit with reference to the provisions of following:

- Indian Stamp Act (IS Act) 1899;
- Indian Registration Act (IR Act) 1908;
- The UP Stamp (Valuation of Property) Rules, 1997 (SVOP);
- UP Urban Planning and Development Act, 1973 (UP UPD Act);
- UP Industrial Development Act, 1976 (UPID Act);
- UP *Zamindari* Abolition and Land Reforms Act, 1950 (UPZA&LR Act);
- Circulars and orders of the Government of Uttar Pradesh, issued from time to time.

The relevant provisions of the Acts/Rules and orders have been cited in the paragraphs concerned.

5.5.5 Sampling and audit methodology

The Performance Audit was conducted in the offices of 58 Sub Registrars¹ (SRs) of 24 districts² out of 72 districts in the State based on the stratified statistical sampling³ of revenue collection of the District. Besides, information from the offices of Inspector General (Registration) (IGR), Assistant Inspector General (AIG), District Registrar (DR), District Stamp Officer (DSO), *Nagar Nigam/Palika, Awas Vikas Parishads*, Development Authorities, Stations of Uttar Pradesh State Road Transport Corporation (UPSRTC), Railway Stations, Irrigation Department, Audit wing of Indirect Taxes, Banks, Automatic Teller Machines (ATMs), etc. were also collected. Performance audit was conducted from July 2011 to April 2012 and period covered was 2008-09 to 2011-12. Cases detected during local audit and not included in the previous years' reports have also been included in this report.

The Performance Audit on “Working of Stamps and Registration Department” revealed a number of system and compliance deficiencies as mentioned in the succeeding paragraphs.

5.5.6 Trend of receipts

5.5.6.1 Revenue position

The tax revenue raised by the Stamps and Registration Department as a part of the total tax revenue of Government of Uttar Pradesh for the period 2008-09 to 2011-12 was as mentioned below:

(₹ in crore)					
Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12
i.	Tax revenue	28,658.97	33,877.60	41,355.00	52,613.43
ii.	Stamp Duty and Registration Fees	4,138.27	4,562.23	5,974.66	7,694.40
iii.	Percentage of increase from previous year	4.06	10.24	30.96	28.78
iv.	Percentage of ii to i	14.44	13.47	14.45	14.62

Source: Finance Accounts of respective years and information provided by the Department

It is seen that although there was gradual increase in Stamp Duty and Registration Fees over previous years, but pace of increase ranged from 4.06 *per cent* in the year 2008-09 to 28.78 *per cent* in the year 2011-12. The percentage of Stamp Duty and Registration Fees to total state revenue showed marginal fluctuations.

¹ Agra (5), Aligarh (3), Allahabad (2), Barabanki (1), Basti (1), Bulandshahar (2), Chitrakoot (1), Etah (1), Etawah (1), Firozabad (2), Gautam Budh Nagar (4), Ghaziabad (5), Gorakhpur (2), Jhansi (2), J P Nagar (1), Kannauj (1), Kanpur Nagar (3), Lucknow (5), Mathura (2), Meerut (4), Moradabad (2), Muzaffarnagar (2), Saharanpur (3) and Varanasi (3).

² Agra, Aligarh, Allahabad, Barabanki, Basti, Bulandshahar, Chitrakoot, Etah, Etawah, Firozabad, Gautam Budh Nagar, Ghaziabad, Gorakhpur, Jhansi, J P Nagar, Kannauj, Kanpur Nagar, Lucknow, Mathura, Meerut, Moradabad, Muzaffarnagar, Saharanpur and Varanasi.

³ **High risk : (100 % coverage):** where the revenue collection of the district was above ₹ 125 crore annually.
Medium risk : (30% coverage): where the revenue collection of the district ranged between ₹ 25 and ₹ 125 crore.
Low risk : (10 % coverage): where the revenue collection of the district was below ₹ 25 crore.

5.5.6.2 Variations between budget estimates and actuals

Para 25 of the Uttar Pradesh Budget Manual stipulates that in preparation of the budget, the aim is to achieve as close an approximation to the actual as possible. It is, therefore, essential that not merely should all items of revenue and receipts that can be foreseen be provided but also only so much and no more, should be provided as is expected to be realised, including past arrears in the budget year.

The budget estimates and actual receipts under the head (0030) Stamps and Registration Fees- Receipts from Non-Judicial Stamp are given below:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variance (+/-)	Percentage of variance
2008-09	4,600	4,138.27	(-) 461.73	(-) 10.04
2009-10	4,800	4,562.23	(-) 237.77	(-) 4.95
2010-11	5,000	5,974.66	(+) 974.66	(+) 19.49
2011-12	6,612	7,694.40	(+) 1,082.40	(+) 16.37

Source: Information provided by the Department and Finance Accounts of respective years.

It will be seen that variation between Budget Estimates and actuals ranged between (-) 10.04 *per cent* and 19.49 *per cent*.

The Department stated that no system existed in the Department to monitor such shortfall or increase.

We recommend that the budget estimates be framed as per provisions of the budget manual and the Department should examine reasons for variations.

5.5.6.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 331.44 crore. The details of arrears outstanding for more than five years were not available with the Department. The following table depicts the position of arrears of revenue during the period 2008-09 to 2011-12.

(₹ in crore)

Year	Opening balance of arrears	Arrears increased during the year	Amount collected during the year	Closing balance of arrears
2008-09	213.24	448.88	109.07	553.05
2009-10	553.05	171.65	129.87	594.83
2010-11	594.83	(-) 3.03	132.16	459.64
2011-12	459.64	(-) 2.33	125.87	331.44

Source: Figures provided by the Department.

We noticed that the arrears of revenue, as on 31 March 2012, in respect of the Stamp Duty and Registration Fees, amounted to ₹ 331.44 crore. Out of this, ₹ 262.46 crore were stayed by the Hon'ble Courts and remaining amount of ₹ 68.98 crore were required to be recovered by the Department. However, the Department could not furnish the data regarding the total number of cases involved in respect to these arrears.

We recommend that the Department may consider taking appropriate steps for early recovery of the arrears.

5.5.7 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Stamps and Registration Department in providing necessary information and records for Audit. An entry conference was held with the Department on 4 August 2011 and the scope and methodology for conducting the Performance Audit were discussed. The Department was represented by the Inspector General (Registration) (IGR) and other officials. Draft Performance audit report was forwarded to the Government and the Department (June 2012). Exit conference was held in two phases with the Government and the Department on 19 July 2012 and 27 July 2012 respectively to discuss the audit findings. The Government was represented by Secretary, *Kar Avam Nibandhan* and Department was represented by the IGR and other officials.

The replies received during the exit conference and at other points of time have been appropriately included in the relevant paragraphs.

Audit findings

System deficiencies

5.5.8 Internal inspection

Inspection is an important part of the internal control mechanism for ensuring proper and effective functioning of a Department and for timely detection of loopholes and to stop their recurrences.

The Special Secretary, Government of Uttar Pradesh vide his instructions dated 20 August 2008 fixed the periodicity of inspection for each SROs to be conducted by the DIG and AIG. The periodicity ranged between four months and six months.

We test checked the records⁴ of 58 SROs⁵ and found that in 47 SROs there was 62 per cent shortfall in inspection by AIG and in 46 SROs there was 69 per cent shortfall in inspection by

DIG with respect to the prescribed number of inspections during the period from 2008-09 (September 2008) to 2011-12. A summarised position is as under:

Sl. No.	Category of Officer	Number of Inspections			Percentage of shortfall
		Due	Carried out	Shortfall	
1	Deputy Inspector General (Registration)	318	97	221	69.49
2	Assistant Inspector General (Registration)	482	184	298	61.83
	Total	800	281	519	64.88

⁴ Inspection records.

⁵ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 1, 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 1, 2, 3, 4, 5), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut (SR 1, 2, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2, 3) and Varanasi (SR 1, 2, 4).

The shortfall in inspections ranged from 62 *per cent* to 69 *per cent* at different levels during these years. The maximum shortfall was recorded at the level of Deputy Inspector General (Registration). Contrary to this, 11 AIGs (R)⁶ and 10 DIGs (R)⁷ have conducted more than their specified quota of inspection and only two DIGs (R)⁸ conducted their specified quota of inspection. No system had been devised at the Government level or at Department level by way of returns, for monitoring the compliance of the prescribed norms and progress of the inspections. We found that no norms have been fixed for inspection by IGR at any level. We further found that no system existed for inspection of office of District Stamp Officer⁹ by any of the officers of Stamps and Registration Department. Due to this, cases of short levy of interest on delayed payment of stamp duty and short levy of penalty on short payment of stamp duty remained undetected. Such cases found by us are discussed in paragraph numbers 5.5.26.1 and 5.5.26.2 of this Report.

After we pointed this out, the Department stated that due to other obligations imposed by the administration over AIGs and DIGs such as supervision of mid day meal, quality checking of construction of *Ambedkar Gram Yojna* etc., inspection could not be carried out as per norms. We do not agree with the reply as inspections are an important aspect of internal control and additional responsibilities of AIGs and DIGs should not adversely affect basic Departmental duties.

5.5.9 Internal audit

The internal audit is a vital component of control mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

Internal Audit Wing was established in the Department on 26 April 1991. Work of Internal audit was allotted to Board of Revenue. Internal audit was

however discontinued from 2 March 2009 and a new setup named as Technical Audit Cell (TAC) was established vide Government notification¹⁰ of July 2008.

We noticed that the norms of Internal audit as performed by Board of Revenue and as allocated to TAC differ mainly in two aspects. For TAC the norms of test check is five *per cent* of the instruments registered in the Department and deeds of higher money value. However the number of such high value deeds is left unspecified. As per the norms laid down for the Internal Audit Wing of Board of Revenue all records maintained and 25 *per cent* of instruments registered in the Department were required to be test checked.

The details of overall performance of TAC was as shown in the following table:

⁶ Aligarh (SR 1, 2, 3), Allahabad (SR 1), Etah (SR Sadar), Firozabad (SR 1), Gautam Budh Nagar (Noida 3), Jhansi (SR 1, 2), Meerut (SR 3) and Varanasi (SR 2).

⁷ Aligarh (SR 1, 3), Etah (SR Sadar), Etawah (SR Sadar), Gautam Budh Nagar (Noida 3), Jhansi (SR 1), Kanpur (SR 1, 2), Mathura (SR 2) and Meerut (SR 4).

⁸ Meerut (SR 2) and Saharanpur (SR 1).

⁹ DSO: ADM (F & R) who is also nodal officer regarding stamp cases and control of stamp papers (Sale and refund).

¹⁰ No. 3124/XI-5-2008-312 (27)-2008 dated 11 July 2008.

Period	Number of units due for technical audit ¹¹	Number of units planned for technical audit ¹²	Number of units actually audited	Shortfall in reference to unit due		Shortfall in reference to unit planned	
				Number	Percentage	Number	Percentage
2008-09	498	281	267	231	46.39	14	4.98
2009-10	498	331	299	199	39.96	32	9.67
2010-11	498	237	228	270	54.22	9	3.80
2011-12	498	250	243	255	51.20	7	2.80
Total	1992	1099	1037	955	39.96 to 54.22	62	2.80 to 9.67

Source Column 2 As per norms in GO
Column 3 & 4 Information furnished by the Department.

After we pointed out this shortfall, the Department stated that Technical Audit Cell has been set up in August 2008 through which all the SROs have been inspected yearly. The reply is factually incorrect as during last four years against total number of 1992 offices to be audited, only 1037 SROs were audited and the shortfall ranged between 40 and 54 *per cent*. Internal Control was compromised as is evident from the cases of revenue loss as pointed out during our test check and discussed in the succeeding paragraphs.

5.5.10 Shortfall in spot verification

As per Government order dated August 2008 the following norms have been fixed for spot verification of instruments executed by SRs every month:

Sl. No.	Designation	Kind of Document	Number of documents required to be verified on the spot
1.	ADM (FR)	Important documents with highest money value accordingly	25
2.	Assistant Inspector General (Registration)	Important documents with highest money value accordingly	50

In the scrutiny of records related with spot verification of offices of 58 SRs¹³, 13 AIGs¹⁴ and 10 DSOs¹⁵ we found that against the total 35,075 spot

¹¹ As per norms of GO (No. Ka Ni 5-3271/11-2008-312(127)/2008 dated 28 August 2008.

¹² As per audit plan formulated by the Department.

¹³ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 1, 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 1, 2, 3, 4, 5), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut (SR 1, 2, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2,3) and Varanasi (SR 1,2, 4).

¹⁴ Agra, Basti, Chitrakoot, Etah, Etawah, Gautam Budh Nagar, Gorakhpur, Jhansi, J P Nagar, Kanpur, Mathura, Meerut and Varanasi.

¹⁵ Agra, Allahabad, Barabanki, Basti, Gautam Budh Nagar, Kanpur, Mathura, Moradabad, Saharanpur and Varanasi.

verifications required to be conducted, only 16,314 spot verifications were carried out by the DSOs/AIG and 18,761 remain unverified. The details are shown in following table:

Sl. No.	Designation	Number of document required to be verified for spot verification	Number of month under objection	Total Number of document required to be spot verified during the period between 2008-09 to 2011-12	Total number of spot verification carried out	Short fall in spot verification	Percentage of Short fall in spot verification
1.	ADM (FR)	25	36-42	9,875	3,131	6,744	68.29
2.	AIG (Registration)	50	36-43	25,200	13,183	12,017	47.69
	Total	25-50	36-43	35,075	16,314	18,761	53.49

Contrary to this, 11 AIG (R)¹⁶ and three DSOs¹⁷ conducted 28.53 and 35.90 *per cent* more than their specified quota of spot verification respectively.

Due to 53.49 *per cent* shortfall in spot verification, the Departmental revenue was compromised. We have discussed some cases related to this aspect under paragraph no. 5.5.19 of this Report.

5.5.11 Non-disposal of Stamp cases within prescribed period of three months

Principal Secretary vide letter no 1943/11-5-2010-500(13)/2010 dated 13 May 2010 addressed to all District Magistrate regarding quick disposal of stamp cases emphasised that all the stamp cases should be disposed off within maximum period of three months from the date of filing of a case. For this purpose a work plan should be chalked out for timely disposal of stamp cases.

In the scrutiny of the records¹⁸ of 10 District Stamp Officers¹⁹, we found that 105 stamp cases were found pending for more than three months against the orders of the Government. The delay in these cases ranged between four and 94 months.

Thus, due to delay on the part of Department in deciding the stamp cases, liability of huge interest comes on the parties. Few specific instances are discussed under paragraph no. 5.5.26.1 of this Report.

After we pointed this out, the Department replied that delay in disposal of stamp cases was due to the fact that this is a quasi judicial procedure wherein lawyers are involved and parties may seek dates/time for reply or presentation of evidence, hence it could not be avoided at all. However, AIG Bulandshahar has promised for early disposal of stamp cases in future.

¹⁶ Aligarh, Allahabad, Barabanki, Bulandshahar, Firozabad, Ghaziabad, Kannauj, Lucknow, Moradabad, Muzaffarnagar and Saharanpur.

¹⁷ Chitrakoot, J P Nagar and Meerut.

¹⁸ *Missil Bund* Register.

¹⁹ Agra, Aligarh, Basti, Firozabad, Ghaziabad, Gautam Budh Nagar, Gorakhpur, Lucknow, Mathura and Moradabad.

5.5.12 Non levy of Stamp duty and registration fees due to non registration of properties

Under the provisions of Section 17 of the Registration Act 1908, transfer of immovable property with or without any consideration is compulsory for registration.

Under the IS Act, stamp duty on a deed of conveyance is chargeable either on the market value of property or on the value of consideration

setforth therein, whichever is higher. As per the SVOP Rules, the Collector of a district after following prescribed procedure fixes the minimum market value of the land/properties locality-wise and category-wise in the district for the purpose of levying stamp duty on instrument of transfer of any property.

In the scrutiny of records²⁰ of Irrigation Department²¹, we noticed that in 18 cases, possession of 8.87 lakh square metre of land involving consideration of ₹ 462.33 crore were handed over to the New Okhla Industrial Development Authority (NOIDA) of Gautam Budh Nagar on 19 January 2009, 29 May 2009 and 17 June 2010 respectively. Against these ₹ 74.76 crore were paid by the NOIDA authorities to the Irrigation Department so far. Though as per Registration Act, registration of the said document was necessary, neither the Irrigation Department nor the registering authority initiated any action to get these documents registered. This resulted in non-levy of stamp duty of ₹ 23.12 crore and registration fees of ₹ 90,000.

After we pointed this out in audit, the Department stated that after taking sale letter in favour of NOIDA authority, further action would be taken. We do not agree because the transfer of the said land and possession by NOIDA authorities has already taken place and as per Section 17 of IR Act, the registration is compulsory. The Department has not taken any step to get the same registered despite a lapse of more than two years.

²⁰ Records related with land of Irrigation Department.

²¹ Headwork's Division Agra Canal, Okhla New Delhi and Irrigation Construction Division Ghaziabad.

5.5.13 Non existence of provision for levy of additional stamp duty

UP Urban Planning and Development Act, 1973 (UPUPD Act) extends to the whole of the Uttar Pradesh excluding cantonment areas and lands owned, requisitioned or taken on lease by the Central Government for the purpose of defence. Under the provisions of UPUPD Act, if the transferred property is situated in any development area, additional stamp duty at the rate of two *per cent* on the value of property is leviable in addition to stamp duty chargeable under the provisions of IS Act. Under the provisions of UPUPD Act, if in the opinion of the State Government, any area within the State, requires to be developed according to plan, it may by notification in the gazette, declare the area to be a development area.

The Government had developed certain areas like NOIDA, under the UP Industrial Development Act 1976 (UPID Act). As per dream housing projects about 35.66 *per cent* area of NOIDA is being developed as residential areas. The Government did not declare/notify these areas as development areas under the UPUPD Act, whereas in the same geographical area the residential colonies

developed by the Ghaziabad Development Authority (GDA), Uttar Pradesh *Avas Vikas Parishad* (UPAVP) and Uttar Pradesh State Industrial Development Corporation (UPSIDC) scheme come under the UPUPD Act. In the absence of the enabling notification, the registering authorities could not levy additional stamp duty on the documents registered in these areas.

During scrutiny of records related with book I of three SRs of NOIDA, we noticed that additional stamp duty was not levied on the deeds of transfer of the immovable property situated in the development areas of NOIDA executed between April 2008 and March 2012, whereas additional stamp duty was being levied in two revenue villages²² situated under the purview of above SRs. This resulted in non levy of additional stamp duty of ₹ 1106.53 crore as mentioned below:

Sl. No.	Name of unit	Amount of non-levy of additional stamp duty				Total
		2008-09	2009-10	2010-11	2011-12	
1.	Sub Registrar-I, Noida	53.84	83.21	112.94	185.34	435.33
2.	Sub Registrar-II, Noida	61.39	57.75	121.53	104.10	344.77
3.	Sub Registrar-III, Noida	55.49	35.50	76.82	158.62	326.43
		170.72	176.46	311.29	448.06	1,106.53

Due to this lacuna there is a disparity in the stamp duty paid by the people purchasing/leasing properties in area covered by the NOIDA authority vis a vis the stamp duty paid by persons purchasing/leasing properties in adjoining development areas of the same district/nearby districts which are being developed by other Development Authorities/bodies of the State.

²² Chhajarasi and Mohiuddinpur-Kanvasi.

When we pointed this out the Department has assured that it will make a request to Industrial Development Department for the same.

Government may consider bringing out a notification declaring the areas developed under the UPID Act as development areas for the purpose of levy of additional stamp duty to remove this disparity.

5.5.14 Irregularities in recovery

5.5.14.1 Irregularities in maintenance of Recovery Certificates

Under the provisions of Section 33, 35, 40 and 47 (A) of Indian Stamp Act, 1899, the Collector shall also require, along with the amount of deficit stamp duty required to be paid together with a penalty and a simple interest at the rate of one and half *per cent* per mensem on the amount of deficit stamp duty calculated from the date of execution of the instruments till the date of actual payment. If the required amount was not paid within a month, the same should be realised as arrear of land revenue under the provisions of Section 48 of Indian Stamp Act, 1899.

- In the scrutiny of records²³ of offices of 58 SRs²⁴, we found that except in four offices²⁵ all offices were unaware of their pending cases and amount involved in recovery certificates pending for recovery. Though the dues which were pending against the instruments were registered or presented in these offices, the

Department did not develop a mechanism for maintaining proper record of outstanding dues.

After this was pointed out, the Department stated that these records were not maintained at SROs and required to be maintained at offices of the District Stamp Officer. We do not agree with the reply as the Department cannot abdicate its responsibility regarding lack of control or knowledge of records at the DSO level as the DSO is also a part of the Stamps and Registration setup with defined duties and responsibilities.

- In scrutiny of the records²⁶ of the offices of 20 DSOs²⁷, we found that as on 31 March 2012 total amount and number of cases pending for recovery were not known to seven DSO²⁸. DSO Lucknow and Mathura did not know that how many cases were pending for more than 10 years, five to 10 years

²³ Pending cases register.

²⁴ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 1, 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 1, 2, 3, 4, 5), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut (SR 1, 2, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2, 3) and Varanasi (SR 1, 2, 4).

²⁵ Agra (SR 3), Ghaziabad (SR 1, 2), Meerut (SR 1).

²⁶ Recovery Certificate Register.

²⁷ Agra, Allahabad, Bulandshahar, Barabanki, Basti, Chitrakoot, Etah, Etawah, Gautam Budh Nagar, Gorakhpur, Jhansi, J P Nagar, Kanpur, Lucknow, Mathura, Meerut, Muzaffarnagar, Moradabad, Saharanpur and Varanasi.

²⁸ Agra, Allahabad, Chitrakoot, Etawah, Gorakhpur, Moradabad and Saharanpur.

and less than five years. In Gautam Budh Nagar the Department was unaware of number of cases pending for recovery.

This clearly indicates that the Department has no proper mechanism to follow up the recovery of dues in respect of stamp duty, registration fees, penalty and interest through Recovery Certificates. Though these recoveries were related with stamp cases which were filed against already purchased properties on a given address, the Department failed to develop a mechanism for maintaining proper record of dues and recoveries. The details of unrecovered RCs were available with DSOs, however the Department had no system in place to monitor progress of recovery from details available with the DSOs. We obtained the details of three highest cases of top five districts with arrears pending for recovery. The cases are as below:

(₹ in lakh)

Sl. No.	Name of District	Name of Debtor	Date of Issue of Recovery Certificate	Amount of Recovery Certificate
1	Mathura	Bijendra Singh	02/09/2002	120.22
		Rajendra Kumar Verma	12/02/2010	10.60
		Bansiwala Rialters Pvt Ltd	19/10/2010	5.56
2	Meerut	Lom and Technical Developers Pvt ltd	16/04/2010	93.49
		Manav Chaudhari	01/02/2011	27.40
		Shyam Sundar	17/02/2011	13.78
3	Jhansi	Smt Hema alias Hemlata	15/07/2011	64.23
		Asfan Khan	04/07/2006	26.75
		Smt Raj Kumari	11/12/2008	23.87
4	Gautam Budh Nagar	M/s Mafasis Ltd	08/04/2011	27.00
		Jaspal Singh	19/11/2010	25.53
		Ashok Kumar Verma	25/02/2008	1.56
5	Muzaffarnagar	Zakir Rana	20/08/2011	21.28
		TCMC Developers Ltd	30/07/2011	14.46
		Ravindra Singh	13/09/2011	8.69
Total				484.42

Further, the details of three oldest cases with reference to age wise pendency for recovery of top five districts are also shown in the table below:

(₹ in lakh)

Sl. No.	Name of District	Name of Debtor	Date of Issue of Recovery Certificate	Amount of Recovery Certificate
1	Mathura	Virendra Yadav	06/01/1960	4.98
		Bijendra Singh	02/09/2002	120.22
		Rajendra Kumar Verma	12/02/2010	10.60
2	Barabanki	Munua Ram	25/04/1997	0.07
		Mohd Shariq	21/05/1997	0.19
		Badlu Ram	28/05/1997	0.09
3	Jhansi	Gyan Singh	20/07/1997	0.18
		Anil Kumar	27/07/1998	0.17
		Surendra Kumar Srivastava	22/08/1998	0.18
4	Jyotiba Phule Nagar	Ashutosh Rastogi	08/03/1999	0.44
		Roshan Lal	15/11/1999	0.76
		Amar Singh	11/12/1999	0.79
5	Meerut	Anita Rastogi	12/07/1999	0.60
		Ashok Birmani	30/11/1999	0.54
		Sadanand	03/12/1999	0.58

These instances indicate that stamp cases have been pending since 1960. Similarly, cases with recoverable amount of more than one crore/ 50 lakh were also pending since 2002 along with liability of interest thereupon.

When we pointed these out in audit, the Department replied that instructions have been issued to all the concerned for necessary action.

5.5.14.2 Loss of stamp duty due to return of Recovery Certificates

In the scrutiny of the records²⁹ of the offices of three DSOs³⁰, we found that eight RCs of ₹ 89.44 lakh were issued by the Department for recovery of stamp duties, registration fees, penalty and interest payable thereon through the Collectors during the period between January 2009 and July 2011. But the same were returned back without any recovery with the comments that debtors were not residing on given address/house of debtor could not be traced/*mauza* was not in concerned tehsil/house of debtor has been sold. This indicates that the Department failed to locate the debtor who had already purchased properties on a given address. This shows that addresses which were given in instruments were not correct and the Department has no mechanism for tracing out the correct address of the parties and witnesses executing the instruments.

After we pointed this out the Department stated:

- that address of property will be mentioned in future; or
- process of auction will be done; or
- revised RC will be issued very shortly etc.

We recommend that Government should develop a system ensuring that recovery of stamp dues is affected well in time and property on which stamp cases remain pending should not be allowed to be disposed off without clearance of outstanding dues.

²⁹ Recovery Certificate Register.

³⁰ Etah, Jhansi and Lucknow.

Compliance Deficiencies

5.5.15 Non-levy of stamp duty due to non-registration of properties transferred by Authorities

5.5.15.1 Land transferred by Authorities

Under Section 73 (A) (1) of the IS Act where the Collector has reason to believe that any instrument chargeable to duty has not been charged at all or has been incorrectly charged with duty leviable under this Act, he or any other officer authorised by him in writing in this behalf may enter upon any premise where the Collector has reason to believe that any registers, books, records, papers, maps, documents or proceedings relating to or in connection with any such instrument are kept and inspect them and take such notes, copies and extracts as the Collector or such officer deems necessary.

Further, under the provisions of Section 17 of the Registration Act, 1908, transfer of immovable property with or without any consideration is compulsory for registration.

The IS Act do not provide for levy of interest for delay in registration of document. In the scrutiny of monthly statement of office of the AIG(R), Gautam Budh Nagar, we found that possession of 37,564 properties was handed over to the allottees by Authorities³¹. Though as per Registration Act, registration of these properties was compulsory, neither the Authorities nor the Department had initiated any action to

get these documents registered. This resulted in non-levy of stamp duty and registration fees of ₹ 312.71 crore.

5.5.15.2 Land transferred by *Awas Vikas Parishad*

In the scrutiny of records³² of 11 offices of *Awas Vikas Parishad*³³, we noticed in 844 cases that possession of properties involving consideration of ₹ 9.41 crore were handed over to the allottees between March 1976 and December 2010. Though as per Registration Act, registration of these properties was compulsory, neither the *Awas Vikas Parishad* nor the registering authorities initiated any action to get these documents registered. This resulted in non-levy of stamp duty of ₹ 63.46 lakh and registration fees of ₹ 10.80 lakh as shown in **Appendix-XIV**.

After we pointed this out, the Department replied that due to lack of penal provision for persons violating Section 17 of IR Act, the registration of the said documents could not be executed. However the Department is making their sincere efforts for the execution of these documents. Regarding non levy

³¹ New Okhla Industrial Development Authority (NOIDA), Greater NOIDA, Yamuna Express-way Industrial Development Authority (YEIDA) and Uttar Pradesh Industrial Development Corporation (UPSIDC).

³² Property transfer register.

³³ Agra, Ballia, Bulandshahar, Firozabad, Gazhipur, Gorakhpur, Jhansi, Meerut, Mirzapur, Muzaffarnagar and Varanasi.

of interest, Department stated that interest is not chargeable on delayed registration of document.

We recommend that the Government may ensure compliance of codal provisions and consider incorporating a provision for levy of interest on delayed registry cases to ensure that such delays are avoided and Government receives the Stamp duty in time.

5.5.16 Loss of Stamp duty on different kind of leases

Under the provisions of Section 17 of the Registration Act, 1908, leases of immovable property from year to year or for any term exceeding one year i.e with period of more than one year is required to be compulsorily registered. Section 18 of the above Act provides that leases of immovable property for any term not exceeding one year is optional for registration. Article 35 of Schedule I B of IS Act defines the rates of Stamp duty to be paid for different types of leases for different periods.

Section 2 (16) of the IS Act defines the different types of leases. Lease means transfer of power of use of immovable property from one person to another person with any definite or indefinite period in lieu of payment of any consideration or promise of payment. Explanation 6 (c) (i)

defines that any instrument by which tolls of any description are let, comes under the purview of lease. But IS Act does not provide any exemption of Stamp duty where registration is optional.

5.5.16.1 Leases executed up to one year

Under the provisions of Article 35 of schedule 1 B of IS Act, Stamp duty on lease upto one year is chargeable as conveyance for a consideration equal to whole amount payable.

In 531 cases of upto one year lease agreements we observed that the leases executed by different organisations³⁴ with

different lessees during the period from April 2008 and March 2012 were on stamp paper of token amounts and the same were neither presented nor registered in the office of Sub Registrars. While as per the Section 18 of the IR Act registration of these deeds was not compulsory, the Stamp duty as defined under Article 35 of Schedule I B of IS Act was to be paid i.e stamp papers of the required amount were to be attached to the lease deeds. Of the defined Stamp duty of ₹ 2.33 crore due to be paid, the lessees paid only ₹ 2.10 lakh. Thus the Government was deprived of Stamp duty of ₹ 2.31 crore as detailed in following table:

³⁴ Airports, Railways, UPSRTC, Nagar Nigam, Varanasi Development Authority, Companies, Bonded Ware houses and model shops.

(₹ in lakh)

Sl. No.	Number/ Name of organisations involved	Number of cases ³⁵	Execution period	Stamp duty levied	Stamp duty leviable	Stamp duty short levied
1.	Two airports ³⁶	6	March 2010 to December 2011	0.01	1.19	1.18
2.	Six railway stations ³⁷	8	May 2008 to June 2011	0.01	12.68	12.67
3.	10 Bus stations ³⁸	32	December 2008 to August 2011	0.03	4.12	4.09
4.	Nine Nagar Nigam/Nagar Palika ³⁹	421	August 2008 to March 2012	2.02	198.47	196.45
5.	Varanasi Development Authority	9	April 2008 to February 2011	0.01	0.98	0.97
6.	Companies of five districts ⁴⁰	22	April 2008 to May 2011	0.02	15.39	15.37
7.	Two Bonded Ware houses ⁴¹	10	April 2008 to April 2011	0.00	0.56	0.56
8.	Model Shops of two districts ⁴²	23	April 2008 to April 2011	0.00	0.09	0.09
	Total	531	April 2008 to March 2012	2.10	233.48	231.38

5.5.16.2 Leases executed for more than one year and upto 30 years

Under the provisions of Article 35 of Schedule 1B of IS Act, Stamp duty on lease of more than one year and upto 30 years is chargeable as conveyance for a consideration equal to three to six times of the Average Annual Rent Reserved, as the case may be.

In 964 cases we observed that the same were executed on leases for initial period of more than one year and upto thirty years executed⁴³ between organisations⁴⁴ and lessees on stamp

paper of less than required denominations and the same were neither presented nor registered in the office of Sub Registrars. As per Registration Act registration of the said documents was compulsory, but Department was unaware of such leases and in these cases Stamp duty of ₹ 9.85 crore and registration fees of ₹ 24.33 lakh was due to be paid. The lessees in these cases have paid only ₹ 1.25 lakh as Stamp duty and no registration fees. Thus the Government was deprived of Stamp duty of ₹ 9.84 crore and registration fees of ₹ 24.33 lakh as detailed in following table:

³⁵ Record related with lease agreement.

³⁶ Lucknow and Varanasi.

³⁷ Hardoi, Jhansi, Kanpur bridge, Lucknow, Shahjahanpur and Senior Divisional Commercial Managers, North Central Railway with Indian Oil Corporation Limited (Only three years calculation of Indian Oil Corporation Limited, but lease was from 1983).

³⁸ Barabanki, Basti, Deoria, Fatehpur (Bindki), Gorakhpur (Gorakhpur and Raptinagar), Kanpur (Chuniganj and Ghatampur) and Lucknow (Alambagh and Kaisarbagh).

³⁹ Agra, Aligarh, Etah, Firozabad, Ghaziabad, Jhansi, Lucknow, Saharanpur and Varanasi.

⁴⁰ Agra, Gautam Budh Nagar, Ghaziabad, Lucknow and Meerut.

⁴¹ Allahabad and Chitrakoot.

⁴² Allahabad and Barabanki.

⁴³ During the period from October 2002 and March 2012.

⁴⁴ Airports, Railways, UPSRTC, Nagar Nigam, Varanasi Development Authority, Companies, Bonded Ware houses, ATM and Banks.

(₹ in lakh)

Sl. No.	Number/ Name of organisations involved	No. of cases ⁴⁵	Execution period	Stamp duty levied	Stamp duty leviable	Registration fees leviable	Stamp duty short levied	Registration fees short levied
1.	Three airports ⁴⁶	58	January 2006 to November 2011	0.05	119.34	3.74	119.29	3.74
2.	57 Railway stations ⁴⁷	259	June 2006 to November 2011	0.36	96.68	4.61	96.32	4.61
3.	24 Bus stations ⁴⁸	145	March 2006 and June 2011	0.15	16.48	1.06	16.33	1.06
4.	Three Nagar Nigam/Nagar Palika ⁴⁹	19	March 2007 to May 2011	0.63	74.30	1.14	73.67	1.14
5.	Companies of five districts ⁵⁰	39	October 2002 to July 2011	0.06	570.36	2.36	570.30	2.36
6.	Bonded Ware House of Excise Department of Basti	2	April 2006 to March 2012	0.00	0.11	0.01	0.11	0.01
7.	Bank branches and ATMs of Banks of 13 districts ⁵¹	442 ⁵²	Five Years ⁵³	0.00	108.00	11.41	108.00	11.41
	Total	964	October 2002 to March 2012	1.25	985.27	24.33	984.02	24.33

5.5.16.3 Leases executed for more than 30 years

Under the provisions of Article 35 of schedule 1 B of IS Act, Stamp duty on lease where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purports to be for any definite term, Stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property.

In the scrutiny of records⁵⁴ of *Nagar Nigam*, Varanasi, we observed that three leases were transferred from one person to another person without any specific period during the period from November 2009 and April 2011 but

neither the documents were executed by the lessees and lessors nor registered in the office of SRs. Though as per Registration Act, registration of the said documents were compulsory and required to be evaluated on market rate, the Department was unaware of such leases and in these cases Stamp duty of ₹ 8.64 lakh and registration fees of ₹ 20,000 was payable. Thus the Government was deprived of Stamp duty of ₹ 8.64 lakh and registration fees of ₹ 20,000.

⁴⁵ Record related with lease agreement.

⁴⁶ Agra, Lucknow and Varanasi.

⁴⁷ Achnera, Agra Cantt, Agra Fort, Raja Ki Mandi, Ajgain, Alam nagar, Allahabad Jn, Amethi, Azamgarh, Bachrawan, Banda, Barabanki, Bareilly, Bhatni Jn., Bhigapur, Bulandshahar, Chauri Chaura, Faizabad, Gauriganj, Gonda, Gorakhpur, Gossaiganj, Hardoi, Jais, Jaunpur, Jhansi, Kanpur Central, Kaptanganj Khajurahat, Kurebhar, Lalganj, Lar Road, Lucknow, Mathura, Mathura Kosi Kala, Mau Jn., Moradabad, Musafirkhana, Phaphamau, Pratapgarh, Prayag, Raghuraj Singh, Raebareilly, Rampur, Rudauli, Saharanpur, Salempur, Sarnath, Shahganj, Shahjahanpur, SLN, Sureman, Suriyavan, Takia, Ugrasenpur, Unchahar and Varanasi City.

⁴⁸ Banda, Basti, Deoria, Fatehpur (Fatehpur and Fatehpur Khan), Gorakhpur (Gorakhpur & Raptinagar), Hameerpur, Kanpur (Chuniganj, Rawatpur, Central Jhakarkati & Pukhrayan), Kushinagar (Kasya and Padrauna), LMPS, Lucknow (Alambagh and Kaisarbagh), Maharajganj (Maharajganj & Nichlaul), Mahoba (Mahobad & Rath), Ramabai Nagar, Sant Kabir Nagar and Siddharthnagar.

⁴⁹ Agra, Aligarh and Saharanpur.

⁵⁰ Gautam Budh Nagar, Ghaziabad, Kanpur Dehat, Lucknow and Varanasi.

⁵¹ Agra, Aligarh, Allahabad, Barabanki, Gautam Budh Nagar, Ghaziabad, J P Nagar, Kanpur, Kannauj, Lucknow, Meerut, Moradabad and Saharanpur.

⁵² Book I of Sub Registrar offices.

⁵³ Stamp duty was calculated on the basis of 9 sq meter minimum covered area for ATM and average 200 sq meters for branches of Bank for a minimum period of five years on the basis of the registered lease deeds of ATM and Branches of PSU Banks.

⁵⁴ Record related with lease agreement.

When we pointed this out, the Department agreed that these cases have escaped attention and stated that action has begun to collect details from the concerned organisations. Further reply has not been received (February 2013).

5.5.17 Short levy of Stamp duty on transfer of leases (Assignment⁵⁵ cum transfer deed)

Under the provisions of Article 35 of Schedule 1 B of IS Act, Stamp duty on lease where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purports to be for any definite term, Stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property.

In the scrutiny of the records⁵⁶ of the offices of three SRs⁵⁷ we observed that four lease deeds not for any definite term were registered between December 2009 and July 2010, as assignment cum transfer deed on which

Stamp duty of ₹ 6.26 lakh was levied. The recital of the deeds confirms that through these documents, rights of use of immovable property was transferred to second party for an undefined period. As such these assignments cum transfer deeds were actually leases without a definite period. These were required to be valued on market value of the property under Art 35 of Schedule IB of IS Act. As such Stamp duty of ₹ 37.79 lakh based on market value of the property of ₹ 5.26 crore was leviable. This resulted in short levy of Stamp duty of ₹ 31.53 lakh.

After we pointed this out, the Department stated that Stamp duty was charged under the provision of Article 63 of Schedule 1 B of Indian Stamp Act, 1899 applicable on assignment deed. We do not agree because there is no defined period in the recital of these documents. Moreover the perusal of the recital of deeds indicated that these were lease deeds for an undefined period and not assignments and Stamp duty on consideration equal to market value is chargeable under Article 35 of IS Act. Further, the Department intimated (July 2012) that the matter have been referred to the Government. Further report has not been received (February 2013).

⁵⁵ The act of transferring an interest in property or a some right (such as contract benefits) to another.

⁵⁶ Assignment cum transfer deed.

⁵⁷ Kanpur Nagar (SR 1), Lucknow (SR 1) and Moradabad (SR 2).

5.5.18 Short levy of Stamp duty and registration fees on different kind of leases

Under the provisions of Article 35 of Schedule 1 B of IS Act, Stamp duty on lease is chargeable as for conveyance for a consideration equal to three to six times of the Average Annual Rent Reserved, as the case may be, for leases up to 30 years. Under the IS Act, on an instrument, where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purports to be for any definite term, Stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property. If recital of deeds emphasised that liability of service tax or any other liabilities vest on lessees then amount of service tax and other liabilities will be treated as part of lease rent.

In the scrutiny of the lease deeds registered in the offices of eight SRs, we observed that 11 deeds of transfer of property for initial period of three to 20 years one month by way of lease were registered between August 2008 and January 2012 for a consideration of ₹ 11.32 crore on which Stamp duty of ₹ 30.06 lakh was levied. The stamp duty was under

charged as many of the details which were relevant for calculation of stamp duty were ignored. The details are as under:

Sl. No.	Name of Office	No. of cases	Details on which basis Stamp duty was charged by the Department/Remarks	Details on which basis Stamp duty was required to be charged
1.	Sub Registrar, Sadar Gautam Budh Nagar	1	20 years lease	20 years one month lease
2.	Sub Registrar-I, Lucknow	1	Lease rent, security and premium amount only were taken for valuation	Lease rent, security, premium amount, annual maintenance charge, rent for dish antenna & service tax were required to be taken for valuation.
3.	Sub Registrar-IV Lucknow	2	Only lease rent were taken into consideration of levy of Stamp duty	There is an extension clause of two year with escalation of 25 per cent and service tax liability on lessees which were required to be taken for valuation.
4.	Sub Registrar-I, Noida	1	Amount of Service Tax was not taken into consideration for levy of Stamp duty.	Service tax liability on lessees was required to be taken for valuation.
5.	Sub Registrar-II, Noida	1		
6.	Sub Registrar-III, Noida	2		
7.	Sub Registrar-III, Ghaziabad	2		
8.	Sub Registrar-IV, Ghaziabad	1		

Hence, these deeds were required to be registered with consideration of ₹ 12.55 crore on which Stamp duty of ₹ 36.44 lakh was chargeable against ₹ 30.06 lakh charged. This resulted in short levy of Stamp duty of ₹ 6.38 lakh.

After we pointed this out, the Department stated (July 2012) that Stamp duty was levied according to lease rent mentioned in the lease deed. We do not agree because other clauses mentioned in the lease deed such as escalation of lease rent, security, premium amount, annual maintenance charge, rent for dish antenna and service tax were also required to be taken for valuation.

5.5.19 Undervaluation of property

5.5.19.1 Short levy of stamp duty and registration fees in execution of sale deed

Under the IS Act, stamp duty on a deed of conveyance is chargeable either on the market value of property or on the value of consideration set forth therein, whichever is higher. As per the SVOP Rules, the collector of a district after following prescribed procedure, as defined thereunder fixes the minimum market value of the land/properties locality-wise and category-wise in the district for the purpose of levying stamp duty on instrument of transfer of any property.

- In the scrutiny of the records of the offices of seven SRs⁵⁸, we noticed that eight deeds of conveyance were registered between July 2009 and November 2011 on valuation of ₹ 5.19 crore at residential rates, on which stamp duty of ₹ 34.34 lakh and registration fees of

₹ 67000 was levied. The boundary location, area, photo and purpose of property, shown in deeds, revealed that the properties were of commercial nature and the rates prescribed for these kinds of properties should have been adopted. Stamp duty of ₹ 78.98 lakh and registration fees of ₹ 70,000 on market rate of ₹ 12.14 crore at commercial rates were leviable. Valuation of commercial properties as residential properties resulted in short levy of stamp duty of ₹ 44.63 lakh and registration fees of ₹ 2880.

In two cases of Bulandshahar and Mathura the Department stated that the property was correctly classified. We do not agree with reply of the Department, as in case of SR Bulandshahar, the godowns were situated on two sides of the property and hence it should have been treated as commercial. In case of SR I Mathura the Department itself has agreed that it was a godown. Hence it should have been treated as commercial. Further reply has not been received (February 2013).

- In the scrutiny of the records of the offices of 30 SRs⁵⁹, we noticed that in cases of 74 deeds of conveyance, registered between April 2008 and February 2012, stamp duty of ₹ 1.81 crore and registration fees of ₹ 5.77 lakh on account of sale of land and buildings, was levied on consideration of ₹ 27.05 crore as set forth in the instruments instead of stamp duty of ₹ 4.30 crore and registration fees of ₹ 6.30 lakh on ₹ 64.04 crore being the actual value of land and buildings determinable on the basis of market value fixed by the respective collectors. This resulted in short levy of stamp duty of ₹ 2.49 crore and registration fees of ₹ 52840 as shown in **Appendix-XV**.

⁵⁸ Bulandshahar (SR 2), G.B.Nagar (SR Noida 1, 3), Ghaziabad (SR 3), Kanpur Nagar (SR 1) Mathura (SR 1) and Meerut (SR 3).

⁵⁹ Agra (SR 2, 5), Aligarh (SR 1), Allahabad (SR 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), G.B.Nagar (SR Noida 1, 3), Ghaziabad (SR 1, 3, 4), Gorakhpur (SR 2), Kanauj (SR Sadar), Kanpur Nagar (SR 1), Lucknow (SR 1, 3, 4), Meerut (SR 1, 3, 4), Moradabad (SR 1) Muzaffarnagar (SR 2) and Saharanpur (SR 2, 3).

The Department replied that unless and until land was declared non agricultural under Section 143 of UPZALR Act, agriculture rates were to be charged. We do not agree with the reply of the Department because in SR Sadar Etawah as per rate list the *arazi* numbers were declared as *abadi* hence residential rates were to be charged and in other cases houses were found in the boundary of land such as case of SR I Kanpur.

- In the scrutiny of the records of the offices of four SRs⁶⁰, we noticed that in cases of 13 deeds of conveyance, registered between August 2008 and April 2011, stamp duty of ₹ 5.67 lakh and registration fees of ₹ 89000 on account of sale of land by more than one purchaser, was levied on consideration of ₹ 87.61 lakh as set forth in the instruments. As per Collector rate list, if area of land under sale is less than certain limit, land should be valued at residential rate. In these cases there were two to five purchasers and though the purchaser were of different nuclear families, they purchased land of this area jointly to avoid certain limits defined by the collector for valuation of land at agriculture rate. Thus these lands were required to be valued at ₹ 2.18 crore and stamp duty of ₹ 14.09 lakh and registration fees of ₹ 1.33 lakh was leviable on the basis of market value fixed by the respective collectors at residential rate. This resulted in short levy of stamp duty of ₹ 8.42 lakh and registration fees of ₹ 44200.

The Department replied that unless the division among the purchaser was mentioned in the document, properties cannot be valued by dividing the sold properties. We do not agree with the reply of the Department because as per rate list issued by collector Gorakhpur, if purchaser/purchasers were of different nuclear families⁶¹, properties were required to be valued after dividing their due share.

- In the scrutiny of records of Irrigation Department, Khurja, Bulandshahar, we noticed that possession of 3,30,338 square metre of land involving consideration of ₹ 28.08 crore at the rate ₹ 850 per square metre were handed over to the NTPC on 7 July 2011 through registered deed and stamp duty of ₹ 1.40 crore was paid. The market rate of land as per collector rate list was ₹ 2000 per square metre. As per provisions of IS Act, stamp duty on a deed of conveyance is chargeable either on the market value of property or on the value of consideration setforth therein, whichever is higher. Since the market rate of land as per Collector rate list was ₹ 2000 per square metre, the Stamp duty of ₹ 3.30 crore was leviable. Charging Stamp duty on consideration amount resulted in short levy of stamp duty of ₹ 1.90 crore.

The Department replied that land was not declared *abadi* under Section 143 of UPZALR Act and situated far behind of residential land. We do not agree because as per document land was valued at ₹ 850 per square metre against the rate provided in the rate list of ₹ 2000 per square metre.

⁶⁰ Firozabad (SR 2), Gorakhpur (SR 2), Mathura (SR 1, 2).

⁶¹ Nuclear family includes spouses, their children and parents.

- In the scrutiny of records of offices of 37 SRs⁶² conducted between August 2011 and March 2012 we found that 103 deeds of conveyance relating to non-agricultural land/property were registered between April 2008 and February 2012 for a consideration of ₹ 14.53 crore at agricultural rates and paid stamp duty of ₹ 98.24 lakh and registration fees of ₹ 7.61 lakh as shown in documents, though part of land of same *arazi* number were earlier sold and valued at residential rate. Thus, properties were required to be valued for a consideration of ₹ 62.96 crore and stamp duty of ₹ 4.09 crore and registration fees of ₹ 8.86 lakh at residential rate were required to be levied. This resulted in short levy of stamp duty of ₹ 3.11 crore and registration fees of ₹ 1.25 lakh as shown in **Appendix-XVI**.

The Department stated that two cases of Meerut District were referred to Collector Stamp for valuation.

5.5.19.2 Short levy of stamp duty due to non declaration of land as of residential nature under Section 143

Section 143 of the UPZA&LR Act provides that where a *bhumidhar* with transferable rights used his holding or part thereof for a purpose not connected with agriculture, horticulture or animal husbandry, the Assistant Collector/SDM in charge of the sub-division may, *suo motu* or on an application after making such enquiry as may be prescribed, make a declaration to that effect. Further the Chief Secretary vide his letter no. Ka Ni-5-2208/11-5-2010-500(18)/ 2010 dated 11 June 2010 addressed to all the Commissioners and District Magistrates emphasised that if the land is used fully or partially for residential purposes, the concerned SDM should *suo motu* declare the whole land as *abadi* under the Act.

Under the provisions of IS Act, stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher. As per SVOP, market rates of various categories of land situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering

Authorities.

- In our scrutiny of the records⁶³ of offices of 44 SRs⁶⁴ during the period from May 2008 to February 2012, we noticed that 160 deeds of conveyance relating to 7.06 lakh square metre of land were registered for

⁶² Agra (SR 1, 2, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 2), Basti (SR Sadar), Bulandshahar (SR 1, SR 2), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), G.B.Nagar (SR Sadar, SR Noida 1, 3), Ghaziabad (SR 4), Gorakhpur (SR 1, 2), J P Nagar (SR Sadar), Jhansi (SR 1, 2), Kanpur (SR 2), Lucknow (SR 1, 2, 4), Mathura (SR 1, 2) Meerut, (SR 2 & 3) Muzaffarnagar(SR 1, 2) and Varanasi (SR 1,2 and 4).

⁶³ Sale Deed.

⁶⁴ Agra (SR 2, 3, 4, 5), Aligarh (SR 1, 2), Allahabad (SR 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), G.B.Nagar (SR Sadar, Noida 1, 2), Ghaziabad (SR 1, 3), Gorakhpur (SR 1, 2), J P Nagar (SR Sadar), Jhansi (SR 1, 2), Kanpur (SR 2, 3), Lucknow (SR 1, 2, 3, 4 & 5), Mathura (SR 2), Meerut, (SR 1, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1), Saharanpur (SR 2, 3) and Varanasi (SR 1, 2, 4).

consideration of ₹ 37.75 crore at agriculture rate and stamp duty of ₹ 2.55 crore and registration fees of ₹ 13.53 lakh was levied. The properties were surrounded by residential properties which were registered as residential earlier but this fact was not brought to the notice of the SDM concerned for action under section 143 of UPZA&LR Act and correct valuation of properties at ₹ 159.28 crore. On this stamp duty ₹ 10.54 crore and registration fees of ₹ 14.63 lakh were leviable. The incorrect valuation of the property resulted in short levy of stamp duty of ₹ 7.99 crore and registration fees of ₹ 1.10 lakh.

- In our scrutiny of the records⁶⁵ of offices of three SRs⁶⁶ of Gautam Budh Nagar during the period between September 2008 and April 2011, we noticed that 10 deeds of conveyance were registered for consideration of ₹ 3.22 crore at agriculture rate and stamp duty of ₹ 15.83 lakh was levied. The area in which land was situated was a fast developing residential area and the *Arazi's* were converted as residential properties which were registered residential earlier. However, the fact was not brought to the notice of the SDM concerned for action under section 143 of UPZA&LR Act for correct valuation of the properties at residential rate which works out ₹ 18.48 crore. On this, stamp duty of ₹ 92.12 lakh was leviable. The incorrect valuation of the property due to non conversion of nature of land from agriculture to residential resulted in short levy of stamp duty of ₹ 76.29 lakh.

After we pointed this out, for Ghaziabad district, the Department stated that the reports from the SROs were sought for reference of cases to concerned Sub District Magistrate. For Aligarh district the Department stated that it is the power of the Collector. We do not agree with reply for Aligarh and reiterate that despite having knowledge about development of the areas as residential the Department did not pursue the matter with the concerned SDM for conversion of nature of land which led to the short levy of Stamp duty and Registration fees. No replies were furnished for other districts.

⁶⁵ Sale Deed.

⁶⁶ Gautam Buddha Nagar (SR Sadar, SR 1, SR 3).

5.5.19.3 Undervaluation of land by concealing the facts required under Section 27 of Indian Stamp Act

Under Section 27 of the Indian Stamp Act, all facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, shall be fully and truly set forth in instrument. Under Section 64 of the IS Act any person who with intent to defraud the Government:

- executes any instrument in which all the facts and circumstances required by Section 27 of IS Act to be set forth in such instrument are not fully and truly set forth; or
- being employed or concerned in or about the preparation of any instrument neglects or omits fully and truly to set forth therein all such facts and circumstances; or
- does any other Act, calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees, or with both.

Under Section 64-B of IS Act where any person liable to pay duty under this Act, is convicted of an offence under Section 64 of IS Act in respect of any instrument, the Magistrate shall, in addition to any punishment which may be imposed for such offence, direct recovery of the amount of duty and penalty, if any, due under this Act from such person in respect of that instrument and such amount shall also be recoverable as if it were a fine imposed by the Magistrate.

In our scrutiny of the records⁶⁷ of offices of 23 SRs⁶⁸ between June 2008 and January 2012, we noticed that 51 deeds of conveyance pertaining to purchase/sale of land by the persons/*Avas Samiti*/Developers/Builders were registered. But by concealing the facts⁶⁹ in *chauhaddi*⁷⁰, the nature of land was left vague. The valuation of land mentioned in these deeds was considered as ₹ 14.52 crore at agricultural rates instead of the prescribed non-agricultural rates of ₹ 56.38 crore. Accordingly stamp duty of ₹ 3.81 crore and registration fees of ₹ 4.40 lakh was chargeable whereas stamp duty of ₹ 94.11 lakh and registration fees of ₹ 3.97 lakh was paid. Thus, under valuation of land has resulted in short levy of stamp duty of ₹ 2.87 crore and registration fees of ₹ 43000 as shown in **Appendix-XVII**.

After we pointed this out, the Department did not furnish specific reply.

⁶⁷ Sale Deed.

⁶⁸ Agra (SR 1,3), Aligarh (SR 1, 2), Allahabad (SR 1, 2), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1), Gautam Budh Nagar (SR Sadar, Noida 1, Noida 3), Ghaziabad (SR 5), Jhansi (SR 2), Kanpur Nagar (SR 1,2,3) Lucknow (SR 1,4), Mathura (SR 2), Meerut, (SR 3), MuzaffarNagar (SR 1) and Varanasi (Sadar 2).

⁶⁹ *Arazi* number, owner of land, nature of land, *chauhadi* of the sold land, nature of property within the radius of 200 metre/*nazri naksha* (Details of properties situated nearby to land in question) and true complete information has not been mentioned.

⁷⁰ *Chauhaddi*: Properties situated in the boundary of the land in question.

5.5.20 Short levy of stamp duty and registration fees due to misclassification of documents

Article 34 'A' of Schedule 1 B of IS Act, provides for correction of purely clerical error in an instrument, chargeable with duty and in respect of which the proper duty has been paid. Under the provision of IS Act, every instrument mentioned in the schedule shall be chargeable to stamp duty at the rates prescribed therein. An instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

A document in which there was a change in *arazi* number/plot number/ name of seller or purchaser/area of land/nature of land/deed of the land earlier registered with different *arazi* number/plot number/ name of seller or purchaser/area of land/nature of land/deed could not be treated as

Correction deed and these documents were required to be treated as sale deed.

In our scrutiny of the records⁷¹ of offices of SROs between April 2008 and March 2012, we noticed that 60 instruments registered between May 2008 and August 2011 were classified on the basis of their titles as Correction deed and stamp duty was levied accordingly. Scrutiny of the recitals of these documents, however, revealed that these documents were misclassified as corrections were made in *arazi*/plot number, name of seller/purchaser, area of land, nature of land/deed. Thus, these documents were required to be treated as sale deed and required to be valued at ₹ 6.26 crore on which stamp duty and registration fees of ₹ 39.94 lakh was chargeable against which stamp duty and registration fees of ₹ 6300 each only was levied. This resulted in short levy of stamp duty of ₹ 39.88 lakh and registration fees of ₹ 4.91 lakh. The details are as under:

(₹ in lakh)

Sl. No.	Nature of correction	Number of offices involved	Number of instruments	Area of property (In Sq.m.)	Execution period of correction deed	Total value of property	Stamp duty leviable	Registration fees leviable	Stamp duty levied	Registration fees levied	Stamp duty short levied	Registration fees short levied
1.	Change in <i>Arazi</i> and Plot number	27 ⁷²	50	23,429.80	May 2008 to August 2011	352.75	22.10	4.10	0.050	0.050	22.05	4.05
2.	Change in Name of Seller / Purchaser	4 ⁷³	7	5,970.20	July 2009 to April 2011	102.66	6.74	0.57	0.010	0.010	6.73	0.56
3.	Change in Area	1 ⁷⁴	1	130.12	July 2011	6.90	0.41	0.10	0.001	0.001	0.41	0.10
4.	Change in Nature of Land	1 ⁷⁵	1	4,046.00	October 2010	89.02	6.23	0.10	0.001	0.001	6.23	0.10
5.	Change in	1 ⁷⁶	1	297.29	February	74.33	4.46	0.10	0.001	0.001	4.46	0.10

⁷¹ Correction Deed.

⁷² Agra (SR 1, 3, 5), Allahabad (SR 1), Aligarh (SR 1), Basti (SR Sadar), Chitrakoot (SR Sadar), Etah (SR Sadar), Gautam Budh Nagar (SR1, 3), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), Kannauj (SR Sadar), Kanpur (SR 2), Lucknow (SR 1, 2, 4, 5), Mathura (SR 1, 2), Meerut, (SR 2 3), Muzaffarnagar (SR 2) and Varanasi (SR 1, 4).

⁷³ Gautam Budh Nagar (SR1), Ghaziabad (SR 2), Kanpur (SR 1) and Lucknow (SR 4).

⁷⁴ Varanasi (SR 1).

⁷⁵ Bulandshahar (SR 1).

Sl. No.	Nature of correction	Number of offices involved	Number of instruments	Area of property (In Sq.m.)	Execution period of correction deed	Total value of property	Stamp duty leviable	Registration fees leviable	Stamp duty levied	Registration fees levied	Stamp duty short levied	Registration fees short levied
	Nature of Deed				2010							
	Total	31⁷⁷	60	33,873.41	May 2008 to August 2011	625.66	39.94	4.97	0.063	0.063	39.88	4.91

When we pointed this out, in one district (Basti), the Department replied that it required detailed legal scrutiny of the cases and in remaining cases the Department replied that these were only corrections of clerical error. We do not agree with reply of the Department because *arazi*/plot number, name of seller/purchaser, area of land, nature of land/deed were basic details and corrections of these basic details do not come under purview of correction of clerical error.

5.5.21 Revision of rate list

5.5.21.1 Late revision

Rule 4 of the Uttar Pradesh Stamp (Valuation of Property), Rules 1997 (SVOP), provides that market rates of various categories of land/property situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering Authorities. He shall revise it within a period of two years from the date of fixation of value or rent. The Department has no system to provide input to the Collector. Vide Para-8 of Government order no. Ni-5-2208/11-5-2010-500(18)/2010 dated 11 June 2010 the Chief Secretary of Government of UP instructed that collector of the district should revise the rate list latest by 30 June 2010 and intimate accordingly to Commissioner Stamp Uttar Pradesh upto 10 July 2010.

During scrutiny of the rate list of offices of 58 SRs for the period from August 2010 to March 2012 we found that in nine SRs⁷⁸ rate list were revised in time. In remaining 49 SRs⁷⁹ rates list of properties were revised by the Collector concerned in August 2010. Thus due to late revision of rate list by one month, SRs had to evaluate the property in the month of July 2010 at pre revised

rate. In the month of July 2010, 44,546 documents were registered at pre revised rate. We test checked 405 documents. The delay in revision caused

⁷⁶ Ghaziabad (SR 3).

⁷⁷ Agra (SR 1, 3, 5), Allahabad (SR 1), Aligarh (SR 1), Basti (SR Sadar), Bulandshahar (SR 1), Chitrakoot (SR Sadar) Etah (SR Sadar), G.B.Nagar (SR1, 3), Ghaziabad (SR 2,3) Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), Kannauj (SR Sadar), Kanpur (SR 1, 2), Lucknow (SR 1, 2, 4, 5), Mathura (SR 1, 2), Meerut, (SR.2 3), Muzaffarnagar (SR 2) and Varanasi (SR 1, 4).

⁷⁸ Allahabad (SR 1, 2), Basti (SR Sadar), Bulandshahar (SR 1, 2), Etah (SR Sadar), Jhansi (SR 1, 2) and J P Nagar (SR Sadar).

⁷⁹ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Barabanki (SR Sadar), Chitrakoot (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Kannauj (SR Sadar), Kanpur Nagar (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Ghaziabad (SR 1, 2, 3, 4, 5) G.B.Nagar (SR Sadar, Noida-1, 2, 3), Gorakhpur (SR 1, 2), Mathura (SR 1, 2), Meerut (SR 1, 2, 3, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2, 3) and Varanasi(SR 1, 2, 4).

loss of stamp duty of ₹ 1.83 crore⁸⁰ and registration fees ₹ 53,000 in these test checked cases alone. As we test checked only one *per cent* of the cases registered in the sample and since there are 354 SROs in the state, the loss will be much higher if calculated for the remaining SROs. Though the responsibility of revision of rate list vests in the District Magistrate, but AIG(R)s and DIG(R)s are posted at district and Commissionerate level respectively for proper monitoring of Departmental activities and safeguard Departmental revenue. We noticed that at District/Commissionerate level and HOD/Government level no efforts were made to ensure implementation of the Government Order regarding revision of rate list latest by 30 June 2010. No system exists in the Department to collect information for revision of rate list.

5.5.21.2 Non-revision of rate list after lapse of every three months

Para 6 of Government order no. Kar Ni-5-2208/11-5-2010-500(18)/2010 dated 11 June 2010 provides that Collector of the district should revise the rate list after lapse of every three months and intimate accordingly to Commissioner Stamp, Uttar Pradesh. In this regard Hon'ble Supreme Court's Judgment (Para No. 11 of AIR 2010 Supreme Court 1754 of Haridwar Development Authority vs. Raghuvir Singh) directs that, it is well settled that an increase in market value by about 10 to 12 *per cent* per year can be provided in regard, to land situated near urban areas having potential for non-agricultural development. Thus rate list was required to revise after lapse of every three months at least at 2.5 *per cent* increase.

Scrutiny of the rate list of offices of 58 SRs⁸¹ covering 24 districts out of 72 districts for the period between November 2010 and February 2012, we noticed that rate list of properties were fixed by the District Magistrate (who is also Collector Stamp) between June and August 2010. As per the orders, these rates were to be revised every three months, but in 22 districts the rates were revised in the

months of August 2011 and September 2011 i.e. after lapse of 10 to 13 months. In case of Allahabad and Gautam Budh Nagar, the concerned Collectors did not revise the rate list up to the date of audit. This is in violation of the Government order dated 10.06.2010 for revising the rate list quarterly by the concerned District Magistrates. During the said period ₹ 4002.37 crore of stamp duty was deposited in 4.53 lakh documents registered in our sample.

⁸⁰ Value of the property as per revised rate list ₹ 127.32 crore,
Value of the property as per pre-revised rate list ₹ 101.07 crore,
Stamp Duty leviable on revised rate ₹ 8.31 crore,
Stamp Duty levied ₹ 6.48 crore.

⁸¹ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2, 3), Allahabad (SR 1, 2) Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etah (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 1, 2, 3, 4, 5) Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur Nagar (SR 1, 2, 3) Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut, (SR 1, 2, 3, 4), Moradabad (SR 1,2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 1, 2, 3) and Varanasi (SR 1, 2 4).

We noticed that at District/Commissionerate level and HOD/Government level no efforts were made to ensure implementation of the Government Order dated 11 June 2010 and subsequent orders regarding revision of rate list latest by 30 June 2010 as a result the Department lost stamp duty of ₹ 289.85 crore in these 58 SRs alone. The amount of loss will be much higher as we test checked only 58 out of 354 SROs in the State.

After we pointed this out, the Department has forwarded the unit wise replies, which stated that it is the responsibility and power of the District Magistrate. We are of the opinion that this shows an overall failure of the Department at all levels to ensure that the revisions are made as per schedule specified in the GO of June 2010. We found no evidence to show that this aspect was monitored at the AIG, DIG and IGR and Government despite the fact that the implementation of said GO was initiated by the Department itself in revenue interest.

We recommend that the Government may, therefore, consider fixing of responsibility to make the losses good and to avoid recurrence of such instances.

5.5.22 Loss of Stamp Duty due to irregular exercise of power by Collector

Under the provisions of Section 9 of IS Act, only the Government may, by rule or order published in the official Gazette, reduce or remit, whether prospectively or retrospectively, in the whole or any part of the territories under its administration, the duties with which any instruments are chargeable.

As per SVOP Rules, the Collector of a district after following prescribed procedure, as defined thereunder, fixes the minimum market value of the land/properties locality-wise and category-wise

in the district for the purpose of levying stamp duty on instrument of transfer of any property. But the above provision does not allow the Collector to remit or reduce the stamp duty.

During the scrutiny of the records⁸² of the offices of three SRs⁸³ of Gautam Budh Nagar, we observed that 21 deeds of conveyance were registered between November 2008 and August 2011 on which stamp duty of ₹ 47.83 lakh was levied on value of ₹ 9.57 crore as per rate of the NOIDA. We noticed that these lands which were purchased by NOIDA (an authority registered under UPID Act) were stamped at lower rate in contrast to all other lands purchased by individuals/societies/colonisers which were registered at higher rates. According to the provisions made in the collector rate list if land is purchased by NOIDA, Stamp duty will be levied as per authority rate and not as per Collector rate list. By this provision, the Collector was remitting the Stamp duty paid by NOIDA. The power to remit/reduce the Stamp duty under Section 9 of IS Act vests with the Government. The Collector, without taking the approval of the Government, exercised the power to remit the Stamp duty on purchases made by NOIDA. This resulted in loss of Stamp duty of ₹ 2.81 crore⁸⁴.

After we pointed this out, the Department has agreed with our contention and also agreed to issue direction to District Magistrate, Gautam Budh Nagar, to delete this clause from the rate list.

We recommend that the Government may consider issuing instructions to all the District Magistrates to delete such clause from the rate list.

⁸² Rate List and Book-I.

⁸³ Gautam Budh Nagar (SR Noida 1, 2, 3).

⁸⁴ Value of property at Collectors rate list comes to ₹ 65.76 crore.
Value of property in which stamp duty levied ₹ 9.57 crore.
Stamp duty leviable ₹ 3.29 crore.
Stamp duty levied ₹ 0.48 crore.

5.5.23 Reference of cases by the SRs to Chief Controlling Revenue Authority (CCRA)

Under the Indian Stamp (IS) Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher. As per Uttar Pradesh Stamp (Valuation of Property), Rules 1997 (SVOP), market rates of various categories of land/property situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering Authorities. Under the provisions of Section 56 of IS Act, if any person including the Government, aggrieved by an order of the Collector under Chapter-IV, Chapter-V or under clause (a) of the first proviso to Section 26 may within sixty days from the date of receipt of such order, prefer an appeal against such order to the CCRA, who shall, after giving the parties a reasonable opportunity of being heard consider the case and pass such order thereon as he thinks just and proper and the order so passed shall be final.

As per Rule 332 A (2) of Uttar Pradesh Stamp (Forty Six Amendment) Rules, 2002, Collector levies duty and penalty on deficiently stamped documents. Collector (Stamps) who decides the cases should give intimation thereof to the SRs in whose offices the documents were presented for registration. After receipts of such order, the Registering Authority will match it with his report. If it will not match, then he, by concluding that stamp duty was not sufficiently paid, he is to refer it to Government Counsel under Section 56 of IS

Act, with a copy of rate list and collectors decision for taking opinion whether appeal against the collectors decision is required to be filed or not. After taking views of the Government counsel, it should be sent to AIG/DIG for sending it to CCRA through Commissioner Stamps.

During the scrutiny of records⁸⁵ of offices of 50 SRs⁸⁶ for the period from 2008-09 to 2011-12, we found that 508 cases were referred under Section 47(A) (i) to Collector (Stamps) for direction and decision. Out of these in 269 cases, stamps were found deficit, in 80 cases documents were found duly stamped and in the remaining cases Department has no proper information about the fate of these cases. Only in 18 cases SRs had taken opinion of the Government counsel.

Further, we found that out of 80 cases found duly stamped, the Department referred only eight cases to CCRA.

Thus, due to non reference of cases, the Department suffered a revenue loss. Few instances of such losses are discussed below:

⁸⁵ Register related with reference cases.

⁸⁶ Agra (SR 1, 2, 3, 4, 5), Aligarh (SR 1, 2), Allahabad (SR 1, 2), Barabanki (SR Sadar), Basti (SR Sadar), Bulandshahar (SR 1, 2), Chitrakoot (SR Sadar), Etawah (SR Sadar), Firozabad (SR 1, 2), Gautam Budh Nagar (SR Sadar, Noida 1, 2, 3), Ghaziabad (SR 3, 4, 5), Gorakhpur (SR 1, 2), Jhansi (SR 1, 2), J P Nagar (SR Sadar), Kannauj (SR Sadar), Kanpur (SR 1, 2, 3), Lucknow (SR 1, 2, 3, 4, 5), Mathura (SR 1, 2), Meerut (SR 2, 4), Moradabad (SR 1, 2), Muzaffarnagar (SR 1, 2), Saharanpur (SR 2) and Varanasi (SR 1, 2, 4).

Under the Indian Stamp (IS) Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher.

5.5.23.1 The Principle Secretary of the Government of Uttar Pradesh vide his letter⁸⁷ dated 31 December 1999 addressed to all the Commissioners, Additional Secretary

Board of Revenue, District Magistrate, ADM (F&R) and SRs emphasised that while adjudicating the case in the capacity of Collector under Section 31 of the IS Act, reports of concerned SRs must invariably be sought and decision must be taken in the light of such report.

During the scrutiny of records⁸⁸ of office of SR-II Kanpur conducted in March 2012 we found that deed of conveyance having 1.01 lakh square metre of land with 271 square metre of covered area, boundary wall, steel gate and trees situated in mohalla Swaroop Nagar on Kanpur Bithur road (60 feet wide) was registered⁸⁹ on 13.12.2010. The property was sold at the consideration value of ₹ 182 crore. Before registration, the document was brought for adjudication under Section 31 and value of the property was assessed at ₹ 182.51 crore (on the basis of sale value of property paid by the purchaser and depreciated value of constructed area, boundary wall, steel gate and trees) keeping in view the recommendation of the Committee of two members constituted by the Collector (Stamps). We noticed that the composition of committee and its report had the following deficiencies:

- SR-II Kanpur was not a member though the property comes under the purview of SR-II Kanpur.
- The actual value of land⁹⁰ ₹ 342.88 crore was taken as ₹ 182 crore .
- There were deficiencies in calculating the depreciated value of the construction which led to undervaluation by ₹ 4.87 lakh.
- The basis of valuation of land taken in the adjudication order was the consideration offered by the bidder and not the market value of land as per the prescribed circle rate.

Thus, due to deficiencies in the valuation process, the value of the properties worked out to ₹ 343.44 crore. Stamp duty of ₹ 24.04 crore was leviable against which only ₹ 12.78 crore was levied. This resulted in short levy of stamp duty of ₹ 11.26 crore.

⁸⁷ No. Ka Ni-5-335/11-99-500(98)/99.

⁸⁸ Sale Deed.

⁸⁹ Sub Registrar-II, Kanpur (Khand No. 4691, Document No. 5078, Page No. 153 to 206).

⁹⁰ Due to revised circle rate of ₹ 34,000 per square metre after land use was changed on 23.03.2010 by the Kanpur Development Authority.

Section 143 of the UPZA&LR Act provides that where a *bhumidhar* with transferable rights used his holding or part thereof for a purpose not connected with agriculture, horticulture or animal husbandry, the Assistant Collector in charge of the sub-division may, *suo moto* or on an application after making such enquiry as may be prescribed, make a declaration to that effect. Further, the Chief Secretary vide his Letter dated 11 June 2010 addressed to all the Commissioners and District Magistrates emphasised that if the land is used fully or partially for residential purposes, the concerned SDM should *suo moto* declare the whole land as *abadi* under Section 143 of UPZA&LR Act. If the land was declared non-agriculture under Section 143 of the above Act, the same should be valued at residential rate for the purpose of levy of Stamp duty.

5.5.23.2 During the scrutiny of records⁹¹ of office of SR-II, Agra conducted in October 2011, we found that deed of conveyance relating to non-agricultural land of *Arazi* number 370 declared as non agriculture property in the month of October 2007, was registered on 25 May 2011⁹² for a consideration of ₹ 54.06 lakh at agricultural rates as shown in documents and paid stamp duty of ₹ 4.33 lakh and the same was declared duly stamped under Section 32 of IS Act. Since *Arazi* number 370 was declared as non

agriculture in the month of October 2007, the property was required to be valued for a consideration of ₹ 1.24 crore and stamp duty of ₹ 8.65 lakh was leviable at residential rate. However SR did not consider these aspects while registering the documents. This resulted in short levy of stamp duty of ₹ 4.32 lakh.

After we pointed this out, the Department stated that instrument was declared duly stamped under section 32 of Indian Stamp Act. We do not agree as the Department did not consider referring the case to the next higher authority (CCRA) since the use of land was changed almost four years prior to this registration.

⁹¹ Sale Deed.

⁹² Sub Registrar-II, Agra (Khand No. 7782, Document No. 5657, Page No. 265 to 310).

5.5.24 Non-levy of additional stamp duty due to delay in implementation of Government orders

Under the provisions of UPUPD Act, if in the opinion of the State Government, any area within the State, requires to be developed according to plan, it may by notification in the gazette, declare the area to be a development area.

During the scrutiny of records⁹³ of offices of three SRs⁹⁴, we noticed that in 78 cases additional stamp duty was not levied on the deeds of transfer of the immovable property

situated in the areas which were declared as a development area by the Government vide Gazette notifications⁹⁵. The documents valued at ₹ 5.69 crore were registered between August 2008 and November 2011 i.e. after the issue of notifications regarding declaration these area as development area but the Department failed to levy additional stamp duty on the value of these instruments. This resulted in non-levy of additional stamp duty of ₹ 11.38 lakh.

After we pointed this out, the Department stated that due to delay in receipt of such requests from the concerned local authorities, the additional stamp duty could not be realised in Allahabad and Jaunpur and notice will be issued for levy of additional stamp duty in Aligarh. We do not agree with the response on Allahabad and Jaunpur as additional stamp duty is realisable from the date of issue of notification.

⁹³ Sale Deeds.

⁹⁴ Aligarh (SR 3), Allahabad (SR Bara) and Jaunpur (SR Mariyahaun).

⁹⁵ Aligarh (Kol-Dated 08.02.2008) Allahabad (Bara-Dated 16.08.2008) and Jaunpur (SR Mariyahaun dated 09.01.2010).

5.5.25 Irregular exemption of additional stamp duty

Section 53 of UPUPD Act, provides that notwithstanding anything contained in this Act, the State Government may by notification in the Gazette exempt, subject to such conditions and restrictions, if any, as may be specified in such notification any land or building or class of lands or buildings from all or any of the provisions of this Act or rules or regulations made thereunder. Section 9 of IS Act provides that the Government can reduce, remit stamp duty whether prospectively or retrospectively in the whole or any part of the territories under its administration, the duties with which any instrument or any particular class of instruments or any of the instruments belonging to such class or any instruments, when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable.

During the scrutiny of records⁹⁶ of the three offices and office of IGR, we found that additional stamp duty of ₹ 6.70 crore was not levied on 185 deeds of transfer of the immovable property in favour of two purchasers situated in the development areas under the jurisdiction of the above SRs, though they were entitled only for exemption in stamp duty. Details of additional stamp duty leviable is as under:

(₹ in lakh)

Sl. No.	Gazette Notification number by which exemption of stamp duty were provided	No. of SROs	No. of Deeds	Name of Purchaser whom remission was provided to	Amount of consideration	Amount of stamp duty remitted	Additional Stamp Duty leviable
1.	Ka. Ni. 5-305/11-2005-500(136)-2003 Lucknow dated 19.01.2005	Two ⁹⁷	9	Tirthankar Mahaveer Institute of Management and Technology, Delhi Road Moradabad	3,704.60	185.23	74.09
2.	K. N. 5-893/11-2010-500(83)-2005 Lucknow dated 06.05.2010	One ⁹⁸	176	M/s Uppal Chaddha Hi Tech Developers	29,813.60	1,490.68	596.27
	Total	3	185		33,518.20	1,675.91	670.36

After we pointed this out, the Department stated that as per Section 39 of UPUDD Act, the duty imposed by the Indian Stamp Act, 1899, on any deed of transfer of immovable property shall, in the case of an immovable property situated within a development area, be increased by two *per cent* on the amount of value of the consideration with reference to which the duty is calculated under the said Act, so as stamp duty is nil hence increase in that will also be nil.

⁹⁶ Sale Deeds in SROs and Government Orders in SROs and IGR.

⁹⁷ Moradabad (SR I & II).

⁹⁸ SR-V Ghaziabad.

We do not agree with the reply as the said notifications of exemption of Stamp duty were made under Section 9 of IS Act and the notification has no mention regarding remittance of Additional Stamp Duty levied under the UPUPD Act⁹⁹. Also as per AIR 1996, Supreme Court 616 mentioned in annotation 5(iii) of Section 9 of IS Act, additional stamp duty cannot be waived off.

We recommend that the Government should develop a monitoring system to check the correctness of exemption and remission claimed by the parties and awarded by the Department.

5.5.26 Irregularities in Stamp cases

5.5.26.1 Short levy of interest on delayed payment of stamp duty

Under the provisions of Section 33, 35, 40 and 47 (A) of Indian Stamp Act, 1899, a simple interest at the rate of one and half *per cent* per mensem is chargeable on the amount of deficit stamp duty calculated from the date of execution of the instruments till the date of actual payment.

During the scrutiny of the records¹⁰⁰ of the offices of 18 District Stamp Officers (DSOs)¹⁰¹, we found that dates of execution of the registered documents were not mentioned in the

concerned Recovery Certificate (RC) Registers. Due to this the actual interest leviable could not be calculated as the interest is chargeable from the date of execution of the document. When we cross checked with files of 66 such cases¹⁰² we found that the interest due on belated payment of stamp duty found short worked out to ₹ 5.70 lakh. However, only ₹ 53,205 was actually recovered. Thus, Government was deprived of interest amounting to ₹ 5.17 lakh in these cases.

After we pointed this out the Department assured that recovery will be made by issuing fresh Recovery Certificates.

We recommend that the Government may consider mentioning of date of execution of the registered document in RC's to enable recovery of interest due.

⁹⁹ Section 39 of UPUPD for levy of Additional Stamp Duty and Section 53 of UPUPD for remittance.

¹⁰⁰ Recovery Certificate (RC) Registers.

¹⁰¹ Agra, Barabanki, Basti, Bulandshahar, Chitrakoot, Etah, Etawah, Gautam Budh Nagar, Gorakhpur, Jhansi, JP Nagar, Kanpur, Lucknow, Mathura, Meerut, Moradabad, Saharanpur and Varanasi.

¹⁰² Agra, Etah, Etawah, Jhansi, Kanpur and Lucknow.

5.5.26.2 Short levy of penalty in short payment cases of stamp duty

As per directions of June 2002 of the Principal Secretary, Uttar Pradesh Government to Commissioner Stamp Uttar Pradesh, if stamp duty was found short due to concealment of facts under Section 27 of Indian Stamp Act 1899, minimum penalty should not be less than stamp duty found short in addition to interest levied.

Under the provisions of Section 33, of IS Act, if Collector stamp is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall impose proper duty or the amount required to make up the deficiency, together with a penalty of an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof. Further, under the provision of Section 47(4)(ii) of IS Act if the instruments was not found duly stamped, he shall impose the proper duty or the amount required to make up the deficiency in the same, together with a penalty of an amount not exceeding four times the amount of the proper duty or the deficient portion thereof.

During the scrutiny of the records¹⁰³ of the offices of 24 DSOs¹⁰⁴, we found that during the period between May 2008 and March 2012 in 294 cases stamp duty of ₹ 26.75 crore was paid short and ₹ 2.80 crore was imposed as penalty. In these cases, a maximum of four to 10 times and minimum of equal to duty found short was required to be imposed as penalty. Thus ₹ 26.75 crore of penalty was required to be imposed against which only ₹ 2.80 crore of penalty was imposed. This resulted in short levy of penalty of ₹ 23.95 crore as shown in **Appendix-XVIII**.

After we pointed this out, the Department stated that cases are being reviewed and action will be taken accordingly.

¹⁰³ Missil Bund Register.

¹⁰⁴ Agra, Aligarh, Allahabad, Barabanki, Basti, Bulandshahar, Chitrakoot, Etah, Etawah, Firozabad, Gautam Budh Nagar, Ghaziabad, Gorakhpur, Jhansi, J P Nagar, Kannauj, Kanpur, Lucknow, Mathura, Meerut, Moradabad, Muzaffarnagar Saharanpur and Varanasi.

5.5.27 Deduction and remittance of incidental and collection charges from Additional Stamp Duty

5.5.27.1 Loss of revenue due to irregular transfer of incidental and collection charges

Under the notification of September 1993 the whole amount of additional stamp duty is required to be transferred to *Nagar Mahapalika/NagarPalika/Awas Vikas Parishad* or authorities after deducting four *per cent* incidental charges and four *per cent* collection charges. Where *Awas Vikas Parishad* or authorities are not under operation the amount of additional stamp duty will be transferred to *Nagar Maha Palika/Nagar Palika* after deducting the incidental and collection charges. Receipts from Non-Judicial Stamps were required to be deposited into Head 0030 Stamps and Registration Fees-02 Stamps-Non-Judicial 102-Sale of Stamps. Receipts of Registration Fees other than Fees for registering documents were required to be deposited into Head 0030 Stamps and Registration Fees-03-Registration Fees-800-Other Receipts.

During the scrutiny of records related with additional stamp duty of the three AIG¹⁰⁵ we found that additional stamp duty of ₹ 449.76 crore for the period between 2008-09 and 2011-12 was collected by the Department and the entire amount was transferred between 2008-09 and 2011-12 to local bodies without deducting the collection and incidental charges of ₹ 35.98 crore.

Thus, the Department suffered a loss of ₹ 35.98 crore due to irregular transfer of part of collection and incidental charges in the additional stamp duty to the local bodies.

After we pointed this out, the Department stated that after deducting eight *per cent*, the rest amount was transferred to local bodies. We do not agree with the reply because information provided by the concerned units clearly indicates that incidental and collection charges were not deducted.

5.5.27.2 Misclassification of incidental and collection charges

In the scrutiny of records related with additional stamp duty of the 22 AIGs¹⁰⁶ we found that additional stamp duty of ₹ 1744.36 crore for the period between 2008-09 and 2011-12 were collected by the Department and the same was deposited in the Head 0030 Stamps and Registration Fees-02 Stamps-Non-Judicial 102-Sale of Stamps. Against which ₹ 1359.33 crore were transferred to local bodies after deducting the collection and incidental charges of ₹ 118.20 crore, eight *per cent* of 1477.53 crore. Collection and incidental charges were the part of the additional stamp duty and this should be the receipts of Registration Department and were required to be transferred to the

¹⁰⁵ Allahabad, Lucknow and Meerut.

¹⁰⁶ Agra, Aligarh, Barabanki, Basti, Bulandshahar, Chitrakoot, Etah, Etawah, Firozabad Gautam Budh Nagar, Ghaziabad, Gorakhpur, Jhansi, JP Nagar, Kannauj, Kanpur, Mathura, Meerut, Moradabad, Muzaffarnagar, Saharanpur and Varanasi.

Head 0030 Stamps and Registration Fees-03-Registration Fees-800- Other Receipts.

Thus, due to misclassification of incidental charges of ₹ 118.20 crore the receipts were over stated in the head 0030 Stamps and Registration Fees-02 Stamps-Non-Judicial 102-Sale of Stamps and same was understated in 0030 Stamps and Registration Fees-03-Registration Fees-800- Other Receipts.

After we pointed this out the Department stated that matter will be referred to Finance Department of the Government for examination of the case.

5.5.27.3 Irregular transfer of additional stamp duty

In the scrutiny of records related with additional stamp duty of the AIG, Etawah, we found that additional stamp duty of ₹ 2.90 crore after deducting incidental and collection charges for the period between April 2009 and March 2011 were paid to Uttar Pradesh *Awas Vikas Parishad*, Lucknow though the unit of Uttar Pradesh *Awas Vikas Parishad* or authorities were not under operation during the said period in Etawah.

After we pointed this out, the Department stated that unless and until the notification of the *Awas Vikas Parishad* is denotified, it remains in existence. We do not agree with the reply of the Department because the word used in the order is '*Karyarat*' means operating and not notified. Hence the amount transferred to *Awas Vikas Parishad* is irregular and the same was required to be transferred to *Nagar Palika* after deducting incidental and collection charges.

5.5.27.4 Non transfer of additional stamp duty

In the scrutiny of records¹⁰⁷ of the AIG, Etah, we found that additional stamp duty of ₹ 7.52 crore for the period between April 2008 and August 2011 were collected by the Department. Uttar Pradesh *Awas Vikas Parishad* unit or authorities were not under operation in the district during the said period, so the entire amount collected as additional stamp duty after deducting the collection and incidental charges were required to be transferred to *Nagar Palika*. However, only ₹ 3.78 crore was transferred to *Nagar Palika* and balance of ₹ 3.19 crore after deducting ₹ 55.70 lakh as collection and incidental charges was found lying in the head of stamp duty.

After we pointed this out, the Department stated that directions were sought from the headquarters which were not yet received. We do not agree as notification of 1993 already provided for remittances in such cases to *Nagar Palika*, etc. and as the *Awas Vikas Parishad* unit was not operational in the district, the additional stamp duty collected after deducting the incidental and collection charges should have been transferred to the *Nagar Palika*.

¹⁰⁷ Records related with Additional stamp duties realised and transferred to local authorities.

5.5.28 Conclusion

Stamp duty and registration fees is important tax revenue of the State. Due to non registration of documents in sub registrar offices though their registration was compulsory in some cases and optional in some cases Department suffered a revenue loss. Lack of monitoring mechanism or submission of documents like *khasra* along with the map of the land/property and declaration in form VI by the executants, specifying the area covered under agricultural, residential, industrial and commercial, in rate list circulated by the Collectors of the districts in cases of undervaluation of properties which were settled at the level of SRs resulted in short levy of stamp duty. But Department did not exercise its powers and detect evasion of stamp duty. Despite the order of the Government and the Department, collector concerned in many cases did not revise the rate list in time leading to loss of revenues.

5.5.29 Summary of recommendations

The Government may consider for:

- ensuring compliance of codal provisions and consider incorporating a provision for levy of interest on delayed registry cases to ensure that such delays are avoided and Government receives the Stamp duty in time;
- bringing out a notification declaring the areas developed under the UPID Act as development areas for the purpose of levy of additional stamp duty to remove this disparity;
- developing a system to ensure recovery of stamp dues well in time and property on which stamp cases remain pending should not be allowed to be disposed off without clearance of outstanding dues.

CHAPTER-VI MINING RECEIPTS

6.1 Tax Administration

The levy and collection of receipts from Mining in the State is governed by the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Uttar Pradesh Minor Mineral Concession Rules, 1963. The Secretary Geology and Mining, Uttar Pradesh, is the administrative head at Government level. The overall control and direction of the Geology and Mining Department vests with the Director, Geology and Mining, Uttar Pradesh, Lucknow.

6.2 Trend of revenue

As per provision of Para 25 of the Uttar Pradesh Budget Manual, in the preparation of budget, the aim is to achieve as close an approximation to the actual as possible. It is, therefore, essential that not merely should all items of revenue and receipts that can be foreseen be provided but also only so much, and no more, should be provided as is expected to be realised, including past arrears in the budget year.

The budget estimates and actual receipts under the head "0853 Non-ferrous Mining and Metallurgical Industries", are given below:

Year	Budget Estimates	Actual Receipts			Variance (+/-)	Percentage variance	Total Non-tax Receipts of the State	Percentage of the mining receipts to total Non-tax receipts
		Major Mineral	Minor Mineral	Total				
2007-08	448.96	115.17	280.03	395.20	(-) 53.76	(-) 11.97	5,816.01	6.80
2008-09	524.00	97.39	329.92	427.31	(-) 96.69	(-) 18.45	6,766.55	6.32
2009-10	667.75	149.09	455.88	604.97	(-) 62.78	(-) 09.40	13,601.09	4.45
2010-11	838.97	167.72	485.67	653.39	(-) 185.58	(-) 22.12	11,176.21	5.85
2011-12	900.00	181.94	411.34	593.28	(-) 306.72	(-) 34.08	10145.30	5.85

Source: Finance Accounts of Government of Uttar Pradesh

The shortfall between budget estimates and actual receipts ranged between 9.40 and 34.08 *per cent* during the period 2007-08 to 2011-12.

The percentage of receipts from mining industry with respect to non tax revenue of the State ranged between 4.45 and 6.80 *per cent* during the period 2007-08 to 2011-12.

We recommend that the Budget estimates should be prepared in accordance with the provisions of the Budget Manual.

6.3 Revenue Impact

During the period 2006-07 to 2010-11 we had pointed out through our Inspection Reports underassessment of royalty, dead rent etc., with revenue implication of ₹ 1.50 crore in two cases. The details are shown in the following table.

Year	No. of units audited	Amount Objected		Amount accepted		Recovered
		No. of cases	Amount	No. of cases	Amount	
2006-07	--	--	--	--	--	--
2007-08	1	1	1.40	--	--	--
2008-09	--	--	--	--	--	--
2009-10	1	1	0.10	--	--	--
2010-11	--	--	--	--	--	--
Total	2	2	1.50	--	--	--

6.4 Results of Audit

Our test check of the records of Geology and Mining Department during 2011-12 revealed underassessment of royalty and other irregularities involving ₹ 393.68 crore in 110 cases which fall under the following categories:

Sl. No.	Categories	Amount	
		Number of cases/ paras	Amount
1.	Non-realisation of royalty and interest	27	32.02
2.	Non-levy of royalty/ interest/ stamp duty	2	0.71
3.	Non-renewal/ delay/grant of fresh leases	5	51.60
4.	Unauthorised excavation	2	80.78
5.	Non-levy of penalty	1	159.79
6.	Misclassification of receipts	1	0.41
7.	Other Irregularities	72	68.37
	Total	110	393.68

In 2011-12, the Department accepted underassessment and other deficiencies amounting to ₹ 26.25 crore in nine cases pointed out by us and recovered ₹ 18.78 lakh in one case.

A few illustrative cases involving ₹ 315.38 crore are mentioned in the succeeding paragraphs.

6.5 Audit Observations

Our scrutiny of records in the offices of the Geology and Mining Department revealed cases of non/short realisation of royalty, non levy of penalty and interest, loss of revenue etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

6.6 Non-realisation of royalty

Under the One Time Settlement Scheme (OTSS) issued in December 2004, brick kiln owners are required to pay consolidated amount of royalty at the prescribed rates, based on Category of the brick kiln areas after obtaining permit by paying an application fee of ₹ 400 per brick kiln. Further, the OTSS provide that if the brick kiln owner fails to make payment of consolidated amount of royalty, the competent officer shall stop such business and initiate certificate proceedings for realisation of outstanding royalty/penalty under Paragraph 3 of the OTSS. Besides, interest at the prescribed rate may also be charged on the rent, royalty, fee or other sum due to the Government as per Paragraph 1(5) of the OTSS.

We observed during test check of brick kiln register and other relevant records maintained in the individual files of the brick kilns owners between October 2010 and January 2012 in 15 District Mining Offices¹ that 3684 brick kilns (Category²-A: 582, Category³-B: 1208 and Category-C⁴: 1894) were operated in brick season⁵ during 2005-06 to 2010-11. However, these brick kilns owners did not pay royalty of

₹ 9.86 crore. Further scrutiny of files revealed that though brick kiln owners who had applied for grant of permits and had paid requisite application fee but they did not submit the supporting documents like 'No Objection Certificate' from the State Pollution Control Board, *Khatauni* of land along with consent of the owner of land or an affidavit to that effect etc. Thus permits were not issued in any one of these cases. Further, action was not initiated by the concerned District Mines Officers (DMOs) to stop their business. Thus, non-initiation of follow-up action by the DMOs for stopping of illegal operation of brick kilns resulted in non realisation of royalty amounting to ₹ 9.86 crore besides interest of ₹ 5.29 crore. Further, the DMOs were also ignorant towards the environmental effect as the mining activities were being carried out in their jurisdiction without No Objection Certificate from the State Pollution Control Board.

¹ Allahabad, Ballia, Barabanki, Chandauli, Gorakhpur, Hamirpur, Kanpur Nagar, Kaushambi, Lakhimpur Kheri, Mathura, Mirzapur, Muzaffarnagar, Saharanpur and Sonbhadra.

² Category A- Kanpur Nagar, Mathura, Muzaffarnagar and Saharanpur.

³ Category B- Allahabad, Barabanki, Basti, Chandauli, Kaushambi and Lakhimpur Kheri.

⁴ Category C- Ballia, Gorakhpur, Hamirpur, Mirzapur and Sonbhadra.

⁵ Brick season starts from the month of October every year to September of the subsequent year.

After we pointed out the cases, the Department stated (February 2012 and August 2012) that ₹ 18.78 lakh had been recovered from 71 brick kilns owners and the revenue recovery certificates had been instituted against the defaulter brick kilns owners. Further report on recovery of dues and action taken to stop illegal mining has not been intimated (February 2013).

The matter was reported to the Government in February 2012; their reply has not been received (February 2013).

6.7 Non-levy of penalty for illegal removal of brick earth

Under Rule 3 and 57 of UPMMC Rules, no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of a quarrying permit or a mining lease granted under these Rules.

Sections 21 (1) and (5) of MMDR Act prescribes that the penalty for any illegal mining includes recovery of the price of the mineral, rent, royalty or taxes as the case may be, for the period during which the land was occupied by such person without any lawful authority. Further, Rule 57 of the UPMMC Rules *ibid* prescribes initiation of criminal proceedings attracting punishment of simple imprisonment that may extend to six months or with fine which may extend to rupees one thousand or both.

We observed between October 2010 and January 2012 from the Demand and Collection and Permit Register of brick kiln owners, in 13 District Mining Offices⁶ that 10277 brick kilns (Category-A⁷: 3252, Category-B⁸: 3699, Category-C⁹: 3326) were operated during the period 2005-06 to 2010-11 without application for grant of permit along with requisite fee and obtaining quarrying permit for excavation

of earth and paying the consolidated amount of royalty. Thus, the excavation of brick earth without quarrying permit was not only illegal but also affecting the ecological balance. Despite the fact that the mining activities were being carried out, the Department did not take any action to stop the business or levy penalty as per the UPMMC Rules. Thus, taking the price of mineral equivalent to five times of royalty, there was non-levy of penalty of ₹ 159.79 crore as detailed in **Appendix-XIX**, besides environmental effect.

After the cases were pointed out in audit, the Department stated in (February 2012) that as per Rules, mining permit can be issued only for a period of six months, while the OTSS is for one year and therefore mining permit can not be issued to brick kiln owners. The reply was however silent about non-initiation of any action to stop the business, levy and recovery of royalty/cost of mineral and unwarranted environmental effect.

The matter was reported to the Government in February 2012; their reply has not been received (February 2013).

⁶ Allahabad, Barabanki, Chandauli, Faizabad, Gorakhpur, Hamirpur, Jalaun, Kanpur Nagar, Kaushambi, Mathura, Meerut, Mirzapur and Saharanpur.

⁷ Kanpur Nagar, Mathura, Meerut and Saharanpur.

⁸ Allahabad, Barabanki, Chandauli, Jalaun and Kaushambi.

⁹ Faizabad, Gorakhpur, Hamirpur and Mirzapur.

The matter was reported to the Government in February 2012; their reply has not been received (February 2013).

6.8 Absence of provision for payment of Stamp Duty and Registration fees

Under Rule 22 of UPMMC Rules, the holder of a mining lease shall, during the term of the lease, pay in advance installments for every year of the lease, such amount as dead rent at rates mentioned in the second schedule to UPMMC Rules, as may be specified in lease deed by the State Government. Under Article 35 (c) of Schedule 1 (b) of Indian Stamp Act, 1899 read with Rule 22 of UPMMC Rules, stamp duty is payable on dead rent or royalty whichever is higher. The Commissioner of Stamp Government of Uttar Pradesh vide their orders of August 2003 directed all DMs to levy stamp duty on the amount of security deposit against mining leases of sand at prescribed rates.

6.8.1 The UPMMC Rules do not provide for levy of Stamp Duty and Registration fees in the event of royalty being more than the dead rent paid by the lessees.

We observed (between October 2010 and January 2012) during scrutiny of mining lease files in 11 DMOs¹⁰, that 122 leases for excavation of minor minerals i.e. sand and

sand stone were executed between 2005-06 and 2009-10 on which stamp duty and registration fees was paid on the amount of dead rent of ₹ 15.89 crore as mentioned in the lease deeds. However, the leaseholders excavated the minor minerals and paid royalty aggregating ₹ 58.72 crore¹¹ during the aforesaid period. Though the royalty paid was more than the dead rent mentioned in the lease agreements, the stamp duty and registration fees could not be levied on the differential amount for want of enabling provisions in the UPMMC Rules. Thus, the Government was deprived of revenue of ₹ 2.48 crore.

After we pointed this out, the Department stated (February 2012) that the stamp duty is leviable on the dead rent as defined in Schedule 1 B of Section 35 of the Indian Stamp Act.

We recommend that the Government should consider incorporating a condition in the lease deeds for periodic execution of modified lease agreements in cases where royalty paid exceeds the dead rent fixed.

6.8.2 We observed (between October 2010 and January 2012) from the files of lease holders of 189 lessees of two DMOs¹² that the Department levied stamp duty and registration fees only on lease rent reserved without taking into consideration the security amount of ₹ 3.79 crore deposited in advance at the time of lease agreement during the period 2005-06 to 2009-10. This resulted in short levy of stamp duty and registration fees of ₹ 24.50 lakh.

¹⁰ Allahabad, Banda, Barabanki, Hamirpur, Jalaun, Kaushambi, Lakhimpur Kheri, Mahoba, Mirzapur, Muzaffarnagar and Sonbhadra.

¹¹ Including the dead rent paid.

¹² Banda and Hamirpur.

After we pointed this out, the Department accepted (February 2012) the audit observation and stated that stamp duty will be levied according to provision of Stamp Act. Further report has not been received (February 2013).

The matter was reported to the Government in February 2012; their reply has not been received (February 2013).

6.9 Non-levy of interest for belated payment of royalty

Rule 58 (2) of UPMDC Rules provides that interest at the rate of 24 *per cent* per annum will be charged for the delay in payment of any rent, royalty, demarcation fee and any other dues to the State Government after the expiry of 30 days notice period. In case of royalty due to be realised from brick kiln owners alone, the Government vide order dated 18 May 2009 reduced the rate of interest to 18 *per cent* from 24 *per cent*.

We observed (Between October 2010 and January 2012) from the lease files in 14 DMOs¹³, that royalty of ₹ 5.10 crore which was due to be deposited during the period 2005-06 to 2009-10 was paid between February 2007 and March 2011 i.e. with delays

ranging from one to 70 months in 1,133 cases. Though the requisite details of delay in payment was available on record, the Department did not initiate any action for levy and recovery of interest on these belated payments. This resulted in non realisation of interest of ₹ 46.24 lakh as detailed in **Appendix-XX**.

After we pointed this out in audit, the Department stated (February 2012) that the notices for recovery of interest would be issued to the brick kiln owners after examination. As regard levy of interest on lease holders, the Department did not give any specific reply. Further report has not been received (February 2013).

¹³ Allahabad, Barabanki, Gorakhpur, Hamirpur, Lakhimpur Kheri, Lalitpur, Mahoba, Mathura, Meerut, Mirzapur, Muzaffarnagar, Saharanpur, Sahjahanpur and Sonbhadra.

6.10 Loss of revenue due to non renewal/grant of fresh leases

If any area which was held under mining lease becomes available for grant for mining lease the District Magistrate shall notify the availability of the area through the notice inviting for applicants for grant of mining lease specifying a date and description of such area. The applicant for grant/renewal of mining lease shall be made in prescribed form MM-1/MM-1A. Every application for grant of mining lease shall be accompanied by requisite fee, cadastral survey map of the area applied for, a certificate issued by the authorised officer showing that no mining dues are outstanding against the applicant, a certificate of cast and residence of the applicant and a character certificate given by the District Magistrate of the district. The State Government or the authority authorised by it may after making such further enquiry as it may consider necessary grant or renew the mining lease for the whole or part of the area applied for and for such period as it may consider proper.

The applications for grant/renewal of mining lease shall be received within seven working days from the date specified in the notice. If, however, the number of applications received for any area are less than three, the DM may extend the period for seven more working days and if even thereafter the number of applications remains less than three, the DM shall consider the applications and grant the lease as per UPMMC Rules.

According to Section 9-A-1 of MMDR Act, every lessee of mining lease shall pay, every year dead rent in advance for the whole year at the rates prescribed in second Schedule of UPMMC Rules at the prescribed dates for all areas included in the lease.

offices as detailed below.

Category	Name of District	No. of quarries	Area of Sand without lease in Acre	Area of Sand Stone without lease in Acre	Area of land remain without lease in Acre	Period	Dead Rent involved ¹⁵ up to March 2011 (₹ in crore)
Application less than three	Allahabad	407	12,808.92	0	12,808.92	August 2007 to March 2011	42.27
	Chandauli	52	1,479.87	0	1,479.87	April 2009 to March 2011	3.40
Applications are in process	Barabanki	5	79.40	0	79.40	2005-06 to 2009-11	0.37
	Faizabad	24	262.45	0	262.45	2009-11	0.60
	Gorakhpur	12	90.00	0	90.00	November 2006 to March 2011	0.34
	Lucknow	1	43.00	0	43.00	November 2008 to March 2011	0.07
	Lalitpur	28	0	123.14	123.14	April 2005 to March 2011	0.71
	Total	529	14,763.64	123.14	14,886.78		47.76

6.10.1

From the information collected by Audit from seven DMOs¹⁴ we noticed (October 2010 to January 2012) that 629 quarries were notified for grant/renewal of leases of river sand and sand stone between April 2005 and January 2012, of which 100 quarries lease were finalised by the concerned DMs.

The remaining 529 quarry leases were pending in district mining

¹⁴ Allahabad, Barabanki, Chandauli, Faizabad, Gorakhpur, Lucknow and Lalitpur.

¹⁵ Calculated on the basis of Area x Rate prescribed by Government (upto May 2009- Sand ₹ 6,000 per Acre, Sand Stone ₹ 8,000 per Acre, From June 2009- Sand ₹ 12,000 per Acre, Sand Stone ₹ 16,000 per Acre).

We further noticed that out of 529 pending quarry leases, 459 cases were pending due to receipt of less than three applications whereas in 70 cases, the applications were under process. Though the period of more than one to five years had already been elapsed, the quarry lease could not be settled within the specified period and the Government was deprived of the dead rent as the sand got washed away due to rains besides blocking of mineral development.

6.10.2 Loss of revenue due to non-renewal of leases.

We observed in the DMO, Lalitpur that 39 applications in respect of *Gitti*/boulder were received between 2004 and 2008, of which only one application was considered and lease was renewed. The remaining 38 applications for lease renewal, covering a total area of 165 acres were pending at the Government level for three to seven years. This resulted in the loss of dead rent of ₹ 98.37 lakh.

6.10.3 Loss of revenue due to non-renewal/grant of fresh leases.

In the DMOs, Barabanki, Chandauli and Mathura, 17 leases of sand and four leases of sand stone covering a leasehold area of 389.61 acres, had expired between January 2004 and May 2010. We noticed that despite the Government orders of December 2000 and 16 October 2004, no efforts like survey, making of map were made by the Department to identify the areas that could be leased out afresh. This resulted in loss of ₹ 1.43 crore in the shape of dead rent between 2003-04 and 2010-11.

6.10.4 Delay in renewal of lease

Applications for five leases for mining of sand in Gorakhpur district and one lease of *Gitti*/Boulder in Lalitpur district were received in time but were renewed with a delay ranging from eight months to seven years. The delay on the part of the Department in renewal of leases, resulted in the loss of dead rent of ₹ 5.70 lakh.

6.10.5 Delay in grant of lease

We observed that applications for three leases for mining of granite, four for sand stone and one for sand in Lalitpur district were received between April 1996 and November 2008 and five leases of sand in Chandauli district, but the lease deeds were executed with a delay ranging between one year seven months and 15 years. This resulted in the loss of dead rent of ₹ 70.02 lakh.

The matter was reported to the Department and Government in (February 2012). The Department did not furnish specific reply. The reply from the Government has not been received (February 2013).

The Government may consider prescribing a periodic return to monitor the cases of applications of grant/renewal of quarry lease pending at the district offices to save the revenue interest of the State.

6.11 Non/ short realisation of royalty

Rule 58(1) and (2) of UPMDC Rules provides that a notice of demand will be served to the lessee to pay the amount due from and if within 30 days from receipt of the notice, the lessee fails to pay such dues, same will be recovered as arrears of land revenue. Further, sub rule (2) of the Rules *ibid* provides that simple interest at the rate of 24 *per cent* per annum may be charged after expiry of the period of the notice. As per the general conditions in lease deed format (MM-6), the lease can be cancelled and security deposit forfeited in case of violation of any condition of the lease deed.

6.11.1 We observed during scrutiny of returns furnished by 12 lease holders in five DMOs¹⁶, between October 2010 and January 2012 that royalty of ₹ 2.31 crore was payable for the minerals removed from the leased area between October 2000 and March 2011. However, we noticed that the

lessees had paid royalty of ₹ 70 lakh only. The concerned DMOs did not notice the short payment/payment at incorrect rates, which resulted in short realisation of royalty of ₹ 1.60 crore besides the interest of ₹ 1.31 crore as detailed in **Appendix-XXI**.

6.11.2 Short levy of royalty due to revision of rates

The Government Order of October 2004 read with Rule 14 of UPMDC Rules provides that the royalty shall be payable on the basis of revised rate from time to time. The rate of royalty was revised by the State Government with effect from 02 June 2009 vide GO dated 02 June 2009.

We observed during scrutiny of the lease files of three DMOs¹⁷, between October 2010 and January 2012 that the Department, in violation of the conditions of the lease

agreement, did not revise the royalty and dead rent in cases of 42 quarry leases for the period of four months to 44 months. This resulted in short realisation of royalty of ₹ 65.70 lakh as detailed below:

(₹ in lakh)							
No.	District	Number of cases	Area in acres	Lease rent due at pre revised rate ¹⁸	Lease rent due at revised rate ¹⁹	Actual lease rent deposited	Difference
1	Allahabad	7	106.76	16.20	32.40	26.70	5.70
2	Gorakhpur	17	234.50	25.19	50.39	25.19	25.20
3	Kaushambi	18	620.00	34.80	69.60	34.80	34.80
	Total	42	961.26	76.19	152.39	86.69	65.70

After we pointed out the cases, the Department accepted (February 2012) the audit observations and stated that action will be taken for recovery. Further report has not been received (February 2013).

¹⁶ Gorakhpur, Jalaun, Lalitpur, Mirzapur and Muzaffarnagar.

¹⁷ Allahabad, Gorakhpur, and Kaushambi.

¹⁸ Rate applicable from 16 December 2004 to 01 June 2009 by G.O.no. 6714/77-5-2004-200-77 dated 15 December 2004, at the rate of ₹ 8000 per acre for grit and ₹ 6000 per acre for sand.

¹⁹ Rate of royalty was revised by G.O. no. 530/86-77-2009-200/77-TC-II Lucknow, dated 02 June 2009, at the rate of ₹ 16,000 per acre for grit and ₹ 12,000 per acre for sand.

6.12 Unauthorised extraction

Rule 22A of Mineral Concession Rule, 1960 provides that mining operations shall be undertaken in accordance with duly approved Mining Plan and modification of the approved Mining Plan during the operation of a mining lease also requires prior approval. Under Section 21(5) of the MMDR Act, whenever any person raises without lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral has already been disposed off, the price thereof along with royalty. Further, under Rule 21 (2) of UPMDC Rules, the total royalty is fixed at the rate of not more than 20 per cent of the pits mouth value of minerals.

Under Rule 34 (2) of UPMDC Rules, in the case of mining of marble, limestone, building stones like sandstone and granite, stone ballast (*gitti*), *bajri* etc., the lease holder is required to attach a Mining Plan with the MM-1 (A) form of application. A Mining Plan is not needed for mining of sand and *morrum* found in river beds.

6.12.1 Our test check (October 2010 to January 2012) of the mining lease case files and mining plans of five DMOs²⁰ revealed that lessees had excavated 28,33,850 cubic meter of stone ballast during the period 2005-06 to 2010-11 over and above the quantity mentioned in the approved mining plan. Thus, the mineral excavated by the lessees was unauthorised and the cost of the excavated mineral amounting to ₹ 77.87 crore was recoverable from the lessees. The DMOs

neither initiated any action against the lessees for excavation of the excess mineral over the mining plan nor took any action for recovery of the cost of excavated mineral of ₹ 77.87 crore as detailed in table:

(₹ in crore)							
Sl. No.	District	No. of cases	Total reserve in Cubic Meter	Quantity allowed as per Mining Plan in Cubic Meter	Total quantity excavated in Cubic Meter	Excess excavation in Cubic Meter	Price of mineral to be recovered
1.	Jhansi	5	2,90,865	45,000	1,40,750	95,750	2.96
			59,840	12,000	1,47,520*	1,35,520	3.77
			50,374	15,000	55,000*	40,000	1.23
			1,00,000	24,000	2,38,200*	2,14,200	5.96
			52,129	12,000	1,25,800*	1,13,800	2.56
2.	Lalitpur	2	2,45,486	36,000	2,67,663*	2,31,663	4.33
			1,20,428	15,000	45,582	30,582	0.56
3.	Mahoba	5	1,16,761	30,000	1,80,950*	1,50,950	3.86
			1,13,751	16,000	1,56,600*	1,40,600	3.61
			1,31,182	20,000	1,55,400*	1,35,400	3.34
			1,57,795	30,000	2,19,150*	1,89,150	4.96
			Mining Plan not renewed	---	4,28,950*	4,28,950	13.19
4.	Sonebhadra	5	68,330	18,000	1,06,200*	88,200	2.34
			93,912	24,000	3,28,000*	3,04,000	8.76
			19,583	6,000	3,10,500*	3,04,500	9.03
			10,415	3,000	1,33,900*	1,30,900	4.16
			1,17,433	21,000	74,400	53,400	1.44
5.	Mirzapur	5	NA	5,600	19,759	14,159	0.48
			NA	7,000	21,440	14,440	0.73
			NA	10,500	13,960	3,460	0.12
			NA	7,000	15,228	8,228	0.28
			NA	8,000	13,998	5,998	0.20
Total		22	17,48,284	3,65,100	31,98,950	28,33,850	77.87

Source: Files of lease holders

* Excess quantity extracted than approved Mining Plan

²⁰ Jhansi, Lalitpur, Mahoba, Mirzapur, and Sonebhadra.

After we pointed out the cases (February 2012), the Department stated that if mineral is excavated more than the quantity mentioned in Mining Plan, then excavation is not called unauthorised as the lease holder is authorised to excavate any quantity of the minerals available in lease area.

We do not agree with the reply of the Department because as per Rule 34 (2) of UPMMC Rules, mining operation in respect of *in situ* rock deposits is to be undertaken in accordance with the Mining Plan detailing yearly development schemes duly approved by the Director. The Rule 22A of MC Rules provides that mining operations shall be undertaken in accordance with the duly approved Mining Plan. Modifications to the Mining Plan also require prior permission. Thus, excavation of mineral beyond the approved quantity in the Mining Plan was unauthorised. Further report has not been received (February 2013).

6.12.2 Excavation of mineral without renewal of Mining Plan

We observed (Between October 2010 and January 2012) from the files of lessees in DMO Banda that two lease holders excavated and dispatched minerals without renewal/approval of their Mining Plan. The Mining Plan of one lease holder had been approved only for three years. However, the Department continued to issue MM-11 Forms to the lease holder for 18 months after expiry of the Mining Plan. In the second case, the extraction of mineral was undertaken prior to approval of the Mining Plan. Thus, during above mentioned period, 4800 cubic meter of minerals were illegally excavated by the lessees. Though the cost of the mineral which amounted to ₹ 12.87 lakh was recoverable from the lessees. The DMO Banda however neither took any action to stop the unauthorised excavation nor recovered the cost of the excavated mineral.

After this was pointed out (December 2011) the DMO stated that the lease holders had carried out the mining operations according to the demand and had paid dead rent/royalty at prescribed rates.

We do not agree as the mining operations were required to be undertaken in accordance with the approved mining plan which was not followed. Further reply has not been received (February 2013).

6.13 Inconformity between MMDR Act and UPMMC Rules

Section 21 of the MMDR Act provide for punishment with imprisonment for a term which may extend to two years, or with a fine which may extend to twenty-five thousand rupees, or with both or whoever removes minor minerals without valid lease/permit shall be liable to pay the price thereof of the minerals mined illegally whereas the UPMMC Rules provide for punishment with imprisonment of either description for a term which may extend upto six months or with a fine which may extend to one thousand rupees or with both. There is no corresponding Rule for recovery of the price thereof of the minerals mined illegally under UPMMC Rules.

We noticed that there is no conformity between MMDR Act and UPMMC Rules in two issues namely penal provisions and recovery of cost of minerals with respect to cases of illegal mining.

In 14 DMOs²¹, we noticed that 1555 cases of illegal transportation of minerals without valid MM-11 forms

were impounded (between 2005-06 and 2010-11) and penalties were imposed by the DMOs. The penalties imposed ranged from maximum of ₹ 25,000 in 78 cases to minimum of ₹ zero in 10 cases. 1467 vehicles were released on levy of meager amount. Thus there was no parity in the penalty being imposed by the Department.

Thus there was ambiguity in the imposition of penalty as both the provisions of MMDR Act and UPMMC Rules were being applied randomly.

After this was pointed out, the Department stated (February 2012) that the Government vide notification of December 2011 has amended the rules to maximise the penalty to ₹ 25000 for cases of illegal transportation of minerals. However the imprisonment period remains upto a maximum of six months only.

We are of the opinion that the UPMMC Rules should be in conformity with the MMDR Act in order to prevent ambiguity and deter illegal transportation of minerals.

²¹ Allahabad, Banda, Barabanki, Hamirpur, Jalaun, Jhansi, Kaushambi, Lakimpur Kheri, Lalitpur, Lucknow, Mahoba, Mathura, Saharanpur and Sonbhadra.

6.14 Non-recovery of cost of minerals and royalty on unauthorised excavation

Under Rule 3 of UPMMC Rules, no person shall undertake any mining operations in any area within the State of any minor mineral to which these rules are applicable except under and in accordance with the terms and conditions of mining lease or mining permit granted under these rules.

Further, Section 21(5) of the MMDR Act, provides that whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral has already been disposed off, the price thereof and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

6.14.1 We observed (October 2010 to January 2012) from the files of the lease holders of three²² DMOs that the lessees excavated during 2005-06 to 2010-11 mineral (sand) from areas other than the area for which leases were granted. Such cases of illegal extraction of 2,09,972.05 cubic meter of sand were detected by the Department and notices were issued to the lessees. However, the Department did not work out cost of

minerals so raised and also not filed the case before the competent court for recovery of cost of mineral and royalty of ₹ 2.35 crore from the lessees. This resulted in non-recovery of price of mineral of ₹ 1.96 crore and royalty of ₹ 39.11 lakh.

6.14.2 We observed in DMO, Jalaun, that unauthorised mining of 16,990 cubic meter sand was detected (26 February 2009) and the Department raised (March 2009) demand of ₹ 4.16 lakh²³ without considering and including the cost of mineral which worked out to ₹ 42.56 lakh.

After we pointed out these cases, the Department stated (February 2012) that the cost of minerals and royalty could be recovered by an order of the court competent to take cognizance of the offence under Sub-Section 1 of Section 21 of MMDR Act. The fact, however, remains that the Department did not file the case before the competent court for recovery of the cost of mineral. Further report has not been received (February 2013).

²² Lucknow, Mathura and Sonebhadra.

²³ Royalty – ₹ 3,90,770 and penalty – ₹ 25,000.

6.15 Coal leases

Under Section 4 (1) of MMDR Act, no person shall undertake any mining operation in any area except under and in accordance with the terms and condition of a mining lease granted under this Act. Further, Section 8(1) of the Act on of that the maximum period for which a mining lease may be granted shall not exceed thirty years.

Under the provision of the Section 17 of the Registration Act, 1908, leases of immovable property from year to year or for any term exceeding one year or reserving a yearly rent are compulsory for registration. Section 26 of the Indian Stamp Act, 1899 provides that the stamp duty is payable on dead rent or royalty whichever is higher at the rate of ₹ 20 per thousand.

Government of Uttar Pradesh vide order dated 27 July 2007 granted the permission of lease to Krishnashila project for the period of thirty years.

Coal is the major mineral defined in MMDR Act.

We examined records of DMO, Sonebhadra between October 2010 and January 2012, records of Northern Coalfield Limited (NCL) made available by our sister office²⁴ and found that the Krishnashila Coal Project of NCL had started mining operation from January 2008 in 859.95 hectare of land. We noticed that the mining operations were commenced in January 2008 and the NCL has paid ₹ 96.20 crore as royalty between

January 2008 and March 2011.

However, there was nothing on record to indicate that the NCL had executed mining lease before the mining operations were commenced.

We have noticed a similar situation in respect to the four other coal projects namely Bina, Kakri, Duddhichua and Khadia of NCL which were being operated in the State from the years 1974, 1980, 1991 and 1992 respectively. However, there was nothing on record to indicate that lease deeds were executed. The NCL, however, has confirmed that the leases were not executed. Thus, the Department was not in a position to enforce or monitor any of the conditions under which the leases were granted. In addition the Government has also been deprived of the Stamp Duty and Registration Fees in all these cases.

After we pointed this out, the Department stated (February 2012) that the information on execution of the coal mining leases was not available with them and that the leases of coal mining were granted by the Government of India.

Since coal mining in Sonebhadra contributes around 30 *per cent* of the Department's revenue, we recommend that the Department should ensure that the lease agreements are executed as per the terms and conditions approved by the Government of India and devising of a monitoring mechanism of the mining activities in the Coal sector.

²⁴ Office of Principal Director of Audit and Member Audit Board II, Kolkata

6.16 Maintenance of Stock Register of transit passes

The Government vide instructions of September 2003 directed all DMs that in the district office a stock register* and an issue register# shall be maintained for MM-11 forms and officer in charge of regional office shall check and verify the registers of the concerned districts. Further, the Government vide orders of February 2001 reiterated in August 2002 and October 2006 directed all DMs to ensure that the mineral utilised in execution of public works were procured on the strength of valid MM-11 forms after payment of royalty.

As per GOs of February 2001, August 2002 and October 2006, the Government executing agencies were required to verify the MM-11 forms submitted by their contractors from the concerned DMO.

* Stock Register: is a register maintained by the DMO to record all the MM-11 forms received from Directorate of Geology and Mining Department.

Issue Register: is a register also maintained by the DMO to record the details of MM-11 forms issued to leaseholders.

Test check of Stock Registers of MM-11 forms in 17 districts²⁵ revealed the following deficiencies:

- Four districts²⁶ did not furnish information regarding maintenance of Stock Register.
- In two districts²⁷ Stock Register was not maintained.
- The Stock Register was verified by the officer in charge in only three districts²⁸ out of 15 districts²⁹.
- In 11 districts³⁰ the executing agencies had forwarded MM-11 forms to the concerned DMO for verification and in six districts³¹ the executing agencies did not send the MM-11 forms to DMO for verification.
- Our audit has revealed irregularities in 3,381 MM-11 forms in even those 11 districts where the forms were sent for verification to DMOs.

²⁵ Allahabad, Banda, Barabanki, Chandauli, Faizabad, Gorakhpur, Hamirpur, Jhansi, Kanpur, Kaushambi, Lalitpur, Lucknow, Mahoba, Meerut, Mirzapur, Muzaffarnagar and Sonbhadra.

²⁶ Jalaun, Lakhimpur Kheri, Mathura and Saharanpur.

²⁷ Barabanki and Lucknow.

²⁸ Allahabad, Kaushambi, Muzaffarnagar.

²⁹ Allahabad, Banda, Chandauli, Faizabad, Gorakhpur, Hamirpur, Jhansi, Kanpur, Kaushambi, Lalitpur, Lucknow, Meerut, Mirzapur, Muzaffarnagar and Sonbhadra.

³⁰ Banda, Barabanki, Chandauli, Faizabad, Gorakhpur, Jhansi, Kanpur, Lalitpur, Lucknow, Mirzapur and Sonbhadra.

³¹ Allahabad, Hamirpur, Kaushambi, Mahoba, Meerut and Muzaffarnagar.

6.17 Mechanism to curb transportation of illegally mined minerals

Under the provisions of the MMDR Act, the State Government may by notification in the gazette make rules for preventing illegal mining, transportation, storage of minerals, etc. The UP Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules 2002 provide that transportation of minerals without a valid Transit Pass (MM-11) is irregular. The mining office is also required to maintain a control register for watching issue and utilisation of Transit Passes (TPs). Further, under orders of the Government issued in February 2001, August 2002 and October 2006 the works executing agencies were required to accept MM-11 forms only after verifying their validity from the concerned DMOs.

In course of the Audit of 21 districts³² between October 2010 and January 2012, we came across cases where the provisions of the Act/Rules were not followed, as discussed in the subsequent paragraphs. We picked up (Between October 2010 and January 2012) 13,830 MM-11 forms at random from divisions of Public Works Department³³

(37) and Rural Engineering Services³⁴ (20) and cross-checked them with the corresponding District Mines Offices. Of the 13,830 MM-11 forms scrutinised, we found irregularities in 4,943 cases, which was around 36 *per cent* of the total forms checked. Our findings on misuse of MM-11 forms, illegal mining and loss of revenue are confined to Government works executing agencies of these 21 districts.

6.17.1 MM-11 forms not issued by the Department

Minor minerals (sand, stone and stone ballast) were shown as utilised in construction works by contractors, who produced MM-11 forms in support of transportation and utilisation of minerals in construction works with their bills. As MM-11 forms were furnished by contractors, full payment was released to the contractors.

We found (Between October 2010 and January 2012) that 359 MM-11 forms purported to be issued by the DMOs of Allahabad, Jhansi and Sonebhadra were fakes as the DMOs subsequently denied having issued the said MM-11 forms. The fake MM-11 forms were found in use in the Public Works Department Allahabad and Rural Engineering Services divisions of Allahabad and Jhansi. As the MM-11 forms were not authentic, it is obvious that no royalty has been paid on the minerals. Interestingly of these 359 fake MM-11

³² Allahabad, Banda, Barabanki, Chandauli, Faizabad, Gorakhpur, Hamirpur, Jalaun, Jhansi, Kanpur nagar, Kaushambi, Lakhimpur kheri, Lalitpur, Lucknow, Mahoba, Mathura, Meerut, Mirzapur, Muzaffarnagar, Saharanpur and Sonebhadra.

³³ Allahabad (2), Banda (3), Barabanki (2), Chandauli (2), Faizabad (2), Gorakhpur (3), Hamirpur (3), Jalaun (2), Jhansi (3), Kanpur (1), Kaushambi (1), Lakhimpur Kheri (2), Lalitpur (1), Lucknow (2), Mahoba (2), Mathura, Meerut, Mirzapur, Muzaffarnagar, Saharanpur and Sonebhadra.

³⁴ Allahabad, Banda, Barabanki, Faizabad, Gorakhpur, Hamirpur, Jalaun, Jhansi, Kanpur, Kaushambi, Lakhimpur Kheri, Lalitpur, Mahoba, Meerut, Mathura, Mirzapur, Muzaffarnagar, Saharanpur and Sonebhadra.

forms, six serial numbers (12 forms in all) were shown as dual identical issued by DMO Sonebhadra.

6.17.2 Utilisation of MM-11 forms without holograms

Under UPMMC Rule, read with Government Order dated 27 September 2003 and Director, Geology and Mining letter dated 04 July 2006, MM-11 forms without holograms were not to be accepted with effect from 15 July 2006 and were to be treated as invalid. However, due to non availability of stickers of holograms, Transit Passes were printed without holograms by order of the Director, Geology and Mining between 07 January 2008 and 31 May 2008.

We noticed (between October 2010 and January 2012) that rather than recalling and destroying unused MM-11 forms (without hologram) after 31 May 2008, the Department continued to issue MM-11 forms without holograms to district units up to

March 2010. Thus due to non-observance of the orders of the head of the Department and the Government there has been an intermixing of MM-11 forms with and without holograms and identification of genuine and fake forms was not possible. As such we could not comment upon the veracity of MM-11 forms which were issued without holograms.

We recommend that the Department should take action to ensure that all MM-11 forms without holograms are immediately recalled and destroyed.

6.17.3 Use of invalid copies of MM-11 forms

According to UPMMC Rules, the MM-11 Forms are required to be printed in triplicate – (i) Office Copy (of the lease holder), (ii) First Copy – for retention at Check Posts and (iii) Second Copy for transporter/ end-consumer. Only the consumer's copy (second copy) of MM-11 form is valid for transportation and is to be considered as proof of royalty paid.

During audit between October 2010 and January 2012, we noticed from the records of final payment bills in PWD³⁵ and RES Divisions³⁶ for the period 2005-06 to 2010-11, that

35,260.38 cubic meters minor minerals were raised and transported on 2401 invalid copies³⁷ (Office Copy and First Copy) of MM-11 forms.

The DDOs of works executing agencies did not detect the misuse of office copies and check post copies and failed to realise royalty and cost of mineral.

The invalid copies of Transit Passes pertained to the DMOs of Allahabad, Auraiya, Banda, Barabanki, Chitrakoot, Hamirpur, Jhansi, Kanpur Dehat, Kaushambi, Kushinagar, Lalitpur, Lucknow, Mahoba, Mirzapur, Saharanpur and Sonebhadra. The DMOs also did not inspect records of the lease holders

³⁵ Banda, Barabanki, Chandauli, Faizabad, Gorakhpur, Hamirpur, Jhansi, Kanpur, Kaushambi, Lalitpur, Lucknow, Mahoba, Meerut, Mirzapur, Muzaffarnagar, Saharanpur and Sonebhadra.

³⁶ Banda, Barabanki, Gorakhpur, Hamirpur, Jhansi, Kanpur, Lalitpur, Lucknow, Meerut and Mirzapur

³⁷ Office copies (1165) and First copies (1236)

periodically as per laid down norms and thus failed to detect misuse of Office Copy and First Copy of TPs.

After we pointed this out, the Government/Department admitted (February 2012) the objection and stated that the royalty will be recovered from the concerned lessees. However the fact remains that the Department/Government had compromised the environmental effect as a result of unauthorised and unscientific exploitation of mineral resources.

6.17.4 Irregularities in serial numbers of MM-11 forms

Two MM-11 forms can not have the same serial number. If more than one MM-11 forms having the same number has been utilised, it was obvious that documents have been forged/fake.

We observed between October 2010 and January 2012 from the bills/vouchers of PWD Divisions³⁸/RES Divisions³⁹ that in 20 cases, 255 cubic meters of minor minerals were raised and transported on MM-11 forms having the same numbers. We also observed that in 27 cases, 334 cubic meters of minor minerals were raised and transported on MM-11 forms which did not have any serial number.

The DMOs from where these MM-11 forms were issued are Banda, Mirzapur and Sonebhadra.

Obviously, these 47 MM-11 forms cited above have been forged. As such the royalty and cost of mineral under the MMDR Act and UPMDC Rules were recoverable apart from penalty.

6.17.5 Incongruent dates on MM-11 forms

Under UPMDC Rule, read with Government Order dated 27 September 2003, minor minerals shall not be transported without valid transit passes. Prior to July 2008, the transit passes, in form MM-11, were to be checked and verified at check posts established for this purpose MM-11 forms are valid for 48 hours from the time of issue from quarry. Further under orders of the Government issued in February 2001, August 2002 and October 2006, the works executing agencies were required to accept MM-11 forms only after verifying their validity from the concerned DMOs.

From scrutiny of vouchers of PWD divisions of Banda, Chandauli, Gorakhpur, Lucknow, Mahoba, Mirzapur and RES Divisions at Mirzapur and Lucknow, we observed (October 2010 to January 2012) that in 293 cases:

- the contractors had submitted bills supported with MM-11 forms though the date of submission of bills was prior to the date of issue of mineral from the quarry.
- where the dates on which the consignment were apparently verified at check posts were earlier than the dates mentioned on MM-11 forms, on

³⁸ Banda, Chandauli and Mirzapur.

³⁹ Mirzapur.

which the minor minerals were supposed to have been transported from the quarries.

The concerned DDOs could not detect these irregularities and released the payment without deducting royalty and cost of minor mineral from the bills. These MM-11 forms with incongruent dates pertained to DMO Banda, Mirzapur and Sonebhadra.

After we pointed this out in February 2012 the Department agreed (February 2012) that all three copies of MM-11 forms should be printed in different colours and informed that Rule 70 of UPMMC Rules will be amended accordingly. Further report has not been received (February 2013).

6.17.6 Use of incomplete MM-11 forms

While issuing a transit pass (Form MM-11) by leaseholder it is mandatory to fill all the necessary information in all three copies of the Transit Pass like Name of the leaseholder, Name of the quarry, Name of the mineral transported, Quantity of mineral transported and the destination, Name and address of person in-charge of consignment, Full signature of the person in-charge of consignment, Full signature of the leaseholder/authorised person who had issued the Transit Pass, etc. Transit Pass must be punched for category of vehicle in which mineral is transported. District code must be punched at the prescribed place in form MM-11. Date and time of issue must be filled because transit pass is valid for 48 hours after its issuance.

We observed (October 2010 to January 2012) from the bills/ vouchers of PWD⁴⁰/ RES⁴¹ Divisions covering the period 2005-06 to 2010-11, that payments were released to contractors on incomplete MM-11 forms where the (i) vehicle registration number was not mentioned (17 cases), (ii) quantity of mineral was not mentioned (19 cases), (iii) minor mineral being transported was not mentioned (110 cases)

and (iv) the district for which the mineral was consigned was not the district where the mineral was consumed (312 cases).

However, the DDOs⁴² did not notice these deficiencies and released the payment to the contractors.

These MM-11 forms were purported to have originated from the DMOs of Allahabad, Banda, Jhansi, Mahoba, Mirzapur, Saharanpur and Sonebhadra. Thus in the absence of requisite information/details, the correctness of utilisation of MM-11 forms and transportation of minerals could not be vouched safe in audit.

The Department has agreed (February 2012) that these examples are indicative of a grave problem and that stringent action will be taken after examination at

⁴⁰ Allahabad, Banda, Barabanki, Chandauli, Faizabad, Gorakhpur, Mahoba, Mirzapur, Muzaffarnagar, Saharanpur & Sonebhadra.

⁴¹ Allahabad, Banda, Barabanki, Meerut, Mirzapur & Saharanpur.

⁴² Specified in G.O. No. 594/77-5-52001/200/77 T.C.-1 dated 02 February 2001, G.O. No. 389/77-5-2002-1(216)93 dated 05 August 2002 & G.O. No. 495 (1)/77-5-2006-506/05 dated 05 October 2006.

the level of the PWD/RES divisions, the DMOs and lease holders concerned. Wherever necessary, orders will be issued to ensure corrective action.

Considering the widespread misuse of MM-11 forms and consequent loss of revenue to the Government, we recommend that the Government put in place an effective mechanism to ensure transportation of minerals under valid transit passes.

6.18 Non/short levy of royalty on collection of stone ballast/soil

Under the UPMMC Rules 1963 read with G. O. dated 02 February 2001, royalty on stone ballast/boulders is to be paid by the Department/contractor/consumer. The Government vide their order dated 5 August 2002 and G.O. dated 05 October 2006 clarified that each Drawing and Disbursing Officer (DDO) is responsible for realisation of royalty. If the contractor do not produce royalty receipt in form MM-11 or Form C* the DDO will deduct the royalty from the contractor's bill and deposit the same into the Treasury. If the DDO failed to deduct the amount of royalty from the contractor's bill, the DDO is liable to make good the loss. The concerned agency/DDO will also submit a monthly statement/certificate to the DM and the DGM that no royalty dues are pending for recovery or no amount is available for deposit in treasury. The rate of royalty on stone ballast has been fixed at ₹ 32 per cubic meter which was raised to ₹ 48 from 2 June 2009.

* Form C is a transit pass for transportation of minerals from place of storage and is issued by the store license holder.

6.18.1 We observed (October 2010 to January 2012) from the vouchers of contractors of 24 divisions of Public Works Department (PWD)/Irrigation/Rural Engineering Services (RES)⁴³ Departments and two Development Authorities⁴⁴ relating to procurement of boulders/stone ballast etc. that these divisions of PWD/RES paid the cost of minor minerals to the contractors during the period from 2005-06 to 2009-10. However, in 1095 cases the concerned DDOs did not deduct the amount of royalty from the bills of the contractors despite the

fact that the contractors did not submit the MM-11 forms alongwith their bills as proof of payment of royalty. We noticed that the Department did not enforce the system of obtaining a monthly statement from the DDOs regarding royalty deduction from the bills of contractors. This resulted non/short realisation of royalty of ₹ 2.40 crore as detailed in **Appendix-XXII**.

⁴³ Ambedkar Nagar, Bahraich, Barabanki, Basti, Bulandshahar, Faizabad, Gautam Buddha Nagar, Ghaziabad, Gorakhpur, Jhansi, Kanpur, Lucknow, Mirzapur, Muzaffarnagar, Sonbhadra and Sultanpur.

⁴⁴ Agra and Faizabad.

6.18.2 Non realisation of royalty on earth work

The Government of Uttar Pradesh vide order No. 1615/77-5-2001-200/77 dated 28 March 2001 included earth as a minor mineral in the Schedule 1 under Rule 21 of the UPMMC Rules. Earlier the Government of India (Department of Mines) had also declared ordinary earth as minor mineral vide their notification no. GSR 95 (E) dated 3 February 2000. The rate of royalty on earth has been fixed at ₹ 4 per cubic meter from 2001, which was raised to ₹ 6 and ₹ 9 from 16 December 2004 and 2 June 2009 respectively.

We observed from bills of contractors, that earth work was being done by 26 divisions of PWD/RES/ Irrigation Departments of 19 districts⁴⁵ and two Development Authorities⁴⁶ and two DMOs⁴⁷. The DDOs did not deduct ₹ 1.39 crore of royalty from the bills of 1001 contractors during the period

2005-06 to 2010-11 and short deducted ₹ 26 lakh in 239 cases from the bills. The Department did not enforce the system of obtaining a monthly statement from the DDOs regarding royalty deduction from the bills of contractors. As a result there was non realisation of royalty of ₹ 1.65 crore as detailed in **Appendix-XXIII**.

After this was pointed out in Audit, the Department stated (February 2012) that an inter Departmental meeting will be called at Government level and further action will be suggested to Government for fixing accountability. Further report has not been received (February 2013).

6.19 Misclassification

As per Government rules and under the provisions of the Financial handbook, it is necessary to deposit the revenue collected by all concerned sectors in the proper head "0853" Non-ferrous mining and metallurgical industries prescribed for revenue deposit of the "Geology and Mining Department".

During audit of records of Rural Engineering Service, Barabanki, we observed that Department had collected royalty ₹ 41.39 lakh⁴⁸ during the period 2005-06 to 2009-10. The royalty money was deposited in

Public Works Department. This resulted in understatement of receipts of Geology and Mining Department by ₹ 41.39 lakh.

The matter was reported to the Department and the Government in February 2012. Their reply has not been received (February 2013).

⁴⁵ Azamgarh, Banda, Barabanki, Bijnour, Deoria, Etawah, Faizabad, Gorakhpur, Jhansi, Kanpur, Lakhimpur Kheri, Lalitpur, Lucknow, Mirzapur, Meerut, Muzaffarnagar, Raebareli, Sonbhadra and Sultanpur.

⁴⁶ Agra and Lucknow.

⁴⁷ Lucknow and Meerut.

⁴⁸ ₹ 7.7 lakh in 2005-06, ₹ 12.68 lakh in 2006-07, ₹ 8.95 lakh in 2007-08, ₹ 4.73 lakh in 2008-09, and ₹ 7.33 lakh in 2009-10.

CHAPTER-VII OTHER TAX AND NON-TAX RECEIPTS

7.1 Results of audit

Test check of the records of the offices of Entertainment Tax and Forest Departments conducted during the year 2011-12 revealed non realisation of tax and interest, loss of revenue, idle investment, etc. of ₹ 539.95 crore in 405 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
Entertainment Tax Department			
1.	Non-realisation of interest	07	0.74
2.	Non-realisation of tax	15	0.29
3.	Other irregularities	14	15.54
	Total (A)	36	16.57
Forest Department			
1.	Miscellaneous losses/loss of revenue	61	44.57
2.	Idle investment, idle establishment, blocking of funds	89	95.03
3.	Pending recoveries	13	4.39
4.	Non-achievement of objectives	01	0.02
5.	Other irregularities	205	379.37
	Total (B)	369	523.38
	Grand total (A+B)	405	539.95

During the year 2011-12, the Department accepted underassessment and other deficiencies of ₹ 7.32 crore involved in 51 cases of which 11 cases involving ₹ 4.33 crore had been pointed out during 2011-12 and the remaining in the earlier years. The Department recovered ₹ 3 crore in 40 cases during the year 2011-12, which were related to the earlier years.

A few illustrative cases involving ₹ 82.88 crore are mentioned in the succeeding paragraphs.

7.2 Audit observations

Our scrutiny of records in the offices of the Controller of Weights and Measures, Forest and Entertainment tax revealed cases of short realisation of royalty, non-verification of weights and measures, non-charging of interest, wasteful expenditure, etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

Entertainment Tax Department

7.3 Non-charging of interest on belated payment of tax

Under the Uttar Pradesh Entertainment and Betting Tax Act, 1979, entertainment tax is to be deposited within three days from the close of the week by the cinema owners and within one week after the closure of the month by the cable operators. In case of default, interest at the rate of one and a half *per cent* per month for the first three months and two *per cent* thereafter is recoverable from the cinema owners and in case of cable operators, it is recoverable at the rate of two *per cent* per month.

During the audit (April 2011) of the records¹ of district entertainment tax officer, Mau, we observed that entertainment tax of ₹ 30.63 lakh due (September 2004 to October 2008) from two cinema owners and two cable operators was deposited/collected between December 2005 and January 2011. The delay ranged from one to

68 months. The interest amounting to ₹ 21.03 lakh though leviable has not been charged by the Department. As the details were available in the arrear register, inaction on the part of the Department led to non-realisation of interest of ₹ 21.03 lakh.

After we reported the matter in September 2011, the Department has agreed with our findings and stated (August 2012) that the recovery of interest of ₹ 5031 has now been made from the two cable operators and partial recovery of ₹ 6 lakh made from one cinema owner. The process of recovering the balance amount is underway. Recovery is awaited (February 2013).

¹ Arrear Register, Cash Book and Treasury Statements.

Forest Department

7.4 Short realisation of royalty on Tendu leaves

As per G.O. No. 2109/14.02.2001-28/89 Van Aubhag-2 dated 25 July 2001 royalty of Tendu leaves was payable on the basis of following formula by Van Nigam:-

Royalty of accessing year = Royalty of last year + amount equal to the enhancement of royalty in such percentage as it was enhanced in percentage in the rate of Tendu leaves sold by Nigam last year in comparison to that of its preceding year + amount equal to abnormal enhancement in the market rate (Selling price) of Tendu leaves in accessing year.

If there is minus enhancement in the rate, that will also be taken in account at the time of fixation of royalty.

Scrutiny of records² of two Forest divisions³ (February and March 2011) and correlating the same with information collected (May 2011) from Uttar Pradesh Van Nigam (UPVN), we observed that instead of revising the royalty of Tendu leaves as per the formula fixed by Government, Forest Department had fixed royalty as per formula up to 2002-03 and fixed interim royalty

for the year 2003-04 to 2009-10. As per the formula ₹ 96.36 crore was payable as royalty from seven divisions⁴ of Allahabad region and seven divisions⁵ of Jhansi region for the period 2003-04 to 2009-10 but actual payment of royalty was only ₹ 49.72 crore. Due to non-calculation of royalty payable as per formula by the Department, there was short assessment / realisation of royalty amounting to ₹ 46.64 crore as detailed in **Appendix-XXIV**.

We reported the matter to the Department/Government in December 2011. We have not received reply (February 2013).

² Tendu Leaves Royalty Files, Cash-book and Treasury Statements.

³ DFO Sonebhadra and Varanasi.

⁴ Renukut, Obra, Mirzapur, Sonebhadra, Kaimur wildlife, Kashi wildlife and Allahabad.

⁵ Hamirpur, Mahoba, Chitrakut, Banda, Lalitpur, Jhansi and Orai/Jalaun.

Observations on Expenditure

7.5 Wasteful expenditure

As per forestry norms, the plants of each species acquire suitable height for plantation within two years. After two years the survival of plants depends on irrigation, shifting, pruning and root cutting etc.

To increase the forest coverage, the State Government formulated (December 2006) the scheme of planting 30 crore plants of 12 feet height. However, only 10 crore plants were raised during 2006-07 in the State. The Government released ₹ 24.83 crore (for raising in 2006-07: ₹ 12.33 crore in March 2007 and for maintenance during 2007-08 and 2008-09: ₹ 8 crore in November 2007 and ₹ 4.50 crore in April 2008 respectively). The plants raised in 2006-07 were to be planted in 2009-10.

Our scrutiny (December 2009 to March 2010) of records⁶ of forest divisions of six districts²⁰ and information collected (December 2011) revealed that the scheme was closed (November 2007) after one year. Consequently plants grown were either planted or transferred to other divisions leaving 39.29 lakh plants⁷ unplanted (March 2009). The Government did not

make budget provision for maintenance, irrigation, shifting, pruning and root cutting etc. of residual plants for 2009-10 and the balance plants became unfit for plantation. As such, the expenditure of ₹ 97.44 lakh⁸ incurred during 2006-09 on raising and maintenance of these plants was rendered wasteful.

After we pointed this out, the Government replied (October 2011) that only 2.56 lakh plants remained utilised in six districts and the maintenance of saplings was done from Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS) and other schemes.

The audit observation is based on balance plants at the end of 2008-09 which became unfit for plantation due to non availability of budget for maintenance in 2009-10 and 2010-11. The fact was accepted by Hardoi Division where no budget provision was made for maintenance under any scheme. Similarly, in Meerut division loss of 5.28 lakh out of 6.18 lakh plants, shown to be transferred, was accepted. In Kasha Wildlife Forest Division, Ramnagar, Varanasi, funds were received for plantation under MNREGS but the copies of working plan and budget documents collected (March 2012) from the division revealed that these funds were released for "Bundelkhand/Bindhyachal special plantation drive" and not for "12 feet plantation scheme". There was no mention of maintenance/plantation in the working plan about 12 feet plantation scheme.

⁶ Plantation Files of plants of 12 feet height, Bills and Vouchers, Expenditure Files and Working Plan Files.

⁷ Agra: 10.73 lakh, Bahraich: 0.83 lakh, Hardoi: 1.09 lakh, Kanpur Dehat: 5.45 lakh, Meerut: 9.74 lakh and Varanasi: 11.45 lakh.

⁸ ₹ 39.29 lakh x ₹ 2.48 per plant = ₹ 97.44 lakh.

Thus, 39.29 lakh plants, which remained unplanted in 2009-10 and 2010-11 were not fit for further plantation and the expenditure incurred on these plants amounting to ₹ 97.44 lakh was rendered wasteful.

7.6 Avoidable expenditure on growing new plants without requirement

As per Plantation Code issued (March 2003) by Social forestry Uttar Pradesh, Lucknow 35 *per cent* plants in excess of requirement should be grown in nurseries.

During scrutiny (April 2011) of records⁹ of Forest Conservator, Agra Circle, Agra, we observed that 107.56 lakh plants sown prior to 2009-10 were

available for plantation in the nurseries of four Social and Forestry Forest divisions¹⁰ under the jurisdiction of the circle in beginning of the year 2009-10. Forest Conservator, Agra circle intimated (November 2009) to Additional Principal Forest Conservator, Social and Agricultural Forestry, Lucknow that due to availability of old plants in the nurseries of the circle as per requirement, there was no necessity of growing new plants. In spite of this information Chief Conservator of Forest, Social Forestry, Uttar Pradesh, Lucknow sanctioned and released ₹ 63.48 lakh (March 2010) for growing 33.99 lakh new plants in the nurseries of the circle under the schemes of Social Forestry and Nursery Management and Infrastructure Development Scheme in 2009-10 with the remarks that for the plantation to be done in rainy season of 2010, plants of proper height would be required, therefore, in view of that it would not be proper to decrease the target of growing plants in nurseries. Accordingly the divisions expended ₹ 63.48 lakh on growing 33.99 lakh more plants in 2009-10 and spent a further ₹ 49.09 lakh on their maintenance in 2010-11 and 2011-12.

Out of 107.56 lakh old plants available with the circle in April 2009, only 30.63 lakh, 20.69 lakh and 19.66 lakh plants were utilised during 2009-10, 2010-11 and 2011-12 respectively and 36.58 lakh plants remained as balance at the end of 2011-12. The main audit concern is towards 33.99 lakh plants which were grown in 2009-10. Thus, total of 70.57 lakh plants (36.58 lakh plants as previous balance + 33.99 lakh plants grown in 2009-10) remained unutilised at the end of 2011-12 as shown in **Appendix-XXV**.

On our pointing this out (July 2011) Conservator Forest, Agra Circle, Agra stated (April 2012) that the target for growing new plants had been reduced to zero by the Department in 2010-11. The reply of the Conservator Forest, Agra itself confirms the audit observations that the plants grown in 2009-10 were unnecessary.

Thus, the Circle made an avoidable expenditure of ₹ 1.13 crore on growing and maintaining new plants without requirement.

⁹ Returns submitted by the Forest Divisions, plantation files and correspondence files.

¹⁰ Agra, Firozabad, Mainpuri and Mathura.

Medical Health and Family Welfare Department

7.7 Short levy of User Charges

With a view to provide better quality medical facilities, user charges in Government hospitals/dispensaries (except hospitals affiliated to Government medical colleges) was leviable as per GO No 984/5-1-2000-4(80)/95 dated 28 June 2000. These charges were to be enhanced 10 *per cent* in beginning of each calendar year. This increase was stayed for the year 2004 vide G.O. no. 4544/5-1-2003-4(143) dated 31 December 2003 and from 2008-09 onwards vide GO No 595/5-1-08-4(80)/95 dated 29 April 2008 and all other terms and conditions of order dated 28 June 2000 have been restored. For OPD the registration fees fixed by GO dated 28 June 2000 were reduced to ₹ one for both towns and rural areas vide GO No 3090/5-1-2003-4(80)/95 dated 30 Aug 2003. Further vide GO No 595/5-1-08-4(80)/95 dated 29 April 2008 (para 5), all the terms and conditions of GO No 984/5-1-2000-4(80)/95 dated 28 June 2000 were restored.

In the audit of 251 Chief Medical Superintendents, Community Health Centres and Primary Health Centres between October 2010 and September 2012, we observed from the examination of registers and subsidiary cash books that these hospitals/dispensaries¹¹ levied user charges of ₹ 30.47 crore between April 2005 to March 2012, against the chargeable amount of ₹ 59.46 crore. The levy of user charges at the pre-enhanced rates instead of the revised rate resulted in short levy of user charges of

₹ 28.99 crore as per details given below:

(In ₹)

Item	Number of cases	Payable	Charged	Difference
Major operation	1,25,370	7,05,39,696	4,82,06,988	2,23,32,708
Medium operation	79,821	2,83,56,084	2,03,38,980	80,17,104
Minor operation	1,52,516	1,48,41,353	96,92,372	51,48,981
Medico Legal	12,45,519	11,38,80,059	6,60,51,208	4,78,28,851
ECG	41,109	35,25,772	28,39,532	6,86,240
X-ray	5,57,408	2,90,99,217	2,31,96,751	59,02,466
Ultrasound	1,02,983	2,53,94,588	1,99,00,287	54,94,301
Indoor	8,50,021	3,52,93,117	2,68,40,721	84,52,396
CT Scan ¹²	4,251	46,25,138	32,20,734	14,04,404
Pathology	--	1,65,17,862	1,48,88,958	16,28,904
OPD	6,94,92,668	25,25,45,881	6,95,14,956	18,30,30,925
Total	7,26,51,666	59,46,18,767	30,46,91,487	28,99,27,280

¹¹ Allahabad (20), Aligarh (13), Auraiya (4), Ballia (2), Bareilly (10), Chitrakoot (4), Deoria (16), Etah (5), Etawah (8), Ghaziabad (8), Ghazipur (15), Hathras (5), Jalaun (1), Jaunpur (15), Jhansi (10), Kanpur (7), Lalitpur (5), Lucknow (11), Mahoba (1), Mainpuri (7), Meerut (11), Muzaffarnagar (15), Pilibhit (6), Pratapgarh (12), Raebareli (18), Rampur (7) and Varanasi (15).

¹² CMS Balrampur, SPM, Lucknow, CMS(M) Ghaziabad, CMS(M) Kanpur, CMS(M) Raebareli, CMS (DDU) Varanasi and CMS Beli, Allahabad

We also noticed that between May 2008 to March 2011, 186 hospitals/dispensaries¹³ levied user charges at rates higher than the rate fixed. These hospitals charged fees of ₹ 4.89 crore against the revised fee of ₹ 3.58 crore. This arbitrary increase at local levels was a violation of Government orders and resulted in excess levy of user charges of ₹ 1.32 crore as per details given below:

(In ₹)

Item	Number of cases	Chargeable (a)	Charged (b)	Excess charged (b-a)
ECG	15,453	7,72,650	10,79,502	3,06,852
X-ray	2,98,843	89,65,290	1,19,95,304	30,30,014
Ultra sound	5,346	5,34,600	10,69,958	5,35,358
Indoor	11,27,672	2,55,06,457	3,47,84,913	92,78,456
Total	14,47,314	3,57,78,997	4,89,29,677	1,31,50,680

After we pointed out these issues, the Government, in July 2011, accepted the observation and replied that clear revised Government order will be issued. The fact remains that there was loss of revenue of ₹ 28.99 crore. Also the excess levy of user charges of ₹ 1.32 crore cannot be refunded to the users and the purpose of the Government Order to reduce burden on the public was nullified. The Department had no system to check the proper implementation of Government order regarding user charges.

7.8 Short levy of Service Charge on Transfusion of Blood and Blood Components

Government of India, Ministry of Medical, Health and Family Welfare, National AIDS Control Organisation vide circular dated 23 January 2008 levied service charges at the rate of ₹ 850 per unit for handling of blood and blood composition provided by Government and voluntary blood banks. These orders were circulated vide G.O. no. 438/Five-1-08 dated 18 April 2008 by Government of Uttar Pradesh in the Department.

In our test check of Blood Bank register and subsidiary cash books for the period April 2005 to March 2011, in respect of 22 Chief Medical

Superintendents¹⁴, we observed that 57,618 units of Blood and Blood components were issued by these units on which service charges of ₹ 2.25 crore were levied during the period April 2008 to December 2010, against the leviable amount¹⁵ of ₹ 4.90 crore. This resulted in short levy of ₹ 2.65 crore as service charge on transfusion of Blood and Blood components as shown in **Appendix-XXVI**.

After we pointed this out, the units replied that they received the order late by 24 months. Government accepted the loss and issued an order (July 2011) for recovery from the concerned employees and replied that it would be ensured that all Government orders will be uploaded on website in future. Information regarding recovery is awaited (February 2013).

¹³ Allahabad (15), Aligarh (11), Auraiya (2), Bareilly (7), Chitrakoot (2), Deoria (9), Etah (3), Etawah (5), Ghaziabad (14), Ghazipur (10), Hathras (5), Jalaun (1), Jaunpur (14), Jhansi (7), Kanpur (10), Lalitpur (5), Lucknow (12), Mahoba (2), Mainpuri (5), Meerut (6), Muzaffarnagar (7), Pilibhit (8), Raebareilly (10), Rampur (6) and Varanasi (10).

¹⁴ CMS(M)-Allahabad, Aligarh, Bareilly, Deoria, Etah, Etawah, Ghazipur, Jaunpur, Jhansi, Kanpur Nagar, Lalitpur, Mainpuri, Meerut, Muzaffarnagar, Pilibhit, Raebareilly, Rampur, Varanasi, CMS, RML, Lucknow, CMS, SPM, Lucknow and CMS, MMG, Ghaziabad.

¹⁵ Charges leviable ₹ 850 per unit, actually levied at the rate of ₹ 250 & ₹ 500 per unit.

7.9 Non-compliance of Pre-Conception and Pre-Natal Diagnostic Techniques (PNTD) Rules

7.9.1 Non-imposition of penalty on the institutes running without registration

Registration of centres/institutes providing ultra sound facilities is done under Pre-Conception and Pre-Natal Diagnostic Techniques (PNTD) Rules 1996 by appropriate authorities. Rule 11 of the Rules *ibid* provides for seal and seizure of any ultrasound machine, scanner or any other equipment used by any unregistered organisation under the Act. The machines so seized may be released only on payment of penalty equal to five times of the registration fees.

In the audit of 16 Chief Medical Officers¹⁶ (CMOs) between October 2010 and September 2012, we observed from register of ultrasound centre registration for the period

between April 2005 and September 2012 that registration of 226 centers/institutes were renewed late after expiry of their period of registration. The delay ranged from one month to 24 months. As per Rule 11, the Department has to charge penalty of five times of registration fee in such cases. We noticed that their machines were not seized and the prescribed penalty imposed. The running of these institutes/centers without valid registration carries the risk of misuse of these facilities and conducting of pre natal diagnostic procedures prohibited under the PNDT Rules 1996 apart from non-realisation of penalty of ₹ 40.95 lakh.

After we pointed this out, the Government, in July 2011, accepted the observation and replied that instructions have been issued¹⁷ to all CMOs for action under PNDT Rules 1996. Two units¹⁸ accepted the observation and replied that the due penalty of ₹ 5.91 lakh was imposed and deposited in bank. Further details of recovery are awaited (February 2013).

7.9.2 Short levy of registration fees

Under the provision of Rules 4, 5(a) and 5(b) of Pre-Conception and Pre-Natal Diagnostic Techniques (PNTD) Rules 1996, the fee for registration of Genetic counseling centre, Genetic Laboratory, Genetic Clinic, Ultra sound Clinic or Imaging Centre is ₹ 3000 and the fee for registration of an institute hospital/nursing home or any place providing the above said services jointly or any combination thereof is ₹ 4000. For the purpose of this an application for registration shall be made to Appropriate Authority. The certificate of registration shall be valid for a period of five years from the date of issue.

In our test check of registers of ultrasound registration of 11 CMOs¹⁹, we found that 329 hospitals/nursing homes or ultra sound centre registered for providing the service of ultrasound as well as other facilities,

¹⁶ Aligarh, Ambedkarnagar, Auraiya, Banda, Bareilly, Chitrakoot, Etah, Etawah, Ghazipur, Hathras, Jaunpur, Mainpuri, Mirzapur, Pilibhit, Pratapgarh and Rampur.

¹⁷ DG letter No Pa. Ka./10- J.D./05/2011/3900-16 dated 18 July 2011

¹⁸ CMO Bareilly, CMO Pratapgarh.

¹⁹ Aligarh, Bareilly, Etawah, Hathras, Mainpuri, Pilibhit, Pratapgarh, Varanasi, Kanpur, Jaunpur and Jhansi.

deposited fees of ₹ 3000 per centre against the prescribed fee of ₹ 4000. We also noticed that three districts²⁰ had deposited the correct registration fee at the rate of ₹ 4000 for the same facilities. Non adherence to the rules resulted in short deposit of ₹ 3.18 lakh as shown in **Appendix – XXVII**.

After we pointed this out, the Government, in July 2011, replied that instructions have been issued²¹ to all CMOs for action under Rules. The CMO Pratapgarh and Varanasi accepted the observation and stated that the amount of ₹ 40000 has been recovered from the hospitals/ nursing homes/ centres and deposited. Progress on recovery is awaited (February 2013).

7.10 Non-disposal of the unserviceable/condemned vehicles

Government vide its order no 1288(II)/30-4-2002-24 KM/76 dated 11 June 2002 instructed all Departments to auction the off road vehicles by declaring them condemned.

In our test check of records of 12 Chief Medical Officers²² and their subordinate health centres and Chief Medical

Superintendents, we noticed that there were 112 vehicles, which were not in running condition for period ranging from five to 20 years. The vehicles not in running condition, were to be disposed of by auction as per the Government Order. The 62 vehicles valued at ₹ 17 lakh declared as condemned between 1992 to 2010, have not yet been auctioned. The condemnation process for the remaining 50 vehicles lying unused for five to 20 years and worth at least ₹ 13 lakh²³ has not been started. The long delay in condemning the vehicles and their disposal has led to deterioration in their condition as well as reduction in the net realisable value of ₹ 30.39 lakh.

After we pointed this out, the Government, in July 2011, replied that the instructions have been issued²⁴ to all concerned for taking immediate action. We feel the Department should ensure time bound disposal/auction of such vehicles. Details of auction taken are awaited (February 2013).

7.11 Non/Short realisation of revenue in auction of cycle stand

Parking space is an important part of the hospitals to provide safe and smooth parking of vehicles for not only patients, doctors, staff of the hospitals but also for ambulances within campus. This was allotted to contractor for one year by open auction. As per para 5 of agreements dated 18 April 2008 the contractor was allowed to pay the bid money in installments, failing which he was liable to pay interest. As per para 9 of agreement the contractor collected parking fees @ ₹ 3, ₹ 2 and ₹ 1 for car, motor cycle and cycle respectively.

From the records of CMS, Bareilly we noticed that in 2008-09 a parking space was allotted for this year to a contractor through an auction against his highest bid of ₹ 8 lakh. As per agreement, the contractor had to

²⁰ Etah, Muzaffarnagar and Pratapgarh.

²¹ DG letter No Pa.Ka./10- JD/05/2011/3891-8 dated 18 July 2011

²² Allahabad, Bareilly, Chitrakoot, Etawah, Jalaun, Jaunpur, Lucknow, Mainpuri, Muzaffarpur, Pilibhit, Raebareli and Rampur.

²³ Calculated at the rate ₹ 25000 per vehicle.

²⁴ DG letter No 15 Fa. / 120B /M/ 11/ 421 dated 19 July 2011.

pay ₹ 2 lakh upto 24 April 2008 and the balance in three equal installments of ₹ 2 lakh each payable on 31 July 2008, 31 October 2008 and 31 January 2009, failing which the contract was to be terminated. However, the contractor violated the conditions and deposited only ₹ 1 lakh upto 24 April 2008 and a total of ₹ 2.90 lakh till February 2009. Despite the contractor being irregular in deposit of the installments and not paying the full amount of ₹ 7.80 lakh²⁵ by the due date, the contract was not terminated. The contractor ran the stand till July 2009 and collected parking charges from the public. The CMS Bareilly issued recovery certificate for ₹ 5.10 lakh only in April 2009.

After we pointed this out, the Government, in July 2011, replied that instructions have been issued to District Magistrate for action under Land Revenue Rules. However, no recovery has been made so far (February 2013).

Sugarcane Development Department

7.12 Non-imposition of cane purchase tax, penalty and interest

Under the Sub Section (1) of Section 3 of the Uttar Pradesh Cane Purchase Tax Act, 1961, cane purchase tax (CPT) shall be levied and collected on the quantity of the sugar cane purchased by the owner of a factory. Collector is the assessing authority for this purpose.

Sub Section (3) provides that any tax payable under this Act, if not paid by the date prescribed for payment thereof, shall carry interest at the rate of 12 *per cent* from such date to the date of payment.

Sub Section (4) further provides, where any tax payable under this Act, or interest thereof, or both, as the case may be, remains unpaid for a period exceeding fifteen days beyond the date prescribed for payment thereof, the person liable to pay the same shall also be liable to pay penalty calculated at such rates as may be prescribed.

We observed (May, 2010) from the records²⁶ of M/s Akabarpur Sugar Mills Ltd., Mijhaura, Ambedkar Nagar (a unit of Balrampur Sugar Mills Ltd.) that during the crushing season 2006-07, 69,04,746.76 quintals of sugar cane was purchased by Sugar Mill till the date 22.02.2007 (day before the date 23.02.2007 on which the Mill got eligibility certificate for getting exemption for payment of CPT in terms of the Sugar Promotion Policy,

2004). An amount of ₹ 1.38 crore was leviable as CPT on the aforesaid quantity of sugar cane against which only ₹ 61.80 lakh was paid by the Sugar Mill. Thus, the balance amount of the CPT ₹ 76.29 lakh and interest at the rate 12 *per cent* thereon were not imposed/realised.

After we pointed it out (September 2011), The Department stated (September 2012) that the balance amount of the CPT of ₹ 76.29 lakh and an additional amount of ₹ 76,000 as penalty at the rate of one *per cent* on the unpaid tax was recovered in January 2012. The amount of interest of ₹ 34.41 lakh was still not imposed and collected.

²⁵ ₹ 5.1 lakh for 2008-09 and ₹ 2.7 lakh for April 2009 to July 2009.

²⁶ Cane Purchase Register, CPT Register and Arrear Register.

Weight and Measurement Department

7.13 Non-realisation of meter verification and stamping fee from Auto-rickshaws

As per schedule-XII, substituted under Rule 17(1) of the Uttar Pradesh Standard Weight & Measurement (Enforcement) Rules, 1990, meter for measurement of distance covered should be installed in the auto-rickshaw and ₹ 50 is payable as fee for verification and stamping of such installed meter.

Further, Section 24 of Uttar Pradesh Standard Weight & Measurement (Enforcement) Act, 1985, prescribes every weight or measure used or intended to be used in any transaction or for industrial production or for protection shall be verified or re-verified and stamped at least once in a year.

We scrutinised (June 2011 to March 2012) the records²⁷ of four RTOs²⁸ and five ARTOs²⁹ and observed that during the period June 2008 to February 2012, 26,677 auto-rickshaws were registered without getting meter verification certificate. There was lack of co-ordination between the Weight & Measurement Department and Transport Department

due to which Weight and Measurement Department failed to realise meter verification and stamping fees which resulted in non-realisation of fee amounting to ₹ 25.03 lakh.

We reported the matter to the Department/Government (July 2011 to April 2012). The Department stated (November 2012) that it is compulsory for the persons plying auto rickshaws to get the meter verified and that there is no system to cross check information of registered auto rickshaws from the RTO/ARTO office.

We recommend that the Department develop a system to cross check with the RTO/ARTOs so that the meter verification is done and revenue realised.

²⁷ Registration files of auto-rickshaws, vehicles database.

²⁸ RTO - Azamgarh, Bareilly, Banda and Aligarh.

²⁹ ARTO - Gautambudh Nagar, Siddharth Nagar, Firozabad, Deoria and Bulandshahar.

7.14 Non-realisation of fee/additional fee

Under the provision of the Standard of Weights and Measures (Enforcement) Act, 1985 (SOWM) read with rule 14 and 15 of the U.P. Standard of Weights and Measures (Rules) 1990, (U.P. SWM), every person in possession, custody or control of any Weight and Measure (including capacity measurement like storage tank, lorries dispensing measurement etc.) which he intends to use or is likely to use in any transaction or for industrial production, shall present such weight and measure for verification or re-verification and get it stamped at least once in five years, as the case may be, on payment of the prescribed fees. Contravention of the provisions of the Act attracts penalty under section 47 with fine which may extend to ₹ 500. Further, under rule 17 (3) of the U.P. SWM Rules, additional fee at half the rates specified in schedule XII of the U.P.SWM Rules is also payable after expiry of the validity of stamping for every quarter of the year or part thereof for re-verification.

On test check of records³⁰ of two distilleries³¹ between June 2010 and December 2010, we observed that storage vats/tanks were in use in these distilleries without verification by the Weights and Measures Department since installation. The Department did not conduct inspections for verification/re-verification as laid down in rule 15(7) *ibid* and the users also did not get the vats/ storage tanks verified as laid down in Rule 15(1) *ibid*. This resulted in non-realisation of fee and additional fee amounting to ₹ 11.59

lakh³² besides penalties leviable for contravention of the Act. Further, non-calibration of the vats/storage tanks carried the risk of incorrect determination of the volume of liquor stored in them resulting in incorrect assessment of excise duty.

³⁰ File of Licences and Certificates, Dip Books, Maintenance of Vats/Tanks Files.

³¹ (i) Jain Distillery Nagina Road, Bijnore not verified since installation in January 2008.
(ii) Balrampur Chini Mill, Gonda not verified since 1999 .

³²

(Amount in ₹)

Name of Distillery/ Sugar Mill	No. of VAT/ Tanks	Verifi- cation fees as per capacity of VAT/Tank	Year when verificati on was due	Period of delay	Delay in no. of qtrs.	Verifi- cation fee due	Additional fee due for delayed period	Total unrealised fee
Jain Distillery, Bijnor	14	2,454 to 5,000	January 2008	January 2008 to December 2011	16	52,354	4,18,832	4,71,186
Balrampur Chini Mill, Gonda	5	5,000	January 1999	January 1999 to February 2012	53	25,000	6,62,500	6,87,500
Total	19					77,354	10,81,332	11,58,686

After we pointed this out (between December 2011 and March 2012) the Government agreed with our finding that the checking was not done and stated in October 2012 that after the checks were carried out in June 2012 the first distillery has deposited ₹ 4.43 lakh as the due fees. In the second ₹ 7.63 lakh has been raised, however the matter is now in court. Since the number of distilleries and sugar mills in the state is well known, we recommend that the Department regularly inspects and verifies the storage vats/tanks as per rules.

Lucknow,
The



(Dr. Smita S. Chaudhri)
Accountant General (E&RSA)
Uttar Pradesh

Countersigned



New Delhi,
The

(VINOD RAI)
Comptroller and Auditor General of India

APPENDIX-I

Non/short levy of TT/VAT due to application of incorrect rate of tax (Reference para No. 2.10.1)

(₹ in lakh)

Sl. No.	Name of the office	Number of dealer	Assessment Year (Month and year of Assessment)	Name of goods (Nature of irregularities)	Taxable Turnover	Rate of tax leviable/levied (per cent)	Tax short levied
1.	AC Sec. 10, CT Agra	1	2007-08(VAT) (January 2010)	Good night coil (Applied incorrect rate of tax)	5.91	12.5/4	0.50
2.	DC Sec. 11, CT Agra	1	2008-09 (April 2010)	Itrans Transmitter, Detector with Data link (Applied incorrect rate of tax)	6.93	12.5/4	0.59
3.	DC Sec. 17, CT Agra	1	2007-08 (UPTT) (March 2010)	Tissue paper (Tax not levied)	2.39	11 ¹ /0	0.26
				Soap (Tax not levied)	0.81	13 ¹ /0	0.11
				Cosmetics (Tax not levied)	3.02	17 ¹ /0	0.51
4.	DC Sec. 19, CT Agra	1	2007-08(VAT) (March 2011)	Cement, wall care putty, seal etc. (Tax not levied)	38.44	12.5/0	4.81
5.	AC Sec. 1, CT Aligarh	1	2007-08(VAT) (March 2011)	Sadellary (Applied incorrect rate of tax)	16.08	12.5/4	1.37
6.	DC Sec. 1, CT Allahabad	1	2002-03 (August 2004)	Auto refractometer and sight saving electronics goods (Declared tax free by AA)	24.06	8/0	1.92
			2003-04 (June 2005)	-do-	2.43	8/0	0.19
7.	AC Sec. 7, CT Allahabad	1	2007-08 (UPTT) (June 2009)	Cotton labels (Declared tax free by AA)	80.16	5/0	4.01
8.	DC Sec. 14, CT Allahabad	1	2007-08 (UPTT) (March 2010)	A.C. Sheet (Tax not levied)	103.48	13 ¹ /0	13.45
9.	DC Sec. 10, CT Bareilly	1	2007-08(VAT) (June 2010)	Doctor Fixit (Pidilite) (Applied incorrect rate of tax)	7.16	12.5/4	0.61
10.	DC Sec. 2, CT Gautam Budh Nagar	1	2007-08(VAT) (February 2011)	Old machinery (Tax not levied)	15.70	4/0	0.63
11.	DC Sec. 3, CT Gautam Budh Nagar	1	2006-07 (February 2009)	Polythene Bags (Applied incorrect rate of tax)	16.95	8/4	0.68
			2007-08 (UPTT) (December 2010)	-do-	10.61	8/4	0.42
		1	2007-08 (UPTT) (February 2010)	Washing Soap (Applied incorrect rate of tax)	13.24	12.5/8	0.60
12.	JC (CC)-A, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Elisa Kit (Declared tax free by AA)	12.35	12.5/4	1.54
13.	AC Sec. 4, CT Ghaziabad	1	2007-08 (UPTT) (March 2010)	Electric work contract (Applied incorrect rate of tax)	36.28	4/2	0.73
14.	DC Sec. 5, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Recorded CD, VCD, DVD & MP-3 (Applied incorrect rate of tax)	59.46	12.5/4	5.05
15.	AC Sec. 7, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Cold Drinks (Applied incorrect rate of tax)	7.87	12.5/4	0.67
		1	2007-08(VAT) (March 2011)	Air Dropper & Spares (Applied incorrect rate of tax)	6.09	12.5/4	0.52

¹ Including State Development Tax.

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Sl. No.	Name of the office	Number of dealer	Assessment Year (Month and year of Assessment)	Name of goods (Nature of irregularities)	Taxable Turnover	Rate of tax leviable/ levied (per cent)	Tax short levied
		1	2007-08(VAT) (March 2011)	Transformer core (Applied incorrect rate of tax)	6.05	12.5/4	0.51
16.	DC Sec. 8, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Aluminium Sheet (Applied incorrect rate of tax)	134.93	12.5/4	11.47
17.	AC Sec. 8, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Ready mix concrete (Applied incorrect rate of tax)	13.75	12.5/4	1.17
		1	2007-08(VAT) (February 2011)	Copper wire (Applied incorrect rate of tax)	9.40	12.5/4	0.80
18.	DC Sec. 9, CT Ghaziabad	1	2007-08(VAT) (June 2009)	Scrub Pad (Applied incorrect rate of tax)	79.97	12.5/4	6.80
19.	DC Sec. 13, CT Ghaziabad	1	2007-08(VAT) (February 2011)	Laminated canvas bags (Applied incorrect rate of tax)	22.74	12.5/4	1.93
20.	DC Sec. 14, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Pet perform (Applied incorrect rate of tax)	52.84	12.5/4	4.49
21.	DC Sec. 15, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Cable Harness (Applied incorrect rate of tax)	50.43	12.5/4	4.29
		1	2007-08(VAT) (March 2011)	Crane (Applied incorrect rate of tax)	65.81	12.5/4	5.59
22.	AC Sec. 15, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Rubber roller (Applied incorrect rate of tax)	19.63	12.5/4	1.67
23.	DC Sec. 16, CT Ghaziabad	1	2007-08(UPTT) (January 2010)	Warranty Claim auto parts (Tax not levied)	94.19	13 ¹ /0	12.24
		1	2007-08(UPTT) (March 2010)	Wooden floor doors (Tax not levied)	12.93	9 ¹ /0	1.16
		1	2006-07 (March 2009)	Consumable stores (Tax not levied)	8.71	11 ¹ /0	0.96
			2007-08(UPTT) (January 2010)	-do-	5.93	11 ¹ /0	0.65
		1	2007-08(VAT) (March 2011)	Lift (Tax not levied)	14.13	12.5/0	1.77
24.	DC Sec. 17, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Metal furniture for Medical use (Applied incorrect rate of tax)	6.22	12.5/4	0.53
		1	2007-08(VAT) (March 2011)	Crane (Applied incorrect rate of tax)	46.18	12.5/4	3.93
		1	2007-08(VAT) (March 2011)	Washing machine and its parts (Applied incorrect rate of tax)	20.50	12.5/4	1.74
25.	DC Sec. 18, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Mosquito Repellent (Applied incorrect rate of tax)	18.84	12.5/4	1.60
		1	2007-08(VAT) (March 2011)	Coir Sheet Rubber (Applied incorrect rate of tax)	183.22	12.5/4	15.57
		1	2007-08(VAT) (March 2011)	Sim Card (Declared tax free by AA)	14.35	4/0	0.57
				Set top box (Applied incorrect rate of tax)	3.50	12.5/4	0.30
		1	2007-08(VAT) (March 2011)	Battery (Applied incorrect rate of tax)	84.25	12.5/4	7.16
		1	2007-08(VAT) (March 2011)	Pasta, snack, biscuit, cigarette etc. (Tax not levied)	30.83	12.5/0	2.62
26.	AC Sec. 18, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Hard board, Mica (Applied incorrect rate of tax)	13.34	12.5/4	1.13
27.	JC (CC), CT Gorakhpur	1	2007-08(VAT) (March 2011)	Maurang (Applied incorrect rate of tax)	9.06	12.5/4	0.77
28.	AC Sec. 1, CT Hapur	1	2007-08(VAT) (March 2011)	Adhesive (Applied incorrect rate of tax)	8.02	12.5/4	0.68
29.	DC Sec. 2, CT	1	2007-08(VAT)	Processed Food	38.63	12.5/4	3.28

Sl. No.	Name of the office	Number of dealer	Assessment Year (Month and year of Assessment)	Name of goods (Nature of irregularities)	Taxable Turnover	Rate of tax leviable/ levied (per cent)	Tax short levied
	Kanpur		(February 2011)	(Applied incorrect rate of tax)			
30.	AC Sec 3, CT Kanpur	1	2007-08(VAT) (March 2011)	Mosquito Repellent Machine (Applied incorrect rate of tax)	20.02	12.5/4	1.70
		1	2007-08(VAT) (March 2011)	Sadellary Fitting (Applied incorrect rate of tax)	8.08	12.5/4	0.68
31.	DC Sec. 7, CT Kanpur	1	2006-07 (December 2010)	Packing material (Applied incorrect rate of tax)	12.54	10/4	0.75
32.	DC Sec. 20, CT Kanpur	1	2007-08(UPTT) (June 2010)	Cement (Tax not levied)	13.03	13 ¹ /0	1.69
33.	DC Sec. 25, CT Kanpur	1	2007-08(VAT) (March 2011)	Sadellary fittings (Applied incorrect rate of tax)	51.68	12.5/4	4.39
34.	DC Sec. 28, CT Kanpur	1	2007-08(VAT) (March 2011)	Phenyl (Applied incorrect rate of tax)	28.73	12.5/4	2.44
35.	DC Sec. 29, CT Kanpur	1	2007-08(VAT) (March 2011)	Phenyl (Applied incorrect rate of tax)	37.99	12.5/4	3.23
		1	2007-08(VAT) (March 2011)	Leather, Leather goods (Applied incorrect rate of tax)	24.70	12.5/4	2.10
36.	DC Sec. 30, CT Kanpur	1	2007-08(UPTT) (January 2010)	Machinery (Revised rate of tax not levied)	389.38	9/8	3.89
37.	JC (CC)-I, CT Lucknow	1	2007-08 (UPTT) (December 2009)	Camera (Applied incorrect rate of tax)	124.00	16/10	7.44
				Studio apparatus & picture (Applied incorrect rate of tax)	2242.05	16/12	89.68
38.	DC Sec. 4, CT Lucknow	1	2009-10 (October 2010)	KeoraJal, GulabJal & Harpic (Applied incorrect rate of tax)	138.92	12.5/4	11.81
39.	DC Sec. 5, CT Lucknow	1	2008-09 (January 2011)	G. I. Fitting and Valve CP Fitting (Applied incorrect rate of tax)	37.65	12.5/4	3.20
40.	DC Sec. 16, CT Lucknow	1	2007-08 (UPTT) (December 2009)	Wheat (Tax not levied)	51.19	4/0	2.05
		1	2007-08 (UPTT) (February 2010)	Readymade Garments (Tax not levied)	15.48	6 ¹ /0	0.93
41.	AC Sec. 9, CT Meerut	1	2007-08(VAT) (January 2011)	Transformer box (Applied incorrect rate of tax)	13.40	12.5/4	1.14
42.	JC (CC)-A, CT Noida	1	2007-08(UPTT) (March 2010)	Scrap, polythene, kachra (Applied incorrect rate of tax)	25.41	11/2.5	2.16
43.	DC Sec. 4, CT Noida	1	2007-08(VAT) (November 2010)	Recorded CD/ VCD (Applied incorrect rate of tax)	64.20	12.5/4	5.46
		1	2007-08(VAT) (February 2011)	Head Sink (Applied incorrect rate of tax)	19.51	12.5/4	1.66
44.	DC Sec. 5, CT Noida	1	2007-08 (UPTT) (March 2010)	Door, window, cabinet (Tax not levied)	21.48	8/0	1.72
				Steel work (Tax not levied)	14.45	4/0	0.58
				Partition/panel (Tax not levied)	3.91	10/0	0.39
				Furniture (Tax not levied)	0.78	8/0	0.06
45.	DC Sec. 6, CT Noida	1	2006-07 (October 2008)	Voltage stabilizer (Applied incorrect rate of tax)	11.43	12/10	0.23
			2007-08(UPTT) (November 2009)	-do-	22.05	12/10	0.44
		1	2007-08(VAT) (March 2011)	Foam articles (Applied incorrect rate of tax)	30.96	12.5/4	2.63
46.	DC Sec.7, CT Noida	1	2007-08(UPTT) (January 2011)	Security system (Applied incorrect rate of tax)	64.21	10/8	1.28

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Sl. No.	Name of the office	Number of dealer	Assessment Year (Month and year of Assessment)	Name of goods (Nature of irregularities)	Taxable Turnover	Rate of tax leviable/ levied (per cent)	Tax short levied
		1	2007-08(UPTT) (January 2010)	Cosmetic and toilet preparation (Applied incorrect rate of tax)	281.28	16/12	11.25
		1	2007-08(UPTT) (January 2010)	Membership Forms (Declared tax free by AA)	65.00	11 ¹ /0	7.15
		1	2007-08(VAT) (February 2011)	Transformer Parts (Applied incorrect rate of tax)	18.24	12.5/4	1.55
47.	DC Sec.11, CT Noida	1	2007-08(VAT) (March 2011)	L.P.G. Domestic (Declared tax free by AA)	213.19	4/0	8.53
48.	DC Sec. 12, CT Noida	1	2007-08(UPTT) (February 2010)	Air cooler component, accessories (Applied incorrect rate of tax)	122.26	13 ¹ /11	2.45
		1	2007-08(UPTT) (November 2010)	Wooden laminated flooring (Applied incorrect rate of tax)	48.96	12/10	0.98
49.	DC Sec. 13, CT Noida	1	2007-08(UPTT) (February 2010)	Zinc door handles (Applied incorrect rate of tax)	84.46	10/8	1.69
		1	2007-08(VAT) (February 2011)	Exavator parts (Applied incorrect rate of tax)	73.76	12.5/4	6.27
50.	AC Sec. 13, CT Noida	1	2007-08(VAT) (January 2011)	Rock wood (Applied incorrect rate of tax)	6.49	12.5/4	0.55
51.	AC Sec. 2, CT Rampur	1	2007-08(VAT) (January 2011)	Soap (Applied incorrect rate of tax)	7.01	12.5/4	0.60
52.	DC Sec.4, CT Saharanpur	1	2007-08(VAT) (January 2011)	Ice Cream (Applied incorrect rate of tax)	6.08	12.5/4	0.52
53.	DC Sec. 12, CT Saharanpur	1	2007-08 (UPTT) (February 2010)	Machinery and its parts (Revised rate of tax not levied)	72.94	9/8	0.73
54.	DC Sec. 2, CT Varanasi	1	2006-07 (December 2010)	Paddy (Applied incorrect rate of tax)	34.88	4/2	0.70
55.	AC Sec. 5, CT Varanasi	1	2003-04 (January 2006)	Old loom parts (Applied incorrect rate of tax)	9.36	8/5	0.28
			2004-05 (January 2007)	-do-	7.77	8/5	0.23
Total		79			6,076.71		331.76

APPENDIX-II

Short levy of TT/VAT due to misclassification of goods
(Reference para No. 2.10.2)

(₹ in lakh)

Sl. No.	Name of the office	Number of dealers	Assessment Year (Month and year of Assessment)	Nature of irregularity	Taxable Turnover	Rate of tax leviable/levied (per cent)	Tax short levied
1.	DC Sec. 2, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Water Storage Tank treated as plastic container	17.34	12.5/4	1.47
2.	DC Sec.6, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Industrial Nitrocellulose and Nitrocellulose Cotton treated as chemical	108.13	12.5/4	9.19
3.	AC Sec.15, CT Kanpur	1	2006-07(UPTT) (January 2009)	Float glass treated as plain glass sheet	9.09	16/10	0.55
4.	DC Sec. 20, CT Kanpur	1	2007-08(UPTT) (December 2009)	Resin treated as chemical	27.84	10/4	1.67
5.	DC Sec.2, CT Lucknow	1	2006-07(UPTT) (March 2009)	Firefighting equipment treated as machinery and tools	101.96	10/8	2.04
6.	AC Sec. 2, CT Lucknow	1	2005-06 (February 2009)	Paper napkin treated as paper product	4.26	16/8	0.34
			2006-07 (February 2009)	-do-	0.64	16/8	0.05
7.	DC Sec.12, CT Lucknow	1	2006-07 (March 2009)	Kheer (cooked food) treated as sweet (01-04-06 to31-07-06)	6.32	8/5	0.19
				Kheer (cooked food) treated as sweet (01-08-06 to31-03-07)	21.98	12.5/5	1.65
				Flavoured Milk treated as unclassified goods	25.42	16/10	1.52
			2007-08(UPTT) (March 2010)	Kheer (cooked food) treated as sweet	34.43	12.5/5	2.58
				Flavoured Milk was treated as unclassified goods	27.17	16/10	1.63
8.	DC Sec.19, CT Lucknow	1	2007-08(UPTT) (July 2009)	Water proofing compound treated as unclassified goods	8.44	20/10	0.84
				Coal tar based shelling compound treated as unclassified goods	2.95	20/4	0.47
9.	DC Sec. 1, CT Meerut	1	2007-08(VAT) (January 2011)	Adhesive treated as resin	130.43	12.5/4	11.09
10.	AC Sec. 12, CT Meerut	1	2007-08(UPTT) (March 2010)	Split Air Conditioner treated as electrical goods	11.10	16/10	0.67
11.	DC Sec.2, CT Mirzapur	1	2005-06 (February 2010)	Essential Oil treated as synthetic fragrance	25.89	10/8	0.52
12.	DC, CT Modinagar	1	2005-06 (September 2008)	Electronics goods treated as electronic components	11.63	8/4	0.47
			2006-07 (March 2009)	-do-	16.72	8/4	0.67
			2007-08(UPTT) (February 2010)	-do-	14.75	10/4	0.88
13.	DC Sec.2, CT Noida	1	2006-07(UPTT) (September 2010)	R O System treated as machinery	21.18	10/8	0.42
					15.98	10/9	0.16
14.	DC Sec. 5, CT Noida	1	2007-08(UPTT) (March 2010)	Multifunctional digital copier treated as electronic goods	299.07	10/4	17.94
			2007-08(VAT) (January 2011)	-do-	204.24	12.5/4	17.36
		1	2007-08(UPTT) (May 2010)	Electronic auto locks treated as electronic goods	54.33	12/8	2.17
		1	2006-07(UPTT) (June 2010)	Thinner & Reducer treated as industrial chemical	28.17	12/4	2.25
			2007-08(UPTT) (October 2010)	-do-	18.71	12/4	1.50
15.	DC Sec.13, CT Noida	1	2007-08(UPTT) (December 2009)	Aluminum architecture fabrication treated as aluminum section	18.77	10/4	1.13
	Total	17			1,266.94		81.42

APPENDIX-III

Non/Short levy of CST due to application of incorrect rate of tax (Reference Para No. 2.10.3)

(₹ in lakh)

Sl. No.	Name of the unit	Number of dealers	Assessment year (Month & year of assessment)	Name of commodity	Value of goods	Tax leviable/levied (per cent)	Differential rate of tax	Tax short levied
1.	DC Sec. 1, CT Allahabad	1	2002-03 (August 2004)	Auto refractometer and sight saving electronic goods	163.19	$\frac{10}{0}$	10	16.32
			2003-04 (June 2005)	-do-	123.12	$\frac{10}{0}$	10	12.31
2.	CTO Sec. 1, CT Ghaziabad	1	2006-07 (January 2011)	Ink and Chemical	23.27	$\frac{10}{4}$	6	1.40
3.	DC Sec. 13, CT Ghaziabad	1	2007-08(VAT) (February 2011)	Canvas bag	50.72	$\frac{12.5}{4}$	8.5	4.31
4.	DC Sec. 15, CT Ghaziabad	1	2007-08(UPTT) (March 2010)	Railway machinery parts	17.74	$\frac{9}{4}$	5	0.89
5.	AC Sec. 15, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Rubber roller	14.25	$\frac{12.5}{4}$	8.5	1.21
6.	DC Sec. 17, CT Ghaziabad	1	2007-08(VAT) (March 2011)	Medical metal furniture	26.18	$\frac{12.5}{4}$	8.5	2.23
7.	DC Sec. 6, CT Kanpur	1	2007-08(UPTT) (December 2009)	Diesel locomotive machinery	20.03	$\frac{9}{4}$	5	1.00
8.	DC Sec. 16, CT Kanpur	1	2007-08(UPTT) (March 2010)	Sleeping Bags	45.50	$\frac{10}{5}$	5	2.28
9.	DC Sec. 26, CT Kanpur	1	2007-08(UPTT) (February 2010)	Steel Jerry Can	261.11	$\frac{5}{4}$	1	2.61
10.	DC, CT Kosikalan	1	2006-07 (March 2009)	Cosmetics	20.85	$\frac{16}{10}$	6	1.25
11.	DC, CT Modinagar	1	2006-07 (March 2009)	Temperature measurement system	61.64	$\frac{4}{2}$	2	1.23
12.	DC Sec. 2, CT Noida	1	2006-07 (March 2009)	Electronic ultra sound scanner	75.81	$\frac{4}{2}$	2	1.52
13.	DC Sec. 5, CT Noida	1	2007-08(UPTT) (March 2010)	Multifunctional digital copier	422.58	$\frac{10}{4}$	6	25.35
			2007-08(VAT) (March 2011)	-do-	196.96	$\frac{12.4}{4}$	8.5	16.74
Total		13			1,522.95			90.65

APPENDIX-IV

Non-imposition of penalty for delayed deposit of tax (Reference para No. 2.11.1)

(₹ in lakh)

Sl. No.	Name of the office	No. of dealers	Assessment Year (month & year of assessment)	Amount of tax	Period of delay (in days)	Minimum penalty leviable
1.	DC Sec. 3, CT Bareilly	1	2009-10 (March 2011)	6.16	6-257	1.23
2.	DC Sec.2, CT Chandausi	1	2005-06 (December 2008)	33.69	3-5	3.37
		1	2005-06 (February 2009)	17.76	3	1.78
3.	DC Sec. 4, CT Firozabad	1	2007-08(UPTT) (December 2009)	53.01	5-23	5.30
4.	DC Sec. 2, CT Gautam Budh Nagar	1	2007-08(VAT) (February 2011)	5.69	18-19	1.14
5.	DC Sec.1, CT Gorakhpur	1	2005-06 (February 2009)	14.58	3-83	1.46
			2006-07 (March 2009)	5.50	5-231	0.55
			2007-08(UPTT) (March 2010)	24.09	8-55	2.40
6.	AC Sec. 5, CT Jhansi	1	2007-08(UPTT) (March 2010)	10.16	71-106	1.02
7.	JC(CC)-II, CT Kanpur	1	2007-08(VAT) (January 2011)	21.57	11	4.31
		1	2007-08(VAT) (March 2011)	8.29	36-96	1.66
8.	DC Sec. 5, CT Kanpur	1	2007-08(VAT) (February 2011)	12.32	5-759	2.46
9.	JC(CC)- Oil Sector, CT Lucknow	1	2007-08(VAT) (March 2011)	107.42	102-163	21.48
10.	DC Sec.2, CT Lucknow	1	2007-08(UPTT) (January 2010)	79.85	3 - 12	7.99
11.	AC Sec. 21, CT Lucknow	1	2007-08(VAT) (March 2011)	6.74	25-85	1.36
12.	DC Sec. 2, CT Mathura	1	2007-08(VAT) (March 2011)	4.24	4-31	0.85
13.	DC Sec. 5, CT Noida	1	2006-07 (March 2009)	8.24	5	0.82
Total		15		419.31	3-759	59.18

APPENDIX-V

Non-imposition of penalty on delayed deposit of works contract tax (Reference para No. 2.11.5)

(₹ in lakh)						
Sl. No.	Name of the office	No of dealers	Assessment year (Month & year of Assessment)	Amount of tax	Period of delay (in days)	Maximum penalty leviable
1.	DC Sec. 11, CT Agra	1	2007-08(VAT) (March 2011)	1.66	13 to 26	3.32
2.	DC Sec.16, CT Ghaziabad	1	2007-08(VAT) (February 2011)	11.41	5 to 31	22.82
3.	AC Sec.18, CT Ghaziabad	1	2007-08(UPTT) (February 2010)	18.63	6 to 32	37.26
4.	DC Sec. 17, CT Kanpur	1	2007-08(VAT) (March 2011)	13.47	8 to 61	26.94
5.	AC Sec.7, CT Muzaffarnagar	1	2007-08(UPTT) (March 2010)	0.89	11 to 311	1.78
6.	DC Sec. 2, CT Noida	1	2007-08(UPTT) (December-2010)	2.98	158	5.96
7.	DC Sec. 9, CT Noida	1	2007-08(VAT) (February 2011)	11.53	18	23.06
		1	2007-08(VAT) (December2010)	0.32	39	0.64
			2008-09 (December2010)	0.84	162	1.68
		1	2007-08 (VAT) (March 2011)	1.25	45	2.50
8.	DC, CT Paliakalan	1	2007-08(VAT) (March 2011)	1.33	36 to 152	2.66
9.	AC Sec. 12, CT Saharanpur	1	2007-08(UPTT) (December-2009)	0.98	32 to 93	1.96
10.	AC Sec. 1, CT Shamli	1	2007-08(VAT) (February 2011)	1.17	37	2.34
11.	DC Sec. 14, CT Varanasi	1	2007-08(VAT) (February 2011)	1.61	42	3.22
	Total	13		68.07	5 to 311	136.14

APPENDIX-VI
Short levy of licence fee on the model shops
(Reference Para No. 3.8)

(A) 2010-2011

Name of District	Sl. No.	Name of Model Shop	No. of IMFL bottles sold during 02/2009 to 01/2010	No. of Beer bottles sold during 02/2009 to 01/2010	Licence fee due for the year 2010-11 as per actual sale @ ₹ 26 per bottle	Licence fee due for Beer for the year 2010-11 as per actual sale @ ₹ 5 per bottle	Fee chargeable for drinking facility	Total licence fee due as per actual sale of Model shop	Licence fee after limiting to maximum ₹ 22 lakh + Fee of drinking facility	Licence fee realised by department	Difference of licence fee (Limiting to maximum ₹ 22 lakh)
1	2	3	4	5	6	7	8	9	10	11	12
Mathura	1	Chatikata No-01	53325	56479	1386450	282395	0	1668845	1668845	1212300	456545
Faizabad	1	Naka Model Shop	46578	52489	1211028	262445	50000	1523473	1523473	1276400	247073
	2	Civil Lines Model Shop	49000	48459	1274000	242295	50000	1566295	1566295	1276400	289895
Etah	1	Bus Adda Model Shop	65575	70538	1704950	352690	50000	2107640	2107640	1253000	854640
Lakhimpur Kheri	1	Mo Raniganj Station Road	75388	44741	1960088	223705	0	2183793	2183793	1251800	931993
	2	Barkherwa Mahawa	93336	54183	2426736	270915	0	2697651	2200000	1251800	948200
Raebareli	1	Bus Station	37086	48696	964236	243480	0	1207716	1207716	800000	407716
Jhansi	1	Rinjhim Modal Shop Station Road	69250	87915	1800500	439575	0	2240075	2200000	2018500	181500
	1	Gosai Ganj	31217	46175	811642	230875	100000	1142517	1142517	900000	242517
	2	Tiwariganj	27815	53052	723190	265260	100000	1088450	1088450	900000	188450
Lucknow	3	Mohamlal Ganj	29519	37494	767494	187470	100000	1054964	1054964	900000	154964
Total -A (2010-11)			578089	600221	15030314	3001105	450000	18481419	17943703	13040200	4903493

(B) 2011-12

		(In ₹)										
Name of District	Sl. No.	Name of Model shop	No. of IMPL bottles sold	No. of Beer bottles sold	Licence fee due for the year 2011-12 as per actual sale @ ₹ 30 per bottle	Licence fee due for the year 2011-12 as per actual sale @ ₹ 6 per bottle	Licence fee due for Beer for the year 2011-12 as per actual sale @ ₹ 6 per bottle	Fee chargeable for drinking facility	Total licence fee due as per actual sale of Model shop	Licence fee after limiting to maximum ₹ 25 lakh	Licence fee realised by Department	Difference of licence fee (Limiting to maximum ₹ 25 lakh)
1	2	3	4	5	6	7	8	9 (6+7+8)	10	11	12 (10-11)	
Faizabad	1	Naka Model Shop	99385	119689	2981550	718134	100000	3799684	2600000	1349600	1250400	
	2	Civil Lines Model Shop	103053	121253	3091590	727518	100000	3919108	2600000	1349600	1250400	
Ghazipur	1	Mohammadabad Model Shop	37729	47321	1131870	283926	100000	1515796	1515796	988700	527096	
Rampur	1	Guru Nanak Road	37820	35387	1134600	212322	0	1346922	1346922	1201700	145222	
	2	Midve Model Shop	42749	37143	1282470	222858	0	1505328	1505328	1201700	303628	
	3	Civil Lines Model Shop	36827	30222	1104810	181332	0	1286142	1286142	1201700	84442	
	4	Hamid Gate Model Shop	36089	30672	1082670	184032	0	1266702	1266702	1201700	65002	
	5	Misten Gang Model Shop	33823	31463	1014690	188778	0	1203468	1203468	1201700	1768	
	6	Milak Model Shop	27082	14874	812460	89244	0	901704	901704	900000	1704	
	7	Dev Resort	57621	36453	1728630	218718	0	1947348	1947348	900000	1047348	
	1	Rtapur	39524	20736	1185720	124416	0	1310136	1310136	800000	510136	
Raebareli	2	Civil Lines	40952	44294	1228560	265764	0	1494324	1494324	800000	694324	
Kanshi Ram Nagar	3	Station Road	25874	31758	776220	190548	0	966768	966768	800000	166768	
	1	Nadarai Gate	85897	143607	2576910	861642	0	3438552	2500000	900000	1600000	
	2	Ganj Dudwara	79708	53892	2391240	323352	0	2714592	2500000	900000	1600000	
	3	Sidhpura	56834	72506	1705020	435036	0	2140056	2140056	900000	1240056	
	Total -B (2011-12)		840967	871270	25229010	5227620	300000	30756630	27084694	16596400	10488294	
	Total -A (2010-11)		578089	600221	15030314	3001105	450000	18481419	17943703	13040200	4903493	
	Grand Total - A+B (2010-11 + 2011-12)		1419056	1471491	40259324	8228725	750000	49238049	45028397	29636600	15391787	

APPENDIX-VII (A)
Loss of Total Reducing Sugar (TRS) during transit of molasses
(Reference Para No. 3.11.1)

Sl. No.	Name of Distillery	Month of receipt of molasses	Number of passes	Molasses received (In quintals)	Details of TRS (in percentage)			Difference of TRS (In quintals)	Quantity of FS (88 per cent of TRS) (In quintals)	Quantity of alcohol produced (52.5 AL per quintal of FS)	Potable alcohol (in AL)		Duty involved on potable alcohol at the rate 420 per AL
					Dispatched	Received	Difference				Percent- age	Quantity	
1.	Lords Distillery, Nandganj, Ghazipur	August 2010 to March 2011	126	36514.85	41.05 – 47.71	40.00 – 44.00	1.05 – 5.90	1168.834	61363.788	99.9	61302.424	25747018	
2.	Wave Aswami & Breweries Ltd. Ahmadpura, Aligarh	August 2010 to March 2011	215	63391.3	42.86 – 50.45	41.00 – 50.00	0.11 – 2.61	400.65	21034.14	100	21034.14	8834339	
3.	Mohan Mekin Distillery Ltd. Mohan Nagar, Ghaziabad	March 2011	25	4895.7	46.50	45.00 – 45.45	1.05 – 1.50	45.95	2412.45	100	2412.45	1013229	
	Total	August 2010 to March 2011	366	104801.85	41.05 – 50.45	40.00 – 50.00	0.11 – 5.90	1615.434	84810.378	99.9 – 100	84749.014	35594586 or 3.56 crore	

APPENDIX-VII (B)
Loss of Total Reducing Sugar (TRS) during storage of molasses
(Reference Para No. 3.11.2)

Sl. No.	Name of Distillery	Period of molasses used	Numbers of COT	Minimum percentage of TRS present in the molasses received (as per Lab of Sugar Factory)	Minimum percentage of Fermentable Sugar present in the molasses received (88 percent of TRS)	Molasses stored/ consumed (in quintals)	Percentage of F S present in the molasses consumed (as per AT Lab)	Loss of fermentable sugar during storage		Quantity of alcohol to be produced (52.5 AL per quintal of FS)	Potable alcohol (in AL)		Duty involved on potable alcohol at the rate 420 per AL
								Percentage	Quintal		Percentage	Quantity	
1.	Lords Distillery, Nandgani, Ghazipur	May 2010 to October 2010	19	40	35.20	99100	34.22 – 35.12	0.11 – 0.98	414.978	21786.349	99.9	21764.562	9141116
2.	Wave Aswani & Breweries Ltd. Ahmadpura Aligarh	June 2010 to July 2010	12	40	35.20	134640	34.90 – 35.06	0.14 – 0.30	272.748	14319.30	100	14319.30	6014106
3.	Unnao Distillery & Breweries Ltd. Unnao	March 2010 to March 2011	24	41	36.08	72210	32.04 – 34.28	1.80 – 3.07	1809.689	95008.67	100	95008.67	39903641
4.	Kesar Interprises Ltd. Baheri, Bareilly	August 2011 to October 2011	4	41	36.08	52080	33.21 – 35.63	0.45 – 2.87	700.467	36774.51	62.26	22895.809	9616240
	Total	March 2010 to October 2011	59	40 -41	35.20 – 36.08	358030	32.04 – 35.63	0.11 – 3.07	3197.882	167888.829	62.26 – 100	153988.341	64675103 or 6.47 crore

APPENDIX-VIII
Short levy/realisation of licence fee for FL-2 licences
(Reference Para No. 3.14)

(A)- For the year 2010-11

Sl. No.	District where FL-2 licence not settled		District from where supply was made		Calculated consumption of previous year (2009-10) for which the FL-2 licence was authorised (in bottles)	Licence fee realised on the basis of calculated sale of previous year	Licence fee realised from the FL-2 Licensee	Licence fee less levied/ realised
	Name of District	Calculated consumption ² of previous year (2009-10) (in bottles)	Name of District	Calculated consumption of previous year (2009-10) (in bottles)				
1.	Lakhimpur Kheri	829078	Sitapur	622986	2017133	20.00	5.00	15.00
2.	Hardoi	565069	Sitapur	2844291	3335473	40.00	30.00	10.00
3.	Chandauli	491182	Varanasi	642041	1035174	10.00	5.00	5.00
4.	Kanshi Ram Nagar	393133	Etah	694359	1012644	10.00	5.00	5.00
5.	Ambedkar Nagar	318285	Faizabad	585894	879569	10.00	5.00	5.00
6.	Pratapgarh	293675	Sultanpur	453842	704195	10.00	5.00	5.00
7.	Siddharth Nagar	250353	Basti			100.00	55.00	45.00
Total (2010-11)								

(B)- For the year 2011-12

Sl. No.	District where FL-2 licence not settled		District from where supply was made		Calculated consumption of previous year (2010-11) for which the FL-2 licence was authorised (in bottles)	Licence fee realised on the basis of calculated sale of previous year	Licence fee realised from the FL-2 Licensee	Licence fee less levied/ realised
	Name of District	Calculated consumption of previous year (2010-11) (in bottles)	Name of District	Calculated consumption of previous year (2010-11) (in bottles)				
1.	Lakhimpur Kheri	1028042	Sitapur	782121	1810163	20.00	10.00	10.00
2.	Pilibhit	471422	Bareilly	2288316	2759738	20.00	10.00	10.00
3.	Pratapgarh	444434	Sultanpur	671680	1116114	10.00	5.00	5.00
4.	Siddharth Nagar	332193	Basti	573175	1108582	10.00	5.00	5.00
5.	Sant Kabir Nagar	203214	Basti			10.00	5.00	5.00
6.	Chitrakoot	248762	Banda	642498	1237086	10.00	5.00	5.00
7.	Hamirpur	232336	Banda			10.00	5.00	5.00
8.	Mahoba	133490	Banda			70.00	35.00	35.00
Total (2011-12)								

² Calculated sale for 2010-11 - fixed on the basis of formula: Actual sale of 10 months (April to January) + 2 x Average of actual sale of 10 months.

Calculated sale for 2011-12: Actual sale of 11 months (April to February) + Average of actual sale of 11 months.

APPENDIX-IX
Non/short levy of licence fee on wholesale supply of beer
(Reference Para No. 3.15)

Sl. No.	Name of district	Year 2009-10				Year 2010-11				Total revenue loss during 2009-10 and 2010-11				
		Number of bottles of Foreign Liquor sold during 2008-09	Number of bottles of beer sold during 2008-09	Total number of bottles of FL & beer	Licence fee due	Licence fee levied	Loss of revenue	Number of bottles of Foreign Liquor sold during 2009-10	Number of bottles of beer sold during 2009-10		Total number of bottles of FL & beer	Licence fee due	Licence fee levied	Loss of revenue
1.	Aligarh	2401126	2361890	4763016	40	20	20	2893784	3068105	5961889	40	30	10	30
2.	Allahabad	2274340	2818037	5092377	40	20	20	2652101	3172627	5824728	40	30	10	30
3.	Ambedkar Nagar	244939	218004	462943	5	0	5	318286	277117	595403	5	0	5	10
4.	Azamgarh	523284	470903	994187	10	5	5	NA	NA	NA	-	-	-	5
5.	Auraiya	NA	NA	NA	-	-	-	40991	367659	777650	10	5	5	5
6.	Bagpat	927449	176876	1104325	10	0	10	1097900	810725	1908625	20	0	20	30
7.	Bahrach	298114	442650	740764	10	5	5	359014	637594	996608	10	5	5	10
8.	Ballia	588214	269585	857799	10	5	5	NA	NA	NA	-	-	-	5
9.	Bairampur	146863	262524	409387	5	0	5	186335	308246	494581	5	0	5	10
10.	Bareilly	1679004	1407904	3086908	40	20	20	1938204	1609501	3547705	40	20	20	40
11.	Basti	365821	398124	763945	10	5	5	452942	450705	903647	10	5	5	10
12.	Bijnor	1788694	1133635	2922329	30	20	10	2123926	1394489	3518415	40	20	20	30
13.	Bulandshahar	2081257	1480304	3561561	40	20	20	2498788	1748338	4247126	40	20	20	40
14.	Chandauli	373346	319714	693060	5	0	5	491182	364574	855756	10	0	10	15
15.	Chitrakoot	132242	85076	217318	5	0	5	174652	129527	304179	5	0	5	10
16.	Deoria	NA	NA	NA	-	-	-	936716	868760	1805476	20	10	10	10
17.	Etah	418833	392239	811072	10	5	5	642041	647018	1289059	10	5	5	10
18.	Etawah	424072	335573	759645	10	5	5	526154	395546	921700	10	5	5	10
19.	Faizabad	550668	566062	1116730	10	5	5	694359	640107	1334466	10	5	5	10
20.	Farrukhabad	518837	410623	929460	10	0	10	691005	521240	1212245	10	5	5	15
21.	Fatehpur	352866	298456	651322	5	0	5	426182	343202	769384	10	5	5	10
22.	Firozabad	1316869	1170340	2487209	20	10	10	1548101	1480011	3028112	40	20	20	30
23.	Gazipur	383407	378632	762039	10	5	5	552347	551956	1104303	10	5	5	10

Sl. No.	Name of district	Year 2009-10				Year 2010-11				Total revenue loss during 2009-10 and 2010-11				
		Number of bottles of Foreign Liquor sold during 2008-09	Number of bottles of beer sold during 2008-09	Total number of bottles of FL & beer	Licence fee due	Licence fee levied	Loss of revenue	Number of bottles of Foreign Liquor sold during 2009-10	Number of bottles of beer sold during 2009-10		Total number of bottles of FL & beer	Licence fee due	Licence fee levied	Loss of revenue
24.	Gonda	359778	478585	838363	10	5	5	589300	735699	1324999	10	5	5	10
25.	Gorakhpur	1286587	1875499	3162086	40	10	30	1506795	2196844	3703639	40	20	20	50
26.	Hamirpur	118855	134380	253235	5	0	5	169897	190588	360485	5	0	5	10
27.	Hardoi	471096	377510	848606	10	0	10	565070	427406	992476	10	0	10	20
28.	Hathras	919493	742296	1661789	20	10	10	1038384	1062364	2100748	20	10	10	20
29.	J.P. Nagar	473380	345796	819176	10	5	5	596298	439560	1035858	10	5	5	10
30.	Jaunpur	521983	575563	1097546	10	5	5	823535	896156	1719691	20	10	10	15
31.	Jhansi	806179	1280268	2086447	20	10	10	937729	1473560	2411289	30	10	20	30
32.	Kanpur Dehat Kanshiram	431686	254819	686505	5	0	5	540997	289945	830942	10	0	10	15
33.	Nagar	232429	180595	413024	5	0	5	393133	356573	749706	10	0	10	15
34.	Kaushambi	121340	82849	204189	5	0	5	169865	102291	272156	5	0	5	10
35.	Kushinagar	310022	245712	555734	5	0	5	392335	304805	697140	5	0	5	10
36.	Lakhimpur	654524	536419	1190943	10	0	10	829079	705458	1534537	20	0	20	30
37.	Mahoba	64158	72503	136661	5	0	5	84122	98497	182619	5	0	5	10
38.	Mahrajanj	156691	184832	341523	5	0	5	222956	261944	484900	5	0	5	10
39.	Mainpuri	398644	409264	807908	10	5	5	641698	690551	1332249	10	5	5	10
40.	Mathura	NA	NA	NA	-	-	-	2321280	3794311	6115591	40	20	20	20
41.	Mau	NA	NA	NA	-	-	-	399444	339117	738561	10	5	5	5
42.	Mirzapur	425173	400393	825566	10	5	5	577611	520839	1098450	10	5	5	10
43.	Moradabad	1694929	984864	2679793	30	20	10	1916656	1186305	3102961	40	20	20	30
44.	Muzaffarnagar	1892191	1608545	3500736	40	20	20	2250865	2030549	4281414	40	20	20	40
45.	Pilibhit	345293	196958	542251	5	0	5	397507	220348	617855	5	0	5	10
46.	Pratapgarh	254905	235472	490377	5	0	5	293675	256671	550346	5	0	5	10
47.	Raebareli	422944	511608	934552	10	0	10	538550	630752	1169302	10	0	10	20
48.	Rampur	395402	333697	729099	10	5	5	469934	400843	870777	10	5	5	10
49.	Saharanpur	1829690	1241434	3071124	40	20	20	2165922	1474169	3640091	40	20	20	40
50.	Sant Kabir Nagar	108797	85121	193918	5	0	5	153927	107104	261031	5	0	5	10

Audit Report (Revenue Sector) for the year ended March 2012

Sl. No.	Name of district	Year 2009-10				Year 2010-11				Total revenue loss during 2009-10 and 2010-11				
		Number of bottles of Foreign Liquor sold during 2008-09	Number of bottles of beer sold during 2008-09	Total number of bottles of FL & beer	Licence fee due	Licence fee levied	Loss of revenue	Number of bottles of Foreign Liquor sold during 2009-10	Number of bottles of beer sold during 2009-10		Total number of bottles of FL & beer	Licence fee due	Licence fee levied	Loss of revenue
51.	Siddharthnagar	173866	148345	322211	5	0	5	250354	298416	548770	5	0	5	10
52.	Sitapur	487256	428364	915620	10	5	5	622986	508176	1131162	10	5	5	10
53.	Sonebhadra	492282	497192	989474	10	5	5	584603	703667	1288270	10	5	5	10
54.	Sravasti	30506	45108	75614	5	0	5	77335	58771	136106	5	0	5	10
55.	Sultanpur	495023	234431	729454	10	5	5	585895	509633	1095528	10	5	5	10
56.	Unnao	527650	614996	1142646	10	5	5	680998	706193	1387191	10	5	5	10
	Total	34692997	30740570	65433567	715	290	425	45402745	43765152	89167897	875	375	500	925

APPENDIX-X

Short levy of tax due to adoption of lesser seating capacity of Tata Magic Vehicle (Reference Para No. 4.8)

(In ₹)

Sl. No.	Name of unit	Number of vehicles (unladen weight 1000 Kg.)	Period	Tax leviable	Tax paid	Short levy
1.	RTO Meerut	164	October 2009 to December 2010	3102855	2659590	443265
		69	January 2011 to February 2011	1242780	1065240	177540
2.	ARTO Etawah	130	October 2009 to March 2011	2428322	2081420	346902
3.	ARTO SantKabir Nagar	117	October 2009 to February 2011	1941170	1663860	277310
4.	ARTO Mahrajganj	97	April 2010 to March 2011	796949	683100	113849
5.	ARTO Hamirpur	139	October 2009 to November 2010	2465288	2113104	352184
6.	ARTO Ambedkar Nagar	30	October 2009 to April 2011	354714	304040	50674
7.	ARTO Siddharth Nagar	30	October 2009 to January 2011	743819	637560	106259
8.	RTO Gorakhpur	151	November 2010 to January 2011	2379300	2039400	339900
9.	ARTO Mainpuri	11	October 2009 to June 2011	2811270	2409660	401610
10.	ARTO Rampur	100	December 2010 to September 2011	1225840	1050720	175120
11.	ARTO Kushinagar	259	October 2009 to September 2011	4580471	3926118	654353
12.	ARTO Bagpat	125	October 2009 to August 2011	3884650	3329700	554950
13.	ARTO Bulandshahar	118	October 2009 to July 2011	2318477	1987266	331211
14.	ARTO Jalaun (Orai)	167	September 2010 to May 2011	3445043	2952894	492149
15.	RTO Mizapur	171	March 2010 to December 2011	3160080	2708640	451440
16.	ARTO Auraiya	165	October 2009 to September 2011	5192880	4451040	741840
17.	ARTO Gazipur	81	February 2010 to July 2011	1182720	1013760	168960
18.	ARTO Ballia	128	November 2009 to June 2011	1708630	1464540	244090
19.	ARTO Raebareli	376	July 2010 to July 2011	5351493	4586994	764499
20.	ARTO Deoria	183	November 2009 to March 2011	3978590	3410220	568370
21.	ARTO Lakhimpur Kheri	135	July 2010 to June 2011	1730960	1483680	247280
22.	ARTO Chandauli	104	November 2009 to March 2011	3803030	3259740	543290
23.	RTO Azamgarh	22	December 2010 to November 2011	388080	332640	55440
24.	ARTO Kaushambi	94	October 2010 to June 2011	2721950	2333100	388850
25.	RTO Allahabad	46	January 2011 to September 2011	723800	620400	103400
26.	ARTO Kanshiram Nagar	83	October 2009 to December 2011	2163436	1854380	309056
27.	ARTO Lalitpur	172	January 2011 to February 2012	3973200	3405600	567600
	Total	3467		69799797	59828406	9971391 or ₹ 99.71 lakh

APPENDIX-XI

Non-realisation of tax/additional tax in respect of vehicles surrendered beyond three months (Reference Para No. 4.9)

Sl. No.	Name of office	Number of vehicles	Month of surrender	Period for which tax leviable	Non realisation of Tax/Additional Tax (in ₹)
1.	RTO Ghaziabad	15	September 2008 to August 2010	April 2010 to April 2011	1700449
2.	RTO Meerut	36	December 2009 to August 2011	April 2010 to December 2011	1144070
3.	ARTO Hamirpur	26	December 2009 to December 2010	April 2010 to December 2011	1957546
4.	ARTO Unnao	47	March 2009 to November 2010	April 2010 to July 2011	3983615
5.	RTO Lucknow	58	December 2009 to March 2011	April 2010 to July 2011	942544
6.	ARTO Deoria	27	June 2008 to August 2010	April 2010 to December 2010	169903
7.	RTO Kanpur Nagar	7	March 2010 to March 2011	July 2010 to July 2011	142850
8.	ARTO Mainpuri	22	August 2008 to December 2010	April 2010 to June 2011	1487275
9.	ARTO Farrukhabad	15	November 2008 to December 2010	April 2010 to July 2011	1016396
10.	ARTO Bagpat	23	April 2010 to March 2011	July 2010 to August 2011	437591
11.	ARTO Mathura	20	March 2009 to March 2011	April 2010 to July 2011	361205
12.	ARTO Rampur	8	January 2011 to June 2011	May 2011 to October 2011	137325
13.	ARTO Balrampur	137	March 2011 to July 2011	July 2011 to November 2011	328467
14.	ARTO Auraiya	24	October 2009 to December 2010	April 2010 to September 2011	2994300
15.	ARTO Kushinagar	10	June 2009 to March 2011	April 2010 to September 2011	164586
16.	ARTO Bijnor	42	October 2010 to April 2011	February 2011 to December 2011	382405
17.	RTO Agra	4	August 2009 to August 2010	April 2010 to November 2011	378480
18.	ARTO Fatehpur	6	November 2010 to August 2011	March 2011 to January 2012	100042
19.	ARTO Firozabad	43	December 2010 to July 2011	April 2011 to December 2011	746800
20.	ARTO Muzaffarnagar	14	March 2010 to July 2010	July 2010 to June 2011	133400
21.	ARTO Pilibhit	9	December 2009 to December 2010	April 2010 to June 2011	99820
22.	RTO Bareilly	6	December 2009 to February 2011	April 2010 to June 2011	29786
23.	ARTO Sitapur	12	June 2009 to June 2011	April 2010 to December 2011	164220
24.	ARTO Etawah	4	December 2010 to September 2011	April 2011 to March 2012	34500
25.	ARTO Bulandshahar	10	April 2010 to March 2011	August 2010 to July 2011	164082
26.	ARTO Shahjahanpur	30	August 2010 to July 2011	December 2010 to November 2011	371650
27.	RTO Saharanpur	8	February 2010 to June 2011	June 2010 to December 2011	171209
28.	RTO Gorakhpur	34	September 2008 to June 2011	April 2010 to December 2011	905340
29.	ARTO Bahraich	7	September 2006 to September 2010	April 2010 to May 2011	678600
30.	ARTO Raebareli	8	February 2010 to March 2011	June 2010 to July 2011	287400
31.	ARTO Jaunpur	5	October 2009 to September 2010	April 2010 to November 2011	536700
32.	RTO Allahabad	34	June 2005 to July 2011	April 2010 to December 2011	676123
33.	RTO Banda	2	August 2010 to August 2011	December 2010 to December 2011	101160
	Total	753			22929839 or 2.29 crore

APPENDIX-XII

Non-imposition of penalty on the vehicles carrying excess load
(Reference Para No. 4.10.1)

Sl. No.	Name of office	Vehicle by which the excess load was carried	Mineral Carried	Period during which the overloaded vehicles plied	Load carried by the vehicle (in tonne)	Load permitted to be carried as per RCs of vehicles (in tonne)	Load carried in excess of permissible limit (in tonne)	Penalty imposable on each vehicle (in ₹)	No. of vehicles	Amount of penalty imposable but not imposed/realised (in ₹)
1.	ARTO Raebareli	Tractor Trolley (02 wheel)	Sand	February 2010 to April 2011	6	3	3	5000	91	455000
		Truck (06 wheel)	Sand	February 2011 to June 2011	24	9	15	17000	283	4811000
2.	ARTO Unnao	Tractor Trolley (02 wheel)	Sand	February 2011 to March 2011	6	3	3	5000	70	350000
		Truck (06 wheel)	Sand	February 2011 to March 2011	24	9	15	17000	200	3400000
		Mini Truck (06 wheel)	Sand	February 2011 to March 2011	12	9	3	5000	21	105000
		Truck (10 wheel)	Sand	January 2010 to May 2011	40	15	25	27000	99	2673000
3.	ARTO Pratapgarh	Tractor Trolley (02 wheel)	Sand	October 2008 to March 2011	6	3	3	5000	163	815000
		Tractor Trolley (02 wheel)	Sand	October 2008 to March 2011	8	3	5	7000	58	406000
		Tractor Trolley (04 wheel)	Sand	October 2008 to March 2011	16	5.25	10.75	13000	48	624000
		Truck (06 wheel)	Sand	April 2008 to April 2009	16	9	7	9000	5	45000
		Truck (06 wheel)	Sand	April 2008 to June 2010	24	9	15	17000	74	1258000
		Truck (06 wheel)	Sand	April 2008	28	9	19	21000	2	42000
4.	ARTO Balrampur	Tractor Trolley (04 wheel)	Sand	August 2011 to September 2011	6	5.25	0.75	3000	86	258000
5.	ARTO Lucknow	Tractor Trolley (02 wheel)	Ordinary Soil	January 2010 to March 2010	6	3	3	5000	136	680000
6.	ARTO Auraiya	Tractor Trolley (02 wheel)	Sand	July 2009 to November 2009	6	3	3	5000	100	500000
		Mini Truck (06 wheel)	Sand	July 2009 to November 2009	12	9	3	5000	30	150000
7.	ARTO Hardoi	Tractor Trolley (04 wheel)	Sand	January 2010	6	5.25	0.75	3000	35	105000
8.	ARTO Lalitpur	Truck (06 wheel)	Gitti	July 2009 to August 2009	20 to 36	9	11 to 27	13000 to 29000	16	277000
		Truck (10 wheel)	Gitti	July 2008	34 to 40	15	19 to 25	21000 to 27000	28	644000
9.	ARTO Siddharth Nagar	Truck (06 wheel)	Sand	January 2011 to January 2012	14.12	9	5.12	8000	73	584000
10.	ARTO Srawasti	Tractor Trolley (02 wheel)	Sand	July 2010 to February 2011	5.29	03	2.29	5000	284	1420000
		Tractor Trolley (02 wheel)	Sand	July 2010 to February 2011	7.0	03	4	6000	21	126000
		Tractor Trolley (04 wheel)	Sand	July 2010 to February 2011	8.82	5.25	3.57	6000	03	18000

Audit Report (Revenue Sector) for the year ended March 2012

Sl. No.	Name of office	Vehicle by which the excess load was carried	Mineral Carried	Period during which the overloaded vehicles plied	Load carried by the vehicle (in tonne)	Load permitted to be carried as per RCs of vehicles (in tonne)	Load carried in excess of permissible limit (in tonne)	Penalty imposable on each vehicle (in ₹)	No. of vehicles	Amount of penalty imposable but not imposed/realised (in ₹)
		Tractor Trolley (04 wheel)	Sand	July 2010 to February 2011	10.59	5.25	5.34	8000	11	88000
		Truck (10 wheel)	Sand	July 2010 to February 2011	21.18	15	6.18	9000	05	45000
		Truck (10 wheel)	Sand	July 2010 to February 2011	26.47	15	11.47	14000	02	28000
		Truck (10 wheel)	Sand	July 2010 to February 2011	31.76	15	16.76	19000	01	19000
11.	SantKabir Nagar	Tractor Trolley (02 wheel)	Sand	March 2011 to November 2011	6	5.25	0.75	3000	168	504000
	Total								2113	20430000 or 2.04 crore

APPENDIX-XIII

Non-levy of tax and fines on the tractors registered for agricultural purposes which were engaged in commercial activities (Reference Para No. 4.12)

Sl. No.	Name of unit	Unladen Weight of vehicle (in Tonne)	Period of plying of vehicle	No. of vehicle		Amount of tax payable @ ₹ 500 per quarter per ton of unladen weight (In ₹)	Penalty leviable			Total amount of tax and penalty (In ₹)
				Before August 2010	After August 2010		₹ 2500 per vehicle	₹ 4000 per vehicle	Total	
1.	ARTO Mathura	02	March 2009 to March 2011	102	29	131000	255000	116000	371000	502000
2.	ARTO Unnao	02	November 2009 to July 2011	38	1	39000	95000	4000	99000	138000
3.	ARTO Hardoi	02	January 2010	29	0	29000	72500	0	725000	754000
4.	ARTO Raebareli	02	November 2009 to July 2011	1	64	65000	2500	256000	258500	323500
5.	RTO Lucknow	02	April 2008 to July 2011	10	0	10000	25000	0	25000	35000
6.	ARTO Auraiya	02	November 2009 to September 2011	24	0	24000	60000	0	60000	84000
7.	ARTO Rampur	02	December 2010 to September 2011	22	0	22000	55000	0	55000	77000
8.	ARTO Mainpuri	02	December 2010 to March 2011	0	35	35000	0	140000	140000	175000
9.	RTO Allahabad	02	May 2009 to March 2011	6	53	59000	15000	212000	227000	286000
10.	ARTO Siddharth Nagar	02	January 2012	0	76	76000	0	304000	304000	380000
11.	ARTO Sant Kabir Nagar	02	March 2011 to November 2011	16	0	16000	40000	0	40000	56000
12.	ARTO Srawasti	02	July 2010 to January 2011	27	0	27000	67500	0	67500	94500
	Total		April 2008 to January 2012	275	258	533000	687500	1032000	2372000	2905000

APPENDIX-XIV

Non-levy of stamp duty due to non-registration of Land transferred by *Awas Vikas Parishad* (Reference Para No. 5.5.15.2)

(₹ in lakh)

Sl. No.	Name of district	Number of allottees	Possession granted between	Total valuation	Rate of Stamp duty (per cent)	Stamp duty payable	Registration fees payable	Delay ranging from (In months)
1.	Agra	13	September 1988 to March 1998	8.08	6 to 7	0.55	0.08	144 to 279
2.	Ballia	39	May 1993 to April 2000	61.02	6 to 7	4.12	0.81	140 to 223
3.	Bulandshahar	12	November 1988 to July 1994	18.70	6 to 7	1.22	0.25	209 to 277
4.	Firozabad	159	January 1984 to October 2006	112.25	6 to 7	7.44	1.12	71 to 335
5.	Ghazipur	19	December 1992 to January 1995	9.28	6 to 7	0.63	0.09	203 to 228
6.	Gorakhpur	62	March 1976 to August 2007	58.86	6 to 7	3.90	0.73	52 to 429
7.	Jhansi	98	April 1980 to March 2004	48.67	6 to 7	3.33	0.57	93 to 373
8.	Meerut	71	April 1988 to September 2007	66.63	6 to 7	4.49	0.69	51 to 284
9.	Mirzapur	36	November 1984 to September 1998	136.36	6 to 7	9.45	1.68	159 to 325
10.	Muzaffarnagar	279	January 1992 to December 2010	333.09	6 to 7	22.22	4.13	12 to 239
11.	Varanasi	56	April 1985 to June 1985	88.13	6 to 7	6.11	0.65	318 to 320
	Total	844	March 1976 to December 2010	941.07	6 to 7	63.46	10.80	12 to 429

APPENDIX-XV

Short levy of Stamp Duty and Registration fee in execution of sale deed (Reference Para No. 5.5.19.1 – Bullet 2)

(In ₹)

Sl. No.	Name of Office	Number of cases	Month of execution	Value of property on which Stamp duty levied	Value of property on which stamp duty is require to be levied	Stamp duty leviable	Stamp duty levied	Stamp duty short levied	Registration fees short levied
1.	Sub Registrar-II, Agra	10	04/2008 to 08/2011	25628000	130436000	10066840	1968100	8098740	0
2.	Sub Registrar-V, Agra	1	02/2011	1004000	2168000	151760	76000	75760	0
3.	Sub Registrar-I, Aligarh	1	02/2009	567000	2281000	159670	39700	119970	0
4.	Sub Registrar-II, Allahabad	1	05/2008	903000	2207000	200700	72300	128400	0
5.	Sub Registrar, Barabanki	1	07/2010	8322728	37720000	2640400	416150	2224250	0
6.	Sub-Registrar, Basti	1	08/2009	1070000	3616000	243120	64900	178220	0
7.	Sub Registrar-II, Bulandshahar	2	02/2009 to 03/2011	29050000	74148000	5180360	1457280	3723080	0
8.	Sub Registrar, Chitrakoot	1	09/2011	1264000	1580000	100600	81600	19000	0
9.	Sub Registrar, Etah	5	02/2009 to 01/2010	1479500	23782000	1644740	95180	1549560	23100
10.	Sub Registrar, Etawah	1	03/2010	80000	1152000	80640	5600	75040	9200
11.	Sub Registrar-I, Firozabad	1	05/2009	3873000	6383000	446810	271000	175810	0
12.	Sub Registrar-II, Firozabad	2	07/2009 to 07/2010	1172000	1758000	105480	70500	34980	0
13.	Sub Registrar-I, Noida	13	06/2009 to 04/2011	69750500	80359000	4000670	3473060	527610	0
14.	Sub Registrar-III, Noida	3	01/2010 to 09/2010	8892400	9897000	484850	435100	49750	0
15.	Sub Registrar-I, Ghaziabad	6	07/2008 to 06/2009	24795466	53878000	3761460	1725300	2036160	0
16.	Sub Registrar-III, Ghaziabad	1	11/2011	2948000	6357000	444990	206500	238490	0
17.	Sub Registrar-IV, Ghaziabad	1	07/2011	2512000	6858000	480060	176000	304060	0
18.	Sub Registrar-II, Gorakhpur	1	07/2011	390000	546000	27300	19500	7800	2200
19.	Sub Registrar, Kannauj	1	06/2009	400000	1296000	90720	28000	62720	0

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Sl. No.	Name of Office	Number of cases	Month of execution	Value of property on which Stamp duty levied	Value of property on which stamp duty is require to be levied	Stamp duty leviabile	Stamp duty levied	Stamp duty short levied	Registra tion fees short levied
20.	Sub Registrar-I, Kanpur	5	09/2008 to 05/2011	14074340	43313000	3031910	976350	2055560	0
21.	Sub Registrar-I, Lucknow	2	04/2010 to 07/2010	15508900	41885000	2921950	2809000	112950	0
22.	Sub Registrar-III, Lucknow	1	07/2009	1595706	2660000	186200	111750	74450	0
23.	Sub-Registrar-IV, Lucknow	1	03/2010	11235000	14044000	983080	778000	205080	0
24.	Sub Registrar-I, Meerut	3	04/2008 to 02/2011	5037000	10548000	951900	521400	430500	7630
25.	Sub Registrar-III, Meerut	2	12/2010 to 07/2011	10307000	15934000	1115380	722000	393380	0
26.	Sub Registrar-IV, Meerut	1	12/2011	229000	262000	13100	9200	3900	2940
27.	Sub Registrar-I, Moradabad	1	02/2012	6875000	19625000	981250	343000	638250	0
28.	Sub Registrar-II, Muzaffarnagar	1	05/2011	222710	2564000	128200	11150	117050	7770
29.	Sub Registrar-II, Saharanpur	1	11/2010	1882000	2822000	187540	121800	65740	0
30.	Sub Registrar-III, Saharanpur	3	08/2008 to 04/2011	19475000	40314000	2168340	1017100	1151240	0
	Total	74	04/2008 to 02/2012	270543250	640393000	42980020	18102520	24877500	52840

APPENDIX-XVI

Short levy of Stamp Duty and Registration fee in execution of Sale Deed
(Reference Para No. 5.5.19.1 – Bullet 5)

(In ₹)

Sl. No.	Name of office	Number of cases	Area of property (in Sq.m.)	Month of execution	Value of property in which stamp duty levied	Value of property on which stamp duty is required to be levied	Stamp duty leviable	Stamp duty levied	Stamp duty short levied	Registration fees short levied
1.	Sub-Registrar-I, Agra	1	4761.66	03/2009	14285000	26190000	1833300	1000000	833300	0
2.	Sub-Registrar-II, Agra	1	1414.00	04/2010	1132000	4525000	316750	80000	236750	0
3.	Sub-Registrar-IV, Agra	2	3673.00	11/2009 to 01/2010	1564000	7108000	497560	109800	387760	0
4.	Sub-Registrar-V, Agra	2	3521.00	03/2010 to 04/2010	354000	8803000	616210	24850	591360	12410
5.	Sub-Registrar-I, Aligarh	5	13210.00	05/2010 to 06/2011	6336000	17828000	1247960	443810	804150	0
6.	Sub-Registrar-II, Aligarh	1	1540.00	05/2008	235000	2156000	215600	23500	192100	300
7.	Sub-Registrar-III, Aligarh	1	4281.00	06/2009	652000	2997000	199790	39200	160590	0
8.	Sub-Registrar-II, Allahabad	2	5563	05/2008 to 05/2011	7398000	15887000	1158300	526970	631330	0
9.	Sub-Registrar, Basti	1	760.00	01/2010	440000	3040000	212800	30000	182800	1200
10.	Sub-Registrar-I, Bulandshahar	1	1653.00	06/2009	219000	1488000	74400	10950	63450	620
11.	Sub-Registrar-II, Bulandshahar	2	6543.00	04/2011 to 06/2011	1636000	6306000	326800	70100	256700	8250
12.	Sub-Registrar, Etah	3	3020.00	02/2009 to 02/2011	796000	6395000	417650	48910	368740	11300
13.	Sub-Registrar, Etawah	1	890.00	06/2008	331000	2136000	193600	26560	167040	0
14.	Sub-Registrar-I, Ferozabad	5	5605.00	12/2008 to 09/2011	1767000	7511000	505770	112640	393130	18030
15.	Sub-Registrar-II, Ferozabad	2	4236.00	12/2009 to 10/2010	706000	3406000	238420	49570	188850	5880
16.	Sub-Registrar, Greater Noida	19	36052.30	05/2008 to 06/2011	25227000	122807000	6100350	1257450	4842900	2840
17.	Sub-Registrar-I, Noida	1	3064.00	12/2008	1991437	3064000	143200	95000	48200	0
18.	Sub-Registrar-III, Noida	3	6480.00	01/2009	4213000	29160000	1458000	210650	1247350	0
19.	Sub-Registrar-IV, Ghaziabad	4	6744.52	07/2010	11778000	21248000	1487360	825200	662160	0
20.	Sub-Registrar-I, Gorakhpur	1	688.84	01/2009	310000	1723000	78920	12400	66520	0
21.	Sub-Registrar-II, Gorakhpur	5	20178.00	04/2010 to 05/2011	15834000	73632000	5144240	1498750	3645490	0
22.	Sub-Registrar, Jyotiba Phule Nagar	1	690.00	12/2011	70000	207000	8280	3120	5160	1370
23.	Sub-Registrar-I, Jhansi	3	12823.30	04/2011 to 05/2011	7481000	62991000	4405030	498100	3906930	6920
24.	Sub-Registrar-II, Jhansi	6	23074.60	09/2010 to 02/2011	4124000	24558000	1709060	279220	1429840	9580
25.	Sub-Registrar-II, Kanpur	2	10623.00	02/2011 to 02/2012	11871000	52238000	3656660	831200	2825460	0
26.	Sub-Registrar-I, Lucknow	3	12847.00	07/2008 to 08/2010	1127310	30364000	2115480	72150	2043330	3780

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Sl. No.	Name of office	Number of cases	Area of property (in Sq.m.)	Month of execution	Value of property in which stamp duty levied	Value of property on which stamp duty is required to be levied	Stamp duty leviable	Stamp duty levied	Stamp duty short levied	Registration fees short levied
27.	Sub-Registrar-II, Lucknow	1	1390.00	01/2011	312750	2085000	145950	33200	112750	3740
28.	Sub-Registrar-IV, Lucknow	1	557.62	06/2009	1562000	10038000	692660	99400	593260	0
29.	Sub-Registrar-I, Mathura	2	5015.00	03/2011	1080000	6520000	448790	72130	376660	2980
30.	Sub-Registrar-II, Mathura	1	940	07/2010	581000	2820000	197400	41000	156400	0
31.	Sub-Registrar-II, Meerut	1	940.00	07/2010	581000	2820000	197400	41000	156400	0
32.	Sub-Registrar-III, Meerut	1	800.00	03/2010	800000	2400000	168000	56000	112000	0
33.	Sub-Registrar-I, Muzaffarnagar	2	2475.50	04/2008	586000	4456000	445600	58600	387000	0
34.	Sub-Registrar-II, Muzaffarnagar	7	2263.70	09/2010 to 03/2011	1288000	4469000	216130	63840	152290	34720
35.	Sub-Registrar-I, Varanasi	2	2080.00	09/2010 to 04/2011	2255000	8426000	525560	143480	382080	940
36.	Sub-Registrar-II, Varanasi	4	7735.00	06/2008 to 07/2010	5334000	14663000	1232410	413130	819280	0
37.	Sub-Registrar-IV, Varanasi	4	11405.00	11/2010 to 12/2011	9609000	35975000	2508250	662900	1845350	0
	Total	103	228598.04	04/2008 to 02/2012	145285497	629620000	40942240	9823780	31118460	124860

APPENDIX-XVII

**Undervaluation of land by concealing the facts required under Section 27
of Indian Stamp Act
(Reference Para No. 5.5.19.3)**

(₹ in lakh)

Sl. No.	Name of office	Number of cases	Area of property (in Sq.m.)	Month of execution	Value of property in which stamp duty levied	Facts concealed in <i>Chauhaddi</i>	Value of property on which stamp duty is required to be levied	Stamp duty leviable	Stamp duty levied	Stamp duty short levied	Registration fees short levied
1.	Sub-Registrar-I, Agra	1	283.00	06/2010	1.84	<i>Arazi</i> number and owner of land has not been mentioned.	5.10	0.36	0.11	0.25	0.06
2.	Sub-Registrar-III, Agra	1	15970.00	03/2011	180.00	Nature and owner of the land has not been mentioned.	399.25	27.95	12.60	15.35	0
3.	Sub-Registrar-I, Aligarh	4	32650.00	06/2008 to 05/2011	114.17	<i>Chauhaddi</i> of the sold land has not been mentioned.	284.56	20.86	8.75	12.11	0
4.	Sub-Registrar-II, Aligarh	3	4993.00	10/2008 to 10/2009	19.30	True / complete information has not been mentioned.	66.85	4.58	1.29	3.29	0
5.	Sub-Registrar-I, Allahabad	1	3990.00	01/2011	16.97	Nature and owner of the land has not been mentioned.	111.72	7.72	1.09	6.63	0
6.	Sub-Registrar-II, Allahabad	1	16900.00	08/2011	81.30	Nature and owner of the land has not been mentioned.	591.50	41.40	0.57	40.84	0
7.	Sub-Registrar, Etah	1	1610.00	07/2010	1.54	Nature of property within the radius of 200 metre / <i>nazari naksha</i> has not been mentioned.	17.71	0.79	0.06	0.72	0.09
8.	Sub-Registrar, Etawah	5	10319.14	03/2009 to 04/2011	35.84	<ul style="list-style-type: none"> • True / complete information has not been mentioned. • <i>Arazi</i> number and owner of the land has not been mentioned. 	371.29	25.69	2.08	23.61	0.03

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Sl. No.	Name of office	Number of cases	Area of property (in Sq.m.)	Month of execution	Value of property in which stamp duty levied	Facts concealed in <i>Chauhaddi</i>	Value of property on which stamp duty is required to be levied	Stamp duty leviable	Stamp duty levied	Stamp duty short levied	Registration fees short levied
9.	Sub-Registrar-I, Ferozabad	9	59308.54	02/2009 to 09/2011	188.27	<ul style="list-style-type: none"> • Nature of property within the radius of 200 metre / <i>nazari naksha</i> has not been mentioned. • <i>Chauhaddi</i> of the sold land has not been mentioned. 	883.40	61.84	13.18	48.65	0
10.	Sub-Registrar, Greater Noida	1	5375.00	10/2008	32.25	True / complete information has not been mentioned.	80.63	4.03	1.61	2.42	0
11.	Sub-Registrar-I, Noida	1	300.00	08/2010	60.00	True / complete information has not been mentioned.	360.00	18.00	3.00	15.00	0
12.	Sub-Registrar-III, Noida	3	250.83	07/2010	11.31	Nature and owner of the land has not been mentioned.	87.81	4.19	0.49	3.70	0.07
13.	Sub-Registrar-V, Ghaziabad	3	1200.00	10/2008 to 09/2011	39.83	True / complete information has not been mentioned.	140.85	9.86	2.80	7.06	0
14.	Sub-Registrar-II, Jhansi	1	6290.00	09/2010	4.72	True / complete information has not been mentioned.	47.18	3.30	0.33	2.97	0.01
15.	Sub-Registrar-I, Kanpur	2	7785.00	08/2008 to 02/2010	27.77	<ul style="list-style-type: none"> • Nature and owner of the land has not been mentioned. • Arazi number and owner of the land has not been mentioned. 	154.66	10.83	1.94	8.89	0
16.	Sub-Registrar-II, Kanpur	3	16409.09	09/2008 to 01/2012	414.20	<ul style="list-style-type: none"> • Nature and owner of the land has not been mentioned. • Arazi number and owner of the land has not been mentioned. 	995.16	69.66	29.00	40.66	0

Sl. No.	Name of office	Number of cases	Area of property (in Sq.m.)	Month of execution	Value of property in which stamp duty levied	Facts concealed in <i>Chauhaddi</i>	Value of property on which stamp duty is required to be levied	Stamp duty leviable	Stamp duty levied	Stamp duty short levied	Registration fees short levied
17.	Sub-Registrar-III, Kanpur	1	3180.00	08/2008	27.85	Nature and owner of the land has not been mentioned.	206.70	14.47	1.95	12.52	0
18.	Sub-Registrar-I, Lucknow	1	6290.00	06/2008	44.98	Nature and owner of the land has not been mentioned.	138.38	13.84	4.50	9.34	0
19.	Sub-Registrar-IV, Lucknow	1	1260.00	01/2010	4.09	Nature and owner of the land has not been mentioned.	23.94	1.68	0.29	1.39	0.02
20.	Sub-Registrar-II, Mathura	3	30409.80	08/2010	45.75	<i>Chauhaddi</i> of the sold land has not been mentioned.	364.92	18.25	2.31	15.94	0
21.	Sub-Registrar-III, Meerut	2	16710.00	12/2010 to 07/2011	79.62	Nature of property within the radius of 200 metre / <i>nazari naksha</i> has not been mentioned.	174.62	12.22	4.74	7.49	0
22.	Sub-Registrar-I, Muzaffarnagar	2	2870.00	01/2010	4.59	Nature and owner of the land has not been mentioned.	14.35	1.00	0.30	0.71	0.15
23.	Sub-Registrar-II, Varanasi	1	5330.00	05/2011	16.03	True / complete information has not been mentioned.	117.26	8.21	1.12	7.09	0
	Total	51	249683.40	06/2008 to 01/2012	1452.22	³	5637.84	380.73	94.11	286.63	0.43

³ (i) *Arazi* number and owner of land has not been mentioned.
(ii) Nature and owner of the land has not been mentioned.
(iii) *Chauhaddi* of the sold land has not been mentioned.
(iv) Nature of property within the radius of 200 metre / *nazari naksha* has not been mentioned.
(v) True / complete information has not been mentioned.

APPENDIX-XVIII

Short levy of penalty on short payment cases of stamp duty (Reference Para No. 5.5.26.2)

(In ₹)

Sl. No.	Name of District	No. of cases	Month of Decision	Amount of Stamp duty imposed	Amount of penalty imposed	Amount of penalty required to be imposed	Actual Amount of Short levied
1.	Agra	11	June 2011 to March 2012	21294930	64920	21294930	21230010
2.	Aligarh	12	May 2010 to December 2011	6138085	416175	6138085	5721910
3.	Allahabad	8	January 2009 to March 2010	6624480	376500	6624480	6247980
4.	Barabanki	7	April 2011 to January 2012	1293160	91000	1293160	1202160
5.	Basti	10	April 2011 to February 2012	167720	18544	167720	149176
6.	Bulandshahar	11	October 2010 to November 2011	88474623	1542215	88474623	86932408
7.	Chitrakoot	10	January 2011 to January 2012	804230	75300	804230	728930
8.	Etah	32	June 2008 to October 2011	682210	13750	682210	668460
9.	Etawah	6	May 2011 to September 2011	372802	37672	372802	335130
10.	Firozabad	20	January 2011 to March 2012	828619	62260	828619	766359
11.	Gautam Budh Nagar (Noida)	10	April 2011 to August 2011	6249758	945000	6249758	5304758
12.	Ghaziabad	13	April 2010 to January 2012	65528260	1719180	65528260	63809080
13.	Gorakhpur	10	April 2010 to October 2010	638110	2600	638110	635510
14.	Jhansi	20	May 2010 to September 2011	3284420	414290	3284420	2870130
15.	J.P. Nagar (Amroha)	11	April 2011 to December 2011	40978980	20057940	40978980	20921040
16.	Kannauj	5	May 2008 to March 2011	166290	31673	166290	134617
17.	Kanpur	20	November 2010 to May 2011	2459597	53100	2459597	2406497
18.	Lucknow	14	July 2011 to March 2012	1734915	423183	1734915	1311732
19.	Mathura	11	April 2010 to September 2011	4603698	51917	4603698	4551781
20.	Meerut	9	November 2008 to October 2011	2429235	155300	2429235	2273935
21.	Moradabad	13	April 2011 to November 2011	3134030	1063654	3134030	2070376
22.	Muzaffarnagar	6	December 2008 to March 2009	301880	17580	301880	284300
23.	Saharanpur	12	May 2009 to July 2011	5627875	113000	5627875	5514875
24.	Varanasi	13	February 2009 to February 2012	3733438	274082	3733438	3459356
	Total	294	May 2008 to March 2012	267551345	28020835	267551345	239530510

APPENDIX-XIX

Non-levy of penalty for illegal removal of brick earth (Reference para No. 6.7)

Sl. No.	Name of Unit	2005-06		2006-07		2007-08		2008-09		2009-10		2010-11		Total No. of Brick kilns	Total Royalty	Penalty leviable (Price of sub minerals)
		No. of Brick kilns	Royalty													
1.	Allahabd	1	0.21	1	0.21	2	0.43	4	1.07	0	0.00	6	2.10	14	4.02	20.10
2.	Barabanki	270	71.36	248	63.68	235	62.31	253	68.49	300	95.45	368	114.43	1674	475.73	2378.65
3.	Chandauli	156	39.89	156	39.89	165	41.27	175	44.43	183	68.47	222	81.91	1057	315.87	1579.35
4.	Faizabad	0	0.00	158	30.11	158	30.11	158	30.11	97	28.04	211	57.74	782	176.11	880.55
5.	Gorakhpur	0	0.00	245	44.80	245	38.65	245	41.50	245	60.21	329	93.21	1309	278.37	1391.85
6.	Hamirpur	15	1.56	15	0.99	15	1.76	15	1.00	15	3.84	13	3.94	88	13.09	65.45
7.	Jalaun	6	1.49	6	1.49	7	1.76	5	1.22	5	1.85	5	1.85	34	9.64	48.20
8.	Kanpur	236	59.42	188	59.42	171	59.42	194	59.42	194	99.07	194	99.07	1177	435.82	2179.10
9.	Kaushambi	156	42.97	156	42.97	156	42.97	156	42.97	156	64.49	140	57.24	920	293.61	1468.05
10.	Mathura	0	0.00	0	0.00	0	0.00	89	46.50	89	46.52	89	46.52	267	139.55	697.75
11.	Meerut	0	0.00	200	74.11	200	74.11	200	74.11	200	111.17	203	110.39	1003	443.89	2219.45
12.	Mirzapur	165	32.77	167	33.38	194	39.13	194	39.13	194	59.16	233	70.48	1147	274.05	1370.25
13.	Saharanpur	0	0.00	184	63.59	151	52.50	150	52.84	112	58.65	208	108.55	805	336.13	1680.65
	Total	1005	249.68	1724	454.64	1699	444.43	1838	502.80	1790	696.91	2221	847.42	10277	3195.90	15979.40

APPENDIX- XX
Non-levy of interest for belated payment of royalty
(Reference para No. 6.9)

Sl. No.	Name of Office	Due Period	No. of cases	Amount due	Amount Deposited	Interest leviable	Total amount due including interest	Period of delay (in months)	Net interest due to be realised
Brick kilns									
1.	Allahabad	2005-06 to 2009-10	183	7249900	7249900	632701	7882601	3 to 26	632701
2.	Barabanki	2009-10	187	7674300	7726941	502151	8176451	3 to 18	449510
3.	Gorakhpur	2005-06 to 2009-10	4	82000	82000	62859	144859	1 to 56	62859
4.	Hamirpur	2009-10	17	364700	364700	22753	387453	3 to 8	22753
5.	Lakheimpur Kheri	2009-10	31	1270000	1270000	74324	1344324	2 to 8	74324
6.	Mathura	2008-09 to 2009-10	62	2347200	2347200	228825	2576025	2 to 14	228825
7.	Meerut	2006-07 to 2009-10	328	12208800	12288792	1269476	13478276	1 to 48	1189484
8.	Mirzapur	2009-10	25	719000	719000	71798	790798	6 to 9	71798
9.	Muzaffamagar	2005-06 to 2009-10	16	647600	647600	69898	717498	1 to 14	69898
10.	Saharanpur	2006-07 to 2009-10	197	9302900	9302900	853803	10156703	2 to 17	853803
11.	Sahjahanpur	2010-11	52	2626200	2626200	89722	2715922	1 to 7	89722
12.	Sonebhadra	2009-10	5	152100	152100	19118	171218	6 to 7	19118
	Total	2005-06 to 2010-11	1107	44644700	44777333	3897428	48542128	1 to 56	3764795
Leases									
1.	Allahabad	2006-07 to 2009-10	2	1017450	1017450	101106	1118556	1 to 48	101106
2.	Gorakhpur	2005-06 to 2009-10	1	261544	261544	61376	322920	1 to 56	61376
3.	Hamirpur	2006-07 to 2009-10	1	405000	522500	131287	536287	14 to 18	13787
4.	Lalitpur	2007-08 to 2009-10	5	1041788	1068703	177516	1219304	4 to 12	150601
5.	Mahoba	2005-06 to 2008-09	6	222340	222340	161946	384286	5 to 70	161946
6.	Mirzapur	2007-08 to 2009-10	9	2885727	2822829	290951	3176678	1 to 28	353849
7.	Muzaffamagar	2005-06	2	502894	502894	16289	519183	1 to 7	16289
	Total	2005-06 to 2010-11	26	6336743	6418260	940471	7277214	1 to 70	858954
	Grand Total	2005-06 to 2010-11	1133	50981443	51195593	4837899	55819342	1 to 70	4623749

APPENDIX-XXI

Non/short realisation of royalty
(Reference para No. 6.11.1)

Sl. No.	Name of District	No. of Lease holders	No. of stopped leases	No. of leases in current	Unpaid Period	Amount Due	Amount Paid	Difference	Interest	Total Amount
1.	Gorakhpur	6	6**	0	May 2005 to March 2011	2482280	239850	2242430	1640877	3883307
2.	Jalaun	15	15&	0	June 2005 to March 2011	17074944	6444117	10630827	9687421	20318248
3.	Lalitpur	10	1\$\$	9 ^α	October 2000 to March 2011	1491941	0	1491941	1040452	2532393
4.	Mirzapur	3	3 [#]	0	August 2007 to March 2011	1714300	129375	1584925	697881	2282806
5.	Muzaffarnagar	4	4 [¥]	0	June 2003 to March 2011	320366	240300	80066	52844	132910
	Total	38			October 2000 to March 2011	23083831	7053642	16030189	13119475	29149664

* leases were cancelled on 11.07.09 and 19.02.10 respectively on order by Hon'ble High Court.

** leases expired on 14.05.08, 19.05.09, 03.06.08, 12.04.09, 13.05.08, and 23.08.10 respectively.

& 6 leases cancelled by Department on 10.04.07(4), Jan 07(1), Dec 06 (1)

5 leases surrendered {Oct.06 (2), Dec.06 (1), Feb. 07 (1), Jun 08 (1) }

4 leases expired {March 08(1), June 08(2), and Oct.08(1) }

\$\$ leases expired on 08.03.10 and 23.10.10

Ω leases are in operation till Nov 2012 (1), Dec. 2012 (1), Sept. 2012 (1),

Oct. 2012 (1), Jan 2016 (2), and Aug 2017 (3).

leases expired on 27.11.10, 15.08.10, and 28.11.10 respectively.

¥ leases expired on 04.09.06. & on 01.09.08.

APPENDIX-XXII

Non/short levy of royalty on collection of stone ballast/soil (Reference para No. 6.18.1)

(₹ in lakh)

Sl. No.	Name of District	Name of Unit	No. of Cases	Quantity used in Cubic Meter	Loss of Royalty
1.	Agra	Agra Development Authority	4	3013.29	1.45
2.	Ambedkar Nagar	PD, Ambedkar Nagar	95	6417.91	3.07
3.	Bahraich	PD, Bahraich	10	21561.00	7.49
4.	Barabanki	PD (PWD), Barabanki	88	43459.30	14.06
5.	Barabanki	RES, Barabanki	50	32806.46	10.50
6.	Barabanki	EE, HaiderGarh Barabanki	4	4164.93	1.70
7.	Basti	PD, Basti	24	12108.66	3.87
8.	Bulandshahar	PD, Bulandshahar	21	2061.50	0.99
9.	Faizabad	PWD, PD, Faizabad	139	98149.22	31.99
10.	Faizabad	CD-2, Faizabad	52	37662.69	14.79
11.	Faizabad	Faizabad Development Authority	16	38028.78	12.17
12.	Gautam Budh Nagar	PD, Gautam Budh Nagar	18	345.20	4.17
13.	Ghaziabad	CD, Ghaziabad	34	20087.95	6.99
14.	Gorakhpur	CD-1, Gorakhpur	19	38186.78	13.09
15.	Jhansi	PD (PWD), Jhansi	6	3499.80	1.27
16.	Kanpur	PD, Kanpur	35	43078.11	13.78
17.	Kanpur	RES, Kanpur	107	38238.32	16.10
18.	Lucknow	PD (PWD), Lucknow	68	45896.27	14.77
19.	Lucknow	CD-2, Lucknow	60	70912.28	22.69
20.	Lucknow	RES, Lucknow	74	43676.38	15.74
21.	Mirzapur	PWD, PD, Mirzapur	25	14854.35	4.92
22.	Muzaffarnagar	PD (PWD) Muzaffarnagar	29	22058.42	7.48
23.	Muzaffarnagar	RES Muzaffarnagar	55	2656.21	0.59
24.	Sonebhadra	PD (Sonebhadra)	30	24345.38	7.79
25.	Sonebhadra	RES, Sonebhadra	14	4418.84	1.69
26.	Sultanpur	EE, Sharda Sahayak Khand-16	7	6066.57	1.94
27.	Lucknow	CD-2, Lucknow	11	683.29	4.65
		Total	1095	678437.89	239.74

APPENDIX- XXIII
Non-realisation of royalty on earth work
(Reference para No. 6.18.2)

(₹ in lakh)

Sl. No.	Name of District	Name of unit	No. of Cases	Quantity of Earth in Cu.M.	Royalty leviable	Royalty Paid	Non-levy of royalty
I- Short levy of royalty							
1.	Agra	Agra Development Authority	3	30004.99	2.70	1.80	0.90
2.	Banda	RES, Banda	5	15351.58	0.92	0.44	0.48
3.	Barabanki	PD, Barabanki	6	63239.35	4.15	1.81	2.34
4.	Barabanki	RES, Barabanki	8	16669.98	1.08	0.26	0.82
5.	Bijnour	EE, East Ganga Canal	71	39361.53	3.54	2.36	1.18
6.	Faizabad	PD, Faizabad	2	17718.90	1.06	0.33	0.73
7.	Gorakhpur	PD, Gorakhpur	47	301476.75	27.13	18.09	9.04
8.	Gorakhpur	CD, Gorakhpur	38	150041.96	13.50	8.52	4.98
9.	Gorakhpur	RES, Gorakhpur	29	35629.70	3.21	0.98	2.23
10.	Jhansi	PD, Jhansi	3	21656.40	1.70	1.04	0.66
11.	Kanpur	PD, Kanpur	9	35758.16	2.15	1.44	0.71
12.	Kanpur	RES, Kanpur	3	2686.35	0.24	0.14	0.10
13.	Lalitpur	PD, Lalitpur	3	1417.49	0.09	0.03	0.06
14.	Lucknow	LDA, Lucknow	1	27434.00	1.65	0.11	1.54
15.	Meerut	DMO, Meerut	5	6340.00	0.57	0.38	0.19
16.	Mirzapur	PD, Mirzapur	2	2944.82	0.22	0.17	0.05
17.	Sonbhadra	RES, Sonbhadra	2	4546.26	0.27	0.05	0.22
18.	Sonbhadra	PD, Sonbhadra	2	2111.59	0.13	0.05	0.08
Total – I			239	774389.81	64.31	38.01	26.31
II- Non-levy of royalty							
1.	Agra	Agra Development Authority	27	112108.50	10.09	0.00	10.09
2.	Azamgarh	EE, Sharda Sahayak Khand	36	88218.90	5.48	0.00	5.48
3.	Banda	RES, Banda	16	48319.72	2.90	0.00	2.90
4.	Barabanki	RES, Barabanki	71	103804.18	6.23	0.00	6.23
5.	Barabanki	PD, Barabanki	18	12767.30	0.86	0.00	0.86
6.	Barabanki	EE, Sharda Sahayak Khand	4	76359.15	4.58	0.00	4.58
7.	Deoria	EE, Irrigation Division Deoria	93	20525.59	1.48	0.00	1.48
8.	Etawah	EE, Lower Ganga Canal	33	39749.37	2.38	0.00	2.38
9.	Faizabad	PD, Faizabad	28	119799.33	7.40	0.00	7.40
10.	Gorakhpur	CD, Gorakhpur	12	37263.69	3.35	0.00	3.35
11.	Gorakhpur	RES, Gorakhpur	10	17513.87	1.05	0.00	1.05
12.	Jhansi	PD, Jhansi	17	31033.55	2.13	0.00	2.13
13.	Kanpur	PD, Kanpur	7	15514.00	0.93	0.00	0.93

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Sl. No.	Name of District	Name of unit	No. of Cases	Quantity of Earth in Cu.M.	Royalty leviable	Royalty Paid	Non-levy of royalty
14.	Kanpur	RES Kanpur	108	30297.80	2.28	0.00	2.28
15.	Lakhimpur Kheri	RES Lakhimpur Kheri	38	11548.00	1.81	0.00	1.81
16.	Lalitpur	PD Lalitpur	7	9677.06	0.58	0.00	0.58
17.	Lucknow	DMO Lucknow	1	100000.00	9.00	0.00	9.00
18.	Lucknow	PD Lucknow	78	471101.10	28.44	0.00	28.44
19.	Lucknow	CD 2 Lucknow	37	56192.91	3.37	0.00	3.37
20.	Lucknow	RES Lucknow	87	63088.79	4.23	0.00	4.23
21.	Lucknow	LDA, Lucknow	16	119734.90	10.78	0.00	10.78
22.	Mirzapur	PD Mirzapur	7	13323.82	0.80	0.00	0.80
23.	Muzaffarnagar	RES Muzaffarnagar	29	3053.73	0.18	0.00	0.18
24.	Raebareli	EE, Sharda Canal Division	91	51783.81	4.56	0.00	4.56
25.	Sonbhadra	PD, Sonbhadra	58	289985.00	17.40	0.00	17.40
26.	Sonbhadra	RES, Sonbhadra	65	89611.06	5.70	0.00	5.70
27.	Sultanpur	EE, Sharda Sahayak Khand 16	7	9244.63	0.55	0.00	0.55
Total - II			1001	2041619.75	138.56	0.00	138.56
Total I+II			1240	2816009.56	202.87	38.01	164.87

APPENDIX-XXIV

Non-realisation of royalty on Tendu leaves
(Reference Para No. 7.4)

(₹ in crore)

Year	Interim royalty fixed	Actual royalty as per formula ⁴	Royalty actually paid	Difference (3 - 4)
1	2	3	4	5
2003-04	11.84	1.09	11.84	(-) 10.75
2004-05	11.84	4.29	11.84	(-) 7.55
2005-06	4.71	1.55	4.71	(-) 3.16
2006-07	10.70	11.69	4.71	6.98
2007-08	10.70	23.56	4.71	18.85
2008-09	10.70	26.93	4.71	22.22
2009-10	15.70	27.25	7.20	20.05
Total	76.19	96.36	49.72	46.64
Royalty short paid after adjustments			46.64	

⁴ Royalty of assessing year = Royalty of last year + amount equal to the enhancement of royalty in such percentage as it was enhanced in percentage in the rate of Tendu leaves sold by Nigam last year in comparison to that of its preceding year + amount equal to abnormal enhancement in the market rate (sell price) of Tendu leaves in assessing year.

If there is minus enhancement in the rate, that will also be taken in account at the time of fixation of royalty.

Calculation of royalty for the year 2003-04 as per formula:

Description	2001-02	2002-03	2003-04
Royalty (In ₹)	118400000	47094295	10864176
Sale Amount (In ₹)	350623429	368251168	391650274
Number of bags	391351.82	467386.82	535861
Sale rate (In ₹)	895.93	787.89	730.88
Percentage of variation in previous year rate		-17.577	-12.058
Effect on royalty (A) (In ₹)		-20811486	-5678844
Variation in sale rate (In ₹)		-108.04	-57.01
Effect on royalty (B) (In ₹)		-50494219	-30551274
Total effect on royalty (A + B) (In ₹)		-71305705	-36230118
Assessment year royalty {Royalty of previous year + (A + B)} (In ₹)		47094295	10864176

APPENDIX-XXV

Avoidable expenditure on growing new plants without requirement (Reference Para No. 7.6)

(Figures in lakh)

Sl. No.	Name of forest division	Balance plants available on 01 April 2009 and its utilisation					Number of plants remained unutilised at the end of March 2012			Expenditure on new plants grown in 2009-10 without requirement			
		Number of balance old plants as on 01 April 2009	Number of plants utilised during 2009-10	Number of plants utilised during 2010-11	Number of plants utilised during 2011-12	Number of plants utilised in three years during 2009-10 to 2011-12 (4+5+6)	Old ⁵ plants grown before 01 April 2009 (3-7)	Plants grown during 2009-10	Total (8+9)	On growing new plants in 2009-10	On maintenance in 2010-11	On maintenance in 2011-12	Total (11+12+13)
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	Agra	29.20	13.00	1.85	6.14	20.99	8.21	10.19	18.40	12.17	3.05	10.96	26.18
2	Firozabad	35.81	5.10	3.08	6.17	14.35	21.46	6.55	28.01	18.96	0.63	6.05	25.64
3	Mainpuri	22.08	4.32	6.30	3.34	13.96	8.12	4.47	12.59	24.03	1.93	7.90	33.86
4	Mathura	20.47	8.21	9.46	4.01	21.68	(-) 1.21	12.78	11.57	8.32	2.08	16.49	26.89
	Total	107.56	30.63	20.69	19.66	70.98	36.58	33.99	70.57	63.48	7.69	41.40	112.57

⁵ Grown before 1 April 2009.

APPENDIX – XXVI

Short levy of Service Charge on Transfusion of Blood and Blood Components (Reference para No. 7.8)

(In ₹)

Sl. No.	Name of unit	Period	Blood in Unit	Amount leviable @ ₹ 850 per unit	Amount levied	Amount short levied
1.	CMS SPM Lucknow	18/04/2008 to 16/04/2009	1534	1303900	64623	1239277
2.	CMS RML Lucknow	18/04/2008 to 25/05/2009	1369	1163650	88771	1074879
3.	CMS Balrampur	18/04/2008 to 25/05/2009	1156	982600	54332	928268
4.	CMS MMG Ghaziabad	18/04/2008 to 08/02/2009	1256	1067600	478900	588700
5.	CMS(M) Deoria	01/05/2008 to 13/06/2010	1455	1236750	602710	634040
6.	CMS(M) UHM Kanpur	05/2008 to 19/02/2010	1735	1474750	516400	958350
7.	CMS(M) SSPG Varanasi	01/05/2008 to 31/12/2010	2144	1822400	596750	1225650
8.	CMS(M) Ghazipur	01/05/2008 to 18/05/2010	616	523600	154000	369600
9.	CMS(M) Jaunpur	01/05/2008 to 27/04/2010	1430	1215500	581500	634000
10.	CMS(M) Raebareilly	01/05/2008 to 07/02/2009	370	314500	133750	180750
11.	CMS(M) Bareilly	18/04/2008 to 21/09/2009	621	527850	155250	372600
12.	CMS(M) Pilibhit	01/05/2008 to 31/03/2010	1812	1540200	453000	1087200
13.	CMS(M) Rampur	01/05/2008 to 18/07/2009	1117	949450	351000	598450
14.	CMS(M) Merrut	01/05/2008 to 11/09/2009	16688	14184800	8850700	5334100
15.	CMS(M) Muzaffarnagar	01/05/2008 to 28/07/2010	16157	13733450	7375000	6358450
16.	CMS(M) Lalitpur	01/05/2008 to 17/05/2010	2626	2232100	575350	1656750
17.	CMS(M) Jhansi	01/05/2008 to 03/02/2010	1092	928200	273000	655200
18.	CMS(M) Aligarh	01/05/2008 to 20/11/2009	2615	2222750	653750	1569000
19.	CMS(M) Etah	01/05/2008 to 23/10/2009	46	39100	11500	27600
20.	CMS(M) Mainpuri	01/05/2008 to 26/03/2010	348	295800	87000	208800
21.	CMS(M) Etawah	01/05/2008 to 29/07/2010	668	567800	167000	400800
22.	CMS MLN Allahabad	01/05/2008 to 17/06/2010	763	648550	298250	350300
	Total		57618	48975300	22522536	26452764

APPENDIX-XXVII

Short levy of registration fees (Reference para No. 7.9.2)

(In ₹)

Sl. No.	Name of unit	Number of nursing homes	Registration fees leviable		Registration fees levied		Fee Short levied
			per centre	Total	per centre	Total	
1.	CMO Varanasi	78	4000	312000	3000	234000	78000
2.	CMO Pilibhit	15	4000	60000	3000	45000	15000
3.	CMO Bareilly	72	4000	288000	3000	216000	72000
4.	CMO Pratapgarh	19	4000	76000	3000	57000	19000
5.	CMO Pratapgarh	16	2000	32000	1500	24000	8000
6.	CMO Aligarh	21	4000	84000	3000	63000	21000
7.	CMO Hathras	7	4000	28000	3000	21000	7000
8.	CMO Hathras	2	2000	4000	1500	3000	1000
9.	CMO Mainpuri	9	4000	36000	3000	27000	9000
10.	CMO Etawah	11	4000	44000	3000	33000	11000
11.	CMO Kanpur	43	4000	172000	3000	129000	43000
12.	CMO Kanpur	5	2000	10000	1500	7500	2500
13.	CMO Jaunpur	17	4000	68000	3000	51000	17000
14.	CMO Jhansi	14	4000	56000	3000	42000	14000
	Total	329					317500