

Chapter VII

Other Tax Receipts

CHAPTER-VII OTHER TAX RECEIPTS

A- ELECTRICITY DUTY

7.1 Tax administration

The Kerala Electricity Duty Act, 1963 and Kerala State Electricity Surcharge (Levy and Collection) Act, 1989 and Rules made thereunder govern the levy of duty/surcharge on the sale and consumption of electrical energy. Power Department is under the control of the Secretary at the Government level and the Chief Electrical Inspector administers the Act with the assistance of Additional Chief Electrical Inspector, Deputy Chief Electrical Inspectors, Electrical Inspectors, Deputy Electrical Inspectors and Assistant Electrical Inspectors on technical matters in Headquarters office.

7.2 Internal audit

The internal audit wing (IAW) in the Chief Electrical Inspectorate is monitored by the Chief Electrical Inspector and the Accounts Officer. The IAW consists of one Senior Superintendent, one Junior Superintendent and four clerks. During 2014-15, the wing planned and audited 16 units. No internal audit observations are pending since the responses of the auditee offices are very positive and mistakes pointed out are not found repeated in most of the cases.

7.3 Results of audit

Test check of the records of nine offices relating to the Power Department in 2014-15 showed non/short levy of electricity duty, license fee etc., involving ₹ 3,241.83 crore in six cases as given in **Table – 7.1**.

Table – 7.1

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Performance Audit on Levy, Collection and Accounting of Electricity Duty, Surcharge and Inspection Fee	1	3,241.44
2	Non-realisation of license fee	1	0.03
3.	Short levy/collection of electricity duty	4	0.36
	Total	6	3,241.83

During the course of the year, the Department accepted ₹ 541.51 crore involving one case which was pointed out in earlier year. No amount was realised during the year 2014-15.

When the reason for non-realisation of amount in accepted cases was called for (August 2015), the Department stated (November 2015) that the licensee, Thrissur Municipal Corporation had not remitted the arrears and since revenue recovery action was in progress for the period up to March 2012, the arrear could be collected once the revenue recovery proceedings is completed.

A Performance Audit on Levy, Collection and Accounting of Electricity Duty, Surcharge and Inspection Fee with financial impact of ₹ 3,241.44 crore is mentioned in the following paragraphs.

7.4. Performance Audit on Levy, Collection and Accounting of Electricity Duty, Surcharge and Inspection Fee

7.4.1. Highlights

- The licensees failed to identify the consumers/persons who were liable to pay electricity duty/surcharge. Department had no effective mechanism for detecting such lapses/omissions of licensees. The Department failed to identify the low tension consumers to be inspected though KSEBL, a licensee, themselves had 88 lakh consumers as on 31 March 2014.

[Paragraph 7.4.8.1]

- The Department had not streamlined mechanism to ensure the levy and collection of electricity duty/surcharge/inspection fee timely. This resulted in non/short levy of electricity duty/surcharge/fee amounting to ₹ 67.61 crore.

[Paragraph 7.4.8.2]

- The Department failed to ensure the collection of interest on belated payments of duty/surcharges resulting in non-collection of interest to the tune of ₹ 2,699.02 crore.

[Paragraph 7.4.8.3]

- Incorrect grant of exemptions, irregular retention of collection charge resulted in non/short collection of duty/surcharge of ₹ 272.77 crore.

[Paragraph 7.4.8.4]

- The Department failed to conduct inspections of electrical installations, accounts and returns of licensees. This resulted in non/short levy/collection of inspection fee of ₹ 1.43 crore in addition to the threat raised to public safety.

[Paragraph 7.4.8.5]

7.4.2. Introduction

In Kerala, Electricity Duty is levied on licensees and consumers under sections 3 and 4 respectively of the Kerala Electricity Duty Act, 1963. Besides, a surcharge is levied on High Tension (HT) and Extra High Tension (EHT) consumers under the provisions of the Kerala State Electricity Surcharge (Levy and Collection) Act, 1989. Government of Kerala have also issued notifications prescribing fee for inspection and testing of installations of various classes of consumers viz, EHT, HT, Medium Voltage (MV) and Low Voltage (LV), under Central Electricity Authority (Measures relating to safety and electric supply) Regulations 2010, which replaced Indian Electricity Rules 1956.

7.4.3. Organisational setup

The Chief Electrical Inspector (CEI) is the head of the Department of Electrical Inspectorate. He is under the administrative control of the Secretary, Department of Power at Government level. The CEI is responsible for the implementation of the Acts and Rules. The main function of the Department is to ensure safety of all electrical installations connected to electrical supply system in Kerala.

7.4.4. Audit Objectives

Performance Audit was conducted with the objectives to assess whether:

- ❖ the system of identifying licensees / persons liable to pay electricity duty, surcharge and inspection fee is robust to prevent evasion of electricity duty, surcharge and inspection fee.
- ❖ electricity duty, surcharge and inspection fee in respect of all licensees/ persons were levied at prescribed rates and collected, remitted and accounted for correctly.

7.4.5. Scope of audit

The Performance Audit (PA) was conducted by checking the records in the Office of the Chief Electrical Inspector and district offices in seven¹ selected districts. Offices of all the licensees² (except Military Engineering Service) were also visited. Government files were verified at the Office of the Secretary to Power Department at Government Secretariat. The PA covered the period from 2010-11 to 2014-15.

¹ Thiruvananthapuram, Kottayam, Ernakulam, Idukki, Thrissur, Palakkad, Kozhikode.

² Kerala State Electricity Board Ltd, Technopark, Cochin Port trust, Infopark, KINESCO, CSEZ, Rubber Park India(P) Ltd, Kannan Devan Hill Plantations (KDHP), Thrissur Corporation, Military Engineering Service.

7.4.6. Audit methodology

Seven districts were covered in this PA. All the four (Thiruvananthapuram, Ernakulam, Idukki, Thrissur) districts having presence of licensees were selected and the remaining three (Kottayam, Palakkad, Kozhikode) were chosen based on simple random sampling. Data was collected and evidence gathered by scrutiny of files, issuing audit enquiries and questionnaires. An entry conference was held on 15 May 2015 with Secretary to Government, Power Department in which the objectives, scope and methodology of audit were explained. The draft Performance Audit Report was sent to Government on 16 October 2015. An exit conference was also held on 16 November 2015.

• Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Department of Electrical Inspectorate and licensees in providing necessary information and records for audit.

7.4.7. Audit criteria

Criteria for this Performance Audit were drawn from the following documents.

- Electricity Act, 2003.
- Indian Electricity Rules 1956.
- Central Electricity Authority (Measures relating to safety and electric supply) Regulations 2010.
- Kerala Electricity Duty Act, 1963.
- Kerala Electricity Duty Rules, 1963.
- Kerala State Electricity Surcharge (Levy and Collection) Act, 1989.
- Kerala Electricity Surcharge (Levy and Collection) Rules, 1992.
- Kerala Lifts and Escalators Act, 2013.
- Kerala Lifts and Escalators Rules, 2012.
- Orders issued by Government of Kerala.

7.4.8. Audit findings

Important audit findings have been given in the following paragraphs.

7.4.8.1 Identification of installations/persons liable to pay electricity duty/inspection fee

Levy and collection of duties/surcharge on electricity prescribed under various Act/Rules can be made effectively only if a streamlined monitoring system is in

place in the Department to ensure that the licensees are identifying the consumers/persons liable to pay duty correctly. Audit revealed that there was failure on the part of licensees to identify the persons etc. liable to pay duty/surcharge and an effective system was absent in the Department to detect and correct lapses/omissions on the part of the licensees as narrated in the following paragraphs.

- **Non-identification of cable TV poles**

The Chief Electrical Inspector had formulated technical and statutory requirements for drawing cable TV network lines through KSEB poles to ensure safety. Government in an order issued in March 2000 had instructed KSEBL to obtain safety certificate issued by CEI before permitting cable TV operators to draw cables through its poles. Fee prescribed for inspection of poles and issue of safety certificate was ₹ five per pole per year.

Poles of KSEBL

Audit observed that KSEBL permitted cable TV operators for drawing cables through its poles after levying a fee. Data collected from all the 38 divisional offices of KSEBL functioning in the seven districts selected for audit showed that it had permitted cable TV operators for drawing cables through 30.08 lakh poles³ during 2011-12 to 2014-15. But Electrical Inspectors of district offices had inspected and collected inspection fee for 9.46 lakh poles only. Non-inspection of 20.62 lakh poles resulted in loss of revenue of ₹ 1.03 crore at the rate of ₹ five per pole per year, besides jeopardising public safety.

Audit found that Asianet Satellite Communication was the major beneficiary as the non-payment of inspection fee by it was ₹ 70.37 lakh.

Cable TV operators in Kannan Devan Hill Plantations Company Private Limited (KDHP) area

As per data collected from KDHP, there were 55 Cable TV operators spread over six estates in their licensed area, drawing cables through 485 poles. But Electrical Inspector had not inspected the poles.

Poles of M/s Reliance Jio Infocom

Audit found that Cable TV /mobile operators use their own poles or that of KSEBL for drawing cables for their network. As permitted by Thrissur Corporation in January 2015, M/s Reliance Jio Infocom erected 1,425 iron pipes along the roads falling under its jurisdiction covering a distance of 28.54 km for drawing optical fiber cables network. But Electrical Inspector had not inspected and fees not levied on the poles.

³ This is the total of poles relating to four years from 2011-12 to 2014-15.

Operators registered with Telecom Regulatory Authority of India (TRAI)

As per official website of TRAI, there were 3,461 cable TV operators registered in Kerala. Department inspected poles of only those cable TV operators who remitted the inspection fee and therefore no inspection was pending as per records. It had taken no efforts to verify the existence of other cable TV operators as per TRAI list to ensure that none was functioning without inspection, compromising public safety and remittance of fee.

Audit observed that KSEBL permitted cable TV operators to draw cables through the poles without obtaining safety certificate from the Department. Audit noticed that instructions issued by Government cover KSEBL poles only. Department had reported to State Assembly that accidents due to electric shock from cable TV connections were increasing in the State and seven persons met with such accidents in 2013-14 out of which five persons met with the accidents from non-inspected cable TV networks.

Secretary to Government, Power Department stated (January 2016) that inspection of 30 lakh odd poles was an impractical proposition. To avoid revenue loss, Government shall consider collection of the inspection fee by licensee and remitting the same to Government account in consultation with the Department and the licensee and inform the position. The reply is not acceptable as safety issues apply to all poles irrespective of ownership, instructions of Government to limit inspection only to KSEBL poles, compromised public safety. Besides, licensees may be instructed not to issue permits to cable TV operators without production of safety certificate from the Department.

Non-identification of low voltage installations

As per Rule 46 of Indian Electricity Rules 1956 and Regulation 30 of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010, all electrical installations connected to a supply system shall be periodically inspected and tested by the Department or licensee at intervals not exceeding five years.

As per Government of Kerala notification (April 1994), periodical inspection of Low Tension installations was entrusted to Kerala State Electricity Board Limited (KSEBL) and levy of inspection fee was dispensed with. Later, as per notification issued in May 2013, the responsibility of periodical inspection was entrusted to the Department. But KSEBL and Department had not inspected any of the installations during the period of audit.

Audit found that Department did not have any information on the Low Tension consumers to be inspected. Number of consumers taking supply from KSEBL and not inspected by KSEBL/Department was 87.89 lakh as of 31 March 2014.

Secretary to Government, Power Department stated (January 2016) that inspection of around 90 lakh low voltage installations was practically an

impossible task due to staff shortage. The reply is not acceptable as the inspection was mandatory under the rules/regulations issued by Central Government under Electricity Act 2003 and non-inspection may compromise safety aspects.

Recommendation No. 1 - Government may:

- *identify all LV installations/cable TV poles which are now left out and instruct licensees not to issue permit to cable TV operators without production of safety certificate from the Department.*
- *work out a practical process of assessing and realising the revenue from the inspection of cable TV poles.*

7.4.8.2 Non/short levy of inspection fee/electricity duty

As per Section 7 of the Kerala Electricity Duty Act, 1963, the CEI is responsible for ensuring that the duties/fees/ surcharge prescribed under the statutes relating to the usage of electricity and inspections of electrical installations are collected at the prescribed rates and accounted for correctly. Department need to take corrective measures if the licensees/consumers were defaulting in the payment of duties/fees. Audit scrutiny revealed that an effective system was absent in the Department to ensure that duties/fees leviable were collected and remitted to Government correctly and in a timely manner. Illustrative cases are given in the following paragraphs.

- **Non-levy of duty due to failure to take meter readings of self-generating sets⁴**

As per schedule to Section 4 of Kerala Electricity Duty Act 1963, duty at the rate of 1.2 paise per unit was to be paid by the consumers who generate electricity from the self-generating sets and consume for their own use. After approval by Department and energisation by licensee, it was the responsibility of the licensee to take readings of the generating sets and collect duty from the consumers and remit to Government account. It was noticed that five⁵ licensees had not taken readings of any of the 234 generating sets installed under their jurisdiction. The details of date of installation of generating sets were not available with the licensees. As per the available records furnished by Techno Park, the date of installation ranged from 2007 to 2014. Chief Electrical Inspector, who was responsible for monitoring the collection of duty, also failed to ensure that the licensees complied with the requirements. As readings were not taken, amount of duty not levied could not be worked out.

⁴ Self generating sets are used in places without connection to a power grid, or as emergency power supply if the grid fails.

⁵ Thrissur Corporation, Cochin Special Economic Zone, Rubber Park India (P) Ltd, Technopark, KINESCO.

Audit analysis revealed that consumers most benefited were Wipro, Nitta Gelatin India Limited, Infosys Limited and TCS Peepul Park as duty was not levied due to failure of licensees in taking meter readings.

In the exit conference, Secretary to Government, Power Department directed CEI to intimate all licensees about the provision and to avoid occurrence of such omissions in future. In respect of new self- generating sets, it was directed to include a condition in the sanction order, directing licensees to levy electricity duty as specified in the Act.

- **License fee for existing/ new lifts and escalators**

As per Section 5 of Kerala Lifts and Escalators Act, 2013, existing lifts and escalators shall not be continued to work after such period prescribed, from the date of effect of Kerala Lifts and Escalators Rules, 2012. The rules came into force from 31 January 2013 and the period prescribed for obtaining the license was two months ie upto 31/3/2013. License fee prescribed was ₹ 1,000 per lift/escalator per year and Department was authorised to disconnect power supply to the lifts and escalators, which had not obtained license. Besides, renewal was also applicable to new lifts and escalators which were issued licenses under the Act from 2013-14.

In seven districts selected for audit, 4,865 lifts and escalators (existing and new) were functioning during 2013-14. Audit found that the licenses were renewed based on the applications received from the license holders. Audit observed that if applications were not received, there was no system in the Department to detect the lifts/escalators functioning in the State unauthorisedly. 6,884 (aggregate for 2013-14 and 2014-15) lifts and escalators were functioning without valid license. Loss of license fee at the rate of ₹ 1,000 was ₹ 68.84 lakh. Besides, these lifts and escalators continued to function at the risk of public safety.

The details of Lifts/Escalators for which license not issued / renewed as stipulated in the Kerala Lifts & Escalators Act 2013 in the selected districts are as shown in **Table-7.2**.

Table-7.2

District	No. of lifts/escalators for which licenses not issued / renewed (2013-14 & 2014-15)	License fee involved (₹)
Ernakulam	2,933	29,33,000
Thiruvananthapuram	1,972	19,72,000
Thrissur	946	9,46,000
Kozhikode	663	6,63,000
Kottayam	221	2,21,000
Idukki	149	1,49,000

Audit analysis revealed that most of these lifts/escalators belonged to Techno park Phase III, Aerens Goldsouk international, Hotel ABAD Plaza and MPG Hotel and Infrastructure Ventures.

Secretary to Government, Power Department stated (January 2016) that electric supply of lifts and escalators alone could not be disconnected as it does not stand as a separate unit. It was further stated that Government was considering amendment of the provisions in this regard. Reply was not acceptable as non-obtaining/non-renewal of license presupposes a possibility of safety risk and the remedy for that can only be non-operation of lift/escalator till license is obtained. While amending the rules, provisions for safeguarding public safety may also be taken into account.

- **Electricity duty on sale of self-generated electricity to consumers**

As per Section 3 of Kerala Electricity Duty Act, 1963, every licensee shall pay each month to Government a duty calculated at the rate of six paise per unit on energy sold at a price of more than 12 paise per unit. As per Section 4, every consumer belonging to any of the classes specified in schedule to the Act shall pay each month to Government a duty calculated at the rate specified in the schedule.

Audit observed that self generating sets in Technopark buildings consisted of those owned by i) consumers and ii) licensee (Technopark). Technopark generated electricity from diesel generating sets owned by them and installed in various buildings in the campus for consumption of its consumers during power failure. Electricity so generated was sold to the consumers located in such buildings and cost of production of electricity was recovered from them by issuing invoices without showing electricity charges separately. Being sale of electricity by the licensee to its consumers, electricity duty under Sections 3 and 4 was to be remitted to Government account. But Technopark had not remitted the duty since its inception as it treated the sale as own consumption and remitted duty applicable to energy generated for own consumption from self- generating sets at 1.2 paise per unit. From 2010-11 to 2014-15, 30.45 lakh units of electricity involving energy charges of ₹ 1.26 crore was sold, for which duty not remitted was ₹ 14.38 lakh (₹ 1.83 lakh under Section 3 and ₹ 12.55 lakh under Section 4).

Secretary to Government, Power Department stated that Technopark generated power for and on behalf of the consumers and collected the diesel charges alone, which was not a sale. Under the Act, consumer who generated the power should use it, for being eligible to pay duty under item 5 of schedule to Section 4. Reply was not acceptable as Technopark was not consuming the power generated by it and payment under item 5 was not in order. The matter may be reported to KSERC for clarification on this type of generation of electricity.

- **Irregular adjustment of subsidy**

As per schedule to Section 4 of Kerala Electricity Duty Act 1963, domestic consumers were liable to pay electricity duty at the rate of 10 *per cent* of energy charges indicated in the invoice. KSERC increased electricity charges with effect from 1 July 2012. Government of Kerala, in August 2012, exempted domestic consumers with monthly consumption up to 120 units and agriculture consumers from payment of increased electricity charges ordered by KSERC. It was also ordered that the loss sustained by KSEBL on account of the exemption would be compensated by Government by providing cash subsidy. Government provided ₹ 987.69 crore to KSEBL as cash subsidy for the period from July 2012 to March 2015.

Audit observed that KSEBL had collected electricity duty on energy charges from such consumers after deducting subsidy instead of actual energy charges indicated in the invoices. This had resulted in non-collection of electricity duty on the entire energy charges from domestic consumers with monthly consumption upto 120 units and agriculture consumers. As Government had not exempted subsidy portion from duty, non-collection of electricity duty for subsidy was irregular. This had resulted in short collection of electricity duty of ₹ 63.49 crore

Secretary to Government, Power Department stated that the intention of Government was to protect the consumers from any tariff hike and therefore levying electricity duty on increased tariff would obviously be against the intention. If Government had intended so, it should have exercised powers under the Act to exempt such category of consumers from the duty on increased tariff, which was not done and therefore the reply was not tenable.

- **Electricity duty for energy charges for which Government provided cash subsidy**

Government had exempted consumers having monthly consumption not exceeding 20 units (non-paying group) from payment of energy charges. Amount of energy charges not received by KSEBL due to such exemption was made good by Government by paying equivalent amount as cash subsidy under section 65 of Electricity Act 2003.

KSEBL had been implementing the concession to non-paying group (NPG) consumers from 1991 to March 2012 without assistance from State Government. In the tariff order for 2012-13, KSERC had not recognised the NPG consumers and directed KSEBL to obtain subsidy from Government from 2012-13 to continue the concession. KSEBL received the subsidy from Government from April 2012.

As per Section 3 of Kerala Electricity Duty Act, 1963, licensees should pay electricity duty at the rate of six paise per unit for the energy sold at a price of more than 12 paise per unit. It was noticed that KSEBL had not paid electricity

duty for the sale of energy to the non-paying group consumers. As KSEBL received cash subsidy from Government on behalf of the consumers, in lieu of energy charges, duty under Section 3 was payable on the energy sold to such consumers.

Audit observed that from April 2012 to October 2013, 3.22 million units of energy was sold to non-paying group consumers, for which duty not paid by KSEBL was ₹ 1.93 lakh and interest on the same worked out to ₹ 0.41 lakh.

Secretary to Government, Power Department stated (January 2016) that the intention of the Government in giving subsidy was to exempt the most economically vulnerable group of domestic consumers from payment of electricity charge to alleviate their financial burden. Hence, charging electricity duty from such category of consumers would obviously be against the intention of the Government. Audit observation was on non-payment of electricity duty payable under section 3 by KSEBL from its own revenue and not on duty payable by consumers under Section 4, which was not covered in the reply.

- **Irregular deduction of power factor incentive from energy charges**

As per Section 4 of Kerala Electricity Duty Act, 1963, electricity duty at the rate of 10 *per cent* was leviable on the price of energy indicated in the invoices issued by the licensees. Tariff orders issued by KSERC for KSEBL prescribed incentive/penalty to HT/EHT consumers for power factor improvement. Incentive was 0.15 *per cent* of energy charges for each 0.01 unit increase in power factor from 0.90 and penalty was one *per cent* of energy charges for every 0.01 fall in power factor from 0.90.

Audit scrutiny of 1.22 lakh invoices issued to non-industrial HT/EHT consumers by KSEBL from 2010-11 to 2014-15, revealed that electricity duty was collected on energy charges after deducting/adding power factor incentive/penalty. Total amount of power factor incentive deducted from the energy charges in respect of 85,677 invoices was ₹ 32.65 crore from 2010-11 to 2014-15. As electricity duty was to be levied on the price of energy indicated in the invoice, deduction of power factor incentive from the price of energy for calculation of electricity duty was irregular. Failure of CEI to detect the erroneous deduction of power factor incentive from energy charges resulted in short levy of electricity duty of ₹ 3.27 crore at the rate of 10 *per cent* and undue benefit to non-industrial HT consumers falling under commercial, agricultural and general categories. Interest was also leviable. Audit analysis revealed that consumers most benefited were Lulu International Shopping Mall Private Limited, Petronet LNG Ltd., Cochin International Airport Ltd., Amritha Institute of Medical Science and Research Centre and International Airport Authority of India.

Secretary to Government, Power Department assured to examine the matter.

Recommendation No. 2 - In order to prevent non/short levy, Government may consider taking the following measures;

- *instruct CEI to ensure that the licensees are levying electricity duty/license fee from consumers/persons liable to pay it.*
- *licensees may be directed to calculate electricity duty on the price of energy indicated in the invoice.*
- *evolve a mechanism to collect the electricity duty/license fee payable by the consumers/persons liable for their payment.*

7.4.8.3 Non levy of interest

CEI is responsible for ensuring timely collection of duties/fees and its remittance into Government account without delay. In case of delay, interest at the rates prescribed in the Act/Rules is to be levied. Audit found that in many cases, Department failed to collect interest on the belated payments of duty/fee as shown in the illustrative cases below.

- **Delayed payment of balance amount of electricity duty**

As per order⁶ issued in March 1970, Government permitted the licensees to make advance payment of electricity duty subject to the following conditions.

- Average amount of electricity duty paid for the previous three months will be the amount of advance.
- Balance amount should be remitted within 45 days from the due date with interest at the rate of 12 *per cent per annum*.

In Thrissur Corporation, where the system prescribed by Government was followed, it was found that duty paid in advance was always less than the average amount of duty paid for the previous three months. Due to this, balance amount was to be paid in respect of every month, but interest was not paid for remittances made beyond 45 days from the due date.

Audit found that interest not paid for the balance amount remitted 45 days beyond due date was ₹ 45.25 lakh from April 2013 to March 2015.

Audit also found that from April 2013 to March 2015, total amount of advance remitted short was ₹4.20 crore. Short remittance per month ranged from ₹ 4.05 lakh to ₹ 41.61 lakh. Undue financial gain received by the licensee by way of bank interest at the rate of four *per cent per annum* for the amount remitted short was ₹ 16.04 lakh.

⁶ GO(Rt) No. 103/70/W&P dated 30 March 1970.

CEI had conducted inspection upto 2012-13 only and inspections for 2013-14 and 2014-15 were pending.

Secretary to Government, Power Department stated (January 2016) that the Hon'ble High Court of Kerala had stayed the revenue recovery proceedings and action was being taken to vacate the stay orders.

- **Exclusion of interest in netting-off KSEBL dues**

As per Kerala Electricity Duty Act, 1963 and Kerala State Electricity Surcharge (Levy and Collection) Act, 1989, licensees were liable to remit electricity duty and surcharge to Government account. Interest at the rate of 18 and 12 *per cent* was leviable under Section 8 of Kerala Electricity Duty Act, 1963 and Section 6 of Kerala State Electricity Surcharge (Levy and Collection) Act, 1989 respectively for delayed remittances.

Government had issued orders for netting-off the dues of KSEBL against sums payable by Government to KSEBL. Total amount of KSEBL dues netted off for the period from 4/2002 to 10/2013 was ₹ 6,028.51 crore out of which ₹ 5,128.03 crore related to electricity duty and surcharge. It was noticed that while netting-off the dues, Government excluded the interest payable by KSEBL for delayed remittance of electricity duty and surcharge. As Government had no powers under the Acts to exempt a licensee from payment of interest, the exclusion of interest was unlawful. The 121 Report of the Public Accounts Committee (2001) opined that proposal for waiving penal interest was contrary to the provisions of the Act.

Audit observed that KSEBL had not been remitting electricity duty and surcharge to Government from 2002-03 onwards and the total amount of interest payable and excluded from netting-off was ₹ 2,678.84 crore from April 2002 to October 2013, out of which ₹ 1,474.20 crore relates to period from April 2010 to October 2013 (accounts upto 31 October 2013 only was finalised) as shown in **Table-7.3**.

Table-7.3

Period	Interest (₹ in crore)
2002-03 to 2009-10	1,204.64
2010-11 to 31 October 2013	1,474.20
Total	2,678.84

Source: KSEBL Accounts of relevant years.

Secretary to Government, Power Department, justified the exclusion of interest stating that at any point of time over the years, the amount payable to the KSEBL by Government was much more than the Electricity Duty and surcharge payable by KSEBL to Government and therefore imposition of interest only on the duty/surcharge arrears of KSEBL was not deemed reasonable. As the Act had not

provided powers to Government for exempting interest under any circumstances, the reply was not acceptable.

- **Exclusion of interest collected from consumers on delayed payment of electricity duty by KSEBL from netting-off**

Audit observed that as part of a one-time settlement, of ₹ 783.06 crore payable by Kerala Water Authority (KWA) to KSEBL as arrears of electricity dues upto 31 March 2008, Government agreed to pay ₹ 533.06 crore on behalf of KWA. Later, Government netted-off this amount against dues payable by KSEBL to Government as on 31 March 2008. The amount of ₹ 533.06 crore included two Government receipts ie., electricity duty of ₹ 28.94 crore and interest of ₹ 12.15 crore on delayed payment of electricity duty receivable from KWA. Of these, amount of electricity duty only was considered for netting-off and interest on delayed payment of electricity duty was excluded. Exclusion of this amount from netting-off resulted in illegal retention of Government revenue of ₹ 12.15 crore with KSEBL.

Audit also noticed that, from 2010-11 to 2013-14, KSEBL had collected ₹ 7.58 crore from consumers as interest on delayed payment of electricity duty. But KSEBL had not remitted this amount to Government account, which resulted in loss of revenue of ₹ 7.58 crore to Government.

Total loss of revenue to Government due to irregular retention of interest on delayed payment of electricity duty was ₹ 19.73 crore.

Secretary to Government, Power Department did not provide a specific reply to the audit observation, which was on interest collected by KSEBL from KWA/consumers and not remitted to Government account.

Recommendation No. 3 - Department may expedite revenue recovery proceedings for early realisation of arrears of government revenue. Government may include interest leviable from KSEBL while netting-off.

7.4.8.4 Irregular grant of exemption

Electricity duty, surcharge etc., are to be collected and remitted by the licensee as prescribed in the statutes. Exemption from payment of duty is also provided for certain categories of consumers. Audit found many cases in which licensees/consumers had incorrectly availed exemption from payment of electricity duty/surcharge. Illustrative cases are given below.

- **Surcharge from Railways**

As per Section 3(1)(a) of Kerala State Electricity Surcharge (Levy and Collection) Act, 1989, a surcharge at the rate of 2.5 paise per unit, on all HT/EHT supplies

made by KSEBL should be levied, collected and remitted to Government account, for which no exemption was available.

Audit observed that KSEBL supplied 95.41 crore units of energy to Railways from 2010-11 to 2014-15 through 30 HT/EHT connections. Surcharge at the rate of 2.5 paise per unit was leviable on above amounted to ₹ 2.39 crore. This was not levied and remitted to Government account. Interest leviable on the above non remittance at the rate of 12 *per cent* per annum worked out to ₹ 66.07 lakh.

Secretary to Government, Power Department stated (January 2016) that a provision for empowering Government to exempt a consumer from payment of surcharge, similar to electricity duty was under consideration. Reply was silent on the non-levy of surcharge pointed out by audit.

- **Electricity consumed for lighting licensees' premises**

As per Section 4 of Kerala Electricity Duty Act, 1963, energy consumed for public lighting was exempted from electricity duty. Based on this provision, licensees were not paying electricity duty for the energy consumed for lighting their premises. As the premises belonged to the licensees and were not public places, exemption from electricity duty was not applicable. Such consumption falls under public lighting in campuses for which the energy charge applicable was ranging from ₹ 0.90 to ₹ 3.60 per unit and electricity duty leviable was 10 *per cent* of energy price.

Audit observed that from 2010-11 to 2014-15, four⁷ licensees consumed 59.77 lakh units of electricity costing ₹ 1.38 crore for lighting their premises for which electricity duty not paid was ₹ 13.85 lakh. Interest was also leviable on the duty not paid.

Audit analysis revealed that licensees benefited were Cochin Port Trust, Technopark, Rubber Park India(P) Ltd. and Infopark.

Secretary to Government, Power Department stated (January 2016) that power consumed for street lighting was sold to none or consumed by Technopark but was enjoyed by people who travel through that area and therefore it comes under public lighting. As per Kerala Municipality and Panchayat Raj Acts, local bodies are mandatorily responsible for providing public lighting in Kerala. Separate tariff is available for public lighting, which is paid only by local bodies in Kerala. As public lighting is exempted from electricity duty, it is not levied from local bodies. In the case of the licensees mentioned in the para, had it been public lighting, the local body would have met the expenses, which was not the case.

⁷ Technopark, Infopark, Cochin Port Trust, Rubber Park India(P) Ltd.

- **Unlawful collection charges**

As per Section 4 of Kerala Electricity Duty Act, 1963, duty payable shall be collected and remitted to Government account by licensees. Act did not provide for retaining collection charge on electricity duty and therefore the entire amount collected should be remitted. But licensees retained one percent of electricity duty collected as collection charges, based on Rule 3(3) of the Kerala Electricity Duty Rules, 1963 and remaining amount only was remitted. As the Act did not provide for a collection charge, inclusion of the provision in the rules and retention of collection charge based on such provision were not lawful. Amount of electricity duty short remitted by nine⁸ licensees due to irregular retention of collection charge was ₹ 14.55 crore from 2010-11 to 2014-15. Interest was also leviable. The retention of collection charges by licensees implies that the Government had received less electricity duty to that extent.

Secretary to Government, Power Department stated (January 2016) that collection charge was allowed based on the provisions under Rules. The reply was not tenable as the rules framed should be in line with provisions of the Act.

- **Electricity duty on energy consumed for other purposes by the Indian Railways**

As per Section 12 of Kerala Electricity Duty Act, 1963, Indian Railways were exempted from payment of duty for the electricity consumed in its construction, maintenance or operation ie. the exemption was not applicable for the electricity consumed for other purposes like staff quarters and commercial stalls at railway stations.

A mention was made in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2002, on non-demand of duty by KSEBL from the occupants of railway residential complexes and staff quarters etc as of March 2002.

Audit found that Thiruvananthapuram and Palakkad divisions of Southern Railway had consumed 3.54 crore units of energy for staff quarters and commercial stalls at railway stations from 2010-11 to 2014-15 for which electricity charges involved was ₹ 19.55 crore. Electricity duty not remitted at the rate of 10 *per cent* of electricity charges worked out to ₹ 1.95 crore as shown in **Table-7.4**. Interest also was leviable for non-remittance of these charges.

⁸ Kerala State Electricity Board Ltd, Technopark, Cochin Port Trust, Infopark, KINESCO, CSEZ, Rubber Park India(P) Ltd, KDHP, Thrissur Corporation.

Table-7.4

Period	Units consumed (in lakh)			(₹ in lakh)	
	Thiruvananthapuram	Palakkad	Total	Energy charges involved	Duty not remitted
2010-11	33.61	37.25	70.86	152.72	15.27
2011-12	36.52	33.32	69.84	317.76	31.78
2012-13	37.21	35.72	72.93	423.54	42.35
2013-14	34.55	34.85	69.40	508.68	50.87
2014-15	34.96	35.67	70.63	552.21	55.22
Total	176.85	176.81	353.66	1954.91	195.49

Audit also noticed that the duty not remitted by Thiruvananthapuram division included ₹ 22.09 lakh collected as electricity duty from occupants of staff quarters. Keeping Government revenue without remitting was unauthorised.

Secretary to Government, Power Department accepted (January 2016) the audit observation and assured to take action.

- **Electricity duty on excess availing of Transmission and Distribution (T&D) loss**

The rate of T&D loss prescribed by KSERC while approving Aggregate Revenue Requirement and Expected Revenue Collection (ARR&ERC) of licensees for each year, ranged from 1.5 to 16 *percent* during 2010-11 to 2014-15. Audit found that seven licensees⁹ had availed T&D loss in excess of the limits prescribed, which resulted in non-levy of electricity duty for the unauthorised T&D loss availed. Duty not levied on excess T&D loss availed by licensees from 2010-11 to 2014-15 was ₹ 3.42 crore (calculated at rates applicable to self-consumption). Interest was also leviable on the non-levy of duty.

Audit analysis revealed that licensees most benefited were KSEBL, Thrissur Corporation, Technopark and KINESCO.

Department stated (August 2015) that in May 1994 State Government had fixed the maximum T&D loss as eight *per cent* for all licensees except KSEBL. With the enactment of Electricity Act 2003, KSERC is the authority for approving ARR&ERC of each licensee every year, for which it considers items of income, expenses, percentage of T&D loss etc., and finally approves ARR&ERC. Therefore, percentage fixed by Government is not valid. It was also stated that Act contains no provisions on the levy of electricity duty on energy lost beyond permissible limits. The reply is not tenable since the Act has not been amended

⁹ Kerala State Electricity Board Ltd, Technopark, Cochin Port Trust, Infopark, KINESCO, Rubber Park India(P) Ltd., Thrissur Corporation.

prescribing levy of duty on transmission loss in excess of limits prescribed by KSERC.

Secretary to Government, Power Department stated (January 2016) that amendment of Act was under consideration of Government to define T&D loss for the purpose of levying duty. However, the reply was silent on the non-levy pointed out by Audit.

- **Fixed rates not favourable to Government revenue**

Audit observed that two types of rates existed in Kerala Electricity Duty Act, 1963 and Kerala State Electricity Surcharge (Levy and Collection) Act, 1989 for the levy of electricity duty and surcharge as shown in **Table-7.5**.

Table-7.5

Type of rate	Rate of levy	Applied on
Percentage rate	10 <i>per cent</i>	energy price
Fixed rates	1.2 ps/2 ps/2.5 ps/6 ps/ 10 ps	unit of energy

These rates were in existence since the commencement of the Acts and are continuing even now (January 2016).

The highest of the fixed rates of electricity duty now levied was 10 ps per unit from industrial consumers drawing energy at 11 KV and above. This rate was introduced in 1988, replacing percentage rate of 30 *per cent*.

A comparison of this rate for the years 1988 and 2015 as shown in **Table-7.6**.

Table-7.6.

In 1988			In 2015		
energy charge per unit	duty at the rate of 10 ps	equivalent to	energy charge per unit	duty at the rate of 10 ps	equivalent to
35 ps	10 ps	29 <i>per cent</i>	520 ps	10 ps	2 <i>per cent</i>

By continuing the fixed rate from 1988 without any change, industrial consumers indirectly received reduction in duty rates from 29 to 2 *per cent*, due to increase in tariff effected periodically.

Audit found that at 29 *per cent*, amount of duty per unit worked out 151 paise, but duty leviable was 10 paise only. Difference was 141 paise per unit. During 2013-14, total number of units for which duty paid at the rate of 10 paise per unit was 1,770.68 million units, from which duty received was ₹ 17.71 crore. Had percentage rate been continued, Government would have received ₹ 249.66 crore additionally at the rate of ₹ 1.41 per unit for 2013-14 alone.

Secretary to Government, Power Department stated (January 2016) that the revision of rates was under consideration of Government. Further report had not been received (January 2016).

Recommendation No. 4 - Government may:

- *avoid irregular grant of exemptions to railways and for lighting.*
- *amend Rule relating to collection charges which should be in line with the Act and in the interest of the Government and objective of the Act.*
- *consider amendment of the Act incorporating the treatment of excess T&D loss.*

7.4.8.5 Inspections, returns, accounting and related matters

CEI is responsible for initial and periodical inspections of electrical installations as per periodicity fixed under CEA Regulations 2010. Inspection fee at the rates prescribed by the Government shall be collected for the inspections. Since the non-inspection of Electrical installation affects the safety of the public adversely, this has a social significance. Audit found that the Department was not conducting inspections regularly as mentioned in the following paragraphs.

- **Discontinuance of inspection of lifts and escalators**

CEI inspected lifts and escalators and levied inspection fee under Indian Electricity Rules, 1956 issued under Electricity Act, 2003. These rules were replaced by Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010 with effect from 20 September 2010. In notification issued under the Regulations on 20 May 2013, Government of Kerala ordered that lifts and escalators may be inspected periodically every year and charge an inspection fee of ₹ 1,000.

Audit found, in seven districts selected for audit, Electrical Inspectors discontinued the inspection of lifts and escalators and levy of inspection fee with effect from 2013-14. Due to this, lifts and escalators were functioning under risk of public safety and security, besides loss of revenue. The loss of revenue due to non-levy of inspection fee was ₹ 91.92 lakh for 8,995 lifts and 197 escalators from 2013-14 to 2014-15.

In the exit conference, the Additional Chief Electrical Inspector stated that since it was not practical to conduct two inspections in a year, steps would be taken to amend the provisions in the notifications. Secretary to Government, Power Department stated (January 2016) that provisions of the Kerala Lift and Escalators Act, 2013, being a special law relating to lift and escalators, prevailed over the Regulations. It was further stated that the observation of audit that total

loss of ₹ 91.92 lakh incurred due to non conduct of periodical inspection under regulation was incorrect.

As per Section 21 of Kerala Lift and Escalators Act 2013, its provisions shall not affect the Electricity Act 2003. Regulations issued under the Electricity Act 2003 was independent of Kerala Lift and Escalators Act 2013 and therefore the reply was not tenable.

- **Shortfall in inspecting medium voltage installations**

As per notifications issued by Government of Kerala under Rule 46 of Indian Electricity Rules 1956 and regulation 30 of Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010, all medium voltage installations were to be periodically inspected once in two years.

Audit noticed that medium voltage installations were not inspected by the Department as per periodicity prescribed. From 2010-11 to 2014-15, out of 23,754 medium voltage installations to be inspected in the selected seven districts, Department had inspected 9,126 installations only, which resulted in non-levy of inspection fee of ₹ 51.10 lakh calculated at the minimum fee prescribed (at the rate of ₹ 100 upto 2012-13 and ₹ 500 thereafter) and 1,338 deaths had occurred due to electrical accidents during 2010-11 to 2014.

Secretary to Government, Power Department cited (January 2016) shortage of staff as the reason for short fall in inspections and action was being taken to fill the vacancies. As safety of electrical installations was the primary responsibility of the Department, it should have filled the vacancies well in time.

- **Shortfall in inspection of accounts of licensees**

Department of Electrical Inspectorate conducted inspection of books of accounts of licensees on yearly basis by visiting their premises. For KSEBL, inspection of accounts of 53 out of 65 divisions was pending from 2008-09 to 2013-14 and in respect of four¹⁰ licensees, inspection was pending for the year 2013-14.

Secretary to Government, Power Department cited (January 2016) shortage of staff as the reason for short fall in inspections and stated that action was being taken to fill the vacancies. Audit found that Government had deferred the proposal for filling the vacancies, due to which arrears in inspection continued to exist.

- **Non/delayed submission of returns by licensees**

As per Section 6 of Kerala Electricity Duty Act, 1963 and section 4 of Kerala State Electricity Surcharge (Levy and Collection) Act, 1989 and rules made there-under, licensees were required to submit returns to Chief Electrical Inspector

¹⁰ KDHP, Technopark, Cochin SEZ, KINESCO.

monthly/quarterly/annually, failing which fine not exceeding ₹ 1,000 was payable as punishment upon conviction.

Audit noticed that out of 1,284 monthly returns to be submitted by six¹¹ licensees during 2010-11 to 2014-15, only 14 monthly returns were submitted on due dates. Delay in the submission of remaining returns ranged from 1 to 796 days. Four¹² licensees did not submit quarterly returns. Delay by the other two licensees ranged from 16 to 422 days. Annual returns were not submitted by any of the licensees.

Returns were the only source of information for the Department to monitor whether the licensees had actually remitted electricity duty/surcharge into Government account before due dates and also to verify the correctness of its calculation. As returns were delayed/not submitted, Chief Electrical Inspector could not monitor timely remittance of duty into Government account and its correctness. Chief Electrical Inspector, who was responsible, had not initiated action for imposing the fine from the licensees through conviction.

Secretary to Government, Power Department stated (January 2016) that existing provisions were inadequate to impose penalty and cited practical difficulty in getting conviction from courts. The reply was not acceptable, as provisions in the Acts are clear and specific on penalty and Government should have finalised the procedures for its implementation. Moreover, the Department had not even initiated action in any of the cases. As such, practical difficulty could not be cited as a reason for inaction.

- **Non-accounting of revenue in Government accounts due to netting-off KSEBL dues**

As per Kerala Electricity Duty Act, 1963 and Kerala State Electricity Surcharge (Levy and Collection) Act, 1989, licensees were statutorily liable to remit electricity duty and surcharge to Government. But KSEBL stopped remitting the dues to Government account from the year 2002-03 onwards on the contention that Government had not paid the sums due to it. Government accepted non-payment of dues by KSEBL and issued orders for netting-off such dues against sums payable by it to KSEBL. It was noticed that Government had not prescribed a clearly defined procedure to ensure the accounting of the receipts and payments involved in the netting-off process in Government accounts. Government had netted off electricity duty and surcharge of ₹ 5,128.03 crore, relating to the period from April 2002 to October 2013, as shown below, which were not routed through Government accounts as shown in **Table-7.7**.

¹¹ KSEBL, Technopark, Infopark, Cochin Port Trust, Rubber Park India (P) Ltd, Thrissur Corporation.

¹² KSEBL, Technopark, Rubber Park India (P) Ltd, Thrissur Corporation.

Table-7.7

GO No. and date	Period to which netting off relate	Amount netted off (₹ in crore)		Electricity duty and surcharge involved (₹ in crore)
		Government payments	KSEBL dues	
GO(Ms) No.42/11/PD dated 3/11/2011	2002-03 to 2007-08	5,231.97	3,632.15	2,731.67
GO(P) No.46/2013/PD dated 31/10/2013	4/2008 to 10/2013	1,960.74	2,396.36	2,396.36
Total		7,192.71	6,028.51	5,128.03

Audit observed that due to non-accounting, electricity duty and surcharge of ₹ 5,128.03 crore was understated in Government accounts and legislative scrutiny was bypassed. Moreover, the practice being followed was against the accounting principles.

Secretary to Government, Power Department cited (January 2016) some action taken in this regard, but the non- accounting of revenue in Government accounts due to netting-off process remained as such.

- **Non submission of annual reconciliation statements**

As per paragraph 74 of Kerala Budget Manual, Heads of Departments should reconcile its figures with that of Principal Accountant General (A&E). Unless discrepancies, if any, are detected and pointed out in time, it may not be possible for the PAG to make adjustments in the accounts of the year. For this, Heads of Departments should furnish annual reconciliation statements of receipts and expenditure in respect of every financial year to Principal Accountant General (A&E) before 31 May of next year. It was noticed that Chief Electrical Inspector had not submitted annual reconciliation statements for the receipt head of account '0043 Taxes and Duties on Electricity' in respect of the years from 2010-11 to 2014-15. For 2012-13, annual reconciliation statement was furnished to PAG(A&E) on 28 November 2013, after the finalisation of finance accounts. Due to this, difference of ₹ 4.96 crore existed between figures of AG and Department in 2012-13.

Secretary to Government, Power Department admitted (January 2016) non-submission of annual reconciliation statements.

- **Non reconciliation of remittances made through Janasevana Kendrams¹³ (JSK)**

As per Kerala Budget Manual, it was the responsibility of the Drawing and Disbursing Officers (DDOs) to reconcile receipt figures with accounts of the treasury. Receipts of the Department were permitted to be remitted through JSK and challans submitted by applicants were accepted as proof of remittance. JSK remitted their daily collection into District Treasury, Thiruvananthapuram and monthly statements were forwarded to Department.

Audit observed that in seven districts covered in audit, ₹ 31.41 crore were remitted through JSK from 2010-11 to 2014-15, but the remittances were not reconciled by DDOs of the Department with treasury figures.

Secretary to Government, Power Department admitted (January 2016) that remittances through JSK were not reconciled by Department at present. The reply was silent on the continued non-compliance of provisions of Kerala Budget manual.

- **Irregular netting-off electricity duty due to incorrect calculation of Government share of terminal liability**

As per their orders dated 31 October 2013, State Government permitted KSEBL to retain electricity duty collected from 1 April 2008 to 31 March 2012 as Government share¹⁴ of terminal liability on pension fund of KSEBL. While computing Government share of terminal liability as on 31 October 2013 (date of conversion of KSE Board into company), electricity duty permitted to be retained by KSEBL for the above period was taken as ₹ 1,301 crore instead of actually collected amount of ₹ 1,522 crore. Non-inclusion of ₹ 221 crore (1,522-1,301) resulted in additional liability of ₹ 122.17 crore¹⁵ to Government. As Government was continuously netting-off electricity duty receivable from KSEBL against amounts payable by it to KSEBL, the incorrect calculation resulted in irregular retention of electricity duty with KSEBL. As on 31 March 2015, Government provisionally netted off ₹ 17.31 crore of electricity duty towards additional liability of ₹ 122.17 crore, which was irregular.

Secretary to Government, Power Department did not provide a specific reply on the additional liability caused to Government.

Audit also noticed that Government had included ₹ 524 crore (arrears of KWA already netted-off against electricity duty as on 31 March 2008), in calculating additional liability of Government. Government, as per orders dated 3 November 2011, had ordered to provide the amount as budgetary support over a period of 10

¹³ Janasevana Kendram is a single window system provided by Government under Kerala State IT Mission to receive revenues of various departments in each district.

¹⁴ 35.4 per cent of total pension liability.

¹⁵ $221 \times 35.4 \text{ per cent} = ₹ 78.234 \text{ crore} + \text{interest for 10 years (₹ 43.938 crore)} = ₹ 122.17 \text{ crore}.$

years at the rate of ₹ 52.40 crore per year, based on which ₹ 77.40 crore was paid upto 31 March 2015. Ordering budgetary support for an amount which was already netted-off was irregular, due to which the payment of ₹ 77.40 crore was made twice.

On compensating ₹ 524 crore separately as budgetary support, Secretary to Government, Power Department stated (January 2016) that the actual amount of duty to be netted-off was ₹ 2,228.31 crore instead of ₹ 2,731.61 crore. The contention was not acceptable as the amount included in the final netting off orders issued in May 2015 for the period upto 31 October 2013 was ₹ 2,731.61 crore.

- **Delayed receipt of Government money due to non-uniform dates for remittance**

Licensees collected electricity duty and surcharge from consumers on monthly basis along with energy charges in the same invoice. But Kerala Electricity Duty Rules, 1963 and Kerala Electricity Surcharge (Levy and Collection) Rules, 1992 prescribed non-uniform dates for their remittance into Government account, details of which are as shown in **Table-7.8**.

Table-7.8.

Type of revenue	Period of collection by licensees	Due date for remittance	Maximum period permitted for retention	Delay in receipt of Government moneys
Electricity duty	Monthly	before close of the succeeding month	30 days	15 days ^{\$}
Surcharge	Monthly	before 15 of the month following each quarter	75/45/15 days	60 days [#] / 30 days [*]

\$ after deducting least of the periods now permitted. ie 15 days.

for surcharge collected in the first month of the quarter.

* for surcharge collected in the second month of the quarter.

Audit found that by fixing non-uniform dates for remittance of Government revenue collected in the same invoice delayed receipt of Government money by 15 to 60 days and also gave undue benefit to the licensees by way of bank interest due to prolonged retention.

Secretary to Government, Power Department did not provide a specific reply in this regard.

Recommendation No. 5- Government may:

- *take remedial measures to take care of inspection of lifts and escalators under regulations issued by Central Government and to ensure that MV installation and accounts of licensee are inspected as per periodicity prescribed.*
- *invoke penal provision on licensee not submitting returns*
- *ensure that receipts involved in netting-off with KSEBL were included in Government accounts and*
- *ensure that remittances through JSK are reconciled as per Kerala Budget Manual*

Conclusions

Audit arrived at the following conclusions based on the PA

- ✓ **The licensees were not identifying all LV installations/cable TV poles, which led to non-inspection of such poles, resulting in loss of revenue on inspection fee, besides risking public safety. No streamlined system existed in the Department for monitoring the identification of LV installations/cable TV poles. KSEBL permitted cable TV operators to draw cables without production of safety certificate from the department.**
- ✓ **Licensees failed in collecting the electricity duty/surcharge payable by the consumers. The Department was also not monitoring effectively to detect lapses/omissions of collection/remittance of electricity duty/surcharge by the licensees. Government lost revenue due to grant of irregular exemptions, irregular deductions from energy charges, non-levy of interest from licensees**
- ✓ **There was lapse on the part of the Department in discharging the main function of the Department viz., ensure safety of electrical installations connected to electrical supply system in the State by conducting initial/periodical inspections of electrical installations.**

B – STAMP DUTY AND REGISTRATION FEES

7.5 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Kerala and are administered at the Government level by the Principal Secretary to Government, Taxes Department. The Inspector General of Registration (IGR) is the head of the Registration Department who is empowered with the task of superintendence and administration of registration work. He is assisted by the District Registrars (DR) and Sub Registrars (SR).

7.6 Internal audit

Inspector General of Registration (IGR), Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The District Registrar (DR) (Audit) and team do the audit in the district. The sub-registry offices are audited annually. The total number of staff deputed for the internal audit work in this Department is sixty nine. There is no separate manual for internal audit in the Department. Training of staff in the audit wing is included in the Department training programme undertaken through the Institute of Management in Government. The auditee offices are selected after giving special preference to those offices where the Registering Officer is due to retire shortly which itself is a risk analysis aimed at avoiding revenue loss. During 2014-15, IAW audited 267 units out of 298 units planned for audit. During the year 2014-15, 1,295 audit observations could be cleared out of the 9,028 outstanding observations, which was only 14.34 *per cent* of the outstanding observations.

7.7 Results of audit

The records of 88 offices relating to Registration Department were test checked during 2014-15. Non/short levy of stamp duty and registration fee and other irregularities amounting to ₹ 0.84 crore were detected in 66 cases which fall under the following categories as given in **Table-7.9**.

Table – 7.9

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of stamp duty and registration fees	19	0.20
2	Other irregularities	47	0.64
	Total	66	0.84

During the course of the year, the Department accepted under-valuation and other deficiencies involving ₹ 0.65 crore in 48 cases which involved one case amounting to ₹ 4.41 lakh pointed out during the year. An amount of ₹ 10.24 lakh was realised in 45 cases during the year of which one case involving ₹ 4.41 lakh pertained to 2014-15.

The reason for non/short realisation of amounts pointed out by Audit even in cases accepted by the Department were called for in October 2015. The Department stated (November 2015) that cases related to undervaluation were settled through One Time Settlement Compounding scheme during 2009-12 and hence the amount realised does not coincide with the amount pointed out by Audit. Also, in undervaluation cases, on finalisation of *suo motu* proceedings the amount pointed out by Audit and the amount determined by the District Registrar may differ. The Department also stated that *suo motu* proceedings and revenue recovery proceedings take long duration for completion and causes delay to collect the deficit amount.

The chapter contains one illustrative case involving ₹ 9.32 lakh.

7.8 Short levy of stamp duty and registration fee due to undervaluation of documents

Suspected cases of undervaluation were not reported by Sub Registrar to District Registrar.

- Sub Registry Office, Olavakode

Government notified¹⁶ the fair value of land in Kerala by classifying entire land into 15 categories based on usage of land. Government issued instructions¹⁷ that when the instruments were brought for registration, if it was found that fair value has been omitted to be fixed in respect of the survey/resurvey/sub division numbers of the properties, the Sub Registrars should report the same to the District Collector for necessary action. Section 45 B (1) of Kerala Stamp Act (KSA), 1959 stipulates that if the registering authority has reason to believe that the value of the property or the consideration has not been fully set forth in the instrument brought before him for registration, he may after registering the document, refer the same to the District Collector for determination of the value or consideration and proper duty payable thereon. As per Section 45B (3) of the KSA, 1959, the District Collector may *suo-motu* within two years from the date of registration of any instruments not already referred to him under sub section (1) above, call for and examine the instrument and if he has reason to believe that the value or consideration has not been truly set forth in the instrument he may determine the value and the duty which shall be payable by the person liable to pay the duty.

In Sub Registry Office, Olavakode two sale deeds¹⁸ involving 84.82 Ares¹⁹ and 66.16 Ares were registered in 2012 and 2013 for ₹ 21.96 lakh and ₹ 20.75 lakh respectively. Audit found (February 2015) that the value per Are adopted for the land in above cases were less than the fair value of ₹ 90,000 per Are prescribed for the property with similar classification in that survey number. Suspected undervaluation in the cases amounted to ₹ 93.17 lakh and consequent short levy of stamp duty and registration fee of ₹ 9.32 lakh. However, the Sub Registrar did not report the matter to District Collector as a suspected case of undervaluation.

Government stated (September 2015) that based on the audit observation, District Registrar had taken *suo-motu* action in July 2015 on both documents as per Section 45(B) (3) of KSA, 1959 for suspected undervaluation related to omission of proper classification in the fair value register. Since the parties did not respond

¹⁶ GO (P)/515 dated 06.03.2010.

¹⁷ GO (Ord) No. 77/10/TD dated 27.03.2010.

¹⁸ Doc. No. 381/2012 and Doc. No. 592/2013

¹⁹ Unit of measuring land 100 Ares = 1 Hectare.

to the notice issued, action would be taken to issue provisional orders for making good the short levy. Final report had not been received (January 2016).

**Thiruvananthapuram,
The**



**(AMAR PATNAIK)
Principal Accountant General
(Economic and Revenue Sector Audit)
Kerala**

Countersigned

**New Delhi,
The**



**(SHASHI KANT SHARMA)
Comptroller and Auditor General of India**