

# **Chapter-II**

## **Revenue Sector**



## CHAPTER-II

### Revenue Sector

#### 2.1 Introduction

##### 2.1.1 Trend of revenue receipts

Tax and non-tax revenue raised by the Government of Uttarakhand during the year 2015-16, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table-2.1.1** below.

**Table-2.1.1: Trend of Revenue Receipts**

(₹ in crore)						
Sl. No.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	5,615.62	6,414.25	7,355.34	8,338.47	9,377.79
	• Non-tax revenue	1,136.13	1,602.88	1,316.54	1,110.44	1,219.66
	<b>Total</b>	<b>6,751.75</b>	<b>8,017.13</b>	<b>8,671.88</b>	<b>9,448.91</b>	<b>10,597.45</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties <sup>1</sup>	2,866.04	3,272.88	3,573.38	3,792.30	5,333.19
	• Grants-in-aid	4,073.45	4,457.21	5,075.27	7,005.34	5,303.79
	<b>Total</b>	<b>6,939.49</b>	<b>7,730.09</b>	<b>8,648.65</b>	<b>10,797.64</b>	<b>10,636.98</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>13,691.24</b>	<b>15,747.22</b>	<b>17,320.53</b>	<b>20,246.55</b>	<b>21,234.43</b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>49</b>	<b>51</b>	<b>50</b>	<b>47</b>	<b>50</b>

Source: Finance Accounts.

During the year 2015-16, revenue raised by the State Government (₹ 10,597.45 crore) was 50 per cent of the total revenue receipts. The balance 50 per cent (₹ 10,636.98 crore) of the receipts during 2015-16 were from the Government of India as the share of net proceeds of divisible Union taxes and duties and Grants-in-aid.

**2.1.2** The details of tax revenue raised during the period 2011-12 to 2015-16 are given in **Table-2.1.2** below.

<sup>1</sup> Note: For details, please see Statement No.14: Detailed accounts of revenue by Minor Heads in the Finance Accounts (Vol.-II) of Government of Uttarakhand for the year 2015-16. Figures under the "share of net proceeds assigned to States" under the Major Heads-0020-Corporation Tax, 0021-Taxes on Income and Expenditure, 0032 - Taxes on Wealth, 0037 - Customs, 0038-Union Excise Duties and 0044-Service Taxes booked in the Finance Accounts under 'A-Tax Revenue' have been excluded from the revenue raised by the State Government and included in the 'State share of divisible Union Taxes' in the above table.

**Table-2.1.2: Details of Tax Revenue Raised**

*(₹ in crore)*

Sl. No.	Head of revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in actual of	
		BE	Actual	2015-16 over BE of 2015-16	2015-16 over actual of 2014-15								
1.	Taxes on sales and trade	3,187.60	3,643.51	4,088.10	4,289.41	4,847.22	4,902.91	5,459.01	5,464.84	6,209.81	6,105.43	(-) 1.68	(+) 11.72
2.	State excise	727.67	843.65	942.15	1,117.92	1,149.25	1,269.29	1,345.40	1,486.66	1,799.33	1,735.39	(-) 3.55	(+) 16.73
3.	Stamps Duty and Registration Fees	483.85	524.05	573.95	648.40	640.40	686.71	708.79	714.06	777.22	870.67	(+) 12.02	(+) 21.93
4.	Motor Vehicles Tax	249.53	334.69	275.00	304.29	320.00	368.83	360.00	393.70	435.00	470.87	(+) 8.25	(+) 19.60
5.	Taxes and duties on electricity	75.00	229.02	60.00	2.71	100.00	64.66	100.00	192.65	175.00	114.76	(-) 34.42	(-) 40.43
6.	Land revenue	13.48	10.18	8.55	10.59	8.15	21.65	9.05	39.26	17.12	27.88	(+) 62.85	(-) 28.99
7.	Other taxes and Duties on Commodities and Services	10.60	16.52	17.50	23.13	24.41	23.47	25.01	25.26	27.01	28.37	(+) 5.04	(+) 28.74
8.	Others	12.00	14.00	15.00	17.80	22.00	17.82	16.00	22.04	23.00	24.42	(+) 6.17	(+) 10.80
	<b>Total</b>	<b>4,759.73</b>	<b>5,615.62</b>	<b>5,980.25</b>	<b>6,414.25</b>	<b>7,111.43</b>	<b>7,355.34</b>	<b>8,023.26</b>	<b>8,338.47</b>	<b>9,463.49</b>	<b>9,377.79</b>	<b>(-) 0.91</b>	<b>(+) 12.51</b>

*Source: Finance Account.*

The State's own tax revenue increased by 67 per cent from ₹ 5,615.62 crore in 2011-12 to ₹ 9,377.79 crore in 2015-16. It increased by 12.46 per cent from 2014-15 to 2015-16. The revenue from Taxes on Sales and Trade not only comprised a major share of tax revenue (65 per cent) but also registered an increase of 11.72 per cent over the previous year. The State Excise was another major contributor to the State's own tax revenue.

The respective Departments reported the following reasons for variations:

**Taxes on sales and trade:** The increase in the revenue receipts was due to regular rise in inflation in the State resulting in increase in the cost of commodities over the previous year.

**Taxes on Vehicles:** The increase in revenue receipts was due to revision of one-time tax.

**Stamp and Registration Fees:** The increase in revenue receipts over previous year was due to increase in circle rate of lands and increase in the registration fees from ₹ 10,000 to ₹ 25,000.

**State Excise:** The increase in revenue receipts was due to revenue realization in accordance with the provisions of the State Excise Policy for the year 2015-16.

Other departments have not furnished any reason for variation (December 2016).

**2.1.3** The details of non-tax revenue raised during the period 2011-12 to 2015-16 are indicated in **Table-2.1.3** below.

Table -2.1.3: Details of non-tax revenue raised

(*₹ in crore*)

Sl. No.	Head of revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in actual	
		BE	Actual	2015-16 over BE of 2015-16	2015-16 over Actual of 2014-15								
1.	Power	235.00	41.24	84.00	150.04	122.55	121.11	122.55	45.01	143.00	168.57	(+) 17.88	(+) 274.52
2.	Interest receipts	52.01	50.62	35.00	114.76	44.83	51.12	33.10	108.17	51.00	89.22	(+) 74.94	(-) 17.52
3.	Forestry and wild life	286.83	234.26	296.71	238.20	309.34	362.70	342.06	351.24	415.86	357.47	(-) 14.04	(+) 1.77
4.	Public works	17.27	17.85	16.16	18.13	9.15	15.51	19.11	28.29	24.92	13.96	(-) 43.98	(-) 50.65
5.	Miscellaneous general services	14.00	37.57	11.00	25.85	3.55	48.74	21.00	8.26	24.00	(-)5.50	(-) 122.92	(-) 166.59
6.	Other administrative services	12.21	70.15	11.82	38.72	3.73	32.38	19.13	33.50	32.90	43.19	(+) 31.28	(+) 28.93
7.	Police	9.00	11.41	10.11	10.98	11.21	13.39	11.47	16.51	16.01	11.18	(-) 30.17	(-) 32.28
8.	Medical and Public Health	17.93	23.20	23.16	30.00	22.10	44.04	24.52	37.78	37.95	76.86	(+) 102.53	(+) 103.44
9.	Co-operation	1.02	2.93	2.21	1.38	2.23	9.78	2.01	1.17	2.50	2.26	(-) 9.60	(+) 93.16
10.	Major and Medium Irrigation	3.31	8.07	2.37	7.65	2.42	6.75	2.42	9.22	5.75	7.92	(+) 37.74	(-) 14.10
11.	Non Ferrous Mining and Metallurgical industries	110.01	112.58	131.00	109.85	151.00	249.99	301.00	223.72	501.00	272.65	(-) 45.58	(+) 21.87
12.	Other Non-tax receipts	888.52	526.25	584.63	857.32	534.15	361.03	909.09	247.57	813.17	176.38	(-) 78.31	(-) 28.76
Total		1,647.11	1,136.13	1,208.17	1,602.88	1,216.26	1,316.54	1,807.46	1,110.44	2,068.06	1,219.66	(-) 41.02	(+) 8.86

Source: Finance Accounts.

Non-tax revenue showed an increasing trend during the period 2011-12 to 2012-13. However, thereafter it showed a decreasing trend from 2013-14 to 2014-15 and again increased in the year 2015-16. During the year 2014-15, it decreased by ₹ 206.10 crore (15.65 per cent) against the previous year's decrease of ₹ 286.34 crore (17.86 per cent) and in the year of 2015-16, it increased by ₹ 109.22 crore (9.84 per cent) over the previous year.

The respective Departments reported the following reasons for variations:

**Medical and Public Health:** The increase was mainly due to more receipts under 'Other Receipts'.

**Co-operation:** The main reason for increase of revenue receipts over the previous year was due to the huge amount deposited as audit fees by co-operatives/institutions.

**Power:** The increase was mainly due to more receipts under 'Other Receipts'.

**Public Work:** The decrease was mainly due to fewer receipts under 'Other Receipts'.

**Miscellaneous General Services:** The decrease was mainly due to increase under "Deduct Refund".

Other departments have not furnished any reason for variation (December 2016).

### 2.1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 in some principal heads of revenue amounted to ₹ 8,170.74 of which ₹ 1,119.91 crore were outstanding for more than five years as detailed in **Table-2.1.4** below.

**Table-2.1.4: Arrears of Revenue**

Head of revenue	Total Amount outstanding as on 31 March 2016 (₹ in crore)	Amount outstanding for more than five years as on 31 March 2016 (₹ in crore)	Replies of the Department
Taxes/VAT on Sales and Trade	7,620.23	1,105.45	Recovery of ₹ 383.32 crore (2,146 cases) is subjudice. Recovery certificates have been issued for remaining ₹ 7,236.91 crore in the cases wherever required.
Taxes and Duties on Electricity	509.57	0.00	The Department stated that regular correspondence is being made with the Uttarakhand Power Corporation Limited.
Co-operation	15.30	11.04	Demand of recovery has been processed through the district level officer.
Stamp Duty and Registration Fees	19.09	0.72	Recovery of ₹ 8.07crore is subjudice. In rest of the cases (₹11.02crore), demand for recovery has been processed.
Taxes on Vehicles	5.69	2.07	The fifteen cases (₹ 0.17 crore) are subjudice. In remaining cases, recovery certificates have been issued.
State Excise	0.60	0.60	Two cases amounting to ₹ 0 .25 crore are subjudice. In other cases, action is being taken to recover the amount (₹ 0.35 crore).
Entertainment Tax	0.26	0.03	Cases amounting to ₹0.02 crore are subjudice. In remaining cases, recovery certificates have been issued.
<b>Total</b>	<b>8,170.74</b>	<b>1,119.91</b>	

Source: Concerned Departments.

### 2.1.5 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and the number of cases pending for finalisation at the end of the year as furnished by the Commercial Tax Department in respect of Sales Tax are given in **Table-2.1.5** below.

**Table-2.1.5: Arrears in Assessments**

Head of revenue	Opening balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed of during 2015-16	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
Taxes/VAT on sales and Trade	79,204	97,397	1,76,601	69,373	1,07,228	39.28

Source: Information provided by the Commercial Tax Department.

With the number of new cases exceeding the number of cases disposed of during the year, the Department needs to intensify its efforts for early disposal of assessment cases to prevent accumulation of cases.

### 2.1.6 Evasion of tax detected by the Commercial Tax Department

The details of cases of evasion of tax detected by the Commercial Tax Department, cases finalised and the demands for additional tax raised in 2015-16 as reported by the Department are given in **Table-2.1.6** below.

**Table-2.1.6: Evasion of Tax**

(₹ in crore)

Head of revenue	Cases pending as on 31 March 2015	Cases detected during 2015-16	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty raised		Number of cases pending for finalization as on 31 March 2016
				Number of cases	Amount of demand	
Taxes/VAT on sales and Trade	195	1,263	1,458	1,115	152.17	343
Entertainment Tax	140	181	321	199	0.08	122

The amount of recovery made against the demands raised was not intimated by the Department (December 2016).

### 2.1.7 Refund cases

The number of refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2015-16, as reported by the Commercial Tax Department, are given in **Table-2.1.7** below.

**Table-2.1.7: Details of Refund Cases**

(₹ in crore)

Particulars	Sales tax / VAT	
	No. of cases	Amount
Claims outstanding at the beginning of the year	682	22.92
Claims received during the year	7,790	62.17
Refunds made during the year	7,735	61.73
Balance outstanding at the end of year	737	23.36

Source: Departmental figure.

Section 36 (3) of Uttarakhand VAT Act, 2005, provides for payment of simple rate of interest of nine per cent per annum if the refund is made after two month. To avoid interest liability, it is recommended that the State Government ensures disposal of refund claims in time.

### **2.1.8 Response of the Departments towards audit**

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

Of Inspection Reports issued upto June 2016, there were 2,150 paragraphs involving ₹ 264.99 crore relating to 977 IRs that remained outstanding at the end of June 2016 as mentioned in **Table-2.1.8** below along with the corresponding figures for the preceding two years.

**Table-2.1.8: Details of Pending Inspection Reports**

Details of IRs	June 2014	June 2015	June 2016
Number of IRs pending for settlement	891	922	977
Number of outstanding audit paragraphs	1,944	1,985	2,150
Amount of revenue involved ( <i>₹ in crore</i> )	173.54	188.66	264.99

**2.1.8.1** The department-wise details of IRs and outstanding audit observations as on 30 June 2016 and the amounts involved are mentioned in **Table-2.1.9** below.

**Table-2.1.9: Department-wise Details of Inspection Reports**

Name of the Department	Nature of receipts	Numbers of outstanding IRs	Numbers of outstanding audit observations	Money value involved ( <i>₹ in crore</i> )
<b>Finance</b>	Taxes on Sales, Trade and luxury tax	486	1,290	145.34
	Entertainment	10	15	0.09
<b>Excise</b>	State Excise	76	125	89.71
<b>Transport</b>	Taxes on motor vehicles	103	251	17.76
<b>Stamp and Registration</b>	Stamp and registration fees	302	469	12.09
<b>Total</b>		<b>977</b>	<b>2,150</b>	<b>264.99</b>

This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the Heads of Offices and the Departments did not initiate necessary action to rectify

the defects, omissions and irregularities pointed out in the IRs by the Accountant General.

The Government may consider putting in place an effective system for ensuring prompt and appropriate responses to the outstanding audit observations.

#### **2.1.8.2 Departmental audit committee meetings**

The Government sets up audit committees to monitor and expedite the progress of the settlement of the IRs and of the paragraphs in the IRs. During the year 2015-16, only one departmental audit committee meeting relating to entertainment tax was held where nine paragraphs involving an amount of ₹ 10 lakh were settled.

In view of the large number of pending IRs and audit paragraphs, the Government may consider instructing all departments to regularly hold meetings of the audit committees, in consultation with the Accountant General, to expedite their settlement.

#### **2.1.8.3 Response of the Departments/Government to the draft audit paragraphs**

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Accountant General to the Principal Secretaries/ Secretaries of the concerned Departments drawing their attention to the audit findings and requesting them to send their response within six weeks.

One<sup>2</sup> Performance Audit and six draft paragraphs were sent to the Principal Secretaries/ Secretaries of the respective Departments between February 2016 and September 2016. Government's reply to the performance audit and two draft paragraphs have been received and suitably incorporated in the report.

#### **2.1.8.4 Follow up on the Audit Reports-summarized position**

The Public Accounts Committee (PAC) notified in December 2002 that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken notes thereon should be submitted by the Government within three months of tabling of the Report for consideration of the Committee. In spite of these provisions, the action taken notes on audit paragraphs of the Reports were being delayed inordinately. Twenty seven paragraphs included in the Audit Reports for the years 2009-10 to 2014-15 were placed before the State Legislative Assembly between 2010 and 2016. The action taken notes from the concerned departments on these paragraphs were received late with an average delay of 30 months in respect of each of these Audit

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<sup>2</sup> Performance Audit on "Levy and Collection of Stamp Duty and Registration Fee".

Reports. Action taken notes in respect of nine paragraphs from four departments had not been received relating to the Audit Reports for the year ended 31 March 2015 so far (December 2016). The Audit Report for the year 2014-15 was placed before the Legislative Assembly on 17 November 2016 and action taken explanatory notes are not due yet (December 2016).

The PAC discussed five selected paragraphs pertaining to the Audit Reports for the years from 2008 to 2013. However, ATNs have not been received in respect of one recommendation of the PAC relating to the performance audit of 'Computerisation in the Motor Vehicles Department' included in the Report for the year 2010-11.

### **2.1.9 Analysis of the mechanism for dealing with the issues raised by Audit**

To analyze the system of addressing issues highlighted in the Inspection Reports/ Audit Reports by the Government, the action taken on the paragraphs included in the Audit Reports of the last five years for Commercial Tax Department was evaluated and included in this Audit Report.

The summarised position of Inspection Reports relating to the Commercial Tax Department issued during the last five years, paragraphs included in these reports, and their status as on 31 March 2016 are tabulated in **Table-2.1.10** below.

**Table-2.1.10: Position of Inspection Reports**

(₹ 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
<b>2011-12</b>	360	877	138.68	54	192	8.56	12	46	65.94	402	1,023	81.30
<b>2012-13</b>	402	1,023	81.30	37	151	23.79	27	78	11.20	412	1,096	93.89
<b>2013-14</b>	412	1,096	93.89	35	140	21.26	36	156	10.38	411	1,080	104.77
<b>2014-15</b>	411	1,080	104.77	44	135	8.83	17	100	13.12	438	1,115	100.48
<b>2015-16</b>	438	1,115	100.48	46	199	42.23	06	59	2.06	478	1,255	140.65

The Government arranges ad-hoc Committee meetings between the Department and the Accountant's General office to settle the old paragraphs. As against 360 IRs with 877 outstanding paragraphs at the beginning of 2011-12, the number of outstanding IRs rose to 478 with 1,255 paragraphs at the end of 2015-16 while only 439 paragraphs were cleared during the period 2011-12 to 2015-16.

### **2.1.10 Action taken on the recommendations accepted by the Departments / Government**

Performance audits conducted by the Accountant General are forwarded to the concerned Department/Government for their information with a request to furnish their replies.

These are also discussed in an exit conference and the Department's/ Government's views are included while finalizing the performance audits for the Audit Reports.

Four performance audits on Commercial Tax Department, one on Transport Department and one on Minor Minerals featured in the last six years' Audit Reports. A total of 35 recommendations had been made to the Government for consideration in light of the audit findings. The details of ATNs on the recommendations are given in **Table-2.1.11** below.

**Table-2.1.11: Action Taken on Recommendations accepted by Government**

Year of Audit Report	Name of PA	Number of Recommendation	Status
2008-09	Taxation on Transactions in the course of Inter-State Trade or commerce under Central Sales Tax Act, 1956 (PA)	05	ATN received on 19.09.2013. Pending for discussion
2009-10	Transition from Sales Tax to VAT (PA)	08	ATN received on 07.08.2014. Pending for discussion
2010-11	Cross Verification of Declaration Forms in Inter State Trade and Commerce (PA)	08	ATN received on 30.10.2013. Pending for discussion
2011-12	Administration of VAT (PA)	07	ATN not received
2013-14	Levy and collection of Taxes on Motor Vehicles Tax	03	ATN not received
	Receipt of Minor Minerals	02	
2014-15	Pendency of cases in the Revenue Department	02	ATN not received

### **2.1.11 Audit Planning**

During the year 2015-16, there were 227 auditable units of which 113 units were planned for audit and 111 units were audited.

Besides the compliance audit mentioned above, one performance audit on “Levy and Collection of Stamp Duty and Registration Fee” was also taken up to examine the efficiency of administration of Stamp Duty and Registration Fee by the Inspector General (Registration).

### **2.1.12 Results of audit**

#### ***Position of local audit conducted during the year***

Test-check of the records of 111 units of the Department of Commercial Tax, State Excise, Motor Vehicles, Stamp and Registration and Entertainment Tax conducted during the year 2015-16 revealed under assessment/short levy/loss of revenue and other irregularities involving ₹ 234.10 crore in 266 paragraphs as categorized in **Table-2.1.12** below.

**Table-2.1.12: Category-wise Audit observations**

Sl. No.	Categories	No. of paras	Amount (₹ in crore)
<b>Sales Tax / Value Added Tax</b>			
1.	Irregular allowance of exemption	8	4.24
2.	Irregular allowance of concessional rate of tax	87	11.71
3.	Other irregularities	104	26.28
<b>Total</b>		<b>199</b>	<b>42.23</b>
<b>Motor Vehicle Tax</b>			
1.	Miscellaneous irregularities	24	1.23
<b>Total</b>		<b>24</b>	<b>1.23</b>
<b>Stamp Duty and Registration Fee and State Excise, Entertainment &amp; luxury tax</b>			
1.	Short levy of stamp duty and registration fee due to consideration of incorrect category of locality	20	0.63
2.	Other irregularities	22	61.66
3.	<i>Performance Audit titled "Levy and Collection of Stamp Duty and Registration Fee"</i>	01	128.35
<b>Total</b>		<b>43</b>	<b>190.64</b>
<b>Grand Total</b>		<b>266</b>	<b>234.10</b>

During the course of the year, the concerned departments accepted under-assessment and other deficiencies of ₹ 170.61 crore involved in 57 cases which were pointed out in audit during 2015-16. The Departments collected ₹ 0.77 crore relating to 60 paragraphs during 2015-16. Out of this, ₹ 0.03 crore in 11 paragraphs pertained to the audit findings of the current year and the rest pertained to the previous years.

### **2.1.13 Coverage of the Revenue Chapter**

The Revenue Chapter contains one performance audit<sup>3</sup> and three paragraphs involving financial effect of ₹ 128.79 crore. The Departments have accepted audit observations amounting to ₹ 123.88 crore out of which ₹ 0.35 crore have been recovered.

<sup>3</sup> Levy and Collection of Stamp Duty and Registration Fee.

## PERFORMANCE AUDIT

### STAMP AND REGISTRATION DEPARTMENT

#### 2.2 Levy and Collection of Stamp Duty and Registration Fee

A performance audit of the Levy and Collection of Stamp Duty and Registration Fee for the period 2011-16 brought out that the existing mechanism and procedure for levy and collection of stamp duty and registration fee suffered from both systemic as well as implementation deficiencies that resulted in non-levy or loss of revenue aggregating to ₹ 128.35 crore. Some of the significant findings are as follows.

- *Stamp and Registration department initiated Core Registration System project in 2003 for registration of documents electronically. However, 13 out of 49 SR offices still remained to be computerized even after lapse of 13 years.*

*[Paragraph 2.2.8(a)]*

- *Non/short levy of stamp duty and registration fees due to non-registration of instruments which were compulsorily registerable resulted in non-levy of stamp duty and registration fee of ₹108.25 crore.*

*[Paragraph 2.2.9]*

- *Under-valuation of properties while registering these documents resulted in short levy of stamp duty of ₹17.20 crore.*

*[Paragraph 2.2.10]*

- *Misclassification of documents resulted in non/short levy of stamp duty and registration fee amounting to ₹0.48 crore.*

*[Paragraph 2.2.11]*

- *Irregular adjustment of stamp duty paid at the time of agreement and incorrect allowance of 50 per cent rebate on stamp duty on properties which were purchased on auction resulted in short levy of stamp duty of ₹0.89 crore.*

*[Paragraph 2.2.12]*

- *Non/short stamping of documents on various counts such as acceptance of bank guarantees by government offices, execution of lease deeds for the period less than one year, auctioning of properties mortgaged to banks without registration and reduction of stamp duty in the case of non-eligible family members resulted in loss of revenue of ₹1.16 crore.*

*[Paragraph 2.2.13]*

#### 2.2.1 Introduction

Levy of stamp duty, other than duties or fees collected by means of judicial stamps, is included in the Concurrent List of the Seventh Schedule of the Constitution of India. Therefore, Stamp Duty is governed by the legislations of both the Government of India (GoI) as well as the State Government. Stamp duty is a tax which is paid by the executor

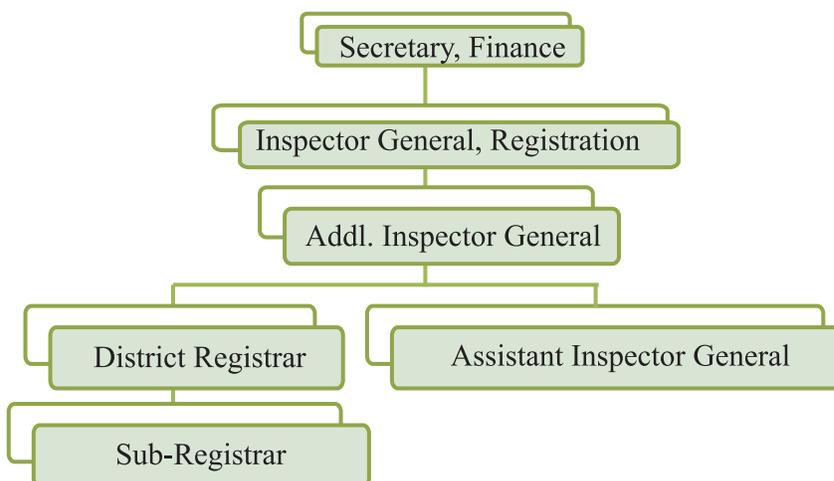
of an instrument<sup>4</sup> either by using impressed stamp paper or by affixing stamps of proper denominations as per the rates specified in Schedules I, I-A and I-B of ‘The Indian Stamp Act, 1899’ (IS Act) and the rules framed there under as applicable in the State. Every person, in charge of a public office, before whom any such chargeable instrument is produced, has a duty to impound the instrument and refer the matter to the District Collector, if he is of the opinion that it is not duly stamped. Besides, Registration Fee is also to be paid in respect of those instruments which are registered with the Registering Authority under ‘The Indian Registration Act, 1908’.

In Uttarakhand, the Finance Department is responsible for the levy and collection of Stamp Duty and Registration Fee in the State through the Office of the Inspector General (Registration).

### **2.2.2 Organizational setup**

The organizational set up of the Department is given in **Chart-2.2.1** below.

**Chart-2.2.1: Organizational set up of the Department**



### **2.2.3 Audit Objectives**

The performance audit was taken up with a view to ascertaining whether:

- the levy and collection of Stamp Duty and Registration Fees was in accordance with the provisions of the Acts and Rules applicable;
- a suitable internal control mechanism existed in the Department for ensuring compliance with laws, regulations and policies; and
- information technology resources employed for the purpose of registration of instruments ensured error free registration with no loss of revenue.

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<sup>4</sup> Instrument includes every document and record by which any right or liability is, or purports to be, created; transferred; limited; extended; extinguished or recorded.

### 2.2.4 Scope of audit and methodology

The performance audit covering the period of 2011-12 to 2015-16 was conducted (April 2016 to August 2016) through test-check of records of the offices of 30 Sub-Registrars (28 Sub-Registrars<sup>5</sup> located in seven districts<sup>6</sup> from amongst the 13 districts in the State and two Sub Registrars (SR) of Pithoragarh and Didihat selected on the recommendations of the department during Entry Conference). An Entry Conference was held on 18<sup>th</sup> April 2016 with the Secretary Finance and other departmental officers wherein the audit objectives and the scope of audit were discussed. An Exit Conference was held on 29 November 2016 where the audit findings were discussed. The response of the Government has been suitably included in the Report.

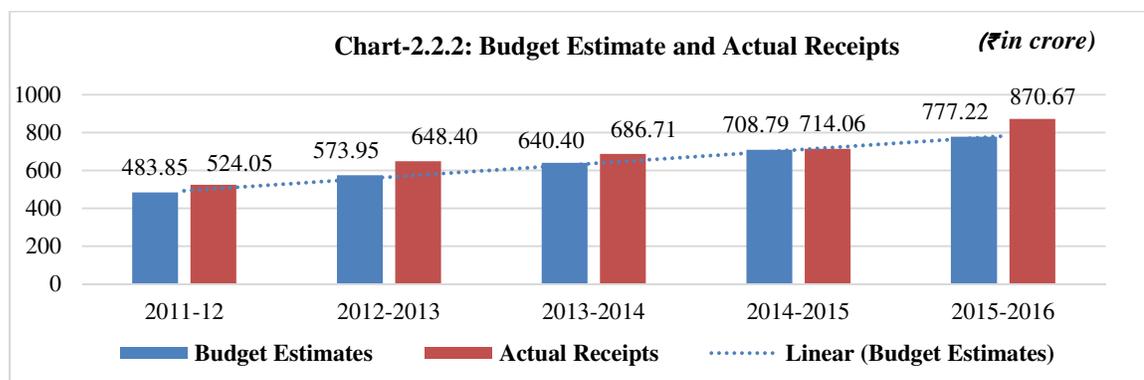
### 2.2.5 Audit Criteria

The audit criteria were derived from the following sources:

- Indian Stamp Act (IS Act) 1899;
- Indian Registration Act (IR Act) 1908;
- The Uttar Pradesh Stamp (Valuation of Property) Rules, 1997 (as applicable in Uttarakhand); and
- Other relevant Acts, Rules, and Government orders as applicable in the territory of the State.

### 2.2.6 Trend of Receipts

Receipts from Stamp Duty and Registration Fees are the third largest source of revenue for the State Government after Commercial Tax and State Excise. The budget estimates and actual receipts under the Head 0030-Stamps and Registration Fees-Receipts from Non-Judicial Stamps are depicted in **Chart-2.2.2** below.



<sup>5</sup> SR-I, II,III & IV Dehradun, SR-I&II Vikasnagar, SR Rishikesh, SR-I&II Haridwar, SR-I,II and III Roorkee, SR Laksar, SR Rudraprayag, SR Ukhimath, SR Kashipur, SR Jaspur, SR Bazpur, SR Rudrapur, SR Kichha, SR Sitarganj, SR Nainital, SR-I and II Haldwani, SR Ramnagar, SR Dhari, SR Tehri and SR Pauri.

<sup>6</sup> Dehradun, Haridwar, Rudraprayag, Udham Singh Nagar, Pauri, Tehri and Nainital.

The receipt from Stamp Duty and Registration Fees rose from ₹ 524.05 crore in 2011-12 to ₹ 870.67 crore at the end of 2015-16. During this period, the actual revenue collection out-performed the targets set for every year and recorded a sizeable growth of 66 per cent in revenue collection during the period of performance audit.

## **Audit Findings**

### **Systemic Deficiencies**

#### **2.2.7 Non-compliance of provisions of Acts, Rules and instructions**

(i) Section 154 (4) (3) (b) of the UP Zamindari Abolition and Land Reforms Act, 1950 (as applicable in Uttarakhand), provides that a non-tenure holder, who has purchased land under Sections 154 (4) (2) (e), 154 (4) (2) (f) and 154 (4) (3) of the Act, shall put the land to specified use within a period of two years or further such period as may be allowed by the Government. If he fails to do so, such transfer shall be void and the matter will be referred to the Collector for this purpose. Scrutiny of records of two SRs<sup>7</sup> revealed that in three<sup>8</sup> cases, 0.28 hectares industrial land was purchased (2006) and the same was not put to use within the prescribed period of two years. The land was further sold (2015) after eight years of original purchase. However, the transfer deeds did not have any reference whether permission had been granted for holding the land for period exceeding two years or not. However, the SRs failed to refer the cases to the Collector for further action.

(ii) Section 145 of the Uttarakhand (Uttar Pradesh) Zamindari Abolishment and Land Reform Act, 1950, provides that a copy of declaration certificate under Sections 143 (use of agriculture land for industrial or residential purpose) and 144 (use of non-agriculture land for agriculture purpose) shall be sent to the concerned SRs by the Assistant Collector in charge of the Sub Division. The SR should register it without any fee and declaration certificate should be sent to the Assistant Collector. Audit observed in the selected SR offices that the declaration certificates were not being sent to SR offices under the above provisions. Therefore, the SRs had not registered these certificates which could help them in calculating proper Stamp Duty on the properties situated nearby by dividing them on the lines of non-agriculture or agriculture properties on the basis of such declaration certificates.

(iii) Section 89 of the IR Act makes it mandatory for some officers<sup>9</sup> to send copies of certain orders, certificates and instruments to registering officers to file in their records. Scrutiny of records of the selected SRs revealed that copies of sale certificate of

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<sup>7</sup> SR-II, Roorkee, SR-I, Vikasnagar.

<sup>8</sup> Book No./Jild No./Deed No./Date of registration: 01/307/538/04.02.15, 01/306/521/04.02.15 & 01/3667/3769/16.06.15.

<sup>9</sup> Officers approving loans under Land Improvement Loans Act, 1883, every court issuing certificate of sales of immovable property, every officer approving loans under Agriculturist Loans Act, 1884 and every revenue officer granting a certificate of sale to the purchaser.

immovable properties under the Code of Civil Procedure and copy of sale certificate of properties auctioned by revenue officers were not being submitted to the SR offices. This defeated the very objective of detecting loss of revenue of stamp duty and registration fee on these instruments.

(iv) Instructions of the Inspector General of Registration (Letter no. 26/IGR/complaint-21/2010 dated 08.04.2010) made mandatory, the submission of approved copy of maps in ammonia print for executing sale deeds of buildings situated in urban areas so that evasion of stamp duty could be detected. SRs had to ensure that copies of maps certified by the competent authorities have been attached with the sale deed of buildings. Scrutiny of records of the selected SRs revealed that the approved map (in ammonia print) was not being attached in sale deeds of buildings situated in urban areas as required under the above instructions.

Thus, non-adherence to the extant provisions of the Acts and the rules and instructions issued thereunder by the revenue authorities undermined the objective of these provisions of detecting and preventing leakage of government revenue.

The Government instructed (November 2016) the revenue officers to ascertain the factual position and asked the IG Registration to issue necessary guidelines in this regard.

### **2.2.8 Implementation of Core Registration System**

Stamp and Registration Department initiated Core Registration System (CRS) project in 2003 for electronic registration of documents. It is an intranet based module aimed at removing the flaws inherent in the manual maintenance of registration records, making the registration process easier and improving maintenance of registration records as well as access to registration records.

#### **(a) Partial Coverage**

During the examination of CRS and e-registration, it was noticed that the use of software for electronic valuation purpose was not in vogue. The computerization of registration system was still limited to instruments currently being registered and the legacy data has not been digitized. As a result, a large number of old registries were being distributed manually defeating the basic objective of the scheme of providing online information to the public.

Further, 13 of the total of 49 SR offices still remained to be computerized. Manual registration process is going on in these offices because of non-availability of state wide area network (SWAN) or Internet connectivity.

The Government assured (November 2016) that the remaining offices would be computerized by December 2016.

***(b) Inadequacies of the software***

The following deficiencies were noticed in the CRS:

- There was no provision to link the previous registries of a property in the application software.
- The software did not have mandatory provision to capture the e-stamp code number in public data entry form. Consequently, database did not contain e-stamps' code details which could enable instant locking of the e-stamp. It was noticed in SR Jaspur that delay in locking of e-stamps ranged between four and 38 days.
- There was no mechanism to show the details of e-stamps pending for locking process. Absence of a simultaneous locking mechanism makes the system highly vulnerable to the possibility of misuse of the e-stamps.
- Stamp Duty for lease deeds and declaration of trust is being calculated manually. There is no provision for computerizing this feature in the existing software.
- The software was not able to apply proper rates for the purpose of calculating stamp duty on transfer of lease deeds, bonds, power of attorney, exchange of property, mortgage deeds without possession, partition deeds, gift deeds and transfer of property to co-owners of family relationship.
- Proper evaluation of agriculture land, commercial constructions, exchange of property and industrial properties could not be accomplished by using the software.
- Rebate of 50 *per cent* in stamp duty on consideration price in excess of the valuation of property as per circle rate was abolished from 14 September 2015. However, the option to avail this rebate was still available in the software package as on the date of audit (July 2016).
- In mortgage deed for agriculture purpose, there is no provision in the software for calculating stamp duty @ 0.5 *per cent* or maximum ₹ 10,000 in excess of ₹ 5 lakh. However, stamp duty is being depicted as zero in every case whereas the stamp duty is exempt only up to ₹ 5 lakh.

The Government informed (November 2016) that some of the observed shortcomings in the software had already been corrected and the remaining ones would be removed by December 2016.

***(c) Access controls***

During the audit of selected SRs, it was noticed that administrative work was being done by officials below the rank of Sub Registrar. This was indicative of weak organizational controls and could have repercussions with regard to confidentiality of data. Though the software had in-built features for user authentication through access passwords but control procedures like restriction on number of unsuccessful login attempts, routine

password change, alphanumeric passwords or minimum limit of characters for password were not incorporated in the application.

The application also had no provision for removing user accounts on transfer or retirement of a user. As a result, the system was open to the risk of access by unauthorized users. Besides, biometric system for providing access through thumb impression was not installed in any of the test-checked SR offices.

The Government instructed (November 2016) the IG Registration to issue necessary guidelines on the issue.

### Compliance Deficiencies

#### 2.2.9 Non/short levy of stamp duty and registration fees due to non-registration of instruments

Audit noticed instances of non-registration of deeds where it was compulsory to register them as per the provisions of the IR Act. Such non-observance of extant provisions resulted in non/short levy of stamp duty and registration fees of ₹ 108.25 crore (stamp duty ₹ 76.79 crore and registration fee ₹ 31.46 crore) as detailed in **Table-2.2.1** below.

**Table-2.2.1: Non/short levy of stamp duty and registration fees due to non-registration of instruments**

Sl. No.	Statutory Provision	Nature of Deficiency/Deviation	Revenue Impact	
			Stamp Duty (₹ in lakh)	Registration Fee (₹ in lakh)
1.	Section 17 of IR Act provides for compulsory registration of instruments of transfer of immovable property. Further, IG Registration issued instructions (December 2013) to review the cases mentioned in Section 33 of IS Act for the last eight years.	Immovable properties like land, building, machineries and fixtures worth ₹ 21.61 crore were transferred in three cases between January 2008 and April 2012 under jurisdiction of two Deputy Commissioners of Assessment (DCA- I Rudrapur and DCA -II Haridwar) in the Commercial Tax (CT) Department without getting the instruments registered. This resulted in non-levy of stamp duty and registration fee.	183	0.20
2.	Section 17 (1) (d) of the IR Act provides for compulsory registration of lease deeds for any term exceeding one year and payment of stamp duty on all lease deeds. The rates of stamp duty applicable for lease deeds were reduced from 9 per cent to 2 per cent w.e.f. 2 September 2009.	One hundred and fifty three lease deeds (91 deeds for terms exceeding one year) produced before five <sup>10</sup> units of Commercial Tax Department as evidence of business place were not registered resulting in non-levy of stamp duty and registration fee.	337	5.27
3.	Article 18 of Schedule 1-B of the IS Act and Section 17(1) (c) of the IR Act provide for payment of Stamp Duty @ 5 per cent and compulsory registration of certificate of sale provided in a public auction.	Scrutiny of the records of Divisional Forest Officers (DFOs) of Narendra Nagar and Nainital revealed that resin amounting to ₹ 382.73 crore was sold through public auction during the year 2011-12 to 2015-16. However, DFO Narendra Nagar levied and deposited stamp duty amounting to ₹ 7.34 crore @ 2 per cent	1,180	765.47

<sup>10</sup> DC(A) CT Vikasnagar, DC(A)-I and II CT Haridwar, DC(A)-I CT Rudrapur and AC(A) Sector-III CT Roorkee.

	Stamp Duty & Registration Fees is to be levied and collected by the Forest Department and the same is required to be deposited in the Treasury.	on sale of resin amounting to ₹ 367.03 crore only and stamp duty and registration fee on sale of resin amounting to ₹ 15.70 crore was not charged despite the fact that stamp duty @ 5 per cent and registration fee @ 2 per cent were leviable on the same. This resulted in short levy of stamp duty and registration fee.		
4.		Timber amounting to ₹ 1,186.07 crore was sold by the Uttarakhand Forest Development Corporation through public auction during the years 2011-12 to 2014-15 without levying stamp duty and registration fees while stamp duty @ 5 per cent and registration fee @ 2 per cent were leviable on the same. This resulted in non-levy of stamp duty and registration fee.	5,930	2,372.15
5.	Article 35 (a- i & ii) of Schedule 1B of the IS Act and Section 17 (1) (d) of IR Act provides for payment of Stamp Duty on lease for a term not exceeding one year and on those for a term exceeding one year but not exceeding five years and registration of these deeds.	Nine sub-leases <sup>11</sup> were executed between the Garhwal Mandal Vikas Nigam (GMVN)/ Kumaon Mandal Vikas Nigam (KMVN) and the lessees. Applicable stamp duty and registration fee on these instruments were not charged.	19	0.30
6.	Article 35 of Schedule 1B of the IS Act and Section 17 (1) (d) of IR Act provides for payment of stamp duty on leases for terms exceeding one year and up to 30 years and compulsory registration of such leases.	Forty five leases were executed by six <sup>12</sup> organizations during April 2011 to March 2016 on which stamp duty of ₹ 0.31crore was leviable against which ₹ 0.08 lakh was levied. These leases were also not registered in the offices of the concerned SRs despite the fact that the said documents were compulsorily registerable.	30.47	2.55
7.	<b>Total</b>		<b>7,679.47</b>	<b>3,145.94</b>

The Government accepted (November 2016) the audit observations and assured that necessary instructions in this regard will be circulated.

### **2.2.10 Short levy of stamp duty due to undervaluation of properties**

Stamp duty is levied on value of the consideration of such conveyance or the market value of the immovable property whichever is greater. Audit noticed that under-valuation of a variety of immovable properties resulted in short levy of stamp duty of ₹ 17.20 crore as detailed in **Table-2.2.2** below.

**Table-2.2.2: Short levy of stamp duty due to undervaluation of properties**

Sl. No.	Statutory Provision or Policy Involved	Nature of Deficiency/Deviation	Short Levy (₹in crore)
1.	Article 23 of Schedule 1B of the IS Act and circle rates issued by the District Magistrates (DMs) provides for payment of stamp duty on	One hundred and ninety seven properties transferred through instruments executed before 27 Sub Registrars were registered	5.03

<sup>11</sup> Term not exceeding one year: GMVN-04, KMVN-02; Term exceeding one year but not exceeding five years: GMVN- 02, KMVN-01.

<sup>12</sup> GMVN: 12, Uttarakhand Transport Corporation: 08, Mussoorie Dehradun Development Authority: 01, Nagar Nigam Haldwani: 02, Tourism Department Dehradun: 02: and District Mining Officer Dehradun: 20.

	value of the consideration of a conveyance or the market value of the immovable property, whichever is higher.	on the consideration amount instead of value of the properties based on circle rates. This resulted in short levy of stamp duty.	
2.	Najul Policy, 2009 stipulates that stamp duty would be determined on the basis of the estimated value which would not be less than the circle rates effective on the date of application for change of <i>Najul</i> land into free hold.	Fifteen <i>Najul</i> properties under jurisdiction of three <sup>13</sup> SRs were under-valued for the purpose of free hold due to non-application of circle rates applicable on the date of application. This under-valuation of property resulted in short levy of stamp duty.	0.57
3.	Under the provisions of Article 35 (a- i & ii) of Schedule 1B of IS Act, stamp duty on lease for a term not exceeding one year and on those for a term exceeding one year but not exceeding five years is chargeable @ two <i>per cent</i> . In the case of mining lease, stamp duty is payable on consideration value of dead rent or royalty whichever is higher.  Mining policy, 2013 stipulates that the lease amount is required to be increased @ 25 <i>per cent</i> annually.	In 16 cases, the lease amount had not been increased @ 25 <i>per cent</i> annually by 5 SRs, two District Mining Officers and the Garhwal Mandal Vikas Nigam. This affected the amount of consideration value for the purpose of levying stamp duty resulting in short levy of stamp duty.	0.38
4.	Provisions of Article 35 (c )(ii) of Schedule I-B of the IS Act stipulates that stamp duty on lease for a term exceeding 30 years is chargeable @ five <i>per cent</i> of the market value. Circle rates issued by DMs made it clear that the value declared by the Government authorities, including State Industrial Development Corporation of Uttarakhand Ltd. (SIDCUL) would be accepted as market value but such value should not be less than the rates which were determined by them and effective on the date of such execution.	In four SRs, SIDCUL granted lease in 27 cases for the period of 90 years. However, valuation of property leased was less than the rate of premium effective on the date of execution of such lease by SIDCUL. Stamp duty of ₹ 10.31 crore only was levied against the leviable stamp duty ₹ 21.48 crore. This resulted in short levy of stamp duty.	11.17
5.	Article 35 of Schedule 1B of the IS Act stipulates that when a lessee undertakes to pay recurring charges such as Government revenue, the landlord's share of cesses or the owner's share of municipal rates or taxes, which by law, is recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent and would be chargeable for the purpose of Stamp Duty.	In nine lease deeds under five <sup>14</sup> SRs, it was mentioned that the service tax would be paid by the lessee. Thus, service tax was to be deemed to be part of the rent and Stamp Duty was payable on whole amount of rent including service tax. However, audit found that service tax was not taken into consideration for the purpose of stamp duty resulting in its short levy.	0.05
6.	<b>Total</b>		<b>17.20</b>

The Government instructed (November 2016) the departmental authorities to take necessary corrective measure and refer the cases where necessary to the concerned District Magistrates.

<sup>13</sup> SR Ramnagar, SR-I & II Haldwani.

<sup>14</sup> SR Pithoragarh: 01 case (01/900/491 dt. 18.06.14); SR-I Haldwani: 05 cases (01/2186/2926 dt. 15.03.15, 01/2234/4589 dt. 23.07.15, 01/2305/7257 dt. 09.11.15, 01/2039/5573 dt. 27.08.14 and 01/2039/5572 dt. 27.08.14); SR Rudrapur: 01 case (01/45/1131 dt. 16.04.15), SR-II Roorkee: 01 case (01/1854/4580 dt. 22.05.13) and SR Bajpur: 01 case (01/2192/6654 dt. 19.09.15).

**2.2.11 Non/short levy of stamp duty and registration fee due to misclassification of documents**

Any instrument can be charged with correct rate of stamp duty only if it is classified as per the provisions of the IS Act and the IR Act. Scrutiny of records of selected SRs revealed that the Government had lost revenue of ₹ 0.48 crore (Stamp Duty: ₹ 0.46 crore and Registration Fee: ₹ 0.02 crore) due to improper classification of the instruments and application of incorrect rates as detailed in **Table-2.2.3** below.

**Table-2.2.3: Non/short levy of stamp duty and registration fee due to misclassification of documents**

Sl. No.	Statutory Provision	Nature of Deficiency/Deviation	Revenue Impact (₹ in lakh)	
			Stamp Duty	Registration Fee
1.	Article 48(e) of Schedule 1-B of the IS Act stipulates that when an attorney is given for consideration and authorizing the attorney to sell any immovable property and chargeable during conferring of the power of attorney as on conveyance under Article 23 (a) of the Schedule 1-B.	In seven cases under five SRs, the properties were sold on the basis of Power of Attorneys and consideration was received by the attorney holder. Hence, stamp duty chargeable at the prescribed rate of five <i>per cent</i> whereas the stamp duty and registration fee was paid @ ₹ 50/₹ 100 in each case. This resulted in short levy of stamp duty and Registration Fee.	21.42	0.67
2.	Article 34-A of Schedule 1-B of the IS Act stipulates that correcting a purely clerical error in an instrument will be chargeable by Stamp Duty of ₹ 10.	Eleven instruments under six SRs involving change of description of property were classified as correction instruments. However, the provision will not be applicable in these cases as there were changes in description of properties adjoining property details and area which should have been charged for stamp duty treating them as new instruments. This resulted in short levy of stamp duty and registration fee.	6.72	1.09
3.	Article 55 of Schedule 1-B of the IS Act stipulates that any instrument of release, by which a person renounces a claim upon another person or against any specified property, shall be chargeable by Stamp Duty not exceeding ₹ 210. However, a releaser can neither vest his title on another person through release nor should such release increase extent of title of another title holder.	Four release deeds were registered under two SRs, involving increase in extent of title of another title holder. Hence, the deeds did not fall under the category of releases and should actually have been charged like a transfer deed for the purpose of levy of Stamp Duty and Registration Fee. This resulted in short levy of stamp duty and registration fee.	12.71	0.098
4.	Article 5 (b-2) of Schedule 1-B of IS Act stipulates that a construction developed by a person other than the owner or lessee of such land and having a stipulation that such construction would be held or sold jointly or severally by that other person and the owner or lessee, would be chargeable @ six <i>per cent</i> of value of the consideration equal to the amount or value of the land.	A lessee, under jurisdiction of SR Ramnagar, constructed a resort on a land leased by him in February 2011 for 30 years. The lease was cancelled (September 2014) with no dues pending on any party. Subsequently, the property was sold (November 2014) and the earlier lessee was involved in the sale deed as a seller (middle party – <i>Madhya Paksha</i> ) and he received ₹ 2.80 crore in lieu of the constructions undertaken by him on the land.	5.28	0.00

		Thus, the lessee who become <i>Madhya Pakshain</i> this sale was actually a developer and hence was liable to pay stamp duty on the value of land of ₹ 0.88 crore.		
5.	<b>Total</b>		<b>46.13</b>	<b>1.86</b>

The Government instructed (November 2016) the Inspector General Registration to look into the cases and take appropriate steps.

### 2.2.12 Irregular adjustment/rebate of stamp duty

The Indian Stamp Act allows for adjustment of stamp duty earlier paid and rebate on it under certain conditions. However, such concessions were allowed by the Department despite relevant conditions not being fulfilled by parties leading to loss of revenue by way of forgoing stamp duty of ₹ 0.89 crore as detailed in **Table-2.2.4** below.

**Table-2.2.4: Irregular adjustment/rebate of stamp duty**

Sl. No.	Statutory Provision and Notification	Nature of Deficiency/Deviation	Revenue Impact (₹ in lakh)
1	Article 5 (b-1) of Schedule 1-B of the IS Act stipulates that when conveyance in pursuance of an earlier agreement is executed, the duty already paid shall be adjusted towards the total duty payable on the conveyance.	It was observed that the Stamp Duty paid at the time of the agreement for sale was adjusted at the time of registration of sale deeds in 41 such cases by 15 SRs where the instruments differed in both the subject matter and the parties involved. Hence, incorrect adjustment of stamp duty resulted in revenue loss.	74.42
2	As per Government's notification of 25 April 2008, a rebate of 50 <i>per cent</i> on stamp duty payable would be allowed on the consideration value, exceeding market value of the property.  Article 18 of Schedule 1-B of the IS Act stipulates that a property by virtue of being secured by sale certificate in public auction is to be charged, for the purpose of Stamp Duty, at the rate of five <i>per cent</i> of purchase money.	In two cases, SR-II, Haridwar allowed registration of properties on payment of stamp duty of ₹ 0.27 crore by allowing rebate of 50 <i>per cent</i> , which was not allowable as the property was purchased in public auction on which stamp duty at the rate of five <i>per cent</i> was chargeable. The irregular rebate allowed resulted in short realisation of stamp duty of ₹ 0.15 crore.	14.55
3.	<b>Total</b>		<b>88.97</b>

The Government instructed (November 2016) the Inspector General Registration to examine the cases for appropriate action.

### 2.2.13 Non/short stamping of documents

The Indian Stamps Act requires proper stamping of every document. Audit noticed that documents which were required to be charged for specific amounts of stamp duty were non/short stamped leading to loss of revenue amounting ₹ 1.16 crore as given in **Table-2.2.5** below.

**Table-2.2.5: Non/short stamping of documents**

Sl. No.	Statutory Provision	Nature of Deficiency/Deviation	Revenue impact (₹ in lakh)
1.	Article 12-A of Schedule 1 B of the IS Act stipulates that bank guarantees executed by the banks as a surety to secure the due performance of a contract or the due discharge of a liability, are chargeable by Stamp Duty of ₹ five for every ₹ 1,000 or a part thereof and limited to a maximum of ₹ 10,000.	The District Excise Officers (DEOs) of Nainital, Uttarkashi, Haridwar and Rudraprayag had accepted 73 bank guarantees from license holders of retail shops of country liquor and Indian Made Foreign Liquor as evidence. The guarantees were not duly stamped. This resulted in short levy of stamp duty.	4.67
2.	Article 35 (a)(i) of Schedule 1B of the IS Act stipulates that in case of lease deeds for a term not exceeding one year, Stamp Duty shall be charged @ two per cent as conveyance for a consideration equal to whole amount payable.	1,361 cases of lease deeds executed (April 2011 to March 2016) by different organizations <sup>15</sup> , for terms up to one year, were not duly stamped. The lessees had paid stamp duty of ₹ 0.19 lakh against the payable stamp duty of ₹ 0.39 crore.	38.93
3.	Section 2 (17) of IS Act stipulates that a mortgage deed includes every instrument whereby for the purpose of securing money advanced by way of loan or debt, one person transfers or creates a right over specified property in favour of another person.  Article 40 of Schedule 1B of the IS Act stipulates that the mortgage deed becomes chargeable @ five per cent in case of possession of property by the mortgagor for the purpose of Stamp Duty.	Audit scrutiny of the records of nine SRs revealed that 12 properties, mortgaged to banks were auctioned by them. Stamp Duty was chargeable when the title deeds submitted by the borrowers became mortgage deeds due to the banks taking right over the properties for auction. However, the same was not done leading to non-payment of the applicable Stamp Duty.	72.30
4.	<b>Total</b>		<b>115.90</b>

The Government instructed (November 2016) IG Registration to issue necessary directions in this regard.

#### **2.2.14 Short levy of Registration Fee on instruments containing distinct matters**

As per the Indian Registration Act, when an instrument comprises or relates to several distinct matters, it should be charged with the aggregate amount of registration fees with which separate instruments would be chargeable under the IR Act.

Audit scrutiny of the records of 25 SRs revealed that 187 instruments comprised several distinct matters but the applicable aggregate fee had not been charged for registration. This resulted in loss of revenue of ₹ 0.37 crore. On being pointed out, the concerned SRs had recovered ₹ 1.99 lakh in 10 cases.

<sup>15</sup> Garhwal Mandal Vikas Nigam: 128, Uttarakhand Transport Corporation: 02, Nagar Palika Parishad, Nainital: 17, Nagar Nigam Rudrapur: 05, Mussoorie Dehradun Development Authority, Dehradun: 01, Krishi Utpadan Mandi Samiti, Rudrapur: 03 & Haldwani: 19, Nagar Nigam Haldwani: 1175, Lake Development Authority Nainital: 06 and Nagar Nigam Haridwar: 05.

The Government instructed (November 2016) the IG Registration to issue guidelines for collecting registration fees in the distinct matters.

### **2.2.15 Monitoring and Internal Control**

Proper internal controls assist in economic, efficient and effective management of revenues by preventing any loss or leakage of revenue. Audit observed the following:

(a) Internal audit is an effective measure of such internal controls. Audit observed that no internal audit system was implemented and operational in the Department which could point out the discrepancies and lacunae of the process employed in levying and collecting Stamp Duty and Registration Fee.

(b) The Registration Manual stipulates that each SR office should be inspected twice a year by the Assistant Inspectors General (AIsG) who are responsible for ensuring proper compliance of provisions of all the acts and rules in every SR office. During scrutiny of the records of AIsG of Dehradun, Haridwar, Rudrapur and Haldwani, it was found that there was 80 *per cent* shortfall in inspections by the AIGs during 2011-12 to 2015-16. Only 59 inspections were carried out against the required number of 300 by the said AIGs in the period.

(c) As per Rule 327 of the Uttar Pradesh Stamp Rules, 1942, as applicable in Uttarakhand, AIsG shall make periodical inspections every year of the stamp work of all the civil courts and offices, all the revenue courts and offices, all the offices of municipal and district boards and other local bodies, the work of stamp vendors, stamp accounts of treasuries and sub-treasuries, all other Government offices of all descriptions and all the registration offices of the State. Scrutiny of the records of the offices of four AIsG<sup>16</sup> revealed that not even a single office was inspected by AIsG during 2011-16.

(d) As per Government instructions<sup>17</sup>, targets of 5, 10 and 25 spot verifications every month were decided for being conducted by District Magistrates (DMs), Additional District Magistrates (ADMs) and AIsG respectively. In Dehradun District, only 12 spot verifications were carried out by the officers during July 2012 to March 2016 against the required number of 1,800<sup>18</sup> and in the remaining four districts, against the targeted 7,200 spot verifications, no spot verification was conducted. The utility of spot verifications can be gauged from the fact that 12 spot verification conducted by ADM (Revenue and Finance) Dehradun in the year 2015-16 resulted in detection of loss of stamp duty to the tune of ₹ 0.20 crore. Thus, there was huge potential for mitigating the risk of under-valuing stamp duty through spot verification.

<sup>16</sup> AIG Dehradun, Haridwar, Udham Singh Nagar and Nainital.

<sup>17</sup> No. 380/XXVII(9)/2012/stamp-34/2012dated 29.06.2012.

<sup>18</sup> 480 (Total spot verification 40 per month x 12) x 3.75 (3 years and 9 months *i.e.* from date of Govt. instructions (29.06.2012): say 1<sup>st</sup> July 2012 to 31<sup>st</sup> March 2016) for each district.

### **2.2.16 Conclusion**

Thus, the existing mechanism and procedure for levy and collection of stamp duty and registration fee suffered from both systemic as well as implementation deficiencies that resulted in non-levy or loss of revenue aggregating to ₹ 127.46 crore (stamp duty: ₹ 95.61 crore and registration fee: ₹ 31.85 crore) due to non-registration of instruments, under-valuation of properties, misclassification of documents, irregular adjustment/rebate of stamp duty, non/short stamping of documents and short levy of registration fees on instruments containing distinct matters. Further, concessions/ rebate in stamp duty amounting to ₹ 0.89 crore were allowed by the Department despite pre-requisite conditions not having been fulfilled by the parties. The Core Registration System had yet to be implemented across all SR offices and the software itself suffered from a number of deficiencies that were to be rectified if it was to serve the intended purpose. Internal controls were weak and required strengthening to improve monitoring and effective control to minimize losses of revenue.

### **2.2.17 Recommendations**

In light of the audit findings, it is recommended that the Government:

- i. Ensure strict compliance of and adherence to the provisions of the IS and the IR Acts and rules/notifications issued thereunder for levy of stamp duty and registration of instruments;
- ii. Extend coverage of the Core Registration System and e-registration facility in all the SR offices and removal of the systemic deficiencies highlighted in audit; and
- iii. Strengthen internal control and internal audit mechanisms for greater coverage and effectiveness to plug leakages of revenue.

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**COMPLIANCE AUDIT**


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**COMMERCIAL TAX DEPARTMENT**


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**2.3 Irregular tax rebate on false declaration forms**

***False Form-C were used by a dealer for inter-State sales on concessional rate of tax which resulted in short levy of tax ₹0.26 crore. In addition, penalty of ₹0.92 crore and interest of ₹0.20 crore was also leviable.***

Section-8 (4) of the Central Sales Tax Act, 1956, stipulates that inter-State sales to registered dealers are taxable at concessional rate when such sales are supported by declaration in Form C. If a dealer issues or furnishes a false certificate or declaration, he shall be liable to penalty of a sum not exceeding forty *per cent* of the value of the goods involved or three times the tax leviable on such goods, whichever is higher, under Section-58 (1) (xxix) of the Uttarakhand VAT Act, 2005. Further, Section-34(4) of the Act *ibid* also provides that tax admittedly payable shall be deposited within the time prescribed failing which simple interest at the rate of 15 *per cent* per annum shall become due and be payable on the unpaid amount with effect from the date immediately following the last date prescribed till the date of payment of such amount.

Scrutiny of records of the Deputy Commissioner (Assessment)-II, Commercial Tax, Haridwar, revealed that a dealer had claimed concessional rate of tax on Form 'C' during the year 2009-10 which was allowed by the assessing authority (July 2014). On cross verification of the Form-C (from the issuing authority of the respective State)<sup>19</sup>, it was found that these four statutory Form-C<sup>20</sup> amounting to ₹ 2.29 crore had not been issued to the dealer by the concerned State. Further, the registration of the purchasing dealer was also cancelled *w.e.f.* 07 May 2007. However, the selling dealer of Uttarakhand had availed tax concession<sup>21</sup> amounting to ₹ 0.26 crore on these forms for the assessment year 2009-10. Moreover, the use of false certificates also render the dealer liable to pay a penalty of ₹ 0.92 crore<sup>22</sup> along with accrued interest on the unpaid amount of tax till the date of payment of such amount as per the above mentioned provisions of the Uttarakhand VAT Act, 2005.

On being pointed out, the Government stated (July 2016) that the case was re-assessed (July 2015) by the Department and a demand of tax was created @ 12.5 *per cent* amounting to ₹ 0.29 crore which was paid by the dealer (May 2016). They however added that this case does not attract penalty under Section-58 (1) (xxix) because penalty

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<sup>19</sup> Office of the Value Added Tax Officer, Department of Trade and Taxes, New Delhi.

<sup>20</sup> No.16P / 532551 (₹47, 47,618), No.16P / 412541 (₹48,68,575), No.16P / 412542 (₹59, 89,085) and No.16P / 302142 (₹73,24,884).

<sup>21</sup> At the rate of 11.5 *per cent* out of total 12.5 *per cent* payable rate of VAT.

<sup>22</sup> ₹ 2,29,28,162 x 40 *per cent* = ₹ 91,71,265 (as per Section 58 of UK VAT Act, 2005).

is imposed when tax ceases to be leviable due to use of false or wrong declaration or certificate. In this case, a tax of one *per cent* had been levied on the dealer.

The reply of the Government is not tenable as the above cited case is related to furnishing of false Form-C. Further, concessional rate of tax is levied only when the form is found correct. In the instant case, the dealer had used false Form-C to claim concessional tax on inter-state trade. Thus, the Department should levy a penalty of ₹ 0.92 crore. In addition, interest of ₹ 0.20 crore<sup>23</sup> was also leviable on the dealer due to late deposit of the tax.

#### **2.4 Irregular use of Form XI**

##### ***Irregular use of Form XI resulted in loss of revenue of ₹5.18 lakh and penalty amounting to ₹0.18 crore.***

Rule 23(1) of the Uttarakhand VAT Rules, 2005, stipulates that where a dealer holding a recognition certificate purchases any goods referred to in clause (a) of sub-section (7) of Section 4 for use as capital goods and raw material for the purpose of manufacture of any goods, he shall, if he wishes to avail of the concession referred to therein, furnish to the selling dealer, a declaration in Form XI (hereinafter called a "Declaration Form").

Further, Section 58(1) (XXIX) of the Uttarakhand, VAT, Act 2005 provides that if any dealer issues or furnishes a false or a wrong form of declaration or certificate by reason of which a tax on sale or purchase ceases to be leviable under this Act, such dealer shall pay, by way of penalty, a sum not exceeding 40 *per cent* of the value of goods involved or three times of tax leviable on such goods under any of the provisions of this Act, whichever is higher. Section 63 of the Act further stipulates that notwithstanding anything to the contrary contained elsewhere in this Act and without prejudice to Section 58, a person who issues a false or wrong certificate or declaration prescribed under any provision of this Act or the Rules framed there under to another person by reason of which a tax leviable under this Act on the transaction of purchase/ sale made to or by such other person ceases to be leviable or becomes leviable at a concessional rate, shall be liable to pay on such transaction an amount which would have been payable as tax on such transaction had such certificate or declaration not been issued.

Scrutiny of records of the Deputy Commissioner-I, (Assessment) Commercial Tax, Roorkee revealed that recognition certificate (RK-47) of the purchaser<sup>24</sup> was effective from 01 May 2010. The tax assessment and details of Form XI issued for the year 2010-11 revealed that the purchaser has purchased goods on 08 April 2010 valued at ₹ 45,00,240 from a seller *i.e.* even before getting the requisite recognition certificate, and also issued (on 10 June 2010) Form XI to avail concessional rate of tax on the said purchase. As the purchaser was not authorised to issue Form XI for the purchase prior to

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<sup>23</sup> ₹ 0.20 crore [Interest (01.10.2009 to 31.04.2016 = 79 months) = ₹ 20.08 lakh x 15 x 79 / 12 x 100].

<sup>24</sup> TIN No-05006360606; Dated: 27.05.2006.

the effective date of the recognition certificate *i.e.* 01 May 2010, tax amounting to ₹ 5.18 lakh<sup>25</sup> and penalty of ₹ 0.18 crore<sup>26</sup> was leviable.

The Government stated (December 2016) that the assessing officer had re-assessed the case and levied tax with interest and penalty (August 2016).

## 2.5 Short levy of tax due to incorrect calculation

***Incorrect calculation of tax by the Assessing Authority resulted in short levy of tax of ₹ 0.13 crore. In addition, interest of ₹9.77 lakh was also leviable.***

The Assessing Authority is responsible for correct assessment and levy of amount of tax due on the dealers. Section 4 (2) (b) (i) (b) and 4 (2) (b) (i) (d) of the Uttarakhand Value Added Tax Act 2005 and subsequent notification (March 2010) provide that tax on classified and unclassified goods shall be leviable @ 4.5 *per cent* and 13.5 *per cent* respectively *w.e.f.* 1<sup>st</sup> March 2010. Further Section 34(4) of the Act provides that the tax admittedly payable shall be deposited within the time prescribed failing which simple interest at the rate of 15 *per cent* per annum shall become due and be payable on the unpaid amount with effect from the date immediately following the last date of payment of such amount.

Test-check of records of Deputy Commissioner (A)-I, Haridwar (April 2015) revealed that there was a short levy of tax due to wrong calculation by the Assessing Authority (AA) in two cases.

In one case the dealer<sup>27</sup> sold composite aluminium panels worth ₹ 0.82 crore during the year 2010-11. The assessing authority while finalizing the assessment (May 2014) levied a tax of ₹ 36,850 @ 4.5 *per cent* against the leviable tax of ₹ 3.68 lakh. This resulted in short levy of tax of ₹ 3.32 lakh. Similarly, in another case<sup>28</sup>, the same assessing authority while finalizing the assessment (March 2015) for the year 2011-12 incorrectly levied tax of ₹ 6.03 lakh @ 13.5 *per cent* on the sale of electrical steel of ₹ 1.38 crore against the leviable tax of ₹ 0.19 crore. This resulted in short levy of tax of ₹ 0.13 crore.

Thus, incorrect wrong calculation of tax by the assessing authority resulted in short levy of tax amounting to ₹ 0.16 crore in two cases.

On being pointed out, the Department reassessed (January 2016, December 2015) both the cases and additional demand of ₹ 0.19 crore was created of which full amount of tax ₹ 3.31 lakh and interest of ₹ 2.80 lakh has been recovered in one case and notice for recovery in second case was issued in May 2016; which is still recoverable.

The matter was referred to the Government (May 2015 and May 2016); its reply was awaited (December 2016).

<sup>25</sup> At the differential rate of (13.5-2) *i.e.* 11.5 *per cent* of ₹ 45, 00,240 = ₹ 5, 17,527.

<sup>26</sup> ₹ 45, 00,240\*13.5 *per cent* \*3=₹ 18, 22,597.

<sup>27</sup> Dealers' TIN No. 05001891622.

<sup>28</sup> Dealers' TIN No. 05010931925, Dated: 19.04.2011.

