

CHAPTER-III TAXES ON VEHICLES

3.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicles Acts and Rules made thereunder. The Transport Department functions under the administrative control of the Secretary Transport Department. The levy and collection of tax in the State are governed by the Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989, and the Kerala Motor Vehicles Taxation (KMVT) Act, 1976.

3.2 Internal audit

An annual inspection programme schedule is prepared well in advance and the internal audit is being conducted as per the schedule. When an inspection is scheduled a team is constituted by deploying officials from other sections of the office due to shortage of staff in the Inspection Wing. Against the target of 97 units, 44 units were audited during 2016-17. The Department stated that the periodicity of audit of all offices is 'annual' but the Department could not achieve the target due to lack of proper training and software. The Department did not prepare a separate Internal Audit Manual. During 2016-17, the Department could clear 853 paras, which was 18.50 *per cent* of the outstanding 4,611 paras. The Department attributed the reason for low clearance of audit observations to delay in getting final rectification reports from the offices concerned.

3.3 Results of audit

Test check of records of 47 offices of Motor Vehicles Department in 2016-17 relating to tax, registration fee, permit fee, driving license fee, conductor license fee, penalties and composite fee under National Permit Scheme showed non/short-levy of tax and other irregularities involving ₹ 194.69 crore in 436 cases, which fall under the following categories as given in **Table - 3.1**.

Table - 3.1
Results of audit

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1	Compliance Audit on Permits, Taxes on Transport Vehicles and Enforcement under Motor Vehicles Act	1	152.79
2	Non/short-levy of tax	320	30.60
3	Other lapses	115	11.30
Total		436	194.69

During the course of the year, the Department accepted non/short-levy of tax and other deficiencies amounting to ₹ 195.90 crore in 574 cases, which were pointed out by Audit. An amount of ₹ 14.41 crore pointed out was realised in 376 cases during the year.

A few illustrative audit observations involving ₹ 155.17 crore are mentioned in the succeeding paragraphs.

3.4 Compliance Audit on Permits, Taxes on Transport Vehicles and Enforcement under Motor Vehicles Act

3.4.1 Introduction

The Motor Vehicles Department (MVD) was established under the provisions of Section 213 of the Motor Vehicles (MV) Act, 1988 (Central Act 59 of 1988). Motor Vehicles Department is one of the major revenue earning departments in the State with seven *per cent*¹ of the total tax revenue collection of the State.

Major functions of the Department include registration of vehicles, conduct of tests for issue of driving licenses and conductor's licenses, grant of permits to vehicles, conduct of tests for issue of fitness certificates to vehicles, enforcement of traffic rules and regulations, collection of road tax and collection of fees for various services, etc. The Transport Department is under the control of the Secretary (Transport) at Government level. Transport Commissioner (TC) is the head of the Department under whom four zonal offices, 18 Regional Transport Offices (RTO), 55 Sub Regional Transport Offices (SRTO) and 19 check posts are functioning.

The Department fully automated its functions by implementing application software 'SMARTMOVE', which was developed by National Informatics Centre in January 2007.

Data of services rendered such as collection of fees and taxes, issue of licenses, permits, certificate of fitness, etc., were stored in local 'SMARTMOVE' database of respective RTOs and SRTOs. A central server with a database containing consolidated SMARTMOVE database of all RTOs/SRTOs was maintained at the State data centre. The central database is updated in every 10 minutes through a web service. The Department provides facility for remitting road tax and submitting online applications for services such as driving license, registration, permit, certificate of fitness, etc., along with prescribed fees through the MVD portal to the respective RTOs/SRTOs. These data also move to local SMARTMOVE database from a central database server through a web service.

Audit was conducted to check whether (1) permits in respect of transport vehicles were granted in accordance with the MV Act, 1988 and Rules, (2) tax in respect of transport vehicles were levied as per the Kerala Motor Vehicles Taxation (KMVT) Act, 1976 and the Rules and (3) enforcement system in the Motor Vehicles Department is adequate to ensure compliance with the existing laws, regulation and norms having a bearing on public safety.

The Audit was conducted between May 2017 and July 2017 covering the period from 2014-15 to 2016-17.

¹ During the year 2016-17, total tax collection under the Head 'taxes on vehicles' was ₹ 3,107.23 crore and the total tax revenue collection of the State was ₹ 42,176.37 crore.

The scope of Audit was confined to the Office of the Transport Commissioner, 11² out of 18 RTOs, 18³ out of 55 SRTOs and 12⁴ out of 19 motor vehicles check posts. The units were selected by stratified random sampling method using IDEA. Motor vehicles check posts functioning under the jurisdiction of selected RTOs were also selected for audit. An entry conference was held on 2 May 2017 with the Transport Commissioner. On conclusion of the audit, an exit conference was held on 8 November 2017 with the Additional Secretary (Transport Department) and the Senior Deputy Transport Commissioner. Their views and replies are incorporated in the relevant paras. Cases pointed out during 2015-16 and 2016-17 in the local audit reports are also included in this report.

Audit findings

The audit findings are based on the analysis of data extracted from central databases and SMARTMOVE local databases maintained at selected RTOs and SRTOs and check posts with reference to prescribed procedures, Act and Rules.

3.4.2 Grant or renewal of permits

Under Section 66(1) of MV Act, 1988, no owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passenger or goods save in accordance with the conditions of a permit granted or countersigned by a Regional Transport Authority (RTA) or State Transport Authority (STA) or any prescribed authority authorising him the use of the vehicle in that place.

Under Section 81 of the MV Act, 1988, the validity of a regular permit issued is for five years and may be renewed on an application made not less than 15 days before the expiry of permit. The Regional Transport Authority may entertain a belated application for renewal of a permit if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified. Under Section 192 A of the MV Act, 1988, vehicles plying without a valid permit attract penalty which may extend to five thousand rupees but shall not be less than two thousand rupees.

Audit observed certain instances of irregular grant/renewal of permits as described in the succeeding paragraphs:

² Alappuzha, Ernakulam, Idukki, Kannur, Malappuram, Palakkad, Pathanamthitta, Thiruvananthapuram, Thrissur, Vatakara and Wayanad.

³ Adoor, Alathur, Aluva, Cherthala, Kayamkulam, Mananthavady, Mavelikkara, Neyyattinkara, North Parur, Ottapalam, Parassala, Sulthan Bathery, Thalassery, Thaliparamba, Thiruvalla, Thodupuzha, Trippunithura and Vandiperiyar.

⁴ Amaravila, Gopalapuram, Govindapuram, Iritty, Kattikulam, Kumali, Meenakshipuram, Muthanga, Nadupunni, Velanthavalam, Vazhikadavu and Walayar.

3.4.2.1 Non-renewal of permits

As per Section 5 (1) of the KMVT Act 1976, in the case of a motor vehicle which is not intended to be used or kept for use for such period, the registered owner shall give previous non-use intimation in writing to the registering authority and that every vehicle possessed by a person is deemed to have been used except in cases where exemption is claimed under this section.

Analysis of database revealed that validity of permit in respect of 14,127 vehicles, which were not older than 10 years, expired during the period 2014-15 to 2016-17. The registered owners or permit holders neither renewed the permits nor filed non-use intimation with the respective RTOs or reclassified the vehicles from category of transport vehicles. The class-wise details of vehicles are given in **Table - 3.2**.

Table - 3.2
Class-wise details of permit expired vehicles

(₹ in crore)			
Sl. No	Class of vehicles	Number of permit expired vehicles between 1 April 2014 to 31 March 2017	Penalty collectable
1	Auto rickshaws	11,014	2.20
2	Contract carriages other than auto rickshaws	1,281	0.39
3	Goods carriages	1,385	0.52
4	Other carriages	447	0.21
Total		14,127	3.32

Source : SMARTMOVE database.

Inaction on the part of the RTOs and JRTOs in vehicle checking and locate vehicles plying without valid permit resulted in non-imposition of penalty of ₹ 3.32 crore in 14,127 cases as shown in **Appendix IX**.

Government stated (December 2017) that the Department demanded the tax for defaulted period if the applicant failed to file non-use intimation under Section 5 of the KMVT Act, read with Rule 10 of the KMVT Rules, and there was no provision in the MV Act and Rules to insist compounding fees on expiry of permit and if these vehicles were found plying on roads, the compounding fee would be collected. It was further stated that if these vehicles were not intended to use on road, the Department did not have any authority to insist compounding fee.

Though data of vehicles of which permit expired was available in database, an internal control mechanism did not exist in the Department to check whether these vehicles were used on road after the expiry of permit. In the absence of such

mechanism, the claim of the Department that these vehicles were not intended to use on road was not acceptable.

3.4.2.2 Irregular grant of special permits

Sub-Section 8 of Section 88 of the MV Act, 1988, empowers the Regional Transport Authorities to grant special permit to any vehicle covered by stage carriage permit for using the vehicle under a contract to carry passengers.

In view of judgement⁵ of Honourable High Court of Kerala against indiscriminate grant of special permit to vehicles covered by stage carriage permits, the State Transport Authority in November 2016⁶ decided that only one special permit for a single trip would be granted to a particular stage carriage in a calendar month.

Audit observed that in five RTOs, upto six special permits were granted in a calendar month for the period from 1 December 2016 to 31 March 2017 to certain stage carriages in violation of instructions of State Transport Authority as given in **Table - 3.3**.

Table - 3.3
Details of special permits granted

Sl No	Name of RTO	No. of vehicles for which special permits were issued more than one	No. of special permits were issued per vehicle for a calendar month
1	Thrissur	5	upto 2 permits
2	Malappuram	8	upto 2 permits
3	Wayanad	4	upto 2 permits
4	Kannur	123	upto 4 permits
5	Vatakara	56	upto 6 permits

Source : SMARTMOVE database.

In respect of a stage carriage KL-18-D-2628, RTO Vatakara granted six special permits in January 2017 alone.

Government stated (December 2017) that strict instructions were given to all Regional Transport Authorities that only one special permit for a single trip would be granted to a particular stage carriage in a calendar month as per the decisions of the State Transport Authority.

3.4.2.3 Delay in conducting meetings of Regional Transport Authorities

As per Rule 123 of KMV Rules, 1989, the Regional Transport Authority shall meet once in a month on such dates and time as may be fixed by the Chairman. The Regional Transport Authority was constituted with District Collector as

⁵ WP(C) No.22890 of 2016.

⁶ Vide proceeding No. D2/E7248/STA/2016 dated 22 November 2016.

chairman and District Police Chief and Deputy Transport Commissioners as members. The Regional Transport Officer shall be the Secretary of the Regional Transport Authority and its Executive Officer. The issue of new permits, granting transfer of permits, renewal of permits, etc., were regulated as per the decisions of Regional Transport Authorities. Number of meetings conducted by eight Regional Transport Authorities during the period from 2014-15 to 2016-17 are given in **Table - 3.4**.

Table - 3.4
Details of RTA meetings held

Sl. No.	Name of RTA	Number of RTA meetings conducted		
		2014-15	2015-16	2016-17
1	Alappuzha	3	2	3
2	Ernakulam	3	3	4
3	Kannur	2	4	2
4	Malappuram	4	3	3
5	Palakkad	3	4	4
6	Thiruvananthapuram	3	4	4
7	Thrissur	4	0	1
8	Vatakara	3	4	2

Source : SMARTMOVE database.

The details in the table indicate that the meetings of RTA were not held every month as stipulated in Rules.

Government stated (December 2017) that instructions were issued to all Regional Transport Authorities for conducting regular meetings.

3.4.3 Short-levy of motor vehicles tax

As per Section 3 read with Section 4 of KMVT Act 1976, a tax shall be levied, otherwise exempted, on every motor vehicle used or kept for use in the State, at the rate specified for such vehicle in the schedule to the Act. The Act provides levy of one-time tax for motor cabs and tourist motor cabs and five years lump sum tax for autorikshaws and goods carriages having gross vehicles weight upto 3,000 kg at the time of first registration of vehicle and thereafter for one year or five years at the rate specified. In the case of other transport vehicles tax shall be levied at quarterly rate as specified for such vehicles.

Audit observed certain instances of short-levy of motor vehicles tax as follows.

3.4.3.1 Short-levy of tax due to irregular fixation of seating capacity

Rule 269(1) of KMV Rules, 1989, prescribes that minimum seating capacity of a stage carriage shall be directly proportionate to the wheel base of the vehicle. The minimum number may be reduced by two seats in the case of a stage carriage with separate entrance and exit. Such minimum number so reduced may be reduced further by one fifth in the case of stage carriages operating as city/town service. Quarterly tax of stage carriages leviable under Section 3 of KMVT Act, 1976, is based on the seating capacity of a stage carriage.

Audit observed that in six RTOs, seating capacity determined in 73 cases was less than minimum seating capacity as prescribed in the Rules, which led to short-levy of tax of ₹ 48.20 lakh as detailed in **Appendix X**.

Government stated (December 2017) that an amount of ₹ 5.94 lakh was collected in 11 cases and action for realising the balance amount in remaining cases was in progress.

3.4.3.2 Non-collection of differential tax for 15 years from motor cabs⁷ and tourist motor cabs

As per Section 3(1) of KMVT Act, 1976, as amended by the Kerala Finance Act 2014, one time tax for 15 years from the date of purchase of the vehicles is to be levied in respect of new tourist motor cab and new motor cab, at the rate specified in the Annexure to the Act, with effect from 1 April 2014. Prior to Finance Act 2014, tax in respect of motor cabs and tourist motor cabs were levied at the rate of quarterly tax prescribed in the schedule to the KMVT Act, payable yearly upon annual license.

The road tax in respect of motor cab and tourist motor cab was collected for a period of five years from the date of first registration of vehicles as per interim stay order of the Hon'ble High Court of Kerala in WP(C) No.7641 and similar petitions filed by the motor cab operators challenging constitutional validity of the legislation. The Hon'ble High Court dismissed the writ petitions on 8 March 2017 and as per its judgement one time tax for 15 years in respect of the motor cabs and tourist motor cabs was leviable at the rates prescribed in the Kerala Finance Act, 2014, from 1 April 2014 onwards.

Audit observed that owners of 18,803 new motor cabs and new tourist motor cabs registered from 1 April 2014 to 31 March 2017 paid motor vehicles tax for five years from the date of first registration instead of 15 years and the differential amount of tax due worked out to ₹ 47.15 crore as detailed in **Appendix XI**.

⁷ "Motor cab" means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward.

Government stated (December 2017) that after receipt of the judgement from the Hon'ble High Court of Kerala, demand notices were sent to all registered owners of motor cabs who did not remit tax for 15 years. It was further stated that ₹ 5.57 crore was collected in 1,757 cases and action is in progress to collect tax in remaining cases.

3.4.3.3 Non-collection of differential tax for other State contract carriages

The rate of tax on contract carriages that are registered in other States and operating in the State of Kerala after obtaining permit under Section 88(8) and 88(9) of the MV Act, 1988, was enhanced to ₹ 4,000, ₹ 6,000 and ₹ 7,000 for every passenger for vehicles with ordinary seat, push back seat and sleeper berth respectively with effect from 1 April 2014 vide Kerala Finance Act, 2014. On a writ petition questioning constitutional validity of introduction of new rate of tax for contract carriages registered in other States, the Honourable High Court of Kerala on March 2014 stayed collection of tax at enhanced rates and dismissed the writ petition on 21 December 2016. The rate was reduced to ₹ 2,250, ₹ 3,000 and ₹ 4,000 for every passenger for contract carriages, that are registered in other States and operating in State of Kerala, with ordinary seat, push back seat and sleeper berth respectively with effect from 18 July 2016 vide Kerala Finance Act 2016. As the reduced rates were applicable only from 18 July 2016, the Transport Commissioner in January 2017⁸ directed all officers of MVD to collect tax at enhanced rates as prescribed in the Finance Act 2014 for the period from 1 April 2014 to 17 July 2016.

Audit observed that in six RTOs differential amount of tax of ₹ 81.08 crore for the period from 1 April 2014 to 17 July 2016 was not collected in respect of 86,080 cases as detailed in **Appendix XII**.

Further analysis of data at border check posts in respect of contract carriages registered in other States revealed that 423⁹ vehicles for which differential tax amount due were allowed to cross through the border motor vehicle check posts at Gopalapuram, Govindapuram and Walayar during April 2017 to June 2017. However, no action was taken by Motor Vehicles Inspectors at the check posts to collect the differential amount of tax from these vehicles.

Government stated (December 2017) that ₹ 2.08 crore was collected in 906 cases. Action taken in the remaining cases were not intimated (January 2018).

3.4.3.4 Tax pending realisation

Under Section 3 of KMVT Act, 1976, motor vehicles tax shall be levied on every motor vehicle used or kept for use within the State unless exemption from payment of such tax is allowed against an undertaking submitted by the owner of

⁸ Vide letter No. B2/9854/TC/2014 dated 25 January 2017.

⁹ Number of vehicles passed through motor vehicles check posts (i) Gopalapuram: seven vehicles (ii) Govindapuram: seven vehicles (iii) Walayar: 409 vehicles.

the vehicle for temporary discontinuance of use of the vehicle under Section 5(1) of the Act. Under Section 4 of the Act, motor vehicles tax shall be paid in advance by the vehicle owner within the specified period and in the prescribed manner.

- **Short-levy of tax in respect of goods carriages**

Government vide Kerala Finance Act, 2016, enhanced the rate of quarterly tax leviable on goods carriage vehicles under Section 3 of the KMVT Act, 1976, with effect from 18 July 2016. Rule 5 of the KMVT Rules, 1975, stipulates that balance tax payable due to enhancement of rate of tax should be paid along with the payment of tax due for the subsequent period.

Audit observed that differential tax amounting to ₹ 50.42 lakh was not collected in subsequent quarters from 1 October 2016 onwards in respect of 8,596 goods carriage vehicles having gross vehicle weight above 3,000 kg¹⁰ as detailed in the **Appendix XIII**.

Government stated (December 2017) that the rates of quarterly tax in respect of goods carriage vehicles was enhanced with effect from 18 July 2016 and tax was collected from registered owners at the revised rate. It was also stated that the Department collected ₹ 35.92 lakh in 1,159 cases. Recovery action in the remaining cases was awaited.

- **Tax arrears pending realisation for transport vehicles**

Audit scrutiny of records of transport vehicles registered on or after 1 January 2007 revealed that quarterly tax under Section 3 of KMVT Act 1976 amounting to ₹ 13.04 crore in respect of 37,308 vehicles was in arrears as detailed in **Appendix XIV**. The class-wise details of vehicles are given in **Table - 3.5**.

Table - 3.5
Tax arrears pending realisation

(₹ in crore)			
Sl. No.	Type of the vehicles	No. of cases	Tax arrears
1	Auto rickshaw	17,299	1.25
2	Goods carriages	15,711	8.14
3	Contract carriages other than auto rickshaw	3,734	2.47
4	Stage carriages	171	1.03
5	Other carriages	393	0.15
Total		37,308	13.04

Source : SMARTMOVE database.

¹⁰ Goods vehicles with gross vehicle weight upto 3,000 Kg does not require permit (Section 66 (3) (i) of MV Act, 1988).

Government stated (December 2017) that even though there was acute shortage of manpower in the Department, intensive efforts were made in time for collection of tax from defaulters. As a result of this, Department could curb the tax arrears. It was further stated that the vehicles dismantled and transferred to other offices, error in entry in respect of the taxation authority, etc., caused duplication of records in different offices and report generated show excess arrear amount. The vehicles transferred to other offices before computerisation remain in the home office database and hence show arrears in more than one office. Some vehicles, especially stage carriages, remit tax in a RTO in one quarter and remit tax at a SRTO in next quarter making arrears in both offices.

The reply was not acceptable as Audit pointed out the tax arrears for the period from 1 April 2014 to 31 March 2017 in respect of transport vehicles that are not older than 10 years and for which tax was paid upto 1 April 2014 by analysing dump Postgres SQL database of central server provided to Audit in May 2016. As such the Department needs to take action to make recovery of pending arrears.

3.4.4 Enforcement under Motor Vehicles Act

3.4.4.1 Irregular granting of licence to motor driving schools

Rule 24 of CMV Rules, 1989, provides that no person shall establish or maintain any driving school or establishment for imparting instructions for hire or reward in driving motor vehicles without a licence granted by the Regional Transport Officer, who shall, when considering an application for the grant or renewal of a licence, see that every applicant owns and maintains a minimum of one motor vehicle each of the type in which the instruction is imparted and that vehicles are available exclusively for purposes of imparting instructions and all such vehicles, except motor cycles, are fitted with dual control facility to enable the instructor to control or stop the vehicle. The vehicle used for imparting training are registered as private vehicles and validity of registration is 15 years from date of first registration and thereafter it shall be renewed for every five years on an application made in this behalf.

Audit observed from database of 11 RTOs that registration validity of 5,472 vehicles owned by 1,227 driving schools for imparting instruction expired, which was not renewed as on 31 March 2017. Of these, registration validity of 1,670 vehicles expired at the time of grant/renewal of licenses of driving schools. In addition to above, 82 vehicles, which were recorded as owned by the driving schools for imparting training, the details of which were not available in the SMARTMOVE (**Appendix XV**).

The Regional Transport Officers did not examine the fitness and registration validity of the vehicles maintained by the motor driving schools while conducting periodical inspections.

Government stated (December 2017) that strict instructions were issued for checking the fitness of vehicles owned by driving schools periodically.

3.4.4.2 Non-enforcement of provisions of Motor Vehicles Act and Rules

- **Overloaded goods carriages**

As per Section 194 of the MV Act, 1988, whoever drives a motor vehicle, or causes a motor vehicle to be driven in excess of the load permissible, shall be punishable with minimum fine of two thousand rupees and an additional amount of one thousand rupees per tonne of excess load together with the liability to pay charges for off-loading of the excess load. In cases where offences are not compounded on the spot, vehicle check reports (VCRs) are to be forwarded to the concerned RTO/Joint RTO for further action. The Transport Commissioner instructed (August 2011)¹¹ that the first charge memo should be served on the owner and driver within seven days of receipt of vehicle check report and final action should be completed within three months from the date of vehicle check report.

Audit observed that in 1,270 cases, though VCRs relating to offence of driving the vehicles with excess permissible load were issued to the offenders, the prescribed compounding fee was not collected within three months as instructed by the Transport Commissioner and there was no documentary evidence that the excess load was off loaded. Non-compliance of the provisions of the Act resulted in non-realisation of penalty amounting to ₹ 1.22 crore as detailed in **Appendix XVI**.

Government stated (December 2017) that the Hon'ble Supreme Court Committee on Road Safety directed to suspend the driving licenses of the drivers of goods carriages carrying overload. Instructions were issued to all RTOs to comply with orders of Hon'ble Supreme Court Committee. During the year 2016-17, the Department suspended 412 driving licenses of the drivers of goods vehicles out of 5,035 booked cases and action was in progress to suspend the driving licenses in the remaining cases under the programme "Operation Sureksha". Government further stated that an amount of ₹ 30.42 lakh was collected from 352 cases. Action in remaining cases was awaited.

- **Overloaded goods carriage vehicles crossing check posts**

Audit analysed the data of vehicle check reports relating to the offence of driving vehicles in excess of permissible weight at Walayar check post and observed that offence of driving motor vehicles in excess of permissible load was committed by 326 goods carriage vehicles during the period from 1 April 2014 to 31 March 2017. List of vehicles, which committed the offence of driving vehicles in excess of permissible load more than nine times through Walayar check post during the audit period is given as **Appendix XVII**. A few examples are given in **Table - 3.6**.

¹¹ Vide circular No. 17/2011 dated 26 August 2011.

Table - 3.6
Details of compounding fee collected on vehicles carrying overload

(₹ in lakh)			
Sl. No	Registration number of goods carriages	Number of entry to State of Kerala through check post Walayar with overload during 2014-15 to 2016-17	Compounding fee collected
1	KL-43-C-8272	85	6.73
2	KL-43-B-6222	80	5.79
3	KL-43-D-9156	78	5.85
4	KL-43-C-5465	74	5.05
5	KL-07-AK-2303	71	4.99

Source : SMARTMOVE database

Further, these vehicles were permitted to enter the State without offloading excess weight.

Public Accounts Committee (PAC) (2011-14) in its 34th Report recommended that the Department should strictly adhere to the law and should levy the fine as specified in the Act. The Committee stressed the need for registering case if the vehicle was found overloaded and suggested to cancel the permit of such vehicles. PAC (2014-16) in its 89th Report suggested that Transport Department should chalk out effective measures to ensure that overloaded vehicles are levied with compounding fee at higher rate or offload the excess weight.

Government stated (December 2017) that directions were issued to RTOs to collect the entire amount. The issue raised by Audit was not addressed in the reply given by the Government.

- **Transport vehicles without speed limiting device**

As per the Rule 118 of CMV Rules, 1989, every transport vehicle notified by the Central Government and manufactured on or after 1 October 2015 shall be equipped or fitted by the vehicle manufacturer, either at the manufacturing stage or at the dealership stage, with a speed governor¹² having maximum preset speed for respective vehicles. The vehicles which are manufactured before 1 October 2015 and which are not fitted with speed limiting device shall be fitted with a speed governor on or before 31 August 2016.

Audit observed that out of the 20,377 transport vehicles, 18,182 vehicles registered before 1 October 2015 and 2,195 vehicles registered on or after 1 October 2015 were not fitted with speed limiting device as detailed in **Appendix XVIII** were plying on road without speed governors. Further, RTOs/JRTOs did

¹² Speed limiting device or speed limiting function.

not collect the minimum compounding fee in respect of 641 vehicle check reports as detailed in **Appendix XIX**.

Government stated (December 2017) that during 2017 out of the 1,93,240 vehicles appeared for certificate of fitness test, 2,226 vehicles failed in certificate of fitness test for non-fitting or defective speed governor. It was further stated that no vehicle was allowed to operate without fitting speed governor and an amount of ₹ 1.36 lakh was collected from 130 cases. Collection of compounding fee in respect of remaining cases was awaited by Audit.

3.4.4.3 Transport vehicles without valid certificate of fitness

As per Section 84(a) of MV Act, 1988, the vehicle to which the permit relates carries valid certificate of fitness issued under Section 56 of the Act and is at all time so maintained as to comply with the requirements of the Act and Rules made thereunder. Section 56 of the Act, read with Rule 62 of CMV Rules, 1989, also provides that a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness issued by prescribed authority in the prescribed form. In respect of a new transport vehicle, certificate of fitness shall be valid for two years and thereafter it shall be renewed every year against payment of prescribed fees for inspection and testing of vehicles for renewal of certificate of fitness under Rule 81 of the Rules *ibid*. Rule 105 of KMV Rules, 1989, prescribes a penalty of ₹ 100, ₹ 150 and ₹ 200 in the case of two wheelers or auto rickshaws, motor cabs and other transport vehicles respectively for each calendar month or part thereof for non-filing of application for renewal of certificate of fitness within prescribed date. Plying of vehicle without a valid certificate of fitness attracts the provision of Section 192 of the MV Act and is compoundable under Section 200 of the Act.

Audit observed that certificate of fitness of 12,344 vehicles, in the test checked RTOs expired during 2014-15 to 2016-17 as detailed in **Appendix XX**. Class-wise details of vehicles and compounding fees collectable are given in **Table - 3.7**.

Table - 3.7
Details of vehicles whose fitness certificates were expired

Sl. No.	Class of vehicles	No. of vehicles whose fitness certificate expired between 1 April 2014 to 31 March 2017	Compounding fees collectable	Penalty for delay	Fees for test and grant	Total
1	Auto rickshaws	4,060	81.20	240.06	24.36	345.62
2	Contract carriages other than auto rickshaws	849	26.98	53.95	5.27	86.20
3	Goods carriages	6,784	218.22	473.06	42.74	734.02
4	Other carriages	114	3.58	7.07	0.70	11.35
5	Stage carriages	537	23.13	27.58	4.02	54.73
Total		12,344	353.11	801.72	77.09	1,231.92

Source : SMARTMOVE database.

Audit observed from the SMARTMOVE that 1,464 VCRs in respect of vehicles booked for the offence of plying without valid certificate of fitness was pending disposal and compounding fees of ₹ 39.80 lakh was not collected as detailed in **Appendix XXI**.

Government stated (December 2017) that an amount of ₹ 3.60 lakh was collected in 147 cases and action was in progress to collect the compounding fee in the remaining cases.

3.4.4.4 Vehicles plying without valid certificate of registration

As per Section 41(7) of MV Act, 1988, in respect of a motor vehicle, other than a transport vehicle, a certificate of registration issued under sub Section 41 (3) of the Act, shall be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable.

Under Section 41 (8) of the Act, an application for renewal of registration shall be made before expiry of registration. As per Section 41(10) of the Act, subject to the provisions of Section 56, the registering authority may, in receipt of an application under sub Section 41(8), renew the certificate of registration for a period of five years and intimate the fact to the original registering authority, if it is not the original registering authority.

As per Section 41(11) of the Act, if the owner fails to make an application under sub Section 41(8) before the date of its expiry (CMVR 52(1)), the fine prescribed in Rule 102 of KMV Rules, in lieu of action taken against the owner under Section 177 read with Section 41(13), is ₹ 100 for delay less than three months, ₹ 200 for delay exceeding three months and not exceeding six months and ₹ 300 for delay exceeding six months. Further, an additional fee¹³ of ₹ 300 for delay of every month or part thereof in respect of motor cycles and ₹ 500 for delay of every month or part thereof in respect of other classes of non-transport vehicles shall also be leviable.

Audit observed that validity of the certificates of registration in respect of 15,018 non-transport vehicles that expired before 31 March 2017 was not renewed, though tax was remitted for a period of six months to five years beyond the date of expiry of registration. Inadequate enforcement measures to identify the vehicles, which were plying on road without valid registration resulted in non-collection of ₹ 5.89 crore towards compounding fees, registration fees and fine for delay as detailed in **Appendix XXII**.

Government stated (December 2017) that tax of a non-transport vehicle registered in an office in the State can be remitted in any other office of the Department in the State. Similarly, the ownership of non-transport vehicles can be changed in any other office and re-registered without the knowledge of the authority where it was registered. The Department is empowered to seize the vehicles and penalise

¹³ Government of India notification G.S.R. 1183(E) dated 29 December 2016.

the owner if a vehicle is found plying on road without registration. This is being ensured by the Department through regular vehicle inspections and strict instructions in this regard was issued. When a vehicle with lapsed registration is brought for re-registration or tax remittance, penalty is being levied. It was also stated that ₹ 17.26 lakh was collected in respect of 695 vehicles.

Though data of vehicles of which certificate of registration expired was available in database, an internal control mechanism did not exist in the Department to check whether these vehicles were used on road after the expiry of certificate of registration. In the absence of such mechanism, the claim of the Department that these vehicles were not intended to use on road is not acceptable.

3.4.4.5 Pending vehicle check reports for the last 15 years

Section 200 of the MV Act, 1988, stipulates realisation of compounding fees from the vehicle owners committing offence such as driving vehicles without valid license, permit, certificate of fitness, etc., under various sections of the MV Act by issuing vehicle check reports.

Audit observed that minimum compounding fees of ₹ 41.83 lakh at the rate of ₹ 100 collectable in respect of 41,831 VCRs (upto 31 March 2017) was pending since 2011 as detailed in **Appendix XXIII**.

Government stated (December 2017) that action was being taken to minimize the number of pending check reports. Reply of Government was neither specific nor complete.

3.4.5 Conclusion

Audit arrived at the conclusion that:

- the existing system in the Department did not ensure the enforcement of identifying and penalising vehicles plying without permits, certificate of fitness and certificate of registration.
- check reports are pending disposal due to non-evolution of a stable system for adjudication of the offence.
- the system prevailing in the Department to ensure public safety is inadequate.

3.5 Short levy of one time tax due to non-inclusion of VAT and cess in the purchase value

- One RTO¹⁴ and five SRTOs¹⁵

As per the amendment brought out in clause (e) of Section 2 of Kerala Motor Vehicles Taxation (KMVT) Act, 1976, with effect from 1 April 2007 by Kerala State Finance Act 2014, “purchase value” means the value of the vehicle as shown in the purchase invoice and includes value added tax, cess and customs/excise duty chargeable on vehicle. The discount or rebate given by the dealer to the registered owner shall not be deducted from the bill amount for computing the purchase value.

During the audit (2015-16 and 2016-17) of RTO/SRTOs, it was observed that the purchase value of the vehicle was taken as the value of the vehicle as shown in the purchase invoice excluding thereby the value added tax and cess chargeable. The incorrect adoption of purchase value by Regional/Joint Regional Transport Officers resulted in short collection of one-time tax amounting to ₹ 22.05 lakh in 224 cases as detailed in the **Appendix XXIV**.

On this being pointed out by Audit (July 2017), Government stated (December 2017) that remedial action was initiated in 224 cases involving ₹ 22.05 lakh and ₹ 3.95 lakh was collected in 37 cases. Reply about remaining cases was not given by Government.

3.6 Non-remittance of tax during the operated period

- Four RTOs¹⁶

As per Section 5 (1) of the KMVT Act, 1976, in the case of motor vehicle which is not intended to be used or kept for use during the first month or the first and second months of a quarter, or the whole of a quarter or year, as the case may be, the registered owner or the person having possession of such vehicle shall give previous intimation in writing (Form G)¹⁷ to the Regional Transport Officer that such vehicle would not be used for such period and no tax shall be payable in respect of such vehicle for such period.

During the audit (2016-17) of RTOs, scrutiny of tax collection particulars and Form G filed revealed that though periods of non-use of the stage carriages were mentioned in the Form G filed, tax was not remitted by the registered owners in respect of those periods which were not shown as non-use in the Form G. Non

¹⁴ Idukki.

¹⁵ Devikulam, Nedumangad, Thodupuzha, Udumbanchola and Vandiperiyar.

¹⁶ Kasargod, Kollam, Muvattupuzha and Pathanamthitta.

¹⁷ Form G – Intimation of non-use of a vehicle.

remittance of tax for the operated period in respect of 25 stage carriages worked out to ₹ 10.47 lakh¹⁸ as detailed in the **Appendix XXV**.

On this being pointed out (July 2017), Government stated (December 2017) that remedial action was initiated in 25 cases involving ₹ 10.47 lakh and ₹ 3.41 lakh was collected in 12 cases. Reply in respect of remaining cases was awaited.

3.7 Short levy of one time tax

- **Five RTOs¹⁹ and six SRTOs²⁰**

As per Section 3(1) of the KMVT Act, 1976, one time tax at the prescribed rates shall be levied from the date of purchase for motor cars and private service vehicle for personal use (non transport vehicle). As per the Annexure – 1 of the KMVT Act, one time tax at the rate of six per cent, eight per cent, 10 per cent, 15 per cent and 20 per cent shall be levied on motor cars and private service vehicles having purchase value up to rupees five lakh, purchase value more than rupees five lakh and up to rupees 10 lakh, purchase value more than rupees 10 lakh and up to rupees 15 lakh, purchase value more than rupees 15 lakh and up to rupees 20 lakh and purchase value more than rupees 20 lakh respectively. Similarly, one time tax at the rate of eight per cent, 10 per cent and 20 per cent shall be levied on motor cycles having purchase value up to rupees one lakh, purchase value more than rupees one lakh and up to rupees two lakh and purchase value more than rupees two lakh respectively.

During the audit (2016-17) of RTO/SRTOs, on verification of details of vehicles registered as non-transport vehicles, it was observed that one time tax realised on vehicles was less than that prescribed as per the statutes. Short-levy of tax by Regional/Joint Regional Transport Officers in respect of 90 vehicles resulted in short collection of ₹ 10.60 lakh as detailed in the **Appendix XXVI**.

On this being pointed out (July 2017), Government stated (December 2017) that remedial action was initiated in 90 cases involving ₹ 10.60 lakh and ₹ 5.14 lakh was collected in 15 cases. Reply in remaining cases was not furnished.

¹⁸ In respect of stage carriages, rate of tax per quarter depends on the seating capacity.

¹⁹ Ernakulam, Kasargod, Kottayam, Pathanamthitta and Thiruvananthapuram.

²⁰ Guruvayoor, Mallappally, North Paravoor, Sulthan Bathery, Tirurangadi and Wadakkancherry.

3.8 Short collection of advertisement fee

- **Nine RTOs²¹ and eleven SRTOs²²**

As per Rule 191 of the Kerala Motor Vehicles Rules (KMVR), 1989, advertising device, figure or writing shall be exhibited on any transport vehicle as specified by the State or Regional Transport Authority by general or specific order and on payment of fee for a period of one year or part thereof for each vehicle. The rate of fee was increased to ₹ 20 per 100 centimetre square for an advertisement in writing and ₹ 40 per 100 centimetre square for an electronic advertisement with effect from 26 November 2015.

During the audit (2016-17) of RTO/SRTOs, it was observed that the revised rate of advertisement fee was not charged in the case of advertisements in 120 vehicles. The non-charging of revised fee by the Regional/Joint Regional Transport Officers concerned resulted in short-levy of advertisement fee of ₹ 7.87 lakh as detailed in the **Appendix XXVII**.

On this being pointed out (July 2017), Government stated (December 2017) that remedial action was initiated in 120 cases involving ₹ 7.87 lakh and ₹ 2.31 lakh was collected in 38 cases. Reply in remaining cases was awaited.

3.9 Application of incorrect rate of tax for goods carriages fitted with tipping mechanism

- **Eight RTOs²³ and ten SRTOs²⁴**

According to serial numbers 3(i) and 3(ii) of the Schedule to the KMVT Act, 1976, with effect from 1 April 2010, separate motor vehicle tax rates were fixed for goods carriages fitted with tipping mechanism and having no tipping mechanism. Prior to Finance Act 2010, both categories had same rate of tax. The class codes 106, 107 and 108 in the application software SMARTMOVE represents goods carriages fitted with tipping mechanism.

During the audit (2015-16 and 2016-17) of RTO/SRTOs, it was observed from the tax remittance particulars in the database that, tax at the higher rate was not levied for goods carriages having tipping mechanism. Mismatching of class code details in Tax Module of application software SMARTMOVE resulted in application of incorrect class code by Regional/Joint Regional Transport Officers.

²¹ Attingal, Ernakulam, Kasargod, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad and Thrissur.

²² Angamali, Aluva, Chalakkudy, Karunagappally, Kodungallur, Koduvally, Kottarakkara, Koyilandy, Punalur, Tirur and Tirurangadi.

²³ Attingal, Kannur, Kasargod, Kollam, Pathanamthitta, Thiruvananthapuram, Thrissur and Vatakara.

²⁴ Changanassery, Kazhakoottom, Kodungallur, Koyilandy, Neyyattinkara, Pala, Taliparamba, Thalassery, Udumbanchola and Vandiperiyar.

Short collection of tax amounts to ₹ 5.16 lakh in 161 cases as detailed in the **Appendix XXVIII**.

On this being pointed out (July 2017), Government stated (December 2017) that remedial action was initiated in 161 cases involving ₹ 5.16 lakh and ₹ 0.85 lakh was collected in 17 cases. The reply in remaining cases was not intimated to Audit.

3.10 Short-levy of one time tax on percentage basis on reclassified vehicles

Section 3(1) of the Kerala Motor Vehicles Taxation (KMVT) Act, 1976, as amended by the Finance Act 2014, stipulates that in respect of a new motor vehicle registered on or after 1 April 2007 and reclassified from the category of transport vehicle to non-transport vehicle²⁵, one time tax on percentage basis with respect to the age of the vehicle is leviable. As per the Annexure – 1 of the KMVT Act, one time tax at the rate of six per cent, eight per cent, 10 per cent, 15 per cent and 20 per cent shall be levied on motor cars and private service vehicles having purchase value up to rupees five lakh, purchase value more than rupees five lakh and up to rupees 10 lakh, purchase value more than rupees 10 lakh and up to rupees 15 lakh, purchase value more than rupees 15 lakh and up to rupees 20 lakh and purchase value more than rupees 20 lakh respectively.

During the audit (2015-16 and 2016-17) of 15 RTOs²⁶ and 51 SRTOs²⁷, it was observed from the data available in the computer system/registration files that one time tax was not levied at the correct rate by the Regional/Joint Regional Transport Officers on vehicles reclassified from the category of transport vehicles to the category of non-transport vehicles as specified in the Act. While registering these vehicles, the Regional/Joint Regional Transport Officers applied incorrect percentage of one time tax due to mistake in calculation of age and purchase value of vehicle. The application of incorrect rate of tax resulted in short-levy of ₹ 1.82 crore in 1,559 cases as detailed in **Appendix XXIX**.

²⁵ “Transport vehicle” means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle where “non-transport vehicle” means vehicle meant for personal use.

²⁶ Alappuzha, Attingal, Ernakulam, Idukki, Kasargod, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Thiruvananthapuram, Thrissur, Vatakara and Wayanad.

²⁷ Adoor, Alathur, Aluva, Angamali, Chalakkudy, Changanassery, Chengannur, Chittur, Devikulam, Guruvayoor, Irinjalakkuda, Kanjirappally, Karunagappally, Kayamkulam, Kazhakoottam, Kodungallur, Koduvally, Kothamangalam, Kottarakkara, Koyilandy, Kunnathur, Kuttanad, Mallappally, Mananthavady, Mannarkkad, Mavelikkara, Muvattupuzha, Nedumangad, Neyyattinkara, Nilambur, North Paravoor, Ottappalam, Pala, Parassala, Pattambi, Perinthalmanna, Perumbavoor, Punalur, Ranni, Sulthan Bathery, Thalassery, Thiruvalla, Thodupuzha, Thrippunithura, Tirur, Tirurangadi, Udumbanchola, Uzhavoor, Vaikom, Vandiperiyar and Wadakkancherry.

On this being pointed out (July 2017), Government stated (December 2017) that remedial action was initiated in 1,559 cases involving ₹ 1.82 crore and ₹ 0.27 crore was collected in 220 cases. The reply in respect of remaining cases was awaited.