

Chapter III

Revenue Sector

CHAPTER III REVENUE SECTOR

3.1 Trend of revenue receipts

3.1.1 The tax and non-tax revenue raised by Government of Sikkim, the State's share of net proceeds of divisible Union taxes and duties assigned to States and Grants-in-aid received from the Government of India (GoI) during the year and the corresponding figures for the preceding four years are mentioned in **Table 3.1.1**:

Table 3.1.1
Trend of revenue receipts

(₹ in crore)

Sl. No.		2013-14	2014-15	2015-16	2016-17	2017-18
	Revenue raised by the State Government					
I	• Tax revenue	524.92	527.54	566.82	652.56	688.33
	• Non-tax revenue	794.49	698.08	412.99	451.64	654.38
	Total	1,319.41	1,225.62	979.81	1,104.20	1,342.71
	Receipts from the GoI					
II	• State's share of net proceeds of divisible Union taxes	762.62	809.33	1,870.28	2,069.19	2,634.66
	• Grants-in-aid	2,244.41	2,427.00	934.20	1,436.91	1,235.42
	Total	3,007.03	3,236.33	2,804.48	3,506.10	3,870.08
III	Total receipts of State Government (I + II)	4,326.44	4,461.95	3,784.29	4,610.30	5,212.79
IV	Percentage of I to III	31	27	26	24	26

The above table indicated that during the year 2017-18, the revenue raised by the State Government (₹ 1,342.71 crore) was 26 per cent of the total revenue receipts. The balance 74 per cent of the receipts during 2017-18 was from GoI. Non-Tax revenue and total receipts of the State in 2017-18 shown in the table above included net receipts under State Lotteries.

3.1.2 The details of the tax revenue raised during the period from 2013-14 to 2017-18 are given in **Table 3.1.2**:

Table 3.1.2
Details of Tax Revenue realised

(₹ in crore)

Sl. No.	Head of revenue	2013-14		2014-15		2015-16		2016-17		2017-18		% of increase (+) or decrease (-) in 2017-18 over 2016-17	
		BE*	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1	State Goods and Services Tax (SGST)	-	-	-	-	-	-	-	-	0.00	171.39	-	-
2	Sales Tax/Value Added Tax (VAT)	225.00	286.33	259.45	282.10	300.00	325.72	361.00	364.82	388.26	249.66	7.55	-31.57
3	Taxes on Income and Expenditure other than Corporation Tax	7.01	8.68	8.01	7.93	8.51	7.92	9.00	7.82	10.00	8.04	11.11	2.81
4	State Excise	109.00	120.64	120.93	131.36	135.00	142.08	144.45	156.24	155.00	150.47	7.30	-3.69
5	Stamps and Registration Fees	7.91	6.46	7.70	6.77	7.64	8.51	7.64	12.57	7.82	13.57	2.36	7.96
6	Taxes on Vehicles	16.80	18.52	18.82	19.42	21.07	22.36	24.00	24.90	28.50	29.37	18.75	17.95
7	Other Taxes and Duties on Commodities and Services	53.40	80.90	75.60	73.81	81.26	58.38	93.07	79.82	72.84	58.39	-21.74	-26.85
8	Land Revenue	6.56	3.39	6.89	6.15	6.89	1.85	6.89	6.39	7.09	7.44	2.90	16.43
	TOTAL	425.68	524.92	497.40	527.54	560.37	566.82	646.05	652.56	669.51	688.33	37.99	5.48

* BE: Budget Estimates, Source: Finance Accounts

The respective departments reported the following reasons for variations:

Other Taxes and Duties on Commodities and Services: Decrease was mainly due to transfer of Entertainment tax to respective Urban Local Bodies.

Stamps and Registration Fee: Increase was due to revision in the rates of Darbar Paper/ Stamp Paper, etc.

Sales tax/VAT: Lower revenue was due to abolition of VAT and introduction of Goods and Services Tax (GST) w. e. f. 01 July 2017.

State Excise: Decrease was due to subsuming of Medicinal and Toilet Preparations items into GST and decrease of sales volume of foreign liquor.

In respect of the other revenue heads, no reason was furnished by the concerned departments.

3.1.3 The details of the non-tax revenue raised during the period 2013-14 to 2017-18 are given in **Table 3.1.3:**

Table 3.1.3
Details of Non-Tax Revenue realised

(₹ in crore)

Sl. No.	Head of revenue	2013-14		2014-15		2015-16		2016-17		2017-18		Percentage of increase (+) or decrease (-) in 2017-18 over 2016-17		
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Power	110.10	98.93	121.10	113.56	125.10	147.68	140.10	170.04	160.10	310.26	14.28	82.46	
2	Interest receipts	28.85	67.02	31.05	66.44	31.21	72.52	37.21	78.38	50.41	114.76	35.47	46.41	
3	Police	50.29	41.14	55.32	17.60	55.35	61.68	52.42	41.43	52.74	45.39	0.61	9.56	
4	Road Transport	36.04	34.10	43.00	27.63	39.35	41.55	47.00	48.71	55.00	52.08	17.02	6.92	
5	Forestry and Wild Life	15.35	14.27	15.35	11.45	12.06	12.79	12.06	16.02	13.50	14.21	11.94	-11.3	
6	Other Administrative Services	4.29	11.06	10.25	13.59	10.40	7.30	2.38	9.32	4.83	5.30	102.94	-43.13	
7	Public Works	4.46	4.68	5.68	3.66	6.83	4.25	4.22	8.65	4.37	15.38	3.55	77.8	
8	Plantations	3.50	3.62	5.00	2.31	5.18	3.86	5.18	5.21	5.18	2.19	0	-57.97	
9	Water Supply and Sanitation	3.87	3.17	3.91	3.25	3.99	3.80	4.26	4.04	5.00	4.88	17.37	20.79	
10	Tourism	5.60	2.65	2.80	2.64	3.14	3.96	3.80	5.42	4.50	5.14	18.42	-5.17	
11	Medical and Public Health	1.27	2.19	2.50	1.97	2.50	2.15	2.50	2.59	2.50	2.11	0	-18.53	
12	Other Rural Development Programmes	1.50	2.13	1.50	1.65	1.50	0.94	1.50	0.51	1.50	0.91	0	78.43	
13	Stationery and Printing	1.81	2.05	1.90	1.75	2.03	1.83	1.81	2.16	1.85	3.08	2.21	42.59	
14	Crop Husbandry	0.53	1.45	0.91	0.56	0.91	0.70	0.91	0.57	0.91	0.34	0	-40.35	
15	Education, Sports, Art and Culture	1.69	1.38	1.34	1.22	1.17	1.16	1.12	2.05	1.15	2.31	2.68	12.68	
16	State Lotteries (SL)	Gross	776.03	474.37	787.23	418.64	--*	--*						
		Net	40.00	41.47	36.00	44.33	37.40	20.02	33.55	45.00	50.00	55.03	49.03	22.29
17	Others	9.35	30.28	10.08	10.16	12.24	26.80	12.24	11.54	12.92	21.01	5.56	82.06	
Total (with gross figures of SL)		1,054.53	794.49	1,098.92	698.08									
Total (with net figures of SL)		318.50	361.59	347.69	323.77	350.36	412.99	362.26	451.64	426.46	654.38	17.72	44.89	

Source: Finance Accounts and Estimates of Receipts. * Gross figures of State Lotteries have not been furnished by the Department for 2015-18. Since gross figures of State Lotteries have not been reflected for the year 2015-18, percentage increase/decrease has not been calculated.

The respective departments reported the following reasons for variations:

Power: Increase was due to increase in proceeds of free power from various Hydro Electric Projects and mobilisation of revenue and collection of dues.

Police: Increase was mainly due to receipt of deployment charge up to maximum amount due and reimbursement for expenditure on Indian Reserve Battalion.

Other Administrative Services: Decrease was mainly due to less receipts from Guest Houses, Government Hostels etc.

Public works: Increase was mainly due to increase in sale of tender forms, realisation of storage charges and increase in number of quarter allottees.

Education, Sports, Arts and Culture: Increase was due to receipt of rent to use Paljor Stadium and the Youth Hostel, collection of examination fees for fresh appointments, booking of more cultural shows, renting out of more costumes and more booking of Mannan Bhawan.

State Lotteries: Increase was due to increase in gaming fee owing to addition of one Casino. In respect of other revenue heads, no reason was furnished by the departments concerned.

3.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2018 in respect of some Heads of Revenue as reported by the departments amounted to ₹ 310.09 crore, of which, ₹ 155.60 crore was outstanding for more than five years (as detailed in **Table 3.2.1**) and adequate efforts were not being made to recover them.

Table 3.2.1
Arrears of Revenue

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding		Replies of Department
		As on 31 March 2018	For more than five years	
1	Power	307.42	154.41	System of depositing electrical consumption charges earlier was manual through Bank Receipts and therefore many consumers failed to deposit their bills resulting in pendency.
2	Animal Husbandry	0.15	-	Entry tax of ₹ 34.98 lakh, due from a firm M/S Uttara Foods & Feed Pvt. Ltd., was only partially paid by the firm leaving a balance of ₹ 0.15 crore.
3	Public Works	2.52	1.19	Arrear was due to non-payment of hire charge of road machinery by the user agency in time.
TOTAL		310.09	155.60	

Source: Information received from departments

3.3 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 number of cases pending for finalisation at the end of the year as furnished by the Commercial Taxes Division {Finance, Revenue and Expenditure Department (FRED)} in respect of VAT are given below:

Table 3.3.1
Arrears in assessments (number of cases)

Head of revenue	Opening balance	New cases due for assessment during 2017-18	Total assessments due	Cases disposed of during 2017-18	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
VAT	4,189	155	4,344	165	4,179	3.80

Source: Information received from departments

As can be seen from the above table, the performance regarding disposal of cases of Commercial Taxes Division was poor. The Department may take steps to increase the disposal of cases of assessment.

3.4 Response of the departments/Government towards Audit

The Accountant General (AG), Sikkim conducts periodical audit inspection of the Government departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the Rules and procedures. Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot are issued to the heads of the offices inspected with copies to the next higher authorities for prompt corrective action. The heads of the offices/departments are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

It was seen that 242 paragraphs involving ₹ 567.01 crore relating to 89 IRs remained outstanding at the end of June 2018. The details along with the corresponding figures for the preceding two years are mentioned in the following table:

Table 3.4.1
Details of pending Inspection Reports

	June 2016	June 2017	June 2018
Number of outstanding IRs	95	91	89
Number of outstanding audit observations	284	242	242
Amount involved (₹ in crore)	578.42	594.30	567.01

3.4.1 The department-wise details of the IRs, the audit observations outstanding as on 30 June 2018 and the amounts involved are mentioned in the following table:

Table 3.4.2
Department-wise details of IRs

Sl. No.	Name of Department	Nature of Receipts	No. of outstanding IRs	No. of outstanding Audit observations	Money value involved (₹ in crore)
1	Finance, Revenue and Expenditure (Commercial Taxes Division)	VAT/Taxes on Sales, Trade, etc.	14	49	55.64
2	Excise (Abkari)	State Excise	13	36	18.97
3	Land Revenue and Disaster Management	Land Revenue	19	24	0.81
4	Transport (Motor Vehicles Division)	Taxes on Motor Vehicles	05	14	3.86
5	Mines, Minerals and Geology	Non-ferrous Mining and Metallurgical Industries	03	03	3.31
6	Forest, Environment and Wildlife Management	Forestry and Wildlife	11	22	53.23
7	Finance, Revenue and Expenditure (Directorate of Sikkim State Lotteries)	State Lotteries	02	07	6.33
8	Urban Development and Housing	Urban Development	14	41	19.58
9	Energy and Power	Power	08	46	405.28
TOTAL			89	242	567.01

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of eight IRs (issued during 2017-18) till June 2018. Pendency of IRs due to non-receipt of the replies was indicative of heads of offices and heads of the departments not initiating adequate action to rectify the defects, omissions and irregularities pointed out by the AG through IRs.

The Government may consider having an effective system for prompt and appropriate response to audit observations.

3.4.2 Departmental Audit Committee Meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. During 2017-18, no Departmental Audit Committee Meeting were held.

The overall progress on settlement of paragraphs needs to be improved in view of the huge pendency of IRs and paragraphs.

3.4.3 Response of the departments 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 AG to the Principal Secretaries/Secretaries of the Department concerned, drawing their attention to audit findings and requesting them to send their response within four weeks. The fact of non-receipt of replies from the departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

One draft paragraph¹ proposed for inclusion in the Audit Report of the Comptroller and Auditor General of India for the year ended March 2018 was forwarded (September 2018) to the head of the Department through demi-official letter for which the reply was received in December 2018.

3.4.5 Follow up on Audit Reports - summarised position

The Rules of Procedures of the Committee on Public Accounts of the Sikkim Legislative Assembly (internal working) lays down 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 explanatory notes thereon should be submitted by the Government within three months of tabling the Report for consideration of the Committee. In spite of these provisions, the explanatory notes on the audit paragraphs of the Reports were being delayed inordinately.

Reports of the Comptroller and Auditor General of India of the Government of Sikkim for the years ended 31 March 2013, 2014, 2015, 2016 and 2017 containing 19 paragraphs under Revenue Sector were placed before the State Legislative Assembly between June 2014 and July 2018. Action taken explanatory notes in respect of 11 paragraphs from six departments {Excise (*Abkari*); Finance, Revenue and Expenditure (Commercial Taxes Division); Transport (Motor Vehicles Division); Urban Development and Housing; Energy and

¹ Loss of revenue (Directorate of Sikkim State Lotteries)

Power; and Water Resources and River Development} had not been received for Audit Reports for the years ending 31 March 2014, 2015, 2016 and 2017.

During 2017-18, the PAC discussed Audit Report for the year 2011-12 wherein nine paragraphs and five Performance Audit Reports were discussed.

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

To analyse the system of addressing the issues highlighted in the IRs/Audit Reports by the departments/Government, action taken on the paragraphs and Performance Audits (PAs) included in the Audit Reports pertaining to the last 10 years in respect of FRED (Directorate of Sikkim State Lotteries) was evaluated and included in this Report.

The succeeding paragraphs 3.5.1 to 3.5.2 discuss the performance of the FRED (Directorate of Sikkim State Lotteries) in dealing with the cases detected in course of local audit conducted during the last ten years and also the cases included in the Audit Reports pertaining to the last 10 years.

3.5.1 Position of IRs

The summarised position of IRs issued during the last ten years, paragraphs included in these Reports and their status as on 30 June 2018 are given in the following table:

Table 3.5.1
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
2008-09	2	2	16.33	0	0	0	1	1	15.7	1	1	0.63
2009-10	1	1	0.63	1	3	3.49	0	0	0	2	4	4.11
2010-11	2	4	4.11	0	0	0	1	2	1.12	1	2	2.99
2011-12	1	2	2.99	1	4	13.24	0	1	0.25	2	5	15.98
2012-13	2	5	15.98	1	4	10.61	0	1	0.06	3	8	26.53
2013-14	3	8	26.53	0	0	0	0	1	3.51	3	7	23.02
2014-15	3	7	23.02	1	6	24.91	0	0	0	4	13	47.93
2015-16	4	13	47.93	0	0	0	1	3	14.39	3	10	33.54
2016-17	3	10	33.54	0	0	0	0	1	12.29	3	9	21.26
2017-18	3	9	21.26	0	0	0	1	2	14.92	2	7	6.33

The Department did not arrange even a single Departmental Audit Committee meeting to settle the pending paragraphs.

3.5.2 Recovery in accepted cases

The position of paragraphs included in the Audit Reports pertaining to the last 10 years accepted by the Department and recovery effected there-against is mentioned in the following table:

Table 3.5.2
Details of accepted paragraphs and recovery there against

Year of Audit Report	No. of paragraphs included	Money value of the paragraphs (₹ in crore)	Number of paragraphs accepted	Money value of accepted paragraphs (₹ in crore)	Amount recovered during the year (₹ in crore)	Cumulative position of recovery of accepted cases (₹ in crore)
2007-08	No paragraph featured in the Report					
2008-09						
2009-10	3	87.59	2	72.41	0	0
2010-11	1	26.03	1	26.03	0	0
2011-12	No paragraph featured in the Report					
2012-13						
2013-14	2	4.12	1	2.43	2.16	2.16
2014-15	1	2.50	0	0	0	0
2015-16	No paragraph featured in the Report					
2016-17						

It was evident from the above table that the progress of recovery even in accepted cases was very slow during the last ten years. The recovery in accepted cases was to be pursued as arrears recoverable from the parties concerned. No mechanism for pursuance of the accepted cases had been put in place by the Department/ Government. In the absence of a suitable mechanism, the Department could not monitor the recovery in accepted cases.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

3.6 Action taken on the recommendations accepted by the departments/ Government

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

The following PAs on the Commercial Taxes Division (FRED) had featured in the last 10 years' Audit Reports. The details of recommendations and their status are given in the following table:

Table 3.6.1
Details of recommendations and their status

Year of AR	Name of the PA	Details of the recommendation	Status
2008-09	PA on transition from Sales tax to VAT (No. of recommendations: 8)	Implement computerisation of VAT system completely and effectively in all areas.	Computerisation of VAT implemented under MMPCT ² .
		Establish effective mechanism to review database at periodic interval and to prepare database of dubious/risky dealers.	Such mechanism had been established under the eSEVA ³ .

² Mission Mode Project for Computerisation of Commercial Taxes Administration.

³ Commercial Taxes Division's tax administration system for online payment, e-return filing, way bill endorsement, etc.

Year of AR	Name of the PA	Details of the recommendation	Status
		Establish effective mechanism to ensure submission of regular and timely returns by the dealers.	Returns were to be submitted on time, else, the TIN of the dealer got blocked by the system. Hence, effective mechanism established.
		Establish effective mechanism for scrutiny of every return submitted by the dealers, assessment of dealers and VAT audit of selected dealers.	Scrutiny of returns was mandatory and was being done before acceptance.
		Fix responsibility at various levels in the Department for strict compliance of codal provisions to avoid tax evasion by any dealer.	All the penal provisions were implemented before and after assessment.
		Ensure fixing the quantum of minimum penalty for each kind of offence and to continue VAT Fraud Task Force.	Minimum penalty was provided in the VAT Act/ Rules.
		Strengthen internal control mechanism including Internal Audit.	Internal Audit Section established with the Joint Commissioner/ Audit as Head of the Section.
		Review and rectify various loopholes/deficiencies of VAT Act and Rules.	VAT Act/ Rules had been amended to rectify various loopholes.
2010-11	PA on Utilisation of Declaration Forms in Inter State Trade and Commerce (No. of recommendations: 8)	Maintain data bank of dealer involved in Inter State Trade and Commerce.	Such provision existed in the eSEVA.
		Print Declaration form assessing its requirements taking into account pace of issue of declaration forms.	All the declaration forms were issued online.
		Maintain proper records of declaration forms printed, issued and closing stock.	Such records were maintained in the system since the forms were issued online.
		Ensure issue of declaration forms to the dealers only after receipt of details of utilisation of declaration forms issued earlier.	Issue of declaration forms was done after verification and acceptance of the request.
		Issue declaration forms chronologically and not randomly to have a track of declaration forms.	Declaration forms were being issued online and records were available in the system.
		Install a system of verification of each and every declaration form submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax.	Such system had been established.
		Install a system for picking up a sample of declaration forms and taking them up for further verification with the concerned States and also a system of uploading the details of utilisation of declaration forms in the TINXSYS website.	
		Ensure submission of CST returns by every dealer and assess all dealers involved in Inter State trade and commerce.	CST returns were to be filed online. Assessments of the dealers were on the basis of the assignment by the Commissioner.

NB: Status as in the table is based on departmental replies.

3.7 Audit Planning

The unit offices under various departments were categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan was prepared on the basis of risk analysis which *inter alia* included critical issues in Government revenues and tax administration, *i.e.* budget speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of

the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years *etc.*

During 2017-18, there were 17 auditable units, of which seven units (41 *per cent*) were planned and audited.

3.8 Results of audit

Test check of the records of seven units under Revenue departments {Excise (Abkari); Mines, Minerals and Geology; Divisional Forest Officer (Territorial, East); Divisional Forest Officer (Territorial, West); Urban Development and Housing; Directorate of Sikkim State Lotteries and Transport Department (Motor Vehicle Division)} was carried out during the year 2017-18. It revealed irregularities involving revenue aggregating to ₹ 6.42 crore in 23 cases. During the course of the year, the departments concerned accepted all the 23 observations.

3.9 Coverage of this Report

This Chapter contains one paragraph⁴ involving financial effect of ₹ 1.07 crore.

⁴ Loss of revenue (Directorate of Sikkim State Lotteries): ₹1.07 crore.

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

3.10 Loss of revenue

Non-compliance of Model Agreement issued by Government of India and provisions of Sikkim Financial Rules in contracts with Marketing Agents led to loss of Government revenue of ₹ 1.07 crore.

The Directorate of Sikkim State Lotteries (DSSL), Finance, Revenue and Expenditure Department, Government of Sikkim had been organising sale of lottery tickets by appointing distributors called Marketing Agents (MA). The Model Agreement to be signed between State Government and the MA issued (December 2011) by Ministry of Home Affairs (MHA), Government of India *inter alia* stipulated provisions⁵ in respect of revenue sharing between State Government and the MA.

During November 2012, the DSSL entered into Agreements with two MAs for marketing of lotteries as per the following details:

**Table 3.10.1
Details of Agreements entered**

Sl.	Name of MA	Date of agreement	Period	Terms regarding revenue sharing included in the agreement
1	M/s Pan India Network Private Limited, Mumbai (PINPL)	07 November 2012	Five years from date of Agreement	Clause 10.1: Minimum Guaranteed Revenue of ₹ 10.50 crore per <i>annum</i> .
2.	M/s Summit Online Trade Solutions Private Limited, New Delhi (SOTSPL)	09 November 2012	May 2012 to August 2017	Clause 10.1 (i): One <i>per cent</i> of the turnover up to ₹ 1,000 crore or ₹ 10 crore per <i>annum</i> whichever is higher and on additional turnover over and above ₹ 1,000 crore, 0.25 <i>per cent</i> of the additional turnover with effect from 09 May 2012 till 08 November 2013. Clause 10.1 (ii): 1.05 <i>per cent</i> of the turnover up to ₹ 1,000 crore or ₹ 10.50 crore per <i>annum</i> whichever is higher and on additional turnover over and above ₹ 1,000 crore, 0.25 <i>per cent</i> of the additional turnover with effect from 09 November 2013 till 26 August 2017.

It is evident from the above table that the Department, in a span of two days, adopted different yardsticks by incorporating different terms for sharing of revenue with two MAs. In the case of SOTSPL, the terms regarding revenue sharing was incorporated in accordance with the Model Agreement, while, in the case of PINPL, the provisions contained in the Model Agreement was not adopted. We noticed that the agreement with PINPL was providing undue favour to the MA as it did not contain the provision for additional payment in case of turnover beyond ₹ 1,000 crore.

⁵ (i) Minimum guaranteed revenue of the Government shall be ₹ <<>>* upto the turnover of ₹ <<>>* crore per annum (Clause 11.1) and (ii) On additional turnover over and above ₹ <<>>* crore, the MA shall pay <<>>* per cent of the additional turnover to the Government (Clause 11.2).

* The State Governments were required to indicate the amount and percentage which they intended to apply in the actual agreement.

Scrutiny of records revealed that the PINPL's turnover during 2015-16 (₹ 1,037.17 crore) and 2016-17 (₹ 1,090.56 crore) had exceeded ₹ 1,000 crore mark by a total of ₹ 127.73 crore. As such, had the provision of Model Agreement of revenue sharing been included in PINPL's agreement too, the Government would have earned additional revenue of ₹ 0.32 crore (₹ 127.73 crore x 0.25 per cent) during 2015-16 and 2016-17.

Further, citing this dissimilarity in Agreements, SOTSPL requested (06 September 2013) the DSSL to amend the relevant Clause of their Agreement making it at *par* with the Agreement with that of PINPL.

In terms of Rule 27 (16) of the Sikkim Financial Rules (SFR), no relaxation in the terms of agreement entered into by the Government should be made without proper examination of the financial effect involved in such relaxation. The interest of the public exchequer should be taken due care of before agreeing to any relaxation of Agreement or Contract. Moreover, Rule 27 (5) of the SFR stipulates that, the terms of a contract once entered into should not be materially varied without the previous consent of the authority who had approved the initial contract who may take prior legal and financial advice. Before doing so, the contracts and appointments with the MAs were approved by the Cabinet (January 2013).

Audit observed that the DSSL accepted the request of SOTSPL and amended the Agreement on the same day (06 September 2013) without the approval of the Cabinet and issued a 'Supplementary Agreement' duly substituting the Clause 10.1 (i) and (ii) of the existing agreement with the following:

Clause 10.1: In consideration of this Agreement, the Marketing Agent has agreed to pay the Minimum Guaranteed Revenue of ₹10.50 crore per annum to the Government.

Thus, the DSSL not only violated the SFR and diluted the provisions of the Model Agreement, but also provided undue favour to SOTSPL and caused consequent revenue loss of ₹ 0.75 crore to the State as detailed below:

Table 3.10.2
Details of revenue loss

(₹ in crore)

Year	Total turnover	MAR* to be deposited	MAR deposited	Difference
2015-16	574.87	10.50	9.63	(-) 0.87
2016-17	1301.75	11.25 ⁶	11.37	(+) 0.12
			Total loss	0.75

*MAR – Minimum Assured Revenue.

Thus, non-inclusion of provisions contained in the Model Agreement in one case and irregular removal of the same in another case resulted in total revenue loss of ₹ 1.07 crore (₹ 0.32 crore plus ₹ 0.75 crore).

⁶ ₹ 10.50 crore + ₹ 0.75 crore (0.25 per cent of 301.75 crore).

The Department in its reply stated (June 2018) that the GoI *Clause 10.1(ii)* was not inserted as it was an advisory wherein the State may make suitable changes as deemed fit and assuming that the Model Agreement was only to strengthen the State's hands in regulating the lottery business. Subsequently, following the principle of procedural fairness and equity, it was withdrawn from the agreement entered into with SOTSPL and both the MAs were appointed for marketing of the Sikkim Online Lotteries on equal footing.

In the Exit meeting (21 December 2018), although the Director, Sikkim State Lotteries submitted that modification in terms of agreement did not have any negative impact on the Government revenue yet, the Director could not substantiate his claim with documentary evidence.

The reply was not acceptable as suitable changes in the Model Agreement was done in an arbitrary manner without keeping in view the interests of the State. Further, the Department's action of revision of agreement without Cabinet approval in violation of the SFR was also irregular. Further, as brought out in the paragraph, the State suffered a loss of revenue to the tune of ₹ 1.07 crore due to arbitrary and irregular revision of the terms of the Agreement.

It is, therefore, recommended that responsibility may be fixed in this matter and disciplinary proceedings may be initiated against the responsible officer.