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INDIAN AUDIT AND ACCOUNTS DEPARTMENT

RECEIPT AUDIT MANUAL VOL I

(LAND REVENUE)

OFFICE OF THE ACCOUNTANT GENERAL-(AUDIT) II, MAHARASHTRA

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NAGPUR



PREFACE

This Manual has been prepared for the guidance of those entrusted with the audit of Land Revenue. The basic provisions of the relevant Acts and the Rules governing the levy of Land Revenue and the scope of audit are set out. Therefore, only the relevant provisions that may have a bearing during the course of audit are discussed.

This Manual can be regarded in a sense as arousing in the user an interest in the subject and therefore, it should be treated merely as a preliminary step in order to enable the auditor to grasp the essentials of the administration of Land Revenue.

The sources of the provisions have been indicated in websites in the footers at appropriate places so that it could also be read simultaneously with the Manual. For fuller and exhaustive study, the user of the manual should always refer to the provisions of the Acts, the rules framed thereunder and to the case laws on the subject as reported and other provisions governing the audit as summarized in impartial and academically oriented commentaries.

To discharge his functions effectively, the auditor must first and foremost be thoroughly conversant with the processes and procedures relating to the levy and collection of the Duty and the Fees as well as the Laws and Rules governing such processes and procedures.

Moreover, this Manual is prepared taking into account the provisions contained in the Auditing Standards 2017 and other instructions of the CAG issued from time to time. It shall be the duty of the Head Quarters Branch of the Revenue Sector to keep this Manual upto date, by issuing timely correction slips whenever deemed necessary.

The Manual has been organised in nine chapters with appendices and abbreviations for an optimal coverage of the topic.

While reading the manual the difficult words or expressions or abbreviation in our judgment are explained in the last chapter of the manual.

Any suggestion in this regard is most welcome and may be addressed to the SRA (Hqrs), O/o The AG (Audit) II Maharashtra Nagpur for further improvement in future.

Nagpur
Maharashtra, Nagpur.

Accountant General (Audit)-II

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CHAPTER 1

ORGANISATIONAL SET-UP OF THE DEPARTMENT OF REVENUE

1.1 For the purpose of revenue and general administration of the State of Maharashtra the State has been divided into 36 districts including city of Bombay. The city of Bombay is treated as a separate district, to which special provisions contained in Chapter XIV of the Maharashtra Land Revenue Code, (Sections 260 to 307), 1966 apply. Each district has been sub-divided into one or more sub divisions and each sub-division into one or more sub divisions and each sub-division into one or more tahsils. There are 360 tahsils in the State.

1.2 The control of all non-judicial matters connected with Land Revenue in the State is vested in the State Government (acting through Revenue and Forests Department) and the control of all judicial matters vests with Maharashtra Revenue Tribunal, Bombay, except any such matter which is sub-judice.

1.3 The Revenue work is broadly divided into two branches i.e. (I) Administrative and (ii) Survey. The departmental set up is briefly shown below:-

Revenue and Forests :

| Jurisdiction | Head of Administrative wing | Head of survey wing |
|--------------|---|--|
| 1) Division | i) Commissioner | i) Settlement Commissioner |
| | ii) Additional Commissioner | ii) Director of land records |
| | iii) Assistant Commissioner | iii) Deputy Director of Land Records |
| 2) District | i) Collector | i) Superintendent of land records |
| | ii) Additional Collector | ii) District Inspector of Land records |
| | iii) Assistant/Dy. Collector or Sub-Divisional Officer, | iii) Assistant District Inspector of land records. |
| 3) Taluka | i) Tahsildar | i) Survey officers |
| | ii) Addl. Tahsildar | ii) Survey Tahsildars |
| | iii) Naib Tahsildar | iii) Taluka Inspector of Land Records |
| 4) Village | Revenue Inspectors or Group or circle officers of Patwari/Talathis villages and Kotwal. | |

1.4 Administrative wing

(I) A commissioner of a division is the chief controlling authority in all matters connected with the land revenue in his division, subject to superintendence direction and control of the

State Government in Revenue and Forests Department. For each division a commissioner is appointed by the State Government. which may appoint in a division, an Additional Commissioner or Assistant Commissioner as may be expedient to assist the Commissioner of the Division.

ii) The State Government. have also to appoint a collector for each district (including the city of Bombay) and a Tahsildar for each taluka. A Collector of a district and a Tahsildar of a Taluka, so appointed will be in charge of the overall revenue administration of the concerned district and Taluka respectively.

iii) The State Government. may appoint one or more Additional Collectors in each district and so many Assistant Collectors, to assist the revenue officers as it may be deemed expedient. Similarly for assisting Tahsildars for a Taluka one or more additional Tahsildars, as may be necessary may also be appointed.

(iv) Subject to the general orders of the State Government. the Collector may place any assistant or Deputy Collector in charge of one or more sub-divisions of a district. The Collector may also appoint in each district, as many persons as he may think fit to be, circle officers and circle inspectors to be in charge of a circle, and one Talathi or more for a 'saza'- a group of villages and village servants for each village or groups of villages.

1.5 Survey wing

The State Government may appoint such officers, designated as "settlement Commissioner", "Director of Land Records", "Deputy Directors of Land Records", "Superintendents of Land-Records", "Settlement Officer", "Survey Tahsildars", "District Inspector of Land Records", etc. for the purpose of "Revenue Survey", 'Assessment and Settlement of Land Revenue of Agricultural Lands', 'Survey of Lands within the sites of villages, Towns and Cities', determination and fixation of village boundaries, field boundaries, and for maintenance of Records of Rights. etc.

1.6 The Settlement Commissioner is in charge of all matters relating to settlement, throughout the State and in respect thereof he exercises such powers and discharges such duties as are conferred and imposed on him, under the Maharashtra Land Revenue Code, 1966. The Settlement Officers, Assistant Settlement Officers, the survey Tahsildars, the District Inspector of Land Records and other Survey staff work under the control of Settlement Commissioner.

1.7 The land Revenue Act of the State Government sets out the pattern of organization for assessment and collection of land revenue.

The land revenue Act is administered at the district level by the Collector of the district. He is assisted by a sub-divisional officer at the sub-divisional level. The main pivot of the

machinery for assessment and collection of Land Revenue, however is the Tahsildar/circle officer who is in charge of a tahsil/circle and is responsible for assessment and collection of land revenue for his taluka/circle. For the purpose of collection of land revenue from holders and tenants of the lands, the Tahsildar is assisted by 'Patwari' (or Talathi) each of whom is in charge of a number of villages. The latter collects the land revenue or rent due and remits the collection periodically into the treasury under intimation to the circle officer/Tahsildar.

1.8 Functions of the Revenue Officers

The principal secretary as head of the department of revenue has an overall control over the collection of revenue.

At the divisional level, Commissioner holding the rank of secretary is the controlling authority in all the matters connected with land revenue administration in the division who in addition also deals with Planning, Rural Development, Resettlement and various other subjects like Small Saving, Food and civil supplies Entertainment etc.

To discharge functional responsibilities, Commissioner is assisted by Deputy Commissioners, Officers on special duty and internal audit wing. There is one Additional commissioner to hear appeals in various revenue matters.

District collector as head of the district has to ensure prompt action in revenue matter like correct computation of revenue, declaration of land revenue rates, review of agricultural conditions, formation of urban, rural and survey areas, he also supervises over economic and developmental activities, organization of relief operations and employment guarantee schemes. Collector like commissioner has to perform functions under several other acts like Zilla Parishad, Panchayat Samiti, Municipal Council and Civil procedure code. He has to organise the conduction of elections and has to prepare development plans for the district. In his office there is one Additional Collector, 10 or more Deputy Collectors and one internal audit wing. Regular establishment is often supplemented by additional establishments for land acquisition, tenancy law, consolidation of holdings, and civil supplies.

Each sub division is in charge of a sub divisional officer of the rank of a Deputy or Assistant Collector. For the territorial jurisdiction the Sub-Divisional Officer usually exercise all the powers of the collector except such powers as are specifically reserved for the Collector. He is also a Sub-Divisional Executive Magistrate under Criminal Procedure Code. He has to exercise control over the accuracy of record of rights and all matter related to the land revenue management.

Working of the taluka is supervised by Tahsildar assisted by Naib Tahsildar. He has to examine regularly the progress of recovery of land revenue and to verify the accuracy of all

matters connected with land revenue management. He maintains consolidated accounts of land revenue at his headquarter to exercise proper control over the working at village levels through circle officers or circle inspectors in charge of the circle.

Villages are under the charge of Talathi and he is the revenue officer at grass root level who keeps the record of the land holdings and revenue in each village. It forms the basic unit of revenue administration and much of the vitality depends on the quality of functions carried out at this level.

1.9 Land Record Department

For the purpose of survey of lands, preparation of survey records and its maintenance, there is the Land Record Department headed by Settlement Commissioner and Director of Land Records of the rank of secretary. At the Divisional level there are six Deputy Directors of Land Records. At District level there is a District Inspector of Land Records in each district who maintains the record at district level. In the cities there are city survey officers. They conduct measurement of land for correct boundaries to identify each parcel of land. Similarly they perform surveys for sub divisions of larger units to correspond it to legal occupancy. They perform similar functions like Revenue Department for land under non-agricultural uses in areas demarcated as city survey limits and for villages having population of more than 2000 people.

1.10 Registration Department

Registration Department is for registration of documents under Registration Act in respect of all land transactions. The Settlement Commissioner and Director of Land Records also assist the Inspector General of Registration in mapping the lands. At district level, the Collector is the ex-officio District Registrar and there is also a Joint District Registrar. At Taluka level, there is the Sub-Registrar who maintains copies of every document registered with them. Registered sale deeds provide the information of transfer of interest in land for effecting changes in Record of rights. Monthly list of such transactions is sent by these offices to respective revenue authorities or is collected by talathis.

Tribunals:

Maharashtra Revenue Tribunal established under Maharashtra Land Revenue Code hear appeals against the orders of Revenue Officers relating to land revenue, tenancy, abolition of inams, vatans and other related matters. There are benches at Bombay, Pune, Aurangabad, Nagpur and Kolhapur. It has the power of a Civil Court. There are also two Tribunals i.e. Surplus Land Determination Tribunal and Land Distribution Tribunal at Tahsil level established under ceiling on Holdings Act. 1961.

CHAPTER 2

THE LEGISLATIVE BACKGROUND

2.1 Land Revenue the first charge

Land is an important source of livelihood for the people in India and also a source of income for the State. In theory, all lands belong to the State and the patta given to a ryot is only in recognition of occupancy right on the land granted to him. Thus the justification for the State to impose a tax on land is that, the State is entitled to share of the income derived from the land by the ryot. Hence land revenue is the first charge on the produce of the land which as per law, is treated as a security for revenue. Land Revenue is derived chiefly by imposition of tax on land but, in essence, it is a tax levied on the product obtained from the land and is perhaps the oldest of all the taxes in vogue.

2.2 Constitutional Provision.

As per Article 265 of the Constitution of India, no tax shall be levied or collected except by authority of law. The power to levy taxes is divided between the Union and the State in accordance with the provisions of Article 246. The matters to which the legislative powers of the States extend are specified in list-II in the Seventh Schedule to the Constitution. As per entries 18 and 45 of this list, land tenure and land revenue (including the assessment and collection of revenues) falls within the legislative competence of the States and the various enactments on land tenures and land revenue made by the State legislature are in exercise of the powers conferred by these entries.

Moreover by virtue of the powers, given to the State Legislature under Article 246 (3) of the Constitution of India, read with entry 18 of the list II of the Seventh Schedule thereto, the State Government is empowered to levy tax, commonly known as Land Revenue, which includes, premium, rent, lease money, quit-rent, judi, cess, etc., on any land, wherever situate. Consequent upon passing of Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971, audit of receipts has been made a statutory function. Accordingly, regular audit of Land revenue receipts was taken up from July, 1973.

2.3 Constitutional Responsibility of the C.A.G for Audit of Receipts

The audit of revenues is inherent in the powers vested in the Comptroller and Auditor General of India by Article 151 of the Constitution. Article 151 lays down the reports of the Comptroller and Auditor General of India relating to the accounts of the Union and the States shall be submitted to the President or the Governor of a State as the case may be, who shall cause them to be laid before each House of Parliament or Legislature. Union or a State

and this totality would include all receipts embracing the revenues of the Union and or the States.

Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971, specifically enjoins upon the Comptroller and Auditor General to audit all receipts of the Union and of the States and to satisfy himself that the rules and procedures in that behalf are designed to secure and effective check on the assessment, collection and proper allocation of revenue and are duly observed. For that purpose, the C.A.G is authorized to undertake such examination of the accounts as he thinks fit and to report thereon.

2.4 Land Revenue in Different Regions of the State

2.4.1 Till 15th August 1967, the three different regions of the State were governed by the land revenue laws prevailing in these three regions of the respective State (prior to the Reorganization of State) that is to say –

- i) Erstwhile Bombay State :
 - A) The Bombay Land Revenue Code, 1879.
 - B) The Bombay City Land Revenue Act, 1876.
- ii) Vidarbha areas of erstwhile Madhya Pradesh
 - a) The Berar Land Revenue Code, 1928 (in the district of Amravati, Akola, Buldhana and Yeotmal upto 1/10/55).
 - b) The Central provinces Land Revenue Act, 1919 (in the districts of Nagpur, Wardha Bhandara and Chandrapur upto 1/10/55).
 - c) The Madhya Pradesh Land Revenue Code, 1954 came into force in all the districts of the Vidarbha Region on the 1st October, 1955.
- iii) Marathwada region of erstwhile Huyderabad State :
 - (a) The Hyderabad Land Revenue Act, 1317 F.

2.4.2 Section 336 of the Maharashtra Land Revenue Code, 1966 (repealed) the laws stated therein (which includes the above noted laws also) but at the same time saved the operation of anything done or any action taken (under the laws so repealed) including any rules, assessment and various other matters enumerated in the third proviso to that section by providing that they shall continue to be in force in so far as they are not inconsistent with the provisions of the Maharashtra Land Revenue Code unless and until superseded by anything done or action taken under the M.L.R. Code.

2.4.3 All the revenue matters such as non- agricultural assessment, standard rate of NAA, grant of leases, fixation of lease rent, premium, term of settlement, guarantee period etc. decided or finalized before (1967) (date of commencement of the MLR Code) would

continue to remain in force for the whole period for which it was fixed and thereafter until it is altered under the provisions of the MLR Code.

2.4.4 With the introduction of the Maharashtra Land Revenue Code, 1966 with effect from 15th August 1967, a uniform land revenue law is applied in whole of the State of Maharashtra. Accordingly land revenue assessment, collection, suspension, remission as well as revenue accounting systems and procedure in revenue offices at all levels and other related matters are regulated as per the provisions of the Maharashtra Land Revenue Code, rules framed and statutory orders and notifications issued thereunder.

2.4.5 Salient features and important provisions regulating the non-agricultural assessment, prevalent in the three regions of the Maharashtra State, prior to introduction of MLR Code 1966, are given in the foregoing chapters.

2.5 Before dealing with the basic provisions of the laws and rules governing the assessment and collection of Land Revenue Receipts, it would be necessary to review briefly the historical and legislative background of the main enactment, which regulate the substantive and procedural laws, relating to the Land Revenue Receipts in the State of Maharashtra.

2.6 In Western Maharashtra and Marathwada regions, the land system was predominantly rayatwari. With the passing of the various Tenure Abolition of Jagir Regulation 1949, and the Hyderabad Abolition of Inam Act, 1954, the lands in both these regions became (barring a few exceptions) rayatwari throughout. In Vidarbha, however, till 1950, the land system was zamindari and proprietary. With the enactment of the Madhya Pradesh Abolition of proprietary Rights (Estates Mahals and Alienated Lands) Act 1950, the Proprietary Rights of the Zamindars were abolished with the result that the land system has now become rayatwari throughout the State.

2.7 By enacting various Inam Abolition Acts, all Inams, except Devastan Inams, were abolished from 1st August 1955 . By virtue of this, all inami lands ceased to be held as revenue free land, on or after 1st August 1955 and as such became liable to be assessed to land revenue according to its use, such as agriculture, residential, industrial, commercial, etc.

2.8 (I) Consequent upon enactment of Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961, local cess at minimum rate of Rs. 0.20 paise per rupee of Land Revenue was introduced from the year 1962-63 both in urban and non-urban areas. Such cess, has however, been discontinued from 1st April, 1974 in respect of areas, falling under the jurisdiction of Municipalities, Municipal Councils, Cantonments and other notified areas.

Under section 127 of the Bombay village Panchayat Act, 1958, V.P. Cess at the rate of 100 paise on every rupee of the sum payable to Government. As ordinary land revenue in the areas of village Panchayats is also leviable with effect from 1962.

2.9 The Government. Of Maharashtra in order to realize more revenue from bigger tenants, introduced various cesses and surcharges, in the form of Education cess, Increased Land Revenue Cess, Employment Guarantee cess etc., the details of which have been discussed in the subsequent chapters.

2.10 Levy and collection of Land Revenue are governed by the provisions of the Land Revenue Act and the rules made thereunder by the State Government. All lands to whatever purpose applied and where ever situated are liable to payment of revenues or rent to Government. Except such land as has been wholly exempted from such liability by special grant of Sanads, or contracts with the State Government. Or by the provisions of any law for the time being in force.

CHAPTER-3

RECEIPT AUDIT

3.1 History of Receipt Audit

In 1959, at the conference of the Chairman of Public Accounts Committees, it was recommended that the Public accounts Committee (PAC) in the States might suggest to the State Governments that audit of receipts should be entrusted to the Comptroller and Auditor General (CAG).

Between 1961 and 1968, audit of sales tax receipts and refunds was entrusted to the CAG. The next major reorganization took place when the Mukherjee Committee was set up in 1972 for suggesting guidelines for discharging responsibilities in an effective manner. It said that a separate report may be prepared on revenue receipts of the State Governments and scope and extent of audit was modified. As regards State Receipt audit, 19 States prepare a separate report on State Receipts and while in 12 States with one Union Territory- Chandigarh, the results of audit of receipts forms a chapter in the Civil Report (now a separate report is tabled under the revenue sector).

The reports include paragraphs related to all types of receipts by the States, a change that has been brought in from January 1997.

Also from June 2003, Chapter- I of the report was reorganized and now contains valuable information such as trend analysis of receipts, follow-up measures taken by the government on commitments made in the budget speech, Memorandum of Understanding with the Government of India etc.

In 2005-06, the separate Audit Report for the revenue receipts was printed. In March 2012, the restructuring of State Receipt Audit was done and renamed as Revenue Sector.

The Receipt and Expenditure Audit of the following Departments are being dealt in by the Revenue Sector: 1) Commercial/Sales Tax Department (now GST) 2) Motor Vehicle Tax Department 3) Energy Department 4) State Excise Department 5) Mining Department 6) Forestry and Wild life Department 7) Stamp Duty and Registration Department 8) Land Revenue Department.

3.2 Authority of the Comptroller and Auditor General of India

The C & AG derives his authority and functions mainly from the provisions of Articles 149 to 151 of the Constitution of India. Article 149 provides that the C & AG shall exercise such powers and perform such duties in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by the

Parliament. The Parliament passed the C & AG's DPC Act in 1971, which came into force with effect from 15 December 1971.

Section 16 of the C & AG's DPC Act authorises C & AG to audit all receipts (both revenue and capital) of the Government of India and of Governments of each State and of each Union Territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed.

3.3 Audit Regulations

The Comptroller and Auditor General (C & AG) in 2007 passed the 'Regulations on Audit and Accounts, 2007', in pursuance to Section 23 of the C & AG's DPC Act. These Regulations shall apply to the officers and staff of the Indian Audit and Accounts Department (IA & AD) and all Ministries and Departments of the Government of Union, States and Union Territories as well as bodies, authorities and enterprises, to which the audit or accounts jurisdictions of the C & AG extend.

Audit Regulation No 54 therein describes that audit of receipts is an examination of the systems and procedures and their efficacy in respect of the followings:

- a. Identification of potential tax assessees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- b. Pursuit of claims with due diligence and that these are not abandoned or reduced except with adequate justification and proper authority;
- c. Prompt investigation of losses of revenue through fraud, default or mistake including, if required, through the review of other similar cases;
- d. Exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- e. Appropriate action to safeguard the interests of the Government on the orders passed by the Departmental Appellate Authorities;
- f. Any scheme as may be introduced by the Government from time to time;
- g. Any measures introduced to strengthen or improve revenue administration;
- h. Amounts that may have fallen into arrears, maintenance of records of arrears and action taken for the recovery of the amounts in arrears;
- i. Other ancillary and non-assessment functions including expenditure incurred by the Departments;
- j. Achievement of targets, accounting and reporting of receipts and their cross-verification and reconciliation with the accounts records;

k. Amounts of refunds, rebates and exemptions to see that these are correctly assessed and accounted for; and

l. Any other matter, as may be determined by the C & AG.

Further it provides in Regulation 55 that the scope of Audit of receipts includes examination of integrity of data, information and documents which form the basis of a policy. Also in Regulation 56 that the Audit Officer shall have access to individual land revenue cases on which land revenue has been recovered as may be necessary subject to provisions of applicable laws and rules. Auditee concerned shall provide access to these records and also to any computerised systems including the databases maintained by it in hard copy or/and electronic form.

Regulation 68 provides that Performance Audit is an independent assessment or examination to the extent to which an organisation, programme or scheme operates economically, efficiently and effectively.

Also it is stated in Regulation 71 that, Audit may critically review the measurable objectives and performance indicators for their reasonableness and soundness in reviewing performance against the outputs and outcomes. Audit may also set criteria for reviewing programme performance based on best practices.

Performance Audit envisages a high degree of interaction with auditable entities right from the selection of subject(s) for review to all subsequent stages like definition of Audit objectives and criteria, preparation of detailed Audit programmes, development of Audit findings, formulation of recommendations and other related matters. Before commencing detailed work of Performance Audit, the Accountant General shall hold an Entry conference and after the draft Performance Audit report is ready, shall hold an Exit conference with the concerned departments.

3.4 Prerequisites for functioning as a Supreme Audit Institution (SAI)

The Auditing Standards 2017 issued in March of that year improves upon the 2002 edition by restructuring the chapters into Basic Postulates, General Standards and Specific Standards. It inter alia lays down the pre-requisites that constitute the principles essential for the functioning of Supreme Audit Institution (SAI) which is the Comptroller and Auditor General (C & AG) of India and for proper practice of public sector auditing within the SAI which are as under :-

3.4.1 Independence

3.4.1.1 It envisages independence from both the legislature and executive branches of the government to ensure credibility of the results of audit. In the first place this is enshrined in the Constitution of India which stipulates that the C & AG shall only be removed from

office in like manner and on like grounds as a Judge of the Supreme Court of India. The other terms for appointment and demitting of office of the C & AG are provided under the Duties Powers and Conditions of Service (DPC) Act that ensures due autonomy and security of tenure. Further, the C & AG has also the functional and organisational autonomy required for carrying out its mandate and is free from direction or interference from the Legislature or the Executive in the following areas:

- 1) Selection of audit issues;
- 2) Planning, programming, conduct, reporting and follow up of audits; and
- 3) Organisation and management of its office.

3.4.1.2 The C & AG shall have unrestricted access to information from any offices under the control of the executive and to require the production of all necessary documents and information necessary for the proper discharge of its statutory responsibilities.

3.4.1.2 The C & AG shall have the freedom to decide the form and content of its audit reports after taking into consideration the compliance of the audited entity to the objections raised and is also free to decide the timing of audit reports subject to specific requirements of law. It is free to publish and disseminate them once they are formally tabled in the appropriate legislature as required by law.

3.4.1.3 There shall exist an effective follow up mechanisms on C & AG's recommendations in the form of the action taken reports from the Government following the tabling of the audit reports in the legislature.

3.4.1.4 The C & AG shall have financial and managerial/administrative autonomy and the availability of appropriate human, material and monetary resources since the laws in this regard could only be prescribed by the president after consultation with the C & AG. Thus the Legislature is responsible for ensuring that Comptroller and Auditor General (C & AG) has the necessary resources to fulfil its mandate.

3.4.2 Accountability and Transparency

Accountability refers to meeting legal obligations of the C & AG with regard to its audit mandate and transparency relates to relevant public reporting on its activities. The principles in brief are as under:-

3.4.2.1 It shall perform its duties under a legal framework that provides for accountability and transparency.

3.4.2.2 It shall make public its mandate, mission and responsibilities.

3.4.2.3 The Comptroller and Auditor General (C & AG) shall adopt audit standards, processes and methodologies that are objective and transparent and aligned to the

International Standards of Supreme Audit Institutions (ISSAI) issued by the International Organisation of Supreme Audit Institutions (INTOSAI).

3.4.2.4 It shall manage its operations economically, efficiently, effectively and in accordance with laws and regulations and report publicly on these matters

3.4.2.3 The C & AG shall report publicly on the results of audits by tabling the conclusions and findings to legislature regarding overall public sector activities

3.4.2.4 It shall communicate timely and widely on its activities and communicate the audit results through the website, media and other means and its reports shall be such as are understandable to the wide public through various means.

3.4.3 Ethics

The C & AG shall apply high standards of integrity and ethics for staff of all levels as is aligned with the Code of Ethics ISSAI 30. It includes integrity (quality of being honest and having strong moral principles), independence, objectivity (without having a pre determined inclination) and impartiality, confidentiality and competence (professional efficiency) thereby ensuring transparency and legality of its operations and actively promotes ethical behavior throughout the organisation.

A Code of Ethics is a comprehensive statement of the values and principles which should guide the daily work of the Auditors. The independence, powers and responsibilities of the Public Sector Auditor place high ethical demands on the C & AG and the staff he employs or engages for auditing and accounting work. The Code of Ethics for Comptroller and Auditor General (C & AG) comprises the general ethical requirements prescribed for civil servants in India as enunciated in the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and the particular requirements of Auditors, including the latter's professional obligations.

3.4.4 Quality assurance and Quality Control

3.4.4.1 The C & AG shall establish policies and procedures designed to promote an internal culture recognising that quality is essential in performing all of its work. He shall retain overall responsibility for the system of quality control.

3.4.4.2 Further there shall be established policies and procedures designed so as to provide it with reasonable assurance that all personnel and any parties contracted to carry out work for the C & AG comply with the relevant ethical requirements.

3.4.4.3 Moreover, it shall establish policies and procedures that are designed to provide reasonable assurance that its audits and other work are carried out in accordance with relevant standards, applicable legal and regulatory requirements, that it issues reports that

are appropriate in the circumstances and that it has sufficient resources with the competence, capabilities and commitment to ethical principles as required to carry out its range of work.

3.4.4.4 Also shall establish a monitoring process designed to provide it with reasonable assurance that the policies and procedures relating to the system of quality control are relevant and adequate and is operating effectively.

3.4.5 Control of Audit Quality

3.4.5.1 Auditing Standards

The Indian Audit and Accounts Department (IA & AD) performs its functions as per C & AG's Auditing Standards 2017 which provide the framework for performing high quality audits with competence, integrity, objectivity and independence. Auditing Standards prescribe the norms of principles and practices, which the Auditors are expected to follow in the conduct of audit.

They provide guidance to the Auditor that helps to determine the extent of auditing steps and procedures that should be applied in the audit and constitute the criteria or yardstick against which the quality of audit results are evaluated.

3.4.5.2 Audit Quality Management Framework

The Comptroller and Auditor General (C & AG) has introduced Audit Quality Management Framework (AQMF) in 2014 which has been designed for ensuring compliance with Auditing Standards, in particular with International Organisation of Supreme Audit Institutions (INTOSAI) Auditing Standards and Asian Organisation of Supreme Audit Institutions (ASOSAI) guidelines and applicable legislative requirements. It ensures that C & AG of India and Indian Audit and Accounts Department (IA & AD) maintains and follows quality standards rigorously.

3.5 Structure of State Receipt Audit Wing of the Revenue Sector

3.5.1 The State Receipt Audit wing of the Revenue Sector audits the state revenues and is headed by a Senior Deputy Accountant General followed by a Senior Audit Officer and Assistant Audit Officer(s). The Assistant Audit Officer(s) manages the work of individual tables through the Auditors/Senior Auditors pertaining to Stamp Duty, Land Revenue and Maharashtra Value Added Tax (now Goods Services Tax) as per geographical distribution of the work between Mumbai and Nagpur Field Offices.

[http://www.cag.gov.in/sites/default/files/manuals/RA_Manual_2015.pdf] & [Local SRA HQ]

CHAPTER 4

BASIC FEATURES OF LAND REVENUE

Introduction –

Maharashtra State came in existence in 1960 by amalgamation of territories of Western Maharashtra of Bombay Presidency, Marathwada Region of Hyderabad State, Deccan Region of British reign, and Nagpur region of Central Provinces and four Berar districts of Madhyapradesh. In this region, different land revenue systems were in existence governed by various codes like Bombay Land Revenue Code, Berar Land Revenue Code, Central Provinces Land Revenue Code, Madhya Pradesh Land Revenue Code.

After the formation of Maharashtra State, a uniform land revenue code called as Maharashtra Land Revenue Code 1966 was formulated by unification of various provisions of previous codes in existence at a particular point of time. Different codes found suitable were absorbed in the present code so as to avoid unsettling effect upon population of the state.

Present land revenue system as revealed by the study of Maharashtra Land Revenue Code 1966, henceforth referred as MLRC, is discussed hereunder.

4.1 Rights of the Government

Government has the title to all land in the State and in exercise of its rights as proprietor of all land. It could make grants of land and grant of leases to others for stated period and purposes on payment of ground rent, occupancy price, lease rent etc.

In the provisions of previous Bombay Land Revenue Code (henceforth referred as **BLRC**) under section 60 and 62, the government has the authority for assignment of land, for grant of land and leases etc.

Similar provisions could be found in section 149 and 164 of Madhya Pradesh Land Revenue Code 1954 now amended to section 57 in code of 1959 (henceforth called in short as **MPLRC**) as well as in all the previous codes that were in existence before MLRC.

All these provisions of different codes were unified and adapted in amplified form to grant unrestricted rights to the government under provisions of the present system.

4.2 Assessment of Land Revenue

Maharashtra Land Revenue Code, 1966 and the Rules and Orders issued thereunder prescribed that land is required to be assessed for incidence of land revenue at different rates depending on its use for agricultural, residential, industrial, commercial or any other purposes. It remains in force for a guarantee period mentioned in the order. After the expiry

of guarantee period, the assessment is required to be revised. It shall be with reference to the revised assessment rates called as standard rates.

4.2.1 Further, increased land revenue on those holding eight hectares or more land is required to be assessed along with cess at prescribed rates under different Acts like Employment Guarantee Cess, Education Cess, Zilla Parishad and Panchayat Samiti Cess. Conversion tax is also to be levied in corporation and municipal areas for conversion of land use.

This is so in view of the provisions contained in The Maharashtra Increased Land Revenue and Special Assessment Act, 1974 which stipulates that in addition to the Non Agricultural, Zilla Parishad and Village Panchayat Cesses the increased land revenue (ILR) equal to 50 per cent and 100 per cent of the Non Agricultural Assessment shall be levied on the holding of such land (50% for holding of more than 8 hectares but less than 12 hectares and 100% for holding of more than 12 hectares) in the state of Maharashtra.

4.2.2 On the expiry of the guarantee period or on a change in rights, use or area of the land or on violation of any terms and conditions attached with it, land revenue cases are required to be verified for necessary action. It also offers opportunity to verify each and every land revenue case.

4.2.3 Similar action is also required whenever deviation is observed between recorded facts and observed condition in the field during the course of prescribed or regular spot visit by the departmental officers. Conformity with the provisions of the present code needed to be achieved by initiating proper action.

4.2.4 For this purpose, village officer called as Talathi or Patwari has to maintain necessary record. The villages in which city survey is applicable there the area of the village is divided as falling within or outside village site respectively and entrusted to survey official working under survey department and revenue official working under revenue department.

Thus survey and revenue department has to perform supplementary and complementary functions under the system. It requires co-ordination and reconciliation of their record and activities.

4.2.5 It is not a onetime process but carried out periodically and earlier settlement is subjected to change whenever there is change in rights, area or the revenue of the land parcel till the next periodical settlement.

4.2.6 The causes that required action could be grouped into following categories.

1. Changes in type of recognised land rights that is changes in types of land tenures.
2. Modification or termination or withdrawal of exemptions recognized under previous codes.

3. Change of use of agricultural land to non-agricultural purpose. Change of one non-agricultural use to another non-agricultural use.
4. Portion of village, town or city changed as extended sites, change in the classification of village, up gradation of villages into urban, municipal or corporation area.
5. Introduction of city survey in villages of 2000 population.
6. Publication of new standard rates.
7. Change in occupant due to sales, purchases, acquisitions, partition or inheritance intimated orally, in writing or recorded in registration offices.
8. Non-conformity with recorded conditions, unauthorised nonagricultural uses, breach of terms and conditions, unauthorised transfers of land, expired land grants and leases.
9. Encroachment on government and vested land.

4.2.7 The State Government may grant reduction, suspension or remission in whole or in part of land revenue in any area due to failure of crops, floods, or any other natural calamity or for any reason whatsoever (Section 78 of Maharashtra Land Revenue Code, 1966). The procedure for granting and extent of reduction, suspension and remission are laid down in the Maharashtra Land Revenue (Reduction, Suspension and Remission) Rules, 1970.

4.2.8 Each of the above occasions has its effect on amount of land revenue to be recovered for uses and rights in the land. With growth of towns, cities and populations the work under the system could go on increasing because of increased land using activities.

The State Government may grant reduction, suspension or remission in whole or in part of land revenue in any area due to failure of crops, floods, or any other natural calamity or for any reason whatsoever (Section 78 of Maharashtra Land Revenue Code, 1966). The procedure for granting and extent of reduction, suspension and remission are laid down in the Maharashtra Land Revenue (Reduction, Suspension and Remission) Rules, 1970.

4.2.9 Reduction if during the currency of any settlement, there is such physical deterioration of the soil in any holding, the holder may apply to the Survey Officer for reduction of the assessment. The Survey Officer after making such inquiries as are necessary may by order sanction reduction in the annual assessment, the amount not exceeding Rs. 200. All cases where reduction proposed exceeds Rs. 200 sanction of Government are necessary. (Notification No.CON 3489/16873/(CR-64357)/LI dt.04-07-1997).

The reduction takes effect from the revenue year next following the date of order and shall remain in force until the commencement of the term of fresh settlement.

4.2.10 Suspension

The Collector, on making local enquiries and ascertaining the degree of crop failure in any tract, may suspend-

- a) The whole of the land revenue payable by any person if the estimated paise valuation of crops is 50% or below of the normal yield.
- b) Provided that, if such tract forms part of the areas declared as drought prone areas by the state Govt. Collector may grant remission of land revenue if the estimated paise valuation of crops in such tract is 60% or below of the normal yield.

Suspension granted under these rules is conditional upon the payment of the amount of land revenue which is not suspended. Such land revenue shall not ordinarily be collected until the harvest of the crops in subsequent years has been reaped in the affected tract.

4.2.11 Recovery of suspended land revenue

If the harvest of crops referred to above in any subsequent year is of the anna valuation specified in column 1, the current land revenue payable and the suspended land revenue payable shall be paid as follows:

| | Anna Valuation of | Proportion of recoverable land revenue | |
|----|--|--|--|
| | | Current | Suspended land revenue |
| 1. | 12 annas and more | Full | Such portion as limited to 1/2 current land revenue. |
| 2. | 9 annas and more but less than 12 annas. | Full | Such portion as limited to 1/2 current land revenue. |
| 3. | 6 annas and more but less than 9 annas | Full | Nil |
| 4. | More than 4 annas but less than 6 annas | Half | Nil |
| 5. | Upto four annas | Nil | Nil |

(Rule 8 of the Maharashtra Land Revenue (Reduction suspension and remission) Rules 1970 as amended by Gazette . Notification dated 8/1/1975).

Note - For the word “Anewari” the work “paisewari” has been substituted by Maharashtra Land Revenue (Reduction, Suspension, and Remission) Amendment Rules 1980, according to which land revenue payable is remitted, if estimated paise valuation of crops is 50 per cent or less of the normal yield in the tract other than drought prone areas and 60 percent or less of the normal yield if such tract is declared as drought-prone areas by Government.

4.2.12 Remission of Land Revenue

All suspended arrears of land revenue which are either in excess of two years land revenue or more than three years old, shall ordinarily be remitted by the Collector, irrespective of monetary condition of any holder, the oldest arrears being remitted first (Rule 9 *ibid.*).

4.2.13 Relief in Local Calamities

When the Collector on enquiries made, is satisfied that in any year, in any tract there has been a local calamity (such as loss of or damage to crops or other property in any locality in any revenue year, occasioned by hail storm, or fire or caused by locusts or by thefts or mischief by unknown persons and inclusive of failure of crops by floods, etc.), he may after taking into account the resources of the owner of the crops, grant relief, under rule 11 of the Maharashtra Land Revenue Rules, 1970, provided that the relief by way of remission, in any district in any year shall not exceed one thousand rupees.

Provided further that, the Collector may with the previous sanction of the State Govt grant such remission in any district in any year an amount exceeding one thousand rupees

4.2.13.1 While scrutinizing the proposals and orders, relating to grant of suspension, reduction or remission of land revenue, in the Tahsil office or in Collectorate, as the case may be, it should be ensured that i) full suspension of land revenue is granted only to such villages the annewari of which is four annas or less, ii) half suspension of land revenue is granted to such villages where annewari is more than four annas but less than six annas iii) such portion of land revenue not suspended is recovered properly and promptly according to the provisions contained in Rule 8 of the Maharashtra Land Revenue (Reduction, Suspension and Remission) Rules 1970.

4.2.13.2 Even though agricultural land revenue is suspended or land revenue remitted in accordance with the provisions contained in Rules 8 and 9 of the Maharashtra Land Revenue (Reduction, Suspension and remission) Rules 1970, non-agricultural land revenue which is not dependent upon the paisewari on crop failure, stands recoverable.

4.2.13.3 Local Cess, such as Zilla Parishad and Village Panchayat Cess etc. which is linked with the land revenue, should not be treated as suspended or remitted as a matter of course, but a specific resolution from Zilla Parishad concerned, duly approved by Government in Revenue and Forests Department will be required for suspension or/and remission of such cess (Instructions issued by Government of Maharashtra, Revenue and Forests Department in the letter No. LFE – 1075/15743-XX dated 11/12-9-75).

4.2.14 Maharashtra Land Revenue Remission order 1977

Government of Maharashtra have granted remission on whole of the agricultural land revenue payable by every holder of land, whose liability to pay to the State Government

such land revenue in respect of his entire holding in any of the areas of the State of Maharashtra, during the year 1977-78 or during the revenue years thereafter, does not exceed rupees five in the aggregate. (Government of Maharashtra Rev and Forests Department order No REV.1077/16447/L-3 dated 22 December, 1977).

4.2.15 Government of Maharashtra has granted remission in the whole of agricultural land revenue payable to the State Government by every holder;

- i) Whose entire holding in the State of Maharashtra does not exceed 3 hectares of agricultural land and no part thereof is under irrigation by any mode,
- ii) whose liability to pay the land revenue in respect of his entire holding in the state (no part of which is under irrigation) during revenue year 1978-79 or during the revenue years thereafter, is more than Rs. 5 but does not exceed Rs. 10 in the aggregate. (Government of Maharashtra Revenue and Forest Department order No. REV/1078/33338/L-3 dated 8-5-79). This is applicable from the year 1978-79.

4.3 Miscellaneous Land Revenue

Use of Water

4.3.1 The rates as specified from time to time for use of water (the right to determine of which vests in Government and in respect of which no rate is leviable under any law in force in any part of the State), are sanctioned for non- agricultural purpose.

ii) These rates supercede all the rates under prevalent orders or practices in regard to quantum on the rates chargeable under Section 70 of the Maharashtra Land Revenue Code, 1966. (G.R. R & F Deptt. No. WTR 1070/900-G II dated 5/6/72 as amended by GR RD No. WTR/1076/1798-12 dated 10/6/1976).

iii) While scrutinizing the records in local audit it should be ensured that the Collectors of the districts have fixed the water rates for use of water (the right of which vests in Government), for various purposes, i.e. for industrial, for municipalities and railways etc. and the rates so levied and fixed conform to the provisions mentioned in Government Resolution Revenue and Forests Department No. WTR 1070/900-G.II dated 5/6/1972. It should be seen that the amount of dues towards water rates is watched promptly and recovered properly, through suitable register (para 5 of R.B. Circular No. 11 of Maharashtra Land Revenue Manual – II).

iv) In case water is used for agricultural purpose by a person to whom permission for use of the water for non-agricultural purpose is granted, a fine not exceeding Rs. 200/- can be levied by the Collector, for breach of conditions. Similarly, for altered use of non-agricultural purposes a fine not exceeding Rs. 100/- is leviable (para 7 of the R.B. Circular and note 41-B under Section 70 of the Maharashtra Land Revenue Code, Volume I).

The responsibility of the Revenue Department to collect water rate under Section 70 is limited to those cases where water is supplied from other than notified rivers. In respect of river notified by Government, the water rate is irrigation revenue and is collected by the Irrigation Department.

v) Under Section 71, State Government can impose any cess on the rates of water, for the purpose of local improvement.

4.3.2 Rent for laying of water mains and pipes etc.

i) Under Rule 39 (i) in the Maharashtra Land Revenue (Disposal of Government Lands) Rules 1971, Collector can permit the laying of water mains, pipes and underground cables and construction of cess pools through, on, over or underneath any Government land, on payment of an annual sum, not exceeding 5 percent of the market value of the land, occupied for the purpose subject to a minimum of one rupee.

ii) The Collector may permit under para 39(2) of the Rules, *ibid*, the erection of poles, towers, stay rods or stay rails for overhead cables on Government land, on payment of annual rent at the rate of 25 paise per pole and 50 paise per tower, stay rod or stay rail.

4.3.3 Recovery of cost towards supply of khate pustikas and exemption of payment of a scheme regarding supply of revised khate pustikas to all land holders (Khatedar) in the State has been introduced with effect from 1/8/1976. For supply of Khatepustika, Khatedar has to pay Rs 5 (Rs. 3 as price and Rs. 2 as preparation charges). In order to facilitate timely completion of the scheme and also to give relief to small khatedar, the khate pustikas should be distributed to khatedar, whose liability to pay land revenue in respect of their entire holdings in the state does not exceed Rs. 7.50 in a year, without recovering from them the price of Rs. 3 of the khatepustika. In case where such small holders have already obtained khate pustikas on payment; no refund should, however, be made (G.R. Revenue and Forests Department No. RAM 1076/18068-L-6 dated 16/6/1976 and G.R. Revenue and Forests Department No. RAM 1077/20404-L-6 dated 26/10/1977).

4.3.4 Encroachments

- Under Section 50 of Maharashtra Land Revenue Code 1966, encroachment, (i.e. unauthorized occupancy) made on any Government Land or foreshore; whether such land is used for the purpose of holding or selling articles without any specific sanction from competent authority, is required to be summarily abated or removed by the Collector, at the cost and expenses of the encroacher. Such encroacher has to pay assessment leviable on the piece of land encroached by him for the entire period of encroachment and a fine as per provisions in Clause (2) of Section 50 of the Maharashtra Land Revenue Code. However, such fine shall not be less than five rupees, but not more than one thousand rupees, if the

land is used for an agricultural purpose and rupees not exceeding two thousand, if the land is used for any other purpose (i.e. non- agricultural purpose). A person caught hiring or selling any articles is liable to pay fine of a sum not exceeding fifty rupees as the Collector may determine.

- An encroacher who continues the encroachment, in spite of a notice served on him by a Collector, under clause (3) of Section 50 of the Maharashtra Land Revenue Code, 1966, is liable, in addition to penalties mentioned above, to pay a fine not exceeding rupees twenty five per day in case of encroachment on agricultural land and rupees fifty per day, if the land encroached upon is used for any non-agricultural purpose (clause (4) of Section 50 of the Maharashtra Land Revenue Code).

Regularization of Encroachment

- If a person making an encroachment so desires, the Collector may regularize such encroachment under Section 51 of the Maharashtra Land Revenue Code, by charging penal occupancy price at a sum not exceeding five times of the value of the land, so encroached upon and by fixing a penal assessment not exceeding five times the ordinary land revenue thereon, then only such land is entered in the records of right, in the name of the said person (Rule 43 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules 1971).
- Under Rule 43 of the Maharashtra Land Revenue (disposal of Government lands) Rules 1971, grant of lands encroached upon can be made to the encroacher either in occupancy rights under Section 20, read with Section 31 or in lease hold rights under Section 38 subject to other conditions, mentioned in rule 43 ibid and also in Section 50(2), and (4) of the Code.
- The assessment, so fixed shall be guaranteed for a period of 15 years, if the land is used for non- agricultural purpose and for the period of settlement, if it is used for agricultural purpose; thereafter, it shall be liable to revision, as per Rule 43(iv) of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971.

Grant of Land encroached upon by backward classes for housing

- Unoccupied land, situated in non- urban areas, unauthorisedly occupied for housing purposes by person belonging to the backward class, either individually or in groups, may be granted free of cost and assessment by the Collector, to the persons, so occupying such land, after laying it out in suitable plots of such size, as may be prescribed by Government (Rule 45 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules 1971).
- If a person unauthorisedly occupying or wrongfully in possession of land after he has ceased to be entitled to do so, continues to use, occupy or possess by virtue of any reasons specified in sub-clause (I) of Section 53, shall also be liable, at the discretion of the Collector, to pay a penalty not exceeding two times the assessment or rent for the land, for

the period of such unauthorized use of occupation (Sub clause (3) under Section 53 of the Maharashtra Land Revenue Code, 1966).

4.3.5 Other dues to be recovered by the Tahsildar

Besides land revenue, the Tahsildar is also empowered to recover dues of other departments of Govt. as arrears of land revenue. The following are some of these;

- i) Sales Tax.
- ii) State Excise.
- iii) Taxes on vehicles.
- iv) Entertainment duty.
- v) Electricity duty.
- vi) Soil Conservation dues.
- vii) Grow more food.
- viii) Resettlement.

4.4 Grant of Land

4.4.1 According to provisions in Section 20 of Maharashtra Land Revenue Code, 1966, all public roads, lanes and paths, bridges, ditches, dikes and fences, the bed of the sea and harbors and creeks, below the high water marks and of river streams, nallas, lakes and tanks and all canals and water courses and all standing and flowing water and all lands, wherever situated and which are not the property of any persons, legally capable or holding property, are declared to be the property of the State Government.

Under Section 22, and subject to general orders of State Government, a survey officer during the course of survey operation, and at any time, may set apart unoccupied lands, (not in the lawful occupation of any person) in villages or parts thereof for forest or fuel reserve, for free pasturage of village cattle or for grass or fodder reserve, for burial or cremation ground for 'gaothan', for camping ground for threshing floor, for bazaar for skinning ground for public purposes, such as roads, lanes, parks drains or for any other public purposes, as mentioned in rule 14 of the Revenue Manual Volume II and lands so assigned shall not otherwise be used without the sanction of Collector.

Unoccupied lands can be granted by Government to any person under the provisions of Section 20 read with Section 31 of the Maharashtra Land Revenue Code, 1966, in occupancy rights under Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 for :-

- i) Agricultural purpose, with occupancy price, equal to market value fixed thereon, in accordance with provisions in para 25 of Revenue Book Circular No. 3 in Maharashtra Land Revenue Volume II.

ii) Non- Agricultural purpose in accordance with provisions in para 41 of Revenue Book Circular No. 3, subject to assessment or re-assessment as the case may be with non-agricultural assessment, fixed thereon.

Under Section 22, and subject to general orders of State Government, a survey officer during the course of survey operation, and at any time, may set apart unoccupied lands, (not in the lawful occupation of any person) in villages or parts thereof for forest or fuel reserve, for free pasturage of village cattle or for grass or fodder reserve, for burial or cremation ground for 'gaothan', for camping ground for threshing floor, for bazaar for skinning ground for public purposes, such as roads, lanes, parks drains or for any other public purposes, as mentioned in rule 14 of the Revenue Manual Volume II and lands so assigned shall not otherwise be used without the sanction of Collector.

4.4.2 Grant of land could be for play grounds, gymnasium for 15 years or for non-agricultural purposes for 5 years as temporary leases, for 15 to 30 years as permanent leases or long term leases not exceeding 99 years to charitable and educational institutions or other bodies and people. Yearly licenses are issued for aerial projection, flight of footsteps, balconies, waste discharge, laying of water mains, erection of poles, towers and advertisement boards.

Some of the other types of grants of land could take the following forms:-

4.4.2.1 Unoccupied lands can be granted by Government to any person under the provisions of Section 20 read with Section 31 of the Maharashtra Land Revenue Code, 1966, in occupancy rights under Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 for :-

- i. Agricultural purpose, with occupancy price, equal to market value fixed thereon, in accordance with provisions in para 25 of Revenue Book Circular No. 3 in Maharashtra Land Revenue Volume II.
- ii. Non- Agricultural purpose in accordance with provisions in para 41 of Revenue Book Circular No. 3, subject to assessment or re-assessment as the case may be with non-agricultural assessment, fixed thereon.

4.4.2.2 Disposal of Alluvial Land :

Under Rule 4(1) of the Maharashtra Land Revenue (Alluvial land (i.e. land accretioned from the bed of river or sea by gradual slow and imperceptible means), formed on any bank or shore exceeds one acre, the land should be disposed of to the occupant at the price, not exceeding three times of the annual assessment. If, however, the occupant of the said land does not accept the offer, it may be disposed of by public auction to the highest bidder. In case of decrease in land, due to dilution for the portion of land, in a survey no. not being less

than half an acre, the holder is entitled to the proportionate decrease in the assessment under Rule 5 of the Maharashtra Land Revenue (Allusion and dilution) Rules, 1967.

4.4.2.3 Inam Lands :-

Under section 75 of the Maharashtra Land Revenue Code 1966, Collector has to keep a register of all lands, the alienation of which has been established or recognized under the provisions of any law for the time being in force. In the prescribed form, in which all alienations right to recover rent or revenue of the land under clause (2) section (2) of all lands in the district (Transfer of right) are termed as Inam or waten lands, (para I in Revenue Book Circular No. 12) with the enactment of various Inam Abolition Acts, most of the imams and alienations have been abolished except the following-

- i) Devasthan Inams and
- ii) Revenue free grants made from time to time. Provisions in Section 331 and 332 of Maharashtra Land Revenue Code, 1966 would apply to such alienated lands/villages.

4.4.2.4 Withdrawal of concessions of occupancy price and Land Revenue in respect of lands used for religious purposes only.

Under Govt. resolution Revenue Deptt. No. 61/8/33 dated 6/10/37 mentioned in para 6 of R.B. Circular No. 12, in Maharashtra Land Revenue Manual Vol. II, Govt. have decided to continue concessions of occupancy price and of land revenue for lands, used for religious as well as philanthropic purposes, but no such concessions should be given in future in respect of land used for purely religious purposes

(ii) Moreover, no unoccupied land shall be granted for construction of any temple, church, mosque, nor such permission under Section 44 of Maharashtra Land Revenue Code, may be granted for a change of use of land for construction of any such buildings in any occupied land, except with previous permission/sanction of Govt. (Rule 40 of Maharashtra Land Revenue (Disposal of Govt. Lands) Rules 1971).

4.4.2.5. Grant of land purely for religious purposes :

While scrutinizing the records pertaining to grant of lands, in the local audit, audit has to see that grant of land is made as per procedure in the Maharashtra Land Revenue (Disposal of Govt. land) Rule 1971.

4.4.2.6 Lands used for Drainage, water works, not exempt :

Lands used for drainage and water works, slaughter houses, etc. cannot be regarded as yielding no return and are therefore not exempt (clarification made by Govt. of Bombay in Revenue Department G.R. 15191 of 1977 (P.49) of B.L.R. Rules 1921).

4.4.2.7 Lands free of land revenue :-

Gairan or grazing ground for cattle, burial and burning grounds, spots near villages on which the village cattle stand and the lands for the use of village dhobis (washerman) and potters and for other recognized public needs may be assigned by Collector for these purposes respectively without charge (Rule 73 of Bombay L.R. Rules 1921).

4.4.2.8 Auction of grazing land

The grazing of unoccupied land may be disposed of by public auction by way of lease or otherwise, year to year, or for any term, not exceeding five years, on the following conditions :

- i) Purchasers are entitled to charge such grazing fees, as fixed by the Collector.
- ii) Every resident or cultivator of the village shall be permitted to graze cattle on payment of aforesaid fees.
- iii) Such grazing land shall not be brought under cultivation.
- iv) Such persons shall not have right in trees and forest produce standing on such land (para 18 of R.B. Circular No. 4 in M.L.R. Manual Volume II). In all grants of lands or disposal of lands, the right of occupation and use only, subject to provisions of the code, shall be granted and not the proprietary right (i.e. ultimate property rights, minerals rights, etc.).

4.4.2.9 Transfer of Govt. lands to Municipal Corporation and Municipal Councils :

Free Grant for Govt. lands to Municipal Corporation and Municipal Councils :

Under Rules 5 and 6 of the Land Revenue Rules, Govt. lands within the limits of Municipal Councils/Corporations can be granted revenue free for purposes, from which no profit is expected, if such grants are made to Municipal Corporation. However, Govt. in their resolution No. LMV.2669/194787-B I of 28/4/71, decided that Govt. lands reserved for public purposes, in the limits of Municipal Corporations should be granted to them at market price, prevalent on the date of publication of the draft development plan, irrespective of whether such lands are intended to be put to remunerative uses or otherwise.

In view of the difficulties experienced by the Municipal Corporations, Govt. have decided, in the Revenue and Forest Department resolution No. LMN 1074/58548-G.6 dated 29/6/77, in partial modification of earlier orders that all Government lands, in corporation towns, earmarked in the Development plan, for parks, playgrounds, dispensaries, schools and public conveniences, should be given free in accordance with rules 5 and 6 of the Land Revenue Rules. These orders will apply in all cases where possession of the land has not been given to the Corporation prior to the issue of these orders.

In respect of Govt. lands, in Corporation towns, required by the Municipal Corporation in conformity with the Development plan, for public purposes, other than parks, playgrounds,

dispensaries and public conveniences, the orders contained in Government Resolution dated 28/4/1971 will continue to operate i.e. the market price prevalent on the date of publication of the draft development plan, will be charged irrespective of whether the lands are intended to be put to remunerative use or otherwise (para 4 of the G.R. dated 29/6/77).

Grant made revenue free to Municipal Corporation for purposes, such as parks, playgrounds etc. are subject to condition that the land is utilized by the Municipal Corporation only for the purposes for which it is granted and the same would not be utilized for any other purposes without prior written approval of Govt. (para 5 of the G.R. dated 29/6/77).

As per Rule 19 of Chapter II of M.L.R. Manual Volume IV, the Talathi has to report within 3 days of Receipt of sanction for the change of user to the sanctioning authority.

4.4.2.10 Concession in Grant of land to freedom fighters for residential use :

Government in their Resolution in Revenue and Forests Department No. 1073/290849-AI dated 2/12/74, have decided that the residential plots to be granted to the freedom fighters under Rule 28 of the Maharashtra Land Revenue Disposal of Govt. lands) Rules, 1971, should be granted on concession of 50% in the occupancy price of the plot, to be approved by Govt. provided the income of the freedom fighter does not exceed Rs. 5000/- p.m. (concession should for a maximum area upto 465 sq. meters (about 5000 sq. feet).

(R& F GR dated 12-10-1999).

4.4.2.11 Grant of salt marsh lands for reclamation :

Under Rule 40 of the Bombay Land Revenue Rules, 1921, salt land or land occasionally overflowed by salt water and is not required for sale, manufacture, can be leased for purposes of reclamation by the Collector on the terms and conditions mentioned below, (para 22 of the Maharashtra Land Revenue Rules, 1971).

- i) No rent charged for the first 10 years.
- ii) Rent @ 60 paise per hectare be levied for next 20 years on the whole area leased whether reclaimed or not.
- iii) After expiry of 30 years the lease shall be continued in the case of reclaimed lands at the rate at which they would be assessed to land revenue from time to time if they were subjected to survey settlement and in the case of un reclaimed lands, if any at the average rate of the reclaimed lands.
- iv) Any portion of land used for public roads shall be exempt from payment of rent.
- v) If the reclamation is not carried out with due diligence within two years of the date of lease or if half the area is not reclaimed. So as to be in a state fit for use for agricultural purpose at the end of ten years from such date and the whole at the end of twenty years from such date or if any land once reclaimed as aforesaid is not maintained in a state fit

from use for agricultural purpose the lease shall be liable to cancellation at the discretion of the Collector provided that lessee may during the first ten years distinguish any area which he cannot reclaim.

4.4.2.12 Grant of Government lands in corporation Towns allotted to private bodies for schools and colleges ; Dispensaries and other public works

Government lands situated outside the areas of Municipal Corporations are granted to all categories of Educational institutions, both for building and playgrounds, revenue free. By Government Resolution in Revenue and Forests Department No. LRF 1968/210-863-B dated 21/6/72, it was decided that Government lands in the Corporation Towns may be granted for educational purposes at 50% of occupancy price or on rent on the basis thereof. Government in the Resolution No. LMN-1074/58543-9.6 dated 29/6/77 decided that Government lands in Corporation towns should be granted revenue free to all Municipal Corporations for educational purposes, in accordance with development plan. It has been decided by Government in their Resolution No. LRF 1077/31105-G-6 dated 11/1/1978 that in partial modification contained in Government Resolution LRF 1968/210863-B dated 21/6/72 Government lands situated within the limits of Municipal Corporations may be granted for playgrounds or private Educational Institutions @ 10% of market value at the time of grant and Government lands required for scheduled college buildings may be granted at 25% of the market value at the time of grant, subject to other conditions mentioned in the Government Resolution of 11/1/78. The following concessions were declared by Government of Maharashtra Revenue & Forest Department vide G.R. No.LRF-1082,1496/3900-H-6 dt.11-5-1984.

1. Revenue free grants were outside limits of Municipal Corporations
2. within limits of corporations on payment of occupancy price equal to 25% of the market value of the lands as on 1-2-1976 to be determined by the Town Planning & Valuation department OR on annual lease rent for a period of 30 years at 8% to 25% of market value of the land as on 1-2-1976 to be determined by Town Planning & valuation department.

4.4.2.13 Hospitals & Hospital cum Medical Colleges

1. Revenue free grants outside limits of municipal corporation
2. Within limits of Municipal Corporations on a nominal lease rent of Rs.1/- per Annum for a period of 99 years (rule 5 & 6 and para-8 of Govt.Circular No.L.R.F.1083/71134/lr/3478-G-6, Dt.08/02/1983.

4.4.2.14 Playgrounds or other recreational purpose to educational institutions or local authority:

i) On normal lease rent of Rs.1/- a year for a period of 15 years outside limits of Municipal corporations.

ii) Within the limit of Municipal Corporation on annual lease rent at 8% of 10% of the market value of the lands as on 1-2-1976 to be determined by the Town Planning or Valuation Department for a period of 15 years.

4.4.3 Conditions for grant of lands

- i. The above orders of 11/1/78 do not apply to those cases wherein Government lands are already granted in occupancy rights. The cases of leases would be reviewed by Government so as to bring them in conformity with the new policy subject to the condition that any downward revision of rent should be calculated retrospectively but applied prospectively.
- ii. Government lands within Municipal corporations may be granted on payment of 25% of the market value at the time of grant for construction of buildings to
 - a) Public Libraries, registered under the Maharashtra Public Libraries Act, 1967
 - b) Recognized hostels for backward students run by voluntary agencies and working women run by non-commercial institutes, registered under the Societies Registration Act, 1860 and / or Bombay Public Trust Act, 1950.
 - c) Private hostels for students, registered under the Societies Registration Act, 1860 mentioned in para 4 of the Government Resolution of 11/6/78.

4.4.4 Re- grant of Ex-Inami lands to Ex- Inamdars :

Consequent upon enactment of various 'Inam Abolition Acts, all inams except devasthan inams were abolished. Such inami lands held by ex-Inamdars were, however, regranted to them (i.e. to the holders of lands) on payment of occupancy price or premium, to be paid by the ex-Inamdars, in full, in suitable instalments within the specified time, failing which, such holders of ex-Inami lands were to be treated as unauthorized occupants of the lands. They were consequently not authorized to sell, transfer or mortgage these lands, without prior permission of Government.

While conducting the audit, it should be ensured that all ex-Inami lands, except Devasthan Inams, were regranted to the occupants only upon full payment of occupancy price or premium, determined by the competent authority and assessment is levied on them, according to particular nature of use of such lands, by the holders. All instances of omissions or commissions noticed by Audit should be incorporated with comments thereon, in the Inspection Reports.

4.4.5 Such grants are for restricted occupancies of class II type, generally granted on auction in consideration of prepared layouts, situation, availability of land and demand for

it. However land can be disposed without auction to freedom fighters, member of armed forces, goldsmiths and government servants.

Concessional occupancy price can be offered to housing schemes of housing boards, local authority or co-operative society. All such grants invariably carry certain terms and conditions about restrictions of period, use and transfer.

4.4.6 Unauthorised sale of such land is subjected to recovery of 50 to 75 percent of unearned income. Even after such transfer, conditions on which land was originally granted remain intact. On breach of conditions attached to grant concessional occupancy get cancelled and are subjected to forfeiture.

[Section 1,2,3,21,22,24,31,64 of M.L.R.C: Para 79, 80, 81,85,86,88 of MLR Manual Vol. II] Earlier land grants made under the provisions of earlier land revenue code could remain continued upto the period contemplated in order of grant and upto conformity to the terms and conditions attached with them. After such period or on breach of terms and conditions, it gets reverted to government and fresh agreement could be entered as per the provision of present code.

4.4.7 Encroachment Occupancy rights could also be granted to persons making encroachments on government land on conditions like payment of assessment for the entire period of encroachment, penal occupancy price and penal assessment.

This is in consideration of heavy damage, inconvenience and hardship that is likely to be caused due to demolition of unauthorised structure. But it is subjected to written consent to be given by encroacher that it could be abolished without compensation in public interest and could have additional condition to pay to government 50 percent of cost of construction or 40 times the assessment.

4.5 Exemptions

Exemptions from payment of land revenue are allowed for certain land called as Devasthan Inams etc as separate category to be watched under separate register called as alienation register. Other exemption provided is for pardi and wada land that is agricultural land around agriculturist residence and for small pieces of land used for residence in old gaothan that is old village site.

No other exemptions are permitted except with express agreement or contract by order of the government. Such exemptions lapses when it does not conform to terms and conditions governing such exemptions. With these provisions all earlier exemptions are withdrawn.

4.6 Alienation

Categories of land for which certain privileges like quit rent called as Watan or Manpan where land revenue assessment was assigned in whole or in part to any other person to be

called the superior land holder were called as alienated land (section 2 of Berar Land Revenue Code 1928).

4.6.1 There were also land grants on favourable terms i.e. partial or no revenue, which were the Leases that could also fall under categories of class tenure (section 55 of Berar Land Revenue Code 1928).

These lands could not be used for raising income even though income may have to be dedicated to bonafide purposes.

4.6.2 There was express provision under section 49 and 50 of Berar Land Revenue Code 1928 by which assessment could be levied on such land.

4.6.3 No limitation on enhancement of assessment could be applicable as per clause 6 of section 93 of Berar Land Revenue Code 1928 as could be interpreted under section 100 wherein it is provided that the Government may also ease out the revenue under certain circumstances in respect of leases of Government.

4.6.4 Ordinarily land was assessed and then orders of remissions were passed. Such grants if left unassessed could be assessed or resumed on breach of conditions attached with the grant depending on the circumstances of the case, [section 50 (3) Berar Land Revenue Code 1928].

4.6.5 Leases not expired before 1928 were excluded from revenue survey under section 84 of Berar Land Revenue Code 1928 could be assessed under section 51.

4.6.6 When Madhya Pradesh Land Revenue Code, 1954 became applicable some of the alienations were included under category of Bhumidhari as lessees [section 147 MPLRC 1954]. However in MPLRC 1959 there is only one class of tenure known as Bhumiswami as per section 157 and they were included therein.

Under the current MLRC, all alienations were abolished except by specific orders of the government to be monitored by maintaining separate Alienation Register. These were treated under occupant class II rights.

4.7 Lease Right:

Unalienated Government lands are granted by public auction on lease basis, by Government under Section 38 of the Maharashtra Land Revenue Code, to a grantee, who is called a lessee. A lessee is required to pay as land revenue, 'Lease money', fixed under the terms of the lease (section 39 of the code) where a lease is granted on payment of annual ground rent i.e. lease money) without payment of any occupancy price or premium, the ground rent should be calculated at 61/2% of the full market value of the land as determined by the authority competent to grant the lease. Where any premium or occupancy price is recovered as a consideration for grant of the lease the ground rent (lease money) should be

calculated at 8% on the full market value (as determined, minus the premium or occupancy price recovered). The rental fixed, on lease lands is revisable on the occasion of renewal of leases (Govt. resolution in Revenue and Forests Department No. LND-1067/122964-A.I dated 3/11/69).

The difference between lease right and occupant right as survey occupant is that in case of lease the period of occupancy is limited by conditions of period and it has to be used for the purpose for which it were given whereas survey occupancy is not limited by period.

4.7.1 Leases have to pay land revenue denoted as lease rent, ground rent, occupancy price. It is for stated period and purpose that is right to use and not the proprietary rights of land. (Notification UNF 1567 of 1971 and 1972 otherwise known as The Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971)

4.7.2 These were for government land granted under provisions included in local rules, book circulars, orders, crown grant act and Bombay central provinces and of India government Acts.

4.7.3 If it were to participate in rise in the value of land by grant of temporary occupancies for definite period and purpose subjected to strict regulation and then by holding auction sale based on the market value.

Half of it shall be taken as premium and other half spread as annual instalment alongwith rent at the (interest) rate of 6.5 percent of premium, which represented one anna in a rupee corresponding to the customary 1/16th share in the produce as land revenue.

But the income derived will be still not considered full and fair because of restrictions attached with it and were therefore shall be included in category of alienation. It was to be revised for full assessment gradually and after restoration of assessment it was to be transferred from alienation to revenue paying category of leases.

4.7.4 Conditions of use had prescribed common frontage, layout with space for sanitation, access and nistar (hygiene), plinth of limited cost and construction as per sanctioned plan easy to be removed.

3.7.5 Period of occupancy was definite as 20, 50 or 100 years or permanent that is period of original settlement, or perpetual or perpetuity that is span of generation taken as 30 years with right to renewal if found to be qualified for it.

4.7.6 These lands could not be transferred without permission of the government, which could be granted rarely on receipt of 3/4 of the unearned income and even after such permitted transfer it could not be used for purpose other than the purpose for which it was initially granted.

4.7.7 BLRC 1896 introduced occupancy and allowed leases up to the expiry of its period. But Leases were considered important to draw some income to the government. Therefore the Crown Act, 1895 was used as outside provision, under which leases could be granted, renewed or continued.

4.7.8 Under the said act, large tracts of land were granted for ginning pressing factories, cotton mills, markets, clubs, institutions and persons for different purposes.

4.7.9 These were terminable leases subjected to revision and enhancement of rent up to 33 percent of the market value of the land.

Book circular X-12 of 1912 has brought occupancies of land grant and leases under leasehold right and prescribed separate register to monitor leases, because in past, laxity has resulted in construction of permanent structures with considerable frequency.

4.8 Loss to government in temporary leases of Nazul Lands.

4.8.1 Rule 15 framed under Section 149(2) (c) read with Section 164(3) of the Madhya Pradesh Land Revenue Code, 1954, provides for grant of temporary leases of Government Nazul lands, on terms and conditions as mentioned by Govt. in the accompaniment to the G.R. R & F Deptt. No. LND. 3959/129 404-A dated 3/8/64, which, inter alia, are as follows:-

- i. Temporary leases which can be given without public auction are essentially meant for temporary uses and for temporary purposes such as :
- Panthelas (mobile pan shop), moving thelas of hawkers etc.
 - Small shops of groceries, etc. on open land along the road side
 - Wooden platform in front of permanent shops.
 - Grazing, agriculture and wood stalls.

Temporary leases, for purposes of (a) to (d) should be ordinarily granted by public auction only.

4.8.2 Where several plots of land in Nazul area are to be granted on temporary leases, a layout showing the number of plots and their dimensions, which can be granted on temporary leases should be prepared before putting these plots to auction.

No person, in whose favour a temporary lease is granted shall make any permanent construction over the site so granted nor such person be permitted to sub-let the areas granted to him on such lease.

4.8.3 Lease may be granted for one year. Yearly rent shall be payable in advance. For this purpose a register showing temporary demand be maintained by the town surveyor or by a Tahsildar where there is no town surveyor.

4.8.4 As regards grants of Government nazul lands, on no claim agreement, Government may permit encroachment on nazul land to continue on the execution of no claim agreements prescribed by the instructions given in sub clause (ii) of rule 12 of the accompaniment, attached to G.R.R.D. No. IMD. 3959/129404-A dated 3/8/1964.

4.8.5 It is laid down that if terms and conditions attached to leases were violated then it were not to be renewed even though it may mean considerable hardship to the lessee.

It was not to part with the advantage to participate in increased price of land without disposing the occupancy right that these lands came to be designated as Nazul land by Book Circular X-12 of 1912 based on Central Province Circular VI-1.

4.9 Settlement

Settlement is a comprehensive operation in which each parcel of land is subjected to measurement and to classification by survey and to investigation of land rights by enquiry to assess it for land revenue.

4.9.1 It is concluded for land rights and its revenue with each individual occupant and is called as rayatwari settlement.

4.9.2 Record at the time of settlement indicates the correct position at the commencement of settlement and has to be maintained through revenue accounts to indicate accurate picture at all the time incorporating latter modifications.

4.9.3 It is done by passing of regular orders on the basis of survey and enquiry for re-division or sub-division of survey numbers or plot to correspond to survey tenure, type of land use and regular assessment.

4.9.4 This continued action provides updated survey and revenue record and annual assessment to be followed by resettlement or revision of assessment whenever it is due. The present code has provided for such regular actions to continue and to maintain earlier settlements concluded under previous codes by correcting records for updation called as revision of assessment.

4.9.5 It has to be done either at expiry of the original period of assessment, or at any change that could affect area, rights or revenue. Revision is also necessary after the expiry of earlier standard rates and when new standard rates are published and after the end of guarantee period.

State government can order fresh settlement operation on the basis of resolution concurred by both the houses of legislature after consideration of forecast of possible results of such Settlement.

4.10 Jamabandi

Jamabandi literally mean fixing of demand. In days when there was no survey, the demand was fixed by collector as Jamabandi. It was most important event keenly interested by every cultivator. Rayat would refuse to pay anything until first a formal Jamabandi had taken place and made them heard. Now, Land Revenue is settled by the survey department based on fixed demand by individual orders and the process in part is a sort of audit of last year's accounts and updation of the current account and partly a test of the work of the village officers.

4.10.1 At present Jamabandi is performed as the test of accuracy. It requires verification as a sort of audit. For this purpose village accounts are tallied with the taluka accounts after August and before the end of October. It traces the totals of each village from village forms to Taluka forms; compare the changes in the forms with the authorities like original sanction orders, maps and measurements. Similarly village forms are agreed to other village accounts. Papers of 10 villages are required to be kept back for strict test.

4.10.2 Some items like correct field name, occupants name, terms, rent, non-agricultural case papers, land grants, plus minus memos, miscellaneous revenue items, closing of registers, chain of mutations, expiring assessments, leases, examination of revenue balances has to be examined by Tahsildar themselves. Sub-Divisional Officer has to apply the same checks as applied by Tahsildar. He has to makes three camps and finishes the work before March. He holds an annual interview with talathi and villagers by giving pan-supary (betal leafs and nuts) to maintain customary practice.

4.10.3 Sub Divisional Officer calls attention on discrepancy between village and taluka collections, inexcusable errors or evidently incomplete accounts and sort out village for fuller examination. He asks the Tahsildar to go into the matter and satisfy that matter will be property dealt with.

4.10.4 Collector has to do Jamabandi of one Taluka in each of the Sub-Division of his district. He has to go through all important points for himself for at least one village for not facing danger of losing touch with the accounts and losing position to criticise and improve functioning of revenue system.

4.10.5 Jamabandi audit has to be completed before March. He has to ensure that there is no lack of touch with the rural population and problems, which agitate them. These have to be addressed to during visit to the villages.

4.11 Land Revenue Accounting System

Survey and revenue record particularly statement of area and assessment provides the basic information for land revenue accounts at village, taluka and district level. First the survey

record is corrected to incorporate the changes that might have occurred and then on the basis of plus minus memo issued by survey staff revenue record is corrected.

4.11.1 Concerned staff signs the record after reconciliation of their survey and revenue record and Tahsildar verifies it before putting his signature to indicate its correctness. Thus the revenue record or account are not strictly financial but embraces and indicates the task performance of both survey and revenue organisation.

4.11.2 A village map, statement of areas, assessment and occupation provides the basis for revenue accounts. Taluka accounts are maintained to exercise an effective control over revenue accounts of the village and to collect, compile and make readily available information of area, assessment, other details and statistics. For sound revenue administration copies of the village registers are obtained and tested at the end of December. To keep check on non-agricultural land revenue, a Register of non-agricultural land is maintained village wise and every order sanctioning such use is noted in the register. This register is examined to initiate action six month in advance to cause revision or renewal or termination of leases.

4.11.3 Similarly registers for alienated land, miscellaneous land revenue (Taluka alienation register, Register of holdings, Register of recoveries) is maintained. Copy of these registers in abstract form is submitted to the Collector annually for the compilation of District Register.

At district level main objective is to have a important Information and statistics and to ensure punctual, correct and up-to-date maintenance of records to verify increase or decrease of areas under different uses, gross and net land revenue and land assigned to various purposes. Such compiled information is also submitted to the Commissioner for scrutiny, control and monitoring.

4.11.4 The objects of maintenance of settlement by maintaining revenue record or account are to (i) simplify and economises periodical settlement operations (ii) to provide a record of rights to the protection of all (iii) to reduce, simplify and cheapen cost of litigations (iv) to provide statistics for sound administration.

4.11.5 Revenue accounts are maintained in four sets of various registers at village, tahsil and district level to reveal clearly, (i) land by areas under different uses and its respective revenue, (ii) demand per occupant, (iii) accounts of recoveries and (iv) statistical information.

4.11.6 Area and Revenue Accounts:

4.11.6.1 It comprises six village registers denoted as village forms. Register of land or village *Form I* gives details of all land by individual survey number and agricultural

assessment on land under cultivation by exhibiting total land of village and then deducting land under various other uses.

4.11.6.2 Thus areas totally unfit for cultivation under special use, and under non-agricultural uses in both outside village site and within village site could be abstracted to reveal changes in a year. To facilitate supervision, additional registers like for forestland, unoccupied government lands, vested lands, surplus land under ceiling laws and for encroached land are maintained as subsidiary registers.

4.11.6.3 All non-agricultural lands in the village and its revenue are accounted in separate register called as village *Form II* or register of non-agricultural lands. Every entry in this register is based on orders of competent authority sanctioning non-agricultural use and plus minus memo (kami-jasti patrak) from land record department passed on to talathi through tahsildar who is required to take entry in to taluka register. For alienation recognised under the system register of alienated land or village *Form III* is maintained.

4.11.6.4 All these register indicated lands under various permitted uses and its revenue called as fixed revenue. Other items of revenue due to imposition of fines, penalties, late fees, non-agricultural use for less than five years is noted in village *Form IV* or Register of Miscellaneous land revenue. This register accounts for major part of revenue called as fluctuating revenue as it indicates cases under action and every entry of it requires verification.

4.11.6.5 All these registers give information of land under various categories of uses and their assessment for land revenue.

4.11.6.6 When village has notified city survey areas these register are maintained in two parts one for village area and other for city survey area.

4.11.6.7 This information is abstracted in village *Form V* or register of General Abstract of Area and Revenue which afford comparison and reasons for fluctuations in area and its revenue.

Striking increases and decreases are revealed for its correctness which has to be tested By comparison with Balance Sheet or village *Form VIII-B* and is called as Tharavband. It means that all entries are fixed correctly for further action and no modifications could be considered for the year.

4.11.7 Demand per Persons

4.11.7.1 This second set deals with persons from whom land revenue is realisable and comprises four register and five subsidiary registers.

These registers are important to observe the main objectives of the revenue accounting system. Details of land transfers are obtained orally or in writing from parties concerned.

4.11.7.2 In addition monthly list of all registered transfers has to be obtained from the office of Sub-Registrar and orders of the collector. Information is first recorded in a register called as mutation register or village *Form VI*.

Notices are required to be issued to the interested parties and details displayed at prominent Places for inviting objections if any.

Notes about the objections recorded in register of disputes are to be enquired about its validity.

4.11.7.3 After settlement of objections, the mutation is certified and transferred to village *Form VII-XII* or record of Right Register in village area. In city survey area it is maintained in the form of property card on same principle.

After its certification, it is presumed to be true until contrary is proved or new entry is lawfully substituted. It also becomes a record of liabilities indicating type of occupant like class I, class II or other rights as a lessee or a grantee, along with terms and conditions, revenue, rent and other particulars.

The process is facilitated by subsidiary registers for disputed cases, heirship cases, new sub division cases.

4.11.7.4 From record of rights, all entries of persons and their land are posted in register of holdings for drawing up an account of what each person is primarily responsible to the payment of land revenue.

4.11.8 Accounts of Recoveries

4.11.8.1 The third set of revenue accounts deals with accounts of recoveries and balances. It is consist of seven registers and one subsidiary register.

4.11.8.2 Entries from earlier set of accounts showing revenue payable by each person along with details of its land upto closing date fixed by Collector is taken in village *Form VIII* or register of annual ledger (Asamiwar Khatawani and Laoni Patrak or Tharavband). It has columns for account number, area, arrears and current years demand.

4.11.8.3 The total demand of fixed and fluctuating revenue, Z.P. and Panchayat Samiti cesses, and other dues per occupants is recorded in village *Form VIII-B* or as balance sheet (demand, recoveries, arrears by khatas and for village). From this register, correctness of other register can be verified.

4.11.8.4 Similar account of items other than land revenue like irrigation dues, fees and taxes to be recovered as land revenue is recorded in village *Form VIII-C*. Accounts of recoveries are maintained in cash register or village *Form VIII-D*.

4.11.8.5 As soon as recovery is made, receipt is given in village *Form IX*.

4.11.8.6 Accounts of receipt book are maintained in village *Form X*

4.11.9 Statistical Information

The fourth set of accounts consists of four registers and miscellaneous files to give summary of crops, irrigations, trees, cattle population, agricultural implements, sources of water supply and similar information.

Miscellaneous Internet Readings

Revenue Audit Manual (Land Revenue) of AG Audit II Mah Nagpur 2006

CHAPTER 5

TRANSFER OF RIGHTS AND CONVERSION OF USE OF LAND

Introduction :-

Rights over land may change due to,

1. Inheritance,
2. Will,
3. Partition

or due to, Transfer of land.

Land is transferable immovable property. "Transfer of Property" means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself and one or more other living persons. "Living person" includes a company or association or body of individuals.

1. Sale of property;
2. Lease or renting of property;
3. Mortgage of property;
4. Gifting property and
5. Exchange of property.

Although the land is part of man's natural heritage, access to the land is controlled by Government for various social, political and economical reasons. The Government has enacted number of enactments to restrict person's right over the transfer of the land. The laws which are restricting person's rights of transfer of the land are as follows:

Maharashtra Land Revenue Code 1966:

One of the objectives of land revenue administration is to recover the revenue. So it is obvious that failure to pay arrears of land revenue makes the holding liable to forfeiture. On forfeiture the occupancy ceases to be property of the occupant under section 72 of MLR Code 1966. The forfeited land shall not change hands by way of inheritance or by will.

Under section 36 A, the land of a Tribal cannot be transferred in favour of any non-Tribal without permission of State Government and/or Collector as the case may be.

Bombay Tenancy and Agricultural Lands Act, 1948:

To gain maximum revenue from the land in India the British rulers introduced three major forms of land settlements namely Zamindari, Raiyatwari and Mahalwari. Under the influence of these systems actual cultivators turned into tenants. These land system created intermediary between the State and the actual tillers of the soil. These intermediaries had no

interest in improvement of the land. Against this background intermediary interests were abolished by the Government by framing policy "Land to the tillers" In the Maharashtra under section 32 of the Bombay Tenancy and Agricultural Lands Act, 1948 provides compulsory transfer of ownership rights of tenanted lands to the tenants from 1st April 1957 which is known as the "Tillers' Day". There is complete sale and purchase on the tiller's day. The title of landlord passes immediately to the tenant on the tiller's day. The tiller who purchased the land under this act is classified as an Occupant Class II. The land of Occupant Class II is heritable but transfer of land is valid subject to fulfilling conditions imposed by the Government.

No land purchased by tenant under section 32, 32F, [32I, 32 O, 33 C, or 43 ID or sold to any person under section 32 P or 64 shall be transferred by sale, gift, exchange, mortgaged, leased or assignment, without the previous sanctioned of the collector. Sanctioned is not required when land is to be mortgaged in favour of Government.

The collector may grant permission for transfer of land in any of the following circumstances, namely:-

- a. That the land is require for agricultural purpose by industrial or commercial undertaking in connection with any industrial or commercial operations carried on by such undertaking;
- b. That the transfer is for the benefit of any educational or charitable institution;
- c. That the land is required by a co- operative farming society;
- d. That the land is being sold in execution of a decree of a Civil Court or for the recovery of arrears of land revenue under the provision of the code;
- e. That the land is being sold bona fide for any non agricultural purpose;
- f. That the land is being sold by a land owner on the ground that –
 - i. He is permanently giving up the by profession of an agriculturist, or
 - ii. He is permanently rendered incapable of cultivating the land personally;
- g. That the land is being gifted in favour of-
 - i. The bodies or institution mentioned d in section 88A and clauses a & b of section 88B or
 - ii. A member of land-owners family;
- h. That the land is being exchanged-
 - i. With the land of equal or nearly equal value owned and cultivated personally by the member of the same family; or
 - ii. With the land of equal or nearly equal value situate in the same village owned and cultivated personally by another land owner with a view to forming compact block of his holding or with view to having better management of the land:

Provided that, the total land held and cultivated personally by any of the parties to the exchange whether as a owner or tenant or partly as does not exceed the area as a result of exchange;

- i. That the land is being leased by a land owner who is a minor; or a widow or person subject to any physical or mental disability or the member of the armed forces or among the land owners holding the land jointly;
- j. That the land is being portioned among the heirs or survivors of the deceased land owner;
- k. That the land is being mortgaged in favour of society registered or deem to be registered under the Maharashtra Co-op Societies Act 1960 for raising a loan for paying the purchase price of such land.
- l. That the land is being transferred to the person who by reason of acquisition of his land for any development project has been displaced and requires to be resettled.

Where sanctioned for sale of land given in the circumstances specified in the clauses a, b, c, e, or f it shall be subject to the condition of the land owner paying to the State Government a nazrana equal to 40 times assessment of the land.

In the case of portion sanctioned under clause “j” it shall be subjected to the condition that they are allotted to each sharer and shall not be less than the unit specified by the State Government under clause c of sub section I of sub-section 27

Transfer to non agriculturist barred under Section 63

No sale, gifts, exchange or lease of any land shall be valid in favour of person who is not an agriculturist. However collector may grant permission for transfer under the below mentioned conditions:

- a) Such a person bona fide requires the land for a non agricultural purposes; or
- b) The land is required for the benefit of an industrial or commercial undertaking or an educational or charitable institution; or
- c) Such land being mortgaged, mortgagee has obtained from collector a certificate that he intends to take the profession of an agriculturist and agrees to cultivate the land personally; or
- d) The land is required by co-op society; or
- e) The land is required for cultivating it by a personally by a person, who, not being an agriculturist, intends to take to the profession of agriculture and to whom collector has given certificate that such person is intend to take to the profession of agriculture and is capable of cultivating land personally; or
- f) Such land is being sold in execution of decree of a civil court, or recovering arrear of land revenue.

Transfer to non agriculturist for bona-fide industrial use:

No permission is required to sell the land to the person who may or may not be an agriculturist for the purpose of bona-fide industrial use if the land situates within the industrial zone of a draft plan or final regional plan or draft of final town planning scheme prepared under the MRTP Act 1966 and the area where no such plans or scheme exists.

The Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947:

Under this act government is empowered to declare the area as a “local area” for determine minimum size of any class of land that can be cultivated profitably as a separate plot. The size of the land so determined is called standard area. Fragments means plot of agricultural land of less extent than the appropriate standard area determined for the local area.

Under section 7:

“Fragment” is not allowed to transfer except to the owner of a contiguous survey number or recognized sub-division of survey numbers. Also no land shall be transferred so as to create “fragment”.

Under section 8:

No land in local area shall be transferred or partitioned so as to create fragment.

Under section 27:

There is ban on transfer of land, execution of awards and decrees during the continuance of the consolidation of holdings.

Under section 31:

There are restrictions on alienation and sub division of consolidated holdings.

Maharashtra Agricultural lands Ceiling on Holding Act, 1961

The basic objective of fixation of ceiling on landholdings is to acquire land above a certain level from the present landholders for its distribution among the landless. It is primarily a redistributive measure based on the principle of socio-economic justice.

This act is restricting the size of holdings which a person or family can own. Acquisition of land in excess of the ceiling is prohibited. Land rendered surplus to the ceiling is taken over by the state and distributed among the weaker sections of the community.

Any person or family cannot hold land in excess of ceiling area fixed on 26thSeptember1961. Person or family cannot transfer surplus land until the land in excess of the ceiling area is determined under the act.(Section 8) A person possessing land in excess of ceiling area cannot acquire land by transfer. (Section 9)

The land held by individual or the family of the Maharashtra State or the part of India is to be taken into consideration while calculating the ceiling area.

For fixing ceiling areas lands have been classified in five classes as detailed below

| Class Of Land | Ceiling Area | |
|---|--------------|-------|
| | Hectares | Acres |
| Land with assured supply of water for irrigation and capable of yielding at least two crops in a year | 7-28-43 | 18 |
| Land which has assured supply of water for only one crop. | 10-92-65 | 27 |
| Land which has un-assured supply of water for only one | 14-56-86 | 36 |
| Dry Land situated in Mumbai Sub Urban District and Districts of Thana, Raigad, Ratanagiri, Sindhurg, Bhandara, Gadchiroli, Sironcha talukas of Chandrapur District which is under paddy cultivation for continuous period of three years. | 14-56-86 | 36 |
| Dry Crop Lands other than all above lands. | 21-85-29 | 54 |

The Maharashtra Co-op Act, 1960

While taking loan from co-operative society member is furnishing undertaking to the society that he is mortgaging his own agricultural land against the said loan amount. Under section 48, a charge on land continues until the whole debt, due to the society is satisfied.

Transfer of Property Act, 1882

Section 52 of the Transfer of Property Act provides that during the pendency of any litigation affecting the immovable property it cannot be transferred or otherwise dealt with by any party to the suit so as to affect the rights of the other party under any decree or order which may be made therein.

Registration Act, 1908

a. Section 17 of the Registration Act, 1908 lays down different categories of documents for which registration is compulsory. The documents relating to the following transactions of

immovable properties are required to be compulsorily registered; Instruments of gift of *immovable property

b. Lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent.

c. Instruments which create or extinguish any right or title to or in an immovable property of a value of more than one hundred rupees.

“Immovable property includes: “Land, buildings, hereditary allowances, rights to ways, lights, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass.”

Under section 49 of the above act, if the registration of the above transactions are not made the transactions are to be treated as a null and void.

Wakf Land

Wakf is a permanent dedication of movable or immovable properties for religious, pious or charitable purposes as recognized by Muslim Law. No transfer of immovable of a wakf, by way of sale or mortgage, exchange or lease for period of exceeding three years is validly allowed without previous sanctioned of the Wakf Board.

Trust Lands

These lands attract the provisions of the charitable Trust Acts. The trustees are competent to dispose of the trust property exercising the powers vested in them by the Trust Deed.

Some further important points in regard to conversion of use of land are as under:-

5.1 The state government has come up with an amendment in Maharashtra Land Revenue Code, following which non-agriculture certification will no longer be required for a land for which development plan is finalised. A Government Resolution regarding the amendment was released in January 5 2017.

5.2 Two sections (63, and 63-1A) of the Maharashtra Tenancy and Agricultural Lands Act 1948 govern the ability to sell and buy agricultural lands (AL) for non-agricultural (NA) use.

5.3 Any quantity of AL located in an agricultural zone can be bought so long as extant law permits its industrial use, or the AL is located within the area taken over by a private developer for development of an Integrated Township Project.

5.4 The land is to be put to the bonafide industrial use within five years of purchase. If that is not done, the Collector may grant an extension of further five years on annual payment of non-utilisation charges of 2% of market value of the property.

5.5 At the end of 10 years, the Collector will resume control/possession of the land after giving a month's notice to the defaulting purchaser, and the land shall be vested in the Government, free from encumbrances. It will then be first offered to the original seller by way of grant, on the same tenure as it was held by him before the sale and at the same price at which the land had been sold by him. If the original seller does not accept this offer and/or make the payment, the land will be auctioned for any use consistent with the extant development plan – and the Collector will then remit to the defaulting purchaser, the price at which it had purchased the land for NA use.

5.6 Delay in paying to the Collector 50% of the purchase price to buy Occupant Class – II AL for use as Integrated Township Project within one month of executing the sale deed will result in 75% of the purchase price or market value, whichever is higher, becoming payable to the Government.

5.7 A new sub-section (5) has been introduced, which regulates sales/transfers of AL bought for NA use, before the expiry of 10 years and before utilising it for bonafide industrial use. Under this provision, if an NA buyer of AL proposes to sell the AL at any time within the 10 year period, it may do so (after also paying a non-utilisation charge, if the proposed sale is in the five-year extension period) on the following basis:

5.8 Such sale/transfer will require prior permission of the Collector;

5.9 The period of 10-years from the date of original purchase will also apply to the second transferee;

5.10 If the land is to be sold for *bona fide* industrial use, the transferor will deposit with the Collector, transfer charges @ 25% of the land market value;

5.11 If the land is to be sold for any non-agricultural purpose other than the bonafide industrial use (consistent with extant development plans), the transferor will deposit with the Collector, conversion charges equal to 50% of the land market value. If such land is Occupant Class – II, a further amount equal to 48% of the original purchase price will also be deposited in lieu of nazarana.

5.12 The definitions of bonafide industrial use and Integrated Township Project were also clarified or substituted pursuant to the amendment.

NOTE :- It is important to note that an aligned amendment has also been made in the Maharashtra Land Revenue Code, 1966 permitting conversion of Class-II occupancy land into Class-I occupancy on paying prescribed conversion premium: i.e. paying a charge to release “restricted user” land (Class II) and classify it as land transferable without any restrictive conditions (Class I).

Miscellaneous Internet Readings

CHAPTER 6

DETAILED EXPOSITION ON NON- AGRICULTURAL ASSESSMENT PROCEDURE AND SCOPE

6.1 General

Non agricultural assessment, fixed for lands and in force immediately before the commencement of the Maharashtra Land Revenue Code, 1966, is deemed to have been fixed under the provisions of the said code and such assessment would continue to remain in force during the whole of the period for which it was fixed and thereafter until it is revised. The non-agricultural assessment fixed after the commencement of the code, i.e. with effect from (August, 1967) will, however, remain in force for a period of fifteen years from the actual date of the commencement of the non-agricultural use and on expiry of such guarantee period it will be liable for revision, but till it is revised it shall continue to be in force. Thus the revision of non-agricultural assessment actually takes effect from the date of expiry of the guarantee period of the old assessment or from the date of the order of the revision, whichever is later. Retrospective revision of non agricultural assessment was not allowed under the provision of the Maharashtra Land Revenue Code, 1966 (Government letter No. RB-Desk-2/LNA- 846 dated 8-5-1978). However, consequent upon enactment of Maharashtra Act, No VIII of 1979, notified in Gazette of 31st March, 1979. Retrospective revision is permissible.

6.2 Procedure of assessment :

i) Non urban areas – Under Section 110 of the Maharashtra Land Revenue Code the Collector has to divide all the villages in the District in non-urban areas into two classes, (by a notification in the official Gazette, subject to approval of Commissioner) i.e. class I and Class – II on the basis of the market values of lands. (1 A) Notwithstanding anything contained in Sub Section (1) any areas of village or group of villages which has been notified as an “urban area” UNDER Cl. (42) of section 2 shall on the date of coming into force of MLR Code (amendment) Act 2003, ceases to be such urban area, and shall from the said date, be deemed to be Cl. Village for the purposes of assessment of non agricultural assessment of such village under this code.

Provided that nothing contained in sub section (14) shall in any way affect the liability of an assessee for payment of any tax which has already been assessed and accrued prior to the said date in respect of such notified urban area. Provided further that, notwithstanding anything contained in sub section (1A) any tax already levied and before the said date in

respect of such notified urban area, shall not be referred. Under clause (2) of Section 110 of the code, the Collector has to assess lands falling in Class-I villages according to the non-agricultural purposes, for which they are used, at a rate, not exceeding two paise per square meter per year and those falling in Class-II villages, at the rate not exceeding one paise per square meter per year, regard being made to the market value of lands used for the non-agricultural purpose, so however, that the assessment so fixed is not less than the agricultural assessment which may be leviable on such lands.

ii) Urban areas – As regards the non-agricultural assessment in urban areas, the Collector has to divide urban area into blocks on the basis of the market value of lands, due regard being had to the situation of the lands, the non agricultural purposes for which they are used, and the advantages and disadvantages attaching thereto as per provisions in Section III of the Maharashtra Land Revenue Code. However, the non-agricultural assessment on lands in each block in an urban area, is not to exceed three per cent of the full market value thereof when used as building site. Under Section 113(1), the Collector (with the approval of the State Government) has to fix the rate of the non-agricultural assessment per square meter of land in each block in an urban area, at such percentage of the full market value of such land as may be prescribed. The standard rate of non-agricultural assessment is to be equal to 1.25 percent of the full market value of the land. The rate so fixed is called “The standard rate of non-agricultural assessment”. The standard rate of non-agricultural assessment so fixed is to remain in force for a period of five years (Section 113(2)) and thereafter would be deemed to be in force, until ;such rate is revised later on (provided that the first such guaranteed period shall commence on the first day of August 1979 and shall expire. On 31st July 1991, (provided further that, the State Govt. may, extend such guaranteed period for all or any block in, any urban area so however that such extended period shall not be more than five years)

2-A) Where the standard rate of non agricultural assessment in any block in any urban area has been fixed or revised before the first day of August 1979, such standard rate shall be deemed to be due for revision, at any time on or after the 1st day of August 1979; and then such standard rate if so revised shall be deemed to have come into force with effect from the 1st day of August 1979 on which date the first guaranteed period commenced and would remain in force upto the 31st July 1991 and would then be subject to further revision under, sub section (2-B) from time to time.

(2-B) Where the standard rate of non agricultural assessment is fixed or revised for any guaranteed, period the same shall be revised as soon as possible after the commencement of

the next guaranteed period and such revised rate shall be deemed to have come into force with effect from the commencement of such next guaranteed period.

(2-C) Notwithstanding anything contained in Sub Section (1) or the Rule made thereunder, the rates of non agricultural assessment for the guaranteed period of five years commencing from the 1st August 2001 shall not exceed.

a) three times the non agricultural assessment rate of 1991,(i.e. prevailing as on 31-7-1991) in a municipal corporation area and two times of such rate in the area of the rest of the State, for the cases which are already assessed for non agricultural purposes, and

b) Six times the non agricultural assessment rate of 1991, (i.e. prevailing as on 31-7-1991) in a Municipal corporation area and four times of such rate in the area of the rest of the State for the cases to be assessed for non agricultural purposes)

(Sub section 2-C was inserted by MAH-9 of 2002)

iii) The standard rate of non Agricultural assessment fixed or revised as aforesaid shall be published in the official Gazette and in such other manner as may be prescribed before they are brought into force.

The full market value of non- agricultural lands in urban area in a block shall be estimated on the basis of sales, leases, and awards under Land Acquisition Act, 1894 which have taken place or declared, as the case may be, in the block during the period of fifteen years immediately preceding the year in which the standard rate of non-agricultural assessment of lands in the block is to be fixed, in accordance with the principles laid down under Rule 15 of Rules regarding conversion of use of land and Non Agricultural assessment, 1969.

6.3 Term of Assessment fixed under Sections 110 and 114 :

i) Prior to 31st March, 1979, the non-agricultural assessment fixed according to the provisions of Sections 110 and 114 of the Maharashtra Land Revenue Code, 1966, was guaranteed for 15 years from the commencement of the non-agricultural use. However due to enactment of Maharashtra Land Revenue Code, (Amendment) Act 1979 on 31st March 1979 such non-agricultural assessment, fixed on individual plots, on or after (March, 1979) will remain in force till the duration of the “guaranteed period” only. In other words, the non-agricultural use of the lands, commenced during the “guaranteed period” will remain in force till the duration of the “guaranteed period”. For example, the non-agricultural assessment in respect of the land, in respect of which, non-agricultural use started in 1988 shall remain in force till 31st July 1991 and shall be liable to be revised on 1st August 1991. Since the first ‘guaranteed period’ is to start from 1st August 1979 and since the standard rate of non-agricultural assessment in respect of lands for which non-agricultural permissions have been granted or deemed to have been granted with effect from 31st March

1979 or unauthorized agricultural is regularized under Section 47(b) of the Maharashtra Land Revenue Code, 1966, the non-agricultural assessment shall remain in force till 31st July 1979 only and thereafter it shall be liable to be revised. However, where the non-agricultural assessment has been fixed before 31st March, 1979, and where the guaranteed period is specified in the order or in the Sanad, then in such cases, the period mentioned in the order or in the sanad will be honoured. In such cases, the non-agricultural assessment shall become liable to revision only after the expiry of the specified guaranteed period. For example, if the non-agricultural permission is granted and the non-agricultural use was started in January, 1970, and if non-agricultural assessment has been guaranteed for 15 years in the order or sanad issued, the assessment shall be liable to revision on 1st August 1984 only at the revised standard rate in force during the 'guaranteed period' of 1st August 1979 to 31st July 1991 and thereafter on 1st August 1991 at the revised rate applicable from the date.

ii) Under proviso to section 116, the amount of non- agricultural assessment, after revision, will however, be limited to two times the previous non-agricultural assessment, if the land is used for residential purpose and to six times the previous non-agricultural assessment if the land is used for any other non-agricultural purpose **(Government. Circular R&F.D.BN.A.A.-1079/10903-L-2 dated 10/5/79)**. Sec. 116 was deleted by amendment Act No. IX of 2002 M.C.G. Pt. VIII Ext. Pg. 36 dt. 5/1/2002 wef. 1/8/2001.

Non – Commencement of Non- Agricultural Use :

For non-commencement of the permitted non-agricultural use, within the prescribed period, the existing law does not provide for any penalty, other than the automatic cancellation of the non- agricultural permission.

Non- agricultural permission is not an order but is merely a permission. There is, therefore, no question of defying it. Non – utilization does not cause any loss to Government. It does not seem necessary to penalise such grantee.

(G.L.R. & FD No. NAF 3167 (63911/L-2 dt. 9/1/1978 to the Collector, Dhule).

Commencement of Non-Agricultural Use :

Merely by grant of non- agricultural permission, an agricultural land does not ipsofacto become non-agricultural. For that purpose, the non- agricultural use of the lands permitted to be converted should actually commence or start. What constitutes commencement of non-agricultural use is not provided in Maharashtra Land Revenue Code, 1966. It is a question of fact and interpretation. If some positive action is taken by the applicant after obtaining non-agricultural permission such as leveling it, developing it or reclaiming it and laying it into plots and constructing road, drainage etc. as provided in the layout and thereby

changing the character of the lands so as to render it unfit for cultivation it can reasonably be presumed that non-agricultural use has started. (**Government. Circular No. R.&F.D.No. UNF-1967/I-R dated 9th March 1970**).

6.4 Rate of Non-Agricultural Assessment in Urban Area :

1. Subject to the provisions of Section 114 of the Maharashtra Land Revenue Code the rate of assessment in respect of lands in urban areas :-

- a) used for purpose of residential building shall be the standard rate of non-agricultural assessment.
- b) Used for the purpose of Industry, shall be one and one half times of the standard rate of non agricultural assessment.
- c) Used for the purpose of commerce, shall be thrice the standard rate of non agricultural assessment in the areas within the limits of all the other Municipal Corporations excluding the area of the Mumbai City District in the Mumbai Municipal Corporation area and twice the standard rate of non agricultural assessment in the remaining urban areas of the State.
- d) Used for any other non-agricultural purpose shall be fixed by the Collector at a rate not less than the standard rate of non-agricultural assessment and not exceeding one and one-half times that of standard rate, regard being had to the situation and special advantage or disadvantage attaching to such lands.

2) Where any land is used for any non agricultural purposes for a period of six months or less, the non agricultural assessment shall be half of that fixed for land used for the non agricultural purposes.

1) Notwithstanding anything in this Section, the Collector may in r/o any land in a block fix the non agricultural assessment for that land at a rate not less than 75% of the rate fixed in sub sn.(1) but not exceeding by twenty five percent, the rate so fixed for particular use, regard being had to the situation, and special advantages or disadvantages attaching to such land.

6.5 Under Section 117 of the Maharashtra Land Revenue Code, 1966, Lands used for the following purposes, shall be exempt from the payment of the non- agricultural assessment, namely :-

- i) Lands used by an agriculturist for an occupation, subsidiary or ancillary to agriculture, such as, the erection of sheds for handlooms, poultry farming or gardening, or such other occupations, as the State Government may specifically mention, such as lands used by agriculturist for extracting or canning fruit juice, gur making, oil pressing, cotton ginning, paddy husking or other similar purposes from the produce of his own field should be

considered as occupations subsidiary or ancillary to agriculture; storing manure is an agricultural purpose.

“Farm buildings” meaning the residence of a cultivator or his tenants and his barns and cattlesheds, etc. are agricultural uses. The point is that such farm building must be on the holder’s own land and form an integral part of his cultivating arrangements. Agriculture means the ploughing, sowing, tilling and reaping of some crop or produce for profit. Letting a few trees or flowers grown for pleasure is not agriculture. There are some gardens in which, roses etc. can be seen cultivated for the market, which is certainly agricultural. A dairy farm is held to be agricultural. Storing manure is an agricultural purpose, but a co-operative dairy is non-agricultural. Cane crushing and gur boiling are essential to cane cultivation and are not non-agricultural uses (vide commentary at page 97 under rule 80-B of Bombay L.R. Rules 1921 by Shri F.G.H. Anderson).

The use of land for stock- breeding should be considered an agricultural use in rural areas. Lands used for the purpose of horse-breeding stabling horses and their exercise and ancillary matters should accordingly be treated as used for agriculture and assessed.

Here animals are merely stalled in urban areas and all but a negligible part of their feeding stuff are imported the use is non-agricultural. In case of doubt, the use of the lands should be treated as agricultural (G.R.R. & F.S. No. LNA 1059/24504-C dated 24/9/1965).

ii) Lands used for purposes connected with the disposal of dead.(Burial Grounds or Burning Ghats)

iii) Lands solely occupied and used for public worship and which were exempt from payment of land revenue by custom, grant or otherwise, before the commencement of the M.L.R. Code, 1966.

iv) Lands used for an educational or charitable purpose, the benefit of which is open to all citizens without distinction of religion, race, caste, place of birth or any of them.

v) Lands used for any other public purpose, which the State Govt. may, by rules make under the M.L.R. Code, to be exempt, for such period and subject to such conditions as may be specified therein.

vi) Such agricultural lands (outside a gaothan) in a non-urban area converted to non-agricultural use for purpose of residential buildings (clause (b) under Section 123 of the Code). As the State Govt. may, by notification in the official Gazette, specify.

6.6 During the scrutiny of the local audit of land revenue, audit has to satisfy itself, that the rates of non-agricultural assessment so fixed by the Collector as per procedure mentioned above, in respect of all urban areas and non-urban areas, are correct and assessment of non-agricultural assessment is levied and recovered, in all cases of non-agricultural use of lands

at correct rates, from the date of use of said lands, unless such lands are exempt from non-agricultural assessment user specific provisions in the code and rules.

6.7 Under Section 44 of the Maharashtra Land Revenue Code 1966, each occupant of land has to apply in writing to the Collector for conversion of use of land from one purpose to another. In case a permission is granted or deemed to have been granted under Section 44(2) and (3) of the Code, such person will have to inform the Tahsildar in writing through the village officers the date, on which the change of user of land commenced. If, however, the person fails to inform the Tahsildar, within the specified period (30 days from date of use commenced, he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may direct but not exceeding five hundred rupees.

6.8 Lands used for any of the following purposes shall also be exempt from non-agricultural assessment.

- i) Hospitals,
- ii) Hostels,
- iii) Play-grounds
- iv) Parks and Gardens
- v) Office premises of local authorities,
- vi) Gymnasium or
- vii) Roads, paths and lanes, set apart in layouts, meant for the benefit of all citizens without distinction of religious, race, caste, sex, place of birth or any of them and yielding no profits to private individuals or to any person.
- viii) In the case of building sites hold in co-op. Housing Societies or the Housing Board, which are not built upon, no non agricultural assessment shall be levied for the three years subsequent to the date on which possession of lands was taken or till the date on which non agricultural use of the lands begins whichever is later.

(Rule 22(1) and (2) of Maharashtra Land Revenue (Conversion of use of land and N.A.A.) Rules 1969).

Penalties

6.9 If any land held or assessed for one purpose is used for another purpose-

- a) Without obtaining permission of the Collector under Section 44 of the Code or
- b) In contravention of any of the conditions attached to the grant of permission for such land, the holder of the land is liable to the one or more of the following penalties: -
 - i) To pay non-agricultural assessment on the land, leviable with reference to the altered use.

ii) To pay in addition to the non-agricultural assessment, such fine, as the Collector may direct.

iii) To restore the land to its original use, and

iv) To impose on such person a penalty not exceeding three hundred rupees and a further penalty not exceeding thirty rupees for each day, during which the contravention persisted.

If any land is used unauthorisedly in contravention of the provisions of Section 44, the Collector may require the holder of the land to stop such unauthorized use and ask him to pay the non-agricultural assessment on the land, with reference to the altered use for the entire period of such unauthorized use, and such fine, not more than forty times the non-agricultural assessment on the land, leviable with reference to the unauthorized altered use under the provisions of the Maharashtra Land Revenue (conversion of use of land and N.A.A.) Rules, 1969.

Unauthorized non-agricultural use or altered use of land, in contravention of the provisions of Section 44 is required to be ordinarily regularized by the Collector, if the holder of the land so desires subject to the following conditions: -

i) that the holder shall pay non-agricultural assessment on the land, with reference to the altered use, since the commencement of that use, if it is not already paid under Rule 8 *ibid*.

ii) that the holder shall pay such fine not exceeding forty times the non-agricultural assessment on the land, if it is not already paid under Rule 8 *ibid*.

8.10: (I) According to the provisions contained in clause (b) of Section 123 of Maharashtra Land Revenue Code 1966 residential building sites, situated within the sites of non-urban areas are exempt from land revenue. It further means that the residential building sites situated within 'gaothan' in non non-urban areas, are only exempt, (**vide also para 7 in Revenue book Circular 17 published in M.L.R. Manual Vol. II**). It is therefore, evident that no non- agricultural assessment is to be levied on lands in non-urban areas, in village sites i.e. 'gaothans' used for residential purposes. In these areas (i.e. in non-urban areas) the non-agricultural assessment has to be levied only on lands, which are used for industrial, commercial or other non-agricultural purposes, other than residential. While auditing the village records, relating to non-agricultural assessment, audit has to satisfy itself that in all areas of lands in gaothan area of villages, the non-agricultural assessment is required to be fixed if such areas are used for non-agricultural purposes, other than residential. All cases of omissions and commissions noticed during the test check of the village records should be brought out with suitable comments.

- ii) Where land is used for non-agricultural purpose, for a period of six months or less the non-agricultural assessment has to be charged at half of that, fixed for lands used for non-agricultural purposes, (**vide rule 27 of R.B. Circular No. 17 in M.L.R. Manual Vol.II**)
- iii) Non-agricultural assessment should not be levied on building sites, held by Co-operative Housing Societies or Housing Boards which are not built upon for a period of three years subsequent to the date on which possession was taken or till the date on which non-agricultural use of the land begins whichever is later (**Rule 22(3) of the Rules called the 'MLR Rules 1969'**).
- iv) Under Section 115 of the Maharashtra Land Revenue Code, 1966, non – agricultural assessment is required to be levied with effect from the date on which any land is actually used for non-agricultural purpose. The Section 44 of the code requires the holder of land to apply in the prescribed form for conversion of the agricultural lands for non-agricultural purposes and the Collector has to decide such application either by granting the permission or refusing it. A permission to convert the agricultural land into non-agricultural purpose is generally granted on conditions, which require inter-alia that the applicant shall develop the land and construct the structure in accordance with the plans approved either by planning authority or by the village Panchayat as the case may be. It is evident that the condition of the land does not change, merely because the non-agricultural permission is granted by Collector. While granting permission conditions are imposed to layout the land in suitable plots of standard sizes, with necessary access etc. Even the layout is approved the character of lands remains the same. Merely by grant of non-agricultural permission, an agricultural land does not become non-agricultural, unless the non-agricultural use of the lands, permitted to be converted actually commenced or started. For that purpose positive action is required to be taken by applicant after obtaining non-agricultural permission. Action in raising and leveling the land, developing it or reclaiming it, laying it out into plots and constructing road, drainage, etc. as provided in the layout, thereby, changing the character of the land is necessary as to render it unfit for cultivation. In such cases, the land can be subjected to payment of non-agricultural assessment, although no buildings are actually constructed or no construction of structures started therein (**para40 of Revenue Book Circular No. 17 in M.L.R. Manual Vol. II**).
- v) Portions of Municipal street ends when sold or leased for purposes of advertisement, etc. should be considered as used 'profitably' and non-agricultural assessment should be levied on entire area covered by the pillars and hanging boards. (**Para 41 of Revenue Book Circular No. 17 in M.L.R. Manual, Vol. II**).

vi) Non-agricultural assessment should be levied only on such portions of the area as are actually used for non-agricultural purpose by the State Road Transport Corporation on the following principles :-

Non-Agricultural assessment at current rates should be charged on such portions of lands as are properly demarcated by means of fencing or compound and used for non-agricultural purposes connected with the various activities such as Bus stands, Garages, Depots etc.

The remaining areas which may be lying vacant should be charged agricultural assessment, till such areas are put to non-agricultural user, with the prior permission of Revenue authorities, provided that such areas are also properly demarcated by means of fencing or compound.

vii) 'Pardi Land' is a cultivable land appertaining to houses within the village site, (Section 2(26) of the M.L.R. Code). Such 'Pardi Land', which is less than 1/4th of an acre and used for agricultural purpose or for a purpose subsidiary or ancillary to agriculture, is exempt from payment of land revenue. If however, such land is used for any purpose other than agriculture, the holder thereof is liable to the payment of non-agricultural assessment and fine, if any, under Sections 44,45 and 67 of the code, (para 3 of R.B.C. No. 18).

viii) 'Wada land' is an open land in village site used for tethering cattle or storage of fodder, manure or other similar things and is exempt from payment of land revenue as long as its common use continues. **(para 4 of R.B.C. No 18).**

ix) Private vacant plots in Gaothan area :

The privately owned vacant plots in the 'Gaothan Area' were liable to be assessed for agricultural assessment at the time when the city or village survey was introduced. If those vacant plots so assessed for agriculture assessment are subsequently used for building purposes, Government is entitled to levy non- agricultural assessment on the same **(commentary under Section 126 of RLR Code 1879).**

x) Non-agricultural assessment on lands held by Agricultural produce Marketing Committee.

Under Government letter No. NAA-1072013520-L2 dated 19th August 1977 read with Government circular No. LRT-1071/209104-B dt. 3rd July 1972 Government have decided that the Agricultural Produce Marketing Committee should not be exempted from payment of non-agricultural assessment, on lands held by them. Government have also vacated the stay order issued in their **No.O/136201-C-II, dt. 18th July 1972** under Government letter **No. NAA-1072/135201-L-2 dated 9th August 1971** and vide subsequent G.R. of Marathi **dated 27th March 1998** had directed the following policy in regard to grant of Government land to A.P.M.C. (1) Government lands may be granted to APMCs considering the

prevalent market rates and after determining the market value of lands, the same should be recovered in yearly installments as below.

- A) Where the annual income of the APMC is less than 1 crore- in 15 years
- B) Annual income between 1 crore to 5 crore – in 8 years
- C) Annual income above 5 crore- in 6 years.

While fixing/determining the market value, the rate of interest as declared by Government may be considered. There is no exemption for NAA on land given to APMC by Government. The Collectors of all the Districts have been directed to recover the non-agricultural assessment from the Agricultural Produce Marketing Committee in accordance with the provisions in the Maharashtra Land Revenue Code and Rules made thereunder.

6.10 Levy of Zilla Parishad Cess on Non- Agricultural Assessment

From the provisions contained in Section 67 and chapter VII of the Maharashtra Land Revenue Code, 1966, the non- agricultural assessment is land revenue in respect of lands, used for non- agricultural purposes. The non- agricultural assessment is also a sum received or legally claimable by or on behalf of the State Government from any person on account of any land or interest in land and consequently it is covered by the definition of land revenue in Section 2 (19) of the code. Therefore, local cess levied under Section 144 of the Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961, would also be leviable on non-agricultural assessment (**Government letter No. NAA-1370/193700-CC dt. 17th August 1971 addressed to the Collector of Nashik**).

6.11 i) Non agricultural assessment shall ordinarily be levied upon the whole of the land within the compound of the building and not merely upon the land, covered with building (para 85 of Bombay Land Revenue Rules 1921).

ii) When land is used for fairs or shows, sometimes for a short time only, large profits are derived. Such profits are to be taxed and non-agricultural assessment recovered (**vide provisions in B.L.R. Rules, 1921**).

6.12 On considering the report of the review committee on the working of the Maharashtra Industrial Development Corporation and the Supreme Court decision given in the case of Ramatanoo Co operative Housing Society v/s the State, it is held by the State Government that the Maharashtra Industrial Development Corporation is an agent of the State Government and hence is not liable to pay any assessment to Government on the lands held by it. Industrialists making use of lands leased to them by the Corporation are liable to pay ordinary lease money and not any other non-agricultural assessment in addition to lease money. **R& F Circular No.NAA-1066/12027 C-II dated 29th March 1975**.

1) If the land are transferred to the M.I.D.C. under provision of an Act, the corporation would then become an occupant of the lands and in that case the question of levying NAA on the corporation or the lessees holding through it would arise.

Non-agricultural assessment in respect of lands held by Maharashtra Industrial Development Corporation may be recovered when such lands are not held by the M.I.D.C. as an agent of Government.

6.13 Land owned by or transferred or assigned to a Municipality for one purpose but then leased to non-agricultural uses (such as houses or cinema halls) is liable to assessment.

6.14 Non – agricultural assessment - lands held by Maharashtra Housing Board :

According to the Revenue and Forests Department Circular dated 21st January 1973 lands held by the Maharashtra Housing Board are liable to payment of rent on the basis of non-agricultural assessment in addition to occupancy price of the land recoverable from the Board.

6.15 ‘Nazul land’ is a land which has a site value as opposed to an agriculture value. The management and disposal of nazul lands within the limits of municipal towns and notified areas in Vidarbha region are governed by the instructions contained in Revenue Branch Circular Section- IV Sr.No.1, issued under Central Provinces Land Revenue Act, 1917. Leases granted, thereunder, carried the right to renewal as a revised ground rent, according to the leasehold market value of the land at the time of renewal. The cardinal principle governing the nazul management is that ‘no government land should be alienated on terms, which prevent the Government reaping the benefit of the unearned income (increment) at least once in a generation’-

6.16 Non- agricultural assessment ‘Clubs’ running on no profit basis

‘Clubs’ (such as Rajaram inam Club of Kolhapur) catering facilities for recreation, sports, etc. though run on no profit basis, are not exempted from non-agricultural assessment (G.R.R.D.No. NAA/1253-H dated 14/9/54).

6.17 Building Site

The ‘Building site’ means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or courtyard enclosed by, or adjacent to any building erected thereupon. Such building sites situate within ‘gaothan’ in non- urban areas are exempted from payment of land revenue.

6.18 Levy of conversion tax

Liability for payment of conversion tax by holder for change of user of land.

1) These shall be levied and collected additional revenue, to be called, the conversion tax, on amount of change of user of lands.

2) Where any land assessed or held for the purpose of agriculture is situated within (the limit of Mumbai Municipal Corporation Area excluding the area of the Mumbai City District or any other Municipal Corporation areas). Of any 'A' class or "B" class municipal area or of any peripheral area of any of them and (a) is permitted or deemed to have been permitted under Sub-Section (3) of section 44, to be used for any non agricultural purpose. (b) is used for any non agricultural purpose without the permission of the Collector being first obtained, or before the expiry of the period referred to in Sub-Section (3) of Section 44, and is regulated under clause (b) of (Section 47 or) (c) in put to as bona fide industrial use as provided in section 44 A then the holder of such land shall, subject to any rules made in this behalf be liable to pay to the State Government the conversion tax Which shall equal to (five times) the non agricultural assessment leviable on such land, in accordance with the purpose for which it is so used or permitted to be used.

3) Where any land assessed or held for any non agricultural purpose is situated in any of the areas referred to in sub-section (2) and

(a) is permitted or deemed to have been permitted under sub Section (3) of Section 44, to be used for any other non agricultural purpose.

(b) is used for any other non agricultural purpose without the permission of the Collector being first obtained, or before the expiry of the period referred to in sub Section (3) of 44 and is regularized under clause (b) of (Section 47 : or)

(c) is put to a bona fide industrial use as provided in Section 44A).

Then the holder of such land shall, subject to any rules made in this behalf the liable to pay to the state Government, the conversion tax, which shall be equal to (five times) the non agricultural assessment leviable on such land, in accordance with the purpose of which it is so used or permitted to be used.

Explanation :- for the purposes of this section

1(a) 'Mumbai Municipal Corporation' means Mumbai Municipal Corporation, constituted under the Mumbai Municipal Corporation Act 1888(Bom-III of 1888).

(b) "any other Municipal Corporation" means all the other existing Municipal Corporation constituted under the city of Nagpur Corporation Act 1948(CP & Berar-II of 1950) or the Bombay Provincial Municipal Corporation Act 1949 as the case may be).

(c) "A" class or 'B' class Municipal areas means any municipal area classified as "A" class or as the case may be 'B' class municipal area under the (the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act 1965(Male XL of 1965).

2) 'Peripheral Area' in relation to

(a) Mumbai Municipal Corporation area (excluding the area of Mumbai City District) and Municipal Corporation areas of the Nagpur and Pune Municipal Corporation means, the area within eight kilometers from their periphery and.

(b) All the others Municipal Corporation area means the area within five kilometers from their periphery.

(c) The cities of Nagpur & Kolhapur means the area within one kilometers from the periphery of each of those cities and .

(d) Any “A” class or “B” class Municipal area means, the area within one kilometer from periphery of each of such “A” class or “B” class Municipal area.

ii) In the cases of regularization of unauthorized non-agricultural use, conversion tax, equal to five times the non- agricultural assessment is required to be levied and recovered, irrespective of facts, whether unauthorized change of user has taken place before or after coming into force the Maharashtra Land Revenue Code (Amendment) Act, 1979.

[For the words “three times” the words “five times” were substituted by Mah 23 of 1999 Section 2(I)(b)]

6.19 Levy of non-agricultural assessment on lands used for salt manufacture

The Collector of a District is empowered to permit use of unalienated lands for the manufacture of salt, subject to the payment of non-agricultural assessment leviable on the land. Unalienated unoccupied land can be granted under Section 38 in lease hold rights by the Collector for a term of 25 years for the manufacture of salt on payment of rent equal to 5% of the full market value of the land determined under chapter VII of the Maharashtra Land Revenue Code, 1966 and the rules made thereunder or rupees 65 per hectare whichever is more. (Rule 33 of Maharashtra Land Revenue (Disposal of Govt. lands) Rules, 1971). However, considering hardships required to be faced by the salt manufacturers Govt. have extended facilities of concessional rent for such leased lands being charged at the rate of Rs. 2 per acre along with royalty of Rs. 1 per tonne of salt, manufactured plus Zilla Parishad cess as per rules in force in the area

(Govt. Resolution Revenue and Forest Department No. LND-2777/265013/G-8 dated 2/8/1978 read with G.R. No. LND/2779/2616/G-8 dated 26/8/78).

CHAPTER 7

MINES AND MINERALS

Introduction: - Minerals are classified into two groups, namely (i) Major minerals and (ii) Minor minerals. Amongst these two groups minor mineral have been defined under section 3 (e) of Mines and Minerals (Regulation and development) Act, 1957. They include building stones, gravel, ordinary clay, ordinary sand, limestone used for lime burning, boulders, kankar, murum, brick earth, bentonite, road metal, slate, marble, stones used for making household utensils etc. Therefore, all other minerals not defined as minor minerals in the said Act are treated as major minerals. They include coal, manganese ore, iron ore, bauxite, limestone, kyanite, sillimanite, barites, chromite, silica sand, fluorite, quartz, sand used for stowing purposes in coal mines and many other minerals used for industrial purposes.

Legislative Background: - Entry 54 of union list – I & Entry 23 of state list – II of seventh schedule of the constitution of India empowers the Union & State Governments respectively for management of minerals. Grant of mineral concession for major minerals is governed by the Rules and Regulations formulated by Central Government and are therefore same throughout the country. Rules for grant of concessions of minor minerals are framed by the State Government as per powers delegated under section 15 of Mines and Minerals (Regulation and Development) Act, 1957.

7.1 Major Mineral Concessions:-

Mineral concessions for major minerals are granted under the provisions of following Acts and Rules

- (i) Mines and Mineral (Development and Regulation) Act, 1957. (MMDR – Act 1957)
- (ii) Mineral Concession Rules 1960. (MCR – 1960)
- (iii) Mineral Conservation and Development Rules – 1988 (MCDR – 1988)

The following types of mineral concessions are granted for major minerals:

- i) Reconnaissance permit
- ii) Prospecting licence
- iii) Mining lease

7.2 Grant of Reconnaissance permit: The areas are being notified by Directorate for grant of mineral concession. Reconnaissance permit means permit granted for the purpose of undertaking reconnaissance operations. An application for reconnaissance

permit shall be made to the State Government (Industries Department) through collector of concern district in form "A". Every such application shall be accompanied by -

- 1) Non – refundable fee calculated @ of five rupees per square km.
- 2) a) A valid clearance certificate in the form prescribed by the State Government for payment of mining dues such as royalty, dead rent or surface rent payable under the act or rules made thereunder
 - (b) In case if applicant does not hold and has not held a reconnaissance permit, it shall not be necessary for him to produce the said certificate but required to furnish an affidavit to the satisfaction of State Government. (c) In case the applicant is a partnership firm or a private ltd. company such certificate shall be furnished by all persons of partnership firm or as the case may be all member of private ltd. company.
- 3) An affidavit stating that the applicant has filed up to date income tax returns
 - i) paid the income tax assessed on him and
 - ii) paid the income tax on the basis of his assessment as provided in the income tax act , 1961 (43 of 1961)
- 1) An affidavit showing the particulars of areas, mineral wise in the State, which the applicant or any person jointly with him.
 - i) already holds under a reconnaissance permit
 - ii) has applied for but not granted
 - iii) being applied for simultaneously
- 2) Cadastral map showing applied area and detailed statement of the area applied for
- 3) Memorandum and Articles of Association of company/Deed of registration of company and deed of partnership of firm/company.
- 4) Documents showing financial worthiness

7.2.1 Maximum area for which reconnaissance permit may be granted: One or more reconnaissance permit covering a total area of ten thousand sq.km provided that the area granted under a single reconnaissance permit shall not exceed five thousand sq.km.

7.2.2 Period: The period for which a reconnaissance permit may be granted shall not exceed three years. The holder of reconnaissance permit is required to relinquish the area granted under the permit as follows

- a) After completion of two years the area shall be reduced to one thousand sq.km. or fifty percent of the area granted, whichever is less and
- b) The area would be further relinquished so that the permit holder is left with an area not more than twenty five sq.km. at the end of third year. There is no provision for renewal of reconnaissance permit.

7.3 Prospecting licence: Prospecting licence means a licence granted for the purpose of undertaking prospecting operations. An application for grant of prospecting licence is required to be submitted to State Government (Industries Department) through the collector of the concern district in prescribed form “B”. Every such application shall be accompanied by following documents.

- 1) A non refundable fee calculated in accordance with the provision of schedule – II [a) For first sq.km. or part thereof 250/- Rs. (b) For each additional sq.km. and part thereof fifty Rs.)
- 2) i) A valid clearance certificate in the form prescribed by the State Government of payment of mining dues.
ii) In case applicant is a partnership firm or a private ltd. company such certificate shall be furnished by all partners and members of firm and company.
iii) furnish an affidavit to the satisfaction of State Government stating that he does not hold and has not held a prospecting licence in such case it will not be necessary for him to produce the said valid clearance certificate.
- 3) An affidavit stating that the applicant has i) filed up to date income tax return
ii) paid the income tax assessed on him and
iii) paid the income tax on the basis of self assessment as provided in the income tax act – 1961
- 4) An affidavit showing particulars of areas mineral wise in the State which the applicant or any person jointly with him
i) already holds under a prospecting licence
ii) has applied for but not granted and
iii) being applied for simultaneously
- 5) A statement in writing that the applicant has obtained surface rights over the area or has obtained consent of owner for starting prospecting operation where the land is not owned by him.
- 6) Memorandum and Articles of association of company/Maps of applied area and relevant details of applied area
- 7) Deed of registration of company and deed of partnership of firm/company
- 8) Documents with regards to financial worthiness.

7.3.1 Maximum area for which prospecting licence may be granted: - One or more prospecting licence covering a total area of not more than 25 sq.km in the state.

7.3.2 Period: - The period for which prospecting licence may be granted shall not exceed three years.

7.3.3 Renewal of prospecting licence: - An application for renewal of prospecting licence is required to be made at least 90 days before the expiry of prospecting licence in Form – E. If State Government is satisfied that a longer period is required to enable the licensee to complete prospecting operations be renewed for such period or periods as government may specify provided that the total period for which prospecting licence is granted does not exceed five years. The licensee has to pay prospecting fee for the area under grant as per rule 14 of MCR – 1960.

7.4 Mining lease: - Mining lease means lease granted for the purpose of undertaking mining operations. An application of grant of mining lease is required to be made to the State Government through the collector of the concerned district in a prescribed Form – I . Every such application shall be accompanied by

- 1) A non refundable fee of Rs two thousand and five hundred.
- 2) A valid clearance certificate in the form prescribed by State Government, of payment of mining dues.
- 3) An affidavit stating that the applicant has
 - i) filed up to date income tax returns
 - ii) paid income tax assessed on him
 - iii) paid income tax on the basis of self assessment.
- 4) An affidavit showing particulars of area mineralwise in the State which applicant or any person jointly with him already holds, has applied for but not granted, being applied for simultaneously.
- 5) Where land is not owned by applicant, obtained surface rights over the area or has obtained the consent of the owner for starting mine (may be furnished after execution of lease deed but before entry in to area)
- 5) Memorandum and Articles of Association of company, deed of partnership in case of company.
- 7) Every application for the grant of a mining lease shall in addition to those specified fee be accompanied by a deposit of one thousand rupees for meeting the preliminary expenses in connection with the grant of mining lease. Applicant shall deposit such further deposit as may be asked for by the State Government within one month from date of demand of such deposit.
- 8) Documents with regards to financial worthiness.

7.4.1 Renewal of mining lease:- An application for the renewal (1st & 2nd) of mining lease shall be made to the State Government in Form – J at least 12 months before the date on which the lease is due to expire, through collector of concerned district. Every such mining

lease application (Renewal) shall be accompanied by mining plan approved by competent authority and documents as required for mining lease application.

7.4.2 Maximum area to be granted under mining leases: - One mining lease covering a total area of not more than ten sq.km. in a State.

7.4.3 Periods of mining lease granted or renewal: - 1) Maximum period for which mining lease may be granted shall not exceed thirty years. Minimum period for which mining lease granted shall not be less than 20 years.

2) A mining lease may be renewed for a period not exceeding twenty years in each case (1st & 2nd renewal)

7.5 Scrutiny of applications for grant of reconnaissance permit, prospecting licence and mining lease:- After receipt of the application for grant of reconnaissance permit prospecting licence or mining lease in Collector's office on the basis of notification issued by Directorate in triplicate one copy of the same application is forwarded to the, Industries, Energy and Labour Department, Government of Maharashtra, Mumbai and another to the Directorate of Geology and Mining, Government of Maharashtra, Nagpur. The District Level Committee under the Chairmanship of Collector of district submits its recommendation to the Govt. of Maharashtra through Directorate of Geology and Mining Govt. of Maharashtra Nagpur.

With regards to applied area information is obtained on following points.

- i) Details of applied area: Private / Govt. / Forest / Gram panchayat etc. alongwith Gat Nos)
- ii) Whether applied area is reserved for government work.
- iii) Prominent natural features in the applied area like river, nala, hills etc.
- iv) Prominent man made features in the applied area like Bandhara, Mosque, Burial ground, Temple, Road, National/ state highway etc.
- v) Information with regards to Tribal land.
- vi) Information with regards to Forest land from Forest Department. The District Level Committee recommends the cases to Industries Department through the Director of Geology and Mining, Government of Maharashtra Nagpur. On the basis of the report and recommendations submitted to government opportunity of hearing is give to all applicants Reconnaissance permit, prospecting licence or mining lease is granted or refused to the applicant by Industries Department of Govt. of Maharashtra. If a mineral for which prospecting licence or mining lease is applied for is included in the first Schedule of the MM (DR) Act 1957 then prior approval of Central Government (Ministry of Mines) is

required for grant of reconnaissance permit prospecting licence / Mining lease or its renewal as per provision u/s 5(1) of MMDR-Act-1957.

7.6 Execution of Reconnaissance permit, Prospecting Licence/Mining Lease

Reconnaissance Permit, Prospecting licence & Mining lease granted by the State Government are executed in the prescribed proforma in the Collectorate within three months in case of PL and six months in case of mining lease from the date of order of the Government. Reconnaissance permit is required to be executed in form F-1, prospecting licence in form F-9 mining lease in form K of M.C.R.1960. Applicant has to submit consent of private land owner for the area under grant. Working permission to enter in the area is granted to applicant by concern collector under section 48 (3) of Maharashtra Land Revenue Code, 1966. Before granting working permission of the area the Sub-Divisional Officer has to fix the compensation of this area if not mutually agreed between the applicant and owner of land.

7.7 Security deposit: - An applicant before deed is executed shall deposit security deposit as follows :-

- a) **Reconnaissance permit:** a sum of twenty rupees in respect of every sq.km or part thereof for which the permit is granted.
- b) **Prospecting licence:-** a sum of 2500 rupees in respect of the every sq.km. or part thereof for the licence is granted.
- c) **Mining lease:-** a sum of Rs.10,000/- to be deposited as a security deposit.

7.8 Lapse of Lease:- A lease holder has to commence mining operation within two years from the date of execution of the mining lease. Where mining operations are not commenced within a period of two years from the date of execution of a lease or is discontinued for a continuous period of two year after commencement or such mining operations, the Director, Directorate of Geology and Mining shall by an order declare the mining lease as lapsed. However, if the lessee unable to start mining operations for period exceeding two years for reasons beyond his control may submit application to the State Government alongwith fee of Rs.200 and other document explaining the reasons for the same at least three months before expiry of such period. The Director and State Government may grant or refuse the request of lessee. After lapse of mining lease it can be revived not more than twice during entire period of lease. Every such application shall be accompanied by a fee of Rs.500/-

7.9 Grant of Prospecting licences / Mining lease in forest areas:- Since the grant of any mineral concession in forest area it nothing but the diversions of forest land for non forest purpose, the provisions of Forest Conservation Act 1980 are attracted under section 2 of the

said act. In case of application over forest areas approval of Central Government (MOEF) is required to be obtained by applicant for using forest land for non forest purposes.

7.10 Applicability of Environment Protection Act to Mining Areas:- Mining is a process of extracting mineral from earth interferes with elements of environment which in turn affects the growth and survival of flora and fauna and also affect the life on the earth. The major environmental problems caused by the mining activity are :

- i) Pollution of ground water and surface water
- (ii) Loss of productive land by mining
- (iii) Air pollution, Noise pollution
- (iv) Disturbance of soil strength
- (v) Deforestation etc.

After evaluating the impact of above process every entrepreneur is require to prepare EIA & EMP for mining lease having area more than 5 Hect. & obtain permission from Govt. of India as per prevalent rules.

With a view to maintain beauty of sea shore, mining within a distance of 510 metres from High Tide mark has been prohibited under Environment (Protection) Act, 1986 and Rules made thereunder.

- i) Every mining lease holder is required to registered u/r 45 of MCDR – 1988.
- ii) Must have approved valid mining plan /scheme of mining.
- iii) Environment clearance from Ministry of Environment & Forest Govt. of India.
- iv) Consent to operate from Maharashtra Pollution Control Board.
- v) Production of mineral will limit to quantity mentioned in aforesaid documents.

7.11 Revision and Appeals:-

7.11.1 Revision:- In major mineral concessions, any person aggrieved by any order made by State Government or other authority in exercise of powers conferred under Acts & Rules may within three months of the date of communication of the order to him, apply to the Central Government in Form N of MCR 1960 for revision of the order . Application of revision shall be accompanied by prescribed fee as decided by government.

7.11.2 Appeals:- In case on minor mineral concession any person aggrieved by any order made by collector or other authority may within 2 months from date of such order can file appeal with State Government (Revenue and Forest Department Mantralaya Mumbai) against order. Application of appeal shall be accompanied by prescribed fee as decided by government.

7.12 The coal bearing areas (Acquisition and Development) Act – 1957 (CBA Act 1957):- In the State of Maharashtra presently M/s Western Coal Fields Ltd.(a subsidiary of

Coal India Ltd.) a Govt. of India undertaking is engaged in coal mining. In the State WCL is operating in coal mines acquired under CBA-Act-1957, Central Government issues following notifications under this act.

- 1) Notification under section – 4 For intention to prospect for coal in any area
- 2) Notification u/s – 7 To give notice of its (Central Government) intention To acquire the land or any rights in or over such land.
- 3) Notification u/s – 9 Declaration of acquisition
- 4) Notification u/s – 10 Vesting of land or rights in Central Government
- 5) Notification u/s – 11 Power of Central Government to direct vesting of land or rights in a Government company for mining etc. purposes (For Maharashtra it is WCL)

7.13 Grant of Mineral Concessions for Minor Minerals:- At present three sets of Rules are applicable to various regions of the State for minor minerals :-

- (i) Maharashtra Minor Mineral Extraction (Vidarbha Region) Rules, 1966 for Vidarbha Region.
- (ii) Bombay Minor Mineral Extraction Rules, 1955 for Western Maharashtra, Konkan.
- (iii) The Rules regulating, working of minor minerals 1954 for Marathwada Region.

7.14 Procedure for grant of mineral concessions for minor minerals:- Following types of Mineral Concessions for minor minerals are granted

- (i) Mining lease or quarry lease
- (ii) Quarrying permit
- (iii) Grant of mineral concession by way of auction. (River / Nalla sand)

7.15 Grant of Mining lease / Quarry lease:- For the purpose of grant of mining lease or quarry lease for minor minerals under the provisions of different rules in force in Maharashtra, following are the competent officers.

- a) D.F.O./ Sub Divisional Forest Officer In case of lands under the charge of Forest Department
- b) Executive Engineers of P.W.D. / Irrigation Department In case of lands under the charge of PWD/Irrigation Department
- c) Collector of the district In all other cases.

The applicant has to apply to the Competent Officer in the prescribed form for grant of mining lease or quarry lease and such application is required to be accompanied by the following documents:

- (a) Record of rights of the area applied (i.e. 7/12 extracts)
- (b) Fee of Rs.100
- (c) Plan of the area applied
- (d) Solvency Certificate issued by Tahsildar or Schedule Bank

An application for renewal of mining (quarry) lease is required to be made at least sixty days before the date of expiry of the lease and it should be accompanied by above documents.

In Marathwada region quarry lease is granted either on application or by way of holding public auction under the provisions of rules regulating the working of minor minerals 1954.

7.16 Scrutiny of applications for grant of mining lease:- After receipt of application for grant of mining lease or quarry lease enquiry on the application is conducted by the Tahsildar concerned and by District Mining Officer. On the basis of the report a mining lease or quarry lease is granted or refused by the competent officer. Prior approval of Director of Geology and Mining is required for grant of mining lease for specified minerals like limestone and lime shale.

7.17 Execution of mining lease / Quarry lease:- Applicant has to execute the mining lease in Form 'A' within a period of three months from the date of grant of mining lease by the Collector. From the date of execution of the lease, leaseholder should start mining operations within three months in the area leased out to him. Before starting mining operations the lessee has to get the area demarcated by Taluka Inspector of Land Records and obtain working permission from the Collector. The lease is liable to be cancelled if it is not worked for continuous period of six months.

7.17.1 Period of mining lease/quarry lease:- In Vidarbha and Western Maharashtra a mining lease/quarry lease may be granted for a period not exceeding ten years. The lease is renewable at the option of the lessee for one period not exceeding duration of the original lease.

In Marathwada region quarry lease may be granted for a period of one year to five years and is renewed for any period not exceeding five years.

7.18 Temporary permits for Minor Minerals:- The State Government has delegated powers to the competent Officers for grant of temporary permits for minor minerals. Accordingly Collector, Executive Engineers, D.F.O., Assistant Collector / Deputy Collector and Tahsildars are empowered to grant temporary permits for removal of specific quantities of minor minerals as below in their respective jurisdiction.

| Sr.No. | Competent Officer | Limits of quantity of Minor Minerals |
|--------|---------------------------------|--------------------------------------|
| 1 | Collector | Up to 25,000 brass |
| 2 | SDO | Up to 1,000 brass |
| 3 | Tahsildar /Range Forest Officer | Up to 100 brass |

In the application for temporary permit, applicant has to mention his name and address, the quantity and name of the minor mineral, period and purpose for which it is required etc. Three copies of map of the area from where mineral is to be extracted, copy of record of rights (7/12) report from the concerned talathi, challan of Rs.25 as application fee should be submitted along with application. Such application is to be submitted to the Competent Officer as per his jurisdiction. With due consideration on such applications permits are granted or refused by the Competent Officers. Before a permit is granted royalty and surface rent are assessed and recovered in advance. After payment of Royalty etc. Applicant is permitted to extract specific quantity of minor mineral within stipulated period. Limited transit passes certified by the concerned authorised officer are issued to the permit holder. Revenue Officer, District Mining Officer, Talathi and Mining Inspector inspect the working of the permit holder from time to time & ensure whether he has stopped the excavation and dispatches of material after the period is over. It is also ensured that the depth of the pit where working is carried out does not exceed 20 feet from the surface.

7.19 Grant of mineral concessions by way of auction:- Concerned Tahsildar submits detailed proposal of sand ghats to collector. After receipt of such proposals areas are scrutinized by

committee comprises of District mining officers working in the collectorate and Ground Water Survey and Development Agency (GSDA), and representative from environment Dept prior to this NOC from concerned Gramsabha is obtained This procedure is specially adopted for grant of concessions of ordinary sand to be used exclusively as a Minor Mineral. The quantity of sand is assessed and the upset value is accordingly fixed. After getting approval for upset price from concern Divisional Commissioner The Collectors notify the programme of e-auction area and date of auction in the local news papers after confirmation of the auction by the Collector, the highest bidder is granted the area. Highest bidder has to enter into an agreement with the competent officer within 15 days from the date of confirmation of the bid & depositing bid amount before the agreement is executed. Auction for a particular area is valid for a period of one year only i.e. from 1st August to 31st July. Fresh auction is done every year after the expiry of the period.

7.20 Grant of mining leases for Granite in the State:- Govt. of Maharashtra has formulated Maharashtra Granite Extraction Rules – 1995 for the grant of mining leases for Granite area in the State.

The applicant has to apply to concern collector in prescribed format as per annexure “A” of above said rules alongwith following documents.

- a) A non refundable fee of Rs.500/- or such amount as may be prescribed by government.
- b) A certificate of financial standing of the applicant from any scheduled bank in this State or a registered co-operative bank
- c) Map showing boundaries of area applied and 7/12 extracts.
- d) An affidavit affirming location and capacity of the Granite processing plant erect by applicant or applicant shall install and commission a commercial scale Granite processing plant within 3 year from date of grant of lease within State.

In case of forest land a copy of proposal submitted by the applicant to the competent authority in pursuance of the Forest (Conservation) Act – 1980.

7.21 Maximum area under mining in State:- No lessee by himself or with any person hold under one or more leases in the aggregate more that 150 hect. Area within State out of it area of black Granite shall not be more than 50 Hect.

7.22 Period of mining lease and its renewal:- Initial period for mining lease granted is 15 years renewal for further two periods of 15 years each subject to satisfaction of State level committee.

Grant of mining lease and execution of lease : 1) The applicant complete in all respect received by the Competent Authority during quarter of the year shall be processed by the District Advisory Committee and forwarded by the Competent Authority to the State Level Committee during the following quarter.

2) The State Level Committee shall decide the applications received for the District Advisory Committee within a period of 3 months provided, however, the aforesaid time limit for disposing of the applicant by the State Level Committee shall not apply to the applications in respect of lands recorded as forest lands.

3) The Competent Authority shall issue the orders for grant of lease execution of lease deed as per directions of the State Level Committee.

7.23 Execution of Lease:- Where a mining lease is granted by the Competent Authority under sub-rule (1) the lease shall be executed within six month the order sanctioning the lease and if the lease is not executed within aforesaid period, the order sanctioning the lease shall be deemed to have revoked Provided that, where the Competent Authority is satisfied

that the applicant is not responsible for the delay in execution of the formal lease he may the execution of lease after expiry of the aforesaid period of six months.

The mining lease shall be executed in the form as may be prescribed by government separately.

7.23.1 Consent of Land Owner:- The lessee shall produce in writing of the land owner of the area at the time of execution of lease deed.

7.23.2 Quarrying Plan:- a) The lessee shall submit a quarrying plan approved by the Director, to the Competent Authority at the time of execution of lease deed.

b) The quarrying plan should be prepared by a qualified person authority by Indian Bureau of Mines, Government of India, Nagpur.

7.23.3 Security Deposit:- 1) The applicant shall, before the execution of mining lease deposit as security a sum of Rs.2,500 or such amount as may be prescribed by the Government from time to time per hectare or part thereof for the lease for the observance of the terms and conditions of the lease.

The applicant shall also deposit at the time of execution of lease deed a separate security deposit of Rs.2000 or such amount as may be prescribed by the Government from time to time per hectares or part thereof, for the purposes of restoration of the lease area to the satisfaction of the Competent Authority.

7.23.4 Royalty Dead Rent:- Royalty shall be paid in advance in each quarter by lessee as per schedule – I of the rules and dead rent as per schedule – II of the rules.

7.24 Illegal mining:- Mineral rights vest in State Government and State Government is the owner of mineral wealth wherever found. Being the owner of mineral wealth, State Government can assign the right of extraction of minerals to anybody under the provisions of Mines and Minerals (Regulation and Development) Act, 1957 and rules made there under. Anybody, extracting or removing any mineral without obtaining permission from any lawful authority amounts to illegal mining and is liable to be punished under the provisions of the rules. Following action can be taken against the persons doing illegal mining.

i) Action to impose fine up to three times the market value of material extracted illegally as per section 48 (7) of the Maharashtra Land Revenue Code, 1966 can be taken by the Collector, S.D.O., Tahsildar and District Mining Officer along with recovery of royalty of mineral.

ii) The mineral extracted illegally can be seized/confiscated by the Collector, S.D.O., Tahsildar, under section 48 (8) of M.L.R. Code 1966.

iii) Under section 22 of Mines and Miner (Regulation and Development) Act, 1957 complaint can be lodged before appropriate Court of the District Magistrate by Director of

Geology and Mining, Joint Director, Regional Deputy Director and District Mining Officers for illegal mining.

iv) Under section 21 of Mines and Mineral (Regulation and Development) Act, 1957 following action can be taken by the competent authorities mentioned below :

a) Under section 21 (3) order of eviction from the area can be served on the person doing illegal mining.

b) Under section 21 (4), the machinery tool equipment, vehicle or any other thing brought on the land for carrying out illegal mining can be seized by the District Magistrate, Officers of Director Geology and Mining and District Mining Officers.

c) Under section 21 (5), the mineral illegally extracted can be recovered from such person where such mineral has already been disposed of the price thereof and rent, royalty or taxes can also be recovered from such person by the State Government or District Mining Officer for the period such area has been occupied by him.

d) A person doing illegal mining can be punished with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

7.24.1 Measures taken for stopping illegal mining:- With a view to stop illegal mining and evasion of Royalty, following steps are taken.

1) **Issue of Transit pass:-** Every leaseholder or permit holder has to use transit pass. Such transit passes issued by authority shows the details of the lease holder / permit holder, date, vehicle number transporting the material, quantity, time etc. Such pass is counter signed either by the District Mining Officer / Concern SDO / Tahsildar. Any truck carrying mineral without a valid and countersigned transit pass is treated as illegal and action against such person is taken as per rules.

2) **Framing of Rules under section 23 (c) of MMDR Act 1957:-** In exercise of the powers conferred under section 23 (c) of MMDR – Act 1957, the Govt. of Maharashtra has framed “ Maharashtra Minerals (Prevention of illegal mining, transportation & storage rules) Rules 2001 to stop illegal mining, possession, storage, trading & transportation of major minerals. Under this person dealing with business of mineral is required to obtain dealer registration from concern regional Dy. Director Geology & Mining of the region as per provision of rule 4 of rules 2001. If Dealer Permit Holder commit breach of condition fine up to Rs. 25,000/- can be imposed. Constitution of task force/flying squads for prevention of illegal mining at the State & District level have been formulated by Government of Maharashtra. Registration of vehicles used for transportation of minerals is required to be registered with concern Dy Director office of Geology and Mining.

7.25 Mineral Receipts, Assessment of Royalty :

Mineral receipts include Royalty, Dead Rent, Surface Rent and Cesses, interest for late payment, application fees, etc.

7.25.1 Royalty:- In accordance with the provisions of section 9 of the Mines and Minerals (Regulation and Development) Act, 1957 royalty is payable for the quantity of minerals removed from the lease area or consumed by the lessee, Rates of Royalty varies from mineral to mineral and can be enhanced or reduced by Central Government in case of major minerals once in 3 years as per section 9 A (2) of MM (DR) act 1957 and by State Government in case of minor minerals as per section 15 (3) of the MM (DR) Act 1957 (Schedule – II of MM (DR) Act 1957 and schedule of minor mineral rules).

For major minerals royalty is payable in advance for each quarter ending i.e. March, June, October and December of each year. The amount of advance payment of royalty for each quarter is decided by the District Mining Officer on the basis of performance of each mine in last 3 quarters and amount thus fixed for advance payment of royalty is later on adjusted on the quantity of mineral/ ore produced in that quarter. Fresh advance for next quarter is then taken on the basis of adjustment in the previous quarter. However in case of minor minerals, royalty is payable for six months ending 30th June and 31st December and required to be paid before 15th July and 15th January every year.

7.25.2 Dead Rent:- When mine is temporarily closed, the lessee has to pay dead rent at the rate prescribed in Mines and Minerals (Regulation and Development) Act, 1957 in case of major minerals and as per minor mineral extraction rules in case of minor minerals. The rates can be enhanced or reduced once in three years. A lessee is liable to pay royalty or dead rent whichever is higher and not both.

7.25.3 Surface Rent:- A lessee is liable to pay for the surface area used by him for the purpose of mining operations, surface rent and water rate at such rate not exceeding land revenue water and cesses assessable on the land.

7.26 Interest on late payment:- With a view to curb tendency of late payment of mineral/ores, interest at 24% per annum is charged for late payment of mineral dues in respect of major minerals. For minor minerals, penalty double the dead rent is charged for late payment of mineral dues.

7.27 Mineral Production:- As a result of the economic deposits proved by the State Directorate in the State, there has been a continuous rise in the mineral production of the State since the inception of Maharashtra State in May – 1960. During 1960 the total mineral production of the State was **1370133 tonnes** whereas during 2010-11, the total mineral production has gone up to **2133.13 lac tonnes**. There has been substantial rise in the

production of minerals in the State. At present there are **285 mining leases** in the State for various minerals under M.C.R.1960 and 63 coal mines under CBA Act 1957.

7.28 Mineral Revenue:- The mineral explored and estimated by the Directorate have helped in boosting the mineral production and consequently the mineral revenue of the State. During 1960-61 the mineral revenue realized in the State, both for major and minor minerals was Rs.38.80 Lakhs whereas during the year 2011-12 it has reached to the tune of Rs.194322.16 Lakhs. It is expected that with the continuous increase efforts in respect of geological surveys and mineral exploration in the State, there would be increase in mineral revenue.

[http://www.indiaenvironmentportal.org.in/files/file/Maharashtra%20Minor%20Minerals%20Extraction%20\(Development%20and%20Regulation\)Rules,%202013.pdf](http://www.indiaenvironmentportal.org.in/files/file/Maharashtra%20Minor%20Minerals%20Extraction%20(Development%20and%20Regulation)Rules,%202013.pdf) .

https://coal.nic.in/sites/upload_files/coal/files/curentnotices/mcr1960_0.pdf

CHAPTER 8

INTRODUCTION TO PLANNING

8.1 Planning, Reporting and Capacity Building in C & AG (HQRS Office)

- a.** The SMU (Strategic Management Unit) in CAG HQ prepares strategic plan for five years and identifies key areas of topics/issues to be covered each year. On the basis of strategic plan, topics of Performance Audit (PA) are taken up for audit in each Annual Audit Plan (AAP);
- b.** The CAG HQ approves the AAPs received from Field Audit Offices and monitors their implementation;
- c.** The CAG HQ prescribes/revises the monetary limits for paras of Local Audit Report (LAR) and Draft Paras; powers of settlement of audit observations by Branch Officers/Group Officers/Head of Department; targets of Draft Paras for Field Audit Offices (FAOs);
- d.** The CAG Hqrs also accords approval to the guidelines of PA (Performance Audits), mid-term PA's report and finalises the Draft PA's Reports received from FAOs/Lead Office for issuing to the Department of the State Government and finalises the Bond copy of the Audit Report (s);
- e.** It also conducts workshops for mid-term appraisal of the ongoing PA and topics for future Audit Reports. Besides, it conducts seminars on important issues;
- f.** Approved Draft Paras are issued to the Departments of the State Government for their views/comments. These are incorporated in Chapter III of Compliance Audit Report. Information for Chapter I (General) is called for from the IGR and its attached offices and Chapter III (Audit Impact) from FAOs. On receipt of information, the Wing finalises Chapter I and III. A separate Chapter on selected theme is also being incorporated in the Compliance Audit Report;
- g.** Bond copy of the Compliance Audit (CA) Report is submitted for approval of C & AG after consolidation;
- h.** The CA and each PA Report (both English and Hindi versions) are got printed through the selected printer empanelled by the Report wing of Comptroller and Auditor General (C & AG) HQ. Printed copies of Audit Reports duly countersigned by the C & AG are placed in the Parliament;
- i.** Hindi translation of the PA's and CA's done by Rajbhasha Anubhag is checked and corrected;

- j. The wing conducts technical inspection of FAOs;
- k. The wing provides the technical advice to officers, other wings of C & AG HQ/Field Offices on the matters relating to revenue; and
- l. The wing also accords approval and design to the annual training programmes of field offices pertaining to Revenue Audit, being conducted in different Regional Training Institutes (RTIs)/ Regional Training Centres (RTCs).

8.2 Functions in the Field Offices at AG level

8.2.1 Planning

- Collection and compilation of information for various risk parameters;
- Analysis of risks for auditable units based on risk parameters;
- Selection of auditable units;
- Preparation of AAP; and
- Planning for PA and Thematic issues, as per C & AG HQ's instruction.

8.2.2 Programming

- Drawing up the quarterly audit programme for Compliance Audit as well as for Performance Audit as per Annual Audit Plan (AAP);
- Issue of letters of intimation of conducting audit to the offices of the state; and
- Monitoring the progress of audit as per schedule.

8.2.3 Audit Support

- Providing logistical and technical support to Field Audit Parties;
- Advice from C & AG HQ for technical issues wherever clarity or directions are required;
- Holding of Monthly Meeting, In-House Training, Workshop/Seminar;
- Circulation of C & AG HQ's instruction to Field Audit Parties;
- Compilation and submission of different reports and returns. List of reports and returns to be submitted to the wing of C & AG HQ is as per the calendar of returns maintained in HQ. The respective Field Audit Offices may decide prescription and submission of other returns to Director General /Principal Director /Group Officer /Branch Officer (DG/PD/GO/BO); and
- All communication to C & AG HQ to be made with the approval of Heads of Offices.

8.3 Audit Planning And Programming

8.3.1 Strategic Audit Plan

C & AG's audit planning activity is primarily at two level – strategic level and functional level. At the strategic level, the audit plan states the audit priorities and focus areas in the mid-term based on risk assessments of the macro environment and stated commitments for the Government for the midterm.

It reviews audit methodologies and identifies resource/capacity gaps and states the goals/paths to ensure that these match audit priorities. At the functional level, the audit plans translate the audit priorities into annual/quarterly plans.

The Strategic Audit Plan of the Indian Audit and Accounts Department (IA & AD) sets forth the strategic prospective for conducting its core function of auditing over the next five years.

It identifies the following focus areas of audit and strategic performance goals of audit and concerns of key stakeholders.

- a. Fiscal Management;
- b. Human Development;
- c. Infrastructure Development;
- d. Rural and Urban Development;
- e. National security; and
- f. Environment

The key areas relating to State Government Receipts were included under Fiscal Management performance goals in the Strategic Audit Plan.

8.3.2 Integrated Audit Plan

The Strategic Management Unit (SMU) Wing at C & AG HQ prepares an Integrated Audit Plan for the IA & AD as a whole covering both Union and States, on the basis of proposed Annual Audit Plan (AAP) of functional wings in coordination with the respective field offices. State Receipts Audit Wing at C & AG HQ approves the AAP of each State Audit Office and sends the consolidated information/data to Strategic Management Unit (SMU) Wing in the prescribed format for inclusion in the Integrated Audit Plan of IA and AD.

8.3.3 Annual Audit Plan

The Auditee units are categorized on the basis of revenue realised in the previous year as A, B and C respectively and accordingly their periodicity is decided as annual, biennial and triennial. Audit plan is devised for the entire financial year and quarterly audit programmes are prepared. Audit party consisting of two Assistant Audit Officer and one Sr Auditor/Auditor depending upon the available man-power are formed to conduct the audits. The audits are usually supervised by Sr Audit officer/ Audit Officer and some biennial and triennial are left as non-supervisory depending upon the manpower.

The Head Quarter of State Receipt Audit at field level prepares the Annual Audit Plan (AAP) for conducting Compliance including Theme Based and Performance Audit to be undertaken during the ensuing financial year based on the available men power in the field.

The AAP duly approved by Heads of Offices of concerned Field Audit Offices is sent to the the Comptroller and Auditor General (C & AG) HQ for final approval.

The Head of Office should personally monitor the implementation of Audit Plan monthly and take remedial action. The AAP is split up into quarterly programme for the State Receipt Audit Parties (SRAP).

8.3.4 Time Schedule

Audit Plan for a year is to be sent to the C & AG HQ on or before August of the immediately preceding year or the date as prescribed by C & AG HQ.

The half yearly information in respect of (i) number of units actually audited as against planned units and arrear/excess of units, if any, with reasons, (ii) status of Performance Audit being undertaken; are to be submitted to C&AG in the first week of October and April, respectively.

The information received from all Field Audit Offices is consolidated at State Receipt Audit (SRA) Wing for onward transmission to Strategic Management Unit (SMU) Wing of Comptroller and Auditor General (C & AG) HQ.

8.3.5 Audit Advisory Board

As per the eighth Audit Advisory Board constituted for two years, there are twelve external members and thirteen internal members.

The objective of constitution of the Board is to enhance the effectiveness of Audit by providing a forum for professional discussion between the Sr. management of Field Audit Offices and knowledgeable/experienced professionals from varied fields.

The Board will advise on the coverage, scope and prioritisation of audits together with suggestions regarding appropriate audit approaches and techniques. There shall be at least two meetings held every year, one before finalising audit plan and another when the findings of two quarterly audit plans are available. The meeting shall be attended by one observer of the Comptroller and Auditor General (C & AG) HQ.

8.3.6 Approach of audit

Based on the Department Centric Audit (DCA) approach, the selection of offices of Joint Sub Registrars/Sub Registrars/Joint District Registrars/Deputy Inspector General of Registration for AAP is to be carried out as follows:

- a. First 25 *per cent* of the auditable units are to be categorised as High Risk Units and to be audited annually;
- b. 25 *per cent* of balance is to be treated as biennial and to be audited once in two years; All the residuary units may be classified as Low Risk Units.

- c. These units are to be audited triennially, i.e. 33.33 *per cent* of the units are to be selected (without replacement) for audit in a particular year; and
- d. In case of low risk units, they may be audited once in five years, with 20 *per cent* of such units selected in a random manner (without replacement) for audit in one particular year.
- e. If any field office has any difficulty in rationalising the manpower, they may reduce the periodicity of the bottom 75 *per cent* of the units. Justification in this regard needs to be indicated in the AAP.

Selection of auditable units under it will be done on the basis of risk analysis of all units.

The Party days prescribed for conducting audit of units are allotted by the HQ to all the field parties keeping in mind the AAP.

8.3.7 Risk analysis

Risk analysis is an important tool for audit planning. A risk analysis should be carried out with reference to the various parameters of the entity programme or the subject after a careful study of all relevant documents. A good risk perception of the programme or entity's performance will facilitate determining the audit thrust areas, audit objectives and setting the most appropriate audit criteria. It will also assist in selection of appropriate sampling techniques for the units to be audited.

8.3.8 Planning for Performance Audit/Theme Based Audit

At the planning stage, background paper on the area/topic selected for Performance/Theme Based Audit is prepared by the Field Audit Offices. The practical feasibility of undertaking Performance/Theme Based Audit in the specific area is ascertained through conduct of pilot study by selected Field Audit Offices. The background paper outlines overview of area selected for Performance/Theme Based Audit, rationale for selection of topic, objective of pilot study, thrust areas of Performance/Theme Based Audit, scope of pilot study and suggested course of action for the Field Audit Offices.

The pilot study reports are examined at C & AG HQ to determine the feasibility of conducting Performance/Theme Based Audit and to address constraints, if any, faced during audit.

Planning stage also includes preparation of Draft Guidelines by Field Audit Offices on the topic of Performance/Theme Based Audit and sent for approval to CAG.

The approved guidelines shall cover the following areas:

- a. Objectives;
- b. Organisational set-up;
- c. Legal Provisions;
- d. Audit scope and sample size;

- e. Audit methodology;
- f. Audit Checklists (indicative only);
- g. Follow up action, in case the same topic had been undertaken earlier;
- h. Formats for data collection for compilation; and
- i. Timelines for Field Audit Offices.

The guidelines contain structure of Audit Report for compilation of audit findings at field level which enables uniformity in reporting structure across all Field Audit Offices.

At the time of issue of guidelines to Field Audit Offices, one of the Field Audit Offices is designated as Lead Office if needed for compilation/consolidation of Draft Audit Reports. All Field Audit Offices are instructed to send their draft Audit Reports to the designated Lead Office for onward transmission to C & AG.

8.3.9 Audit Programming

After approval of AAP by C & AG HQ, Field Audit Offices need to prepare the Quarterly Audit programme for field audit for covering planned units in four quarters. Before taking up the Audit, Field Audit Offices may intimate the auditee unit well in advance (at least three weeks before start of the audit) about the expected date of start of audit.

The Group Officers (GO) incharge may convene meeting with Field Audit Parties before commencement of audit for issuing necessary instructions and guidance to them.

8.4 PLANNING AT AUDIT PARTY LEVEL

At the level of audit party about to audit the unit as per programme chalked out by the local hqrs the following methodologies may be adopted:-

- Previous Inspection Reports – These should be reviewed thoroughly and major points jotted down for use during the course of audit. Here care should be taken that the assertions in the previous IR continue to be valid in the current scenario.
- Media Reports – These should be scanned to analyse as to what are the opinions on the functioning of the auditee unit.
- Desk Review – Submit a comprehensive write up on the potential paras that might be floated subject to audit evidence and are the objectives fixed for audit.
- Understanding the auditee entity with its environment and controls - This should be understood in the context of the provisions given in the succeeding paragraphs.
- Understanding the entity means to obtain the necessary level of understanding, auditors must, for example:
 - make inquiries of management and others within the entity (eg stated objectives, organisation, internal audit, key employees);
 - carry out analytical procedures (eg on internal and external generated information);

- observe (eg activities and operations) and inspect (eg business plans, strategies, internal audit risk assessments, records, procedure manuals);
- read reports prepared by department (eg periodical statements submitted and those charged with governance (eg reports at ministerial level);
- carry out other procedures (eg visit premises and facilities, walk through systems relevant to reporting, review external sources of information).

[http://www.cag.gov.in/sites/default/files/manuals/RA_Manual_2015.pdf] & [Local SRA HQ]

Note:- After initial planning as a part of further planning, it is necessary to get acquainted with acts, rules and regulations framed by the auditee entity for use during the course of audit.

CHAPTER 9

CONDUCT OF AUDIT

Conduct of Audit

9.1 Audit of land revenue involves thorough application and interpretation of the Maharashtra Land Revenue Code, 1966 and other allied statutes as well as up-to-date knowledge of relevant judicial pronouncements.

The State Receipt Audit Party (SRAP) of Land Revenue is headed by one Sr. Audit Officer/Audit Officer supported by two Assistant Audit Officer /Supervisor and one Senior Auditor/Auditor subject to availability of suitable manpower in a different combination.

9.2 The main items of work undertaken during the Compliance Audit are:

- a. Entry meeting with the head of office;
- b. Getting the case registers of Non Agricultural Assessment, Land Allotment, Mining Leases etc and preparation of a list of selected cases therefrom as per sampling instructions in the foregoing paragraphs;
- c. Collection of the selected cases and scrutiny thereof;
- d. Issue of audit objections;
- f. Follow up of pending audit objections in part III of the new Inspection Report format
- g. Preparation of draft LAR; and
- h. Exit meeting.

9.3 The main items of work undertaken during the Performance Audit/Theme Based Audit (Thematic Audit) are:

- a. Conducting of pilot study/preparation of guidelines;
- b. Identification and selection of cases,
- c. Entry conference,
- d. Collection of statistical data,
- e. Examination of cases,
- f. Preparation of mid-term draft Audit Report;
- g. Follow up of C & AG HQ's observations etc.
- h. Preparation of draft report; and
- i. Exit conference

9.4 Prior to Commencement of Audit and on the First Day

On the first day of local audit, following works are to be completed:

a. In case of a compliance audit, an Entry conference is to be conducted by the State Receipt Audit Party (SRAP) with the head of auditee unit and minutes of meeting is to be recorded for keeping in the LAR folder;

b. In case of Performance Audit, entry conference is to be held between the Officers of the Comptroller and Auditor General (C & AG) and the Department of Land Revenue. The purpose of such a conference is to inform the department about areas to be audited along with audit objectives, audit criteria, the audit approach and the time-frame within which audit is expected to be carried out.

During entry conference, protocol for conduct of audit is to be set up including nomination of liaison officers, production of records and other logistic arrangements. Minutes of the proceedings have to be prepared and shared with the department.

The department shall be requested to intimate their field formations about the Performance Audit and issue necessary instructions for giving full co-operation to audit. Likewise, at field level, the AG/GO concerned should hold an entry conference with the jurisdictional representative of the department informing them about the Performance Audit to be undertaken and other significant details. Minutes of the Conference have to be prepared and shared with the department;

c. Audit requisition calling for the records and statistical information required for conducting audit and preparation of the LAR are to be issued. Other information/ data required to be called for/collected during audit must also be called for;

d. The norms for selection of land revenue cases for audit are as per foregoing paragraphs.

Besides, prior to commencement of audit, all members of audit team, including the Inspecting Officer/Supervising Officer, are required to give individual undertaking stating inter alia that he/she will uphold and abide by the Code of Ethics and that he/she does not have any personal or professional interest in the audited entity etc.

The format of the undertaking is given in **Appendix 4**. A copy of the declaration is required to be given to the head of the auditee entity as soon as audit commences.

9.5 Work Distribution

The Supervising Officer shall allocate the works to the members of audit team. A detailed scrutiny of documents should then be undertaken by the team members viz. Senior Audit Officer (SAO) /Audit Officer (AO), Assistant Audit Officer (AAO) and Sr. Auditor/Auditor according to the allocation of work. It should, however, be ensured that all high value documents say above 5 crores are necessarily checked by SAO/AO and AAO; five per cent of cases checked by the AAO should be reviewed by the SAO/AO. Some documents may

also be entrusted to the Sr. Auditor/Auditor, if needed. However, all such cases need to be reviewed by the SAO/AO and AAO.

Details of work distribution are given in **Appendix 3**.

9.6 Audit Scrutiny

Checklist of Records to be checked are as under:-

- 1) Questionnaire (May be sent at the time of intimation of audit by State Receipt Audit (SRA) HQ so that it may be available on the first day of audit).
- 2) Cash book
- 3) Register of land revenue cases dealt with under different departments such as land allotment, mining and non agricultural assessments etc
- 4) Abstract of land revenue cases of land allotment, non agricultural assessments, mining leases etc finalised.
- 5) Administrative report.
- 6) Internal audit wing Inspection reports.
- 7) Receipt book of selected months if any.
- 8) Any other record relevant for audit planning.

After obtaining the preliminary records, the audit party would be in a position to ascertain the scope of audit.

9.6.1 A list of preliminary records to be obtained from the audited entity is given in **Appendix 1**. Further a list of commonly applied checks are also given in Appendix 2.

9.6.2 Issue of Audit Memo

When any irregularity or mistake is noticed, the same should be immediately brought to the notice of the departmental official by issuing 'Audit Memo'. Audit Memo (AM) should indicate details viz. Name of the party involved, extent of short levy/non levy of land revenue, nature of audit objection in brief.

The Audit Party should also observe the following instructions in regard to audit:

- a.** Audit Memo preferably computer typed may be issued to the concerned officials with the instruction to furnish reply within a reasonable time from the receipt of the Audit Memo but not extending in any case beyond one day before the last day of audit;
- b.** In cases where the objection relates to facts and figures available in the records but omitted to be considered or wrongly considered, such as, omission of dimensions of a particular property mentioned in the document, arithmetical mistake in the computation of land revenue or in the calculation of duty per se, it may have to be ensured that the departmental official replies to the 'Audit Memos' promptly accepting the mistakes/omissions. It may, therefore, have to be invariably mentioned in the 'Audit

Memos' that if no specific reply is forthcoming, it shall be presumed that the facts stated by Audit are correct;

c. In cases where objection involves interpretation of the provisions of the Act and the department does not agree with the audit view, the state government official may give his/her final views later but in reply to the audit memos, he/she should confirm or deny the facts and figures referred to by Audit on which the audit view is based. Where he/she finds that he/she should call for the source records, he/she should say specifically in reply to the audit memos;

d. Where the departmental authorities refuse' to show any files claiming to be confidential, Audit should politely draw their attention to:

i. Section 18 of C & AG's (DPC) Act, 1971 under which Audit has a right to call for any record or document to which its duty extends;

ii. Para 185 (Chapter 13) of Audit and Accounts Regulations 2007 provides that the Officer in charge of the auditee unit shall comply with requests of Audit for information and records as complete as possible and within the specified time; and

iii. State Receipt Audit Parties (SRAPs) should also draw the attention to the Para 3.24 of the Code of Ethics whereby Audit Members have to give declaration before commencement of audit to maintain strict confidentiality of the information gathered during the course of audit.

e. In order to prevent the departmental officials from setting up a plea, that the mistake pointed out by Audit has already come to his notice, a certificate may be taken from him along with records of each case 'that all the records and folders or files relating to the case have been sent to Audit and none is withheld,' and that wherever any record is withheld its description and reasons for the withholding should be obtained;

f. Issue of 'Audit Memo' on the last two days of the local audit is to be avoided as far as possible. But, where issue of 'Audit Memo' on the concluding day cannot altogether be avoided, the Inspecting Officer/AAO may contact the head of office and get his reply before the last day of the local audit;

g. The details of the 'Audit Memos' ('Name of executants', 'date and year', 'Nature of audit objection in brief and duty effect') are to be noted in a index before issuing them to the departmental head of office and the replies to all 'Audit Memos' is to be watched properly; and

h. If any file/documents called for is not supplied sufficiently in time, the reasons for the same should be enquired into and mentioned in the audit notebook of the LAR so that next State Receipt Audit Party (SRAP) may scrutinize such files.

9.6.3 Structure of Audit Memo

The Inspecting Officer or the supervisory officer may go through the memos proposed by individual members of the party and sign them in due course before issue.

The Audit Memo should also bring out the following essential particulars:

- a.** Subject: The short levy or non levy of the land revenue of specified amount;
- b.** Preamble: Indicating the exact provisions of the Act and Rules made thereunder, which have not been properly applied, the circulars and notifications issued in this regard and the judicial decisions, if any, on the law;
- c.** Objection: Full particulars of the audit objection pointing out the exact mistake that led to short levy or non levy of land revenue attributable thereto;
- d.** Audit Memo number and date: Each Audit Memo should contain Audit Memo number with date of issue, date of acknowledgement; and number of the audit party with the name of the Inspecting Officer conducting the audit; and
- e.** Pages of each audit memo are also to be separately numbered.

Copies of all supporting documents which form the Key Documents (KDs) may be kept on record which might include the copy of the document brought into question and the position of act and rules thereto, which will facilitate the examination of the merit of the objection in the right perspective.

9.7 Functions of Audit

9.7.1 Compliance Audit

9.7.1.1 It basically focuses on whether a particular subject matter is in compliance with the criteria (set standards). Compliance auditing is performed by assessing whether activities, financial transactions and information are, in all material aspects, in compliance with the applicable authorities which include the Constitution, Acts, Laws, Rules and Regulations, Budgetary Resolutions, Policy, Contracts, Agreements, Established codes, Sanctions, Supply Orders, Agreed Terms or the General Principles governing sound public sector financial management and the conduct of public officials.

9.7.1.2 In the department of land revenue, all the transaction audits in the offices of the Collectors and Tahsildars are periodically conducted on the basis of testcheck of the land revenue cases and as per the guidelines issued by the C and AG in this regard. The material objections arising out of such audit are sent to the Hqrs office through the report section of the concerned local AG office to be ultimately printed in the audit report and discussed in PAC for appropriate action.

9.7.1.3 The testcheck shall be in accordance with the Auditing Standards 2017 which states that “The audit shall be planned to reduce audit risk to an acceptably low level. Professional

judgement shall be exercised to decide on a suitable sampling methodology depending upon the subject matters, audit objectives being pursued and the envisaged scope of audit and therefore it could be said suggestively that 100% of all documents valued at more than five crores, 50% of that valued at more than one crore and less than five crores and 10% of the other documents which are less than one crore shall be sufficient to keep the audit risks at a low level.

Whatever sampling that may be adopted, the same shall be readily disclosed in the inspection report in the new format as is mandated by Hqrs office vide the latest compliance audit guidelines.

9.7.1.4 It shall constitute the following parts of the report:-

Part I – Introduction-

This part may commence with an overview of the audit unit and may provide its functional/geographical jurisdiction, budget, financial performance and a perspective of the relative significance of the unit in the overall hierarchy of the department in pursuit of organisational goals. This may be followed by a brief explanation of the scope of audit, the sampling procedure followed and the audit sample – including the implementing units, the subject matter(s) selected and the sources of criteria that have been adopted to evaluate the selected subject matter(s). It may indicate that the audit has been conducted in accordance with the applicable Auditing Standards of CAG.

Part II – Audit findings –

This part shall contain all findings – both positive and negative findings that pertain to the audit unit and may be arranged in two distinct parts – Part IIA and II B – the first part comprising significant audit findings relating to evaluation of the regularity related subject matter(s)/ specific subject matter(s) and propriety related subject matters and the second part – II B comprising other incidental findings relating to both regularity and propriety aspects. The audit findings should be organised in decreasing order of materiality and significance, if possible. Presentation of audit findings shall conform to the Auditing Standards and other reporting principles enunciated in this chapter and clearly bring out the applied criteria, the results of evaluation of the subject matter against the criteria highlighting the cause and effect relationship. Audit findings may also appropriately indicate the extent of non-compliance and whether they involve systemic issues or represent isolated cases of non-compliance, where considered necessary. Even though compliance audits conducted in accordance with these guidelines are not in the nature of an inspection, the existing terminology of Inspection Report is continued because of its historical import.

Part III – Follow up on findings outstanding from previous reports–

This part may indicate the progress of settlement of audit findings outstanding from previous Inspection Reports and list out the findings that continue to be outstanding.

Part IV– Best practices –

Any good practices or innovations, if noticed, during the course of audit may be mentioned.

Part V – Acknowledgement–

This part may contain the acknowledgement of the extent of audit units' cooperation in all matters including production of records called for in Audit. It may also contain details of persons holding the leadership positions in the audit units.

9.7.1.5 Theme Based Audit (TBA) or alternatively called Thematic Audit (TA) is also undertaken on a selected theme as part of the compliance audit. It is the horizontal study across similar entities/units or sub-set of activities/ projects/entity within the department. It is a long Draft Paragraph covering all issues relating to a theme in audit.

Lastly, a departmental appreciation may be issued to draw attention of the executive towards system weaknesses etc. A consolidation of audit findings presented through the Departmental Appreciation Note would enable appreciation of both the audit findings that form the basis for Auditor's conclusion on compliance by departments as well as the audit findings that would feature as standalone findings.

9.7.1.6 Entry and Exit Meeting

The Inspecting Officer being the audit team leader should hold an exit meeting with the officer-in-charge of audited entity at the close of audit to seek his comments on audit observations. Any point of disagreement may be brought out and discussed by him during the meeting with a view to resolve the same. The officer-in-charge shall also offer his comments, if not already done in response to the audit memos, and the Inspecting Officer shall reflect such observations in the draft LAR. Wherever necessary and appropriate, the draft LAR may make recommendations for remedying systemic deficiencies and improving control.

Similarly at the close of audit, the audit team leader or the Group officer in charge should also hold an exit meeting with the officer in charge of the audit unit to discuss the audit findings and request responses. The minutes of the exit meeting should be prepared and shared with the audit unit and acknowledgement requested.

9.7.1.7 An overview may of the Compliance Audit Guidelines 2017 issued by the C&AG of India is given in the **Appendix 11** and the same needs to be followed.

9.7.2 Performance Audit

9.7.2.1 It primarily focuses on whether interventions, programmes and institutions are performing in accordance with the principles of economy (minimum input to obtain a

maximum output), efficiency (optimum utilisation of the available input) and effectiveness (maximum output) and whether there is any room for further improvement. Performance is examined against suitable criteria (set standards) and the causes of deviations from those criteria or other problems are analysed. The aim is to answer key audit questions and to provide recommendations for improvement.

9.7.2.2 The performance audit is conducted by the local field AG offices on the pre determined topics that are approved by the Hqrs office as part of the strategic and annual audit plans.

9.7.2.3 The structure of the performance report as per performance audit guidelines 2014 shall be as under:-

Title: the subject of the performance audit;

- Executive summary: It provides the précis of the main report. The summary should not be very long and should contain only essential information. The major audit findings should be placed in the same sequence as the audit objectives and sub-objectives along with recommendations in brief;
- Introduction: It consists of a brief description of the subject of study, information on programme, activity, or institution, its objectives, inputs, implementation structure, expected outputs and outcome, etc. The introduction should be brief, yet sufficient to enable the reader understand the context of the programme;
- Audit objectives: They are the pivots of the performance audit, which set out the reason for undertaking the audit. The entire exercise of performance audit is built around the audit objectives. These should, therefore, be stated in simple and clear terms. It is useful to set out the audit objectives and sub objectives within each audit objective in the form of complete statement/question;
- Scope of audit: It is defined in terms of the period of the programme covered in audit and segments of the programme audited should be set out precisely;
- Audit Methodology: It describes methodology used for data collection/evidence gathering and testing may be stated in brief. This adds to the acceptability of the audit findings and forms a statement for transparency of the audit procedure;
- Audit criteria: to arrive at the audit findings and conclusions with reference to each audit objective and sub-objective which should be stated with appropriate explanations;
- Audit findings and conclusions made during an audit with reference to each objective should be stated;

- Recommendations: They should be presented along with the conclusions wherever applicable in a box or highlighted print;
- Acknowledgement: it may be useful to indicate or acknowledge in brief the co-operation, acceptance of the criteria/findings and recommendations by the entity. In case the co-operation or response was not forthcoming at any stage it may be indicated if it has resulted in any limitation along with its implication and the special efforts made by the Accountant General to seek cooperation or response;
- Glossary of terms: It is helpful to the reader if explanations are provided in a glossary or easy-to-find footnotes. Glossary should be comprehensive, explaining all technical and uncommon terms used in the report.

9.7.3 Entry Conference and Exit Conference

The Audit Officer introduces the audit plan consisting of the audit objectives, approach and time frame besides apprising the Administrative Department regarding data, information and documents that will be required by the audit team. The working procedures for audit may also be established in this meeting. The audit officer may also utilise this occasion to request the Administrative Department to provide assistance to the team for conduct of audit.

In audit of all units, the audit team should conclude the audits with an exit conference/ meeting with the Administrative Department. The minutes of exit conference should be recorded and endorsed to the entity.

9.7.2.4 An overview of the Performance Audit Guidelines 2014 issued by the C&AG of India is given in the **Appendix 12** and the same needs to be followed.

9.7.3 Functions while auditing

9.7.3.1 While compliance auditing, the following are required to be accomplished:-

- a. Entry meeting with jurisdictional departmental heads of auditee units;
- b. Obtaining the list of number of documents registered with the office as classified according to type of document to plan a sample;
- c. Getting day book and the Token Register and preparation of list of selected documents there from;
- d. Collection of the requisitioned records and scrutiny thereof;
- e. Collection of statistical information;
- f. Issue of audit objections;
- g. Follow up of pending audit objections
- h. Preparation of draft LAR in accordance with the compliance audit guidelines; and
- i. Exit meeting.

9.7.3.2 The main items of work to be undertaken during the Performance Audit/Theme Based Audit are:

- a. Conducting of pilot study/preparation of guidelines;
- b. Identification and selection of cases,
- c. Entry conference,
- d. Collection of statistical data,
- e. Examination of cases,
- f. Preparation of mid-term draft Audit Report;
- g. Follow up of C & AG HQ's observations etc.;
- h. Preparation of draft report; and
- i. Exit conference

CHAPTER 10

APPLICATION IN AUDIT

Applied Rules and Regulations in Audit as per previous Audit Reports

Compliance Audits

The following provisions are invoked in the audit reports:-

10.1 As per circular issued by Government in March 2000 , for converting the tenure of watan lands , nazarana/unearned income equal to 50 per cent of the market value of the land is to be recovered , if the land is or is intended to be used for purpose other than agriculture. Further, as per Government Resolution issued in May 2006 and April 2008, the nazarana/unearned income amount is to be calculated as per the rate of land prescribed in ready reckoner on the date of issue of such order for conversion of land for other than agriculture use.

Event: - A permission was granted by Collector (January 2012) to the occupants to convert the Mahar Watan land for residential purpose. The Department calculated the market value of land and unearned income of at the rate of 50 per cent of market value was recovered (December 2012). However the Department had reduced twice by 50 per cent instead of at one time. Besides, the area of under conversion was also taken wrongly.

Thus, arithmetical mistake and consideration of incorrect area of land resulted in short recovery of unearned income.

Note:- After the Government Resolution (GR) of 2008 as ibid, there is issued another GR dated 20.02.2016 stipulating the procedure for valuation of Government Land for the cases finalized after 2016.

10.2 As per Government of Maharashtra, Revenue and Forest Department (July 2002) if the Class – II land is converted into Class – I land for non-agricultural purpose, then the nazarana amount equivalent to 50 per cent of market value of the land should be recovered from the applicant.

Further as per Government Resolution (GR) Government of Maharashtra, Revenue and Forest Department (April 2008) true market value of land was required to be calculated in accordance with the slabs mentioned therein.

Event :- The Tahsildar passed an order (October 2010) to grant permission for conversion of class-II land to class-I land on which nazarana amount of equivalent to 50 per cent of market value was levied and Recovered (December 2010). The market value as per GR ibid was

worked out on which nazarana amount was recoverable. But due to incorrect adoption of slab rate as per GR *ibid*.

10.3 Government of Maharashtra in Finance Department notified (February 2013) that the District Collector having jurisdiction over the area, for the purpose of Section 31(A)(1)(a) of the Maharashtra Value Added Tax 2002 (MVAT), shall collect with effect from 15 February 2013, from the successful bidders in addition to the amount fixed for the auction of sand, an amount at the rate of 10 per cent of the auction amount from the person or dealer who has been awarded the right for excavation of sand.

Event: - E-auctioning of sand ghats were carried out between February 2013 and April 2013. Five successful bidders were awarded the right for excavation of sand from designated area. During auction, total auction amount collected from five bidders. However, Collector awarded the right for excavation of sand, without collecting VAT at source which resulted in non-recovery of VAT.

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10.4 As per Government of Maharashtra (GoM), Revenue & Forest Department (R& FD) resolution (May 2006), allotment of Government land on occupancy or on lease basis and in all the cases where valuation of Government land is to be done, valuation of such land should be determined as per the rates prescribed in Annual Statement of Rates (ASR) as on date on which order is passed for allotment of Government land or other orders consisting of valuation is passed.

Further, Government of Maharashtra, Revenue & Forest Department prescribed (April 2008) the specific slabs for valuation of Government land allotted to the various institutions on occupancy price basis.

Further as per instruction 29 of ASR 2013, if Government land situated in rural area is allotted for non-agriculture purpose, market value shall be determined at 50 per cent of non-agriculture rates prescribed in the ASR for that zone.

Event :- Collector (July 2013) allotment of Government land with advance possession to Government undertaking on which the occupancy price has been wrongly calculated due to incorrect application of slab rates/arithmetical inaccuracy. In another instance the reduction of 50% of the market value of the land was made twice. These resulted incorrect valuation of land.

10.5 Government of Maharashtra, Finance Department notified (February 2013) that the District Collector having jurisdiction over the area, for the purpose of Section 31(A) (1) (a) of the Maharashtra Value Added Tax 2002 (MVAT), shall collect with effect from 15 February 2013, from the successful bidders in addition to the amount fixed for the auction of

sand, an amount at the rate of 10 per cent of the auction amount from the person or dealer who has been awarded the right for excavation of sand.

Event: - The Collector carried out e-auction of sand ghats between March 2013 and September 2014 and two successful bidders were awarded the right for excavation of sand from designated area. As the VAT at the rate of 10 per cent of the auction amount was required to be collected, there was short recovery of VAT.

10.6 As per Government of Maharashtra , Revenue & Forest Department's Resolution (8 September 1983), permission to sell agriculture land held as class II occupant shall be granted subject to payment of 50 per cent of the net un-earned income i.e. 50 per cent of the difference between current market value and the price realized by way of sale whichever is higher.

In case of permission to sell the agricultural land for non agricultural purpose the unearned income shall be 75 per cent. Unearned income means the difference between current market value or the price realized by way of sale, whichever is higher, and the occupancy price paid at the time of allotment plus cost of improvement.

Event: - A case of short recovery of nazrana/un-earned income due to incorrect market value computed in terms of ASR 2013.

Audit Report of C and AG 2017

Note: - No material in Audit Report of C and AG 2015

https://cag.gov.in/sites/default/files/audit_report_files/Chapter_4_Land_Revenue_of_Report_No.3_of_2017_%E2%80%93_Revenue_Sector_Gover.pdf

(Inter alia paras of the performance audit may be read at the link)

For additional checks to be exercised during the course of audit, reference may be made to

Appendix 2

CHAPTER 11

STANDARDS OF REPORTING

11.1 Reporting

- Compilation of statistical information collected during field audit;
- Vetting of Local Audit Reports (LARs) received from Field Audit Parties; and
- Issue of LARs to concerned audited units and their immediate higher authorities.

11.2 Follow up

- Maintenance of Objection Books;
- Processing of replies to LAR paras;
- Follow up of LARs/LARs paras till their final closure/settlement;
- Maintenance of Recovery Register in the prescribed format;
- Holding of Audit Committee Meetings; and

11.3 Processing of material for Audit Report

- Maintenance of 'Potential Draft Paras Register';
- Issuing of Statement of Facts (SOFs) to the department of the state for their comments;
- Maintenance of 'SOFs' register;
- Periodic review of outstanding SOFs and Potential Draft Paras;
- Processing replies of the department to Statement of Facts;
- Processing of Draft Paras and getting approval of the Head of Department;
- Processing of queries of C & AG HQ relating to Draft Paras;
- Verification and vetting of Replies/Action Taken Notes (ATNs) received from the Government;
- Settlement of Draft Paras on receipt of C & AG HQ communication; and
- Processing of Performance Audit and Thematic Based Report.

Field Audit Offices may arrange the above functions through different sections/groups.

In the performance audits, the report section of the field offices also processes the Action Taken Notes (ATNs) and monitors pending ATNs with the State Government and the PAC; Memorandums of Important Points (MIPs) are also prepared in respect of PA report and Draft Paras selected by PAC for detailed examination;

The power to settle Audit Observations included in the Audit Reports rests with CAG which normally takes advice of the revenue sector.

11.4 Reporting of Audit Findings

11.4.1 Preparation of the Draft Local Audit Report

Draft Local Audit Report should be ready on the last day of the local audit. The Sr Audit Officer/Audit Officer (SAO/AO) or the Assistant Audit Officer (AAO), as the case may be, prepares the Draft Local Audit Report (LAR) from the collected material (AMS, replies to AMS etc.).

In case the departmental officer accepts the audit observations, rectifies the mistakes and recovered the amount involved, the AM needs to be treated as settled after recording the facts thereon. Such matter should not form part of the LAR.

In case the reply given by the department is not acceptable or is not final, such a reply of the memo as well as rebuttal thereon has to be incorporated in the LAR.

The head of office of the audited entity may be appraised about important audit findings and relevant information of jurisdictional units at the time of forwarding LAR to the head of office with copy to the next higher controlling authorities.

While drafting the LAR, the following should be kept in view:

- a. Paras are to be arranged tax effect wise (descending order);
- b. The reply of the head of office should be incorporated with proper rebuttal in case of not acceptance of the audit observations;
- c. All pages of LAR are to be serially numbered;
- d. Cross reference is to be given for all facts and figures mentioned in the audit memo indicating page numbers. Highlighters pen are not to be used on the relevant text of Key Documents;
- e. Key to audit objection may be given before each para. This may include AM number, name of the parties involved in the document, date and year of the document, section of the Act that is contravened, duty in short or non levy pointed out, classification of the para, section under which observation made, tax effect, name of contributor (not for the auditee);
- f. The LAR paras should be captioned properly;
- g. The proposal for Potential Draft Paras should be prepared by Inspecting Officer or simply included as a major finding to be left at the discretion of the Hqrs.

11.4.2 Documentation in support of audit findings and conclusions

The State Receipt Audit Party (SRAP) should document audit evidence to support the audit findings and conclusions and to confirm that the audit was carried out in accordance with relevant auditing standards adopted by the C & AG. The documentation may be in the form of data stored on paper, film, electronic and other media and provides the link between the audit work and its resultant outputs. The documentation should cover the basis and extent of audit planning, audit methodology, audit performance and audit findings. The content and

arrangement of the working papers reflect the degree of proficiency, experience and knowledge.

11.4.3 Monetary limits for categorisation of LAR Para

The C & AG HQ revises the monetary limits for categorization of LAR para. At present the monetary limits of LAR paras, are those issues having a combined duty effect of over 10 lakhs. Such paras are usually either included in the Part II A as significant audit findings either by the inspecting officer and vetted by the headquarters or suo motu identified by Hqrs and the same is forwarded to the Draft Para cell for onward transmission to CAG HQ through the report.

Audit findings of serious nature may be included in Part II A irrespective of prescribed monetary limit involved but only in exceptional case only.

11.5 Confidentiality of Materials for Audit Reports

In order to maintain confidentiality/secretcy of the material for draft Audit Reports, instructions issued by Comptroller and Auditor General (C & AG) HQ need to be followed for any audit observation whether in the form of Draft Para/Thematic Paragraph/Performance Topic for probable inclusion in the Audit Reports. The AG needs to place further controls as deemed fit to ensure confidentiality of material for Audit Reports.

11.6 Style Guide

Style guide Indian Audit and Accounts Department (IA & AD) developed for Audit Report is equally relevant to other reports and communication including LARs. The Provisions in the Style Guide are aimed at securing corporate consistency in the reports and obviating the need for repeated redrafting, often guided by individual styles. Therefore, Style guide should be followed in all communication including drafting of LAR/ Potential Draft Paras/SOF/DP.

12.6.1 The instructions of CAG in the ‘Standing Order on Role of Audit in Relation to Cases of Fraud and Corruption’ is in **Appendix 13** and applicable to the entire process of audit.

11.7 Submission of Draft Local Audit Report

The detailed account of the work done by each member of the State Receipt Audit (SRAP) should be attached with the draft LAR. The draft LAR duly signed by the Supervisory Officer (also called Inspecting Officer) should reach the HQ of respective Field Audit Offices within seven days from the last date of audit.

11.8 Issuing Local Audit Report to Heads of Auditee Units

The LAR duly vetted by the HQ of the respective Field Audit Offices and approved by the concerned GO should be issued to the concerned head of the auditee unit within a month

from the date of completion of local audit, with copies to the all the controlling higher authorities, as applicable.

The Unit head should send his report on the objections in respect of individual matters included in the respective Audit paragraphs of Part-I (Introductory) and Part-II (major irregularities and important points) of the LAR to the unit head and his immediate higher authorities within 30 days from receipt of the LAR.

No reply is required to be sent regarding Part-III (outstanding objections from previous inspection reports), but appropriate remedial action must be taken by the head of the auditee unit within three months.

On receipt of the report, the auditee unit will examine the audit objections in the light of the rebuttal of audit to their earlier comments to the audit memos and send a reply to the Joint District Register (JDR) within a fortnight. The JDR shall in turn send a final reply to audit within a fortnight thereafter.

11.8.1 Potential Draft Paragraphs

The important LAR paras, which exceed the amount fixed as benchmark for DP (presently it is above 10 lakhs) or are otherwise significant are proposed as Potential Draft Paragraphs by the Inspecting Officer of the State Receipt Audit Party (SRAP).

11.8.2 Statement of Facts

Paragraphs marked as Potential Draft Paras need to be examined with reference to the available documents and reply received, if any. 'Statement of Facts' (SOFs) is to be issued in respect of all cases to be processed as Draft Paras. Further, the facts stated in the LAR may once again be verified with the basic records for the factual accuracy or with reference to any further developments at the time of issue of the SOFs. Where the objection is not being accepted by the department, they need to be communicated to the concerned with a suitable rebuttal for his comments. The concerned departmental officer in ordinary course shall furnish reply within a fortnight to the receipt of the SOF.

11.8.3 Draft Paragraphs for Compliance Audit Report

The Draft Paras (Draft Paras) should be drafted in simple and active voice. The preamble of DP should be concise/precise and strictly confined to the point made out in the DP with no unduly long narration.

The following points may be borne in mind:

- a. In the beginning, DP should indicate 'Preamble' stating the law and procedure in brief with relevant section, relevant judicial pronouncements or any instructions of the department;

- b.** Thereafter DP should give full facts of the case, audit point involved with the amount of short levy/non levy involving duty effect (including potential duty effect) at the prevailing rates. Further, the facts stated in the LAR may again be cross verified with the source records for the factual accuracy or any further developments at the time of processing of Draft Paras;
- c.** Whether the internal audit wing of the department has checked the same records or not need and they have not raised the same issue needs to be mentioned in the DP; and
- d.** The date of communication of the audit observation, LAR para and SOF to department need to be mentioned alongwith reply of department, if received with rebuttal, if any. The action taken in this regard may also be mentioned.

11.8.4 Criteria for processing of a para as a Draft Para (DP)

The criteria for processing a LAR para as DP for C & AG's Compliance Audit Report are as follows:

- a.** Audit Observations for more than five years old from the dates of the documents may not be processed as Draft Para. For example, in case of Compliance Audit Report for the year ending 31 March 2015, only those documents pertaining to the year 2010 may be floated as Draft Paras;
- b.** Audit observations resulting from the audit conducted during last two years should be floated unless the situation otherwise warrants owing to the presence of some novel issue or some additional fact coming to notice;
- c.** The period of five years from the dates of execution of documents and two years in conducting audit will automatically change with the period of succeeding Audit Report e.g. for Audit Report 2015-16, the documents registered after 1 April 2011 and audit conducted on or after 1 April 2013 would be considered;
- d.** Only those observations should be floated as Draft Paras which involve tax effect equal to or more than the floor limits for Draft Paras prescribed by the C & AG HQ;
- e.** Clubbing of Draft Paras/mistakes, only for meeting the floor limits of Draft Paras may not be done;
- f.** In case, there are more than one observation on the same issue in respect of same offices for different financial years (earlier it was calendar year), only one consolidated DP needs to be proposed;
- g.** Only sustainable Draft Paras need to be pursued with the Hqrs Office. Every effort needs to be made to raise such observations where the observations could be defended strongly with the Auditee Department at later stages;

- h.** Proposing Draft Paras involving levy of penalty may be avoided as penalty is a matter of discretion of the department;
- i.** Before forwarding Draft Paras to C&AG HQ, Field Audit Offices need to ensure that LAR para and SOF on the said observations have been issued;
- j.** Proper linking of relevant Key Documents (KDs) may be attached with DP;
- k.** The relevant portion of the KD which corroborates the audit point may be marked in the margin so that the mistake is easily identified. The DP forwarded should also be marked with KDs;
- l.** Each KD in either physical form or electronic form uploaded in only one file irrespective of numbers of pages;
- m.** Many a times, departmental reply, especially when the audit observation is not accepted, is attached without offering any comments thereon. The Field Audit Offices must offer their comments on non-acceptance of the department;
- n.** The Field Audit Offices need to treat the observation as accepted only when the same has been categorically stated as “Accepted” by the department. The reply of department stating the observation as “Acceptable” and “Seems to be acceptable” should not be considered as acceptance.
- o.** It may be ensured that the cases, which were proposed as Draft Paras are not already printed in the Audit Report or observation has not already been settled locally after discussion with the department (before proposing as Draft Paras);
- p.** In case, there is an observation dealing with a totally different issue/ new issue or is noteworthy as it involves a system flaw or a matter of interpretation of law, even if having money value below the benchmark, the same may also be forwarded to C & AG HQ through a DO letter addressed to Inspector General of Registration (IGR);
- q.** It may be ensured that Draft Paras in excess of 10 per cent of targets are not forwarded to C & AG HQ; Draft Paras may be sent to Comptroller and Auditor General (C & AG) HQ completely by 30 June of every year.
- r.** In case there is litigation surrounding the issue and it does not pertain to audit observation, Draft Paras may be proposed. However, it may be ensured that issue of our observation is not directly or indirectly related to that pending under appeal and decision need to be taken on case to case basis;
- s.** Copy of DP is also forwarded to Field Audit Offices for verification of facts and figures. The correctness of facts and figures need to be re-checked from the KDs and changes be communicated to C & AG HQ on top priority basis.

APPENDICES

Appendix 1:- Records to be checked during Audit

| Sr. No | Records to be checked | Remarks |
|--------|---|---------|
| 1. | Audit of the Office of the Principal Secretary (R & F) | |
| | Land Revenue in the form of NA assessment , Increased Land Revenue, royalty on minor mineral, Lease rent, occupancy price | |
| | <ul style="list-style-type: none"> • Whether GRs/guidelines, instructions/procedures issued on Land revenue receipts are in accordance with applicable laws. • Whether the sanction orders for allotment of land based on occupancy/ lease including renewal of lease are issued in accordance with applicable laws/codal provisions, GRs/Policy. • Whether the sanction orders for regularization of encroached of land are issued in accordance with applicable laws/codal provisions, GRs/Policy • Whether the adjudication of land cases are done in accordance with the provisions of applicable laws, codes, GRs. • Whether the refund orders are sanctioned in accordance with applicable Minor Mineral laws/codal provisions, GRs/Policy • Whether delegation of powers has been done for smooth monitoring of revenue receipts. • Whether adequate returns have been prescribed so as to assess and monitor revenue receipt as per targets set for the purpose. • Whether adequate internal control mechanism have been devised to monitor the revenue receipts. | |
| 2 | Other Offices (Commissioner, Collector, Sub Dn Officer and Tahsil) | |
| a | <p>Cases of land grant</p> <p>i) No. of Land grant orders on occupancy/lease basis received from the Collector during the Audit period.</p> <p>ii) Whether Occupancy price/lease rent recovered properly, copy of challans etc.?</p> <p>iii) Whether Possession letter issued by the concerned Talathis?</p> <p>iv) Whether the NA levied on the land allotted on occupancy/lease</p> | |

| | | |
|---|--|--|
| | <p>basis?</p> <p>v) Whether the land is being put to use for the purpose for which it is granted?</p> <p>v) Transfer of land to other entities without the permission of Government.</p> | |
| b | <p>NA permissions</p> <p>i) No. of Class-I villages in Tahsil.</p> <p>ii) No. of Class-II villages in Tahsil.</p> <p>iii) No. / list of villages in MC/NP areas.</p> <p>iv) Rate of the NA in MC/NP areas.</p> <p>v) No. of NA orders issued by the Collector/SDO/ Tahsildar.</p> <p>vi) NA cases are recorded in Taluka Form-II and Village Form-II registers.</p> <p>vii) NAA recovered as per rate applicable with respect to land converted for NA use.</p> <p>viii) Conversion tax is being recovered in A & B class NP/ MC areas.</p> <p>viii) NAA for subsequent years is being recovered.</p> <p>ix) Change in the purpose of use other than permitted in the NA orders.</p> <p>x) Whether the NAA recovered with respect to change in use?</p> | |
| c | <p>i) No. of cases of sale permission/change in use in respect of Class-II land.</p> <p>ii) Whether the unearned income/Nazrana recovered as applicable.</p> | |
| d | <p>i) No. of encroachment cases detected under the Tahsil/Collectorate.</p> <p>ii) Action taken by the department to evacuate the encroachment.</p> <p>iii) Occupancy price levied properly and recovered in regularization of encroached land cases.</p> <p>iv) NA cess and penalties levied and recovered from the date of encroachment.</p> | |

| | | |
|---|--|--|
| e | <p>i) Temporary permit register maintained by Collector/ Tahsildar.</p> <p>ii) Royalties recovered properly on Minor minerals permitted to be extracted.</p> <p>iii) Cases of illegal extraction of minor minerals and action for levy and recovery of penalty with respect to type /quantities extracted.</p> <p>Auction of sand Ghats</p> <p>i) Sand Ghats are auctioned as per the norms.</p> <p>ii) One fourth amount of auction price recovered.</p> <p>iii) Three fourth amount recovered before issuing the order.</p> <p>iv) Surface rent recovered.</p> <p>v) Taxes paid</p> <p>vi) Same norms applied for auction of minor minerals</p> | |
| f | Records of Talathi at the level of Tahsildar (clarified in foregoing paragraphs) | |

Appendix 2:- Work Distribution amongst party members

| Sr. No | Records to be checked | Remarks |
|--------|--|---|
| 1. | Audit of the Office of the Principal Secretary (R & F) | |
| | Land Revenue in the form of NA assessment , Increased Land Revenue, royalty on minor mineral, Lease rent, occupancy price ,unearned income etc. | Work allotted at the discretion of the inspecting officer based on money value and relative importance. The total work is testchecked to the extent of 25% or more. |
| | <ul style="list-style-type: none"> • Whether GRs/guidelines, instructions/procedures issued on Land revenue receipts are in accordance with applicable laws. • Whether the sanction orders for allotment of land based on occupancy/ lease including renewal of lease are issued in accordance with applicable laws/codal provisions, GRs/Policy. • Whether the sanction orders for regularization of encroached of land are issued in accordance with applicable laws/codal provisions, GRs/Policy • Whether the adjudication of land cases are done in accordance with the provisions of applicable laws, codes, GRs. • Whether the refund orders are sanctioned in accordance with applicable Minor Mineral laws/codal provisions, GRs/Policy • Whether delegation of powers has been done for smooth monitoring of revenue receipts. | |
| 2 | Other Offices (Commissioner, Collector, Sub Dn Officer and Tahsil) | |
| a | <p>Cases of land grant</p> <p>ii) No. of Land grant orders on occupancy/lease basis received from the Collector during the Audit period.</p> <p>ii) Whether Occupancy price/lease rent recovered properly, copy of challans etc.?</p> <p>iii) Whether Possession letter issued by the concerned</p> | |

| | | |
|---|---|--|
| | <p>Talathis?</p> <p>iv) Whether the NA levied on the land allotted on occupancy/lease basis?</p> <p>v) Whether the land is being put to use for the purpose for which it is granted?</p> <p>v) Transfer of land to other entities without the permission of Government.</p> | |
| b | <p>NA permissions</p> <p>x) No. of Class-I villages in Tahsil.</p> <p>xi) No. of Class-II villages in Tahsil.</p> <p>xii) No. / list of villages in MC/NP areas.</p> <p>xiii) Rate of the NA in MC/NP areas.</p> <p>xiv) No. of NA orders issued by the Collector/SDO/ Tahsildar.</p> <p>xv) NA cases are recorded in Taluka Form-II and Village Form-II registers.</p> <p>xvi) NAA recovered as per rate applicable with respect to land converted for NA use.</p> <p>xvii) Conversion tax is being recovered in A & B class NP/ MC areas.</p> <p>xviii) NAA for subsequent years is being recovered.</p> <p>xviii) Change in the purpose of use other than permitted in the NA orders.</p> <p>x) Whether the NAA recovered with respect to change in use?</p> | |
| c | <p>ii) No. of cases of sale permission/change in use in respect of Class-II land.</p> <p>ii) Whether the unearned income/Nazrana recovered as applicable.</p> | |
| d | <p>v) No. of encroachment cases detected under the Tahsil/ Collectorate.</p> <p>vi) Action taken by the department to evacuate the encroachment.</p> <p>vii) Occupancy price levied properly and recovered in</p> | |

| | | |
|---|--|--|
| | <p>regularization of encroached land cases.</p> <p>viii) NA cess and penalties levied and recovered from the date of encroachment.</p> | |
| e | <p>iv) Temporary permit register maintained by Collector/ Tahsildar.</p> <p>v) Royalties recovered properly on Minor minerals permitted to be extracted.</p> <p>vi) Cases of illegal extraction of minor minerals and action for levy and recovery of penalty with respect to type /quantities extracted.</p> <p>Auction of sand Ghats</p> <p>vii) Sand Ghats are auctioned as per the norms.</p> <p>viii) One fourth amount of auction price recovered.</p> <p>ix) Three fourth amount recovered before issuing the order.</p> <p>x) Surface rent recovered.</p> <p>xi) Taxes paid</p> <p>xii) Same norms applied for auction of minor minerals</p> | |
| f | <p>Records of Talathi at the level of Tahsildar (clarified in foregoing paragraphs)</p> | |

[Local SRA (HQ)]

Appendix 3 – Checks to be exercised during the course of audit

- The general principles governing the audit of ‘Receipts’ as laid down in chapter 4 of Section -II of the Comptroller and Auditor General’s manual of standing orders (Technical) Volume-I and introductory chapter-I of this manual should be followed as basic guidelines for the audit of “Receipt”.
- As the effectiveness of audit conducted depends to a very great extent on the documents and records maintained in the offices of the primary taxation authorities, prime attention should be to see whether there is proper documentation in regard to levy and collection of the various taxes. It should be the endeavour to ensure that all demands due are correctly and promptly raised in accordance with law, rules and regulations governing the same and to trace all receipts from the source to final accounting in Government Books.
- Audit should cover not only receipts due to government under various Acts and their Allocation to the proper heads but also refunds authorized by assessing appellate authorities.
- The list of records maintained by the department is given in Appendix 1. The more important checks to be exercise in respect of various items of revenue administered by the State Revenue Department are indicated below :

Audit of Basic Assessment records relating to Land Revenue:

The main point of check are to see :

- i) That demands are correctly calculated in accordance with the rates noted in the Assessment Registers, which are prepared by the Settlement Office, and are correctly carried forward to the current, Demand, collection and Balance Register.
- ii) That the position of arrears of Land Revenue is correct and satisfy itself that proper action has been taken for their recovery.
- iii) That fields transferred from agricultural assessment register to non agricultural use are taken to village form-II/Taluka form-II.
- iv) That changes in classification of lands, rates of assessments are properly noted in Taluka forms.
- v) That total extent of land as per Tharavband, Form-V agrees with the Settlement Register i.e. Assessment Register Form-I.
- vi) That there is arithmetical accuracy in assessment.
- vii) That there is no delay or omission in the survey and settlement of unsurveyed areas, Inam land, Zamindari free holds, lease holds, watans, etc.
- viii) That the special assessment rates for lands i.e. increased land revenue, Employment Guarantee Cess or Irrigated lands, and Education Cess on commercial crops as per order of Government have been levied, demanded and collected.

- ix) That the land deforested and converted into agricultural lands, have been assessed properly.
- x) That the Jamabandi Sheets memoranda, do not reveal any major irregularities, in the assessment and of revenue and other revenue functions of Taluka.

Audit of Local Cess :

The main points of check are to see :

- i) that all items constituting 'ordinary land revenue' under Section 144 of the Maharashtra Zilla Parishad and Panchayat Samitti Act, 1961, have been subject to local cess, as laid down thereunder.
- ii) that the rate of cess is as per directive of government from time to time.
- iii) That the cess has not been levied, demanded and collected on lands, within the "Municipal Limit" of Municipal Corporation, Municipal Councils and contonment areas & Notified areas committee but has been levied only in rural areas.

Audit of Miscellaneous revenue :

Following audit points, regarding collection and arrears of land revenue, may be seen :

- i) Whether accounts records have been correctly maintained and reconciliation of figures made with the treasury accounts?
- ii) Whether the periodical returns of arrears submitted to the Collector contains correct information and there are no errors/arithmetical mistakes?
- iii) Whether action taken for recovery was adequate and whether coercive measures had been taken for non payment of revenue?
- iv) Whether penalties have been levied in cases of belated payments of Government dues?
- v) Whether effective and deterrent action had been taken against the defaulters of land revenue?
- vi) Whether recovery of dues of other departments, other State Government and Union government has been affected as arrears of land Revenue?
- vii) Whether the accounts forms are deficient of any information/particulars or otherwise defective?
- viii) Defects in the administrative machinery embezzlement, fraud etc. owing to non observance of the provisions of rule/orders or otherwise.

Audit of Remittance :

Two main points of check are to see :

- i) That the totals of daily collections are correctly made.
- ii) That the collections are remitted into treasury on the prescribed dates.

iii) That the amounts purported to have been remitted into the treasury have been included in the treasury accounts (the office copies of the challans have to be compared with the treasury credits.)

iv) That the reconciliation has been effected between department accounts and treasury accounts.

v) That refunds have been sanctioned by the proper authorities and safeguards made against double claim.

vi) That the register of receipt book should be checked to see that a proper account has been kept of all the receipts books.

vii) That the challans received from the Talathi/Patwari have been entered in the challans register and at the end of each month reconciliation is made with reference to daily collection returns and the receipts and treasury challans submitted by Talathi/Patwari to the Tahsildar.

viii) That all used receipts books, supplied to the Talathi/Patwari with counterfoils of receipts are returned to the Tahsildar, that the amount shown as received in the counterfoils, have been noted in the Cash Book and that all collections are deposited in the Treasury as endorsed by the Tahsil Revenue Section.

Audit of land transferred by Government to Companies, Corporations for establishment of Industries, Dams and reservoirs for generation and distribution of electricity and plantations.

Building sites are granted to companies and corporations by State Government for industrial or commercial purposes on alienable and imposable tenures on payment of occupancy price, as fixed by Government, and subject to following conditions :-

i) That the land shall not be disposed of except along with the constructions thereon and the factory, plant and installations, if any, and the land so disposed of shall not except with the approval of be used for a purpose other than the purpose for which it was initially granted.

ii) That on disposal of the land, along with the factory, plant, structures and other installation, by way of sale the government shall be entitled to half the unearned income and where such land is sold without any constructions aforesaid the State Government shall be entitled to unearned income not exceeding 90 percent as the State Government decide.

(Unearned income means an amount equal to the difference between the price realized by way of sale and the occupancy price paid to Government, at the time of grant of land to the company).

(Authority Rule 31 of the Maharashtra Land Revenue (Disposal of Government Lands) Rule 1971).

2) While conducting audit of such lands the following points should be seen :

- a) Cases of non levy and short levy of land revenue cess and surcharges in respect of the area transferred on the basis of rates as per conveyance/lease deeds, if any may be pointed out.
- b) Any concession or benefit allowed to any corporation in the assessment and payment of land revenue with reference to prevailing rate may be highlighted. The quantum of benefit or concession may also be specified. The computation should be made on logical and reasonable basis.
- c) How far these concessions given by Government by virtue of executive power or otherwise are legally valid may be seen with reference to deeds of transfer/lease vis-a-vis the provisions of the Act/Rules/Orders. Any concession/benefit which is not covered by the provisions of the Act or beyond the powers of government may suitably be commented upon.
- d) Whether there is any legal hurdle in the revision of rates in respect of the arrears comprised in those transfers ?
- e) Whether land revenue is paid by the companies/corporations even now on the basis of non agricultural assessment as specified in the Land Revenue code/Manual/Act.
- f) Since the date of transfer whether any survey and settlement of lands was effected by government in the district/Tahsil in which land in question is situated and if so, the revenue foregone on account of non levy/non collection of land revenue on the basis or revised rates fixed by the collector/Board of Revenue, may be pointed out.
- g) Surplus Land :
- h) Whether the companies/corporation are holding any land surplus to their requirements and if so breakup of their land out of acquired land the government land may be given. According to agreement deed the mode of disposal of the surplus lands may be examined and any deviation therefrom resulting in loss of revenue may be commented upon.
- ii) Whether any portion of surplus land has been disposed of by transfer or otherwise with or without the permission of government to any sister or subsidiary company and if so, its impact on the receipts of Government may be commented upon. Capital gain arising from such transfer may be referred to Income Tax Revenue Audit (Head Quarter).

[Local SRA.HQ]

**Appendix 4:- Declaration to be given by audit party before commencement of audit
(Para 8.4)**

(This declaration is required to be signed separately by each member of the audit team prior to the commencement of the audit. A copy of the declaration should be given to the head of the audited entity as soon as the audit commences. Each declaration should be enclosed in original with the Inspection Report.)

I,

Shri/Smt./Ms. _____ (name), _____

(Designation) hereby declare that:

- I have read and understood the SAI India's Code of Ethics.
- I will uphold and abide by the SAI India's Code of Ethics and the CSS (Conduct) Rules.
- I do not have any personal or professional interest in the audited entity. As a representative of the SAI India, I undertake to adhere to the following:
 1. I will conduct the audit assigned to me in a fair, honest, timely and competent manner.
 - ii. I will maintain strict confidentiality of all information gathered in the course of audit.
 - iii. I will not behave or conduct myself in an inappropriate manner with any official of the audited entity.
 - iv. I will not accept any kind of inducement prohibited under the Central Civil Services (Conduct) Rules, 1964, directly or indirectly from the audited entity.

Signed: _____ Dated: _____

Authority: Paragraph No. 3.24 of the Code of Ethics

Appendix 5:- Important Codes and Orders

| Sr. No. | Contents of Brief | Order / Regulations and Enactments |
|---------|---|------------------------------------|
| 1 | Khalsa: | |
| | All land paying revenue direct to government called as Rayatwari. Rights were not theorized but described as Khatedar of survey number or the field called occupant or khatadar (holder of account) | |
| | Proprietary Rights to Government | Rule XIX |
| | Alienated Land gift from government | 1853 |
| | Taluqdaris, Zamindaris: | |
| | Survivals of old kingdoms and feudal chiefs. Warden of marches. Full administrative power. Right to all sources of income. | |
| | Jagir : | |
| | For Military of Police Service included Deshmukh of Sindkhed and Washim. | |
| | Watan : | |
| | Hereditary headman Patel by virtue of office has Native or home land associated with official rights and perquisites like Man Pan that is precedence on ceremonial occasion, fees on marriage or other happenings. Right to build inside the village. | |
| | Zirat: | Rules of |
| | Land formerly held rent free. | Summary |
| | Inam : | Settlement |
| | Smaller grants for pretty services, religious functions. | 1855 |
| 2 | Malguzar : | |
| | Farmer of revenue. | |
| | Patel : | |
| | Village head who could secure punctual payment. | |

| | | |
|---|---|-------------------------|
| | Mukadam : | |
| | Manager of revenue for part of the village. | |
| | 1827: Survey of land field by field using standard measure, descriptive record of boundaries. Rough sketch of village and field within village boundaries by Pringle : Poona. | |
| | 1839: Scale Map of fields traced together to form village map and official boundary marks by Davidson. Survey and Revenue establishment separated by Wingate. | |
| | 1847: Joint Report, Guiding Principles for revenue survey by Goldsmith, Captain Wingate and Capt. Davidson : Indapur near Ahmednagar. | |
| | 1853 : Measurement rules, System of traverse of village by the odolite (1864) | |
| | 1867 : Code of Rules for enquiry in to tiles (Hope system) | |
| | 1868 : Act V made City Survey Act I of 1865 and Act II and III of 1868 applicable to cities and Towns. | |
| 3 | Absolute occupancy tenant | Act of |
| | Protected despite change of law | 1859 |
| 4 | All tract of uncultivated land, forest, mines, quarries to government | Order 1860 |
| 5 | Restrictions on transfer of land to assert British Rule | Order 1863 |
| 6 | Malik Maqbuza : Owner of that which is assessed | Waste land rule 1863 |
| | Occupancy tenant : Could cultivate on some rent | |
| | Shartiya Tenant : Subjected to revision. | |
| | Temporary Tenant: Could be denied cultivation in waste. | |
| | Shartiya Tenant : Governed by conditions. | |

| | | |
|----|--|-----------------|
| 7 | Malik Maqbuza to those who founded village, cleared waste. | |
| | To Thekedar who advanced money, improved cultivation. | |
| | to those who has hereditary rights. | |
| | to occupants since foundation of village. | |
| | to having held land antecedent to proprietor land lord. | |
| | To occupants of 25 years. | |
| | All recorded in Wajib-ul-arz (points necessary to be represented) | |
| | Thekedar : Located by superior landlord. | |
| | Watandari : Descendants or relatives of former Patel | |
| | Baghichadar : Planted groves or orchards. | |
| 8 | A code of simple rules about survey and settlement. | Berar Rule 1866 |
| 9 | Permitted leasing of land | Order 1878 |
| 10 | Occupancy : | |
| | When land was waste and grantee cultivated it. | |
| | Superior holder or Land Lord | |
| | Land managed by close supervision by advancing money. If lived apart and did nothing his claim limited. | |
| | Ijara or Izara : | |
| | Means concession. Pretty grants for 20, 30 or 50 years at low rent which were gradually to rise. At the end of period option was given to take transferable hereditary rights on payment of ½ full rates or Patelship without transferable rights getting 25% on collection to pay new assessment. | |
| | Ghatwal : | |

| | | |
|----|--|---|
| | For keeping hill passes safe and open. | |
| | Metkari : | |
| | For restoring village thrown out of cultivation. | |
| | Tukum : | |
| | For maintaining tanks or reservoirs. | |
| | Ubari : | |
| | Former Malguzar ousted but retained old Watan land on quite rent (resumed rent free) or rent free. | |
| | Muktadar: | |
| | For performance of service of village. | |
| | Mokasdar or Mojamdar : | |
| | A sort of patwari for group of village. | |
| | Maufidars: | |
| | For performance of service of villages. | |
| | Maufidars. | Resident circular |
| | A sort of Watan or inam by virtue of office. Pandya for village, Deshpandey as headman over pandys. Deshmukh superior headman over Patil. Alauti as hereditary artisan. | No. XII of 27 th March 1879 |
| | Rayat Malik : | |
| | Tenant of rayat, Patel, Mokasdar, Muktadar. | Wasteland |
| | Rayat Sarkar : | Rules Resident |
| | Tenant of government could acquire ownership on payment of premia of four times. Reassessable. | Circular XXII, XI, VII of 1880 |
| 11 | Sir Land : | |
| | Land of village or Mahal upto ¼ area which could be increased by cultivating waste for six consecutive years for subsistence of proprietor not subjected to tenancy law. | Act of 1881 |
| 12 | Secondary Taluqdari, Tahudari, Thekedari : | Administrative |
| | On fixed annual payment and terms of agreement | Reports 82-83 |

| | | |
|----|---|---------------|
| 13 | Occupancies in House site : | Order of 1885 |
| 14 | Respected existing possessions (prior to Britishers) as Kabjedar (in possession) | |
| 15 | Appropriation of Agricultural land for other uses. | 1894 |
| 16 | Crown Grant Act. | 1895 |
| 17 | Berar Land Revenue Code based on Bombay Land Revenue Code 1879 | 1896 |
| 18 | Leases were made terminable. | 1902 |
| 19 | Enhancement of lease rent. | 1906 |
| 20 | Nazul land. Replaced occupancy system by leasehold system and leases were made renewable. | 1912 |
| 21 | <p>Berar Land Revenue Code</p> <p>Adapted occupancy system.</p> <p>Occupant Section J 3</p> <p>Occupant Section J 3</p> <p><u>Antialienated tenant</u></p> <p>(Section 72, 73 amended by Act of 1948.</p> <p><u>Tenant of Antiquity</u></p> <p>(Section J 4 (2)</p> <p>Absolute Occupancy Tenant</p> <p>Rayat Malik</p> <p>Maliq Mackbuza</p> <p>Permanent Tenant</p> <p>Occupant Tenant</p> <p>Rayat Sarkar</p> <p>Alienated</p> <p>(Section 1, 4, 22 (1) including grant of land and leases.)</p> | 1928 |
| 22 | <p>Madhya pradesh Land Revenue Code Land grant, leases, Nazul Rules.</p> <p><u>Bhumiswami</u></p> <p>(Section 146 (a) (f))</p> | 1954 |

| | | |
|----|---|------|
| | <u>Bhumiswami</u> (Section 147 (d), Lease section 68 (127)) <u>Alienated</u> (Section 146 (3) and Section 149 (2), (27) including grant of land and leases. | |
| 23 | Instructions for Nazul Land | 1956 |
| 24 | Instructions for Nazul Land | 1954 |
| 25 | Maharashtra Land Revenue Code. Nazul terms omitted. Disposal of government land by grant or lease only as occupant for limited period. Occupant Class II | 1966 |

Source of information – Abstracted from information given in official Codes, Orders and other books by Campbells, Bullock and Johnston, Baden Powel, Desai, Gorudon, Manekar.

Appendix 6:- Types of rights in Land under different codes

| BLRC 1928 | MPLRC 1954 | MLRC 1966 |
|--|---|--|
| Occupant (Section J3) Anti alienated tenant (Section 72, 73 amended by Act X of 1948. Tenant of Antiquity [Section J4 (2)] | Bhumiswami [Section 146 (a)] Bhumiswami [Section 146 (f)] Bhumiswami [Section 146 (f)] Bhumiswami | Occupant Class 1 Occupant Class I Occupant Class I Occupant Class I |
| Permanent Tenant Occupant Tenant Raiyat Sarkar Alienated [Section 1, 4 22 (1)] including grant of land of leases. | Bhumiswami [Section 147 (d)] Bhumiswami [Section 147 (d)] Bhumiswami [Lessee section 68 (127)] Alienated [Section 146 (3) and section 149, (2), (27) including grant of land and leases. | Occupant Class II Occupant Class II Occupant Class II Occupant Class II |

Appendix 7:- Rates of Royalties and Dead Rent (GR dated 11.05.2015)

| Sr No | Minor Mineral | Royalty |
|--------------|--|--|
| 1 | Lime Stone and Lime Shell used in Kilns for manufacture of lime used as building material | Rs 400/brass |
| 2 | All stones removed irrespective of size including stone dust either by excavation or collection (a) Laterite Stone used for building purpose (Jambha Stone) | Rs 400/brass Rs 100/brass |
| 3 | (a) Shingle, Gravel, Murum, Kankar all removed by excavation or collection (b) Calcedony pebbles used for ball mill purposes (c) Ordinary Sand not used for the following purposes – i. Purposes of refractory and manufacture of ceramic ii. Metallurgical Purposes iii. Optical Purposes iv. Purposes of stowing in coal mines v. For manufacture of silvicate cement vi. For manufacture of pottery and glass | Rs 400/brass Rs 2000/brass i) Rs 800/brass in the area of Mumbai Metropolitan Region ii) Rs 400/brass in the area other than Mumbai Metropolitan Region |
| 4 | Ordinary clay when used for manufacture of tiles (Mangalore pattern or otherwise) | Rs 400/brass |
| 5 | Ordinary Earth used for filling or levelling purpose in construction of embankment, Roads, Railway and Building | Rs 400/brass |
| 6 | Slate and shale when used for building material | Rs 400/brass |
| 7 | Earth, Silt and all types of clays etc used for manufacture of bricks and other purposes | Rs 160/brass |
| 8 | Fuller's earth or Bentonite | Rs 1024/brass |
| 9 | All stones (excluding Granite) | Rs 400/brass |
| 10 | All other minor minerals (excluding Granite) | Rs 400/brass |

Dead Rent – All Minor minerals (Excluding Granite) ... Rs 6000/hectare or portion thereof.

Appendix 8:- Agricultural Land

Agricultural:- "agriculture" includes horticulture, poultry farming, the rising of crops, fruits, vegetables, flowers, grass or trees of any kind, breeding of livestock including cattle, horses, donkeys, mules, pigs, breeding of fish and keeping of bees, the use of land for grazing, cattle and for any purpose which is ancillary to its cultivation or other agricultural purpose.

Classification of agricultural lands as per its use for cultivation:-

- 1 Warkas land
- 2 Jirayat land (Dry crop)
- 3 Bagayat or irrigated land
- 4 Rice land

1 The 'warkas' land is the land of the poor productivity. This land is used by the farmer during the monsoon to grow 'low-grade' millets such as nachani and warai. Its cultivation involved burning of the vegetation on the land (rab manure) preparing the soil with a pick and sowing by hand.

2 Jirayat land is the land where cultivation is depends upon annual rainfall. The jirayat land is used for seasonal crops, kharif and rabi. The agricultural sessions of kharif crops starts from June and agricultural sessions of rabi crops are starts from September-October.

3 Bagayat or irrigated land:-.Cultivation of these lands is mainly dependent upon sources of water other than rain. Sources of water can be well, bandharas and supply from Government's irrigation department.

4 Rice land:-In coastal and heavy rainfall area where main crop is rice, lands are classified into to two categories namely; rice land and warkas land.

Improvements for the Better Cultivation of the Land:-

"Improvement" in relation to land means any work which adds materially to the value of the land. The works which makes improvement in the land are

- a) the construction of tanks, wells, water channels, embankments and other works for storage, supply or distribution of water for agricultural purposes;
- b) the construction of works for the drainage of land or for the protection of land from floods, or from erosion or other damage from water;
- c) the planting of trees and the reclaiming, clearing, enclosing, leveling or terracing of land;
- d) the erection of buildings on or in the vicinity of the holding, elsewhere than in the gaathan required for the convenient or profitable use or occupation of the holdings ; and
- e) the renewal or reconstruction of any of the foregoing works, or alternations therein or additions there to;

However the below mentioned works are not "improvements."

- i. Temporary wells and such water-channels, embankments, leveling, enclosures or other works, or petty alterations in or repairs to such works, as are commonly made by cultivators of the locality in the ordinary course of agriculture; or
- ii. any work which substantially diminishes the value of any land wherever situated, in the occupation of any other person, whether as occupant or tenant;

Farm building:- It means a structure erected on the agricultural land for the purposes as mentioned below;

1. for residence of members of the family, servants or tenants of the holder,
2. for the storage of agricultural implements, manures or fodder,
3. for the storage of agricultural produce,
4. for sheltering cattle.
5. for any other purpose which is an integral part of his cultivating ; (eg crushing, sifting etc.)

Maximum Plinth Area allowed to construct is As Per Table given below.

| Serial Number | *Area Of The Land | For the Residence In Metres | Other than Residence In Metres | Total In Metres |
|---------------|---|-----------------------------|--------------------------------|-----------------|
| 1 | Less than 0.4 Hectare | Nil | Nil | Nil |
| 2 | Exceeds 0.4 Hectare But Does Not Exceed 0.6 Hectare | Up to 150 | Up to 150 | 150 |
| 3 | More than 0.6 Hectare | Up to 150 | Up to 400 | 400 |

* The land held by the person as per Village Form 8

Where permission for farm building is required?

Permission is required to obtain before erection of any farm building or carrying out any work or renewal of, re-construction of, alterations in, or additions to, any such farm building, on any land which is situated within the area falls under

- (1) *Planning Authorities jurisdiction or within the area covered by the
- (2) **Regional Plan,
- (3) ***Town Planning scheme, or proposals for the development of land (within the †notified area)or (an area designated as) the site of the new town, whether each of these being in draft or final, prepared, sanctioned or approved under the Maharashtra Regional and Town Planning Act, 1966; and

a. the area within eight kilometres from the periphery of the limits of Municipal Corporations of Mumbai, Pune and Nagpur,

- b. the area within five kilometres from the periphery of the limits of any other municipal corporation;
- c. the area within three kilometres from the periphery of the limits of A class municipal council.

*Planning Authorities: – Municipal Corporation and Municipal Councils.

**Regional Plan: - Land use plan prepared for the region. For more details please see “Regional Plan”

***Town Planning scheme: - Schemes prepared by planning authority for the purpose of implementing the proposals in the final Development Plan.

(Development Plan: - It means a plan for the development or redevelopment of the area within the jurisdiction of a Planning Authority.)

†The notified area: - It means an area within the jurisdiction of one or more local authorities (not being an area within the jurisdiction of a cantonment board constituted under the Cantonment Act, 1924) which is in the opinion of the State Government in a neglected condition, or which is being developed or is in imminent likelihood of being developed in an uncontrolled or haphazard manner, and requires, in the public interest, to be developed in a proper and orderly manner.;

Procedure for Obtaining Permission for Farm Building

Persons eligible to apply for permission:-

- 1) holder of the land.
- 2) his servants
- 3) his *tenants
- 4) his agents (representative)
- 5) any other legal representative.

*" tenant" means a lessee, whether holding under in instrument, or under an oral agreement, and includes a mortgagee of a tenant's rights with possession; but does not include a lessee holding directly under the State government)

Mode of application

Applicant has to make application in the prescribed form “A

Restrictions on the Use of the Land:

In developing area it is essential to use the land for the best purposes for which it is most suitable for e.g. residential, commercial, industrial, agricultural, recreational, etc. To achieve this object, the land use plans (Regional Plan) are prepared by the Government. In the Regional Plan, land allocation for different purposes is made by dividing land in the Zones. Broadly lands are divided in the zones as mentioned below:

1. Urbanisable Zone
2. Industrial Zone
3. Recreational Zone
4. Forest Zone
5. Green Zone

If the land is situated within the limit of Regional Plan, the use of land should be in confirmative to land use plan. Buyer or developer of the land must know the restrictions imposed on the use of the land.

Appendix 9:- Non Agricultural Land

Land can be called non agricultural land, if any activity in the nature of development is carried over on the land which makes land unfit for cultivation.

Under section 44 of the Maharashtra Land Revenue Code 1966, before carrying out any development on the land, an eligible person has to apply to the collector for the permission to convert the use of agricultural land for any non-agricultural purpose, or to change the use of land from one non-agricultural purpose to another non-agricultural purpose.

Form of application for permission to convert use of land- Every application for permission for the conversion of use of land from one purpose to another as provided in Section 44 is required to make in the form in Schedule I to the Collector.

Document required to attached with the application form

For obtaining N.A. Permission, applicant has to attach documents as mentioned below:

1. Prescribed form duly filled in duplicate with court fee stamp of rupees five
2. Extract of V.F. 7/12 and its 4 zerox copies,
3. Copies of the all the relevant mutation entries (V.F. 6) pertaining to land in question....one set, If record is not available in revenue office, a certificate from the Revenue Officer stating therein that the same is not available with him. (Talathi or Tahsildar as the case may be),
4. Extract of village form 8 A....one copy,
5. Certified copies of the land map from the Taluka Inspector, Taluka Land Record Office,
6. 8 copies of site plan and 8 copies of *building plan (*if permission is asked for constructing building),
7. If the land is not abutting to any classified road and right of way over the boundaries of other survey number/Gat number is acquired, then extract of the relevant V.F.7/12 and V.F.
8. If the land in question is abutting EW, NH or SH, copy of the NOC from Highway Authorities or other appropriate authority,
9. NOC from concern Grampanchayat/Municipal councils,
10. If the N.A. permission is already granted and application is to be made for change of use of land, then copy of the NA order and sanctioned plan is to be attached,
11. If the land is attracting provisions of Bombay Tenancy and Agricultural Lands Act, 1948 then the Sale Permission received under section 43/63,
12. No dues certificate from farmer's co-op society,
13. Certificate received from the Talathi stating therein that the land in the question is not under acquisition.

14. Any other documents such as NOC and clearance certificate etc, if the land attracts provisions of some other laws

15. If temporary permission is already granted for layout and application is made for final permission under the circumstances, then attach the below documents:

- i. Copy of temporary NA order permission
- ii. Plan prepared by survey department after subdivision of land in the plots, roads, open spaces and amenity places etc
- iii. 8 copies of the Architect's plan
- iv. extract of V.F. 7/12 and its 4 zerox copies and
- v. Copy of the mutation entry (V.F. 6) related to the temporary NA permission.

The Collector has to follow the procedure as mentioned below for granting permission to convert the use of agricultural land for any non-agricultural purpose or to change the use of land from one non-agricultural purpose to any other non-agricultural purpose:-

Collector has to send a copy of one application form to the concerned Tahsildar for collecting detailed information of the land in question.

1. If the area is within the jurisdiction of a Municipal Corporation or Municipal Council, the Collector consults them with reference to acquiring the building permission.
2. When there is no Municipal Corporation or Municipal Council, the applicant has to submit a "No Objection Certificate" to the Collector, which is to be acquired from the Gram Panchayat of the village, for the change of use of land.
3. If the land falls within the limit of any Regional Plan prepared under provisions of MRTP Act 1966, the Collector shall grant permission in confirmative to Development Control Regulations prepared by planning authorities and special planning authorities.
4. In addition to the Development Control Regulations prepared by the planning authorities and special planning authorities (which are the instruments of regulating development), there are other laws, rules & regulations, policies as well which aid the development control efforts.

There shall be no contravention of the provisions of any law, or any rules, regulations or orders made or issued under any law for the time being in force, by the State or Central Government or any local authority, statutory authority, Corporation controlled by the Central or State Government or any Government Company pertaining to management of Coastal Regulation Zone, or of the Ribbon Development Rules, Building Regulations, or rules or any provisions with regard to the benefited zones of irrigation project and also those pertaining to environment, public health, peace or safety. The collector is required to consult the authorities dealing with these subjects.

These authorities may give clearance for development under some conditions; these conditions shall be binding on the applicant and such other conditions as the collector may, under the order of the State Government impose.

List of some of the authorities .functioning important role in Development Control are given below.

1. Town Planning Department;
2. Health Department;
3. The Mumbai Village Panchayat Act, 1958;
4. Laws Related to Development Along Roads;
5. Mumbai Highways Act, 1955;
6. National Highway Act 1956;
7. Environment (Protection) Act, 1986;
8. Indian Forest Act, 1927;
9. Forest Conservation Act, 1980;
10. Maharashtra Acquisition of Private Forests Act, 1975;
11. Minor Mineral (Extraction) Act, 1955 and Explosives Act, 1984.

Apart from the conditions imposed by these authorities, there are other basic conditions as well, which shall be binding on the applicant and also such other conditions as the collector may, under the order of the State Government impose. The basic conditions are as follows:

1. The grant of permission shall be subject to the provisions of the Code and Rules made therein.
2. The land shall not be used for a purpose other than that for which permission is granted;
3. The applicant should commence the non-agricultural use within one year from the date of order, made by the Collector. Failure to do so, the permission granted shall be deemed to have lapsed, unless the Collector extends the said period from time to time.
4. The applicant shall be liable to pay such altered assessment as may be determined with reference to the altered use under Section 110, or as the case may be, Section 114;

If the permission is for building site, then in addition to the above:-

- a) The applicant shall level and clear the land sufficiently to render it suitable for the non agricultural purpose for which the permission is granted;
- b) The applicant shall not use the land and the building erected thereon for any purpose other than the purpose for which the permission is granted. Under a circumstance, where the applicant wants to use the land for any other purpose, he will have to obtain the permission of the Collector under the provision of the code and the rules made therein.
- c) Applicant shall not divide the plot or subplot without prior permission of collector,

Plan annex to the application is sanctioned under the conditions given below:

1. Demarcation is to be done as per provisional sanctioned lay out and should get surveyed through Taluka Inspector, Land Record for obtaining final permission. Permission for building shall be granted only after the completion of this procedure.
2. It is responsibility of the applicant to maintain the width of the road as per the sanctioned lay out. Also he shall construct a road along with drainage system, suitable for vehicular traffic
3. Applicant shall attach the sanctioned layout plan while applying for building permission.
- d) Applicant shall plant trees on both sides of the road and it will be his responsibility to ensure the sustainability of this plantation.
- e) It mandatory for the applicant to provide road entry to the adjacent land's proposed layout.
- f) If the provision for supply of drinking water system does not exist in the area, then it is the responsibility of the applicant to make the necessary arrangement.
- g) If the permission is given under 'Gaothan Extension Scheme', then the sale of plot is restricted to local people only.
- h) It is mandatory for the applicant to not impede the natural ways of water or he will have to provide alternate arrangements.
- i) Applicant shall not sell plot prior to obtaining the final permission.
- j) Applicant shall inform the Tahsildar in writing through the Talathi the date on which the change of user of land commenced, within thirty days from such date. If the applicant fails to inform the Tahsildar within the period specified above he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may, subject to rules made in this behalf, direct but, not exceeding Rs 500.
- k) Applicant shall pay fee for survey within one month from the date of NA use. Also he shall fixed compound to outer boundary of the scheme.
- l) Applicant shall execute sanad in prescribed form within one month from the date of NA use.
- m) Applicant shall erect building within three years from the date of grant of sanad. If applicant fails erect building within stipulated period, the Collector may extend the period in his discretion. Also he shall liable for fine.
- n) On event of violation of any terms or conditions imposed while granting permission, the permission shall be cancelled. Also applicant shall be liable for fine.
- o) The above terms and conditions are binding on both applicant and holder of the plot.

Collector may refuse permission for conversion of land

Depend upon location of the land collector may require to consult some of the authorities mentioned above. After receiving opinions from them if collector feels that N.A. permission asked for is in contradictory to the laws, rules, regulations and policies which aided the development control efforts, he may reject the application with stating the reasons in writing.

Collector is required to inform his decision within the 90 days from the date of acknowledgement of the application, or from the date of receipt of the application-- if the application is not acknowledged, the permission applied for shall be deemed to have been granted, but subject to N.A. permission asked for is not in contradictory to the laws, rules, regulations and policies which aided the development control efforts.

Date on which NA use started is required to inform the Tahsildar

The person to whom permission is granted or deemed to have been granted under this section shall inform the Tahsildar in writing through the Talathi the date on which the change of user of land commenced, within 30 days from such date. The person has to pay N.A. taxes from the date on which NA use begins.

If the person fails to inform the Tahsildar within the period specified above he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may, subject to rules made in this behalf, direct to pay an amount not exceeding Rs 500.

Grant of Sanad

Where land is permitted to be used for non-agricultural purpose, a Sanad shall be granted to the holder thereof in the form in Schedule IV if the land is situated outside the jurisdiction of the Planning Authority and in the form in Schedule V, if the land is situated within the jurisdiction of the Planning Authority.

Sanad is agreement between government and occupant. Conditions of sanad are binding on both the government and occupant. Sanad is prima facie evidence of title but not conclusive evidence.

Penalties for unauthorised non-agricultural use

If any land is used for non agricultural purpose by occupant without obtaining permission, it is lawful for the collector to stop its unauthorised use, ask him to pay NA taxes and penalty.

Regularisation of unauthorised use

Where permission for non agricultural use was possible but occupant had not taken care to apply for permission, under the circumstances collector may regularized his unauthorised use, subject to the following terms and conditions, namely:-

- (i) that the holder shall pay the amount of conversion tax leviable and shall pay non-agricultural assessment on the land with reference to the altered use since the commencement of that use
- (ii) that the holder shall pay such fine not exceeding 40 times the non-agricultural assessment on the land with reference to the altered use,
- (iii) that the holder shall abide by the conditions specified in column "B" therein so far as they are applicable, and such other conditions as the Collector may deem fit to impose.

Continuance of offending unauthorised construction-

a. Where the unauthorised non-agricultural use is contradictory to land used plan prepared for that area by the concern authorities and the Collector is satisfied that the demolition of the offending unauthorised construction is likely to cause heavy damage and serious inconvenience and hardship, he may, if the holder so desires, and in areas falling within the jurisdiction of Planning Authority, after consulting such Planning Authority, allow such construction to stand, with the sanction of the State government, subject to conditions (i) and (ii) in "G" with the following additional conditions-

- i. that the holder shall pay a composition fee not less than 50% of the cost incurred on the offending unauthorised construction or forty times the non-agricultural assessment payable on the land with reference to the altered use, whichever is greater and
- ii. that the holder shall agree in writing to demolish the offending unauthorised construction without claiming compensation if after reasonable period thereafter, he is asked to do so by the Collector, in the public interest, failing which the Collector shall do so at the holder's risk and costs:

Provided that, if the Collector having regard to the pecuniary condition of the holder is of opinion that undue hardship will be caused to the holder by the recovery of the amount of composition fee laid down in condition (a), and that the offending unauthorised construction was not constructed by the holder with the knowledge that it was unauthorised, the Collector may, with the sanction of the State government, reduce the amount of composition fee payable by the holder under condition (a) to such extent as he may think fit.

"40 times the non-agricultural assessment on the land" means 40 times the non-agricultural assessment, only on that area of the land which is under unauthorised non-agricultural user.

On Regularisation Sanad shall be granted-

When any unauthorised non-agricultural use permitted to be continued under "G" or "H", a Sanad in the form in Schedule VI shall be granted to the holder.

Appendix 10:- Sample Saat Bara with Analysis

VILLAGE FORM : 7 (RECORD OF RIGHTS)

गांव नमुना सात (अधिकार अभिलेख पत्रक)
(महाराष्ट्र जमिन अधिकार अभिलेख आणि नोंदवही (तयार करणे व सुविधीत ठेवणे) नियम 1971-यातील नियम 3, 4, 5 आणि 6)

MAHARASHTRA LAND REVENUE RECORD OF RIGHTS (PREPARATION AND MAINTENANCE) RULES 1971, RULES-3, 5, 6 AND 7.

CHUNGA SAKHE NO. (गाव नमुना नं.)

GAAV (VILLAGE)

(SUB-DIVISION OF SURVEY NO.)

NAME OF TAHSIL: SUB-DIVISION OF A DISTRICT

तहसील :

BHUMAPAN KRAMKACHA UPVIBHAAG (गाव नमुना क्रमांक)

गाव नमुना क्रमांक

BHOGVATACHARACHE NAAV (NAME OF THE HOLDER/OCCUPANT)

BHODHARNA PADHATTI (TYPE OF TENURE- OCCUPANCY CLASS)

शेतकरी

खाते क्रमांक → KHATE KRAMANK (ACCOUNT NO.)

मुदये नाव : KURDANCHE NAAV (NAME OF TENANT)

शेताचे स्थानिक नाव → SHETACHE

STHANIK NAAV-(LOCAL NAME OF THE FIELD)

लागवडी योग्य क्षेत्र (HECTARE) → हेक्टर आर प्रति

LAGVADI YOGYA SHETRA (CULTIVABLE AREA)

एकूण → AEKUN (TOTAL)

पोटखराबा (लागवडी योग्य नसलेले) → POT KHARABA → (UNCULTIVABLE AREA)

VARG (CLASS-A) वर्ग (अ)

VARG (CLASS-B) वर्ग (ब)

AEKUN (TOTAL) → एकूण

रुपये (RUPEES) पैसे (PAISE)

AAKARNI (ASSESSMENT TAX) आकरणी जुडी किंवा विशेष आकरणी (JUDI OR SPECIAL ASSESSMENT)

MUTATION ENTRY

इतर अधिकार → ITAR ADHIKAR (OTHER RIGHTS)

SEEMA AANI BHUMAPAN CHINHE (BOUNDARIES AND SURVEY REMARKS)

सीमा आणि मूनापन चिन्हे :

VILLAGE FORM 12 (REGISTER OF CROPS)

गांव नमुना १२ (पिकांची नोंदवही)

GHATAK PIKE VA PRATEK PIKACHE SHETRA (CROPS AND THE AREA BELOW EACH COMPONENT)

PIKA KHALI SHETRA (AREA UNDER CROPS)

| VARSH (YEAR) | MISR PIKACHE EKUN SHETRA (AREA HAVING MIXED CROPS) | | | | NIBHAR PIKACHE SHETRA (REFINED CROP AREA) | | | | जमीन असण्याच्या नाव | देग | | | | | | |
|--|--|---------|------------------------------------|---------------|---|----------------|------------------------------------|--------|--|--|----|----|----|----|----|----|
| HANGAAM (SEASON) | निर्मितीयोग्य एकाच क्षेत्र | | घटक पिके व प्रत्येक पिकाचे क्षेत्र | | निर्मिती योग्य क्षेत्र | | फळीत व निरुपयोगी अशा जमिनीचा तपशील | | JAMEEN KASNARYACHE NAAV (NAME OF THE CULTIVATOR) | SHERA (OBSERVATIONS) | | | | | | |
| MISR PIKACHA SANKET (SIGNAL NO OF MIXED CROPS) | निर्मितीयोग्य शिक्यांचे | प्रतिशत | पिकाचे नाव | घट्टे प्रतिशत | पिकाचे नाव | पिकाचे क्षेत्र | अवत प्रतिशत | स्वरूप | जमीन मूल्याचे सापेक्ष | PAANI PURAVTYANCHE SAADHAN (MEANS OF WATER SUPPLY) | | | | | | |
| | १ | २ | ३ | ४ | ५ | ६ | ७ | ८ | ९ | १० | ११ | १२ | १३ | १४ | १५ | १६ |
| | १ | २ | ३ | ४ | ५ | ६ | ७ | ८ | ९ | १० | ११ | १२ | १३ | १४ | १५ | १६ |
| | १ | २ | ३ | ४ | ५ | ६ | ७ | ८ | ९ | १० | ११ | १२ | १३ | १४ | १५ | १६ |

अन्तत घट्टेसुद्धुन तरफत करी अन्त तायेच : JAL SINCHAN (WATER IRRIGATED)

PIKACHE NAV (NAME OF THE CROP) AJAL SINCHAN (ANHYDROUS IRRIGATED)

PADIT VA PIKAS NIRUPOGI ASA JAMINICHA TAPSHIL (WASTE LAND & UNSUABLE LAND AREA)

[HTTP://LEGALTABLET.WORDPRESS.COM](http://legaltablet.wordpress.com)

INTRODUCTION:

The 7/12 extract, traditionally called as “*Saat Baara Utara*” (in Marathi language), is an extract from the land register of any district, maintained by the revenue department of the government in the state of Maharashtra.

It is a revenue document showcasing; Ownership, Occupancy, rights, liabilities and other agricultural aspects pertaining to a land, mainly the agricultural land, prepared for each respective village in which property is located. However, Non-agricultural land also has its own extract. Additionally, it is one of the basic documents of title that serves as an evidence of ownership of the agricultural land it represents. Though, not the conclusive proof of ownership and being indicative only. In rural areas, the ownership of a particular plot of land can be established on the basis of the so called extract, known as “*Record of Rights*” or “*Record of Land Rights*“. The number seven and twelve of the extract denotes the Village *FORM* numbers. The upper part of the extract denotes village *Form: VII*, which refers to record of rights, denoting the names of occupants, owners or mortgagees of the land or assignees of the rent or revenue, government lessees, tenants, the rights and liabilities of holders to pay revenue, other things which can be specified by the state government by making the rule and other details of the land, other than crop details. Whereas, the lower part of the extract, *Form: XII* refers to, register of crops, denoting the types of crop taken, figures of area under crops and fallow land.

Important points to be seen are :-

1. कु. का. क. नौद – ENTRY OF SECTION 32-G (TENANCY ACT) IN THE OTHER

RIGHTS COLUMN: Lands under this category are private lands, which are allotted to *kool* (Tenant) for cultivation, against payment of yearly rent payable by the tenant to the landlord. Under the provisions of Bombay tenancy (protected) act (*kool-kayda*) the lands under cultivation by such tenant as on 1-4-1957 (Tillers day), such tenant being statutory purchaser automatically becomes the holder of such land, had it been the said tenant has paid appropriate value (Nazarana) to the government and have obtained a Sanad / certificate under section 32 M of the Act and thereafter such land can be sold and not otherwise. In some of the cases even today it is seen that encumbrance i.e. 32-G is mentioned by way of mutation entry in the other rights column on 7/12 extract. Which means that the said tenant (even in possession of land) has not paid the appropriate value (Nazarana) to the government and obtained necessary Certificate / Sanad under section 32-M of the Act and to that extent the land is encumbered. In such circumstances the holder cannot sale such land

unless the appropriate value (Nazarana) is paid to government and necessary permission is obtained.

2. कु. का. क. ४३ ला नौद – ENTRY OF SECTION 43 OF TENANCY ACT IN OTHER RIGHTS COLUMN:

Section 43 – Restrictions on transfer of land purchased or sold under Bombay tenancy and agricultural lands act 1948: Lands purchased by tenant under the provision of the act are not allowed to transfer land without the permission of the collector. The collector may grant permission for transfer of land in any of the following circumstances, namely:-

- a) That the land is require for agricultural purpose by industrial or commercial undertaking in
 connection with any industrial or commercial operations carried on by such undertaking;
- b) That the transfer is for the benefit of any educational or charitable institution;
- c) That the land is required by a co- operative farming society;
- d) That the land is being sold in execution of a decree of a Civil Court or for the recovery of arrears of land revenue under the provision of the code;
- e) That the land is being sold for any non-agricultural purpose;
- f) That the land is being sold by a land owner on the ground that –
 - i. He is permanently giving up the by profession of an agriculturist, **or**
 - ii. He is permanently rendered incapable of cultivating the land personally;
- g) That the land is being gifted in favour of-
 - i. The bodies or institution mentioned in section 88A and clauses a & b of section 88B **or**
 - ii. A member of land-owners family;
- h) That the land is being exchanged-
 - i. With the land of equal or nearly equal value owned and cultivated personally by the member of the same family; or
 - ii. With the land of equal or nearly equal value situate in the same village owned and cultivated personally by another land owner with a view to forming compact block of his holding or with view to having better management of the land:

Provided that, the total land held and cultivated personally by any of the parties to the exchange whether as an owner or tenant or partly as does not exceed the ceiling area as a result of exchange;

- i) That the land is being leased by a land owner who is a minor; or a widow or person subject to any physical or mental disability or the member of the armed forces or among the land owners holding the land jointly;

- j) That the land is being portioned among the heirs or survivors of the deceased land owner;
- k) That the land is being mortgaged in favour of society registered or deemed to be registered under the Maharashtra Co-op Societies Act 1960 for raising a loan for paying the purchase price of such land.
- l) That the land is being transferred to the person who by reason of acquisition of his land for any development project has been displaced and requires to be resettled.

Where sanctioned for sale of land given in the circumstances specified in the clauses a, b, c, e, or if it shall be subject to the condition of the land owner paying to the State Government a nazrana equal to 40 times assessment of the land. In the case of portion sanctioned under clause “j” it shall be subjected to the condition that they are allotted to each sharer shall not be less than the unit specified by the State Government under clause c of sub section I of sub-section 27.

However, a recent amendment is been made to this section, published in the gazette of government of Maharashtra on 7th Feb 2014 which states for addition of a provision after the existing provision under the said section, the following provision shall be added:-

“Provided further that, no such previous sanction shall be necessary for the sale, gift, exchange, mortgage, lease or assignment of the land in respect of which 10 years have elapsed from the date of purchase or sale of land under the sections mentions in this sub-section to the conditions that –

- (a) Before selling the land, the seller shall pay a nazarana equal to 40 times the assessment of the land revenue to the government;
- (b) the purchaser shall be an agriculturist;
- (c) the purchaser shall not hold the land in excess of the ceiling area permissible under the Maharashtra agricultural lands(ceiling on holdings) Act, 1961 and
- (d) the provisions of the Bombay prevention of fragmentation and consolidation of holdings Act 1947 shall not be violated.”

Note: - As per section 43 of the Maharashtra Tenancy and Agricultural Lands Act 1948 sale of such land requires the prior permission of the Collector. Now the transaction could be regularised if the buyer pays a penalty to the state government — 50% of the ready reckoner rate if the land purchased is for agricultural activities and 75% if the land has been purchased for non-agricultural activities.

Appendix 11:- An Overview of the Compliance Audit Guidelines

Chapter 1:- Introduction

The chapter inter alia discusses applicability –

- a. to suit the needs of the IA&AD department, the specific adjustments for individual initiative and professional judgement for the AG;
- b. The audit mandate derived from the DPC Act;
- c. Definition of compliance audit as a regulatory system to correct the deviations from the determined criteria and rules and regulations with special reference to ISSAI 4100 and CAG's Regulations on Audit and Accounts 2007.
- d. It is basically concerned with regularity and proprietary audit.
- e. Next is about the three parties involved in compliance audit viz the auditor, responsible party and the intended users.

Chapter 2: General Principles of Compliance Audit

The chapter inter alia lays down that

- a. The Auditors shall plan and conduct audit with professional scepticism (questioning mind) and exercise professional judgement (application of knowledge, skills and experience) and is expected to observe the prescribed code of ethics, take responsibility for overall audit and consider audit risk throughout the process and also the materiality of audit objections.
- b. Auditor should also prepare sufficient audit documentation.
- c. Should maintain effective communication and determine the audit scope.
- d. Also has to understand the audited entity and control environment while all the time considering the audit risk especially in regard to fraud.

Chapter 3: Compliance Audit Plan

It is inter alia stated in the chapter that –

- a. The entire audit universe (i.e. auditee units established for a purpose of implementation of Government policy) by a combined effort implements the Government policy as well as collects revenue and incurs expenditure till the last mile of implementation and this universe is broken down into units for planning and scheduling audits.
- b. An Audit Unit is defined as a unit, which has one or more of the following attributes:
 - Substantial devolution of administrative and financial powers;
 - Functional autonomy; and
 - Operational significance with reference to achievement of objectives of the apex auditable entity

- c. Further, this requires top down, risk based, department centric mechanism for macro level planning and conducting compliance audits and preparation of annual compliance audit plans.
- d. Also a top down and risk based approach to identification of audit units intends to place the Department/Sector as the centre piece of the audit focus and provide a scientific mechanism of defining audit units.

Chapter 4: Planning Compliance Audits

It inter alia includes planning for individual compliance audit i.e. –

- a. Understanding the auditable entity;
- b. Understanding the relevant principles of sound public sector financial management;
- c. Identification of intended users;
- d. Consideration of materiality and risk assessment;
- e. Determining the scope of audit;
- f. Development of audit objectives;
- g. Sampling considerations and
- h. Considerations related to direction, supervision and review of the audit teams.
- i. Then it is stated that an audit plan should be prepared especially with reference to the apex auditable entity.

In it the scope of audit should be defined with reference to what to audit, who to audit, where to audit and which period to audit and prepare the compliance audit design matrix with the audit objectives and the relevant criteria.

Then the compliance audit in digital environment, the team composition and intimation to the auditable entity is discussed.

Chapter 5: Conducting Compliance Audits

It is stated inter alia herein that

- a. The conduct of audits is about gathering evidence, evaluating evidence, forming conclusions, documenting the audit process and communicating with the auditable entities.
- b. Audit evidence or simply evidence is the information used by the auditor for arriving at the audit conclusions.
- c. In the planning phase, the auditors shall review the internal controls and institutional arrangements established by the auditable entity to prevent, detect, and rectify instances of noncompliance.
- d. Also, the audit has to combine and compare the evidence from different sources in order to meet the requirements for sufficiency and appropriateness of audit evidence.

- e. Sufficiency is the measure of the quantity of evidence.
- f. The quantity of evidence needed is affected by the risks of the subject matter information being non-compliant or prone to compliance deviation (i.e. the higher the risks, the more evidence is likely to be required) and also by the quality of such evidence (i.e. the higher the quality, the less may be required).
- g. Appropriateness is the measure of the quality of evidence; i.e. its relevance, its validity and its reliability in providing support for the auditor's conclusion.
- h. The sufficiency and appropriateness of evidence is dependent on the professional judgment of the auditor and is also influenced by several factors.
- i. The evidence gathering and evaluation is a simultaneous, systematic and an iterative process and involves audit procedures such as document scrutiny, physical inspection etc, evaluating for sufficiency and appropriateness and reassessing risk for further evidence.
- j. Next is the drawing up the audit findings matrix, documentation of audit evidence supporting the audit conclusions and confirming that the audit was carried out in accordance with relevant standards and comprises of audit file with working papers and
- k. Lastly, about the good communication with the auditable units through entry meetings for example.

Chapter 6: Reporting Compliance Audits

- a. Auditors should consider materiality for reporting purposes and adhere to the principles of completeness, objectivity, timeliness and contradictory process while reporting.
- b. The top down, risk based approach to conducting compliance audit, as described in earlier chapters, is envisaged to provide a department centric view of the extent of compliance. Present the results to the end users in a prescribed form.
- c. A Departmental Appreciation Note may be issued to the Apex Auditable Entity (Department/ Sector) where a specific subject matter has been selected to assess the extent of compliance from a departmental perspective or the AG intends to draw attention of the executive towards system weaknesses etc. It includes broad overview of the department, objectives and scope, audit findings, conclusion and acknowledgement.
- d. A follow up process facilitates the effective implementation of corrective actions and provides useful feedback to the Apex Auditable Entity/ Auditee Units and at the same time facilitates the auditors to plan future audits.

http://cag.gov.in/sites/default/files/guidelines/Compliance_Guidelines_approved_final_preface.pdf

Appendix 12:- An Overview of the Performance Audit Guidelines 2014

Chapter 1: Introduction

1. They inter alia outline principles, objectives, approach, methodology, techniques and procedures for conducting performance audits. These guidelines are based on the existing guidelines of C&AG of India and International Standards of Supreme Audit Institutions- (ISSAI) 100, 300 and 3000 and ASOSAI Performance Auditing Guidelines
2. The Accountant General is expected to make situational or subject specific adjustments to the provisions set out in these guidelines.
3. Performance auditing seeks to provide new information, analysis or insights and, where appropriate, recommendations for improvement.
4. Performance Audits is required to address the issues of economy, efficiency and effectiveness.
5. Performance auditors may find answers to the following two basic questions:
 - a. Are things being done in the right way?
 - b. Are the right things being done?
6. The main objective of performance auditing is to constructively promote economical, effective and efficient governance. It also contributes to accountability and transparency.
7. Public Sector audits have certain basic elements (i) Three parties in the audit i.e. the auditor, the responsible party, intended user, (ii) the subject matter information and (iii) criteria to assess the subject matter.
8. The subject matter of a performance audit need not be limited to specific programmes, entities or funds but can include activities (with their outputs, outcomes and impacts) or existing situations (including causes and consequences). The subject matter is determined by the objective set out and formulated in the form of audit questions.
9. Audit criteria within the context of performance audit are audit specific, reasonable standards of performance against which the economy, efficiency and effectiveness of operations can be evaluated and assessed. These could be the rules and regulations in force at the time of audit.
10. As in all audits, the users of performance audit reports seek confidence about the reliability of information in the reports. The performance auditors should, therefore, in all cases provide findings based on sufficient and appropriate evidence and actively manage the risk of inappropriate reports.

11. Performance audits provide entities and stakeholders with information and assurance about the quality of management of public resources and also assist public sector managers by identifying and promoting better management practices.

Chapter 2: Mandate and General Principles of Performance Audit

1. The audit mandate of the Department is derived from the Constitution of India. Article 151 of the Constitution of India provides that the reports of the CAG relating to the accounts of the Union or a State government shall be submitted to the President or the Governor of the State respectively, who shall cause them to be laid before each House of Parliament/ Legislature of the State.
2. The General Principles are –
 - a. Auditor should comply with the relevant ethical requirements and be independent.
 - b. Auditors should set a clearly defined audit objective that relates to the principles of economy, efficiency and effectiveness.
 - c. Auditors should choose a result, problem or system-oriented approach, or a combination thereof, to facilitate the soundness of audit design.
 - d. Auditors should establish suitable criteria which correspond to the audit questions and are related to the principles of economy, efficiency and effectiveness.
 - e. Auditors should actively manage audit risk, which is the risk of obtaining incorrect or incomplete conclusions, providing unbalanced information or failing to add value for users.
 - f. Auditors should maintain effective and proper communication with the audited entities and other parties sharing the responsibility of the subject matter throughout the audit process and define the content, process and recipients of communication for each audit.
 - g. Collectively, the audit team should have the necessary professional competence to perform the audit. This would include in addition to the knowledge of the domain of the audited entity, sound knowledge of auditing, research design, social science methods and investigation or evaluation techniques, as well as personal strengths such as analytical, writing and communication skills.
 - h. Auditors should exercise professional scepticism, but also be receptive and willing to innovate.
 - i. Auditors should apply procedures to safeguard quality, ensuring that the applicable requirements are met and placing emphasis on appropriate, balanced and fair reports that add value and answer the audit questions.

- j. Auditors should consider materiality at all stages of the audit process. Thought should be given not only to financial but also to social and political aspects of the subject matter, with the aim of delivering as much added value as possible.
- k. Auditors should document the audit in accordance with the particular circumstances thereof. Information should be sufficiently complete and detailed to enable an experienced auditor having no previous connection with the audit to subsequently determine what work was done in order to arrive at the audit findings, conclusions and recommendations

Chapter 3: Strategic Audit Planning and Selection of Subjects

1. Strategic Audit planning is the process of determining the long term goals for the Department and the best approach for attaining them. It consists of strategic goals (mission statement), strategic objectives (more specific and detailed statements) and strategic measures to attain them.
2. Strategic Audit Plan of the Department sets out a vision that provides an important starting point in deciding what to audit; sets out the outcomes that we are trying to achieve and in general, better managed government programs and better accountability to Parliament and the public.
3. Before preparing the strategic audit plan, it would be useful to develop a sound understanding of: general economic and social conditions; government priorities, goals and programmes; and the regulatory and accountability frameworks within which the audited entities operate.
4. One of the important components of annual audit plan is the selection of specific subjects for performance audits to be undertaken in the audit cycle. The audit plan component for the performance audit would typically include subjects relating to specific sectors or the states under their audit jurisdiction and also certain audits with All-India scope.

Selection of subjects:-

- a. Risk profiling of audited entities, sectors and programmes help in deciding the selection of subjects.
- b. A topic will have a high significance if the project or activity it addresses is central to the functioning of the entity.
- c. Visibility of a subject is an assessment of the interest it generates in the general public and the legislature.
- d. Past audits by the Department could provide an index of significance, materiality and risk of the subjects.

- e. Estimated impact of the performance audit is also a criterion for prioritisation. This could be the impact of improved economy, efficiency and effectiveness of the entity, project or activity which is the subject of performance audit.
 - f. Coverage refers not only to previous audit coverage by the Department but also to other independent reviews of the activity
 - g. The stage of the programme development should also be kept in mind when assessing management performance.
 - h. The Accountant General may elicit suggestions from the Executive or those charged with governance of the audited entities for the subjects or areas which could be selected for audits maybe through holding of seminars etc.
- The data and information gathered for strategic planning for performance audits and risk profile of the entity or programme should be updated periodically

Chapter 4: How to plan individual performance audits

1. Through Pilot Study
2. By developing Guidelines and assessing resources
3. Through development of a detailed audit proposal that identifies the specific audit tasks to be undertaken
4. By drawing up an audit proposal after –
 - a. Understanding the entity/programme;
 - b. Defining the objectives and the scope of audit i.e. answering questions such as what, where, who, which period;
 - c. Determining audit criteria;
 - d. Deciding audit approach (system oriented, result oriented and problem oriented);
 - e. Developing audit questions;
 - f. Assess audit team skills and whether outside expertise required;
 - g. Preparation of Audit Design Matrix;
 - h. Establishing time table and resources;
 - i. Intimation of Audit programme to audit entities.

Chapter 5: Various Elements of Implementing the Performance

1. This chapter contains the practices and procedures to be followed by the audit team during the implementation of the performance audit.
2. Entry conference at the commencement of performance audit is to be held with Secretary of the department concerned by the AG. The purpose of this conference is to inform the entity about the areas to be audited along with audit objectives, the audit approach and the time-frame within which the audit is expected to be carried out.

3. AG should send an engagement letter to the Secretary/Chief Executive of the entity, communicating the launch of the audit along with details of the entity units tentatively selected for audit and the timeframe for audit and request him/her to issue necessary directions to the functional officers and field units
4. The steps involved in field audit process to collect, interpret and analyse the data in relation to the stated audit objectives are as under:-
 - a. Entry Meeting besides Entry Conference before commencement of the audit of selected auditable units.
 - b. Information may be gathered on the basis of physical evidence, documents (including written statements), oral testimonies (interviews), or by other means depending on the objectives of the audit.
 - c. Audit findings are the specific evidence gathered by the auditor to satisfy the audit objectives. The audit design metric and the audit findings matrix assume importance.
 - d. Developing Recommendations
 - e. Exit Meeting
 - f. Supervision

Chapter 6: Aspects Relating to Evidence and Documentation

Audit evidence is the information collected and used to support audit findings with the concept of competence, relevance and sufficiency of evidence, particularly in the context of performance audits.

Some factors that may affect the competence, relevance and sufficiency of the evidence are:

1. Samples selected are not representative (sufficiency);
 2. Evidence collected relate to an isolated occurrence (sufficiency);
 3. Evidence is incomplete and does not establish a cause and effect relationship (sufficiency, relevance);
 4. Evidence is conflicting (competence); and
 5. Evidence is biased (competence).
- Evidence can be categorised with reference to their type as physical observation (photographs, charts, maps, graphs or other pictorial representations, etc.) oral (audit interviews and inquiries), documentary (physical or electronic form) or analytical (analysis and verification of data).
 - The sources of evidence may vary from case to case. The following are however some illustrative sources of evidence:
 1. Policy Statements and Legislations
 2. Published Programme Performance Data

3. Management Reports and Reviews
4. Files of the entity on the subject
 - Meticulous documentation of the evidence supports the audit conclusions and confirms that the audit was carried out in accordance with relevant standards.
 - All relevant documents and information collected and generated during a performance audit constitute the working papers. Ideally the working papers should consist of three sections – each linked to the other: planning; execution and reporting.
 - Documentation in a performance audit requires maintenance of audit file along with set of working papers.

Chapter 7: Reporting Process of Draft Performance Audit Report

The reporting process is illustrated as under:-

1. Preparation of audit observations
2. Draft report issued to the entity
3. Response of the entity
4. Exit Conference
5. Sr. Management response to the report
6. Draft Final report
7. Response of the entity or those charged with Governance on Draft Final report
8. Final Report
 - An Audit Observation is defined as an area of potential control weakness, policy violation, financial misstatement, inefficiency in programme implementation and achievement of programme objectives, or other problematic issue identified during the audit.
 - The audit teams should be encouraged to use Audit Design Matrix as well as Audit Finding Matrix for cross reference to ensure that nothing is left out.
 - The draft audit report is to be prepared upon conclusion of the field audit of the controlling unit of the entity and all field units selected for audit. The purpose of preparation of the draft report is to seek formal response of the entity audited.
 - It is important that the entity is persuaded to provide written response to the draft audit report.
 - The performance audit should be concluded with an exit conference with the Chief executive of the audited entity e.g. Secretary/ Pr. Secretary to the Government concerned as the case may be.

- In case any information is required from third parties, audited entity would requisition the same from the third party and provide to Audit.
- The supervision and review by the headquarters of the audit report prepared by field audit offices with particular reference to the audit findings and conclusions, recommendations, evidence, drafting, etc is a measure of quality control.
- After incorporating the replies of audited entity and modifications suggested by headquarters, the draft final report should be prepared.
- Then send the bond copy of the report with appropriate annotations for the approval of the report by Comptroller and Auditor General, after which the report stands cleared for printing.
- Characteristics of a good report include completeness, objectivity ensured through balanced content and tone, the conclusions and recommendations follow logically, the report is easy to read and understand and consistency throughout.

Chapter 8: Follow-up Procedures

The objectives of follow up of performance audits are –

1. Assisting the legislature
2. Achieving improvements in performance of the public sector program
3. Evaluating the Department's performance
4. Providing an input to the strategic planning of performance audit by the Department.

The outcome of follow up procedure is continuous improvement and inventory of recommendations. An annual follow up programme should be undertaken to provide feedback to the legislature.

http://cag.gov.in/sites/default/files/guidelines/PA_Guidelines2014.pdf

Appendix 13:- An Overview of the ‘Standing Order on Role of Audit in Relation to Cases of Fraud and Corruption’ (Para 12.6.1)

Chapter 1:- Introduction

Inter alia it is stated that the order becomes part of all audits where the examination of systems to detect and prevent fraud and corruption is one of the sub objectives.

Chapter 2:- Fraud Examination

Corruption and Fraud are generally interlinked. In fact Corruption is a special type of Fraud. Illustrative but not exhaustive Fraud and Corruption in contracting for goods and services as given in Appendix A are as under:-

- Bribery and Kickbacks
- Changes on original contract for flow of additional funds
- Duplicate payments
- Collusive or cartel bidding by fixing artificial prices
- Conflict of interest
- Defective pricing through inflated invoices
- False invoices
- False representations by the contractor to bag the contract
- Splitting of purchases
- Phantom contractor
- Pilferage of public assets
- Tailored specifications in favor of contractor
- Supply orders without need

Chapter 3:- Characteristics of Fraud

Fraud is distinguished from error depending on whether it is intentional or unintentional. It involves deliberate misrepresentation and / or significant information to obtain undue or illegal financial advantage. It may involve the management or those charged with governance or the employees of an entity. Auditors could only report suspected /presumptive fraud and could not make legal determinations. Materiality should be adjusted in order to make the audit more responsive to risk arising out of fraud and corruption.

Chapter 4:- Characteristics of Corruption

It means to unlawfully and improperly enrich themselves and/or those close to them or induce others to do so through abuse of public power.

Chapter 5:- Nexus between Fraud and Corruption

Fraud involves deliberate misrepresentation of information that is recorded and summarized by an entity by either an employee or the management. It affects directly the financial statements and records of the entity. Corruption on the other hand is linked to acts of bribery and may or may not be reflected in the records of an entity.

Chapter 6:- Types of Fraud and Corruption

There are several types that are illustrated in Appendix A and B

Chapter 7:- Respective Responsibilities of Management and Audit

The audited entity establishes and maintains internal controls to provide reasonable assurance.

The implementation and continued operation of accounting and control systems designed to check fraud rests primarily with the management of the audited entity and is well documented.

Audit must evaluate and report on the adequacy and competence with which the management has discharged its responsibility.

Audit should be alert to the shortcomings in the system that provides an environment conducive to fraud and corruption and recommend measures to improve the environment.

Audit should extend procedures wherever there is suspicion of material fraud.

Chapter 8:- Considerations of Fraud in audit of financial statements

There are two misstatements possible during the audit of financial statements –

- a) Fraudulent financial reporting
- b) Misappropriation of assets

Chapter 9:- Considerations of Fraud in Performance Audits

The vulnerability/risk of fraud and corruption should be given due consideration at the planning stage.

The audit objectives should include effectiveness of internal controls.

Possible indicators of fraud should be probed further and report its findings especially in regard to the performance information and evidence of delivery of goods and services.

Chapter 10:- Considerations of Fraud in Receipt Audits

Ascertain what internal controls are in place to ensure a prompt detection, investigation and prevention of irregularities, double refunds, fraudulent or forged refund vouchers or other loss of revenue through fraud, error or wilful omission or negligence to levy or collect taxes or to make refunds. Auditors might also suggest improvements in the systems and procedures of collection of receipts.

Chapter 11:- Considerations of Fraud in audit of World Bank and other externally assisted projects

Auditors should report to the funding agency whether the implementing agency has incurred expenditure on the scheme as per the terms of assistance and the project appraisal report and the GOI instructions. Also to identify the inadequacies in systems and controls such as failure of the administration to take corrective action on recommendations in earlier report etc.

Chapter 12:- Professional Skepticism

It means a questioning mind by the auditors and a critical assessment of audit evidence.

Chapter 13:- Fraud awareness at the audit planning stage

The field offices should carry out an independent assessment and prioritize the audit planning accordingly inter alia focusing on high risk areas as illustrated in Appendix A and B of this order. Also assess the risk caused by fraud to financial statements. Based on the risk assessment, devise the objectives and design audit procedures.

Chapter 14:- Vigilance about fraud at audit execution stage

During the course of audit work the audit teams/officers should be vigilant and seek explanations if they come across fraud indicators as illustrated in Appendix A and B of this order.

Chapter 15:- Audit evidence

Evidence could only be persuasive and not conclusive due to legal connotation and should be reported without being judgmental. Moreover, the evidence should also be capable of proving that the audit teams/officers have discharged their functions with reasonable care and due diligence.

Chapter 16:- IT fraud

IT fraud could involve the manipulation of computer or computer data by whatever method, in order to obtain dishonestly money, property, or some other advantage of value or to cause loss. Steps to prevent include proper access controls. For auditors it is data inquiry, analysis and a reporting software.

Chapter 17:- Documentation

The documentation should include the identified and assessed risks of fraud and its linkages to audit procedures

Chapter 18:- Supervision and Review

Should be exercised in accordance with the Auditing Standards of C&AG of India and other instructions from time to time

Chapter 19:- Reporting

Reports of individual cases of fraud and corruption should be addressed confidentially to the controlling authority concerned or the secretary of the administrative department according to its seriousness with the approval of group officers or the AG or with his approval. The more serious cases should be shared with the investigative authorities such as State Vigilance Commission.

Suspected / Presumptive fraud should be highlighted in bold type in inspection reports and audit notes etc. In the forwarding letter to the Bond Copy to the Hqrs Office, the number of cases with money value should be indicated as also highlighted in the submission note of the file relating to the Bond Copy.

A Qualification of audit opinion if any in the financial statements should be inserted.

Chapter 20:- Follow up

The draft of the annual post audit report letter to the chief minister should have a brief mention of issues relating to fraud and corruption

Chapter 21:- Additional instructions

This is the instructions regarding database, objection book, skill development, developing sector specific guidelines/checklists, reporting to Hqrs and continuance of the existing provisions relating to reports on defalcations and losses.

Appendix A: - Illustrative fraud and corruption in contracting for goods and services

Already discussed in chapter 2

Appendix B: - Some indicators (red flags) for possible fraud and corruption (illustrative)

Regarding procurement and contracting of goods and services in defining stage, selection stage and contract performance and evaluation stage.

Appendix C: - Extracts from the provisions of General Financial Rules

Provisions regarding GFR 33 – Report of Losses, GFR 34 – Loss of Government Property due to fire, theft, fraud, GFR 37 – Responsibility for Losses and GFR 38 – Prompt Disposal of cases of Loss may be kept in mind during audit.

http://cag.gov.in/sites/default/files/guidelines/Book_Fraud_Corruption.pdf

Appendix 14 - List of Acts and Rules in Land Revenue

1. The Maharashtra Land Revenue Code 1966 and The Maharashtra Increase of Land Revenue and Special Assessment Act, 1974
Rules made thereunder:-
2. Bombay City Land Revenue Assessment Rules, 1989
3. Maharashtra Land Revenue (Alluvion and Diluvion) Rules, 1967
4. Maharashtra Land Revenue (Appeals, Revision and Review) Rules, 1967
5. Maharashtra Land Revenue (Assessment and Settlement of Land Revenue of Agricultural Lands) Rules, 1970
6. Maharashtra Land Revenue (Boundaries Boundary Marks) Rules, 1969
7. Maharashtra Land Revenue (City of Bombay) Rules, 1968
8. Maharashtra Land Revenue (Construction of Water Course) Rules, 1967
9. Maharashtra Land Revenue (Conversion of use of Land and Non-Agriculture Assessment) Rules, 1969
10. Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971
11. Maharashtra Land Revenue (Disposal of Government Trees, Produce of Trees, Grazing and other Natural Products) Rules, 1969
12. Maharashtra Land Revenue (Extraction and Removal of Minor Minerals) Rule, 1968
13. Maharashtra Land Revenue (Inclusion of Certain Bhumidharis in Occupants-Class I, Permission) Rules, 1968
14. Maharashtra Land Revenue (Inquiry into Title of Land) Rules, 1967
15. Maharashtra Land Revenue (Inspection, Search and Supply of Copies of Land Records) Rules, 1970
16. Maharashtra Land Revenue (Partition of Holdings) Rules, 1967
17. Maharashtra Land Revenue (Permission for use of Water) Rules, 1969
18. Maharashtra Land Revenue (Procedure of Revenue Officers) Rules, 1967
19. Maharashtra Land Revenue (Qualification for Conferral of Powers of Assistant or Deputy Collector or Tahsildar) Rules, 1968
20. Maharashtra Land Revenue (Reduction, Suspension and Remission) Rules, 1970
21. Maharashtra Land Revenue (Register of Alienated Lands) Rules, 1967
22. Maharashtra Land Revenue (Regulation of Cutting and Supply of Wood, etc.) Rules, 1970
23. Maharashtra Land Revenue (Regulation of Right to Trees etc.) Rules, 1967

25. Maharashtra Land Revenue (Restriction on use of Land) Rules, 1968
26. Maharashtra Land Revenue (Revenue Surveys and Sub-Divisions of Survey Number) Rules, 1969
27. Maharashtra Land Revenue (Revival of Certain Rules Relating to Non-Agricultural Assessment) Act, 1972
28. Maharashtra Land Revenue (Transfer of Occupancy by Tribals to Non-Tribals) Rules, 1975
29. Maharashtra Land Revenue (Village, Town and City Survey) Rules, 1969
30. Maharashtra Land Revenue Circle Officers and Circle Inspectors, (Duties and Functions) Rules, 1970
31. Maharashtra Land Revenue Farm Building (Erection, Renewal, Reconstruction, Alteration, Additions, etc.) Rules, 1989
32. Maharashtra Land Revenue Khate-Pustika (Booklet) (Preparation, Issue and Maintenance) Rules, 1971
33. Maharashtra Land Revenue Record of Rights and Registers (Preparation and Maintenance) Rules, 1971
34. Maharashtra Land Revenue Restoration of Occupancy (Unauthorisedly Transferred by Occupants Belonging to Scheduled Tribes) Rules, 1969
35. Maharashtra Realisation of Land Revenue Rules, 1967
36. Maharashtra Land Revenue (Revenue Tribunal) Rules, 2007

<http://www.bareactslive.com/MAH/mh436.htm#0>

GLOSSARY AND ABBREVIATIONS

| | |
|-----------|--|
| AAO | Assistant Audit Officer (Field level)/ Assistant Administrative Officer |
| ASR | Annual Statement of Rates |
| AG | Accountant General (Head of Field Offices of C&AG in states) |
| PAG | Principal Accountant General (Head of the Principal Field Offices of C&AG in states) |
| C&AG (HQ) | Headquarters Office at Delhi. Referred to as C&AG also. |
| CAG | Same as above |
| AAP | Annual Audit Plan |
| ACM | Audit Committee Meeting |
| AM | Audit Memo |
| ASOSAI | Asian Organisation of Supreme Audit Institutions |
| AQMF | Audit Quality Management Framework |
| BO | Branch Officer |
| BLRC | Bombay Land Revenue Code |
| CA | Compliance Audit |
| C&AG | Comptroller and Auditor General of India |
| CCRA | Chief Controlling Revenue Authority |
| Chavadi | means the place ordinarily used by a village officer for the transaction of village business; |
| DCA | Department Centric Audit |
| DCR | Development Control Regulations |
| DDO | Drawing and Disbursing Officer |
| DOR | Department of Revenue |
| DP | Draft Paragraph |
| DPC | Duties, Powers and Conditions (DPC) Act, 1971 |
| GO | Group Officer |
| Gaothan | means the land included within the site of a village , town or city as determined by section 122 of MLR Code 1966 ; |
| FAO | Field Audit Office |
| Fragment | means a plot of land of less extent than the appropriate standard area determined under The Bombay Prevention of the Fragmentation and Consolidation of Holdings Act, 1947 |

| | |
|------------------------|--|
| HQ | Headquarters |
| IA&AD | Indian Audit and Accounts Department |
| INTOSAI | International Organisation of Supreme Audit Institution |
| MLRC | Maharashtra Land Revenue Code |
| MPLRC | Madhya Pradesh Land Revenue Code |
| Prospecting license: | A permit issued by the state which allows the licensee to prospect (search) for minerals. |
| Planning Authority | means 1) The Bombay Municipal Corporation constituted under the Bombay Municipal Corporation Act or the 2) Nagpur Municipal Corporation constituted under the City of Nagpur Municipal Corporation Act, 1948, 3) or any Municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949, 4) A Council and a Nagar Panchayat constituted under the Maharashtra Municipal Councils, <i>Nagar Panchayats</i> and Industrial Townships Act, 1965, 5) A <i>Zilla Parishad</i> constituted under the Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961, |
| Pardhi Land | means a cultivated land appertaining to houses within a village site; |
| Protected Tenant | means person who is recognised to be a protected tenant under section 4-A; of The Bombay Tenancy and Agricultural Lands Act, 1948 |
| Reconnaissance: | An examination or survey of the general geological characteristics of a region. |
| Ryot | tenants and cultivators, and served as hired labour |
| Ribbon Development | means development taken linearly along a highway with direct access to the highway |
| Stowing: | Pack or store (an object) carefully and neatly in a particular place |
| Sanad | means authority given in writing by the government to hold land |
| Saza | means a group of villages in a taluka which is constituted a saza under section 4 of MLR Code |
| Sub Divisional Officer | means an Assistant or Deputy Collector who is placed in charge of one or more sub-divisions of a district |
| Wada Land | means an open land in village site used for tethering cattle or storing crops or fodder, manure or other similar things |