

Preface

This report for the year ended 31 March 2009 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising commercial tax/value added tax, stamp duty and registration fee, electricity and safety, state excise, entertainment, motor vehicles, land revenue, mining and other non-tax receipts of the State.

The cases mentioned in this report include those that came to notice in the course of test audit of records during the year 2008-09 as well as those which had been noticed in earlier years but could not be included in the previous reports.

Overview

This report contains 22 paragraphs including three reviews relating to underassessment/short levy/loss of revenue etc. involving Rs. 486.08 crore. Some of the major findings are mentioned below.

I. General

The total receipts of the State during the year 2008-09 amounted to Rs. 15,662.76 crore of which the revenue raised by the State Government was Rs. 8,795.93 crore and receipts from the Government of India were Rs. 6,866.83 crore. The revenue raised constituted 56 *per cent* of the total receipts of the State.

(Paragraph 1.1)

At the end of June 2009, 7,266 audit observations involving Rs. 2,847.14 crore relating to 1,955 inspection reports issued upto December 2008 remained outstanding.

(Paragraph 1.8)

Test check of the records of the departments of commercial tax, stamp duty and registration fee, electricity and safety, state excise, entertainment, transport, land revenue and other non-tax revenue etc. conducted during the year 2008-09 revealed underassessment/short levy/loss of revenue etc. aggregating Rs. 632.13 crore in 7,198 cases. During the course of the year 2008-09, the departments concerned accepted underassessments and other deficiencies of Rs. 502.20 crore in 3,869 cases. Of these, the department recovered Rs. 46.40 lakh in 17 cases during the year 2008-09.

(Paragraph 1.13)

II. Commercial Tax

A review on “**Levy and collection of Central Sales Tax**” revealed the following:

- There was no system of keeping the samples of colour, design and format of the declaration forms prevailing in other States due to which the departmental officers could not detect fake/forged declaration forms.

(Paragraph 2.2.7)

- Due to absence of a system of cross verification of declaration forms, the assessing authorities could not detect fake declaration forms. Consequently, there was evasion of tax and penalty on fake ‘C’ forms of Rs. 3.78 crore.

(Paragraph 2.2.8.1)

- Absence of a guidelines prescribing check list of points to be examined prior to accepting declaration forms led to irregular allowance of concession/exemption of tax of Rs. 13.32 crore.

(Paragraph 2.2.8.2 and 2.2.9.2)

- Evasion of tax and penalty of Rs. 25.20 crore due to suppression of sales.

(Paragraph 2.2.12)

- Non-levy of tax and penalty of Rs. 1.19 crore due to irregular grant of deduction on transfer of goods to undeclared branch.

(Paragraph 2.2.15)

- Non-levy of tax and penalty of Rs. 1.82 crore due to exemption on invalid 'F' forms.

(Paragraph 2.2.16)

- Incorrect exemption of Rs. 89.14 lakh on invalid forms 'E1' and 'C'.

(Paragraph 2.2.19)

A review on “**Transition from Chhattisgarh Commercial Tax to Chhattisgarh Value Added Tax**” revealed the following:

- Due to the absence of a provision for disclosing the opening stock of the dealers under the VAT Act, the department was not in a position to scrutinise the returns effectively and determine the tax payable under the Act.

(Paragraph 2.3.8)

- Neither the Act/Rules nor any departmental instruction prescribed any provision for preliminary checks, such as correctness of calculation, application of correct rate of tax, completion of the returns etc., due to which the returns were not being scrutinised by the assessing authorities.

(Paragraph 2.3.10)

- There was no system prescribed for verifying the input tax credits claimed by the dealers. Consequently, input tax credits were being allowed to the dealers without any verification or checks.

(Paragraph 2.3.12)

- Though the check gates had been computerised, these were not inter-linked with the assessing officers due to which the assessing officers could not effectively utilise the records of the check gates while verifying the returns/completing the assessments.

(Paragraph 2.3.13)

III. Stamp duty and registration fee

Short levy of stamp duty and registration fee of Rs. 27.76 lakh due to fraud committed by the executants and stamp vendor.

(Paragraph 3.4)

Short levy of stamp duty and registration fee of Rs. 10.50 lakh due to acceptance of incomplete deeds.

(Paragraph 3.5)

Short levy of stamp duty and registration fee of Rs. 1.10 crore due to undervaluation of properties.

(Paragraph 3.6.1)

IV. Electricity and safety

Short realisation of electricity duty and cess of Rs. 19.07 crore from CSEB.

(Paragraph 4.4)

Non-realisation of cess and interest of Rs. 2.44 crore from CSEB on single point connection.

(Paragraph 4.5)

Non-levy of electricity duty of Rs. 2.17 crore due to irregular exemption to captive power producers.

(Paragraph 4.6)

V. Other tax receipts

Non-levy of penalty of Rs. 90.58 lakh for failure to maintain minimum stock of spirit in warehouses.

(Paragraph 5.4)

Short realisation of trade tax of Rs. 2.01 crore from automobile dealers.

(Paragraph 5.7)

Non-realisation of taxes of Rs. 1.47 crore from the owners of passenger and transport vehicles.

(Paragraph 5.8)

Non-realisation of development cess and environment cess of Rs. 2.23 crore from lease holders of mines.

(Paragraph 5.9)

VI. Mining and other non-tax receipts

A review on “**Assessment and collection of water charges**” revealed the following:

- Due to non-utilisation of created potential, revenue of Rs. 28.03 crore was foregone.

(Paragraph 6.2.8)

- Non-levy of penal rate on unauthorised drawal of water resulted in revenue loss of Rs. 316.26 crore.

(Paragraph 6.2.12)

- Non-realisation of interest and cess on unpaid dues amounting to Rs. 36.37 crore.

(Paragraph 6.2.13)

- Non-compliance of conditions of agreement resulted in short levy of water charges of Rs. 18.26 crore.

(Paragraph 6.2.14)

- Application of incorrect rate of water charges for illegal drawal of water led to revenue loss of Rs. 4.91 crore.

(Paragraph 6.2.15)

Non-levy of interest of Rs. 12.46 lakh on delayed payment of royalty.

(Paragraph 6.5)

Non-realisation of royalty of Rs. 18.53 lakh due to non-cancellation of lease of inoperative mines.

(Paragraph 6.6)

CHAPTER - I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Chhattisgarh during the year 2008-09, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. no.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
I	Revenue raised by the state Government					
	• Tax revenue	3,227.80	4,051.91	5,045.70	5,618.10	6,593.72
	• Non-tax revenue	1,243.93	1,229.53	1,451.34	2,020.45	2,202.21
	Total	4,471.73	5,281.44	6,497.04	7,638.55	8,795.93
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	1,876.29	2,507.82	3,198.80	4,034.98	4,257.91 ¹
	• Grants-in-aid	900.85	1,049.23	1,757.40	2,205.12	2,608.92
	Total	2,777.14	3,557.05	4,956.20	6,240.10	6,866.83
III	Total receipts of the State (I + II)	7,248.87	8,838.49	11,453.24	13,878.65	15,662.76
IV	Percentage of I to III	62	60	57	55	56

The above table indicates that during the year 2008-09, the revenue raised by the state Government was 56 per cent of the total revenue receipts (Rs. 15,662.76 crore) against 55 per cent in the preceding year. The balance was received from the Government of India.

1.1.2 The following table presents the details of the tax revenue raised during the period 2004-05 to 2008-09:

¹ For details refer "tax revenue" of statement 11, detailed account of revenue by minor heads of the Finance Account of the Government of Chhattisgarh, 2008-09. The amount under the minor head 901 - share of net proceeds assigned to the state booked under the major heads 0020 - Corporation tax, 0028-other taxes on income and expenditure, 0032 - taxes on wealth, 0038 - Union excise duty, 0044 - Service tax and 0045 - Other taxes and duties on commodities and services under 'A-tax revenue' have been excluded from the revenue raised by the state and included in the state's share of divisible Union taxes in this statement.

(Rupees in crore)

Sl. no.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+) or decrease (-) in 2008-09 over 2007-08
1.	• Commercial-tax	1,347.17	1,602.85	2,140.71	2,502.70	2,946.78	(+) 17.74
	• Central sales tax	326.69	486.35	702.33	521.00	664.16	(+) 27.48
2.	State excise	458.27	634.50	706.81	843.10	964.10	(+) 14.35
3.	Stamp duty and Registration fee	247.77	312.80	389.51	462.72	495.59	(+) 7.10
4.	Taxes and duties on electricity	308.92	362.31	469.12	394.86	415.10	(+) 5.13
5.	Taxes on vehicles	191.79	205.97	253.05	276.94	313.78	(+) 13.30
6.	Taxes on goods and passengers	287.13	395.33	301.81	510.72	420.71	(-) 17.62
7.	Other taxes on income and expenditure taxes on professions, trades, callings and employments including hotel receipts tax	27.13	20.65	16.23	11.54	7.67	(-) 33.54
8.	Other taxes and duties on commodities and services	4.25	4.26	5.27	6.40	6.33	(-) 1.09
9.	Land revenue	28.68	26.89	60.86	88.12	359.50	(+) 307.97
Total		3,227.80	4,051.91	5,045.70	5,618.10	6,593.72	(+) 17.37

The reasons for variation in receipts for 2008-09 from that of 2007-08, in respect of principal heads of revenue as furnished by concerned departments were as under:

Central sales tax: The increase (27.48 per cent) was due to increase in rate of Central Sales tax and rate of iron.

State excise: The increase (14.35 per cent) was due to allotment of liquor shop through application system and processing fee and increase in sale of liquor.

Taxes on vehicles: The increase (13.30 per cent) was due to increase in registration of new vehicles and strict enforcement of recovery.

The other departments did not inform (November 2009) the reasons for variation, despite being requested (April 2009).

1.1.3 The following table presents the details of major non-tax revenue raised by the state during the period from 2004-05 to 2008-09.

(Rupees in crore)

Sl. no.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/decrease (-) in 2008-09 over 2007-08
1.	Non-ferrous mining and metallurgical industries	679.83	721.12	813.42	1,031.55	1,243.24	(+) 20.52
2.	Forestry and wild life	159.85	203.17	205.79	258.07	322.29	(+) 24.88
3	Interest receipt	101.26	97.67	186.04	205.61	237.40	(+) 15.46
4.	Major and medium irrigation	67.26	38.98	104.96	97.62	126.03	(+) 29.10
5.	Other non-tax receipts	69.23	106.41	74.32	96.44	135.18	(+) 40.17
6.	Medical and public health	3.21	3.07	19.33	7.62	1.67	(-) 78.08
7.	Other administrative services	12.30	14.23	13.10	10.59	11.49	(+) 8.49
8.	Police	3.74	10.21	12.11	12.31	8.22	(-) 33.22
9.	Public works	5.63	13.94	9.31	11.67	13.59	(+) 16.45
10.	Miscellaneous general services	37.45	14.91	8.62	281.84	95.58	(-) 66.08
11.	Co-operation	4.17	5.82	4.34	7.13	7.52	(+) 5.46
12.	Power	100.00	0.00	0.00	0.00	0.00	0.00
Total		1,243.93	1,229.53	1,451.34	2,020.45	2,202.21	(+) 8.99

The reasons for variation in the receipts for 2008-09 from that of 2007-08, in respect of principal heads of revenue as furnished by concerned departments were as under:

Non-ferrous mining and metallurgical industries: The increase (20.52 per cent) was due to increase in production of coal and minerals.

In remaining cases, reasons for variation have not been received (November 2009), though called for (April 2009).

1.2 Variations between the budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue were as follows:

(Rupees in crore)

Sl. no.	Heads of revenue	Budget estimate	Actuals	Variations excess (+) or shortfall (-)	Percentage variation
A. Tax revenue					
1.	Taxes on sales, trade etc.	3,470.00	3,610.94	(+) 140.94	(+) 4.06
2.	State excise	950.00	964.10	(+) 14.1	(+) 1.48
3.	Taxes and duties on electricity	476.75	415.10	(-) 61.65	(-) 12.93
4.	Stamp duty and registration fee	520.00	495.59	(-) 24.41	(-) 4.69
5.	Taxes on goods and passengers	485.00	420.71	(-) 64.29	(-) 13.26
6.	Taxes on vehicles	315.50	313.78	(-) 1.72	(-) 0.55
7.	Land revenue	100.00	359.50	(+) 259.5	(+) 259.5
8.	Other taxes on income and expenditure	3.09	6.92	(+) 3.83	(+) 123.94
9.	Other taxes and duties on commodities and services	6.69	6.33	(-) 0.36	(-) 5.38
10.	Hotel receipts tax	0.70	0.75	(+) 0.05	(+) 7.14
B. Non-tax revenue					
1.	Non-ferrous mining and metallurgical industries	1,185.50	1,243.24	(+) 57.74	(+)4.87
2.	Forestry and wildlife	280.00	322.29	(+) 42.29	(+) 15.10
3.	Interest receipts	163.03	237.40	(+) 74.37	(+) 45.62
4.	Major and medium irrigation	134.00	126.03	(-) 7.97	(-) 5.95
5.	Medical and public health	15.95	1.67	(-) 14.28	(-) 89.53
6.	Other administrative services	21.94	11.49	(-) 10.45	(-) 47.63
7.	Police	11.51	8.22	(-) 3.29	(-) 28.58
8.	Public Works Department	15.19	13.59	(-) 1.6	(-) 10.53
9.	Water supply and sanitation	4.12	4.32	(+) 0.20	(+) 4.85
10.	Others (Jail)	1.81	1.00	(-) 0.81	(-) 44.75

The reasons for variations reported by the concerned departments in respect of some principal heads of revenue were as under:

Stamp duties and registration fees: The decrease (4.69 per cent) was due to two per cent exemption on stamp duty for the sale deeds made by women including 0.5 per cent exemption provided in the cases of the transfer deed.

Taxes and duties on electricity: The decrease (12.93 per cent) was due to the cases of Energy development cess pending in the High Court.

The other departments did not inform (November 2009) the reasons for variation, despite being requested (April 2009).

1.3 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross

collection during the years 2006-07, 2007-08 and 2008-09 along with the relevant all India average percentage of expenditure on collection to gross collection for 2007-08 were as indicated in the following table:

(Rupees in crore)

Sl. no.	Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2007-08
1.	Taxes on sales, trade etc.	2006-07	2,843.04	12.46	0.44	0.83
		2007-08	3,023.70	14.24	0.47	
		2008-09	3,610.94	16.38	0.45	
2.	Taxes on vehicles	2006-07	253.05	4.09	1.62	2.58
		2007-08	276.94	5.30	1.91	
		2008-09	313.78	13.12	4.18	
3.	State Excise	2006-07	706.81	17.94	2.54	3.27
		2007-08	843.10	19.75	2.34	
		2008-09	964.10	26.30	2.73	
4.	Stamp duty and registration fee	2006-07	389.51	10.86	2.79	2.09
		2007-08	462.72	10.83	2.34	
		2008-09	495.59	11.69	2.36	

The foregoing table indicates that the percentage of expenditure on collection in respect of the stamp duty and registration fees for the year 2006-07 to 2008-09 and taxes on vehicles for the year 2008-09 was higher than the all India average. **The Government needs to take appropriate measures in these cases.**

After being pointed out, the Registration Department stated that the cost of collection was marginally higher due to payment of 20 *per cent* interim relief to the staff under sixth pay commission as where as the Transport Department stated that cost of collection was higher due to expenses incurred on election of *Vidhan Sabha* and *Lok Sabha* during the year 2008-09 and expenditure on computerisation and information technology.

1.4 Analysis of arrears of revenue

The arrears of some principal heads of revenue as on 31 March 2009 as reported by the department amounted to Rs. 470.30 crore of which Rs. 235.85 crore was outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. no.	Heads of revenue	Amount out-standing as on 31 March 2009	Amount out-standing for more than 5 years as on 31 March 2009	Remarks
1.	Taxes on sales, trade etc.	200.24	98.61	Out of Rs. 200.24 crore, an amount of Rs. 44.87 crore has been stayed by court and RRCs of Rs. 32.64 crore have been sent to other states for execution; Rs. 45.07 crore is unrecoverable and Rs. 25.80 crore pertain to dues against sick units. Reasons for non-recovery of arrears of Rs. 51.86 crore were not intimated by the department.
2.	Taxes on vehicles	4.01	3.24	Out of Rs. 4.01 crore, demands for Rs. 1.10 crore were stayed by the courts. Reasons for non-recovery of arrears of Rs. 2.91 crore were not intimated by the department.
3.	State excise	23.96	23.27	Out of Rs. 23.96 crore, an amount of Rs. 79 lakh is for write-off, Rs. 82 lakh pertain to cases pending in appeal, Rs. 12.08 crore has been stayed by the court, Rs. 5.13 crore pertain to licensees who became insolvent. Reasons for non-recovery of arrears of Rs. 5.14 crore were not intimated by the department.
4.	Stamp duty and registration fee	3.69	0.59	Reasons for non-recovery are awaited.
5.	Taxes and duties on electricity	122.92	2.38	Out of Rs. 122.92 crore, an amount of Rs. 66.41 crore pertains to dues from Chhattisgarh Electricity Board for which action is being taken at Government level and Rs. 1.61 crore has been stayed by court.

				Reasons for non-recovery of arrears of Rs. 54.90 crore were not intimated by the department.
6.	Geology and mining	2.24	1.68	Out of Rs. 2.24 crore, Rs. 27 lakh has been stayed by court/Government, Rs. 1 lakh pertain to industries which are shut down, Rs. 52 lakh pertain to assesseees whose whereabouts are not known and Rs. 88 lakh pertain to dues pending with other departments. Reasons for non-recovery of arrears of Rs. 56 lakh were not intimated by the department.
7.	Irrigation	113.24	106.08	Out of Rs. 113.24 crore, Rs. 92.82 crore pertain to water charges payable to farmers, Rs. 20.42 crore pertain to water supplied to <i>Nagar Nigam, Nagar Palika and Panchayat</i> .
Total		470.30	235.85	

The Registration Department did not intimate (November 2009) the specific action taken in respect of arrears despite being requested.

1.5 Arrears in assessment

The number of pending cases at the beginning of the year 2008-09, becoming due during the year, disposed during the year and pending at the end of the year 2008-09 as furnished by the departments are as mentioned below:

Name of tax	Opening balance (2008-09)	Addition during the year	Total number of assessment cases due	Cases disposed during the year	Cases pending at the end of the year	Percentage of clearance (column 5 to 4)
1	2	3	4	5	6	7
Commercial tax	30,055	52,509	82,564	61,686	20,878	74.71
Professional tax	6,252	22,331	28,583	28,066	517	98.19
Entry tax	41,718	27,961	69,679	33,281	36,398	47.76
Luxury tax	31	98	129	125	4	96.90
Tax on works contract	21	94	115	96	19	83.48
Total	78,077	1,02,993	1,81,070	1,23,254	57,816	68.07

Thus, 31.93 per cent of the assessment cases were pending at the end of the year. **The Government may consider initiating action for expeditious disposal of pending assessment cases.**

1.6 Evasion of tax

The details of cases of evasion of tax detected by the departments, cases finalised and the demand for additional tax raised is indicated in the following table below:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2008	Cases detected during 2008-09	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of cases pending finalisation as on 31 March 2009
					No. of cases	Amount of demand (Rupees in crore)	
1.	Commercial tax	17	16	33	3	1.54	30
2.	State excise	15	-	15	-	-	15

Thus, during 2008-09 the State Excise Department could not finalise any of the 15 cases pending for more than four years and the Commercial Tax Department could finalise only 3 out of 33 cases. **The Government may consider taking effective steps to dispose the cases.**

1.7 Refunds

The refund cases pending at the beginning of the year 2008-09, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2008-09, as reported by the departments is mentioned in the table below:

(Rupees in crore)

Name of the department	Opening balance		Claims received		Refunds allowed		Closing balance	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Commercial tax	190	360.90	3,721	4.97	3,413	358.11	498	7.76
State excise	3	1.77	16	0.30	16	2.06	3	0.01
Total	193	362.67	3,737	5.27	3,429	360.17	501	7.77

The Government may consider taking effective steps to dispose the cases early.

1.8 Failure to enforce accountability and protect interest of the Government

Audit observations on under assessments, short determination/realisation of taxes, duties, fees etc. and defects in the maintenance of initial records, which are not settled on the spot, are communicated to the heads of the departments through inspection reports (IR). Important irregularities are also reported to

the Government/departments through IRs by the office of the Accountant General to which replies are required to be furnished by them within one month.

The number of IRs and audit observations relating to revenue receipts issued up to 31 December 2008 which were pending with the departments as on 30 June 2009, along with corresponding figures for the preceding two years, is mentioned below:

Sl. no.	Particulars	Position as on 30 June		
		2007	2008	2009
1.	Number of IRs pending settlement	1,587	1,875	1,955
2.	Number of outstanding audit observations	6,113	7,059	7,266
3.	Amount of revenue involved (Rupees in crore)	1,693.28	2,711.75	2,847.14

The department wise breakup of the IRs and audit observations outstanding as on 30 June 2009 are mentioned below:

Sl. no.	Department	No. of outstanding		Amount (Rupees in crore)	Earliest year to which the IR relates
		IRs	Audit observations		
1.	Commercial tax	314	1,973	256.24	1992-93
2.	Stamp duty and registration	244	599	28.36	1990-91
3.	Land revenue	472	1,263	306.38	1994-95
4.	Transport	99	709	77.15	1994-95
5.	State excise	106	322	320.67	1994-95
6.	Geology and mining	113	403	476.39	1994-95
7.	Electricity duty	8	28	116.34	1997-98
8.	Entertainment tax	53	69	1.52	1994-95
9.	Other tax departments	277	1,017	238.62	1994-95
10.	Forest (Revenue)	269	883	1,025.47	1979-80
Total		1,955	7,266	2,847.14	

It would be seen from the above table that no efforts were made by the concerned departments for the settlement of outstanding observations. Since the outstanding amount represents unrealised revenue, **the Government needs to take effective action on the issues raised in the IRs.**

1.9 Departmental audit committee meetings

The process of settlement of the outstanding audit observations contained in the IRs is to be expedited through departmental audit committees constituted by the Government. These committees are chaired by the Secretary of the department concerned and attended by the officers concerned of the State

Government and of the office of the Accountant General (Audit). The meetings for reviewing and monitoring the progress of settlement of the audit observation/paragraph are required to be held on a regular basis.

During the year 2008-09 two audit committee meetings were held in January and March 2009. **The Government should ensure holding of frequent meetings of these committees for ensuring effective action on the audit observations leading to their settlement.**

1.10 Response of the departments/Government to draft audit paragraph

As per standing instructions of the Finance Department, all departments are to send their response to the draft paragraph proposed for inclusion in the Report of the Comptroller and Auditor General of India within three weeks of their receipt. The draft paragraphs are forwarded to the Secretaries of the department concerned through demi-official letters requesting them to send their response within three weeks. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Twenty four draft paragraphs proposed to be included in the report of the Comptroller and Auditor General of India (Revenue receipts) for the year ended 31 March 2009 were forwarded to the Secretaries of the respective departments between March 2009 and July 2009. Out of 24 draft paragraphs, the departments have accepted the audit observations in 15 paragraphs.

1.11 Follow-up of audit reports

According to the instructions issued by the Finance Department, all departments were required to furnish explanatory memoranda, vetted by audit, to the Chhattisgarh *Vidhan Sabha* Secretariat, in respect of paragraphs included in the Audit Reports, within three months of their being laid on the table of the House.

As on March 2009, seven departments had not furnished the departmental notes in respect of 33 paragraphs included in the Audit Reports for the years between 2004-05 and 2006-07 for vetting. The delay ranged from six to 33 months as mentioned below:

Sl. no.	Name of the department	Year of report	Date of presentation to the legislature	Last date by which departmental notes were due	No. of paragraphs for which departmental notes were due	Delay in months at the end of March 2009
1.	Commercial tax	2005-06	15.03.07	15.6.07	14	22
		2006-07	8.7.08	8.10.08	10	6
2.	Land revenue	2004-05	23.3.06	23.6.06	1	33
3.	Geology and mining	2005-06	15.3.07	15.6.07	1	22
		2006-07	8.7.08	8.10.08	3	6

4.	Water resources	2006-07	8.7.08	8.10.08	1	6
5.	Motor vehicle tax	2006-07	8.7.08	8.10.08	1	6
6.	Stamp duty and registration fee	2006-07	8.7.08	8.10.08	1	6
7.	Forest receipt	2006-07	8.7.08	8.10.08	1	6
Total					33	

With a view to ensure accountability of the executive, the Public Accounts Committee (PAC) lays down in each case, the period within which action taken notes (ATN) on its recommendations should be sent. The PAC discussed 140 selected paragraphs pertaining to the Audit Report for the years 1998-99 to 2005-06 and gave its recommendations on 103 paragraphs. However, ATNs have not been received in respect of 28 recommendations of the PAC from the departments concerned as mentioned below:

Year	Name of the department						Total
	Commer- -cial tax/State Excise	Co- operative	Urban development/ Registration	Motor vehicle/ Land revenue	Water resource / Mining	Food civil supplies /Public works department	
1998-99	--/2	1	--/4	2/1	2/--	1/--	13
1999- 2000	--/--	--	--/--	--/--	--/3	--/--	03
2000-01	--/1	--	--/6	4/--	1/--	--/--	12
2001-02	--	--	--	--	--	--	--
2002-03	--	--	--	--	--	--	--
Total	--/3	1	--/10	6/1	3/3	1/--	28

1.12 Compliance with earlier Audit Reports

In the audit report of 2003-04 to 2007-08 cases of under assessment, non/short levy of taxes, loss of revenue, failure to raise demands etc. were indicated involving Rs. 454.68 crore, the departments accepted observations of the audit reports involving Rs. 71.47 crore of which Rs. 6.23 crore only had been recovered till March 2009 as mentioned below:

(Rupees in crore)

Sl. no.	Year of the Audit Report	Total money value	Amount accepted	Recovery made upto March 2009
1.	2003-04	46.72	12.40	1.58
2.	2004-05	46.00	1.05	1.43
3.	2005-06	253.10	2.22	1.88
4.	2006-07	15.99	2.92	0.59
5.	2007-08	92.87	52.88	0.75
Total		454.68	71.47	6.23

The Government needs to take effective steps to recover the outstanding amount in the interest of revenue.

1.13 Results of audit

Test check of the records of commercial tax, land revenue, state excise, motor vehicles tax, stamps and registration fees and other non-tax receipts conducted during the year 2008-09 indicated underassessment, short levy and loss of revenue amounting to Rs. 632.13 crore in 7,198 cases. The departments concerned accepted underassessment and other deficiencies of Rs. 502.20 crore in 3,869 cases which had been pointed out in audit during the year 2008-09.

This report contains 22 paragraphs including three reviews, pointing out non/short levy of taxes, duties, interest and penalties etc. involving Rs. 486.08 crore. The Government/department accepted audit observations involving Rs. 446.33 crore of which Rs. 45.79 lakh had been recovered up to March 2009. Audit observations with a total revenue effect of Rs. 34.40 crore have not been accepted by the departments, but their contentions have been appropriately commented upon in the relevant paragraphs. These are discussed in succeeding chapters II to VI.

CHAPTER II: COMMERCIAL TAX

2.1 Results of audit

Test check of the records of the Commercial Tax Department conducted during the year 2008-09 indicated underassessment, non/short levy of tax/interest/ penalty, application of incorrect rate of tax etc. amounting to Rs. 61.81 crore in 185 cases, which fall under the following categories:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	“Levy and collection of Central Sales Tax” – A review	1	47.49
2.	“Transition from Chhattisgarh Commercial Tax to Chhattisgarh Value Added Tax” – A review	1	Nil
3.	Incorrect grant of exemption/ deduction/set-off	64	4.82
4.	Application of incorrect rate of tax	27	1.04
5.	Incorrect determination of taxable turnover	10	0.56
6.	Non/short levy of tax	28	0.54
7.	Other irregularities	54	7.36
Total		185	61.81

During the year 2008-09, the department accepted underassessment of tax of Rs. 48.01 crore in 10 cases.

Two reviews on **i) Levy and collection of Central Sales Tax** involving Rs. 47.49 crore, **ii) Transition from Chhattisgarh Commercial Tax to Chhattisgarh Value Added Tax** and few illustrative audit observations involving Rs. 1.97 crore have been discussed in succeeding paragraphs.

2.2 Review on “Levy and collection of Central Sales Tax”

Highlights

- There was no system of keeping the samples of colour, design and format of the declaration forms prevailing in other States due to which the departmental officers could not detect fake/forged declaration forms.

(Paragraph 2.2.7)

- Due to absence of a system of cross verification of declaration forms, the assessing authorities could not detect fake declaration forms. Consequently, there was evasion of tax and penalty on fake ‘C’ forms of Rs. 3.78 crore.

(Paragraph 2.2.8.1)

- Absence of a guidelines prescribing check list of points to be examined prior to accepting declaration forms led to irregular allowance of concession/exemption of tax of Rs. 13.32 crore.

(Paragraph 2.2.8.2 and 2.2.9.2)

- Evasion of tax and penalty of Rs. 25.20 crore due to suppression of sales.

(Paragraph 2.2.12)

- Non-levy of tax and penalty of Rs. 1.19 crore due to irregular grant of deduction on transfer of goods to undeclared branch.

(Paragraph 2.2.15)

- Non-levy of tax and penalty of Rs. 1.82 crore due to exemption on invalid ‘F’ forms.

(Paragraph 2.2.16)

- Incorrect exemption of Rs. 89.14 lakh on invalid forms ‘E1’ and ‘C’.

(Paragraph 2.2.19)

2.2.1 Introduction

Central Sales Tax (CST) is an indirect tax levied by the Central Government for interstate sales and the tax is collected and retained by the State Government from where the movement of the goods commences. The CST is levied under the provision of the Central Sales Tax Act, 1956 read with the Central Sales Tax (Registration and Turnover) Rules, 1957 {CST (R&T) Rules} and Chhattisgarh Sales Tax (Central) Rules, 1957 under which every dealer is required to declare his places of business within the States and details of branches in other States, at the time of registration.

The Central Sales Tax (CST) Act, 1956 and the rules framed thereunder provide for concessional rate of tax in respect of inter-state sales of goods and exemption from tax in respect of branch transfers and export sales. These concessions/exemptions are subject to furnishing of declarations in the prescribed forms viz. ‘C’, ‘F’ and ‘H’ respectively. Failure to furnish the

declarations or submission of defective or incomplete declaration form will make the transaction liable to tax applicable to sale of goods in the appropriate State.

It was decided by audit to review the accuracy of the levy and collection of the Central Sales Tax. The review revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

2.2.2 Organisational set up

The department is under the overall administrative control of the Principal Secretary, Finance. The Commissioner of Commercial Tax (Commissioner) is the head of the department and he is assisted by five deputy commissioners. There are three divisions and 19 circles in the State headed by deputy commissioner at the divisional level and commercial tax officers (CTOs) at the circle level respectively. In addition, 21 assistant commissioners (ACs) are posted in the 19 circles for assessment of dealers whose turnovers exceed Rs. 2 crore. The department operates six check posts.

2.2.3 Audit objectives

The review was conducted with a view to ascertain:

- Whether exemption/concession of tax allowed by the assessing authorities (AA) at the time of assessment had correctly been worked out and was based on authentic declaration forms in accordance with the provisions of the applicable Act and Rules on interstate sales, branch transfer/ consignment sale; and
- Whether internal controls existed in the department to ensure proper use of declaration in form 'C'/'F'/'H' so as to prevent leakage of revenue.

2.2.4 Scope and methodology of audit

The audit was conducted between April 2009 and September 2009 covering nine out of 19 circles, 11 out of 21 ACs and two out of six check posts¹. The circles were selected on the basis of their high revenue collection. The audit methodology included cent *per cent* scrutiny of assessments with gross turnover of more than Rs. 1 crore, assessments of dealers with turnover below Rs. 1 crore and having inter-state sales during the year 2004-05 to 2008-09 and cross verification of 'C' and 'F' forms, involving transactions above Rs. 50,000, with the records of commercial tax offices of the States² where goods were sent.

¹ Circle-II, III of Durg; Jagdalpur; Korba; Manendragarh; Raigarh and Circle-III, IV and V of Raipur.

Check Post – Bhagat Devri and Chichola.

² Andhra Pradesh, Delhi, Gujrat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab and West Bengal.

2.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Department of Commercial Tax in providing the necessary information and records for audit. An entry conference was held with the department on 19 March 2009, in which the department was apprised about the scope and methodology of audit. The report was forwarded to the Government and department in September 2009. An exit conference was held with the Commissioner on 26 October 2009, during which the results of audit and recommendations were discussed. All the recommendations made by audit were accepted by the commissioner (Commercial Tax) and departmental commitments made during the exit conference have been incorporated in the relevant paragraphs.

2.2.6 Trend of revenue under CST

Budget estimates and actuals of revenue receipts for the years 2004-05 to 2008-09 in respect of CST are given below:

(Rupees in crore)

Year	Budget estimate as per budget document	Actuals as per finance account	Variations shortfall(-)/surplus(+)	Percentage of variation (Col.2 to 3)
(1)	(2)	(3)	(4)	(5)
2004-05	376.91	326.69	(-) 50.22	(-) 13.52
2005-06	495.58	486.35	(-) 9.23	(-) 1.86
2006-07	700.00	702.33	(+) 2.33	(+) 0.33
2007-08	664.00	521.00	(-) 143.00	(-) 21.54
2008-09	400.00	664.16	(+) 264.16	(+) 66.04

Reasons for the large variations in 2007-08 and 2008-09 between the budget and actual collection were being examined by the department and during the exit conference, it was intimated that the reasons for variations would be intimated to audit. The reasons have not been received (November 2009).

Audit findings

System deficiencies

2.2.7 Samples of current and obsolete declaration forms of other states not kept by the department

According to Rule 8(10) of Chhattisgarh Sales Tax (Central) Rules, 1957, the Commissioner may by notification, declare that declaration form of a particular series, design or colour shall be deemed as obsolete and invalid with effect from such date as may be specified in the notification and a copy of such notification may be sent to other State Government for the publication in their official gazette. It was observed that the department did not keep a sample of the colour, design and format of the forms prevailing in different States for comparison in order to identify the fake or forged declaration forms. Therefore, there was a risk of short levy of tax due to acceptance of invalid,

obsolete and forged forms. Some such cases detected by audit are discussed in subsequent paragraphs.

It was recommended that the samples of valid declaration forms of all States to all assessing officers for reference in case of doubt. They can also be scanned and uploaded on the departmental website.

During the exit conference, the Commissioner accepted the recommendation and directed the departmental officers to call for samples of 'C'/F' forms prevailing in other States, to send the samples of this State to other States and examine the feasibility of scanning and hosting the sample forms on the departmental website.

2.2.8 Deficiencies noticed in the interstate sales

Section 8 of the CST Act read with Rule 12 of the CST (R&T) Rules, provides that every dealer, who in the course of interstate trade or commerce sells to a registered dealer located in other State shall be liable to pay tax under this Act at the rate of four *per cent* provided the sale is supported with declaration form on 'C' issued by the purchasing dealer of the other State duly filled and completed in all respect. Otherwise, tax shall be calculated at double the rate in case of declared goods and at the rate of 10 *per cent* or at the rate applicable for sale of such goods within the State, whichever is higher in case of goods other than declared goods.

The Chhattisgarh Commercial Tax Rules provides for levy of minimum penalty of at least three times the tax sought to be evaded in case of concealment of turnover or furnishing false information of sales/purchases.

2.2.8.1 Evasion of tax on fake 'C' forms and penalty

Audit scrutiny indicated that the department was not having any prescribed system of selecting transactions for cross verification of declaration forms submitted by the dealers for claiming exemptions. The Commissioner, Commercial Tax vide circular dated 11 August 2008 had directed all the assessing officers that in case of doubt the declaration forms may be got verified from the issuing States, through the enforcement wing of the concerned division. In the absence of any fixed criteria or minimum *per cent* check, the extent of cross verification to be carried out is solely at the discretion of the assessing officer.

During the scrutiny of the records of four ACs and six CTOs, a sample of 210 'C' forms in 58 cases were selected by audit for cross verification because *prima facie* they appeared to be of doubtful authenticity due to the reasons mentioned in *Appendix 2.1*.

Verification reports of 129 forms had been received from the States. Of these, 108 forms involving sale of Rs. 11.10 crore were fraudulently used to evade tax as it was verified that the dealers involved in these transactions were either non-existent or the forms were not issued to them by the taxation authorities of the concerned States³. This resulted in evasion of tax of Rs. 81.44 lakh, for which dealers were liable to pay interest

³ Andhra Pradesh, Delhi, Madhya Pradesh, Maharashtra, Orissa and Punjab.

of Rs. 52.58 lakh and minimum penalty Rs. 2.44 crore aggregating to Rs. 3.78 crore.

It was recommended that the department should prescribe a system of selection, based on specific criteria, of a minimum number of transactions for cross verification and improve the system of scrutiny.

During the exit conference, the department agreed to prescribe criteria for selecting 'C' forms for cross verification, frame a check list for scrutiny and take action to levy penalty in cases pointed out by audit, after examining the cases.

2.2.8.2 Incorrect allowance of concessional rate of tax on defective statutory forms

Under the CST Act and the rules framed thereunder, declaration forms complete in all respects i.e. bearing registration number and date of issue by the purchasing dealer, purchase order, number and date etc. should be furnished to avail concessional rate of CST.

Audit scrutiny revealed that the department has not issued guidelines prescribing check list of points to be seen prior to acceptance of declaration forms. Cases of irregular acceptance of defective forms noticed during the review are mentioned in the succeeding paragraph.

Test check of the records of five ACs and three CTOs⁴ indicated that in 293 'C' forms, essential details as mentioned below were not available and in five⁵ cases they were issued after the date of assessment order.

Sl. no.	Number of forms	Deficiency
1.	68	Date from which registration is valid is not mentioned.
2.	97	Date of issue is not mentioned.
3.	4	Name and address of the seller with the name of State is not mentioned.
4.	5	"C" forms were issued after the date of assessment order.
5.	70	Purchase order number and date not mentioned.
6.	49	The purpose of goods purchased is not mentioned.

In the absence of these details, the forms were liable to be rejected and the transactions should have been taxed as per commercial tax rates. These forms relate to sale valued at Rs. 62.49 crore by 47 dealers and their acceptance resulted in short levy of tax of Rs. 5.30 crore.

It was recommended that the department should issue instructions on how to treat incomplete 'C' forms.

During the exit conference, the department agreed with the recommendation and stated that the assessing officers will be directed to reject incomplete forms or to get entries completed before accepting the declarations and allowing exemptions.

⁴ AC-I and AC-II of Bilaspur, AC-II and AC-III of Durg and AC of Raipur.

CTO – II Durg, CTO- Circle – IV and Circle – V of Raipur.

⁵ Four cases of AC, Raipur and one of CTO-V, Raipur.

2.2.9 Branch transfers

2.2.9.1 Absence of database of tax exemption on branch transfer/consignment sale

It was noticed in audit that no database was maintained in respect of exemption of tax allowed on account of branch transfer/consignment sale. Consequently, the exemptions allowed during the assessment years 2004-05 to 2008-09 on account of branch transfer/consignment sale was not quantifiable by the department. The assessing officer of the level of Assistant Commissioners do not have details of the branches of the dealers to verify the authenticity of the claims for exemption.

It was recommended that a database may be developed containing names of the dealers; names of the branches; registration number of the branches; nature and value of the goods transferred as branch transfer/consignment sale by dealers and exemption of tax allowed as it would institute an important control and assist in making assessments.

During the exit conference, the department accepted the recommendation and agreed to prepare such a database.

2.2.9.2 Deficiencies noticed in branch transfer

Section 6-A of the CST Act read with Rule 12(5) of the CST (R&T) Rules, provides that exemption of tax to a registered dealer is granted in case of branch transfer/consignment sale, provided they are supported by a declaration in form 'F'.

Section 69 of the Chhattisgarh Commercial Tax (CGCT) Act 1994 stipulates that if the Commissioner or the appellate or the revisional authority during any proceeding is satisfied that the dealer has concealed his turnover or the aggregate amount of purchase in respect of any goods or has furnished false particulars, the authority concerned may initiate proceedings for imposing penalty. **Submission of false or misleading or deceptive declaration, accounts or documents amount to evasion of tax and attracts penalty and interest on the tax evaded, in addition to amount of tax payable by the dealer.**

Test check of the records of CTO-V, Raipur and AC, Raipur indicated that three dealers availed exemption on the sale of Rs. 18.96 crore against 75 'F' forms. *Prima facie* all the 'F' forms appeared to be of doubtful authenticity due to the reasons as mentioned below.

Sl. No.	Name of state	No. of form	Basis of doubt
1	Andhra Pradesh	30	The series on the doubtful forms was different from the series on the authentic forms of the same state following printing/spelling errors प्राधिकारी – प्रधिकारी प्राधिकारी – प्राउधिकारी धारा 13(4) (e)–धारा 13(4) केन्द्रीय – केन्द्रिय घोषणा – धोषणा Is valid – in valid
2	Maharashtra	17	The series on the doubtful forms was different from

			the series on the authentic forms of the same state. Date of issue, Name of issuing office with designation and code not mentioned.
3	Maharashtra	17	The series on the doubtful forms was different from the series on the authentic forms of the same state.
4	Madhya Pradesh	11	Poor printing quality

It was detected by audit through cross verification of the data relating to Commercial Tax Department of the respective States⁶ that in ten cases the issuing dealers of the forms were non-existent, in 65 cases the forms were not issued by sales tax officers of the concerned States to the purchasers. Absence of any fixed criteria or minimum *per cent* check to cross verify the forms from the concerned States resulted in evasion of tax of Rs. 1.69 crore and interest of Rs. 1.26 crore. This will also attract minimum penalty of Rs. 5.07 crore.

It was recommended that the department should prescribe a system of selection, based on specific criteria, of a minimum number of transactions for cross verification and improve the system of scrutiny.

During the exit conference, the department agreed to prescribe criteria for selecting 'F' forms for cross verification, frame a check list for scrutiny and take action to levy penalty in cases pointed out by audit, after examining the cases.

2.2.9.3 Exemption of tax on incomplete 'F' forms

Under the CST Act, and the rules framed thereunder, declaration form 'F' complete in all respects i.e. bearing registration number, date of issue by the transferee, transport details etc. should be furnished to avail exemption from levy of tax on account of the branch transfer.

Absence of guidelines, prescribing check list of points to be seen prior to acceptance of declaration forms, had been highlighted in paragraph 2.2.8.2. Verification of declaration forms 'F' revealed the following deficiencies.

Test check of the records of AC, Raipur; CTOs, circle IV and V, Raipur indicated that six dealers availed exemption on branch transfer worth Rs. 3.03 crore. Scrutiny of 38 'F' forms indicated the discrepancies as mentioned below:

No. of forms	Deficiency	Reply of the department	Audit comment on reply
7	Date from which registration is valid is not mentioned.	Stock transfer occurred between company headquarters and branch.	Reply is not specific to audit observation.
2	Information on quantity and weight not mentioned.	Deduction was allowed after verification at the time of assessment.	Reply is not acceptable because in the absence of essential data mentioned in column 2, verification is not possible.
4	Name of railway, steamer or ferry station or airport or post office from where goods dispatched were not	Due to clerical mistake, the data was not mentioned.	<i>Prima facie</i> these forms should have been rejected at the time of assessment.

⁶ Andhra Pradesh, Madhya Pradesh and Maharashtra.

	mentioned.		
3	Number and date of railway receipt (RR)/ <i>bilti</i> , postal receipt or goods receipt were not mentioned.	Deduction was allowed after verification at the time of assessment.	Reply is not acceptable because in the absence of essential data mentioned in column 2, verification is not possible.
4	Date and no. of invoice/challan were not mentioned.	Due to clerical mistake, the date was not mentioned.	<i>Prima facie</i> these forms should have been rejected at the time of assessment.
6	Date of issue was not mentioned.	Deduction was allowed after verification at the time of assessment. (in case of 2 forms).	Reply is not acceptable because in the absence of essential data mentioned in column 2, verification is not possible.
		Action would be taken after verification. (in case of 4 forms).	Result of verification has not been received.
3	Date on which delivery was taken by transferee was not mentioned.	Due to clerical mistake, the data was not mentioned.	<i>Prima facie</i> these forms should have been rejected at the time of assessment.
3	Photocopies of forms instead of original were attached.	Action would be taken after verification.	Result of verification has not been received.
6	Date of issue is subsequent to the date of assessment. Further, number and date of RR etc. are not mentioned.	Action would be taken after verification.	Result of verification has not been received.

In the absence of these details, the forms were *prima facie* liable to be rejected and to be taxed as per the provisions of the Act. Failure of the AAs to scrutinise these forms resulted in non-levy of tax of Rs. 30.25 lakh.

It was recommended that the department should issue instructions on how to treat incomplete 'F' forms.

During the exit conference, the department agreed with the recommendations and stated that assessing officers will be directed to reject incomplete forms or to get entries completed before accepting the declarations and allowing exemptions.

2.2.10 Utilisation certificates submitted by dealers not available with assessment records

According to Rule 8 (1A)(b) of Chhattisgarh Sales Tax (Central) Rules, the dealers have to submit requisitions and challans for cost of forms to the circle offices for obtaining the declaration forms 'C'/'F'/'H'. The dealers also submit along with requisitions, the utilisation certificates for the declaration form issued earlier to them. These certificates give the details of transactions for which the forms were used including details of dealers to whom issued.

Audit scrutiny of the records of six circles⁷ showed that the utilisation certificates of declaration forms submitted by the dealers are retained with circle offices by the officials dealing with the issue of declaration forms and are not forwarded to the assessing authorities. For want of the

⁷ CTO-II, III Durg, CTO-Jagdalpur and CTO-III, IV, V Raipur

utilisation certificate the assessing officers are not in a position to compare the transactions shown in the utilisation certificates with the transactions declared by the assesseees.

It was recommended that the utilisation certificates of forms may be forwarded to the assessing officers concerned for cross verification.

During the exit conference, the Commissioner agreed with the recommendation and directed the departmental officers to keep the utilisation certificate in assessment file in future.

2.2.11 Internal control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They help in prevention of frauds and other irregularities. Internal controls also help in the creation of reliable financial and management information systems for prompt and efficient service and for adequate safeguards against evasion of Government revenue. Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism which enables the organisation to assure itself of the degree of compliance with prescribed systems.

The IAW attached to the office of the Commissioner consists of only one officer of the rank of Assistant Commissioner. No other official is posted in the wing. The internal audits conducted by the wing during the last five years are mentioned below:

Sl. no.	Year	Total no. of assessing units	No. of internal audits conducted		No. of IRs issued during the year	No. of IRs settled during the year
			No. of units audited	No. of assessment checked		
1.	2004-05	35	Nil	Nil	Nil	Nil
2.	2005-06	35	3	231	3	Nil
3.	2006-07	35	10	307	10	Nil
4.	2007-08	35	4	465	4	Nil
5.	2008-09	35	3	117	3	Nil
Total			20	1,120	20	Nil

Thus, the performance in terms of coverage, periodicity and number of objections raised, had ranged from zero to 28.5 *per cent* and the objections raised by the wing were not getting settled through appropriate action.

The internal audit system prevailing in the department was not providing reasonable assurance to the department on the adequacy of safeguards against evasion of tax.

The Government may consider strengthening the internal audit wing and prescribe a timeframe for taking remedial measures on its observations.

Compliance deficiencies

2.2.12 Evasion of tax due to suppression of sales

According to Section 26(1) (ii) of the Chhattisgarh Commercial Tax Act 1994, every registered dealer shall furnish return in such form, in such manner, for such period, by such dates and to such authority as may be prescribed.

Further, Rule 10 (B) of Chhattisgarh Sales Tax (Central) Rules, 1957 provides that the provisions of Chhattisgarh Commercial Tax Act and the rules made thereunder shall apply *mutatis mutandis* to all proceedings or other matters incidental to the operation of the CST Act. Section 69 of the Chhattisgarh Commercial Tax (CGCT) Act 1994 stipulates that if the Commissioner or the appellate or the revisional authority during any proceeding is satisfied that the dealer has concealed his turnover or the aggregate amount of purchase in respect of any goods or has furnished false particulars which amounts to evasion of tax, the authority concerned may initiate proceedings for imposing penalty upto five times of the tax evaded, but not less than three times.

Test check of the records of four ACs⁸ and CTO, Circle-III, Raipur indicated that seven dealers availed of concessional rate of tax, on sales of Rs. 59.41 crore but the transactions declared by the dealer did not conform to the transaction mentioned in the 'C' form due to the reasons mentioned below:

(Rupees in crore)

Name of the Unit	No. of cases	Tax evaded alongwith penalty	Irregularities noticed	Reply of the AA	Audit comments
AC	1	0.92	Transactions mentioned in the sale list differed from 'C' forms.	All purchases were tax paid purchase.	Reply of the AA is not specific to the audit observation.
AC	1	0.99		Deduction had been allowed on the strength of 'C' forms.	
CTO, Circle-III Raipur	1	0.04	Dealer declared gross turnover as NIL. Further it was found from 59-A declarations that dealer sold goods of Rs. 3.79 lakh.	Action would be taken after verification.	Report has not been received.
AC-II Durg	1	0.21	Inter-state sale of Rs. 53.13 lakh was suppressed.	Action would be taken after verification.	Report has not been received.
AC-I Bilaspur	1	0.62	Sale to dealers located in Bihar and Jharkhand has been made (as per Form 59-A) but not disclosed in the inter state sale list and hence the transactions escaped assessment.	Purchases were tax paid and goods sold by different challans through other States.	Reply does not explain the reasons for not disclosing the sale to dealers located in Bihar and Jharkhand.
AC-I Bilaspur	1	0.07	Goods of Rs. 23.20 lakh were dispatched to Maharashtra which was found in 59-A declarations and which was not disclosed by the dealer.	Action would be taken after verification.	Report has not been received.
AC-III Durg	1	22.35	Sale of Rs. 55.86 crore to Puducherry	The name of dealer M/s	The reply is not specific to the

⁸ AC-I, Bilaspur, AC-II, Durg; AC-III, Durg and AC, Raipur.

			was not disclosed by the dealer.	NEG Micon (I) Pvt. Ltd had been changed to M/s Vestas Wind Technology India Pvt. Ltd. and 'C' form had been furnished by M/s Vestas Wind Technology India Pvt. Ltd under changed name.	audit observation. In this case, as per sale list, sale has been made to M/s NEG MICON (India) Pvt. Ltd. Chennai but 'C' forms attached with the case are from the dealers located in Chennai and Puducherry (Union Territory) which do not clarify the audit observation.
Total :		25.20			

The above defects/irregularities were not detected by the assessing officers. This resulted in short levy of tax of Rs. 6.30 crore and penalty of Rs. 18.90 crore was also leviable, aggregating to Rs. 25.20 crore.

During the exit conference, the department stated that action would be taken after examination of the cases. Further development has not been reported (November 2009).

2.2.13 Short levy of tax due to excess exemption

Test check of the records of ACs, Durg and Raipur and CTO, circle V, Raipur indicated that in six cases assessed between April 2004 and March 2009 against the declared inter-state sales worth Rs. 5.12 crore, 'C' forms for Rs. 3.04 crore only were found attached. This resulted in excess exemption of inter-state sale worth Rs. 2.08 crore resulting in short levy of tax of Rs. 18.71 lakh.

After the cases were pointed out (April to September 2009), in three cases the AAs stated (April to July 2009) that the deductions allowed are as per rule. However, the requisite 'C' forms were not produced to audit in support of the replies of the AAs. In the remaining three cases the AAs replied that action would be taken after verification.

During the exit conference, the department stated that action would be taken after examination of the cases. Further development has not been reported (November 2009).

2.2.14 Irregular exemption on 'duplicate' portion (second copy) of 'C' forms

The 'C' form is issued by a purchasing dealer in two copies. The copy marked 'original' is enclosed by the selling dealer with his return and the copy marked 'duplicate' is retained in his records. It has been judicially⁹ held that

⁹ Commissioner, Sales Tax Vs M/s Prabhudayal Prem Narayan (1988) 71 STC (SC); M/s Delhi Automobiles Private Limited Vs Commissioner of Sales Tax (1997) 104 STC 75 (SC)

production of 'original' 'C' form claiming concessional rate of tax is mandatory to prevent the forms being misused for the commission of fraud and collusion with a view to evade payment of tax.

2.2.14.1 Test check of the records of AC-II, Durg indicated that at the time of assessment of a dealer, the AA found that the 'C' form for sale value of Rs. 1.80 lakh had not been submitted by the dealer and he therefore, levied tax of Rs. 14,398. The dealer went into appeal and submitted the 'duplicate' copy of 'C' form No.QH/16 798325 for Rs. 1.80 lakh. It was detected by audit that the 'original' copy of this form actually pertained to another transaction for Rs. 27.02 lakh and was attached with that assessment record. Therefore, the dealer misused 'duplicate' copy of 'C' form and availed the concessional rate of tax by misleading the appellate authority.

2.2.14.2 Test check of the records of ACs, Durg and Raipur and CTO, circle V, Raipur indicated that, five dealers engaged in sale and purchase of bricks, aluminium, copper and iron and steel submitted 'duplicate' copies of 'C' forms with their returns, involving sale value of Rs. 4.36 crore. These cases were fraught with risk of mis-utilisation as detected in the case cited above. As per the rules, the 'duplicate' 'C' forms should have been rejected and tax amounting to Rs. 35.95 lakh should have been levied by treating the transactions as inter-state sale without 'C' form.

After this was pointed, the AA circle-V, Raipur replied that the 'original' copy of the said forms would be provided to audit. The 'original' forms have not been received (November 2009).

During the exit conference, the department appreciated the risk involved and intimated that action would be taken after verification of the cases. Further development has not been received (November 2009)

2.2.15 Irregular grant of deduction on transfer of goods to undeclared branch

Absence of a database of dealers with their branches and exemption allowed had been highlighted in paragraph 2.2.9. As a result, irregular grant of exemption on branch transfer is discussed below.

Test check of the records of ACs, Durg and Raipur in July 2009 indicated that in two cases for the period 2008-09 the dealers availed exemption of tax on a turnover of Rs. 2.96 crore on account of branch transfer. Scrutiny of the registration certificates of the dealer indicated that the branches to which stock was claimed to have been transferred were not included in the registration certificates of the dealer. Failure of the AAs to scrutinise the 'F' forms with reference to the declared branches as per registration certificates resulted in non-levy of tax of Rs. 29.63 lakh and penalty of Rs. 88.89 lakh.

After the cases were pointed out (July 2009), the AA, Durg stated (July 2009) that in one case the dealer had a branch at Nagpur. However, it was observed that the said dealer had applied for inclusion of Nagpur branch in his registration certificate but the competent authority had disallowed his request vide his order dated 30.06.2003. In another case, the AC, Raipur replied that action would be taken after verification.

During the exit conference, the department intimated that action would be taken after examination of the cases. Further development has not been received (November 2009).

2.2.16 Exemption of tax on invalid 'F' forms

Section 6-A of the CST Act read with Rule 12(5) of the CST (R&T) Rules provides that the declaration in form 'F' may cover transfer of goods during the period of one calendar month by a dealer to any other place of his business or to his agent or principal outside the State, as the case may be, otherwise the transaction has to be treated as inter-state sale without declaration and taxed accordingly.

2.2.16.1 Test check of the records of AC, Raipur and CTO, circle III and IV, Raipur indicated that six dealers claimed exemption of tax during assessment year 2004-05 to 2008-09 on account of branch transfer/consignment sale worth Rs. 1.96 crore on the basis of nine 'F' forms. These forms had declarations covering period of more than one month and thus transactions beyond one month were liable to be rejected and treated as inter-state sales without valid declaration. Failure of the AAs to scrutinise the returns and 'F' forms and Act as per provision resulted in non levy of tax of Rs. 13.24 lakh.

After the cases were pointed out, the AAs replied that necessary action would be taken after verification.

2.2.16.2 Test check of the records of AC-III, Durg indicated that a dealer dealing in manufacture and sale of machinery spare parts, assessed in February 2006 for the period April 2002 to March 2003, claimed deduction on account of branch transfer worth Rs. 4.21 crore. Scrutiny of the records showed that the form 'F' attached in the assessment records was issued by Visakhapatnam (Andhra Pradesh) branch of the dealer, whereas as per form 59-A (declaration submitted by the transporters at check post) the goods were actually sent to SHAR centre ISRO, Shriharikota (Andhra Pradesh). Therefore, the 'F' form was not valid and the transaction should have been treated as inter-state sale without 'C' form and taxed at ten *per cent*. Since the receiving agency at SHAR centre had not issued an 'F' form, the AA had no reason to treat the transaction as branch transfer which resulted in non-levy of tax of Rs. 42.13 lakh and penalty of Rs. 1.26 crore for concealing the interstate sale, aggregating Rs. 1.69 crore should have been imposed.

After this was pointed out (March 2009), the AA replied in March, 2009 that the dealer has opened a branch at SHAR centre ISRO to receive the goods and is registered in the State of Andhra Pradesh but the proof of opening of branch at Shriharikota and registration number in the State of Andhra Pradesh were not furnished to audit.

During the exit conference, the department stated that action would be taken to disallow the transactions of subsequent months in 'F' form and tax will be levied accordingly. As regards branch transfer to an undeclared branch, it was stated that action would be taken after verification. Further development has not been received (November 2009).

2.2.17 Short levy of tax due to irregular deduction from taxable turnover

According to Section 2w(2) of Chhattisgarh Commercial Tax Act, 1994 taxable turnover in relation to any period means that part of a dealer's turnover, for such period, which remain after deduction there from the sale price of goods which are in the nature of tax paid goods in the hands of such dealer.

Test check of the records of AC Raipur indicated that in case of a dealer dealing in purchase and sale of galvanised structure, assessed in December 2006 for the period April 2003 to March 2004, the deduction on account of sale of galvanised structure valued at Rs. 1.47 crore has been deducted from the taxable turnover of the dealer as tax paid sales. Scrutiny of the purchase list of the dealer indicated that the dealer has never purchased galvanised structures, so treating it as tax paid material was incorrect on the part of the AA. Moreover, as per the purchase list, dealer has purchased iron and steel, zinc, lead, furnace oil and lubricants, which indicates that the dealer has manufactured galvanised structures and sold the same against 'C' form. As such dealer has actually sold manufactured product against 'C' form and tax should be levied at four *per cent*. The irregular grant of deduction of tax paid material has resulted in short levy of tax of Rs. 5.89 lakh.

After the case was pointed out (July 2009), the AA replied (July 2009) that dealer has sold galvanised iron and steel which does not come under the process of manufacturing, as held in the case of M/s Unique Structures and Towers Ltd Vs Commissioner of Commercial Tax, Chhattisgarh (2002) 35 VKN 244. However, the judgment quoted relates to fabrication of steel structure for manufacturing tower whereas the Madhya Pradesh Board of Revenue had held in the case of M/s Sanjay Corporation vs Commissioner Sales Tax (1992) 25 VKN 32, 7 TLD 324 that after the process of hot dip galvanisation with zinc, a new product different in appearance, quality, value and utility emerges. The case decided by Madhya Pradesh Board of Revenue is similar to the instant case.

During the exit conference, the department stated that the matter shall be examined in the light of judgments quoted by the AA and by audit and action would be taken accordingly. Further development has not been received (November 2009).

2.2.18 Irregular grant of exemption on sale in the course of export against incomplete document

According to Section 5 of the CST Act read with Rule 12 of the CST (R&T) Rules, a sale or purchase of goods shall be deemed to take place in the course of export of the goods out of the territory of India and shall be allowed as deduction from the turnover of the selling dealer on his furnishing form 'H' duly filled and signed by the exporter alongwith the evidence i.e. bill of lading, proof of despatch of goods and copy of agreements etc. of export of such goods.

Test check of the records of AC II, Durg and AC, Raipur indicated that in case of three dealers engaged in manufacturing of ferro alloys and re-rolled

products, assessed between December 2007 and February 2009 for the period between 2004-05 to 2005-06 deduction on account of export worth Rs. 4.83 crore had been allowed from the gross turnover against 'H' forms submitted by the dealers. The bills of lading, custom clearance, copy of agreement etc. to prove export were not found attached with the assessment records. This resulted in non-levy of tax of Rs. 38.68 lakh.

After the cases were pointed out (July 2009), the AC-II, Durg replied in July 2009 that the deductions have been allowed against declarations submitted by the dealer. The reply is not consonant with the provisions of the Act and Rules, in which it has clearly been laid down that deductions are to be allowed only after submission of the prescribed documents as proof of export. AC, Raipur stated that action would be taken after verification.

During the exit conference, the department replied that action in the matter would be taken after examination of the cases. Further development has not been received (November 2009).

2.2.19 Incorrect exemption of transit sales on invalid forms 'E1' and 'C'

Section 6(2) of the CST Act stipulates that where sale of any goods in the course of inter-state trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods (sale in transit) to the Government or to a registered dealer shall be exempt from tax. However, the exemption is subject to production of a declaration in form "E-I" or "E-II"¹⁰ duly filled and signed by the registered dealer from whom the goods were purchased and declaration in form 'C' obtained from the buyer.

Test check of the records of two ACs and three CTOs¹¹ indicated that in 12 cases assessed between December 2004 and December 2008 the AAs allowed exemption for Rs. 10.56 crore on subsequent sale without valid declarations in 'C'/'E-I' forms leading to non-realisation of revenue of Rs. 89.14 lakh as mentioned below :

Name of the Unit	No. of cases	Tax evaded (Rs.)	Irregularities noticed	Reply of the AA	Audit comments
AC, Raipur	1	29,16,704	Transactions mentioned in the sale list differs with the data shown in 'C' forms and submitted 'E1' issued by himself.	Sale of <i>tendu</i> leaves is tax paid and bills are issued after sale of lot. So exemption on 'E-I' and 'C' is valid.	Dealer is the first seller, so exemption on 'E-I' and 'C' is not valid.

¹⁰ E-I – declaration furnished by the selling dealer effecting the first sale and E-II – declaration furnished by the subsequent seller.

¹¹ AC, Korba and AC, Raipur.
CTO Circle Jagdalpur , Circle IV Raipur and Circle V Raipur.

CTO Raipur, Circle-V	1	59,045	Date of issue of 'E'-I is subsequent to the date of assessment order.	Date was mentioned by the issuing dealer.	<i>Prima facie</i> at the time of assessment this form should have been rejected by the AA.
AC, Raipur	1	15,07,144	'C' form is not enclosed with the case.	Action would be taken after verification.	Results of verification has not been received.
AC, Raipur	1	22,232	'E-I' form is not enclosed with the case.	Action would be taken after verification.	
CTO Raipur, Circle-IV	1	32,056	'C' form enclosed pertains to another firm.	Action would be taken after verification.	
AC, Raipur	1	11,88,531	'E-I' form not attached with the case.	Exemption allowed U/s 6(2) of the Act.	According to Section 6(2) 'E-I' form is mandatory, which was not enclosed.
AC, Korba	5	16,46,191	Proof of despatch of goods purchasing dealer viz. name of transporter etc. not found attached.	Action would be taken after verification.	Results of verification has not been received.
		2,78,178	'E-I' found attached with the assessment pertains to a year (2001-02) other than that of year of assessment (2002-03).		
		1,12,066	Sale to a local dealer where 'C' form from other State.		
		2,47,442	'E-I' not found.	Concessional rate of tax has been allowed on 'C' forms.	
		2,77,616	'E-I' not found	Due to direct delivery exemption allowed on 'C' forms.	
CTO, Jagdalpur	1	6,27,207	Duplicate portion of 'E-I' form submitted and 'C' form not found attached	Action would be taken after verification.	Results of verification has not been received.
	12	89,14,412			

During the exit conference, the department stated that action would be taken after examination of the cases.

2.2.20 Conclusion

The review on levy and collection of Central Sales Tax revealed a number of system and compliance deficiencies. The department did not keep samples of

current and obsolete declaration forms of other States. It also did not have a system of selecting transactions for cross verification of declaration forms of other states due to which the assessing officers could not detect fake/invalid forms and allowed inadmissible exemptions/reduced rates of taxes of Rs. 42.57 crore. Due to the absence of guidelines and prescribed checklist of points to be seen prior to acceptance of declaration forms, the assessing officers accepted declarations which were *prima facie* defective. The internal control mechanism within the department was weak as evident from the deficiencies noted above and also from the fact that the coverage of internal audit wing was very low ranging between 0 to 28.5 *per cent* with low compliance by the management with its observations.

2.2.21 Summary of recommendations

The Government may consider the following recommendations to rectify the system and compliance deficiencies:

- obtaining and circulating the samples of declaration forms from other States for easier identification of doubtful forms based on colour, design and series;
- preparing check lists for scrutiny of genuineness of declaration forms;
- prescribing criteria for selection of declaration forms for cross verification;
- creating a database of exemption of tax on account of branch transfer/consignment sale; and
- forwarding utilisation certificates of forms from circles to assessing officers, for cross verification.

During the exit conference, the Commissioner, Commercial Tax accepted all the above recommendations.

2.3 Transition from Chhattisgarh Commercial Tax to Chhattisgarh Value Added Tax

Highlights

- Due to the absence of a provision for disclosing the opening stock of the dealers under the VAT Act, the department was not in a position to ascertain the correctness of the returns submitted by the dealers.

(Paragraph 2.3.8)

- Neither the Act/Rules nor any departmental instruction prescribed any provision for preliminary checks, such as correctness of calculation, application of correct rate of tax, completion of the returns etc., due to which the returns were not being scrutinized by the assessing authorities.

(Paragraph 2.3.10)

- There was no system prescribed for verifying the input tax credits claimed by the dealers. Consequently, input tax credits were being allowed to the dealers without any verification or checks.

(Paragraph 2.3.12)

- Though the check gates had been computerised, these were not inter-linked with the assessing officers due to which the assessing officers could not effectively utilize the records of the check gates while verifying the returns/completing the assessments.

(Paragraph 2.3.13)

2.3.1 Introduction

With a view to making the tax structure simple and more transparent, the Government of India, Ministry of Finance, constituted an Empowered Committee of State Finance Ministers. The design of State level Value Added Tax (VAT) has been worked out by the Empowered Committee through several rounds of discussion. The committee decided to implement VAT system in its meeting (January 2002) with a common basic design.

The benefits aimed by the implementation of VAT included, inter alia, eliminating the cascading effect by giving a set off for input tax as well as tax paid on previous purchase, abolishing other taxes such as turnover tax and surcharge, the over all tax burdens were to be rationalised and there would be self assessment by dealers.

As VAT is a State subject, the States were given freedom for making appropriate variations in their State level laws.

The Government of Chhattisgarh repealed the CG Commercial Tax Act (CGCT Act) and enacted the CG Value Added Tax Act (CGVAT Act), 2005 for implementation with effect from 1 April 2006 with a delay of one year

against the commitment of all the States as per paragraph 1.7 of white paper. A dealer registered under the repealed Act, who continued to be so registered on the day immediately before 1 April 2006 and was liable to pay tax, was deemed to be registered under the CGVAT Act. Every registered dealer of any specific class or category, as the Government may by notification direct, would have to pay turnover tax and would be assigned with unique "Taxpayers' Identification Number (TIN)". As per the Act, a dealer is liable to pay tax on the value added to the purchase value of goods in the course of his business.

Differences between CG Commercial Tax Act and CG VAT Act

Some of the differences between the existing VAT Act and Commercial Tax Act were as under:

- VAT is multipoint tax system while commercial tax was single/double point tax system;
- VAT system relies more on the dealers to pay the tax willfully and submit their returns and deemed self assessment; whereas supporting documents were required along with returns in the repealed Act;
- a fixed percentage of cases is provided for detailed check in CGVAT Act; while 100 *per cent* cases were to be assessed under the repealed Act; and
- reduced controls of the executive on the dealers in VAT system while many other kinds of taxes such as additional tax, turnover tax etc. were there in the repealed Act.

A review was undertaken to ascertain the measures taken by the Government for smooth transition from CGCT Act to CGVAT Act which reveals a number of deficiencies which are discussed in the succeeding paragraphs.

2.3.2 Organisational set up

The receipts from Value Added Tax are administered by the Commissioner of Commercial Taxes (CCT) under the overall control of the Principal Secretary, Finance, Government of Chhattisgarh. He is assisted by two Additional Commissioners (Addl. CCTs), five Dy. Commissioners (DCs), 21 Assistant Commissioners (ACs) and 19 Commercial Tax Officers (CTOs).

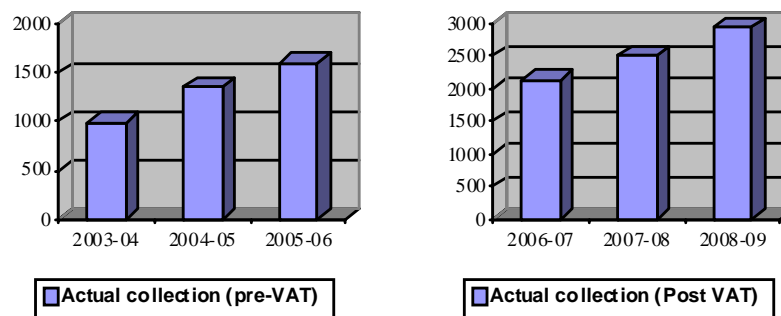
2.3.3 Audit objectives

The review was conducted to ascertain whether:

- the planning for implementation and the transition from the CGCT Act to CGVAT Act was effected timely and efficiently;
- the organisational structure was adequate and effective;
- the provisions of the VAT Act and the rules were adequate and enforced properly to safeguard revenue of the State;
- an adequate and effective internal control mechanism existed in the department to prevent leakage of revenue; and
- to check the status of system which has been in place for three years.

2.3.4 Scope of audit and methodology

The review was conducted in seven circles¹² and two divisions¹³ covering the period from 2006-07 to 2008-09. The circle IV, Raipur was selected initially for pilot study and the remaining six circles and two divisions were selected by stratified random sampling.



The average growth during 2003-04 to 2005-06 (pre-VAT period) was 27.98 per cent while the average growth from 2006-07 to 2008-09 (post-VAT period) was 22.74 per cent.

2.3.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing the necessary information and records for audit. In the entry conference held with the Department on 19 March 2009 in respect of the review on 'levy and collection of central sales tax', mention was also made of the audit objective, scope and methodology of this review. The draft review was forwarded to the Government and the department in September 2009. An exit conference was held on 26 October 2009 in which the results of audit and the recommendations were discussed with the Commissioner. The replies of the government received during the exit conference and at other points of time have been appropriately included in the respective paragraphs.

Audit findings

2.3.6 Pre-VAT and post-VAT tax collection

The comparative positions of pre-VAT commercial tax collection (2003-04 to 2005-06) and post-VAT (2006-07 to 2008-09) tax collection and the growth rates are shown below:

(Rupees in crore)

Pre-VAT			Post VAT		
Year	Actual collection	Percentage of growth (over previous year)	Year	Actual collection	Percentage of growth (over previous year)
2003-04	989.23	28.79	2006-07	2,140.71	33.56
2004-05	1,347.17	36.18	2007-08	2,502.70	16.91
2005-06	1,602.85	18.98	2008-09	2,946.78 (tentative)	17.74

¹² Circle II, III Durg and Circle I, II, III, IV, V Raipur.

¹³ Durg and Raipur.

System issues

2.3.7 Deficiencies in the Act and the Rules

The review indicated a number of deficiencies in the provisions of the VAT Act and the Rules, which persisted during the period covered under the review. Some of the important deficiencies are discussed below.

2.3.8 Registration and filing of returns under the Act

According to Section 4 of CG VAT Act, 2005 every dealer has to get registered in the prescribed manner within thirty days of the commencement of the Act. On registration, the dealers are assigned a unique Taxpayer's Identification Number (TIN).

Scrutiny of the procedure for registration of dealers indicated that they are not required to disclose their opening stock under CGVAT Rules 2006. As this could lead to evasion of VAT, it is recommended that such a provision may be made.

Test check of the records of seven circles indicated that large number of dealers registered under VAT Act have not filed their quarterly returns in Form-17, consecutively for three years, as depicted in the table below:

Year	Total number of TIN dealers	Number of TIN dealers that did not file returns for three years	Percentage of dealers not filing returns
2006-07	24,280	8,368	34.46
2007-08	26,190	9,933	37.92
2008-09	27,946	13,081	46.80

The department had not taken action to verify the reasons for non-submission of the returns. It is recommended that the cases should be scrutinised.

During the exit conference, the department agreed with the recommendation and decided that a special drive would be undertaken to do spot verification of the defaulting dealers to ascertain the reasons for non-filing of returns and corrective action would be taken, wherever necessary.

2.3.9 Deficiencies in uploading data in TINXSYS

Tax Information Exchange System (TINXSYS) is a centralised database of all inter-state transactions between dealers and details of statutory forms issued by States and Union Territories. TINXSYS will help the Commercial Tax Departments of various States and Union Territories to effectively monitor the interstate trade and verify the genuineness of statutory forms submitted by dealers in support of claims for concessions under the CST Act.

During the course of audit, the department stated that it had not prepared a database of dubious/risky dealers as required by the TINXSYS. However, with effect from 17 April 2009, it is using the system to view the data uploaded by other States. Audit observed that the department has not uploaded the information of declaration forms issued to its dealers in the website.

Scrutiny of the website revealed that though the site was showing the name of the dealer to whom a declaration form is issued, yet in some cases the other fields were not filled up and thus other vital information are not available from the site. **Thus, due to not uploading the entire data or without full details, the information available in the site could not serve the very purpose for which it was created.**

The Government may consider initiating steps to upload the information regarding declaration forms issued to its dealers, to make the site more useful.

2.3.10 Absence of system for scrutiny of return

According to Section 21(2) of CGVAT Act, if a registered dealer has furnished all quarterly returns in the prescribed manner and within the prescribed time, has deposited the tax payable according to the returns and has furnished all the statements under clause (b) of sub Section 1 of Section 19 within the prescribed time, then the returns shall be accepted and assessment shall be deemed to have been made.

Neither the Act nor the rules made thereunder provide for any preliminary checks, such as correctness of calculation, application of correct tax rate, completeness of return etc. The Department has also not prescribed any procedure for the same. It is, therefore, recommended that some system for preliminary scrutiny be prescribed to minimise the risk of tax evasion by submitting incorrect or incomplete returns.

During the exit conference, the department intimated that, in practice, most of the returns were not fulfilling the criteria for being considered as deemed to be assessed and would be subject to assessment. Therefore, all aspects of the return would automatically get scrutinised. However, the recommendation should be examined further by the department because in subsequent years, with increasing familiarity with the provisions, more and more returns would be categorised as deemed to be assessed and would, therefore, not be subjected to any form of scrutiny.

2.3.11 Absence of provisions in the Act/Rule to include purchase from unregistered dealers

According to Section 4 of CGVAT Act, a registered dealer purchasing goods as specified in Schedule II from another such dealer within the state after payment to him of tax and/or purchasing goods specified in Schedule I and whose turnover in a year does not exceed Rs. 50 lakh, may opt, in the prescribed form, for payment, in lieu of tax, a lump sum at such rate not exceeding *four per cent*. **The quarterly return prescribed in this Section (Form 17), however, does not have the provision to capture purchase from unregistered dealers for levy of purchase tax.**

The Government may consider providing purchase details in the interest of revenue.

2.3.12 Absence of system for verification of input tax credit

According to Section 13 of CGVAT Act a rebate of input tax shall be claimed by or be allowed to a registered dealer, after payment of tax, when he purchases any goods specified in Schedule II within the State of Chhattisgarh for sale within the State/for inter-state sale/for export/for stock transfer to its branch in other State. Dealer will claim the same in his quarterly return submitted in Form-17.

Scrutiny of the returns filed by the dealers indicated that they are claiming the rebates as provided in the Act, but the departmental officers have no way of verifying their correctness. This could lead to claiming of incorrect rebates, which would remain undetected. **It is recommended that sale/purchase lists of all dealers should be brought online as this would enable the assessing officers to verify the purchases claimed by the assessees, from the sale lists of the selling dealers and to modify the format of the return providing details of purchases made from unregistered dealers as well.**

During the exit conference, the department intimated that a software for submission of online returns was being developed in which provision would be made for submission of purchase and sale lists by all dealers in their quarterly returns.

2.3.13 Check posts not linked to circles

The declarations for goods being brought into and taken out at the check posts represent voluminous data and, therefore, cannot be used easily by the assessing officers for cross verification. However, if this data is put online, it will greatly empower the assessing officers. It was observed that computers are installed at the check posts but not linked to the circles. The declarations obtained from transporters are fed in the computers and circle wise compact disks (CDs) are prepared and forwarded to the concerned circles. However, the assessing officers are still not able to verify the declaration with the data provided by the dealers in their returns, due to non-availability of CD, defective CD, outdated information etc. **It is therefore, recommended that the check posts may be linked to the circles/headquarter.**

During the exit conference, the department intimated that leased lines and modems had been installed at all the check posts, the software was being developed and the check posts were expected to be linked in the near future.

2.3.14 Shortage of manpower

Manpower management is a key factor for smooth and efficient working of a department and shortage of personnel is a serious problem that impacts output, besides delaying the disposal of urgent cases.

From the information furnished by the Commissioner, Raipur, it was seen that there was manpower shortage during last three years in various cadres. At the end of March 2009, out of 1,729 sanctioned posts, 883 posts in various cadres, which is more than 50 *per cent* of sanctioned posts, were lying vacant. The vacancy position in the pre-VAT period was only 21 *per cent*. The number of

VAT dealers as on March 2008 had increased¹⁴ by 24 *per cent* as compared to March 2005. For better tax administration under VAT, the department was required to computerise its operations in a big way and accordingly created new posts of system analyst, programmers, assistant programmers and data entry operators. However, it did not simultaneously reassess the requirement of other existing posts viz. commercial tax officer, assistant commissioner, deputy commissioner and additional commissioners, reader, assistant grade II and III that were in the computerised work environment.

It was therefore recommended that the department may reassess the requirement of strength in post-computerisation scenario, for better tax administration.

During the exit conference, the department agreed that there were shortages and intimated that data entry operators were being hired, it had rationalised the manpower deployment and had effected many pending promotions.

2.3.15 Conclusion

The review revealed a number of instances and compliance deficiencies. Due to the absence of provision for disclosing the opening stock by the dealers under the VAT Act, the department was not in a position to ascertain the correctness of the returns submitted by the dealers. Neither the VAT Act/Rules nor any departmental instruction provided for the preliminary checks of the returns, such as correctness of the returns, application of correct rates of the taxes, verification of the input tax credits, completion of the returns etc., due to which the returns were not being scrutinised properly. Though the check gates had been computerised, these were not inter-linked with the assessing officers due to which the assessing officers could not utilise the check gate records effectively while conducting the assessments/scrutiny of the returns. The department had not uploaded the requisite information, relating to the forms issued to its dealers, on the TINXSYS website. There was absence of provisions for scrutiny of the returns and furnishing the details of purchases from the unregistered dealers.

2.3.16 Summary of recommendations

The Government may consider the following recommendations to rectify the deficiencies:

- making mandatory the declaration of opening stock at the time of registration;
- carrying out a review of all registered dealers who have not been submitting returns for three years;
- making provision in the software being developed, for submission of purchase lists and sale lists on line by the dealers; and
- linking the check posts with the headquarter/circles.

¹⁴ Increased from 50,498 in March 2005 to 62,685 in March 2008.

2.4 Other audit observations

Scrutiny of the assessment records under Commercial Tax Act maintained in Commercial Tax Department indicated cases of non-observance of provisions of Act/Rules, short levy of tax which are mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of AAs are pointed out in audit each year but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need for Government to improve the internal control system including strengthening of internal audit to ensure that such omissions are detected and rectified.

2.5 Non-compliance of the provisions of the Act/Rules

The Chhattisgarh Commercial Tax Act provides for :

- i) *levy of penalty on concealed turnover; and*
- ii) *levy of tax at the rate as specified in Schedule II appended to the Act.*

Non-observance of the above provisions resulted in non/short realisation of revenue as mentioned below.

2.6 Non-levy of penalty

According to the provisions of the CGCT Act if the Commissioner or the appellate or the revisional authority during any proceeding is satisfied that the dealer has concealed his turnover or the aggregate amount of purchase prices in respect of any goods or has furnished false particulars of his sales or purchases in his return, the authority concerned may impose penalty to the extent of five times, but in no case less than three times of the amount of tax evaded.

2.6.1 Test check of the records of the Assistant Commissioner (AC), Raipur (November 2008) indicated that a dealer engaged in sale and purchase of edible oil and sugar was assessed in February 2008 for the period April 2005 to March 2006. The dealer had concealed the inter-state sale of sugar valued at Rs. 13.81 crore which resulted in under statement of turnover. Although tax of Rs. 13.81 lakh was imposed on the sale value of the concealed turnover, the penalty of atleast Rs. 41.43 lakh for concealment of turnover was not levied.

After the cases were pointed out, the Assessing Officer (AO) replied (November 2008) that the proceeding for penalty under Section 69 was being processed against the dealer. Further progress has not been received (November 2009).

2.6.2 Test check of the records of the AC-II, Durg in March, 2008 indicated that three dealers engaged in purchase and sale of iron and steel, coke and manufacture and sale of HB¹⁵ wire and MS¹⁶ wire were assessed in December 2004 for the period April 2001 to March 2002. Though the dealers have declared transactions worth Rs. 17.23 crore as interstate sale/sale of tax paid goods but had not submitted any proof in support of their claims for

¹⁵ Hard and Black.

¹⁶ Mild Steel.

exemption of Rs. 50.05 lakh and thus tax was imposed by the AO against this amount, but the minimum penalty of Rs. 1.50 crore for concealing the tax liability as provided in the Act was not levied.

After this was pointed out, the assessing authority (AA) replied (October 2008) that since assessments were made ex-parte, penalty under Section 69 of the Act cannot be levied. However, the fact remains that the assessee had willfully tried to evade tax by misclassifying the transaction as interstate sale/sale of tax paid goods and, therefore, penalty was leviable while finalising the assessments.

The matter was reported to the department and the Government (October 2008); their reply has not been received (November 2009).

2.7 Short levy of tax

According to Section 9 of the CGCT Act read with Schedule II, commercial tax on acetylene and oxygen gases is leviable at 9.2 *per cent* (including surcharge of 15 *per cent*) on the taxable turnover.

Test check of the records of the AC, Raipur (January 2007) indicated that a dealer engaged in the manufacture and sale of acetylene and oxygen was assessed in January 2004 for the period April 2000 to March 2001. Commercial tax was levied at 4.6 *per cent* instead of 9.2 *per cent* on sale of acetylene and oxygen gas of Rs. 1.25 crore. This resulted in short levy of tax of Rs. 5.51 lakh.

After the case was pointed out (December 2008), the Government (October 2009) stated that in the absence of specific entry in schedule II for 2000-01, tax on acetylene and oxygen gas has been levied on the basis of order passed under Section 68 by the Commissioner.

The reply is not tenable as Schedule II has specific entries for acetylene and oxygen to be taxed at eight *per cent* (9.2 *per cent* with surcharge) during the period from April 2000 to March 2001.

CHAPTER - III: STAMP DUTY AND REGISTRATION FEE

3.1 Results of audit

Test check of the records relating to assessment, levy and collection of stamp duty and registration fee (Registration Department) during 2008-09 indicated cases of fraud committed by the executants and stamp vendors; non/short assessment of stamp duty and registration fees; loss of revenue due to undervaluation, misclassification and inordinate delay in disposal of cases amounting to Rs. 6.63 crore in 635 cases which could be classified under the following categories.

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
1.	Inordinate delay in disposal of cases	263	4.14
2.	Loss of revenue due to undervaluation of instruments	240	1.55
3.	Loss of revenue due to misclassification of instruments	41	0.59
4.	Loss of revenue due to underassessment of stamp duty	24	0.18
5.	Others	67	0.17
Total		635	6.63

During the year 2008-09, the department accepted deficiencies involving Rs. 38 lakh in 13 cases.

After issue of the draft paragraphs, the Registration Department recovered Rs. 1.76 lakh in seven cases.

A few illustrative audit observations involving revenue of Rs. 1.60 crore are mentioned in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of the records of the various registration offices indicated cases of non-compliance of the provisions of the Indian Stamp Act, 1899, Registration Act, 1908 and Government notifications/instructions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed out repeatedly, but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

3.3 Non-compliance of provisions of the Act/Rules

The provisions of Indian Stamp Act, Registration Act and Rules made thereunder provide for:

- (i) levy of stamp duty on market value of the property;*
- (ii) exemption of stamp duty on fulfillment of prescribed conditions; and*
- (iii) correct classification of documents.*

The registering authorities did not observe some of the above provisions at the time of registration of document in cases mentioned in the paragraphs 3.4 to 3.7.

3.4 Short levy of stamp duty and registration fees due to fraud committed by the executants and stamp vendor

According to Section 2(12) of the Indian Stamp Act, a deed is executed when it is signed and immediately becomes chargeable. Charges are payable on the basis of value of the property mentioned in the deed and it shall be paid by way of stamp or franking as prescribed in the section 2(11) of the Indian Stamp Act. Further, according to section 23 of the Registration Act, the deed may be presented for registration within a period of four months from the date of execution, alongwith the essential documents specified in Section 21 of Registration Act, without which the deed can not be registered. The stamp vendors maintain stamp sales registers. Whenever a stamp is sold, the stamp vendor records in the register, the details of sale; such as the date of sale of stamp paper, name of the purchaser and purpose for which the stamp papers are to be used and simultaneously records the serial number of the stamp sale register, name of purchaser and purpose on the body of the stamp.

Test check of the records of Sub-registrar (SR), Raipur in May 2008 indicated that in ten cases, the stamp duty and registration fees were levied by assessing the value based on market rate of 2005-06. Of these, in six deeds, the serial numbers of the stamp sale register recorded on the body of related stamp papers were actually not available in the stamp sale register of the vendor. In other four deeds, the serial numbers of the stamp sale register recorded on the body of stamp paper were found to be related to some other sales. After establishing that the serial numbers were fictitious, it was further verified from the treasury that the stamp papers used in eight deeds were actually issued by the treasury in

June/July 2006, subsequent to the execution dates shown on the deeds. In two other cases, the stamp vendor sold the stamp papers in July 2006, as evident from the stamp sale register. It was evident that the stamp papers were actually sold in 2006-07 and the deeds executed during the same year. The valuation of the properties should have been done on the market rates fixed for 2006-07 but the deeds were fraudulently backdated so that lower valuations of 2005-06 could be applied.

This fraudulent act resulted in undervaluation of property as Rs. 40.98 lakh instead of the actual value of Rs. 3.05 crore and consequent short levy of stamp duty along with registration fees of Rs. 27.76 lakh.

After the cases were pointed out (March 2009), the Government stated (October 2009) that the sub-registrar, who was *prima-facie* found responsible in eight cases, had been suspended and the district registrar had been directed to lodge a first information report with the police against the stamp vendor concerned. The remaining two cases were being examined in the court of district registrar as instances of undervaluation. A report on recovery of deficit stamp duty in the eight cases had not been received (November 2009).

3.5 Short levy of stamp duty and registration fees due to acceptance of incomplete deeds

According to Section 21 of the Registration Act, the sale deed of a property will not be accepted for registration, till it is supported with the land map, B-1 kind of property, *khasra*¹, etc. Further, according to Section 23 of the Registration Act, a deed must be presented for registration within a period of four months from the date of its execution.

Scrutiny of the records of the SR, Raipur (May 2008) indicated that three deeds were presented for registration on 14 February 2006. The SR registered these deeds on 11 March 2008 and assessed stamp duty of Rs. 1.46 lakh using the valuation rates applicable for the year 2005-06 considering the date of presentation of the deeds.

Verification of the supporting essential documents i.e. *khasra*, B-1, map etc., attached to the deeds revealed that these were issued by the concerned authorities in August 2007. Thus, it is evident that these essential documents could not have been enclosed when the deeds were presented, i.e. on 14 February 2006, to the SR. Therefore, he should not have accepted the incomplete cases for registration as per Section 21. Had the SR acted as per provisions, the executants would have been forced to resubmit the cases only in August 2007, when they acquired the essential documents and stamp duty would have been assessed at Rs. 11.96 lakh using the rates applicable for the year 2007-08. However, the SR accepted the incomplete deeds and assessed the duty at the rates of 2006-07 and this resulted in undue benefits to the executants and short realisation of stamp duty and registration fees of Rs. 10.50 lakh.

¹ Field book containing record of rights with the area and assessment of agriculture survey number.

After the cases were pointed out (March 2009), the Government stated (October 2009) that the cases had been sent to the collector of stamps for effecting recovery and the SR concerned had been suspended. A report on recovery had not been received (November 2009).

3.6 Undervaluation of properties

The Indian Stamp Act requires the market value of property to be specified in any deed for its conveyance. This value is the basis for determining the stamp duty and registration fee leviable. The Act empowers a SR to refer the documents to the collector for determination of market value of the property. If there are reasons to believe that market value of the property have not been truly set forth in the document then such cases are to be finalised by the collector within a period of 90 days, as per Inspector General Registration and Superintendent of Stamps instructions of September 2003.

3.6.1 Test check of the records of eight² SRs indicated that 85 instruments registered between April 2002 and March 2008 were valued at Rs. 10.49 crore whereas the market value of these documents was Rs. 21.22 crore at the time of execution. The SRs did not refer these cases to the collector for determination of correct market value. This resulted in short realisation of stamp duty and registration fee of Rs. 1.10 crore.

After this was pointed out (July 2008 and July 2009), the Government stated (April 2009 and September 2009) that the SR, Takhatpur had made recovery of Rs. 27,747 in two cases; valuation had been found correct in one case and further action was being taken in the remaining four cases. As regards the cases pertaining to SR, Raipur, 18 cases had been referred to the collector of stamps for determination of the correct market value. In cases pertaining to SR, Kathghora, recovery of Rs. 1.48 lakh had been made in five cases and further action was being taken in four cases. Replies have not been received in the remaining 51 cases pertaining to the other five SRs³ (November 2009).

3.6.2 Test check of the records of SR, Raigarh (June 2007) indicated that 15 cases were referred by the SR to the collector of stamps for determination of the correct market value of properties during the period September 1995 to March 2007. The cases were still pending with the collector of stamps for determination of the correct market value. The delay ranged between 2 and 14 years. The pending cases involved unrealised revenue of Rs. 8.23 lakh.

After the cases were pointed out (August 2008) the department stated (January 2010) that in 15 cases, the objected amount is Rs. 2.56 lakh instead of Rs. 8.23 lakh. Recovery of Rs. 83,849/- was made in eight cases and the market value has been correctly declared in five cases and remaining two cases are pending for decision. The reply is not in consonance with the audit objection as out of 15 cases referred by Sub Registrar only 2 cases relate to the audit objection which is pending for decision. This is brought to the notice of the Department (January 2010).

The matter was reported to the Government (August 2008); their reply has not been received (January 2010).

² Bilaspur, Bemetara, Kawardha, Kathghora, Patthalgaon, Raipur, Surajpur and Takhatpur.

³ Bilaspur, Bemetara, Kawardha, Patthalgaon and Surajpur.

3.7 Short levy of stamp duty and registration fees due to misclassification of instruments.

As per the provision of Indian Stamp Act, every instrument mentioned in its schedule I-A shall be chargeable to stamp duty at the rates prescribed in the schedule.

Test check of the records of Sub-registrar, Patthalgaon indicated (June 2008) that two instruments were registered in October 2005 and January 2007 as family arrangement deed and lease deed respectively whereas according to the contents and clauses of the documents, they should have been classified as release and conveyance deeds. This resulted in short levy of stamp duty of Rs. 4.44 lakh.

After the cases were pointed out (November 2008), the Government replied (July 2009) that the documents had been referred to the collector of stamps and its decision would be intimated to audit. The decision has not been received (November 2009).

CHAPTER IV: ELECTRICITY & SAFETY

4.1 Results of audit

Test check of the records of Electricity and Safety Department conducted during the year 2008-09 indicated non/short realisation of electricity duty and cess and non-realisation of duty due to irregular exemption amounting to Rs. 49.86 crore in 16 cases which could be classified under the following categories.

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1	Short/non-realisation of electricity duty and interest by CSEB ¹ and other captive power producers	07	45.69
2	Non-realisation of duty due to irregular exemption to private electricity producers	03	2.15
3	Non-levy of energy development cess and interest on single point connection	03	1.63
4	Other irregularities	03	0.39
Total		16	49.86

During the year 2008-09, the department accepted deficiencies involving Rs. 30 lakh in four cases.

After issue of the draft paragraphs, the department recovered Rs. 11.96 lakh in full in one case.

A few illustrative audit observations involving Rs. 23.68 crore are mentioned in the succeeding paragraphs.

¹ Chhattisgarh State Electricity Board

4.2 Audit observations

Scrutiny of the records of the Chief Electrical Inspector/Divisional Electrical Inspector indicated cases of non-observance of the provisions of the Madhya Pradesh Electricity Duty Act, 1949, Madhya Pradesh Upkar Adhiniyam, 1981 (as adopted in Chhattisgarh) and Chhattisgarh Upkar Sanshodhan Adhiniyam, 2004 as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed repeatedly, but irregularities still persist. There is need for the Government to improve the internal control system.

4.3 Non-compliance of provisions of the Act/Rules

The provisions of Madhya Pradesh Electricity Duty Act, Madhya Pradesh Upkar Adhiniyam, 1981 (as adopted in Chhattisgarh) and Chhattisgarh Upkar Sanshodhan Adhiniyam, 2004 provide for levy and collection of electricity duty, energy development cess and interest for delayed payment of duty and cess. Electricity producers/distributors did not observe the above provisions and prescribed procedures for payment of electricity duty and energy development cess in cases as mentioned in paragraphs 4.4 to 4.6.

4.4 Short-realisation of electricity duty and cess

Under the provision of Section 3 of the Madhya Pradesh Electricity Duty Act, every distributor and every producer of electrical energy shall pay electricity duty on or before the stipulated date every month. In case of failure to pay the duty within the prescribed date, the distributors/producers of electricity are required to pay interest, under Section 5 of the Act, at the rate prescribed vide notification dated 22 July 1975.

Test check of the records of the Chief Electrical Inspector, Raipur (October 2008) indicated that the Chhattisgarh State Electricity Board (CSEB), sold 10,613.21 million units of electricity to consumers during April 2007 to March 2008 for which duty and cess of Rs. 350.84 crore was payable. The CSEB paid Rs. 334.81 crore which resulted in short realisation of duty and cess amounting to Rs. 16.03 crore and interest of Rs. 3.04 crore.

The matter was reported to the Department and the Government (May 2009). The department stated (July 2009) that CSEB has not paid the balance of Rs. 19.07 crore and the matter has been referred to the Government. Reply from the Government has not been received (November 2009).

4.5 Non-realisation of cess and interest on single point connection

According to Rule 3 of Madhya Pradesh Upkar Adhiniyam, 1981 read with Chhattisgarh Upkar (Sanshodhan) Adhiniyam 2004, every distributor of electrical energy shall pay, in addition to the electricity duty, an energy development cess at the rate of one *paisa* per unit till August 2004 and thereafter at the rate of five *paise* per unit on the total units of electrical energy sold or supplied to a consumer or consumed by himself or his employees. Further, as per Rule 5(1) of the Act, the unpaid cess shall carry interest at the rates prescribed vide notification dated 22 July 1975.

Test check of the records (September 2008) of the Divisional Electrical Inspector, Bilaspur indicated that the CSEB distributed/sold 34,58,15,713 units of electricity to consumers under single point connection scheme but did not pay the cess of Rs. 1.63 crore. The department also did not raise demand notice for realisation of the cess. This has resulted in non-realisation of cess of Rs. 1.63 crore and interest thereon of Rs. 80.94 lakh.

After this was pointed out (April 2009), the department stated (June 2009) that requests were made to CSEB from time to time for payment of cess. It was further stated that the cess of Rs. 2.41 lakh in respect of Raigarh division was not payable as it was computed by audit at the rate of five *paise* per unit instead of one *paise* applicable for the period up to August 2004.

The second part of the reply is not correct as audit has computed the cess at the rate of one *paise* per unit up to August 2004 and not at the rate of five *paise* per unit as stated by the department. Further reply has not been received.

The matter was reported to the Government (April 2009); their reply has not been received (November 2009).

4.6 Non-levy of duty due to irregular exemption

According to Section 3 of the Madhya Pradesh Electricity Duty Act 1949 (as adopted by Chhattisgarh), every distributor of electrical energy and every producer shall pay each month to the State Government within the prescribed date and in the prescribed manner, a duty calculated on the electrical energy sold/supplied/consumed at the specified rate. Neither the Act nor any instructions of Government provide for any deduction on account of transit loss.

Audit scrutiny revealed that the Government has also not prescribed norms for computing transit loss. In some cases it has been allowed while in other cases no loss was allowed.

Test check of the records of the Chief Electrical Inspector, Raipur in October 2008 indicated that three² captive power producers, during the period April 2007 to March 2008, claimed exemption from the payment of electricity duty on account of loss in transit calculated at three *per cent*. This resulted in non-realisation of revenue of Rs. 2.17 crore.

After the cases were pointed out (March 2009), the Government stated (June 2009) that the practice for allowing rebate on line loss was prevailing since Madhya Pradesh regime and the same practice was being followed. It also stated that as per the letter of the Electrical Advisor and Chief Electrical Inspector, Government of Madhya Pradesh, Bhopal, issued in November 1984, three *per cent* transit loss was allowed.

The reply is not in consonance with the provisions of the Electricity Duty Act 1949, which does not provide for any transit loss. The authority of 1984 quoted by Government is a letter of the CEI and not a decision/order of the Government. It was also observed in the case of Prakash Industries, Champa (another captive power producer), that no rebate had been allowed for line

² Bhilai Steel Plant (BSP), Bharat Aluminium Corporation Ltd (BALCO), Korba and Electric Supply Company Pvt. Ltd. (ESC), Bhilai.

loss/transit loss. It was, therefore, evident that the department was not following a uniform policy for allowing transit loss. Although this issue was raised earlier in paragraph 5.4 of AR 2007-08 of Government of Chhattisgarh, the Government has not issued any orders/norms relating to transit loss.

The department may frame clear guidelines for measuring/assessing the transit loss and make a provision in the act for exemption on account of transit loss.

CHAPTER V: OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records of Departments of State Excise, Transport and Land Revenue conducted during 2008-09 revealed non-recovery of duty, short realisation of licence fees, non-levy of penalty, delay in crediting of process fees and non/short levy of entertainment duty amounting to Rs. 89.91 crore in 5,597 cases which fall under the following categories:

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
STATE EXCISE AND ENTERTAINMENT DUTY			
1.	Short realisation of licence fees	8	9.33
2.	Non-levy of penalty for failure to maintain minimum stock of spirit in warehouses	23	5.08
3.	Other irregularities	192	3.38
	Total	223	17.79
TAXES ON VEHICLES			
1.	Non/short realisation of tax and penalty	1,554	10.13
2.	Other irregularities	204	1.76
	Total	1,758	11.89
LAND REVENUE			
1.	Non/short levy and realisation of process fees, premium, cess, etc.	3,312	31.23
2.	Other irregularities	304	29.00
	Total	3,616	60.23
	Grand total	5,597	89.91

During the year 2008-09, the concerned departments accepted underassessment, non/short levy of duty, non/short realisation of tax and penalty etc. of Rs. 48.23 crore in 3,368 cases.

After issue of the draft paragraphs, the department recovered Rs. 18.75 lakh in seven cases in full.

A few illustrative audit observations involving Rs. 6.72 crore are mentioned in the succeeding paragraphs.

5.2 Audit observations

Scrutiny of the records of State Excise, Transport and Land Revenue Departments revealed several cases of non-observance of provisions of Rules and regulations made under the relevant Act which are mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test checks carried out in audit. Such omissions are pointed out in every year, but not only the irregularities do persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such cases can be avoided.

5.3 Non-compliance of the provisions of the Acts/Rules

The provisions of the Chhattisgarh Country Spirit Rules; Madhya Pradesh Finance Code and Madhya Pradesh Treasury Account Code (as adopted in Chhattisgarh); Entertainment Duty and Advertisement Tax Act, 1936; Chhattisgarh Motoryan Karadhan Adhiniyam, 1991; Central Motor Vehicle Rules, 1989 and Chhattisgarh Adhosanrachana Vikas Paryavaran Upkar Adhiniyam, 2005 provide for :

- levy of penalty for failure to maintain minimum stock of spirit in warehouses;*
- remittance of the Government receipts into the treasury;*
- levy of the entertainment duty on proprietors of cable operators;*
- levy of the trade tax on automobile dealer;*
- levy of the taxes on passenger/transport vehicle; and*
- levy of the environment and development cess on mining lease.*

The concerned authorities did not follow some of the above provisions resulting in non-levy/short realisation/loss as mentioned in paragraphs 5.4 to 5.9.

STATE EXCISE AND ENTERTAINMENT DUTY

5.4 Non-levy of penalty for failure to maintain minimum stock of spirit in warehouses

According to the Rule 4(4) of Chhattisgarh Country Spirit Rules, a licensee shall maintain at each storage warehouse, a minimum stock of bottled liquor equivalent to average issue of five days of the preceding month. In the event of failure to maintain the minimum stock of spirit in warehouse, the collector may impose a penalty not exceeding Rs. two per litre on the licensee, for the quantity found short of the prescribed minimum stock. This penalty shall be payable by the licensee irrespective of whether any loss has actually been caused to the Government or not.

Scrutiny of the records of Assistant Commissioner, State Excise, Mahasamund (September 2008) indicated that there were 622 occasions when the licensees did not maintain the minimum stock but the department did not initiate action to levy penalty after scrutinising the returns of the licensees. Consequently, penalty of Rs. 90.58 lakh was not levied on 45.29 lakh proof litre (PL) of spirit found short in two storage warehouses at Mahasamund and Basna.

After the cases were pointed out (March 2009), the Government stated (September 2009) that show cause notices have been served to the licencees. Personal hearing has been made in the case before the collector on 28 July 2009. Final decision had not yet been taken and further progress will be intimated. Further developments had not been reported (November 2009).

5.5 Loss due to delay in remittance of revenue receipts into the treasury

As per Rule 53(1) of the Madhya Pradesh Finance Code and MP Treasury Account Code, the Government servant responsible for receiving Government money should remit it into the treasury as soon as it is received.

Test check of the records of the District Excise Officers (DEO), Kanker and Kawardha (July and September 2008) indicated that process fee of Rs. 17.19 crore and Rs. 83.87 lakh received by the DEO, Kawardha and Kanker respectively in the form of Bank Drafts, Banker's cheque or Pay orders issued by nationalised banks/scheduled commercial banks were remitted into the treasury with a delay of one to ten months. Therefore, these amounts remained outside the cash balance of the government with Reserve Bank of India and resulted in loss of interest of Rs. 22.06 lakh calculated at the rate for investment of cash balances in treasury bills.

After the cases were pointed out (January 2009), the Government stated (March 2009) that drafts received as process fee are payable at various banks situated in various places in the district. After segregating it bank wise, they are sent to the bank through challans for being credited in Government account. They further added that the bank accepts a limited number of cases for credit, which causes delay in crediting amount in Government account.

The reply only outlines the normal procedure for depositing of drafts and does not explain the huge delays. The system is required to be streamlined in consultation with the concerned bank to minimise the processing time so that the loss to Government is avoided.

5.6 Non-recovery of entertainment duty

As per Section 3A and 3B of the Entertainment Duty and Advertisement Tax Act 1936, proprietors of video cassette recorder and video cassette player rentals and cable operators shall pay entertainment duty per month to the State Government at the specified rates.

Test check of the records (January 2006 and November 2007) of four DEOs/Assistant Commissioners¹ indicated that six proprietors of video cassette recorder/video cassette player and 32 cable operators failed to pay the entertainment duty amounting to Rs. 7.16 lakh.

After this was pointed out (October 2008), the Government reported (October 2009) recovery of Rs. 1.90 lakh and stated that action is being taken for the recovery of balance of Rs. 5.26 lakh. Report on recovery of balance amount has not been received (November 2009).

¹ Bilaspur, Durg, Jagdalpur and Jashpur.

TAXES ON VEHICLES

5.7 Short realisation of trade tax from dealers

According to Section 4 of the *Chhattisgarh Motoryan Karadhan Adhiniyam*, read with Rule 33 of Central Motor Vehicle Rules 1989, a dealer to whom a trade certificate has been issued under the Motor Vehicles Act, 1988, will pay trade tax in respect of vehicles in his possession during the course of business. Schedule III of *Chhattisgarh Motoryan Karadhan Adhiniyam*, specifies the rate of trade tax for first seven vehicles and for every lot of additional seven vehicles in possession of the dealer during the course of his business.

Test check of the records of five² transport officers (July 2007 - February 2008) indicated that 360 automobile dealers had obtained trade certificates from the respective transport offices. It was observed that 1,13,416 vehicles were registered during 2004-05 and 2006-07. However, dealers paid trade tax of Rs. 6.18 lakh only as against Rs. 2.07 crore payable during the period at the rate prescribed in Schedule III of the Act which resulted in short realisation of trade tax of Rs. 2.01 crore.

After the cases were pointed out, the Regional Transport Officer (RTO), Bilaspur and Additional RTO, Ambikapur stated (July 2007 and August 2007) that according to the Act, tax is to be collected on the basis of trade certificate granted to the dealer and it had been collected. The reply does not explain the huge gap between the trade tax actually collected and the number of vehicles sold. There was no evidence that the Transport Department was comparing the sales made by the dealers with their trade certificates. The RTO, Jagdalpur, District Transport Officer (DTO), Raigarh and DTO, Korba replied (July 2007 and February 2008) that the position of the cases would be intimated to audit after verification of facts and consultation with the headquarters. The sale figures of some dealers, for the year 2006-07, were compared with the trade numbers indicated on their trade certificates which had been issued by the RTO. Three dealers under RTO, Bilaspur had sold 3,489; 1,553 and 1,417 vehicles as against trade certificates for 21, 20 and 14 vehicles and seven dealers under RTO, Jagdalpur had sold 1,104; 1,015; 263; 145; 275; 145 and 3,510 vehicles as against trade certificates for 10, 7, 7, 7, 7, 7 and 27 vehicles respectively. It confirmed that the number of vehicles for which the dealers paid tax according to the trade certificates issued to them, were not commensurate with their sales.

The matter was reported to the Government in September 2008; their reply has not been received (November 2009).

5.8 Non-realisation of taxes from the owners of passenger and transport vehicles

According to Section 3 and 5 of the *Chhattisgarh Motoryan Karadhan Adhiniyam*, tax shall be levied on the owner of every goods and passenger vehicle used or kept for use in the State at the rate prescribed in the first Schedule of the Act. In case of non payment of the tax due, the owner shall, in

² ARTO Ambikapur, RTO Bilaspur and Jagdalpur, DTO Korba and Raigarh.

addition to the payment of tax due, be liable to pay penalty at the rate of one twelfth of the unpaid amount of tax for the default of each month or part thereof but not exceeding the unpaid amount of tax as laid down under section 13(1) of the Act. Where any owner fails to pay tax, the taxation authority is required to issue a demand notice and take action to recover the amount of penalty in addition to tax as arrears of land revenue.

Test check of the records of the seven³ transport officers between May 2003 and September 2008 indicated that though the owners of 168 passenger vehicles, 84 goods vehicles and 14 loaders and dozer machines did not pay the road tax of Rs. 77.83 lakh for the period July 2000 to March 2008, no action was initiated by the RTOs/DTOs to issue demand notices for recovery of the tax from the defaulting vehicle owners. This resulted in non-realisation of tax of Rs. 77.83 lakh and penalty of Rs. 68.98 lakh for delay in payment of tax.

After the cases were pointed out between July 2008 and May 2009, the DTOs, Dhamtari and Korba and RTO, Raipur recovered Rs. 9,600, Rs. 1.80 lakh and Rs. 9.99 lakh respectively and issued notices in the remaining cases. The ARTO, Ambikapur, RTO, Bilaspur, RTO, Jagdalpur and DTO, Kanker stated that recovery will be made after verification. Further development has not been reported (November 2009).

The matter was reported to the Government between July 2008 and May 2009; their reply has not been received (November 2009).

LAND REVENUE

5.9 Non-realisation of cess

Under the provisions of the Chhattisgarh *Adhosanranchna Vikas Evam Paryavaran Upkar Adhiniyam*, 2005, every lease holder is liable to pay five *per cent* as development cess and five *per cent* as environmental cess on the amount of royalty paid on any mining lease during a year. The payment of cess shall be made by the lease holder in four equal installments on the last day of each quarter.

Test check of the records of the Collector, Janjgir-Champa in May 2008 indicated that five lease holders had not paid development and environment cess of Rs. 2.23 crore on royalty of Rs. 22.27 crore paid during 2006-07 and 2007-08. The department had not initiated any action for its recovery.

After the cases were pointed out in May 2009, the department intimated (September 2009) that it has recovered Rs. 4.96 lakh in two cases and in one case a writ petition is pending with Hon'ble High Court. However, it did not indicate the action taken in the remaining two cases.

The matter was reported to the Government in May 2009; their reply has not been received (November 2009).

³ ARTO Ambikapur, RTO Bilaspur, Jagdalpur and Raipur, DTO Dhamtari, Kanker and Korba.

CHAPTER -VI: MINING AND OTHER NON-TAX RECEIPTS

6.1 Results of audit

Test check of the records of the Departments of Water Resources, Geology and Mining conducted during the year 2008-09 indicated non/short levy and assessment of royalty, dead rent and service charge, non/short levy of water charges and non-realisation of dues of water charges amounting to Rs. 423.92 crore in 765 cases which fall under the following categories:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
Water Resources Department			
1	Assessment and collection of water charges - A Review	1	403.83
Total		1	403.83
Geology and Mining Department			
2	Under assessment of royalty and interest	45	1.54
3	Non/short levy of dead rent and interest	54	0.22
4	Loss of revenue due to non-cancellation of lease of inoperative mines	4	0.20
5	Other irregularities	661	18.13
Total		764	20.09
Grand Total		765	423.92

During the year 2008-09, the departments concerned accepted arrears of water charges, non/short levy of water charges, non/short levy of dead rent and interest, under assessment of royalty and other deficiencies amounting to Rs. 405.28 crore in 474 cases.

After the issue of draft paragraphs, the Geology and Mining Department recovered Rs. 13.32 lakh in three cases.

The results of a review on “**Assessment and collection of water charges**” involving revenue of Rs. 403.83 crore and a few illustrative audit observations of Geology and Mining Department involving revenue of Rs.33.29 lakh highlighting important audit finding are mentioned in the succeeding paragraphs.

6.2 REVIEW ON “ASSESSMENT AND COLLECTION OF WATER CHARGES”

Highlights

- Due to non-maintenance of water account, the monitoring mechanism in the Department had inadequacies resulting in non-utilisation of created irrigation potential leading to foregoing of revenue of Rs. 28.03 crore.

(Paragraph 6.2.8)

- Absence of monitoring of quantity of water supplied, the division was raising demand on the basis of records maintained by the industry which was fraught with the risk of being manipulated and consequent short raising of demand.

(Paragraph 6.2.9)

- Non-levy of penal rate on unauthorised drawal of water resulted in revenue loss of Rs. 316.26 crore.

(Paragraph 6.2.12)

- Non-realisation of interest and service charge on unpaid dues amounting to Rs. 36.37 crore.

(Paragraph 6.2.13)

- Short levy of water charges amounted to Rs. 18.26 crore.

(Paragraph 6.2.14)

- Application of incorrect rate of water charges for illegal drawal of water led to revenue loss of Rs. 4.91 crore.

(Paragraph 6.2.15)

6.2.1 Introduction

The State of Chhattisgarh has a geographical area of 1, 37,360 sq.km. It is divided into five river basins. The Mahanadi basin covers 75,546 sq.km, the Godavari basin covers 39,577 sq.km, the Ganges basin covers 18,808 sq.km. the Narmada basin covers 2,113 sq.km. and the Bramhani basin covers 1,316 sq. km. of catchment area in the State.

The total irrigation potential of 17.58¹ lakh hectares has been created as on 31 March 2008 from six major, 32 medium and 2,242 minor completed irrigation projects and 71 Lift Irrigation Schemes (LIS)². At the time of the formation of the State, the created irrigation potential was 13.28 lakh hectares. Thus, additional potential of 4.3 lakh hectares has been created after the formation of the State.

¹ As per the Administrative Report of the department for the year 2008-09

² Mechanism to lift water from lower base to irrigate upper cultivable areas.

Out of the 59.90 lakh hectare metre³ of available surface water, the usable surface water in the State is 41.72 lakh hectare metre of which only 22 *per cent* is being tapped and used.

According to Section 37 of Madhya Pradesh Irrigation (MPI) Act, 1931 (as adopted in Chhattisgarh), water may be supplied for irrigation, industrial, urban and for other purposes not connected with agriculture. The receipts under water charges are collected by the Water Resources Department (WRD) primarily for water supplied to:

- farmers for agriculture purposes;
- municipalities/ Public Health Engineering Department for domestic use;
- power plants for energy production; and
- industries for industrial purposes.

It was decided to review the accuracy of assessment and collection of water charges. The review indicated a number of system and compliance deficiencies which have been discussed in subsequent paragraphs.

6.2.2 Organisational set up

The department is headed by the Principal Secretary/ Secretary to the Government of Chhattisgarh. The Engineer-in-Chief (EnC) is the head of the department assisted by four Chief Engineers (CE). There are 11 circles headed by Superintending Engineers (SE) who supervise 62 divisions headed by Executive Engineers (EE).

6.2.3 Scope of audit

The review was conducted in the offices of EnC, all the four CEs and six⁴ out of 62 divisions for the period 2004-05 to 2008-09. The divisions were selected because their combined revenue earning amounted to 73 *per cent* of the total revenue from water charges. The selection was finalised after discussing with the Secretary of the department during the entry conference, who also agreed that these six divisions were the high risk units.

6.2.4 Audit objectives

The audit was conducted with a view to ascertain:

- the efficiency and effectiveness of the system of assessment and collection of water charges;
- whether water charges were being levied and collected as per rates agreed upon and conditions prescribed in sanction were being adhered to; and
- whether there was an efficient and effective internal control mechanism within the department to check non/short levy and evasion of Government revenue.

³ Hectare metre: measure of capacity, 1 hectare X 1 metre

⁴ Kharang Division, Bilaspur; Kharkhara Mohdipat Division, Durg; Tandula Division, Durg; Korba Division, Korba; Minimata Bango Water Management Division, Korba; Raipur Division, Raipur.

6.2.5 Audit criteria

The audit was conducted on the basis of criteria derived from:

- provisions contained in MP Irrigation Act, 1931 and Irrigation Rules, 1974 (as adopted in Chhattisgarh);
- notifications issued by the Government of Chhattisgarh, WRD for fixation and revision of rates of water charges; and
- provisions and conditions in the agreement (form 7-A) for supply of water.

6.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Department in providing necessary information and records to audit. The scope and methodology of audit was discussed with the Secretary of the Department in an entry conference held on 13 March 2009. The review was forwarded to the State Government on 14 August 2009. The review was discussed with the Secretary of the Department in an exit conference held on the 26 August 2009. The Secretary accepted all the recommendations made by the audit. The response of the Government received at the exit conference and at other points of time has been appropriately incorporated in the relevant paragraphs.

6.2.7 Trend of revenue

Details of budget estimates and actual revenue realised from 2004-05 to 2008-09 are depicted below:

(Rupees in crore)				
Year	Budget Estimates (BE)	Actual Receipts (AR) ⁵	(-)Shortfall/ (+) Surplus	AR as percentage of BE
2004-05	93.86	79.96	13.90	85.19
2005-06	112.94	46.70	66.24	41.35
2006-07	119.67	115.23	3.17	96.37
2007-08	127.80	124.63	3.17	97.52
2008-09	170.91	148.35	22.56	86.80

(Source: Budget documents and Finance Accounts of the State)

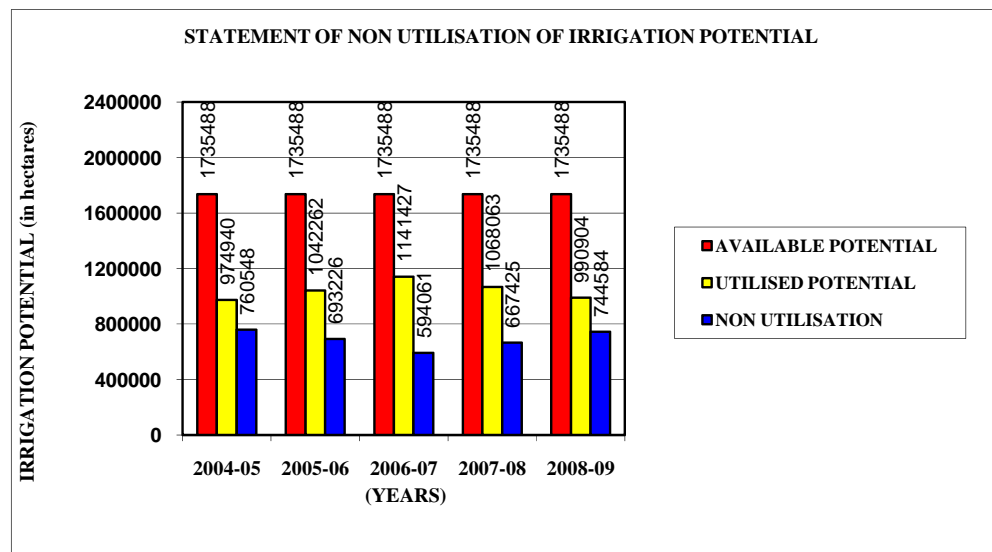
It was observed that the actual were in close consonance with estimates and receipts showed an increasing trend except in 2005-06 where there was a sharp drop in receipts which also created a large gap with the budget estimates. Further scrutiny showed that this drop was primarily due to a reduction in the receipts from irrigation, in respect of the major projects. The receipts fell from Rs. 51.60 crore during 2004-05 to Rs. 25.77 crore in 2005-06 and again increased to Rs. 48.58 crore during 2006-07.

During the exit conference, the Secretary directed the EnC to investigate the reasons for the variation and intimate these to audit. The reasons have not been received (October 2009).

⁵ As reported in Finance Account of the State.

Audit findings**System deficiencies****6.2.8 Revenue forgone due to non-utilisation of irrigation potential created by projects and schemes**

The department implements different projects/schemes under major, medium and minor projects and LIS for creating irrigation potential and utilises the same for providing irrigation to the catchment area as defined in the schemes and levy charges on the beneficiaries. In view of scarcity of water resources, a detailed account is required to be prepared at the divisional level. After providing for transit loss of water, balance is to be utilised judiciously for irrigation and non-irrigation purposes. **Audit scrutiny revealed that the divisions were not maintaining any water accounts. Consequently, the monitoring mechanism for optimum utilisation of irrigation potential had inadequacies.** It was observed that against the available irrigation potential of 17.35 lakh hectares⁶, the department utilised 10.44 lakh hectares (60.12 per cent) on an average in last five years and the utilisation ranged from 56 to 65 per cent as depicted below:



(Source: Information furnished by four CEs)

Non-utilisation of available irrigation potential has resulted in loss of revenue to the extent of Rs. 28.03 crore which could have been collected as irrigation charges as mentioned below:

⁶ six major projects : 9,85,300 hectares; 32 medium projects : 1,68,312 hectares; 2,242 minor projects : 5,61,096 hectares and 71 lift irrigation schemes : 20,780 hectares (Compiled from data furnished by four CEs)

Year	Unutilised potential (in lakh hectares)	Loss of Revenue ⁷ (Rupees in crore)
2004-05	7.60	6.16
2005-06	6.93	5.62
2006-07	5.94	4.81
2007-08	6.67	5.41
2008-09	7.45	6.03
TOTAL	34.59	28.03

(Source: Information furnished by four CEs)

During the exit conference, the Secretary stated that as per the finding of the Indian Institute of Management, the gap between available potential and utilised potential in the State of Chhattisgarh is lower than the national average and efforts would be made to reduce this further.

The Government may consider directing the field units to maximise the utilisation of available irrigation potential and prepare division wise water accounts for effective monitoring of irrigation potential created, utilised, water usage by various agencies and revenue realisation.

6.2.9 Lack of system to monitor the quantity of water supplied

Clause 10 of the agreement for supply of water to industries/power plants (form 7A) provides that automatic measuring devices shall be installed and maintained at its own cost by the Company drawing water. Clause 17 of the agreement provides that the Company shall allow at all times, an officer of the department to inspect the measuring device. **Audit scrutiny revealed that there was an absence of system to monitor the quantity of water supplied. Further, no records were maintained in any of the test checked divisions to monitor the installation of measuring devices and their working. No system of taking readings at the prescribed intervals had been instituted and details of inspection conducted were also not available.**

Scrutiny of the WR Management division, Korba indicated that 15 industries were drawing water from Minimata barrage project but none of them had installed the measuring devices. It was further noticed that the division was raising demand on the basis of the water supplied as per the log book of the pump installed by the industries and the department did not have any information about the actual water utilized. Thus, the demand raised against these industries on account of water used had been purely on ad hoc basis.

After this was pointed out, the EE replied that correspondence had been made with the industrial institutions for installation and the bills are presently prepared on the basis of readings of log books of pumps of industries. The reply did not explain the circumstances under which the supply was commenced although the industries concerned had not complied with the terms of the agreement. Besides, the preparation of demand on the basis of the log books maintained by the industries was fraught with the risk of loss of

⁷ at the minimum rate of Rs. 81 per hectare

revenue as there were no controls to ensure that the log books were not being manipulated.

The Government may issue instructions that water supply should not be allowed to start before measuring devices are installed. It should also prescribe a system of periodic inspection of measuring devices and raising of demand based on the reading on these devices.

During the exit conference, the Secretary accepted the recommendation and stated that directions will be issued to the concerned.

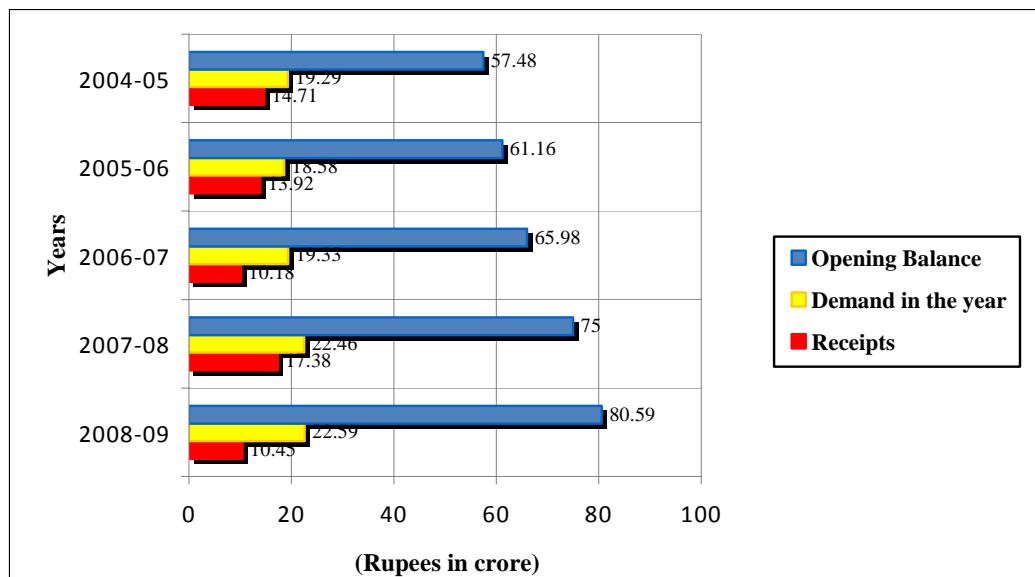
6.2.10 Arrear recovery mechanism

Section 60 of the MPI Act *inter alia* stipulates that any sum payable as canal revenue⁸, which remained unpaid on the day following the date on which it is due, is an arrear of canal revenue. The receipts during the year should be more than the demand raised during the year to stem the mounting arrears. Further, Section 61 of MPI Act provides that arrears of canal revenue shall be recovered as arrears of land revenue. The Government, vide notification dated 15 January 1977 designated all the Assistant Engineers and Canal Deputy Collectors of the Irrigation Department as Additional *Tehsildars* for the recovery of canal revenue as arrears of land revenue.

Audit scrutiny indicated that the method adopted by the department in raising demand had no correlation with the accumulated arrears at the beginning of the year. While the accumulated arrears had kept increasing, the demand raised had remained almost stagnant and far below the amount of arrears in each year. It was also observed that the Assistant Engineers and Canal Deputy Collectors of the Department had not issued Revenue Recovery Certificates (RRCs) and therefore had not utilised the powers of the Additional *Tehsildars* vested in them for speedy recovery of the arrears. Also, as per the existing procedure, though the targets fixed on the Assistant Engineers and Canal Deputy Collectors included recovery of arrears, yet there was no mechanism to monitor the achievement of targets by the higher authorities. Consequently, the accumulated arrears increased.

Information collected from the four CEs, in respect of receipts from farmers for agricultural purposes, featuring the opening balance of arrears, demand raised during the year and total revenue realised during the year are exhibited below:

⁸ Canal revenue : Revenue received for water provided for irrigation



(Source: Information furnished by four CEs)

The tabulation highlights the persistent gap between demand and the accumulated arrears which increased from Rs. 57.48 crore to Rs. 80.59 crore.

A test check of the records in selected six divisions (for the period 2003-04 to 2008-09) indicated that Rs. 63.58 crore was pending for recovery as of March 2009 as shown in the table below:

(Rupees in crore)		
Sl. no.	Name of Division	Amount
1.	Kharang Division, Bilaspur	2.71
2.	Kharkhara Mohadipat Division, Durg	8.31
3.	Tandula Division, Durg	25.96
4.	Korba Division, Korba	0.09
5.	Minimata Bango Water Management Division, Korba	8.30
6.	Raipur Division, Raipur	18.21
Total		63.58

It was observed that none of the divisions had initiated any action to issue RRC for effecting recovery as arrears of land revenue.

After this was pointed out, it was intimated by the EEs that major portion of accumulated arrears pertain to unpaid water charges for water supplied for irrigation purposes and due to indifferent attitude of farmers in payment of water charges, collection on this account is very poor. However, the reasons cited did not justify the gap between the arrears and the demand and the non-issue of RRC.

During exit conference, the Secretary reiterated the stand taken by the EEs and stated that the divisions will be directed to increase the recovery.

The Government may consider to review the proservice charge of raising demand to make it more realistic.

6.2.11 Internal control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They help in prevention of frauds and other irregularities. Internal controls also help in the creation of reliable financial and management information systems for prompt and efficient service and for adequate safeguards against evasion of Government revenue.

6.2.11.1 Non-establishment of Internal Audit

Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism which enables the organisation to assure itself of the degree of compliance with prescribed systems.

As per information furnished by the department, no internal audit wing had been established in the department since the formation of State. Due to the absence of an internal audit mechanism, the Government did not have any means for getting an independent assurance on the efficacy of the functioning of its systems.

During the exit conference, the Government stated that the feasibility of starting an Internal Audit wing would be examined.

The Government may consider setting up an independent internal audit wing to ensure that the omission pointed out in this review could be detected, prevented and avoided in future.

Compliance deficiencies

According to Section 40 of MPI Act 1931, the conditions for the supply of water for industrial, urban or other purposes not connected with agriculture and the charges thereof shall be agreed upon between the State Government and the company, firm, private persons or local body concerned and fixed in accordance with the rules made under the Act. The Government, vide gazette notification dated 9 August 2000 inserted rule 71-A (1) in MPI Rules, 1974 which provides that the agreement in form 7A shall be executed **prior to using water**. According to rule 73 of MPI Rules 1974, the charges for water which has been used in an unauthorised manner otherwise than on cultivated land shall be thrice the volumetric rate fixed under Section 37 of the Act. Further, according to clause 12 of standard agreement in form 7A, non-payment of bill within the stipulated time attracts levy of interest at the rate of 24 *per cent* on the sum due and one *per cent* service charge. If the payment is not made within a period of six months, it will be considered as breach of contract.

Audit scrutiny revealed several cases of non-compliance of aforesaid provisions as mentioned in the succeeding paragraphs.

6.2.12 Non-levy of penal rates on unauthorised drawal of water

Test check of records of the office of EE, Water Management Division, Minimata Bango Project, Korba indicated that after the introduction of form 7A with effect from June 1998, though the EE, Korba has sent the draft agreement to M/s National Thermal Power Corporation (NTPC), Korba repeatedly, yet each time the NTPC authorities had returned it unsigned.

Consequently, the NTPC was drawing water from the canal of Minimata Bango barrage without any agreement and this was unauthorised as per rule 71-A (1).

The Government had also intimated (June 2004) the Engineer in Chief that in the absence of any agreement, the drawal could be treated as unauthorised. However, even after another five years, the NTPC continues to draw water without executing any agreement and penal rate also has not been levied. The penal charges for the unauthorised drawal amounts to Rs. 316.26 crore for the period June 1998 to March 2009.

During the exit conference, the Secretary agreed that the drawal of water without execution of agreement is a case of unauthorised drawal and efforts were being made to execute the agreement. It also intimated that the matter regarding levy of penal rate till the date of agreement will be examined and the position conveyed to audit. Further reply has not been received (November 2009).

The Government may consider making it mandatory to execute agreements in all cases prior to supply of water and imposition of penal rates in cases of unauthorised drawal.

6.2.13 Non-realisation of interest and service charge on unpaid dues

Test check of the records revealed that the department was supplying drinking water to five⁹ municipal corporations through three¹⁰ divisions. The department had raised bills of Rs. 24.63 crore for water drawn for drinking purpose during the audit period, against which Rs. 1.06 crore only had been realised. The department had not demanded the interest and service charge amounting to Rs. 12.80 crore (as detailed in *appendix 6.1*) from the municipal corporations, resulting in non-realisation of revenue amounting to Rs. 36.37 crore on account of unpaid dues, interest and service charge.

During the exit conference, the Secretary agreed with the audit observation and stated that action will be taken to recover the outstanding amounts from the municipal corporations.

The Government may examine the feasibility of adjusting the arrears of revenue against the grants given to municipal corporations by different departments.

6.2.14 Short levy of water charges

Bhilai Steel Plant (BSP) executed an agreement (April 2006) with the State Government for drawal of 4.2 TMC¹¹ i.e. 11.89 crore cubic meter (cum), of water which was made effective retrospectively from April 2000. According to the condition (2) of the agreement, the company shall in any event pay water charges for at least 90 *per cent* of the total quantum of water allowed to

⁹ Bhilai, Durg, Korba, Raipur and Rajnandgaon.

¹⁰ Kharkhara Mohdipat Division, Durg; Rudri Division, Dhamtari and Hasdeo Bango Water Management Division, Korba.

¹¹ TMC stands for Thousand Million Cubic feet = 2.832 crore cubic meter.

be drawn, even though the actual quantum of water drawn is less than the total quantum of water permitted to be drawn by the company.

Test check of the records of EE, Tandula Water Resource Division, Durg indicated that BSP is drawing water according to its requirements with effect from April 2000 and the EE is raising the bill of water charges for water actually drawn. It was observed that the bills raised were always less than the mandatory 90 per cent of the total quantum of water allowed to be drawn. This resulted in short levy of Rs. 18.26 crore during the last five years, as detailed below:

Year	90 per cent of the quantum of water allowed in agreement (cum.)	Quantum of water for which Bills issued (cum.)	Difference (cum) (2-3)	Short levy of water charges ¹² (Rupees in crore)
1	2	3	4	5
2004-05	10,70,38,800	6,89,82,862	3,80,55,938	3,38,69,785
2005-06	10,70,38,800	8,98,03,196	1,72,35,604	1,55,12,044
2006-07	10,70,38,800	7,48,07,332	3,22,31,468	6,31,73,667
2007-08	10,70,38,800	9,34,91,346	1,35,47,454	2,66,88,484
2008-09	10,70,38,800	8,51,60,030	2,18,78,770	4,33,19,965
Total	53,51,94,000	41,22,44,771	12,29,49,229	18,25,63,945

(Source: Bill Register of Tandula Water Resource Division, Durg)

During the exit conference, the Government agreed with the audit observation and stated that the differential amount would be realised from BSP. Report on recovery has not been received (November 2009).

6.2.15 Application of incorrect rate of water charges for illegal drawal of water

Scrutiny of the records of the EE, Kharkara, Mohadipat Division, Durg indicated that the Government granted (November 1987) permission to the *Audhyogik Kendra Vikas Nigam (AKVN)*, Raipur, which is now renamed as Chhattisgarh State Industrial Development Corporation (CSIDC), Raipur, for supply of water for industrial growth centres of Borai, Durg. Subsequently, the AKVN executed an agreement with a private firm M/s Radius Water Company Limited (RWCL) for supply of water to the industries by constructing an *anicut*¹³. According to the condition of the agreement, RWCL was required to get the drawing and design of the *anicut* approved by the Government. Further, with the introduction of form 7A (standard form of agreement between the Government and the water users) applicable from June 1998, the CSIDC executed an agreement in April 2000 with the Government for the aforesaid purpose.

The Government subsequently found that agreement had not been executed in the standard form 7A as required under the Government notification dated

¹² Calculated at rates varying between Rs. 1.50 to Rs. 3 per cum and Re. 0.28 and Re. 0.36 per cum applicable for industrial use and drinking purposes respectively on 50:50 ratio as per the departmental order of August 2008.

¹³ *Anicut* is a structure constructed in river bed for drawal of water by installing pump.

November 2000 and AKVN/CSIDC had also breached the agreement by getting the *anicut* constructed without Government approval. On receipt of direction from the Government, the EE, Kharkhara Mohdipat division issued a show cause notice to CSIDC (January 2003) and started raising bills for unauthorised drawal at the penal rate of three times the rate applicable for drawal of water from self made source. Subsequently, the agreement with the CSIDC was also cancelled (October 2004). Since the CSIDC had got the *anicut* constructed without the Government approval, the construction was unauthorised and the resultant water source was also unauthorised. Therefore, it should not be treated as “self made source”. In this background, the penal rate of three times should be applied to the highest rate which is charged for the drawal of water from the sources made by the Government. Application of a lower rate has resulted in short levy of water charges of Rs. 4.91 crore.

During the exit conference, the Government agreed with the audit observation and stated that the rate applicable for unauthorised drawal of water from the Government source will be applied in this case.

6.2.16 Conclusion

Review of the system for assessment and collection of water rates in the State indicated that various agencies were drawing water without executing agreements with the department or in contravention of agreements leading to shortfall in revenue realisation. There was shortfall in utilisation of irrigation potential and the accumulated arrears of revenue from water provided for irrigation was more than the collection of the last five years. Non-compliance of the provisions of the Act/Rules and Government notifications led to non-levy of penal rates, short levy of water charges etc., amounting to Rs. 254.37 crore. The internal control mechanism in the department was weak as evidenced by the internal audit wing.

6.2.17 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance deficiencies.

- direct the field units to maximise the utilisation of available irrigation potential and prepare division wise water account for effective monitoring of irrigation potential created, utilised, water used by various agencies and revenue realisation;
- issue instructions that water supply should not be started before measuring devices are installed and prescribe a system of periodic inspection of measuring devices and raising of demand based on the reading on these devices;
- review the proservice charge of raising demand to make it more realistic;
- set up an independent internal audit wing to ensure that the omission pointed out in this review could be detected, prevented and avoided in future;
- make it mandatory to execute agreements in all cases of prior to supply of water and imposition of penal rates in cases of unauthorised drawal; and

- examine the feasibility of adjusting the arrears of revenue against the grants given to municipal corporations by different departments.

6.3 Other audit observations

Scrutiny of the records of mining department indicated several cases of non-observance of provisions of Act/Rules, non/short levy of tax and other cases are mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of assessing authorities are pointed out in audit each year but not only do the irregularities persist, these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system including the internal audit.

6.4 Non-compliance of the provisions of Act/Rules

The Mineral Concession (MC) Rules, 1960 and Madhya Pradesh Minor Mineral (MPMM) Rules, 1996 provide for levy of :

- i) interest on belated payment of royalty;*
- ii) re-allotment of inoperative mines; and*
- iii) levy of penalty and realisation of dead rent.*

6.5 Non-levy of interest on delayed payment of royalty

Under the Mineral Concession Rules, 1960 the Government may charge simple interest at the rate of 24 *per cent* per annum on any rent, royalty or fee or other sum due to the Government under the rules or under the terms and conditions of any prospecting licence or mining lease, from the sixtieth day of the expiry of the date fixed by the Government for payment of such royalty, rent, fee or other sum and until such payment is made.

Test check of the records of the Deputy Director, Mining Branch, Collectorate, Raipur (August 2008) for the period April 2007 to March 2008, indicated that the royalty payment was delayed by 2 to 11 months but the department did not levy interest of Rs. 12.46 lakh on the delayed payment.

After the cases were pointed out (January 2009), the department (May 2009) intimated that an amount of Rs. 3.28 lakh had been recovered and action was being taken for recovery of balance. Further reply has not been received (November 2009).

The matter was reported to the Government (January 2009); their reply has not been received (November 2009).

6.6 Non-cancellation of lease of inoperative mines

Under the Mineral Concession Rules, 1960 if any lease holder does not start mining within two years from the date of execution of the lease deed or discontinues the mining operation for a continuous period of two years after the commencement of such operation, the State Government shall by an order declare the mining lease as lapsed and communicate the declaration to the lessee.

Test check of the records of the DMO, Durg in May 2008 indicated that the mining operation in four dolomite leases remained inoperative for two to nine years from the sanction of the execution of the mining leases in 1997 and

2001. The department, however, did not initiate any action to terminate the lease deeds for subsequent allotment of mining leases to other applicants. Had timely action to terminate the non-operative leases and sanction of fresh leases been taken, at least Rs. 18.53 lakh could have been realised toward royalty (based on the yearly royalty quoted in those lease deeds) out of which Rs. 14.89 lakh pertained to the last five years.

After this was pointed out (September 2008), the Mining Officer (August 2009) stated that one mining lease had been declared as lapsed and proposal had been sent to Government for cancellation of the remaining three leases.

The matter was reported to the Government (September 2008); their reply has not been received (November 2009).

6.7 Non-levy of penalty for non-submission of records for assessment

As per Rule 30(19) of the Madhya Pradesh Minor Mineral Rules, 1996 (as adopted by the Chhattisgarh Government) the lessee shall submit the records and books of accounts for the purpose of assessment of royalty to the Assessing Authority concerned within thirty days from the 30th June/31st December or whenever demanded by the Assessing Authority concerned through a notice in writing. In case he fails to do so, a penalty of rupees one thousand may be imposed for every month till he produces the records.

Test check of the records of the District Mining Officer (DMO) Kawardha (July 2008), indicated that in 12 cases, the records and books of accounts were not submitted by the lessees for royalty assessment for periods ranging between 11 to 47 months. However, the department has not issued any notices to the defaulting lessees for production of records for assessment of royalty. Besides, the department has not imposed penalty on the lessees for non-submission of records. This has resulted in non-levy of penalty of Rs. 4.26 lakh.

After the cases were pointed out (July 2008), the Mining Officer stated (July 2008) that letters have been issued to lessees for submission of the records, on receipt of which assessment would be made and royalty with penalty for delay would be recovered. Further developments had not been reported (November 2009).

The matter was reported to the Government (April 2009); their reply has not been received (November 2009).

6.8 Non-realisation of dead rent and interest thereon

According to the provisions of the Madhya Pradesh Minor Minerals Rules (as adopted by the Chhattisgarh Government) and terms of lease deed, lessee shall be liable to pay royalty on mineral extracted from the lease area at the rates specified in Schedule II and IV to the rules or dead rent, whichever is higher. Dead rent is required to be deposited in advance on or before 20th January of each year except for the first year of lease. If the lessee fails to pay the dead rent/royalty due in time, he shall be liable to pay interest at the rate of 24 *per cent* per annum for the period of default.

Test check of the records of the Deputy Director, Mining Branch, Collectorate, Raipur (August 2008) and District Mining Officer, Raigarh (May 2008) indicated that in 14 cases the lessees did not pay dead rent of Rs. 5.56 lakh for the period January 2001 to December 2008. The department had also not raised any demand for dead rent of Rs. 5.56 lakh and interest of Rs. 1.52 lakh thereon.

After this was pointed out (September 2008-December 2008), the Mining Officer, Raipur reported (September 2009) recovery of Rs. 83,000 and Mining Officer, Raigarh reported (August 2009) recovery of Rs. 4.93 lakh. Balance amount of Rs. 1.32 lakh is still to be recovered (November 2009).

The matter was reported to the Government (September and December 2008); their reply has not been received (November 2009).

Raipur
The

(PRAVEEN KUMAR SINGH)
Accountant General (Audit)
Chhattisgarh

Countersigned

New Delhi
The

(VINOD RAI)
Comptroller and Auditor General of India

Appendix 2.1

(Referred to in paragraph 2.2.8.1)

Sl. No.	Name of state	No. of 'C' forms	Base of doubt
1	Andhra Pradesh	12	प्रिंटिंग त्रुटियों निम्न पाई गई बिल/ केष मेमो/ – बिल केष मेमो? section 7 selection 7 बिल- बिलय प्राधिकारी- अधिकारी
		2	The series on the doubtful forms was different from the series on the authentic forms of the state
	Total	14	
2	Delhi	1	सील बराबर नहीं है- निर्धारित फार्मेट से अलग है। राज्य का नाम- एन.सी.टी- दिल्ली- Delhi
		1	केन्द्रीय- केन्द्रीय (प्रिंटिंग त्रुटियों)
	Total	2	
3	Maharashtra	46	प्रिंटिंग त्रुटियों निम्न पाई गई बिल/ केष मेमो/ – बिल केष मेमो? section 7 selection 7 बिल- बिलय प्राधिकारी- अधिकारी
		4	प्रिंटिंग त्रुटियों निम्न पाई गई Declaration- dedeclaration Rule 1957- Rule 1975 बिल-बील अधीन- आधीन
		4	प्रिंटिंग त्रुटियों निम्न पाई गई Rule 1956- Rule 1856 प्राधिकारी- अधिकारी विहित- विक्षित
		1	issuing officer का नाम नहीं।
		1	Seal of the issuing officer is different from the seal used in form of the same circle.

		1	प्रिंटिंग त्रुटियों निम्न पाई गई नीचे- निचे धारा 7- धारा 'के' विक्रेता- किक्रेता रजिस्ट्रीकरण- रजिटीकरण
		2	प्रिंटिंग त्रुटियों केन्द्रीय- केन्द्रीय
		1	जारी करने का दिनांक नहीं।
		2	एस.टी.ओ. की जगह सी.टी.ओ. का सील।
		1	प्रिंटिंग त्रुटियों निम्न पाई गई जारी- जरी Office of issue- Offices of issue
		6	प्रिंट साफ नहीं है केन्द्रीय के स्थान पर केन्द्रीय लिखा गया।
	Total	69	
4	Madhya Pradesh	14	Poor printing quality
5	Punjab	3	Poor printing quality
6	Orissa	6	Poor printing quality
Grand Total		108	

Appendix 6.1*(Referred to in paragraph 6.2.13)**(Rupees in lakh)*

Year	Balance at the end of the year	Interest levy period (years)	Interest (@ 24 per cent p.a.)	Service charges (@ 1 per cent)
2004-05	783.07	4	751.75	7.52
2005-06	300.40	3	216.29	2.16
2006-07	429.14	2	205.99	2.06
2007-08	389.18	1	93.40	0.93
Total			1,267.43	12.67

Total Interest and service charges = 1,280.10 Lakh or 12.80 crore