

PREFACE

This report for the year ended 31 March 2009 has been prepared for submission to 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 tax on sales, trade etc., taxes on agricultural income, State excise, land revenue and building tax, taxes on vehicles and non-tax receipts of the State.

A report on review of "Transition from KGST to VAT" is being presented as a separate volume titled Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009, Volume-II – Government of Kerala.

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

OVERVIEW

This Report contains 44 paragraphs including three reviews on cross verification of purchase/sale effected under KGST/KVAT/CST acts, package for effective administration of registration laws (PEARL) in the registration department and recovery of arrears of revenue under revenue recovery act and paragraphs relating to non/short levy/loss of tax involving Rs. 675.44 crore. Some of the major findings are mentioned below.

I. General

- Total revenue receipts of the State Government for the year 2008-09 amounted to Rs. 24,512.18 crore against Rs. 21,106.79 crore for the previous year. Seventy two *per cent* of this was raised by the State through tax revenue (Rs. 15,990.18 crore) and non-tax revenue (Rs. 1,559.29 crore). The balance 28 *per cent* was receipt from the Government of India as State's share of divisible Union taxes (Rs. 4,275.52 crore) and grants-in-aid (Rs. 2,687.19 crore).

(Paragraph 1.1.1)

- At the end of 2008-09, arrears in respect of commercial taxes, land revenue, motor vehicle, etc., amounted to Rs. 9,465.95 crore of which arrears in respect of commercial taxes accounted for Rs. 3,777.26 crore and taxes and duties on electricity accounted for Rs. 3,238.95 crore.

(Paragraph 1.4)

II. Tax on Sales, Trade etc.

A review of “**Cross verification of purchase/sale effected under KGST/KVAT/CST Acts**” revealed the following.

- Absence of control over movement of goods under transit pass resulted in short levy of Rs. 32.41 crore.

(Paragraph 2.2.7)

- Non-conducting of cross verification of declarations in form 25 led to evasion of tax of Rs. 43.94 crore.

(Paragraph 2.2.9)

- Short levy of Rs. 172.93 crore due to acceptance of invalid/defective declaration forms was detected.

(Paragraph 2.2.10)

- The Government unauthorisedly waived tax, interest and penalty of Rs. 96.87 crore leviable under the Central Sales Tax Act.

(Paragraph 2.2.11)

- Non-accounting of import/purchase through form 25 resulted in non-levy of tax of Rs. 18.43 crore.

(Paragraph 2.2.12)

Irregular grant of exemption in 24 cases resulted in non/short levy of tax of Rs. 4.09 crore.

(Paragraph 2.4.1)

Application of incorrect rate of tax in 10 cases resulted in short levy of tax of Rs. 2.90 crore.

(Paragraph 2.4.2)

Non-appropriation of payment under section 55 C resulted in short levy of tax and interest of Rs. 1.41 crore in three cases.

(Paragraph 2.4.3)

Underassessment of turnover in 11 cases resulted in non/short demand of tax and interest of Rs. 83.72 lakh.

(Paragraph 2.4.4)

Misclassification of goods by the dealers and non scrutiny of the records by assessing authorities in 15 cases resulted in non/short levy of tax and interest of Rs. 1.30 crore.

(Paragraph 2.4.11)

Application of incorrect rate of tax/incorrect exemption granted without scrutiny of the records in three cases resulted in non/short levy of output tax of Rs. 1.24 crore.

(Paragraph 2.4.12)

Excess/incorrect allowance of input tax in six cases resulted in short levy of tax of Rs. 84.54 lakh.

(Paragraph 2.4.13)

III. Taxes on Agricultural Income

Underassessment of income in three cases resulted in non/short levy of tax of Rs. 8.54 crore.

(Paragraph 3.3.1)

Incorrect computation of income in one case resulted in short levy of tax and interest of Rs. 1.30 crore.

(Paragraph 3.3.2)

Interest of Rs. 92.55 lakh accrued as a result of non-payment of balance tax was not demanded in two cases.

(Paragraph 3.3.3)

IV. Stamp Duty and Registration Fees

A review of “**Package for effective administration of registration laws (PEARL) in the registration department**” revealed the following.

- Every user could login as Sub Registrar as passwords were shared by all, exposing to the risk of unauthorised modification of data.

(Paragraph 4.2.4.4)

- Stakeholders are totally helpless as validated electronic copy of data and documents were not kept in Sub Registry Office (SRO), Kottarakara where a fire mishap devastated 99 *per cent* of documents. It took four years to resume computerised activity in another SRO where hardware was stolen.

(Paragraph 4.2.5.1)

- Stamp duty calculated and stored in PEARL was short of requirement in 47 *per cent* of records.

(Paragraph 4.2.6.2)

- There is no restriction for any user to access and modify backend data. Data analysis found no login information in 12 *per cent* of records.

(Paragraph 4.2.6.4)

- The fields storing survey number details were blank in 3,493 records and age fields of executants and claimants were blank in 87 *per cent* of records. Crucial data of boundary details stored contained trash data in 99 *per cent* of records.

(Paragraph 4.2.7.2)

- 44 *per cent* and 18 *per cent* mistakes were observed in data stored relating to accounts and registration documents respectively.

(Paragraph 4.2.7.3)

- Legal suits initiated against the department due to issuance of incorrect encumbrance certificates generated from not-validated data.

(Paragraph 4.2.7.4)

- Though computerisation started in the year 2000 and Rs. 24.41 crore was incurred, the System has not been fully operationalised; bugs are not rectified; only 1 out of 5 modules are put to use and the required amendments to Acts and Rules were not carried out till date.

(Paragraph 4.2.8.2 and 4.2.8.3)

- Though Government have taken no decision on commencement of scanning, scanners continued to be purchased (Rs. 70 lakh) in all the six phases and AMC also was provided (Rs. 3 lakh) for scanners which remained packed.

(Paragraph 4.2.8.6)

Stamp duty and registration fee was realised short by Rs. 92.83 lakh in 11 documents due to undervaluation of documents.

(Paragraph 4.4.1)

V. Taxes on Vehicles

Omission to levy and collect fee for permit and renewal of certificate of fitness, misclassification of vehicles etc., resulted in non/short realisation of revenue of Rs. 85.32 lakh in four cases.

(Paragraph 5.3.2)

Incorrect application of the provisions of the Act, resulted in non/short levy of one time tax to the extent of Rs. 41.80 lakh in four cases.

(Paragraph 5.3.4)

Tax due but not demanded due to non-filing of non-use intimation, incorrect reckoning of seating and standing capacity and irregular adjustment resulted in non/short realisation of revenue of Rs. 17.79 lakh in three cases.

(Paragraph 5.3.5)

VI. Land Revenue and Building Tax

A review of “**Recovery of arrears of revenue under the Revenue Recovery Act**” revealed the following.

- Revenue recovery requisitions/certificates covering an amount of Rs. 63.46 crore was seen returned without exhausting all means of recovery.

(Paragraph 6.2.12)

- Collection of revenue of Rs. 326.35 crore was blocked due to inordinate delay in RR action.

(Paragraph 6.2.13)

- Lack of co-ordination between Government Departments resulted in blocking up of revenue to the extent of Rs. 18.73 crore.

(Paragraph 6.2.14)

- Failure of the Excise Department to exercise the vested powers for recovery led to non-realisation of revenue of Rs. 102.69 crore.

(Paragraph 6.2.15)

- In the Demand Collection Balance Statement of *Tahsildar* (RR) Kochi opening balance of 2004-05 was incorrectly carried forward from the closing balance of the previous year resulting in non-realisation of revenue of Rs. 8.41 crore.

(Paragraph 6.2.18.1)

- Bought-in-land valued at Rs. 11.98 crore was kept undisposed without conducting re-auction.

(Paragraph 6.2.19.3)

- Remission of demand for revenue recovery without the orders of the competent authority resulted in loss of revenue of Rs. 3.50 crore.

(Paragraph 6.2.20.1)

- Revenue recovery proceedings in respect of a defaulter having arrears of Rs. 1.12 crore was inadvertently closed in Ernakulam District.

(Paragraph 6.2.20.2)

Inaction to execute fresh lease agreement with seven lease holders of land in the erstwhile *panchayats*, which were brought under the corporation limits resulted in short levy of lease rent of Rs. 1.59 crore.

(Paragraph 6.4.1)

Collection charges amounting to Rs. 33.85 lakh was short realised while recovering the arrear amount of Rs. 20.82 crore.

(Paragraph 6.4.2)

VII. Other Tax Receipts

Failure to levy tax on the income derived from services such as *ayurveda*, travel and trekking charges etc., provided in a hotel resulted in short levy of tax of Rs. 24.36 lakh in two cases.

(Paragraph 7.3)

VIII. Other Non-Tax Receipts

Non-revision of seignorage rate in tune with the rates of PWD resulted in loss of revenue of Rs. 57.12 lakh.

(Paragraph 8.3)

Non-remittance of the revenue portion of special fee collected by six polytechnic colleges and three engineering colleges into the Government account resulted in misappropriation of revenue to the tune of Rs. 3.65 crore.

(Paragraph 8.4)

CHAPTER I GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Kerala during the year 2008-09, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India 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
1.	Revenue raised by the State Government					
	• Tax revenue	8,963.65	9,778.62	1,1941.82	13,668.95	15,990.18
	• Non-tax revenue ¹	819.09 (760.43)	936.78 (863.79)	937.57 (844.51)	1,209.55 (1,078.00)	1,559.29 (1,390.00)
	Total	9,782.74 (9,724.08)	10,715.40 (10,642.41)	12,879.39 (12,786.33)	14,878.50 (14,746.95)	17,549.47 (17,380.18)
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	2,404.95	2,518.20	3,212.04	4,051.70	4,275.52
	• Grants-in-aid	1,312.80	2,060.93	2,095.19	2,176.59	2,687.19
	Total	3,717.75	4,579.13	5,307.23	6,228.29	6,962.71
3.	Total revenue receipts of the State Government (1 and 2)	13,500.49 (13,441.83)	15,294.53 (15,221.54)	18,186.62 (18,093.56)	21,106.79 (20,975.24)	24,512.18 ² (24,342.89)
4.	Percentage of 1 to 3	72	70	71	70	72

The above table indicates that during the year 2008-09, the revenue raised by the State Government (Rs. 17,549.47 crore) was 72 per cent of the total revenue receipts against 70 per cent in the preceding year. The balance 28 per cent of receipts during 2008-09 was from the Government of India.

¹ The figures shown in brackets represent the figures net of expenditure on prize winning tickets of lotteries conducted by the Government.

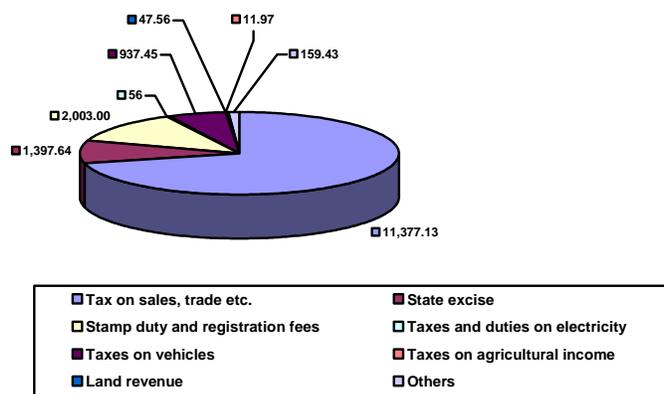
² For details please see Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of Kerala for the year 2008-09. Figures under the major heads 0020 – Corporation tax, 0021 – Taxes on income other than corporation tax, 0028 – Other taxes on income and expenditure, 0032 – Taxes on wealth, 0037 – Customs, 0038 – Union excise duties, 0044 – Service tax and 0045 – Other taxes and duties on commodities and services – Share of net proceeds assigned to states booked in the Finance Accounts under A – Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

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

(Rupees in crore)

Sl. No.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	Tax on sales, trade etc.	6,701.05	7,037.97	8,563.31	9,371.76	11,377.13	(+) 21.40
2.	State excise	746.45	841.00	953.07	1,169.25	1,397.64	(+) 19.53
3.	Stamp duty and registration fees						
	• Stamps - judicial	47.37	53.39	49.20	81.89	71.25	(-) 12.99
	• Stamps – non-judicial	489.99	852.51	1,213.36	1,607.85	1,580.94	(-) 1.67
	• Registrati on fees	237.99	195.51	257.37	338.23	350.81	(+) 3.72
4.	Taxes and duties on electricity	9.62	31.52	31.78	39.04	56.00	(+)43.44
5.	Taxes on vehicles	610.48	628.51	707.74	853.17	937.45	(+) 9.88
6.	Taxes on agricultural income	4.93	6.15	9.63	22.05	11.97	(-) 45.71
7.	Land revenue	43.85	43.88	47.00	47.21	47.56	(+) 0.74
8.	Others	71.92	88.18	109.36	138.50	159.43	(+) 15.11
	Total	8,963.65	9,778.62	11,941.82	13,668.95	15,990.18	(+) 16.98

Tax Revenue 2008-09



The following reasons for variations were reported by the concerned departments:

State excise: The increase was due to changes brought in *Abkari* Policy.

Stamp duty and registration fees: During the year, the number of documents registered was less compared to the previous year. Hence the short fall in revenue.

Taxes and duties on electricity: The increase was due to book adjustment of dues of KSEB.

Taxes on vehicles: The increase in the number of vehicles resulted in the enhanced revenue collection.

Taxes on agricultural income: The receipt during the previous year was high due to realisation of arrears from an assessee, as there was no such corresponding collection during the current year.

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

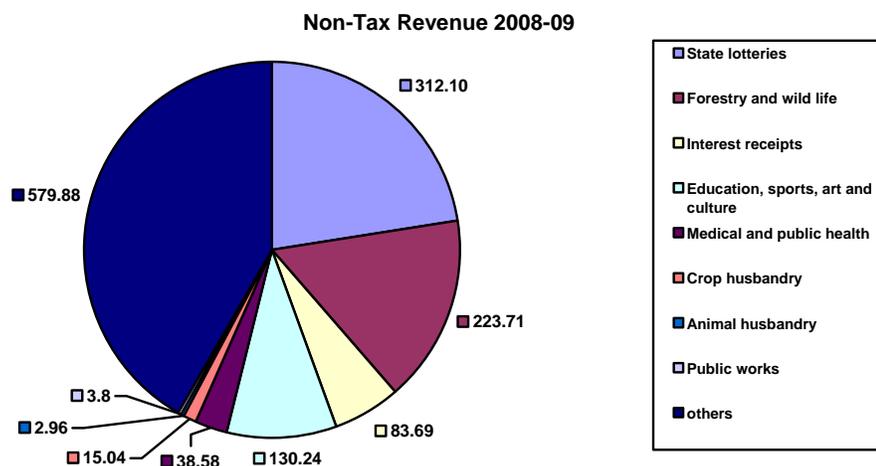
1.1.3 The following table presents the details of the non-tax revenue raised during the period 2004-05 to 2008-09:

(Rupees in crore)

Sl. No.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	State lotteries ³	92.72	156.58	142.93	193.70	312.10	(+) 61.13
2.	Forestry and wild life	199.69	189.63	174.56	154.45	223.71	(+) 44.84
3.	Interest receipts	40.51	46.36	44.63	69.65	83.69	(+) 20.16
4.	Education, sports, art and culture	85.76	82.09	99.91	100.89	130.24	(+) 29.09
5.	Medical and public health	27.52	29.80	32.99	20.02	38.58	(+) 92.71
6.	Crop husbandry	11.51	13.74	12.33	10.91	15.04	(+) 37.86
7.	Animal husbandry	5.68	5.68	6.43	5.26	2.96	(-) 43.73
8.	Public works	2.70	2.68	2.56	3.28	3.80	(+) 15.85

³ From gross receipts, expenditure on prize winning tickets has been deducted, but expenditure on commission to agents and establishment expenses have not been deducted. For 2008-09, from gross receipts of Rs. 481.39 crore, expenditure of Rs. 169.29 crore on prize winning tickets has been deducted, but expenditure of Rs. 165.04 crore on commission to agents and establishment expenses of Rs. 36.79 crore have not been deducted.

9.	Others	294.34	337.23	328.17	519.84	579.88	(+) 11.55
Total		760.43	863.79	844.51	1,078.00	1,390.00	(+) 28.94



The following reasons for variations were reported by the concerned department:

State lotteries: The increase was due to introduction of six new lotteries and three special bumper lotteries.

Forestry and wildlife: The increase was due to general price rise and increase in quantity of timber and sandal wood available for sale.

Medical and public health: The increase was due to increase in number of outpatients, surgeries, occupancy of pay wards, auction sale of old building of mental health centre, Kozhikode.

Crop husbandry: The increase was due to stringent measures taken to recover the liabilities.

The other departments did not inform (September 2009) the reasons for variations, despite being requested (March 2009).

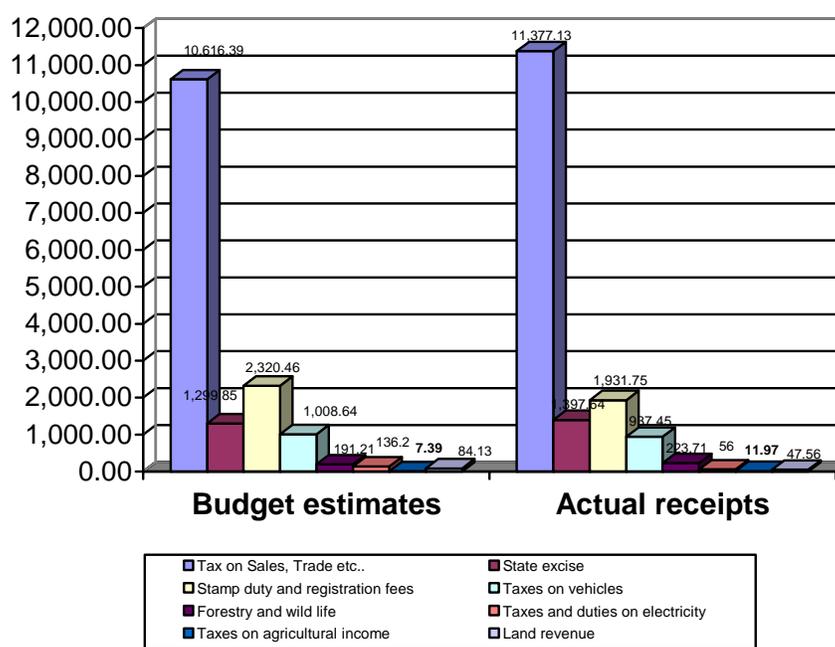
1.2 Variation between the budget estimates and the actuals

The variation between the budget estimates and the actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No	Head of revenue	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation
1.	Tax on sales, trade etc.	10,616.39	11,377.13	(+) 760.74	(+) 7.17
2.	State excise	1,299.85	1,397.64	(+) 97.79	(+) 7.52

3.	Stamp duty and registration fees				
	• Stamps - Non-judicial	1,842.80	1,580.94	(-) 261.86	(-) 14.21
	• Registration fees	477.66	350.81	(-) 126.85	(-) 26.56
4.	Taxes on vehicles	1,008.64	937.45	(-) 71.19	(-) 7.06
5.	Forestry and wild life	191.21	223.71	(+) 32.50	(+) 17.00
6.	Taxes and duties on electricity	136.20	56.00	(-) 80.20	(-) 58.88
7.	Taxes on agricultural income	7.39	11.97	(+) 4.58	(+) 61.98
8.	Land revenue	84.13	47.56	(-) 36.57	(-) 43.47



The following reasons for variations were reported by the concerned departments:

State excise: The increase was due to changes brought in *Abkari Policy*.

Stamp duty and registration fees: During the year, the number of documents registered was less compared to the previous year. Hence the short fall in revenue.

Forestry and wildlife: The increase was due to general price rise and increase in quantity of timber and sandal wood available for sale.

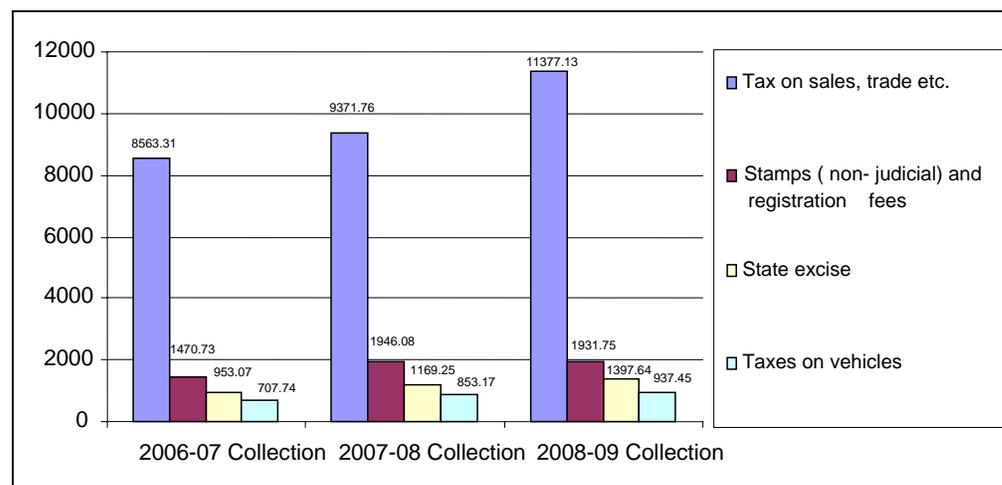
The other departments did not inform (September 2009) the reasons for variation, despite being requested (March 2009).

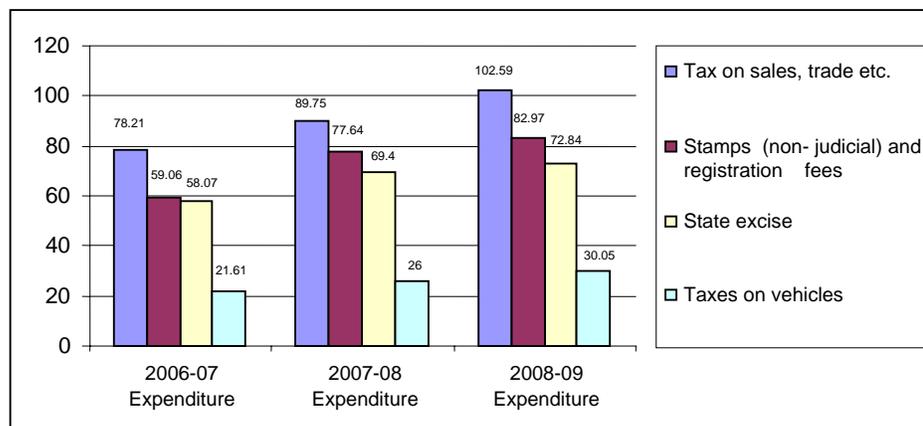
1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of 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 are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage (2007-08)
1.	Tax on sales, trade etc.	2006-07	8,563.31	78.21	0.91	0.83
		2007-08	9,371.76	89.75	0.96	
		2008-09	11,377.13	102.59	0.90	
2.	Stamps (non-judicial) and registration fees	2006-07	1,470.73	59.06	4.02	2.09
		2007-08	1,946.08	77.64	3.99	
		2008-09	1,931.75	82.97	4.30	
3.	State excise	2006-07	953.07	58.07	6.09	3.27
		2007-08	1,169.25	69.40	5.94	
		2008-09	1,397.64	72.84	5.21	
4.	Taxes on vehicles	2006-07	707.74	21.61	3.05	2.58
		2007-08	853.17	26.00	3.05	
		2008-09	937.45	30.05	3.21	





The expenditure on collection in respect of sales tax, stamp duty and registration fees, State excise and taxes on vehicles was higher as compared to the all India average and the Government needs to look into this aspect.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue amounted to Rs. 9,465.95 crore of which Rs. 2,615.58 crore were outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. No.	Department	Amount of arrears as on 31 March 2009	Arrears outstanding for more than 5 years
1.	Commercial taxes department	3,777.26	-
	The amount of arrears of revenue as on 31 March 2009 under KGST as furnished by the department was Rs. 3,328.56 crore, as against Rs. 4,425.47 crore registered on 31 March 2008 indicating a decline of Rs. 1,096.91 crore, but collection effected from arrears was only Rs. 145.66 crore. Similarly the arrears under KGST and CST at the end of 2006-07 was Rs. 12,948.35 crore and the collection from arrears was only Rs. 101.88 crore. However, during 2007-08 the arrears was reduced to Rs. 4,425.47 crore indicating a sharp decline in arrears of Rs. 8,421 crore. The reason for the decline of Rs. 8,421 crore in 2007-08 as well as Rs. 1,029.25 crore in 2008-09 was called for from the Government; their remarks have not been received (September 2009).		
2.	State Excise	289.75	239.46
	An amount of Rs. 252.98 crore was due from individuals, private firms, private companies etc. The stage of recovery of the arrears has been called for from the department; their response has not been received (September 2009).		
3.	Electrical inspectorate	3,238.95	1501.14
	Rs. 3,232 crore was due from Kerala State Electricity Board and Rs. 3.55 crore was due from Thrissur Municipal Corporation.		
4.	Land revenue	1,143.49	391.48
	The details of arrears were not furnished by the department.		
5.	Motor vehicles	769.55	351.93
	Rs. 15.02 crore was covered under revenue recovery. Rs. 4.41 crore was stayed by Courts etc. Rs. 684.45 crore is due from KSRTC. Arrears of Rs. 65.67 crore were under various stages.		

6.	Forestry and wildlife	148.66	75.06
	Rs. 91.53 crore was stayed by Government and Rs. 1.05 crore is likely to be written off		
7.	Police	57.60	32.84
	Rs. 22.75 crore, Rs. 27.79 crore, Rs. 1.84 crore and Rs. 1.49 crore were due from southern railway, KSEB, Government of Tamil Nadu and airport authority of India respectively.		
8.	Printing	26.88	13.27
	The details of split up of arrears were not furnished by the department.		
9.	Stationery	11.88	9.89
	The arrears were due to default of department as well as autonomous bodies.		
10.	Factories & Boilers	1.33	0.20
	The department stated that an amount of Rs. 58 lakh is likely to be written off.		
11.	Mining and Geology	0.38	0.17
	Rs. 1.82 lakh was under revenue recovery, Rs 17.38 lakh was stayed by Courts/ Government and Rs. 19 lakh was under various stages.		
12.	Ports	0.22	0.14
	Rs. 5.94 lakh was under revenue recovery and the balance amount under various stages.		
Total		9,465.95	2,615.58

1.5 Write off and waiver of revenue

In Forestry and Wildlife department, the Government had waived Rs. 1.28 lakh being the re-auction loss sustained from forest range in Ranni.

The details of write off and waiver of revenue was not made available by the Commercial Taxes department and Excise department.

1.6 Refunds

The number of 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 Commercial Taxes department are as follows:

(Rupees in lakh)

Sl. No.	Revenue Head		Claims outstanding at the beginning of the year	Claims received during the year	Refunds made during the year	Balance outstanding at the end of the year
1.	Sales tax	No. of cases	48	438	434	52
		Amount	287.02	491.55	677.08	101.49
2.	Agricultural Income Tax	No. of cases	1	28	27	2
		Amount	0.50	3.83	4.02	0.31

3.	VAT	No. of cases	992	8,350	8,056	1,286
		Amount	8,071.74	14,990.78	20,669.94	2,392.58
4.	Luxury Tax	No. of cases	-	1	1	-
		Amount	-	0.09	0.09	-
5.	Tax on paper lottery	No. of cases	1	-	1	-
		Amount	56.98	-	56.98	-

The table above indicates that the refunds made by the department under VAT during the year 2008-09 was Rs. 206.70 crore as against Rs. 109.72 crore recorded in the Finance Accounts indicating a substantial difference of Rs. 96.98 crore. The reason for variation between the departmental figures and the figures booked in the Finance Accounts have been called for from the Government in August 2009; their reply has not been received (September 2009).

1.7 Failure of senior officials to enforce accountability and protect interest of the Government

Principal Accountant General (Audit) (PAG) arranges to conduct periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). Important irregularities and defects in assessments, demand and collection of State receipts, noticed during local audit but not settled on the spot, are communicated to the heads of the offices and to the next higher departmental authorities through IRs.

According to the instructions issued by the Government in November 1965, first reply to IRs are required to be sent within four weeks from the date of their receipt. In order to apprise the Government of the position of pending audit observations from time to time, statements of outstanding audit observations are forwarded to the Government and their replies watched in audit.

As at the end of June 2009, there were 2,897 outstanding IRs containing 15,284 audit observations involving Rs. 1,133.31 crore issued upto December 2008. The details of reports outstanding at the end of June for the years 2007 to 2009 are mentioned below:

(Rupees in crore)			
Period	Number of outstanding IRs	Number of outstanding audit observations	Amount involved
At the end of June 2007	1,723	9,978	1,044.60
At the end of June 2008	2,566	13,695	1,005.99
At the end of June 2009	2,897	15,284	1,133.31

Out of 2,897 pending IRs, even first replies have not been received (June 2009) for 332 IRs of which 131 IRs related to 2008-09 and the remaining 201 IRs to the previous year. Pendency of these reports was reported to the Government (September 2009).

Revenue head wise details of the outstanding IRs and audit observations as on 30 June 2009 are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Number of IRs	Number of audit observations	Amount
1.	Tax on sales, trade etc.	1,074	9,593	580.40
2.	Taxes on agricultural income	200	1,104	81.53
3.	State excise	449	893	169.95
4.	Taxes on vehicles	277	1,402	11.49
5.	Land revenue	135	300	18.16
6.	State lotteries	29	60	0.43
7.	Forestry and wildlife	285	758	181.17
8.	Stamp duty and registration fees	426	1,123	7.53
9.	Taxes and duties on electricity	22	51	82.65
Total		2,897	15,284	1,133.31

1.8 Departmental audit committee meetings

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2008-09 and the paragraphs settled are mentioned below:

(Rupees in crore)

Head of revenue	Number of meetings held	Number of paragraphs settled		Amount
Sales tax	4	Upto 2000-01	105	11.24
		2001-02	98	
		2002-03	79	
		2003-04	16	
		2004-05	9	
		Total	307	
Agricultural income tax	2	Upto 1999-2000	10	0.24
		2000-01	1	
		2001-02	1	
		2002-03	3	
		2003-04	1	
		2005-06	1	
		2006-07	2	
		2008-09	1	
Total	20			

Stamp duty and registration fees	10	Upto 2001-02	14	0.24
		2002-03	16	
		2003-04	18	
		2004-05	49	
		2005-06	67	
		2006-07	43	
		2007-08	54	
		2008-09	1	
		Total	262	
State excise	1	Upto 2003-04	3	Nil
		2004-05	5	
		2005-06	5	
		2006-07	11	
		2007-08	10	
		2008-09	1	
		Total	35	
Taxes on vehicles	2	Upto 2003-04	2	0.26
		2004-05	8	
		2005-06	11	
		2006-07	9	
		2007-08	20	
		2008-09	4	
		Total	54	
Land revenue	3	Upto 1999-2000	2	1.73
		2002-03	2	
		2003-04	1	
		2004-05	4	
		2005-06	2	
		2006-07	8	
		2007-08	4	
		2008-09	1	
		Total	24	
Forest	1	Upto 2000-01	2	0.85
		2001-02	4	
		2002-03	3	
		2003-04	3	
		2004-05	1	
		2005-06	-	
		2006-07	1	
		2007-08	1	
		2008-09	-	
		Total	15	
Total	23		717	14.56

The Government did not constitute audit committee for the revenue head 'taxes and duties on electricity'.

1.9 Response of the departments to draft audit paragraphs

Draft paragraphs/reviews proposed for inclusion in the Audit Report are forwarded by the PAG to the Secretaries of the concerned departments through demi-official letters. According to the instructions issued in November 1965 by the Government, all departments are required to furnish their remarks on the draft paragraphs/reviews within six weeks of their receipt. 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.

One hundred and thirty five draft paragraphs (clubbed into 44 paragraphs including three reviews) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009 were forwarded to the concerned Secretaries to the Government and copies endorsed to the concerned head of the departments. However, the replies/ response to 88 draft paragraphs (out of 135 paragraphs) have not been received (September 2009). In 10 cases recoveries involving Rs. 32.83 lakh have been made.

1.10 Follow-up on Audit Reports

Instructions issued by the Government from time to time for timely follow-up action on the Audit Reports and matters pertaining to the Committee on Public Accounts stipulate that it is imperative to submit action taken notes (ATNs) on paragraphs and reviews included in the Audit Report indicating the remedial action taken or proposed to be taken, within two months from the date of presentation of the Audit Report to the legislature without waiting for any notice or call from the Committee on Public Accounts.

A review of the outstanding ATNs on 512 paragraphs included in 13 Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31 March 1995 to 31 March 2007 disclosed that the departments had submitted remedial ATNs on all paragraphs on which ATNs were due as on 31 July 2009 after the prescribed period of two months.

The Audit Report for the year ended 31 March 2008 was laid on the table of the legislature in March 2009. The departments had not submitted ATNs on eight paragraphs included in the above Audit Report (September 2009) although the prescribed time period was over in May 2009.

1.11 Non-production of records to Audit for scrutiny

The programme of local audit of Sales Tax Offices is drawn up sufficiently in advance and intimations are issued, usually one month before the local audit, to the department to enable them to keep the relevant records ready for audit scrutiny.

During 2008-09, 14,050 sales tax assessments records relating to 109 offices were not made available to audit. In 5,557 cases tax involved was Rs. 978.39 crore and in the remaining cases the tax effect were not available with the assessing authority. Of the 14,050 cases, 2,964 assessments pertain to 15

special circles where assessments of major dealers are dealt with. Yearwise breakup of such cases, are given below :

(Rupees in lakh)				
Name of Office.	Year in which it was to be audited	Number of assessment cases not audited.	Number of cases in which revenue involved could be ascertained	Revenue involved.
CTO, Spl. Circle, Thiruvananthapuram	Upto 2007-08	312	168	1630.96
CTO, Spl. Circle, Kollam	Upto 2007-08	360	0	0
CTO, Spl. Circle, Alappuzha	Upto 2008-09	8	0	0
CTO, Spl. Circle (HP), Mattancherry	Upto 2007-08	287	35	11265.15
CTO, Spl. Circle, Mattancherry	Upto 2007-08	132	78	1714.61
CTO, Spl. Circle I, Ernakulam	Upto 2007-08	24	16	6152.26
CTO, Spl. Circle II, Ernakulam	Upto 2007-08	234	102	20785.22
CTO, Spl. Circle III, Ernakulam	Upto 2007-08	214	102	8400.21
CTO, Spl. Circle, Thrissur	Upto 2008-09	268	268	3989.32
CTO, Spl. Circle, Palakkad	Upto 2007-08	277	176	4634.73
CTO, Spl. Circle, Tirur	Upto 2007-08	158	0	0
CTO, Spl. Circle I, Kozhikode	Upto 2007-08	199	66	2,716.34
CTO, Spl. Circle II, Kozhikode	Upto 2007-08	138	76	753.37
CTO, Spl. Circle, Kannur	Upto 2007-08	309	247	2,365.62
CTO, Spl. Circle, Kasargod	Upto 2007-08	44	36	357.46
Total				64,765.25

Similarly 25,221 assessments relating to the period 1996-97 onwards were in arrears in these offices and the department was not able to indicate the revenue involved in these assessments. Of the above, the assessments prior to 2003-04 have become barred by limitation due to non-assessment of the cases within the time frame fixed in Act/Rules.

The department stated that the non-production of records were due to the fact that these records were not traceable or that the records were with appellate or higher authorities.

The delay in production of records for audit would render audit scrutiny ineffective, as rectification of under-assessments, if any, might become time-barred, by the time these files are produced to audit.

The non-production of records in each office and arrears in assessment were brought to the notice of the department through the local audit reports of the respective offices.

The case was reported to Government in July 2009; their reply is awaited (September 2009).

1.12 Compliance with the earlier Audit Reports

During the years between 2001-02 and 2007-08, the department/Government accepted audit observations involving revenue of Rs. 152.28 crore out of which an amount of Rs. 10.34 crore was recovered till August 2009 as mentioned below:

(Rupees in crore)

Sl. No.	Year	Total money value	Money value of accepted cases	Amount recovered
1.	2001-02	454.15	19.27	1.09
2.	2002-03	468.78	28.76	1.61
3.	2003-04	130.68	44.06	1.08
4.	2004-05	55.49	31.14	0.77
5.	2005-06	29.23	5.91	2.96
6.	2006-07	279.90	3.02	0.94
7.	2007-08	276.21	20.12	1.89
Total		1694.44	152.28	10.34

1.13 Results of audit

Test check of the records of commercial tax, State excise, motor vehicles, forest and other departmental offices conducted during the year 2008-09 revealed underassessments/short levy/loss of revenue aggregating Rs. 885.70 crore in 3088 cases. During the course of the year, the departments concerned accepted underassessments and other deficiencies of Rs. 59.27 crore involved in 546 cases of which 121 cases involving Rs. 4.79 crore were pointed out in audit during 2008-09 and the rest in the earlier years. The departments collected Rs. 2.69 crore in 420 cases during 2008-09.

This report contains 44 paragraphs including three reviews on cross verification of purchase/sale effected under KGST/KVAT/CST Acts, package for effective administration of registration laws (PEARL) in the registration department and recovery of arrears of revenue under Revenue Recovery Act and paragraphs relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of Rs. 675.44 crore. The departments/Government

have accepted audit observations involving Rs. 43.81 crore out of which Rs. 32.83 lakh has been recovered. The replies in the remaining cases have not been received (September 2009). These are discussed in succeeding chapter II to VIII.

CHAPTER II
TAX ON SALES, TRADE ETC.

2.1 Results of audit

Test check of sales tax assessments, refund cases, value added tax (VAT) assessments and connected documents of commercial taxes offices conducted during the year 2008-09 revealed underassessment of turnover, non-levy of interest, grant of incorrect exemption, application of incorrect rate of tax etc., amounting to Rs. 459.11 crore in 2,181 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
A. Sales Tax			
1.	Cross verification of purchase/sale effected under KGST/KVAT/CST Acts (A review)	1	322.73
2.	Grant of irregular exemption	93	8.58
3.	Turnover escaping assessment	164	4.63
4.	Grant of excess credit	31	4.11
5.	Application of incorrect rate of tax	111	2.07
6.	Non/short levy of interest	34	0.80
7.	Incorrect grant of concessional rate of tax	11	0.06
8.	Other lapses	264	23.11
B. VAT			
9.	Application of incorrect rate of tax	270	15.94
10.	Turnover escaping assessment	195	12.12
11.	Grant of irregular exemption	196	8.54
12.	Grant of excess input tax credit	224	8.32
13.	Non/short levy of interest	43	1.53
14.	Incorrect grant of concessional rate of tax	19	0.62
15.	Other lapses	525	45.95
Total		2,181	459.11

During the year 2008-09, the department accepted underassessments and other deficiencies of Rs. 25.17 crore involved in 291 cases of which 73 cases involving Rs. 4.37 crore was pointed out during 2008-09 and the rest in earlier years. The department recovered Rs. 1.28 crore in 203 cases of which 63 cases involving Rs. 65.46 lakh were pointed out during 2008-09 and the balance to the earlier years.

A review of “**Cross verification of purchase/sale effected under KGST/KVAT/CST Acts**” involving Rs. 322.73 crore and few other audit observations involving Rs. 14.22 crore are mentioned in the succeeding paragraphs.

2.2 Cross verification of purchase/sale effected under KGST/ KVAT/CST Acts

2.2.1 HIGHLIGHTS

- Absence of control over movement of goods under transit pass resulted in short levy of Rs. 32.41 crore.

(Paragraph 2.2.7)

- Non-conducting of cross verification of declaration in form 25 led to evasion of tax of Rs. 43.94 crore.

(Paragraph 2.2.9)

- Short levy of Rs. 172.93 crore due to acceptance of invalid/defective declaration forms.

(Paragraph 2.2.10)

- The Government unauthorisedly waived tax, interest and penalty of Rs. 96.87 crore leviable under the Central Sales Tax Act

(Paragraph 2.2.11)

- Non-accounting of import purchase/purchase through form 25 resulted in non-levy of tax of Rs. 18.43 crore.

(Paragraph 2.2.12)

2.2.2 Introduction

The Kerala General Sales Tax (KGST) Act, 1963 (upto 31 March 2005), Kerala Value Added Tax (KVAT) Act, 2003 (introduced from 1 April 2005) and Central Sales Tax Act, 1956 govern the levy and collection of tax on sale or purchase of goods in the State. Under the KGST Act, tax on the turnover of sale or purchase of goods are leviable only at the specified point and at the specified rate. The sale or purchase of goods at all other points, other than the points specified for levy of tax, are exempt subject to the condition that the dealer claiming exemption shall furnish supporting documents or prescribed declaration/certificate. Under the KVAT Act, tax on the turnover of sale of goods is leviable at all points. The assessing authorities (AA) are required to confirm the genuineness of these declarations or documents through cross verification of records of other dealers/State and utilise the information gathered from check post before finalising the assessment.

A review on 'Cross verification of purchase/sale effected under KGST/KVAT/CST Acts' was conducted by audit which revealed a number of deficiencies as discussed in the succeeding paragraphs.

2.2.3 Organisational set-up

The Department of Commercial Taxes, which administers the levy and collection of sales tax/VAT under KGST, KVAT and CST Acts, is headed by

the Principal Secretary (Taxes) at the Government level and the Commissioner of Commercial Taxes (CCT) at the department level. The CCT functions with the assistance of Joint Commissioners, Deputy Commissioners and Inspecting Assistant Commissioners. Assessment, levy and collection is done by Assistant Commissioners (Assessment) and Commercial Tax Officers (CTO).

2.2.4 Scope of audit

During the review, records of 34 out of 135 assessment circles and eight out of 57 check posts, spread over 11 revenue districts for the period 2003-04 to 2007-08 were test checked by audit. Selection of offices was made particularly based on the availability of check posts under its jurisdiction, nature of commodity dealt by the dealers registered under these offices etc. Details such as import particulars, check post declarations, transit passes, purchases effected by issuing form¹ 25, and sales/transfers effected by issuing form² C/F etc., were collected from the assessment circles/check posts/Cochin Customs House and cross verified with the records of other circles/check posts.

2.2.5 Audit objectives

The review was conducted with a view to ascertain whether

- the department have introduced an effective system of cross verification of the documents furnished by the dealers;
- claims for exemption on the basis of declarations/documents were allowed after verifying its genuineness through cross verification;
- exemptions/reductions in rate of tax are in accordance with the provisions in the Acts; and
- internal control mechanism existed in the department and was effective.

2.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing necessary information and records for audit. An entry conference was held with the Principal Secretary (Taxes) who is also functioning as Commissioner of Commercial Taxes and was apprised of the scope, methodology and objectives of the review. The review report was forwarded to the department and to the Government in April 2009. An exit conference was conducted in July 2009, which was attended by the Principal Secretary (Taxes) cum Commissioner of Commercial Tax. The reply of the department/Government has not been received (September 2009).

¹ Declaration to prove that a dealer is not the last purchaser within the State.

² C form – Declaration to prove that the interstate sale was effected to registered dealers and F form is to prove that transfer of goods to other States otherwise than by way of sale.

Audit findings

2.2.7 Absence of control over movement of goods under transit pass

Under section 48 of the KVAT Act, in case where any vehicle carrying goods from any place outside the State and bound for any place outside the State passes through the State, the owner or driver or any other person in charge of the vehicle shall obtain a transit pass in triplicate in form 7B from the person in charge of the check post at the entry point and surrender the original and duplicate copy to the officer in charge of the check post at the exit point. If the owner or driver or person in charge of the vehicle fails to surrender the TP to the designated exit check post, it shall be presumed that the goods have been sold within the State and the driver, owner or any person in charge of the goods shall be assessed to tax and penalty not exceeding twice the amount of such tax shall be levied on him. The officers in charge of the entry and exit check posts shall send the information of entry/exit of goods to the concerned CTO who shall enter such information in a TP register for monitoring.

The CCT in his instructions³ inter alia, directed that the Sales Tax Inspector who issues the transit pass should pass on such information to the Deputy Commissioner of that district through e-mail/post within 24 hours and the non-receipt of the information of moving of the goods out of the state through the exit check post should be reported to the Intelligence Officer (CI) of the area within one week. Further it has been directed that on receipt of such information, the Intelligence Officer should get the details of transit pass issued and the goods moving out of the states from the Deputy Commissioner's office or from the check posts concerned and cross check these within seven days and make an endorsement in the transit pass register of the check posts weekly.

Audit scrutiny of eight⁴ commercial tax check posts (check posts) revealed severe shortcomings in the process of control on movement of goods through the State. Instances of deficiencies noticed are that entries in the TP register were not completed and not authenticated; copies of Transit passes were not forwarded to the CTOs/DCs concerned; details of the exit check posts were not noted, periodical review of the register by the controlling officer were not conducted and non-receipt of exit pass were not reported to the IO(CI)/CTO/DC etc.

Due to these deficiencies, the following observations were made during the review.

2.2.7.1 Test check of the register of Transit passes in eight check posts revealed that in respect of 2,813 Transit passes⁵ covering goods valued at Rs. 100.60 crore issued during the period from August 2003 to March 2008,

³ Circular Nos. 8 of 2003 and 13 of 2005.

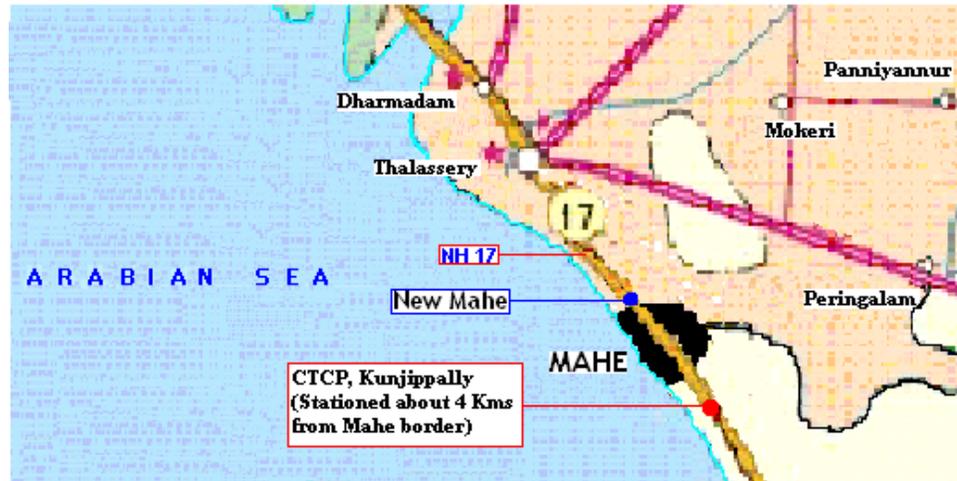
⁴ Amaravila, Aryankavu, B. Manjeswar, Gopalapuram, Muthanga, Naduppunni, Walayar and Commercial Tax facilitation centre, Willingdon Island.

⁵ Amaravila 94, Aryankavu 17, B. Manjeswar 932, Facilitation centre, W.Island 119, Gopalapuram 741, Muthanga 85, Naduppunni 308 and Walayar 517.

details regarding the surrender of the Transit passes at the exit check post were not available.

In the absence of details of exit of the goods, it is evident that the goods have been sold in the State. Thus, due to failure of the control mechanism devised by the department, timely action could not be taken to detect delivery of goods within the State and consequently there was non-levy of tax of Rs. 31.72 crore (including penalty).

2.2.7.2 The rate of tax on the sale of goods under the Pondicherry Sales Tax Act is comparatively lesser than that in Kerala. National highway 17 passes through Mahe. Movement of goods to Mahe from southern part of Kerala is mainly regulated through the check post, Kunjippally which is situated about 4 km away from the actual border of Mahe. There are number of pocket roads in between the check posts and the actual border of Mahe through which vehicles can easily be diverted to various places within Kerala after getting clearance from the check post at Kunjippally as shown below.



Due to the difference in rate of tax prevailing in Mahe and Kerala, by availing the facility of pocket roads in between the check posts and Mahe border, unscrupulous dealers transport the goods under the intention for use in Mahe and sell the goods in Kerala thereby evading tax otherwise due to Government of Kerala.

Audit scrutiny of five commodities only revealed that during the period from January to December 2008, taxable goods valued at Rs. 374.02 crore involving tax effect of Rs. 119.02 crore (in Kerala) intended for delivery at Mahe was transported through the check post, Kunjippally and New Mahe⁶ as detailed below.

(Rupees in lakh)

Commodity	Rate of tax		Entry check post in Kerala	Exit check post in Kerala	Quantity	Value	Tax effect
	In Kerala	In Mahe					
Petrol & Diesel	24.69	12.50	(Goods initiated from Kerala)	Kunjippally	7,50,89,000 litre	22,772.66	5,622.57

⁶ Check post situated in Kerala, outside Mahe

Commodity	Rate of tax		Entry check post in Kerala	Exit check post in Kerala	Quantity	Value	Tax effect
	In Kerala	In Mahe					
IMFL	90.00	0.00	Muthanga, B. Manjeswar	Kunjippally & New Mahe	48,11,976 litre	5,743.16	5,168.84
Chicken	12.50	0.00	Gopalapuram	Kunjippally	94,15,314 Kg	4,499.10	562.39
Ghee	12.50	4.00	Gopalapuram	Kunjippally	1,02,404 cases	2,837.32	354.67
Tiles	12.50	8.00	B. Manjeshwar & Koottupuzha	New Mahe	7,90,240 Sqm	1,549.91	193.74
Total							11,902.21

Mahe is a part of a Union Territory with an area of about 9 sq.km and population of 36,823 (2001 census) with total vehicle strength of 341 and geographically situated within Kerala. Considering the population and vehicles figures it can be easily inferred that such huge quantity of goods cannot be consumed at Mahe. Thus, Mahe is being used as a pocket for evasion of tax legitimately due to the Kerala State exchequer. Leakage of revenue on account of tax on the above commodities transported to Mahe during just one year (2008) works out to Rs. 119.02 crore. During exit conference, the Principal Secretary (Taxes) agreed that Mahe is a problematic point and stated that action was being taken to minimise the loss of revenue by introducing journey pass for petrol and diesel and also by strengthening the intelligence wing.

2.2.7.3 Commercial tax facilitation centre at Willingdon Island is the exit check post for the goods transported for export through Cochin Port. So, transit pass obtained for transportation of goods for export is required to be surrendered at this point. The commercial tax facilitation centre is stationed within the area of Cochin Port Trust. However, the Commercial Taxes Department has not introduced infrastructural facilities such as barricade etc., for monitoring transportation of goods through the area.

During the year 2006-07, molasses valued at Rs. 49.93 lakh from Tamil Nadu and intended for export through Cochin port was allowed to pass through the State by issuing a total number of 101 Transit passes by check post, Walayar. The last check post before entering Cochin port is commercial tax facilitation centre, Willingdon Island, Cochin and so the Transit passes should have been surrendered at that centre so as to ensure that the goods were not delivered in the State. But, the Transit passes were incorrectly surrendered at the internal check post at Karukutty which is situated about 50 kms before Cochin port.

Similarly, during the years 2006-07 and 2007-08, coffee beans valued at Rs. 15.06 crore from Karnataka and intended for export through Cochin port was allowed to pass through the State by issuing 122 Transit passes from check post, Muthanga. Instead of surrendering the Transit passes at commercial tax facilitation centre at Willingdon Island which is the last check post before Cochin port, the Transit passes were incorrectly surrendered at check post, Kottappuram which is about 25 km before commercial tax facilitation centre, Willingdon Island.

Thus, irregular acceptance of Transit passes by check posts at Karukutty and Kottappuram allowed the transporters the scope to divert/sell the goods within Kerala and evade tax.

In another case, coffee beans valued at Rs. 62.87 lakh intended for export through Cochin port was allowed to pass through check post, Muthanga from Karnataka without issuing Transit passes.

These defeats the basic objective of monitoring movement of interstate goods prescribed for prevention of evasion. In such circumstances the possibility of disposal of goods by way of sale in the State cannot be ruled out.

However, no record was available at commercial tax facilitation centre to show that the goods actually passed through that check posts. So it can be inferred that the goods were actually sold out in the State. Tax effect involved in these transactions worked out to Rs. 69 lakh.

Though a system has been prescribed for sending the details of entry and exit of goods through various check posts to the concerned CTOs and DCs for monitoring and cross verification, the authorities could not detect the defects as mentioned above and initiate remedial measures to plug the scope of leakage of revenue.

2.2.8 Non-utilisation of check post declaration

As per KGST Act and the rules made thereunder, no person shall transport within the State any consignment of goods by any vehicle unless it is accompanied by an invoice or a delivery note or certificate of ownership. According to the instructions in the departmental manual and circulars⁷ issued by the CCT, officials in charge of the check posts should collect the declarations and send them to the AAs concerned for verification at the time of assessment. The AAs should cross check the details available in the declaration with the returns filed by the assessee to ensure that there was no evasion of tax by the dealers. Audit scrutiny revealed that there was lack of co-ordination between the check posts and the unit offices. It was noticed that in some cases, the declarations were sent to some other unit offices instead of the respective office, while in other cases, though the check post authorities have sent the copies of check post declarations to the unit offices, neither any action was taken to file them in the respective assessment files, nor did the AAs cross verify the particulars of the declarations while finalising the assessments. Due to the non-observance of the above provisions, the following cases were noticed during the review.

2.2.8.1 Cross verification of details from five⁸ check posts with the assessment records of eight⁹ assessment circles revealed that 122 declarations relating to the period from May 2003 to January 2007 covering goods valued at Rs. 6.45 crore were not seen filed in the concerned files. Verification of details available with the respective assessment files revealed that purchase

⁷ Circular Nos. 26 of 1987 and 15 of 2004.

⁸ Aryankavu, Amaravila, Gopalapuram, Muthanga and Walayar.

⁹ First circle Palakkad, Kalpetta, Punalur, special circle Kottayam, special circle Kollam, special circle III Ernakulam, special circle Kottarakkara and special circle Palakkad.

covered in the declarations were omitted to be accounted for. Short levy of tax due to the unaccounted purchase worked out to Rs. 1.47 crore.

On this being pointed out, the AAs of seven¹⁰ assessment circles agreed (between September 2008 and March 2009) to examine the case. The AA¹¹ in one assessment circle stated (December 2008) that since the assessment of the dealers were already completed and in the absence of details of consignor, invoice number etc., verification and further action were not possible to substantiate evasion of tax. However, the fact remains that the details of transportation of goods which the dealer had omitted to account is evidenced in audit. Hence, the AA was bound to gather the details and to make good the revenue loss.

2.2.8.2 Test check of records of check post at Amaravila revealed that 39 declarations pertaining to the period from June 2003 to October 2003 covering goods valued at Rs. 2.44 crore were not properly despatched to the AAs concerned but to some other offices, thereby defeating the purpose of statutory provisions. To test check, audit visited some of the offices and, there the records were not available. Hence audit could not ascertain whether turnover covered by those declarations were properly accounted. The maximum tax effect involved worked out to Rs. 27.88 lakh.

Thus, due to non/improper forwarding of the check post declarations by the check post authorities to the AAs, the system of cross verification of these declarations to ensure non-evasion of tax at the time of finalising assessments got defeated.

2.2.9 Non-conducting of cross verification of declarations in form 25

Under the KGST Act and Rules made thereunder, a dealer who purchases goods taxable at the last purchase point shall not be liable to pay tax, if he proves that he is not the last purchaser within the State. For this, he shall file declaration in form 25 in duplicate issued by the purchasing dealer. The correctness of exemption claimed by a dealer can be ascertained, only if the duplicate copy of the declaration filed by the particular dealer is sent to the assessing circle of the purchasing dealer for cross verification. Rubber and pepper (purchased within the State) were taxable at the last purchase point.

In nine assessment circles, it was noticed that while finalising the assessments of 37 dealers for the years 2002-03 to 2004-05 between January 2005 and February 2008, the AAs allowed exemption on the purchase turnover of rubber and pepper valued Rs. 355.01 crore supported by declaration in form 25 without ascertaining its genuineness by cross verification of records of the AAs of the purchasing dealer. Exemption allowed without ascertaining its genuineness was not in order. Tax effect is worked out to Rs. 43.94 crore as detailed below:

¹⁰ CTO Kalpetta, first circle Palakkad, Kottarakkara, Kottayam, Palakkad, Punalur and Special circle Kollam.

¹¹ Assistant Commissioner (Assessment), special circle III, Ernakulam

(Rupees in crore)

Sl. No	Name of Office	Number of dealers	Commodity	Turnover allowed exemption	Tax involved
1.	CTO, Ponkunnam	5	Rubber	106.82	13.51
2.	CTO, Pala	9	Rubber	103.19	13.05
3.	CTO, Aluva	2	Rubber	71.62	9.06
4.	CTO, Nedumangad	7	Rubber	38.47	4.87
5.	CTO, II Circle, Perumbavur	2	Rubber	18.70	2.37
6.	CTO, Nedumkandam	6	Pepper	10.61	0.49
7.	CTO, Neyyattinkara	4	Rubber	3.10	0.39
8.	Special Circle, Kottayam	1	Rubber	1.12	0.14
9.	CTO, Devikulam	1	Pepper	1.38	0.06
Total				355.01	43.94

2.2.10 Acceptance of invalid/defective declaration forms

Under section 8(1) of the CST Act, as it stood during the relevant period, turnover of interstate sales of goods to registered dealers, where the rate of tax of which under the State Act is more than four *per cent*, would attract tax at the rate of four *per cent* upto 31 March 2007 and from 1 April 2007 at the rate of three *per cent* or rate of tax under the local VAT Act whichever is lower. As provided under Section 8(4) of the Act read with rule 12(1) of CST (Return and Turnover) Rules 1957, in order to prove that the transactions would fall under Section 8(1), the dealer had to file a declaration in form C duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in the prescribed form. Declarations not duly filled and not containing the prescribed particulars are to be treated as defective. Besides, under Section 6A of the CST Act read with Rule 12(5) of CST (R&T) Rules, transfer of goods from one State to another other than by way of sale are exempted from tax provided the same is covered by declaration in form F. A single declaration shall cover transactions pertaining to one calendar month only.

Under the CST (R&T) Rules, as amended by Union Finance Act 2005 (with effect from 1 April 2005), the declaration in form C or F should be furnished within three months after the end of the period to which the declaration relate. As provided under Section 8(2) of the CST Act, tax on the turnover of goods not covered by valid declaration in form C, were taxable at the rate of ten *per cent* or the rate of tax under the local Act whichever is higher upto 31 March 2007 and from 1 April 2007 at the rate applicable under the KVAT Act.

It was, however, noticed during the review that the department has not devised a regular system of cross verification of declaration forms to ensure its genuineness. Also, the department has not issued any instruction regarding the checks to be carried out before accepting declaration forms before allowing reduction/exemption of tax.

2.2.10.1 During scrutiny of records in CTO, special circle I, Ernakulam it was observed that while finalising the assessments of 10 dealers for the assessment years 2005-06 and 2006-07, turnover of Rs. 309.98 crore returned without declarations in form C was accepted. Since the turnover was not supported by valid declaration in form C, the turnover was to be assessed at the higher rate specified under section 8(2) of the CST Act. Omission in this regard resulted in short levy of tax, interest and penalty of Rs. 103.14 crore.

2.2.10.2 During scrutiny of records in CTO, special circle, Mattancherry at Aluva, it was observed that though a dealer had not filed valid declaration in form C, the turnover was shown as taxable at two *per cent* and tax due was paid accordingly. The returns were summarily accepted by the AA and thereby the assessments were deemed to have been completed under Section 9(2) of the CST Act read with Section 21 of the KVAT Act 2003. Omission in this regard had resulted in short levy of tax, interest and penalty of Rs. 37.62 crore.

2.2.10.3 Test check of records of six¹² assessment circles revealed that while finalising the assessments of seven dealers for the years 2002-03 to 2004-05, the AAs accepted 69 declarations of form C covering a turnover of Rs. 103.43 crore, which were defective for the reasons that the same were not duly filled and not containing the prescribed particulars such as date of issue, to whom issued, registration number etc.. This showed that the forms were not scrutinised properly before accepting them. Acceptance of defective form C resulted in short levy of tax of Rs. 27.63 crore including interest and penalty.

2.2.10.4 Test check of assessment records of four dealers in four¹³ assessment circles revealed that while finalising the assessments for 2004-05 and 2005-06 during March 2007 and September 2008, the AAs accepted form F declarations for Rs. 45.36 crore covering transactions for more than one month in violation of the provisions in the statute. Thus, allowance of exemption without verification of the declaration forms resulted in short levy of tax of Rs. 4.54 crore.

2.2.11 Incorrect waiver of central sales tax

The CST Act and the rules made thereunder govern the levy, collection and distribution of taxes on sales of goods in the course of interstate trade or commerce. Under the Act, State Governments are empowered to assess, reassess, collect and enforce payment of tax payable by a dealer under the Act and the proceeds in any financial year of any tax levied on behalf of Government of India shall be assigned to State and retained by it. Further, Section 8(5) of the Act empowers the State Government, if it is satisfied in public interest, to issue notification in the official gazette to exempt any dealer from payment of tax or reduce the rate of tax etc. Since the CST Act is enacted by the Parliament, only Parliament can make any amendment in the Act. As such, State Government has no power to issue an executive order waiving the tax, interest and penalty due and levied under the CST Act.

¹² Mattanchery at Aluva, Palakkad First circle, Palakkad, Perumbavoor, Special circles Ernakulam II and Thiruvananthapuram.

¹³ Special circles Ernakulam I, Kollam and Kozhikode II and CTO Punalur.

The cashew dealers in the State dispose off huge quantity of cashew kernel by way of interstate sales/branch transfer and claimed concessional rate of tax/turnover exemption by filing declarations in form C/F. On getting information that most of the declarations filed by cashew dealers were bogus or issued by bogus dealers (dealers not in existence), the intelligence wing of the department conducted interstate investigation and detected dealers who issued bogus form/name of bogus dealers. Details so gathered were made available to the assessing officers for information.

Cross verification of records of two¹⁴ assessment circles revealed that in respect of 220 dealers, the turnover of interstate sales/stock transfers made during the years 2002-03 to 2005-06 were supported by bogus forms/forms issued by bogus dealers.

It was further noticed that based on representations made by certain organisations of cashew dealers, the Government vide a notification¹⁵ ordered waiver of penalty, interest and all amount in excess of four *per cent* which were due and leviable under the Act on the turnover involved in the bogus C/F form. Such unauthorised and arbitrary order issued by the State Government not only extended moral support to the dealers who willfully evaded legitimate tax due to the State but also resulted in minimum loss of revenue of Rs. 96.87 crore in the two circles test checked by audit.

2.2.12 Non accounting of import purchases

Cross verification of details of import of selected goods viz., timber and ceramic tiles gathered from Cochin Customs House (CCH) with assessment files of 25 dealers in 14 assessment circles revealed that during the years 2003-04 to 2006-07, the dealers did not account for import purchase of goods valued at Rs. 33.82 crore which escaped the notice of the AAs also. This resulted in non-levy of Rs. 18.43 crore towards tax, interest, and penalty worked out on its corresponding sales turnover of Rs. 40.24 crore estimated by adding admitted gross profit rate where accounts are available and by adding a minimum gross profit of 10 *per cent* in other cases.

2.2.13 Grant of irregular exemption

2.2.13.1 Cross verification of details gathered from three¹⁶ assessment circles with the assessment records of five purchasing dealers in three other assessment circles revealed that purchase of rubber effected during the years 2003-04 & 2004-05 by issuing 10 numbers of form 25 declarations covering a total purchase value of Rs. 1.16 crore were not accounted for by the purchasing dealers. The unaccounted purchase resulted in short levy of tax of Rs. 49 lakh including interest and penalty.

2.2.13.2 In Neyyattinkara assessment circle, it was noticed that while finalising the assessment of a dealer for the year 2004-05 in June 2007, purchase turnover of rubber worth Rs. 31 lakh was allowed exemption without

¹⁴ Special circle II Ernakulam and special circle Kollam.

¹⁵ G.O.(MS) dated 7 July 2008.

¹⁶ CTOs Aluva and Pala and Special circle Kottayam.

form 25 declarations. This resulted in short levy of tax of Rs. 13.28 lakh including interest and penalty.

2.2.14 Internal audit

Internal audit is intended to examine and evaluate the level of compliance with the rules and procedures so as to provide a reasonable assurance on the adequacy of the internal control. Effective internal audit system both in the manual as well as computerised environments are a pre-requisite for the efficient functioning of any department. However, in the department there is no internal audit wing with the introduction of VAT with effect from 1 April 2005.

2.2.15 Conclusion

The review revealed a number of deficiencies in the system of cross verification of purchase/sales. Departmental directions and instructions regarding co-ordination between the entry and exit check posts to monitor the movement of goods meant for other States through Kerala to ensure non-delivery of goods within the State causing evasion of tax were not adhered to. Due to defect in the system of information sharing between the check post and the assessing authorities, in many cases assessments were finalised without considering the check post declarations. There is evasion of tax by dealers using Mahe as a pocket. There was no system of regular cross verification of declaration forms to verify the genuineness of the forms. Also, there was no guidelines on checks to be conducted before allowing exemption/reduced rate of tax. Irregular waiver of tax, interest and penalty of CST in excess of four *per cent* by the State Government resulted in loss of revenue. The internal control mechanism was weak as evidenced by absence of an internal audit wing due to which the department remained unaware of the deficiencies pointed out in this review.

2.2.16 Recommendations

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

- Issue strict orders for compliance of departmental orders regarding monitoring of movement of goods on transit pass through the State. Targets may also be fixed for the intelligence officers for carrying out cross verification of records of the entry and exit check posts;
- Shift the check post at Kunjippally to a more strategic location closer to the actual border with Mahe to arrest scope of evasion of tax. Besides, matter may be taken up with the central Government for ensuring uniform floor rate of tax between Kerala and Mahe to safeguard revenue of the State;
- prescribe a system of carrying out regular cross verification of declaration forms and issuing guidelines for checks to be conducted before accepting declaration forms for allowing exemption/reduced rate of tax;

- issue immediate orders withdrawing the waiver of tax, interest and penalty above four *per cent* under the CST Act with retrospective effect and taking steps to realise the dues from the defaulting dealers who have submitted bogus declaration forms; and
- make the internal audit wing functional and effective.

2.3 Other Audit observations

Scrutiny of assessment records of sales tax/value added tax (VAT) in Commercial Taxes Department revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax/penalty/interest, incorrect determination/classification/turnover and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of assessing authorities (AA) are pointed out in audit each year, but not only 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.

2.4 Non-observance of provisions of Acts/Rules

The Kerala General Sales Tax/Kerala Value Added Tax/Central Sales Tax Acts and Rules made thereunder provide for:

- (i) levy of tax/interest/penalty at the prescribed rate;
- (ii) allowing exemption of turnover subject to fulfillment of the prescribed conditions; and
- (iii) allowance of input tax credit as admissible.

It was noticed that the AAs while finalising the assessment did not observe some of the provisions which resulted in non/short levy/non realisation of tax/interest/penalty of Rs. 14.22 crore as mentioned in the paragraphs 2.4.1 to 2.4.11.

2.4.1 Non/short levy of tax due to grant of irregular exemption

2.4.1.1 Under the Central Sales Tax (CST) Act, 1956, sale or purchase of goods shall be deemed to take place in the course of inter state trade or commerce if the sale or purchase occasions the movement of goods from one State to another. Every dealer shall be liable to pay tax on all such sales effected by him in the course of inter state trade or commerce. By a notification issued under the Act, the Government have exempted inter state sales turnover of rubber from tax, provided that tax has been levied under the Kerala General Sales Tax (KGST) Act, 1963 on the purchase turnover.

During scrutiny of records of the inspecting assistant commissioner (IAC), Kattapana in June 2008, it was noticed that while finalising the assessment of a dealer in centrifuged latex and cream rubber for the year 2002-03, the AA irregularly exempted the interstate sales turnover of Rs. 15.90 crore related to centrifuged latex and cream rubber eventhough tax had not been levied on the purchase turnover. This resulted in non-levy of tax of Rs. 2.01 crore.

After the case was reported to the department in July 2008 and Government in August 2008, the Government stated in March 2009 that notice had been issued to revise the assessment. Further report has not been received (September 2009).

2.4.1.2 By a notification issued in November 1993 under the KGST Act, Government have exempted SSI units from payment of tax on sales turnover of goods manufactured by them subject to certain conditions. Further, as per

the Act, spectacles, glasses, goggles, rough blank lenses, framed attachments, parts and accessories thereof are taxable at the rate of eight *per cent*. It was judicially held¹⁷ by the High Court of Andhra Pradesh that sale of lens and frames separately or as spectacles after lenses were put in the frames, makes no difference as all are included in the same entry.

During scrutiny of the records in commercial tax office (CTO), third circle, Thiruvananthapuram between March 2007 and March 2008, it was noticed that a dealer registered as a small scale industry unit was allowed sales tax exemption for the years 2000-01 to 2004-05. As per the registration certificate, he was a wholesaler supplying lens/spectacles etc., to its branches and not a manufacturer. Further, as per the court decision conversion of optical blanks to lenses or fixing of lens into framed attachments would not tantamount to manufacture. Hence the exemption granted to the dealer as SSI unit was irregular. This resulted in short levy of tax of Rs. 70.34 lakh.

After the case was pointed out to the department between May 2007 and April 2008 and reported to the Government in February 2008, the Government stated in May 2008 that the exemption granted was in order as the unit was registered as an SSI unit and goods produced by them were eligible for exemption and the dealer had manufactured spectacles as evidenced by the sales effected to 'Kalluvellil Optical', Amburi. However, on further verification, it was found that there is no dealer as 'Kalluvellil Optical' at Amburi. As manufacture of lenses and spectacles by a whole sale dealer was not possible and the legislature had intended to levy tax on optical blanks, lenses, frames and spectacles under a single entry, the reply was not correct. Further reply has not been received (September 2009).

2.4.1.3 Under the KGST Act, note book was taxable at the rate of four *per cent*, five *per cent* and eight *per cent* with effect from April 1992 to December 1999, January 2000 to 30 December 2001 and from 31 December 2001 onwards respectively. As per the explanation thereunder, where tax is levied on note books, the tax, if any, paid on the purchase of paper out of which note book is manufactured shall be deducted. Under the amended provision of section 23 (3A) of the Act effective from 1 April 2004, where any dealer has failed to include any turnover or taxable turnover of his business or to pay the tax due thereon, or where any turnover or tax due has escaped assessment, interest shall accrue on the tax due on the turnover with effect from such date on which the tax would have fallen due. Interest due on the taxable turnover is calculated at the rate of one *per cent* per month.

During scrutiny of records in CTO, Kunnamkulam between January 2008 and January 2009, it was noticed that while finalising the assessments of 16 dealers, sales turnover of note books manufactured were irregularly exempted resulting in short levy of tax and interest of Rs. 65.07 lakh as mentioned below:

¹⁷ State of AP Vs Deccan optical and allied industries in 98 STC 114 (AP)

Sl. No.	No. of dealers	Assessment year	Turnover exempted (Rupees in crore)	Tax effect (Rupees in lakh)
1.	1	1994-95 to 2001-02	10.28	35.39
2.	15	2004-05	7.91	29.68
Total			18.19	65.07

After the case was reported to the department between February 2008 and February 2009 and Government between August 2008 and April 2009, the Government stated in December 2008 that it was judicially held¹⁸ that paper and note book were one and the same and hence exemption granted was in order. The reply was not correct as the decision related to the assessment years 1985-86 to 1988-89, when there was no specific entry for note book in the Act. Further reply has not been received (September 2009).

2.4.1.4 By a notification issued under the KGST Act, in November 1993, the Government have exempted levy of tax on sale of industrial input, plant and machinery etc., to industrial units in Cochin Export Processing Zone (CEPZ). The notification does not provide for exemption of tax on purchase by units in CEPZ. Rubber is taxable at the point of last purchase in the state. By another notification issued in November 1993, Government have reduced the rate of tax payable, by rubber based industrial units, on the purchase of rubber for use in the manufacture of rubber products within the State to five *per cent* from 1 April 1994 and by a subsequent notification issued in December 1999 Government have fixed the rate as six *per cent* from 1 April 2000.

During scrutiny of the records in CTOs Second circle, Kalamassery and Special circle III, Ernakulam during May 2008 and June 2008, it was noticed that while finalising the assessments of one industrial unit in CEPZ, for the years 1997-98 and 1998-99 and another unit in the Cochin Special Economic Zone (CSEZ) for the years 2002-03 and 2003-04, the AAs incorrectly exempted the purchase turnover of rubber, valued at Rs. 3.92 crore, used in the manufacture of rubber gloves. This resulted in short levy of tax of Rs. 23.31 lakh.

After the case was reported to the department in June 2008 and Government in September 2008, the Government stated in April 2009 that as per the notification¹⁹, exemption is available for tax payable under the Act for industrial undertakings in the CEPZ. However, the fact remains that the assessee had claimed exemption on the purchase turnover of rubber, whereas the exemption is available only for the sale to the industrial units in CEPZ ie, the seller of industrial raw materials to the industrial unit in CEPZ shall alone be eligible for exemption. Further, the Government have exempted the purchase tax from 1 July 2003 only vide another notification²⁰, from which it is clear that the purchase turnover of industrial units in CEPZ was not eligible for exemption upto June 2003.

¹⁸ M/s Kunnankulam book company Vs State of Kerala in the Honourable High Court of Kerala – 9 KTR 400

¹⁹ SRO 1727/93 dated 3 November 1993

²⁰ SRO 151/2004

2.4.1.5 By a clarification issued by the CCT, computer paper is taxable at eight *per cent* under entry 106 (ii) of first schedule to the KGST Act.

During scrutiny of records in CTO, Chalakkudy in February 2008, it was noticed that while finalising the assessments of a dealer engaged in the manufacture of computer stationary for the years 2002-03 and 2003-04, the AA incorrectly exempted the sales turnover of computer stationary (paper product), valued at Rs. 2.13 crore, treating it as second sales. This resulted in short levy of tax of Rs. 19.32 lakh.

After the case was reported to the department in March 2008 and Government in August 2008, the Government stated in March 2009 that as per the decision of the Sales Tax Appellate Tribunal (STAT), the assessee was eligible for exemption as the dealer was purchasing paper and other raw materials and converting it after printing into computer stationery and no manufacturing process was involved. However, the fact remains that the SSI exemption on manufacture of computer paper acquired in 1996-97 got exhausted during 1999-2000 and from 2000-01 onwards the assessee was claiming the sales as second sales of paper.

2.4.1.6 Under the KGST Act, oil palm kernels are taxable at the rate of eight *per cent* under entry 177 of schedule I.

During scrutiny of records in CTO, special circle, Kottayam, in November 2007, it was noticed that while finalising the GST and CST assessments of an assessee for the year 2004-05, the AA irregularly exempted the local sales turnover of oil palm kernel of Rs. 64.34 lakh and interstate sales turnover of Rs. 41.85 lakh treating them as fruits. This was not correct as oil palm kernel is not a fruit. The grant of incorrect exemption resulted in short levy of tax of Rs. 10.10 lakh.

After the case was pointed out, the AA replied in January 2009 that the case would be examined. Further reply has not been received (September 2009).

The matter was reported to the department in February 2009 and Government in April 2009; their reply has not been received (September 2009).

2.4.1.7 Under Section 7 of the KGST Act, a contractor in works other than civil works, may opt to pay tax on the whole amount of contract at the rate of seventy *per cent* of the rates shown in the fourth schedule if the contract amount exceeds Rs. 50 lakh and at the rate of five *per cent* on the whole amount of contract if the contract amount does not exceed Rs. 50 lakh.

During scrutiny of records in CTO, fourth circle, Ernakulam in July 2008, it was noticed that the assessment of a dealer, who had opted for payment of tax under Section 7 in respect of aluminium joinery works for the year 2002-03 was finalised in November 2007. The turnover in respect of each contract was less than Rs. 50 lakh. However, the AA irregularly exempted the turnover of Rs. 1.11 crore relating to aluminium joinery work and Rs. 3.61 lakh relating to labour charges respectively from the total contract receipt of Rs. 1.56 crore. The balance turnover of Rs. 40.83 lakh was assessed at the rate of two *per cent* instead of correct rate of five *per cent*. This resulted in short levy of tax of Rs. 8.02 lakh including additional sales tax (AST).

After the case was pointed out, the AA stated in July 2008 that the case would be examined. Further development in the matter has not been reported (September 2009).

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

2.4.1.8 By a notification issued in June 2007 under the KGST Act, the Government have made a reduction in the rate of tax payable by khadi and village industries units recognised by the Kerala Khadi and Village Industries Board and the Khadi and Village Commission of India to four *per cent* if the annual turnover of the unit exceeds Rs 50 lakh. The rate was effective during the period from 1 April 2000 to 31 March 2004.

During scrutiny of records in CTO, Chathannoor in August 2008, it was noticed that, while finalising the assessment of a khadi and village industries unit having an annual turnover exceeding Rs. 50 lakh for the year 2003-04, the AA irregularly exempted the entire sales turnover of Rs. 1.50 crore. This resulted in non-levy of tax of Rs. 6.69 lakh.

After the case was reported to the department in October 2008 and Government in February 2009, the Government stated in June 2009 that the assessment had been revised and tax and interest demanded. The report on recovery has not been received (September 2009).

2.4.1.9 Under the KGST Act, 'taxable turnover' means the turnover on which a dealer shall be liable to pay tax after making the prescribed deductions from the total turnover. Under Section 5 (2C) (c) of the Act, manufacturer of distillery, brewery or winery or other manufactory established under *Abkari* Act, 1977, is liable to pay turnover tax at five *per cent* on the sales turnover of liquor.

During scrutiny of records in CTO, special circle II, Kozhikode in January 2008, it was noticed that while finalising the assessment of a dealer, engaged in manufacture and sale of Indian made foreign liquor for the year 2004-05, the AA incorrectly allowed exemption of Rs. 1.03 crore, relating to prompt payment discount, on the assessment of turnover tax. This resulted in short levy of turnover tax of Rs. 5.14 lakh.

After the case was reported to the department in February 2008 and Government in August 2008, the Government stated in April 2009 that as per the contract, two *per cent* discount is allowable and hence it was deducted from the total turnover and taxable turnover was arrived at accordingly. The reply was not correct as the assessee himself had disclosed the total turnover as taxable and turnover tax on the total turnover was paid accordingly. However, while finalising the assessment the AA had incorrectly given two *per cent* discount on the turnover, which was shown as selling expenses in the P&L accounts, and turnover tax was short demanded resulting in excess credit to the assessee.

2.4.2 Short levy due to application of incorrect rate of tax

Under the KGST Act, rate of tax depends on the nature of sale, point of sale and also on the kind of commodity.

Scrutiny of records revealed that while finalising the assessment, the AAs levied tax at incorrect rates resulting in short levy of tax of Rs. 2.90 crore as mentioned below:

Sl. No.	Assessment circle Assessment year	Commodity/ contract	Rate applicable Rate applied	Turnover (Rs.)	Short levy (Rs.)
1.	CTO, Spl. circle, <u>Palakkad</u> 2002-03 to 2004-05	Goods manufactured by large and medium scale industry (CST assessment)	$\frac{4}{2}$	84.66 crore	1.69 crore
The matter was pointed out to the department and reported to the Government in April 2009; their reply has not been received (September 2009).					
2.	CTO, Works Contract and Luxury Tax (WC & LT), <u>Ernakulam</u> 2001-02 to 2003-04	Electrical contract	$\frac{12}{8}$	16.49 crore	74.05 lakh
After the case was pointed out, the AA stated in January 2008, that supply of shunt capacitor, lightning arresters etc. would not come under entry 6 but under the residuary entry 22. The reply was not correct as the contract, according to the work order, included design, manufacture, testing, supply cum erection including all associated works and commissioning of 110 KV class current transformer and CT mounting structure, current transformers, voltage transformers and the indoor control panel duly forming cable ducts etc., and hence can only be considered under entry 6 of schedule IV to the Act taxable at 12 <i>per cent</i> . The matter was reported to the department in March 2008 and Government in August 2008; their reply has not been received (September 2009).					
3.	AIT and CTO, <u>Kuthiyathodu</u> 2001-02 to 2004-05	Biscuits	$\frac{12}{8}$	2.79 crore	12.66 lakh
After the case was reported to the department in February 2008 and Government in August 2008, the Government stated in December 2008 that the assessments were revised and short levy demanded. The report on recovery has not been received (September 2009).					
4.	CTO, Spl. circle, <u>Mattancherry</u> 2004-05	Coconut oil (CST assessment)	$\frac{3}{2}$	8.36 crore	10.95 lakh
After the case was pointed out, the AA stated in December 2008 that the assessee being a manufacturer of coconut oil, the interstate sales turnover was eligible for the concessional rate of two <i>per cent</i> available under the KGST Act. The reply was not correct as the sale being an interstate sale the rate of tax is three <i>per cent</i> . The matter was reported to the department in February 2009 and Government in April 2009; their reply has not been received (September 2009).					
5.	CTO, <u>Ettumanur</u> 2003-04	Rubber products (CST assessment without C form)	$\frac{12}{10}$	1.82 crore	5.52 lakh
After the case was pointed out, the AA stated in December 2008 that the matter would be examined. Further reply has not been received (September 2009). The matter was reported to the department in January 2009 and Government in February 2009; their reply has not been received (September 2009).					

Sl. No.	Assessment circle Assessment year	Commodity/ contract	Rate applicable Rate applied	Turnover (Rs.)	Short levy (Rs.)
6.	CTO, Spl. circle I, <u>Ernakulam</u> 2001-02	White oats	$\frac{12}{4}$	59.25 lakh	5.23 lakh
<p>After the case was pointed out in April 2008, the department stated in November 2008 that the assessment records were submitted to the Deputy Commissioner for <i>suo motu</i> revision and on receipt of the same the assessment would be revised. Further developments have not been reported (September 2009).</p> <p>The matter was reported to the Government in August 2008; their reply has not been received (September 2009).</p>					
7.	CTO, Spl. circle III <u>Ernakulam</u> 2000-01 to 2004-05	Interior contract work	$\frac{8.4}{5}$	1.13 crore	4.19 lakh
<p>After the case was pointed out in May 2008, the AA stated in June 2008 that the case would be examined. Further development has not been reported (September 2009).</p> <p>The matter was reported to the Government in September 2008; their reply has not been received (September 2009).</p>					
8.	CTO, Spl. circle I, <u>Ernakulam</u> 2000-01	Yeast	$\frac{12}{8}$	96.33 lakh	3.85 lakh
<p>After the case was pointed out in April 2008, the department stated in November 2008 that the assessment was completed on the basis of a decision existing at the time of the assessment and action has been initiated to re-open the assessment. Further development has not been reported (September 2009).</p> <p>The matter was reported to the Government in December 2008; their reply has not been received (September 2009).</p>					
9.	CTO, Spl. circle I, <u>Ernakulam</u> 2001-02	Heart brand flavours	$\frac{25}{12}$	17.39 lakh	2.49 lakh
<p>After the case was pointed out in April 2008, the department stated in November 2008 that the assessment records were submitted to the Deputy Commissioner for <i>suo motu</i> revision and on receipt of the same the assessment would be revised under Section 34 of the Act. Further development has not been reported (September 2009).</p> <p>The matter was reported to the Government in August 2008; their reply has not been received (September 2009).</p>					
10.	CTO, second circle, <u>Thrissur.</u> 2004-05	Packing materials (interstate sales to unregistered dealers)	$\frac{10}{4}$	41.78 lakh	2.41 lakh
<p>After the case was reported to the department in October 2008 and Government in December 2008, the Government stated in June 2009 that the assessment had been revised based on the audit objection. However, the appeal of the assessee was accepted and the department was planning to file second appeal against it. Further development has not been reported (September 2009).</p>					

2.4.3 Short levy of tax and interest due to non-appropriation of payment

Under the KGST Act, where any dealer has failed to include any turnover in the return filed by him, or any turnover has escaped assessment or if the tax is not paid by him within the time prescribed, the dealer shall pay interest at the rate of one *per cent* per month for the first three months and at the rate of two *per cent* per month for subsequent months of delay. Further any tax or any other amount due or demanded is paid by the dealer, the payment so made shall be appropriated first towards interest accrued on such tax or other amount under sub section 3 of Section 23 on such date of payment and the balance available shall be appropriated towards principal outstanding. Under the Act, tax leviable on goods is to be enhanced by additional sales tax (AST) at the rate of 15 *per cent*.

2.4.3.1 During scrutiny of records in CTO, special circle II, Kozhikode in January 2008, it was noticed that while finalising the assessments of a dealer for the years 2002-03 and 2003-04, the AA incorrectly appropriated the amount paid by the assessee towards tax due instead of first appropriating it towards interest. This resulted in short levy of tax and interest of Rs. 1.35 crore.

After the case was pointed out, the department stated in March 2008 that notice has been issued to revise the assessments. Further development has not been reported (September 2009).

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

2.4.3.2 During scrutiny of records in CTO, Payyannur in January 2008, it was noticed that while finalising the assessments of a dealer for the year 2003-04 and 2004-05, the AA failed to levy AST, interest on the tax conceded but not paid in time and to appropriate the amount paid subsequently towards interest. This resulted in short levy of tax and interest of Rs. 6.11 lakh.

After the case was pointed out, the department stated in October 2008 that the assessments were revised. However, levy of interest on admitted tax and appropriation of payment towards interest were not seen done in the revised assessments also. Further development has not been reported (September 2009).

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

2.4.4 Short levy due to turnover escaping assessment

2.4.4.1 Under the KGST Act, 'taxable turnover' means the turnover on which a dealer is liable to pay tax after making the prescribed deductions from the total turnover. As per section 59(4) of the KGST Act, goods which were liable to tax at the point of last purchase in the State and are held as closing stock on the date preceding the date of coming into force of the Kerala Value Added Tax (KVAT) Act, 2003, shall be deemed to have acquired the quality of last purchase in the State on such date and tax is to be levied at the rate of four *per cent*. Under the KGST Act, where any dealer has failed to include any turnover in any return

filed by him or any turnover has escaped assessment, interest shall accrue on the tax due on such turnover with effect from such date on which the tax would have fallen due for payment had the dealer included it in the return relating to the period to which such turnover related. The interest payable shall be at the rate of one *per cent* per month.

- During scrutiny of records in CTO, WC & LT, Ernakulam in January 2009, it was noticed that while finalising the assessment of an assessee for the year 2004-05, the value of the closing stock of raw rubber for Rs. 5.23 crore was not assessed to tax. This resulted in short levy of tax of Rs. 21.55 lakh.

After the case was pointed out, the AA stated in February 2009 that the matter would be examined. Further reply has not been received (September 2009).

The matter was reported to the department in March 2009 and Government in April 2009; their reply has not been received (September 2009).

- During scrutiny of the records in CTO, special circle (produce), Mattancherry in May 2008, it was noticed that while finalising the assessments of 14 dealers for 2004-05, closing stock value of goods taxable at the last purchase point was not assessed to tax. This resulted in non-levy of tax of Rs. 11.70 lakh.

After the case was pointed out, the AA stated in May 2008 that action would be taken to revise the assessments. Further development has not been reported (September 2009).

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

- During scrutiny of records in CTO, special circle, Alappuzha in April 2008, it was noticed that while finalising the assessment of a dealer in sea food and spices for the year 2004-05, the AA did not include the closing stock as on 31 March 2005 of pepper valued at Rs. 1.94 crore in the total turnover. This resulted in non-levy of tax of Rs. 7.76 lakh.

After the case was reported to the department in July 2008 and Government in August 2008, the Government stated in December 2008 that the stock held by the assessee as on 31 March 2005 is the stock in the course of export in order to fulfil the export order and hence not taxable at the point of last purchase under the KGST Act. The reply was not correct as Section 59 (4) does not provide for exemption in such circumstances. Moreover, exemption under Section 5(3) of the CST Act would be available only after actual export of the goods and the dealer would get the refund of tax paid. If exemption was granted on the closing stock on the plea of sale in the course of export and export was not effected, the turnover would escape assessment.

- During scrutiny of records in AIT & CTO, Nedumkandam in March 2008, it was noticed that while finalising the assessments of five dealers in pepper for the year 2004-05, the AA did not include the closing stock as on 31 March 2005 of pepper valued at Rs. 1.64 crore in the total turnover. This resulted in non-levy of tax of Rs. 6.58 lakh.

After the case was reported to the department in April 2008 and Government in August 2008, the Government stated in March 2009 that in all the cases

assessments were revised. A report on recovery has not been received (September 2009).

- During scrutiny of records in the CTO, Chathannoor in August 2008, it was noticed that while finalising the assessment of a dealer engaged in the business of timber, for the year 2003-04, the AA though levied tax on the suppressed turnover of Rs. 94.08 lakh, did not levy interest under section 23(3A) on the tax due on the suppressed turnover. Non-levy of interest worked out to Rs. 5.76 lakh.

After the case was reported to the department in August 2008 and Government in December 2008, the Government stated in June 2009 that the assessment had been revised and entire amount demanded. The report on recovery has not been received (September 2009).

- During scrutiny of records in CTO, special circle, Kottayam, in November 2008, it was noticed that the assessment of a dealer in rubber for the year 2004-05 was originally completed in November 2007 and was revised under Section 19 of the KGST Act in February 2008 to assess the closing stock of rubber held on 31 March 2005. The assessee was engaged in the sales of rubber collected from their own estate and rubber purchased from other dealers. While revising the assessment, the closing stock was determined at Rs. 31.11 lakh instead of Rs. 1.04 crore. This resulted in short levy of Rs. 4.47 lakh by way of tax and interest.

After the case was pointed out, the AA stated in January 2009 that the case would be examined. Further report has not been received (September 2009).

The matter was reported to the department in February 2009 and Government in April 2009; their reply has not been received (September 2009).

- During scrutiny of records in CTO, special circle, Palakkad in March 2008, it was noticed that while completing the assessment of a dealer for the year 2004-05, although additional demand of Rs. 18.11 lakh was created on the basis of suppression detected, interest due on the additional demand created was not levied. This resulted in non-levy of interest of Rs. 4.16 lakh.

After the case was pointed out in March 2008, the AA issued notice to levy interest. Further development has not been reported (September 2009).

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

- During scrutiny of records in the office of the IAC, Kattapana in June 2008, it was noticed that while finalising the assessment of a dealer for the year 2004-05, the AA though levied tax on the suppressed turnover of Rs. 65.16 lakh relating to rubber cess, did not levy interest under section 23(3A) on the tax due on the suppressed turnover. Non-levy of interest worked out to Rs. 3.13 lakh.

After the case was pointed out, the Government stated in December 2008 that notice had been issued to rectify the mistake. Further report on the matter has not been received (September 2009).

- During scrutiny of records in CTO, second circle, Palakkad in March 2008, it was noticed that while completing the assessment of a dealer in rubber for

the year 2004-05, the closing stock of rubber valued at Rs. 65.35 lakh was not assessed to tax. This resulted in short levy of tax of Rs. 2.61 lakh.

After the case was pointed out, the AA stated in April 2008 that notice had been issued to revise the assessment. Further report on recovery has not been received (September 2009).

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

2.4.4.2 Under the KGST Act, if goods liable to tax under the Act are purchased in circumstances in which no tax is payable and used in the manufacture of other goods for sale or disposed off otherwise than by way of sale, the turnover relating to such purchase is liable to tax. By a notification issued under the Act, Government have reduced the rate of tax payable on the purchase turnover of ayurvedic herbs, firewood and other articles for consumption or use in the manufacture of ayurvedic medicines to four *per cent*.

During scrutiny of records in CTO, fourth circle, Kozhikode in August 2008, it was noticed that while finalising the assessments of a dealer for the years 2002-03 and 2003-04, the purchase turnover was incorrectly estimated at 50 *per cent* of intra state sales turnover only instead of the total sales turnover. Non-inclusion of inter state sales turnover valued at Rs. 5.26 crore and forming part of the total turnover, in estimating the total purchase turnover, resulted in short levy of tax of Rs. 11.92 lakh.

After the case was pointed out, the AA stated (August 2008) that 50 *per cent* of the local sales was only a criterion adopted to arrive at the purchase turnover as no material evidence was available before the AA and it was estimated based on the total local sales effected for both the years. The reply was not correct as while arriving at such a criterion, the AA was bound to consider the total sales turnover, as the purchase was for the total production.

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

2.4.4.3 Under the KGST Act, as it stood prior to 1 April 2004, the taxable turnover of a dealer in respect of transfer of property involved in the execution of works contract shall be arrived at after deducting labour charges and cost of establishment and profit earned to the extent it is relatable to the supply of labour.

During scrutiny of records in CTO, WC and LT, Thrissur in August 2007, it was noticed that while finalising the assessments of two dealers for 2001-02 and 2002-03, exemption of Rs. 40.78 lakh on account of labour, interstate purchase, river sand etc., was granted irregularly, thereby incorrectly computing the taxable turnover as Rs. 1.02 crore instead of Rs. 1.43 crore. This resulted in short levy of tax of Rs. 4.08 lakh.

After the cases were reported to the department in September 2007 and Government in August 2008, the Government stated in April 2009 that the assessments were revised and revenue recovery certificate issued for collection of arrear. A report on recovery has not been received (September 2009).

2.4.5 Non/short levy due to incorrect computation

2.4.5.1 Under the KGST Rules, after making final assessment, the AA shall, examine whether any and if so, what amount is due from the dealer towards the final assessment after deducting any tax already paid. Instructions in this regard have been issued by the erstwhile Board of Revenue (Taxes) laying down departmental procedures for verifying and checking all calculations and credits given in an assessment order.

- During scrutiny of records in CTO, Payyannur in January 2008, it was noticed that while finalising the assessments of two dealers for the year 2004-05, the AA erroneously computed the tax due in one case as Rs. 94,525 against Rs. 9,42,526 and in the other case tax due was worked out as Rs. 2.58 lakh against Rs. 3 lakh. This resulted in short levy of tax of Rs. 8.90 lakh.

After the case was pointed out, the department stated in October 2008 that the assessment had been revised in one case and in the other case it would be examined. Report on recovery in the first case and further development in the other case have not been received (September 2009).

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

- During scrutiny of records in CTO, second circle, Kollam in June 2008, it was noticed that while finalising the assessments of a dealer in vehicles, the sales turnover of spares for 2003-04 and 2004-05 was assessed to tax on a turnover of Rs. 45.66 lakh and Rs. 41.79 lakh respectively instead of Rs. 63.41 lakh and Rs 68.57 lakh respectively. This resulted in short levy of tax and AST of Rs. 4.04 lakh.

After the case was pointed out, the department stated in November 2008 that the assessment for the year 2003-04 was revised and notice issued to revise the assessment for the year 2004-05. Further report has not been received (September 2009).

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

- During scrutiny of records in CTO, special circle, Thrissur in April 2008, it was noticed that while finalising the assessments of a dealer in pharmaceuticals for the years 2002-03 to 2004-05, the AA arrived at the balance tax due for the three years as Rs 3.32 lakh. However, after setting off an excess credit of Rs. 1.01 lakh for the year 2001-02 against the balance tax due for the years 2002-03 to 2004-05, the AA arrived at the balance tax due as 'Nil'. This resulted in short levy of tax and interest of Rs. 2.84 lakh.

After the case was pointed out, the Government stated in December 2008 that the assessments were revised. A report on recovery has not been received (September 2009).

- During scrutiny of records in CTO, second circle, Palakkad in March 2008, it was noticed that while finalising the assessment of a dealer engaged in manufacture and sale of cotton yarn for the year 2004-05, the AA incorrectly computed tax due on the taxable turnover of Rs. 1.36 crore as

Rs. 31,000 instead of Rs. 3.12 lakh. This resulted in short levy of tax of Rs. 2.81 lakh.

After the case was pointed out, the Government stated in December 2008 that the mistake had been rectified and revenue recovery certificate issued for realisation of arrears. A report on recovery has not been received (September 2009).

2.4.5.2 Under the KGST Act, any dealer in gold or silver ornaments or wares, may at his option instead of paying tax on his taxable turnover at the rates shown in the schedule to the Act, pay compounded tax at two hundred *per cent* of tax payable by him as conceded in the return or accounts or the tax paid for the immediate preceding year whichever is higher. Further, if an assessee paying tax in accordance with the provisions of section 7(1) (a) of the Act, opens a new branch during a year, such branch shall be treated as an independent place of business and these provisions shall also apply to it.

During scrutiny of records in CTO, special circle I, Ernakulam in February 2008, it was noticed that while finalising the assessment for the year 2003-04, of a dealer in jewellery of gold who was paying tax under the KGST Act for his principal place of business and had not opted for compounding, the AA incorrectly allowed the assessee to pay compounded tax for their newly opened branches. This resulted in short levy of tax of Rs. 22.66 lakh.

After the case was reported to the department in April 2008 and Government in August 2008, the Government stated in July 2009 that the assessment had been set aside for fresh disposal. Further report on the matter has not been received (September 2009).

2.4.6 Non/short levy in fast track assessments

Under the KGST Act, a fast track method of completion of assessment was introduced vide Kerala Finance Act 2007, whereby all KGST assessments upto 2004-05 were to be completed by a team of officers. Under the provisions of the Act, no assessment completed by the teams shall be reopened unless there is fresh receipt of material pertaining to tax evasion and in other case the assessment may be reopened with the prior permission of CCT.

The deficiencies noticed in three CTOs while finalising fast track assessments were as mentioned below.

Sl. No.	Assessment circle Year of assessment	Nature of objection	Turnover (Rs.)	Tax effect (Rs.)
1.	CTO, Spl. circle (Produce), <u>Mattancherry</u> 2001-02 to 2004-05	Taxable turnover pertaining to electrical contract exceeding Rs. 50 lakh was assessed to tax at the rate of five <i>per cent</i> instead of at the correct rate of 5.6 <i>per cent</i> .	14.24 crore	9.82 lakh
	2002-03 to 2004-05	While finalising the assessments of a dealer in foreign liquor, surcharge was not levied on the total tax due for the three years.	48.16 lakh	4.82 lakh

Sl. No.	Assessment circle Year of assessment	Nature of objection	Turnover (Rs.)	Tax effect (Rs.)
	2002-03 to 2004-05	While finalising the assessments of a dealer in foreign liquor, the tax collected on the sale of imported spirit and wine was omitted from the levy of turnover tax.	48.15 lakh	4.82 lakh
	2001-02	The AA incorrectly exempted the sales turnover of tea, claimed by the assessee as export sales, not covered by declaration in form H and other supporting documents, and thus taxable at 10 <i>per cent</i> .	37.93 lakh	3.79 lakh
	2003-04	Tax due on sale of rubber was incorrectly computed as Rs. 4.75 crore instead of Rs. 4.79 crore.		3.65 lakh
	2001-02 to 2004-05	The AA incorrectly applied the rate of 10 <i>per cent</i> instead of the correct rate of 11 <i>per cent</i> plus AST, on the inter state sales turnover of rubber not covered by declaration in form C.	1.05 crore	2.77 lakh
	2001-02	The AA incorrectly appropriated the remittances amounting to Rs. 7.25 lakh paid by the assessee during the months of October 2003 and March 2007 towards tax due instead of first appropriating it towards interest. As a result, instead of granting credit of Rs. 1.43 crore, the assessee was allowed an incorrect credit of Rs. 1.46 crore.		2.69 lakh
<p>After the cases were pointed out, the AA stated in June 2008 that the assessments were revised and short levy made good. It was however, noticed that the assessments were completed under the fast track scheme. Revision of assessment could be made only with the prior permission of CCT and hence the assessments revised at the lower level would be null and void.</p> <p>The matter was reported to the department in July 2008 and Government in September 2008; their reply has not been received (September 2009).</p>				
2.	IAC, Kattappana 2003-04 and 2004-05	The AA failed to levy tax on the purchase turnover of raw materials purchased from unregistered dealers for the manufacture of <i>ayurvedic</i> soaps, even though the assessee had returned it as taxable.	76.85 lakh	3.54 lakh
<p>After the case was reported to the department in July 2008 and Government in August 2008, the Government stated in April 2009 that as the assessments were completed under fast track scheme, the AA had requested the permission of CCT to revise the assessments. Further development in the matter has not been reported (September 2009).</p>				
3.	CTO, special circle III, Ernakulam 2003-04 and 2004-05	The AA incorrectly levied tax on the sales turnover of water purifier at the rate of eight <i>per cent</i> instead of at the correct rate of 12 <i>per cent</i> .	51.45 lakh	2.35 lakh

After the case was pointed out, the AA stated in June 2008 that detailed reply would be furnished immediately. Further reply has not been received (September 2009). The matter was reported to the department in July 2008 and Government in September 2008; their reply has not been received (September 2009).
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2.4.7 Non-levy of additional sales tax

2.4.7.1 Under the CST Act, inter state sale of goods, other than declared goods, if not supported by declaration in form C, is liable to tax at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods under the KGST Act, whichever is higher. Under the KGST Act, tax leviable on goods is to be enhanced by additional sales tax at the rate of 15 *per cent*.

During scrutiny of records in CTO, fourth circle, Kozhikode in August 2008, it was noticed that while finalising the assessments of a dealer in fairness oil and *ayurvedic* soap for the year 2002-03 to 2004-05, the AA levied tax at the rate applicable under the KGST Act i.e. 20 and 12 *per cent* respectively, on the inter state sales turnover of goods, not covered by form C but omitted to enhance the tax by additional sales tax leviable under the KGST Act. This resulted in short levy of tax of Rs. 14.03 lakh.

After the case was pointed out, the department did not furnish any specific reply (September 2009).

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

2.4.7.2 During scrutiny of records in CTO, special circle I, Kozhikode in November 2008, it was noticed that while finalising the assessment of a dealer in jewellery of gold for the year 2004-05, tax at compounded rate was fixed at Rs. 40.69 lakh. But AST leviable at 15 *per cent* on the tax was not levied. This resulted in non-levy of AST of Rs. 6.10 lakh.

After the case was reported to the department in January 2009 and Government in March 2009, the Government stated in July 2009, that AST was included in the compounded tax determined. The reply was not tenable as under Section 5 D of the KGST Act, tax payable should be increased by an additional sales tax at the rate of 15 *per cent*. Besides, the High Court of Kerala in its judgment²¹ has held that additional tax was also leviable on compounded tax.

2.4.8 Non-levy of tax due to misuse of Form 18 declaration

Under Section 5(3) of the KGST Act, tax payable by a dealer in respect of any sale of industrial raw materials, component parts, containers or packing materials which are liable to tax at a rate higher than three *per cent* when sold to any industrial unit for use in the manufacture of finished products inside the State for sale or for packing of the finished products inside the State for sale shall be three *per cent*, provided declarations in form 18 are filed. Under sub clause (ii) of the above section and under section 45A (1) (f) of the Act, where any dealer after purchasing any goods by furnishing form 18 declarations, fails

²¹ M/s Bhima Jewellery Vs The Assistant Commissioner (Assessment) and ANR in 12 KTR 80.

to make use of the goods for the purpose for which it was furnished, shall be liable to pay the tax that would have been payable by him, had the declaration not been furnished less tax, if any, paid by him and penalty not exceeding double the amount of tax sought to be evaded. The dealer is also liable to pay interest on the tax evaded.

During scrutiny of records in CTO, special circle, Kollam in August 2006, it was noticed that a dealer in aluminium/stainless steel utensils, pressure cooker etc., had purchased zinc using form 18 declarations which was not used inside the State for the manufacture of finished products but was used only as a consumable in the galvanization process of electrical line materials, on behalf of Kerala State Electricity Board, during 2000-01 to 2002-03. The AA however, did not levy tax on the aforesaid item. This resulted in a short levy of tax, interest and penalty of Rs. 13.73 lakh.

After the case was pointed out, the department revised the assessments in December 2008 creating an additional demand of Rs. 16.76 lakh by way of tax, interest and penalty. A report on recovery has not been received (September 2009).

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

2.4.9 Non-forfeiture of tax

Under the KGST Act, any sum collected by any person by way of tax in contravention of Section 22 of the Act shall be liable to be forfeited to the Government by an order issued by the AA.

During scrutiny of records in CTO, special circle I, Ernakulam in March 2008, it was noticed that while finalising the assessment of a dealer in drugs for the year 2002-03, the AA levied tax on the turnover of Rs. 41.63 lakh at the rate of eight *per cent* even though the assessee had collected tax and returned it as taxable at the rate of 12.5 *per cent*. However, the excess tax collected was not forfeited to Government. This resulted in non-forfeiture of tax of Rs. 2.15 lakh.

After the case was pointed out, the department stated in November 2008 that report would be furnished separately. Further development has not been received (September 2009).

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

2.4.10 Non/short raising of demand

The KGST Rules and the instructions issued in February 1992 by the erstwhile Board of Revenue (Taxes), lay down departmental procedures for verifying and checking of all calculations and credits in an assessment order as well as in issuing demand notice and revenue recovery certificate.

2.4.10.1 During scrutiny of records in CTO, second circle, Thiruvananthapuram in March 2008, it was noticed that while reopening the assessments, completed under section 17(4) of the KGST Act, of a dealer, on detection of suppressed turnover for the years 2001-02 and 2002-03, the AA

levied tax, interest and penalty of Rs. 55.72 lakh for the years 2001-02 and 2002-03 and demand notice was issued for that amount. But RRC was issued for Rs. 40.73 lakh only leaving a balance of Rs. 14.99 lakh. This has resulted in short demand of Rs. 14.99 lakh in the revenue recovery certificate issued.

After the case was reported to the department in April 2008 and Government in August 2008, the Government stated in December 2008 that the mistake has been rectified and the short demand has been advised for revenue recovery. A report on recovery has not been received (September 2009).

2.4.10.2 During scrutiny of records in the CTO, WC and LT, Ernakulam in January 2008, it was noticed that while finalising the assessment of a dealer in works contract for the year 2002-03, the AA exempted the turnover of works contract valued at Rs. 76.49 lakh executed on sub-contract basis as the turnover was assessed on the principal contractor. However, credit for tax paid on this turnover was afforded both to the principal contractor as well as to the assessee. This resulted in incorrect grant of credit of Rs. 7.39 lakh.

After the case was reported to the department in March 2008 and Government in July 2008, the Government stated in December 2008 that the assessment had been revised withdrawing the credit and the balance dues was advised for revenue recovery. A report on recovery has not been received (September 2009).

Value Added Tax

2.4.11 Misclassification of goods

During scrutiny of records in nine CTOs²² between August 2008 and January 2009, it was noticed that in 15 cases the dealers misclassified the goods and tax was paid at rates ranging between zero and four *per cent* instead of four and 12.5 *per cent* as mentioned below:

Sl. No.	Name of Office Returned year	Commodity	Rate applicable Rate applied	Turnover (Rs.)	Short levy of tax and interest (Rs. in lakh)
1	Special circle, Thiruvananthapuram 2005-06 and 2006-07	Modem	$\frac{12.5}{4}$	4.93 crore	52.73
After the case was pointed out in January 2009, the department revised the assessments in February 2009, levying tax and interest as pointed out in audit. A report on recovery has not been received (September 2009).					
	2006-07	Set top box	$\frac{12.5}{4}$	62.98 lakh	7.82
After the case was pointed out in January 2009, the department revised the assessment in March 2009 levying tax on set top boxes at 12.5 <i>per cent</i> along with interest. A report on recovery has not been received (September 2009).					

²² Cherthala, Karunagappally, first circle Kollam, Kunnankulam, Manjeri, Punalur, Nedumangad, spl. circle Thiruvananthapuram and second circle Thrissur.

	2005-06 and 2006-07	Pigments and preparation based on iron oxide	$\frac{12.5}{4}$	71.17 lakh	7.60
	After the case was pointed out in December 2008, the AA stated in December 2008 that the matter would be examined. Further report has not been received (September 2009).				
	2005-06	Rubber trees	$\frac{12.5}{4}$	31.02 lakh	3.48
	After the case was pointed out, the AA stated in December 2008, that the case would be examined. Further reply has not been received (September 2009).				
2.	<u>CTO, Kunnankulam</u> 2005-06	Harpic and Lizol	$\frac{12.5}{4}$	1.17 crore	21.49 lakh
	2006-07	Dettol	$\frac{4}{0}$	54.78 lakh	
	After the case was pointed out, the AA stated in January 2009 that the case would be examined. Further reply has not been received (September 2009).				
	2005-06 and 2006-07	Ayurvedic tooth powder	$\frac{12.5}{4}$	47.34 lakh	5.00
	After the case was pointed out, the department stated in June 2009 that notice had been issued to revise the assessment. Further development has not been reported (September 2009).				
	2005-06 and 2006-07	Harpic	$\frac{12.5}{4}$	31.50 lakh	3.40
	After the case was pointed out, the AA stated in January 2009 that the case would be examined. Further reply has not been received (September 2009).				
	2006-07	Vicks	$\frac{12.5}{0}$	22.05 lakh	3.34
	After the case was pointed out, the AA stated in January 2009 that the case would be examined. Further reply has not been received (September 2009).				
3.	<u>Second circle, Thrissur</u> 2006-07	PVC doors and frames	$\frac{12.5}{4}$	95.01 lakh	8.08
	After the case was reported to the department in October 2008 and Government in January 2009, the Government stated in July 2009, that the PVC profiles were taxable at four <i>per cent</i> vide clarification of the CCT. The reply was not correct as the entry 99(1)(l)(iii) relates to pipes, channels, profiles made of plastic/PVC, while, doors, windows, ventilators, partitions made of any material including plastic were included in residuary schedule taxable at the rate of 12.5 <i>per cent</i> .				
4.	<u>CTO, Cherthala</u> 2005-06	Mosquito repellent, Harpic, Lizol etc.	$\frac{12.5}{4}$	42.99 lakh	4.65
	After the case was pointed out, the AA stated in December 2008 that the matter would be examined. Further reply has not been received (September 2009).				
5.	<u>CTO, Punalur</u> 2005-06 and 2006-07	Expeller variety of Ground nut and coconut oil cake	$\frac{4}{0}$	98.29 lakh	3.93

	After the case was reported to the Government in January 2009, the Government stated in June 2009 that the assessment had been revised. A report on recovery has not been received (September 2009).				
6.	<u>CTO, Nedumangad</u> 2005-06 and 2006-07	Expeller variety of Gingilly oil cake	$\frac{4}{0}$	74.91 lakh	3.00
	After the case was pointed out, the Government stated in January 2009 that the escaped turnover was brought to assessment creating an additional demand of Rs. 3 lakh. A report on recovery has not been received (September 2009).				
7.	<u>CTO, Manjeri</u> 2005-06 and 2006-07	Warranty replacement charges of vehicles	$\frac{12.5}{0}$	21.62 lakh	2.70
	After the case was pointed out, the AA stated in August 2008 that the case would be examined. Further reply has not been received (September 2009).				
8.	<u>CTO, Karunagappally</u> 2005-06	Coconut oil cake	$\frac{4}{0}$	46.72 lakh	2.39
	After the case was pointed out, the department stated in January 2009 that the assessment was revised, creating an additional demand of Rs. 1.94 lakh and interest of Rs. 0.56 lakh. A report on recovery has not been received (September 2009).				

The cases were reported to the Government in April 2009; their reply has not been received in respect of cases other than the three cases²³ mentioned in the table (September 2009).

Miscellaneous observations

2.4.12 Non/short levy of output tax

2.4.12.1 Under the KVAT Act, in the case of transfer of goods involved in the execution of works contract, where transfer is not in the form of goods, but in some other form, the contractor shall pay tax at the rates applicable to the goods used in the work upto 30 June 2006 and at 12.5 *per cent* thereafter irrespective of the nature of goods.

During scrutiny of records in CTO, WC & LT, Ernakulam in February 2009, it was noticed that while scrutinising the self assessment of a contractor who transferred goods in some other form for the year 2006-07 was incorrectly assessed to tax on the goods so transferred at the rate applicable to the goods instead of 12.5 *per cent* from July 2006. Besides this, output tax was also assessed for a turnover less than that revealed in the accounts. This resulted in short assessment of tax of Rs. 85.55 lakh.

After the case was pointed out, the AA stated in February 2009 that the case would be examined. Further reply has not been received (September 2009).

The matter was reported to the department in March 2009 and Government in April 2009; their reply has not been received (September 2009).

²³ CTO Nedumangad, Punalur and second circle Thrissur.

2.4.12.2 Under the KVAT Act, any discount allowed after the sale is over by issuing credit notes, which is not reflected in the invoice, shall not be exempted from the turnover.

During scrutiny of records in CTO, special circle I, Kozhikode in November 2008, it was noticed that a dealer in cement during 2005-06 excluded from his turnover, trade discount of Rs. 2.16 crore allowed through credit notes subsequent to sale which were not reflected in the sales invoice. Failure to take action to get the defect rectified resulted in short levy of output tax and interest of Rs. 35.12 lakh.

After the case was pointed out, the AA stated in December 2008 that notice had been issued. Further reply has not been received (September 2009).

The matter was reported to the department in January 2009 and Government in April 2009; their reply has not been received (September 2009).

2.4.12.3 Instructions issued by the erstwhile Board of Revenue (Taxes) lay down departmental procedures for verifying and checking all calculations and credits given in an assessment order.

During scrutiny of records in CTO, special circle, Thiruvananthapuram in December 2008, it was noticed that a dealer in cooked food, soda/soft drinks and ice cream for the year 2006-07, assessed output tax on sales turnover of the above items for Rs. 15.54 crore as conceded in the return instead of at the actual sale of Rs. 15.75 crore disclosed in the certified annual accounts. Short levy of output tax and interest on the differential turnover of Rs. 21.49 lakh works out to Rs. 3.60 lakh.

After the case was pointed out, the AA stated in December 2008 that the matter would be examined. Further report has not been received (September 2009).

The matter was reported to the department in January 2009 and Government in April 2009; their reply has not been received (September 2009).

2.4.13 Excess/incorrect allowance of input tax

2.4.13.1 Under the KVAT Act, input tax credit on stock transfer of goods outside the state is not permitted. However, in such cases input tax paid in excess of four *per cent* can be refunded while input tax of four *per cent* already allowed shall be assessed as reverse tax.

- During scrutiny of records in CTO, special circle I, Kozhikode in December 2008, a dealer in palmolein/palmoil availed input tax credit of Rs. 1.33 crore on entire purchase of palmolein/palmoil and duty entitlement pass book (DEPB) licenses during 2005-06. The dealer did not assess input tax proportionate to the turnover of consignment sale of palmoil as reverse tax. Failure to take action to get the defect rectified resulted in short levy of output tax and interest of Rs. 45.53 lakh.

After the case was pointed out, the AA stated in December 2008 that notice was issued. Further report has not been received (September 2009).

The matter was reported to the department in January 2009 and Government in April 2009; their reply has not been received (September 2009).

- During scrutiny of records in CTO, special circle, Kannur in December 2008, it was noticed that an assessee engaged in manufacture and sale of furniture/treated rubber wood, transferred products valued at Rs. 5.40 crore to outside the State otherwise than by way of sale during the years 2005-06 and 2006-07. However, the assessee availed input tax credit on the entire tax paid, on purchase of raw materials, instead of limiting it to tax paid in excess of four *per cent*. This resulted in excess input tax credit of Rs. 9.20 lakh. Even after adjusting the excess input tax credit of Rs. 6.21 lakh, tax due but not demanded worked out to Rs. 2.98 lakh.

After the case was pointed out, the AA stated in December 2008 that since the assessee had availed of input tax credit fully, reverse tax under Section 11(7) and other tax liability would be ascertained after gathering details. Further developments have not been reported (September 2009).

The matter was reported to the department in January 2009 and Government in April 2009; their reply has not been received (September 2009).

2.4.13.2 Under the KVAT Act, no input tax credit shall be allowed for the purchases of goods which are used in the manufacture, processing or packing of goods specified in the First or Fourth Schedule. Under the KVAT Rules, if taxable goods are used partly in relation to taxable and exempted transaction, input tax/special rebate should be apportioned in the ratio of taxable and exempted turnover and input tax pertaining to exempted turnover should be disallowed.

- During scrutiny of the records in CTO, special circle I, Kozhikode in November and December 2008, it was seen that three assessees engaged in the manufacture and sale of wheat and wheat products during 2005-06 and 2006-07, availed entire input tax credit on tax paid on purchase of wheat, though input tax credit proportionate to turnover of wheat bran included in Schedule I as well as consignment sale of wheat products were to be disallowed. Failure to get the defects rectified resulted in grant of excess input tax credit and interest of Rs. 15.32 lakh.

After the case was pointed out, the AA stated between November 2008 and December 2008 that in one case an amount of Rs. 8.12 lakh has been collected and notice issued in respect of the other two cases. Further development has not been reported (September 2009).

The matter was reported to the department in January 2009 and Government in April 2009; their reply has not been received (September 2009).

- During scrutiny of records in CTO, special circle, Kannur in December 2008, it was noticed that input tax on raw materials to be disallowed on non-taxable sale of coir product and consignment sale of fibre foam mattress was incorrectly arrived at by a manufacturer at Rs. 2.61 lakh and Rs. 3.48 lakh instead of Rs. 6.28 lakh and Rs. 7.40 lakh for the years 2005-06 and 2006-07. Failure to rectify the defects resulted in short levy of tax and interest of Rs. 9.55 lakh.

After the case was pointed out, it was stated in December 2008 that the case would be examined. Further report has not been furnished (September 2009).

The matter was reported to the department in January 2009 and Government in April 2009; their reply has not been received (September 2009).

2.4.13.3 Under the KVAT Act, no input tax credit shall be allowed for the purchases from a dealer paying compounded tax under the Act.

During scrutiny of records in CTO, special circle I, Kozhikode in November 2008, it was noticed that during the year 2006-07, a dealer in medicine who opted for payment of compounded tax availed input tax credit of Rs. 4.03 lakh for purchases aggregating Rs. 31.32 lakh from dealers who had also opted for payment of tax under compounding. No action was taken to disallow the input tax credit. This resulted in short levy of tax of Rs. 4.03 lakh.

After the case was pointed out, the AA stated in November 2008 that notice had been issued. Further report has not been received (September 2009).

The matter was reported to the department in January 2009 and Government in April 2009; their reply has not been received (September 2009).

2.4.13.4 Under the KVAT Act, a dealer can avail input tax credit of tax paid on the purchases made by him.

During scrutiny of records in CTO, special circle I, Kozhikode in November 2008, it was noticed that a dealer in cement in his return for 2005-06 claimed input tax credit of Rs. 3.91 lakh against advance payment of KGST for 2004-05 and special rebate of Rs. 3.22 lakh which actually pertained to provision for discount, which were not allowable under the Act. The omission to rectify the defects resulted in granting of excess input tax credit of Rs. 7.13 lakh.

After the case was pointed out in November 2008, the AA issued notice to rectify the defect. Further report has not been received (September 2009).

The matter was reported to the department in January 2009 and Government in April 2009; their reply has not been received (September 2009).

2.4.14 Turnover escaping assessment

Under the KVAT Act, if any part of the turnover of business of a dealer escaped assessment to tax, the AA can proceed to determine to best of his judgment, turnover which has escaped assessment to tax and where any dealer has failed to include any turnover of his business in any return filed or any turnover or tax has escaped assessment, interest shall accrue on the tax due on such turnover or tax with effect from such date on which the tax would have fallen due for payment. The defaulter shall pay simple interest at the rate of 12 *per cent* per annum on the tax or other amount defaulted. Further, accessories of motor vehicles are taxable at the rate of 12.5 *per cent* and used vehicles at the rate of four *per cent*. It has been judicially held²⁴ by the Apex Court that payment received by the assessee from the manufacturer, on account of replacement of defective parts as a result of the warranty agreement between manufacturer and customer, is sale of goods and liable to tax.

²⁴ M/s Mohd. Ekram Khan & Sons Vs Commissioner of Trade tax of UP in 12 KTR 572 (SC)

2.4.14.1 During scrutiny of records in CTO, special circle, Thiruvananthapuram in November 2008, it was noticed that a dealer claimed exemption for an amount of Rs. 1.67 crore towards labour charges during the year 2005-06 but failed to include the sales turnover on account of warranty claims estimated at 50 *per cent* of the warranty charge in respect of replacement of defective parts valued at Rs. 87.89 lakh in the taxable turnover. This resulted in short levy of tax and interest of Rs. 14. 61 lakh.

After the case was pointed out, the AA stated in December 2008 that the assessment had been revised and balance tax demanded. A report on recovery has not been received (September 2009).

The matter was reported to the department in January 2009 and Government in March 2009; their reply has not been received (September 2009).

2.4.14.2 During scrutiny of records in CTO, special circle, Thiruvananthapuram in November 2008, it was noticed that during the year 2005-06, a dealer in automobiles, did not include the sales turnover on account of 'Offer-Accessories' valued at Rs. 37.69 lakh and income derived from exchange of old vehicles valued at Rs. 4.23 lakh, in the taxable turnover. This resulted in short levy of tax and interest of Rs. 6.49 lakh.

After the case was pointed out, the AA stated in December 2008 that the assessment had been revised rectifying the mistake. Report on recovery has not been received (September 2009).

The matter was reported to the department in January 2009 and reported to the Government in March 2009; their reply has not been received (September 2009).

CHAPTER III
TAXES ON AGRICULTURAL INCOME

3.1 Results of audit

Test check of the records of agricultural income tax offices conducted during the year 2008-09 revealed underassessments of tax amounting to Rs. 28.66 crore in 67 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Income escaping assessment	4	8.07
2.	Underassessment due to grant of inadmissible expenses	22	6.77
3.	Incorrect computation of tax	9	3.56
4.	Incorrect computation of income	8	2.16
5.	Underassessment due to assignment of incorrect status	1	0.30
6.	Other lapses	23	7.80
Total		67	28.66

During the year 2008-09, the department accepted underassessments and other deficiencies of Rs. 12.09 lakh involved in nine cases of which five cases involving Rs. 1.10 lakh were pointed out during 2008-09 and the rest in earlier years. The department recovered Rs. 10.99 lakh in four cases relating to the earlier years.

A few audit observations involving Rs. 10.75 crore are mentioned in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of assessment records of agricultural income tax in Commercial Taxes Department revealed several cases of non-observance of provisions of Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowances and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Assessing Authorities (AAs) are pointed out in audit each year but not only 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.

3.3 Non-observance of provisions of Acts/Rules

The Kerala Agricultural Income Tax (KAIT) Act, 1991 and Rules made thereunder provide for completing assessments observing the following aspects:

- i) levy of tax at the prescribed rate on the agricultural income derived by the assessee;*
- ii) allowance of deductions on income derived subject to certain conditions and*
- iii) levy of interest on the balance tax payable.*

It was observed that the AAs while finalising the assessments, did not observe some of the provisions of the Act/Rules resulting in short levy of tax and interest of Rs. 10.75 crore as mentioned in the paragraphs 3.3.1 to 3.3.5.

3.3.1 Income escaping assessment

3.3.1.1 Under the provisions of the KAIT Act, the agricultural income shall be computed after making the prescribed deductions. The deductions include the rent actually paid/provision for payment of rent for the land from which the agricultural income is derived. The Act further stipulates that where an allowance or deduction is made in the assessment for any year in respect of loss or expenditure and if the assessee obtained any amount in lieu of such loss, the amount so obtained shall be deemed to be agricultural income.

During scrutiny of records in the office of the inspecting assistant commissioner (commercial tax), Kottayam in July 2008, it was noticed that while finalising the assessment of a public limited company for the assessment year 2004-05, an amount of Rs. 10.85 crore received as value of rubber trees was adjusted against lease rent outstanding. As the company had provided for payment of lease rent which was already allowed as a deduction in the agricultural income tax assessments, the receipt of Rs. 10.85 crore adjusted against reserve created by the company for payment of lease rent, should have been deemed as income. The omission to assess the deemed income of Rs. 10.85 crore resulted in non-levy of tax of Rs. 6.51 crore.

After the case was pointed out, the AA stated (July 2008) that the case would be examined. Further report has not been received (September 2009).

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

3.3.1.2 Under the KAIT Act, where any person sustains a loss as a result of computation of agricultural income for any year, the loss shall be carried forward to the following year and set off against the agricultural income of that year and if it cannot be wholly set off, shall be carried forward to the following year and so on, but no loss shall be carried forward for more than eight years.

During scrutiny of records in the office of the inspecting assistant commissioner, (commercial tax) Mattancherry in September 2008, it was noticed that while finalising the assessment for the year 2005-06 in December 2007 of a public limited company, the net income returned for the year was incorrectly reckoned as loss and was recorded as nil demand. The reckoning of income as loss had resulted in irregular carry forward of loss of Rs. 3.12 crore and short levy of tax of Rs. 1.56 crore calculated at the prevailing rate of 50 *per cent*, when the loss is set off.

After the case was pointed out, the AA stated (September 2008) that the carry forward of loss was in order and there was no revenue loss involved. However, the fact remains that reckoning of income as loss had doubled the loss carried forward which would ultimately result in short levy of tax. Further reply has not been received (September 2009).

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

3.3.1.3 Under the proviso below sub section (6) of Section 39 of the KAIT Act, the assessment of agricultural income derived from manufactured tea may be provisionally completed on the basis of the return filed and revised on the basis of the Central Income Tax (CIT) assessment as and when completed. As per the second proviso below the said sub section, an assessee who fails to submit a copy of the CIT assessment order or appellate order within 30 days of receipt of the same shall be liable to pay interest as provided under sub section (4) of Section 37.

During scrutiny of records in the office of the inspecting assistant commissioner, (commercial tax) Mattancherry in September 2008, it was noticed that the agricultural income tax assessment of a company for the year 1997-98 was completed in December 2000. The total agricultural income of Rs. 10.20 crore including income from manufactured tea was provisionally determined at Rs. 8.43 crore on the basis of the return furnished by the company. However, as per the CIT assessment completed in February 2001, income attributable to agricultural income in respect of manufactured tea was computed at Rs. 9.22 crore. The inspecting assistant commissioner did not revise the assessment, taking into account income computed by the CIT, though the information regarding CIT assessment was available with the department as evident from a notice issued in May 2002 under Section 37(4) of the Act. It was further noticed that, though the assessment was revised in February 2008 to allow certain expenses allowed in appeal, the income escaped from manufactured tea was not considered for assessment. This

resulted in turnover of Rs. 78.83 lakh escaping assessment leading to short levy of tax of Rs. 47.30 lakh.

After the case was pointed out, the AA stated (September 2008) that the matter would be examined. Further development has not been reported (September 2009).

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

3.3.2 Incorrect computation of income

Under the KAIT Act, the total agricultural income of the previous year of any person comprises of all agricultural income derived from land situated within or outside the State. Under section 12 of the Act, where any person sustains a loss as a result of computation of agricultural income for any year, the loss shall be carried forward to the following year and set off against the agricultural income of that year and if it cannot be wholly set off, shall be carried forward to the following year and so on but no loss shall be carried forward for more than eight years.

During scrutiny of records in the office of the inspecting assistant commissioner, (commercial tax) Kottayam in July 2008, it was noticed that while finalising the assessment for the year 2004-05 of a company (which returned net income of Rs. 4.18 crore), after adjusting the carry forward loss of Rs. 2.37 crore from the previous year, the balance income of Rs. 1.81 crore was reckoned as net loss instead of net income exigible to tax. This resulted in short levy of tax of Rs. 1.09 crore being 60 *per cent* of Rs. 1.81 crore. The assessee was also liable to pay interest of Rs. 20.63 lakh from January 2007 to July 2008.

After the case was pointed out, the AA stated (July 2009) that the case would be examined. Further development has not been reported (September 2009).

The case was reported to Government in March 2009; their remarks have not been received (September 2009).

3.3.3 Non-levy of interest

3.3.3.1 Under the KAIT Act, any person who fails to pay tax under section 37 (1) and (3) of the Act or in pursuance of a demand notice issued under Section 45, shall pay simple interest at the prescribed rates for every month of delay or part thereof, on the unpaid balance of tax.

During scrutiny of records in the office of the inspecting assistant commissioner, (commercial tax) Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the assessment year 1998-99 completed in December 2000 levying tax of Rs. 6.63 crore was revised in February 2008 based on an appellate order, reducing the tax to Rs. 6.07 crore. After adjusting the excess credit available on revision of assessments for the assessment years 1995-96 to 1997-98 and remittance of Rs. 5 crore, the balance tax payable worked out to Rs. 1.02 crore as on 1 January 2001, of which, the assessee had remitted Rs. 40.68 lakh in March 2001. Hence the balance tax payable was Rs. 60.98 lakh on which interest of

Rs. 65.40 lakh for the period from January 2001 to August 2008 though leviable, was not levied. This resulted in non-levy of interest of Rs. 65.40 lakh. Besides, balance tax of Rs. 60.98 lakh is also recoverable (September 2009).

After the case was pointed out, the assessing officer stated in September 2008 that the case would be examined. Further reply has not been received (September 2009).

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

3.3.3.2 During scrutiny of records in the office of the inspecting assistant commissioner, (commercial tax) Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the year 1993-94 was finalised in March 1995 fixing the net income at Rs. 1.82 crore levying tax of Rs. 1.18 crore. After affording credit for Rs. 80 lakh, balance tax of Rs. 38.02 lakh was demanded in December 1995. The assessment was later revised in March 2008, based on an appellate order (March 2002), in which the net income and tax due were fixed at Rs. 1.66 crore and Rs. 1.08 crore respectively. After giving credit as in the original order as well as remittance of Rs. 17.30 lakh made in March 1999, the balance tax was Rs. 10.53 lakh. Interest on the balance tax for the period from 1 January 1996 to 31 August 2008 worked out to Rs. 27.15 lakh.

After the case was pointed out, the AA stated (September 2008) that interest was not leviable since the assessment was remanded by the Commissioner of Commercial Taxes. The fact remains that the order referred to was not an open remand but only a modification of the earlier order as the revised order relied on the turnover already fixed and there was only minor alterations from the original order. Further replies have not been received (September 2009).

The case was reported to Government in January 2009; their replies have not been received (September 2009).

3.3.4 Grant of inadmissible expense/allowance

Under the KAIT Act, the agricultural income of a person shall be computed after making the prescribed deductions. Under Section 5(k), any sum paid during the previous year to an employee as gratuity in accordance with the provision of the Payment of Gratuity Act, 1972 less such amount, if any, as claimed in any previous year towards provision for gratuity in respect of such employee can be allowed as deduction. Instructions issued (March 1970 and June 1989) by the erstwhile Board of Revenue lay down departmental procedure for verifying and checking of all calculations of turnover, tax and credits in the assessment order.

During scrutiny of records in the office of the inspecting assistant commissioner (commercial tax), Kottayam in July 2008, it was noticed that while finalising the assessment for the year 2004-05 of a domestic company in December 2006, gratuity of Rs. 26.55 lakh payable for the period from March 1980 to March 1991 and claimed on the basis of actuarial certificate produced by the assessee during the year was ordered to be disallowed and was agreed to by the assessee. But while computing the income, deduction in respect of

gratuity was not disallowed. This resulted in short levy of tax of Rs. 15.93 lakh.

After the case was pointed out, the AA stated (July 2008) that the case would be examined. Further development has not been received (September 2009).

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

3.3.5 Short levy of tax due to grant of excess re-plantation allowance/ investment deposit scheme

Under the KAIT Act, an assessee shall be entitled to a deduction on account of deposit under Investment Deposit Scheme 1993 from his agricultural income, any sum not exceeding 20 *per cent* of the total agricultural income. Under paragraph 3 (i) of the Investment Deposit Scheme, deduction not exceeding eight *per cent* of the agricultural income from tea liable to tax under the Act alongwith the share of deduction under Central Scheme shall not exceed 20 *per cent* of the income computed under Rule 8 (1) of the Income Tax Rules, 1962.

During scrutiny of records in the office of the inspecting assistant commissioner, (commercial tax) Mattancherry in September 2008, it was noticed that the assessment of a domestic company for the year 1999-2000 was completed in December 2001 and the net income from tea as well as other crops was fixed at Rs. 85.27 lakh after allowing deduction of Rs. 13.28 lakh towards deposit under Investment Deposit Scheme. The assessment was revised in August 2005 and the net income was fixed at Rs. 56.46 lakh. However, the corresponding modification in the deduction allowed under Investment Deposit Scheme was not made. The deduction allowable as per the revised income was Rs. 8.63 lakh instead of Rs. 13.28 lakh allowed. The excess deduction allowed had resulted in short levy of tax of Rs. 2.79 lakh.

After the case was pointed out, the AA stated (September 2008) that the case would be examined. Further development has not been reported (September 2009).

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

CHAPTER IV
STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of the records of the offices of the registration department during the year 2008-09 revealed undervaluation of documents, short remission of stamp duty etc., amounting to Rs. 7.02 crore in 235 cases which may be categorised as follows:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Information technology audit of Package for Effective Administration of Registration Laws (PEARL)(A review)	1	0.00
2.	Undervaluation of documents	200	5.95
3.	Other lapses	34	1.07
Total		235	7.02

During the year 2008-09, the department accepted undervaluation and other deficiencies of Rs. 37.97 lakh involved in 54 cases out of which 20 cases involving Rs. 17.39 lakh were pointed out during 2008-09 and the balance in the earlier years. The department recovered Rs. 2.87 lakh in 52 cases during the year of which four cases involving Rs. 19,167 pertained to 2008-09.

A review of ‘**Package for Effective Administration of Registration Laws (PEARL) in the Registration Department**’ and few other audit observations involving Rs. 1.07 crore are mentioned in the succeeding paragraphs.

4.2 Information technology review of Package for effective administration of registration laws (PEARL)

4.2.1 Highlights

- Every user could login as Sub Registrar as passwords were shared by all, exposing to the risk of unauthorised modification of data.

(Paragraph 4.2.4.4)

- Stakeholders are totally helpless as validated electronic copy of data and documents were not kept in Sub Registry Office (SRO), Kottarakara where a fire mishap devastated 99 *per cent* of documents. It took four years to resume computerised activity in another SRO where hardware was stolen.

(Paragraph 4.2.5.1)

- Stamp duty calculated and stored in PEARL was short of requirement in 47 *per cent* of records.

(Paragraph 4.2.6.2)

- There is no restriction for any user to access and modify backend data. Data analysis found no login information in 12 *per cent* of records.

(Paragraph 4.2.6.4)

- The fields storing survey number details were blank in 3,493 records and age fields of executants and claimants were blank in 87 *per cent* of records. Crucial data of boundary details contained trash data in 99 *per cent* of records.

(Paragraph 4.2.7.2)

- 44 *per cent* and 18 *per cent* mistakes were observed in data stored relating to accounts and registration documents respectively.

(Paragraph 4.2.7.3)

- Legal suits initiated against the department due to issuance of incorrect encumbrance certificates generated from not-validated data.

(Paragraph 4.2.7.4)

- Though computerisation started in the year 2000 and Rs. 24.41 crore was incurred, the System has not been fully operationalised; bugs are not rectified; only 1 out of 5 modules are put to use and the required amendments to Acts and Rules were not carried out till date.

(Paragraph 4.2.8.2 and 4.2.8.3)

- Though Government have taken no decision on commencement of scanning, scanners continued to be purchased (Rs. 70 lakh) in all the six phases and annual maintenance contract also was provided (Rs. 3 lakh) for scanners which remained packed.

(Paragraph 4.2.8.6)

4.2.2 Introduction

4.2.2.1 Project

Registration Department is one of the oldest Departments in the State and it touches the citizens at all levels at some time or other. Stamp duty and registration fees, at present is the third largest source of revenue to the State exchequer. The main objectives of registration laws are to

- provide a conclusive proof of genuineness of documents
- afford publicity to transactions
- prevent fraud
- afford facility for ascertaining whether a property has already been transacted and
- afford security of title deeds and facility of providing titles in case the original deeds are lost or destroyed.

4.2.2.2 The functions

The main functions of Sub Registry Offices are

- registration of Documents;
- preparation of Encumbrance certificate and certified copies;
- perform the functions of Marriage officer under the Special Marriage Act 1954 and
- perform the functions of the Registrar of Chitty under Kerala Chitties Act 1975.

4.2.2.3 Organisational set-up

Principal Secretary (Taxes) is in charge of the department at Government level and the Inspector General of Registration (IGR) is the head of the department with headquarter at Thiruvananthapuram. There are 4 zonal offices, 14 district offices and 309 Sub Registry Offices (SROs). Each zone is under the control of a Dy. IGR. Each district is under the charge and control of a District Registrar (DR) and the Sub Registry Offices (SRO) which are the functional units headed by Sub Registrars (SR).

4.2.2.4 Objectives of computerisation

The computerisation in Registration Department aimed at providing better service to citizens for the services rendered by the Registration Department. The software was designed to eliminate the maladies affecting the system of Registration through electronic delivery of all its services.

It aimed to

- demystify the registration process,
- introduce a transparent system easily accessible to the citizen,
- bring in speed, efficiency and reliability,

- replace the manual system of copying and filing of documents with a sophisticated document management system that uses imaging technology,
- replace the manual system of indexing, accounting and reporting and
- improve the citizen interface substantially.

4.2.2.5 The system

Government of Kerala approved the project of Computerisation of Registration Department in January 2000. NIC developed the software - Package for Effective Administration of Registration Laws (PEARL) with Visual Basic and MS SQL Server in Windows platform. The pilot phase comprising computerisation in 4 SROs¹ was inaugurated in August 2000. The remaining 305 SROs were subsequently computerised in 5 phases².

4.2.2.6 Hardware

All the 309 SROs have been supplied with a server, 2 personal computers (3 PCs where there were two Sub Registrars), 2 dot-matrix printers, 1 laser jet printer and 1 scanner each along with the required UPS working in LAN. For issuing certified copies, a digital imaging unit comprising a digital camera, a PC and a laser printer each was provided to all the 309 SROs. The total cost of the hardware works out to Rs. 1,040 lakh.

4.2.2.7 Financial status

Government incurred Rs. 2,441 lakh towards computerisation of 309 SROs under plan funds and MGP funds during the period 1999-2000 to 2008-09.

4.2.3 Scope and methodology of audit

4.2.3.1 Scope of audit

Audit evaluated the system to see whether the required controls were in place to ensure the security of the system including data, whether the objectives of computerisation were achieved, whether the social objective of serving public as envisaged was achieved and whether the computerised system effectively replaced the manual system.

4.2.3.2 Audit methodology

An entry conference was held in March 2009. Audit was conducted during February-May 2009 and the audit team visited 31 out of 309 SROs in 7 out of 14 districts and seven DR offices for on the spot verification of the working of the system and discussing with Sub Registrars and other end users on the basis of questionnaire prepared for the purpose to assess the usefulness and user-friendliness of the software. As separate databases were maintained for 309 SROs, backup data in respect of 3 SROs³ was analysed using CAATs⁴. The

¹ Nemom, Palakkad, Thalassery and Thodupuzha

² February 2001, December 2002, December 2004, December 2005 and March 2007

³ Sasthamangalam, Thodupuzha and Villiapally

⁴ Computer assisted audit techniques

review was sent to the Government on 1 July 2009 and discussed in the exit conference in July 2009.

4.2.3.3 Audit criteria

Indian Registration Act 1908, Kerala Stamp Act, Registration Manual, Department Circulars, Software Requirement Specification and Software Design Document were relied upon for audit.

4.2.4 Audit findings

4.2.4.1 Deficiencies in general IT controls

General computer controls are critical to the organisation's ability to safeguard its assets and ensure reliability of financial management information. Weakness in Information System's general controls affects the overall efficiency and security of computer operations.

4.2.4.2 Ineffective physical access controls

Regarding physical access controls audit observed that

- Most of the SROs were housed in very old and near-dilapidated buildings eg. SRO, Nellai and SRO, West Hill.
- Many offices did not have a compound wall or even fencing.
- Even though the Departmental Manual stipulates that the registration offices should not be left unguarded; the system of deploying peons⁵ for the purpose was not effectively implemented. Against the strength of two peons per SRO, in 29 SROs there was only one peon each.

There was a theft of the lone server from SRO, Nellai and consequently the computerised process was suspended for four years from 18 November 2003 to 26 November 2007.

4.2.4.3 Ineffective environmental controls

According to the Registration Act and Rules, SROs are responsible for registration of different types of documents, upkeep and safe custody of the same. Non-availability of the documents registered assumes significance of an unimaginable dimension and repercussions. No orders, procedures, instructions etc. were issued by the department on environmental security.

Regarding environmental controls, audit observed that

- The record rooms which house the copies of registered documents were not equipped adequately to meet the increased requirements. In the absence of sufficient racks and space, the volumes were seen dumped on the floor exposing them to the risk of damage due to dampening and mites, e.g., SRO, West Hill.
- Fire fighting mechanisms such as fire extinguishers, smoke sensors etc. were not provided in any of the SROs.

⁵ The duties of peon include that of chowkidar also.

4.2.4.4 Logical access controls and segregation of duties

Logical access controls in the IT System are intended to protect computer resources against unauthorised access. For ensuring IT security, the duties and responsibilities of staff should be adequately segregated.

In this regard, the following deficiencies were noticed:

- Although two levels of users were provided and all the employees were supplied with separate usernames and passwords, in the entire test checked SROs the passwords were found to be shared among all.
- Every user performed the duties of others including that of Sub Registrar defeating the very purpose of segregation of duties.
- Delegation and rights of the Sub Registrars were exercised by subordinate staff by logging in as the Sub Registrar.
- Passwords were never changed.

Government stated (August 2009) that once the security policy was in place and implemented at all levels the issues connected with access control would be over.

4.2.5 Lack of audit trail

Audit trail leaves evidence in respect of all access to the system and modifications of data which is required to prevent unauthorised access and manipulations and fixing responsibility. In PEARL when any modification is made to data, the System does not retain data such as the values before modification, who and when the modification was done, etc., for the audit trail.

4.2.5.1 Business continuity and disaster management plan

Business Continuity Planning (BCP) is essential to ensure that the organisation can prevent disruption of business and resume processing in the event of a total or partial disruption in the information availability. Availability and trouble free working of hardware and software including data are to be ensured for the smooth and uninterrupted functioning of an IT system. Improper maintenance of hardware will result in the non-availability of the same when it is in need.

It was observed that no business continuity plan/disaster management policy has been evolved and documented by the department. In this connection audit observed that:

- All the 309 SROs have been provided with computers in the pattern of 1 server and 2 or 3 nodes. But no computer has been kept as reserve to meet any unforeseen eventuality. As a result non-availability of hardware for long periods (exceeding one year) was noticed in many SROs, in spite of availability of Annual Maintenance Contract(AMC).
- In SRO, Nellai, where the lone server was stolen, it took four years for replacement of the same compelling them to resort to manual system during the period.

- There was loss of records by fire mishap in SRO, Kottarakara (March 2009). 1,998 out of 2,012 (99 *per cent*) volumes of copies of registered documents were gutted in the fire. Though computers with data could be salvaged, the data salvaged was not validated. In the absence of original records, validation was no more possible. Digitised documents as envisaged were also not kept.

4.2.5.2 Ineffective backup policy

According to circulars issued by the department backup had to be taken daily in SROs in CD media, a half-yearly (30 June and 31 December) backup had to be submitted to the DRs and an annual backup (31 December) to be submitted to the IGR. An analysis of the backup CDs (as on 31 December 2008) stored in the department revealed the following:

- Backup of only 26 out of 41 SROs relating to Thiruvananthapuram district were available.
- In Kollam district, backup CDs of only 18 out of 30 SROs were available; of which 8 CDs were either blank or contained obsolete backup.
- In Kannur district Backup CDs of only 20 out of 23 SROs were available.
- Out of 135 CDs relating to 5 districts checked, 120 CDs did not contain the data as on the specified date
- Backup were not stored in external media in certain offices. It was stated that CDs were not supplied by the department for taking the backup.
- Owing to a system failure 8,488 records were lost in SRO, Mararikulam (2007). The data had to be re-entered, with proneness to data entry mistakes, from original records as no back up was available.
- As a best practice, a second copy of the backup was not taken daily and kept in a different geographical location (ie. a location other than the office premises) for the restoration of data in the event of data loss.

All of these establish that daily backup were not taken by SROs as per instructions in this regard and also not monitored by competent authorities at respective levels.

Government stated (August 2009) that once the latest version (3.1) was deployed in all SROs the issues related to backup of data would be solved. Government further stated that they were planning to switch over the storage of data to a centralised location.

4.2.5.3 Non-uniformity in backup procedure affecting completeness of data

Backups taken were either in SQL format or in text format. While the SQL format backups can directly be restored, text format requires a batch file for restoration. Two versions of batch files were found to be in use. Both these batch files can restore 178 tables to the database. Analysis of backup CDs, having text format, revealed that 41 CDs contained more than or less than 178 tables. Variation in the number of tables backed up and restored would result

in data inconsistencies and will also render the integration of database difficult.

4.2.6 Deficiencies in application controls

Application controls are used in IT Systems to provide assurance to the management that all transactions are valid, authorised, complete and accurate.

4.2.6.1 Non-uniformity in data structure

Two versions of the software with different variants were in use in different SROs. The structure of data was not uniform. A test check of data relating to 135 SROs revealed that while the number of tables in 94 offices was 178, in the remaining 41 offices the number of tables was either more than or less than 178 tables. Owing to the non-uniformity of data structure, it would be difficult for the envisaged data integration.

4.2.6.2 Weak input controls and validation checks resulting in incorrect data

The objective of input control is to ensure that the procedures and controls reasonably guarantee that (a) data received for processing are genuine, complete, not previously processed, accurate and properly authorised and (b) data entered are accurate and without duplication. Data validation is a process for checking transaction data for any errors or omissions and to ensure the completeness and correctness of input. In this regard, audit observed the following:

- While reasonable input controls for data integrity were provided in the online mode of data entry, such controls were not in place in the backlog data entry mode. In 90 *per cent* of the SROs test checked instead of online registration process, they resorted to backlog option. When data was entered through backlog mode completeness of data could not be ensured as essential fields were not made mandatory.
- For capturing survey numbers two separate fields were provided for entering the survey number and the sub division number. The survey number field consists of only numeric values whereas sub division number consists of alpha numeric values. In the absence of input controls, subdivision numbers consisting of alphabets were also captured in the survey number field. This adversely affected the uniformity of data leading to incorrect search results in the preparation of ECs.
- The system calculates stamp duty and surcharge on the basis of value of documents and other parameters. However, owing to the non-availability of stamp paper of the exact denomination, executants would opt for stamp papers of higher denomination resulting in excess remittance of stamp duty. There are provisions in the software to capture both the values viz. stamp duty due and stamp duty paid. In no circumstances stamp duty paid can be less than what is due. Data analysis revealed that in 47 *per cent* of records pertaining to stamp duty stored was short of what was required. Shortage of fees was also noticed in 27 *per cent* of records.

4.2.6.3 Avoidable re-entry of data resulting in mistakes and erosion of user-friendliness

In a database management system any data should be entered only once. The data so entered should be available for any number of processes required at any stage. Re-entering the same data for different modules/sub modules would be prone to data entry mistakes and finally resulting in incorrect outputs. In this regard, audit observed the following mistakes in data analysis:

- Owing to re-entry of dates there were differences relating to year in 5,445 records.
- Owing to re-entry of codes there were mistakes relating to District/SRO codes in 92 records.
- Difference in page numbers of filing sheets were noticed in 88 *per cent* of records as data was re-entered without utilising the already captured data regarding the number of filing sheets used.

Re-entry of data will also result in erosion of user-friendliness.

4.2.6.4 Unauthorised modification of backend data affecting data security

Unauthorised access or changes to data is considered to be one of the highest risks in any IT system. It was found that any user proficient in SQL Server could access the back-end, make unauthorised modification to data and delete the user login information. Data analysis revealed that in 12 *per cent* of records, the user login information was not available.

4.2.6.5 Control weakness by providing editing right to ordinary user

The right to edit data once entered should be given to a higher level of user in order to check unauthorised modification and to ensure authenticity. But in PEARL, data once entered can be edited by the same user or any other ordinary user.

Government stated (August 2009) that the editing rights would be restricted to higher level functionaries. Insufficiencies pointed out would be brought to the attention of technical team of NIC for necessary modification to the software.

4.2.6.6 Insufficiencies in the system

The successes of implementation of any IT system and user acceptance depend mainly on the software being user friendly and easy to operate. The system should be able to replace the manual system in a better way. In this regard, the following deficiencies were noticed:

- There was no provision to enter name of applicant applying for registration through private attendance.
- There was no provision to generate KVAT at four *per cent*, required to be collected from fee for additional sheets.
- When a registration is made through private attendance, an additional fee is to be collected at Rs. 25 per claimant. However, irrespective of the number of claimants involved, the System generated the fee of Rs. 25.

- Screens of the System were designed at a bigger size than the monitors provided to all the users, causing difficulties and hassles for all the users.

4.2.6.7 Generation of incorrect/defective reports

Regarding generation of reports audit observed the following:

- In version 2.0, accounts consolidation report generated was defective. While there is no stamp duty for 'will' documents which is included under Book III, stamp duty was shown against Book III in the accounts generated.
- Reports generated for 'Index II' were devoid of any uniform order in different offices.
- Reports could not be generated in the indexed order as required by the user for different purposes.
- 'Index II' reports printed the same document numbers repeatedly in cases, where there were more than one executants or more than one survey number. The same document number was seen repeated even upto 51 times.

4.2.7 Data deficiencies

The most valuable component of an IT system is its data. So data must be reliable, authentic, correct and complete. It must have proper authorisation. If the correctness of the data cannot be guaranteed the entire system is considered to be useless. During the course of audit the following data deficiencies were noticed:

4.2.7.1 Non-validation of legacy data

Legacy data relating to the last 13 years was entered as a prelude to the commencement of computerised operations in each office. The data entry was entrusted to three outsourced agencies⁶ at a per-record rate of honorarium. As per the agreement conditions, data entry was done at their premises bringing records from the respective SROs. However, it was found that the source input document was the Index registers and not the office copies of the registered documents (volumes) from which the Index registers were prepared. But the data entered was never verified with the original records and correctness and completeness certified by the department before it was put to use. It was also observed that in SRO, Kottarakara, where 99 *per cent* of the records were gutted in a fire mishap, the electronic data, though salvaged was not validated as pointed out in para 4.2.5.1 above.

Though a provision exists in the front-end to eliminate junk data, it has not been put to use in any of the offices. The Department stated (June 2009) that the provision for eliminating junk data was not made use of because of reported data loss owing to certain deficiencies in the module.

4.2.7.2 Deficiencies in the database

Analysis of data using CAATs revealed that:

⁶ KUDUMBASREE (a women self dependant group – an NGO), KELTRON and Dinesh IT Systems

- Survey No. field, which is the most vital information for issue of encumbrance certificate, was blank in 3,493 out of 3,17,898 records. Survey No. field, which should contain only numerals, contained data other than numerals in 1,145 records.
- 99 *per cent* of the records contained trash data in boundary details fields, by which a property is identified.
- Values in age field of claimants and executants were either null or invalid in 87 *per cent* of records.
- 35 *per cent* of records contained invalid Local Body name.
- 10 *per cent* of records contained invalid land type.
- Local Body type is crucial information based on which the rate of duty and fees are calculated. 13,581 records contained invalid values
- In the Account table while 3,623 records contained blank account codes, 1,849 records contained blank executant's name and 2,352 records were devoid of claimant name.
- 449 records contained invalid years (ranging from 1,797 to 9,992) in the fields of registration and execution year.
- 303 records contained transaction codes, which were not available in the master table.
- In the cases of registration relating to other SROs, 174 records contained transaction codes, which were not available in the master table.
- In 272 records, SRO, district, *taluk* or village codes were blank.
- 244 records contained invalid measurement unit.

4.2.7.3 Non-validation of current data

The current data was entered by the staff, but a second level verification of the data was not done.

A physical test check of 420 records in the database with office copies of documents (Volume) in selected 30 SROs revealed that 18 *per cent* of records contained errors as shown below:

- there were 24 mistakes pertaining to survey No.
- there were 21 mistakes pertaining to extent of property
- there were 28 mistakes pertaining to Local Body type

A test check of 888 records with account books in selected 30 SROs revealed that 44 *per cent* of records contained errors as detailed below:

- there were 301 mistakes pertaining to stamp duty collected
- there were 438 mistakes pertaining to fee collected
- there were 38 mistakes pertaining to value of documents.

4.2.7.4 Dependence on unreliable data leading to legal issues

The Encumbrance Certificate (EC), the only authorised document showing the details of transactions on a property, was generated through the system and issued to the applicants. As the data was not validated, there is no guarantee that the details generated from the system are correct. The data is critical as an incorrect EC might result in ineligible and unauthorised financial transactions which could lead to legal issues.

ECs have to be prepared after searching the records for any transaction for the required period. Name of the clients and survey number-wise searches were provided in the software for the purpose. Owing to improper capture of data in the Name and Survey number fields the search results obtained required manual editing to a certificate. However, in the entire test checked SROs, it was observed that the EC, prepared by one of the users, is issued by the SR without verification at a second level. This could result in issuance of incorrect/manipulated ECs.

In the latest version (PEARL 3.1) which is under trial run in SRO, Sasthamangalam, two independent searches were made systemically compulsory to mitigate the above deficiency. However, this would yield fruits only if the password policy was strictly adhered to. Audit observed a single user making both the searches using another's username and password.

To an audit query, the department stated (May 2009) that three legal suits were pending against the department in connections with incorrect ECs issued.

4.2.7.5 Obsolete master data

On an analysis of the master data relating to the classification of documents and rates of stamp duty and registration fee thereon, the following observations are made.

- Master data, though it should be same throughout, varied from office to office. The data was not validated and authenticated at any stage.
- Master data requires modification when rates are changed or new types of documents are included. But these changes were not seen made up-to-date.

Government stated (August 2009) that on installation of the new version, the master data would be up-to-date.

4.2.8 Other findings

4.2.8.1 Defective internal control mechanism

The success of any Department in its performance and achievement of targets is mainly based on the strength of the internal control mechanism it has. Internal Audit forms a main component of the Internal Control Mechanism.

Though each district had an internal audit wing headed by DR (Audit), they were not trained to audit in IT environment. An audit module was also not provided in PEARL.

4.2.8.2 Inordinate delay in completion of the project

Though nine years have elapsed and Government spent a sum of Rs. 24.41 crore on the project the general public is deprived of the benefits envisaged out of the computerisation. A scrutiny of different stages of computerisation shows that the delay can be attributed to the following.

- There was no perspective computerisation plan in the Registration Department.
- An empowered committee at apex level with sufficient powers was not constituted to take decisions and oversee the implementation. A steering committee at middle level also was not constituted for the implementation of the project.
- Failure on the part of the Department to prepare a User Requirement Specification.
- There was no effective liaison with NIC at top management level to ensure timely completion of the development of the system. Target dates fixed for the completion of each phase was not ensured. Bugs noticed could not be got rectified by the NIC.
- Facilities have been provided in PEARL to digitise documents and fingerprints of the executants, but could not be put to use pending legislation required for amending the relevant provisions in the Acts and Rules.
- There was delay on the part of NIC in keeping the schedule without any reason.

As no reason for the delay could be found which was beyond the control of the department the delay can be attributed to lack of commitment and initiatives on the part of the management. There had never been a fund constraint as evident from the fact that while Rs. 24.41 crore was spent on the project, Rs. 25.51 crore was surrendered during the period upto the year 2008-09.

As nine years have already completed, the system when completed would be an out-dated one with less efficiency and usefulness as the technology has advanced further like the web based applications used in other departments.

Government stated (August 2009) that the department did not have the technical expertise to oversee the implementation. It was also stated that the department has constituted a high level technical committee to decide the future course of action and prioritise the activities of the project.

4.2.8.3 Non-achievement of objectives

The objective of PEARL was to computerise all manual activities in the registration offices so that efficiency, speed and transparency are increased to the benefit of the public. Out of the five⁷ activities enumerated in a sub registry office only one viz. issuing encumbrance certificates was done

⁷ Activities relating to (a) Registration and issue of encumbrance certificates, (b) Digitisation of Documents and issue of certified copies, (c) Chitties, (d) Special Marriage and (e) Fare value of property.

through PEARL. The main objective viz. replacing the manual system of copying and filing of documents with a sophisticated document management system that uses imaging technology has not been commenced.

4.2.8.4 Inefficient management of annual maintenance contract

The hardwares supplied to the SROs were covered under AMC with a single vendor across the State. As per the agreement conditions computers had to be set right within 24 hours failing which penalty was to be imposed on the vendor proportionate to the down time in excess of 24 hours. But a test check conducted in 30 selected SROs revealed that:

- The AMC did not yield required results as the system of recording and reporting faults was not in place in 90 *per cent* of SROs visited.
- In 80 *per cent* of offices inspected, where there were instances of non-functioning of the hardware, no records were available to assess the duration of non-availability of the system as fault log registers were not maintained. It was observed that computers including servers remained faulty for periods exceeding one year, e.g. SRO, Njarakkal, Principal SRO, Thiruvananthapuram, SRO, Kadirur etc. But no penalty was levied from the vendor for the laxity.
- Although monthly reports on the conditions of hardware were sent from the SROs to the DRs concerned, 95 *per cent* of them did not contain the duration of down time. Remedial measures were not taken by DRs on the basis of the reports received.
- In cases of faults of server, one node was configured as server. But due to limited resources of the node, the software would not function properly and online registration would not be possible. In such cases data was entered through back log data entry option, where all the input controls were not available affecting data integrity and completeness of data.
- In SROs, Kadirur and Cherthala only one PC each was found in working condition.

Government stated (August 2009) that the department was planning to switch over from AMC to facility management system which would reduce the “down time”.

4.2.8.5 No Business Process Re-engineering (BPR)

An IT project should not only replace the manual system but also help to enhance efficiency through a process improvement for the ultimate benefit of the stakeholders.

In the manual system, in order to assist the citizens in preparing documents there is an authorised system comprising of document writers outside the department who act as an interface between the public and the Department. Licenses are issued to document writers by the department after qualifying an examination conducted by the Department. Nevertheless, the drafting, language, etc., used in the documents were not in a standardised form across the State. As a result the documents are unnecessarily lengthy and complex

with worn out words and styles causing difficulties not only to the public but also to the department as far as data entry is concerned.

With the introduction of a module the System could generate any type of documents by supplying the required details which could be collected from the executants/claimants through a proforma. As a result the concept of document writers would then become insignificant and could be dispensed with. This would not only simplify the registration process, but also ensure speed, efficiency, transparency, elimination of the intermediary etc. to the ultimate benefit to the public. Computerised issuance of the ECs and the certified copies of document has enhanced the image of the Department and its staff manifold when the public started getting these services within a day's time without the help of any intermediary.

Government stated (August 2009) that elimination of intermediaries had far reaching consequences and wider ramifications. As such a policy decision by the Government in the matter was required.

4.2.8.6 Unfruitful expenditure on the purchase of scanners

One of the main objectives of computerisation was doing away with the practice of storing hard copies of the registered documents by digitising them and maintaining as soft copies in order to improve manageability, easy retrievability, providing better and prompt services to citizens, savings in manpower, storage space etc. With this in view, a module was incorporated in PEARL at the pilot stage itself for digitising and archiving the documents. Audit observed the following in this regard:

- Although, scanning did not commence for want of Government decision, the scanners continued to be purchased in all the five more phases.
- The first batch of scanners is now nine years old. In 99 per cent of the SROs the scanners were still to be unpacked (September 2009).
- The cost of scanners purchased in different phases would indicate that the cost had been steadily falling down. (The cost of scanners purchased varied from Rs. 35,000 to Rs. 16,750).
- The optimum life of computer peripherals being around five years, there is no probability of utilising the scanners purchased in the initial years.
- There is no guarantee that the old scanners would work with the new versions of operating systems and hardware due to compatibility issues.
- Scanners had not been put to use in any of the SROs and date of commencement of scanning was not yet decided by the Government. Nevertheless AMC was awarded to scanners periodically. An avoidable expenditure of Rs. 3.01 lakh was incurred on AMC for scanners alone during the period upto 31 March 2009.

The warrantee given by the manufacturers also could not be availed of as they were not put to use. The procurement without proper planning resulted in unfruitful expenditure of Rs. 70 lakh.

4.2.8.7 Injudicious decision resulting in avoidable expenditure of Rs. 2.87 crore

Digitisation of the registered documents was one of the main objectives of computerisation in the Registration Department. In the absence of storing digitised images of documents in the database, Government decided to go for a separate set of digital image printing (DIP) unit comprising one PC, a digital camera and a laser printer together with an image editing software for issuing certified copies of documents. Had the Department utilised the facilities in the software, expenditure of Rs. 2.87 crore spent for the purchase of the imaging unit could have been avoided.

During the last two years 6,50,150 certified copies were issued by the department using the DIP unit. However, the scanned images were not stored for future use.

Government stated (August 2009) that storage of digital image would consume more disk space and was not required as copies were available in the 'register volume'. However, Audit is of the opinion that preservation of 'register volume' was costlier and more cumbersome than digital storage and also these paper documents were more susceptible to destruction by mite, fire etc. The entire documents kept in 'register volumes' right from the oldest one should have been digitised and stored in the database so that certified copies of documents could have been issued easily. Objectives of computerisation envisaged digitisation of documents and PEARL software had provisions for the same. But audit observed that Government introduced the DIP unit as a remedy for coping up with the delay. The fact remains that heavy accumulation of pendency in issue of certified copies was caused by improper implementation of computerisation.

4.2.9 Conclusion

Though the project is under implementation for over nine years, the System was not free from bugs; it was not formally accepted by the department; data remained unreliable; no modules, except one, were put to use and no time frame fixed for validation of data, completion and online use of the software in its fullness. Required amendments to provisions in the Act and Rules to legalise the computerised activities were not made. After incurring an expenditure of Rs. 24.41 crore, stakeholders are deprived of the benefits envisaged out of the computerisation. This system when completed would not help to achieve the objectives in full.

4.2.10 Recommendations

- Officers should be nominated for effective liaison with NIC for completion and acceptance of the project;
- Validation of data should be given utmost priority. Completeness and correctness of data should be certified at appropriate levels;
- Individual databases should be merged and centralized;
- AMC conditions should be strictly enforced;

- Data backup policy should be revised. Offsite storage of daily backup should be made;
- Digitisation of documents should be commenced;
- A suitable Business Continuity/Disaster Management Plan should be formulated and implemented;
- A password policy should be formulated and its compliance should be ensured;
- Environmental/physical access control weaknesses should be remedied in a timely fashion;
- Enactment required for the computerised operation should be made; and
- A business process re-engineering should be done in order to impart the intended benefit of computerisation to the stakeholders.

4.3 Other Audit observations

Scrutiny of records of various Registration Offices revealed several cases of non compliance of the provisions of the Kerala Stamp Act 1959 (KS Act) and Indian Stamp Act 1899 and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Sub Registrars(SRs) are pointed out in audit each year but not only 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.

4.4 Non-compliance of provisions of Acts/Rules

The provisions of the KS Act and Registration Rules require:-

- i) initiating action in cases where documents were undervalued; and
- ii) correct classification of documents.

It was noticed that the SRs did not observe some of the above provisions at the time of registration of documents. This resulted in short levy/evasion of stamp duty of Rs. 1.07 crore as mentioned in the paragraphs 4.4.1 to 4.4.2.

4.4.1 Short levy due to undervaluation

Under the Kerala Stamp Act 1959, if the registering officer is of the opinion that the consideration conceded in the instrument for registration has not been truly set forth, he may, after registering the document, refer the document to the District Collector for determining the value or consideration and the duty payable thereon. Also, the Collector may, *suo motu*, within two years from the date of registration of any instrument not already referred to him, call for and examine the instrument and determine its value or consideration and the duty payable thereon. Government in October 1986, appointed District Registrars (DRs) as Collectors for this purpose. As no guidelines on value of land at different localities are issued by the Government, large scale undervaluation is taking place all over the State. A few observations are mentioned below.

4.4.1.1 During scrutiny of records in sub registry office, Tripunithura, in September 2008, it was noticed that a sale deed for 90.726 cent of land was registered vide a document in June 2006 for a consideration of Rs. 36.29 lakh. The above property along with another land of 9.724 cent together forming 100.45 cent was sold in the same month vide another document for a consideration of Rs. 5 crore. As such, the property in the first document was undervalued to the extent of Rs. 4.15 crore and the matter has not been reported as a case of undervaluation. This resulted in short levy of stamp duty and registration fees of Rs. 60.22 lakh.

After the case was pointed out, the department stated in April 2009 that the SR has no authority to report the previous document as undervalued. The reply was not tenable as the DR can take action in undervaluation cases only on the basis of the report of the SR.

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

4.4.1.2 During scrutiny of records in the sub registry office, Pooyappally in October 2008, it was noticed that two documents were registered as sale deeds on the same date in respect of land in two survey numbers for an extent of one hectare 50 ares and 20 sqm each for a consideration of Rs. 15 lakh each. The same properties were subsequently registered as a single sale deed vide a document at sub registry office, Chadayamangalam along with a small plot at Chadayamangalam, after two weeks for a total consideration of Rs. 10 lakh and the fact informed at sub registry office, Pooyapally on the same date itself. As such the document registered at Chadayamangalam was under valued for Rs. 20 lakh. However, on verification of the document it was seen that the above aspect was not reported to the DR. This resulted in short levy of stamp duty and registration fees of Rs. 2.40 lakh.

After the case was reported to the department in November 2008, the department stated in April 2009 that the document has been reported to the DR as a case of undervaluation in April 2009. Further development has not been received (September 2009).

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

4.4.1.3 During scrutiny of records in eight offices between February 2008 and January 2009 it was noticed that eight documents registered for sale of properties/power of attorney were undervalued, resulting in short levy of stamp duty and registration fee of Rs. 26.56 lakh as detailed below:

Sl. No.	Name of office/ Month & year of audit	Short levy of stamp duty and registration fees (Rs.)	Nature of objection
1.	<u>SRO, Kazhakutam</u> January 2009	5.23 lakh	A document comprising of 29.6 cents of land registered for a consideration of Rs. 11.84 lakh was seen undervalued when 17.59 cent of land belonging to the above property was sold subsequently for a consideration of Rs. 32 lakh, vide three documents within three months of the first document. The matter was reported to the DR as a case of undervaluation. However, the value reported was much below the compared value.
<p>After the case was pointed out, the sub registrar stated in January 2009 that the matter would be examined and detailed reply furnished. Further reply has not been received (September 2009).</p> <p>The matter was reported to the department in January 2009 and Government in March 2009; their reply has not been received. (September 2009).</p>			

2.	<p><u>SRO Chadayamangalam</u> November 2008</p>	4.32 lakh	<p>Property of 28 ares was divided into four adjacent plots with an approach road and sold on the same day. However, one document was registered for Rs. 0.53 lakh per are and two documents at Rs. 3.71 lakh each and the other one at Rs. 2.06 lakh per are. As such the first document was undervalued to the tune of Rs. 35.98 lakh when compared to the least value of the other three documents i.e., Rs. 2.06 lakh per are.</p>
<p>After the case was pointed out, the department stated in May 2009 that action was taken to rectify the mistake. Further development has not been reported (September 2009).</p> <p>The matter was reported to the Government in February 2009; their reply has not been received (September 2009).</p>			
3.	<p><u>SRO Kothamangalam</u> December 2008</p>	3.71 lakh	<p>A property comprising of 6 ares and 7 sqm bought by a sale deed for Rs. 80,000 was resold within four months for Rs. 26.40 lakh. Hence the first document was undervalued which was not reported to the DR.</p>
<p>After the case was pointed out, the department stated that the sub registrar has no authority to report the previous document as undervalued. The reply was not correct as undervaluation cases are decided by the DR based on the report of SR.</p> <p>The matter was reported to the Government in March 2009; their reply has not been received (September 2009).</p>			
4.	<p><u>SRO, Kakkattil</u> December 2008</p>	3 lakh	<p>A document comprising of 20 cents of land (which is included in a total extent of 40 cents) was executed for a consideration of Rs. 20 lakh. The case was reported as undervalued for an amount of Rs. 1 crore. After three months another 10 cents of land included in the same property was again sold by the same executants for a consideration of Rs. 10 lakh. However, this case was reported as undervalued for Rs. 25 lakh only resulting in short reporting of undervaluation of Rs. 25 lakh when compared to the value reported for the first document.</p>
<p>After the case was pointed out the sub registrar stated in December 2008 that the case would be examined. Further reply has not been received (September 2009).</p> <p>The matter was reported to the department in January 2009 and Government in March 2009; their reply has not been received (September 2009).</p>			

5.	<u>SRO Puthanambalam</u> February 2008	2.78 lakh	A document of 38.5 ares of land executed for a consideration of Rs. 2.75 lakh and reported by the SR as undervalued to the tune of Rs. 63,000 was subsequently sold after two months for a consideration of Rs. 26.55 lakh. However, the value of Rs. 26.55 lakh received after two months was not considered for undervaluation of the first document.
<p>After the case was pointed out in March 2008, the department stated in August 2008 and May 2009 that once the document is reported for undervaluation, the SR need not report the same for higher value. The reply was not correct as the value of property has increased to almost seven times of its previous value within two months and as the DR is taking action based on the report of SR, the factual position should have been brought to the notice of higher authority for evaluating the land under consideration in the interest of revenue.</p> <p>The matter was reported to the Government in January 2009; their reply has not been received (September 2009).</p>			
6.	<u>SRO, Murukumpuzha</u> March 2008	2.70 lakh	A document comprising of 16 ares and 18 sqm executed for a consideration of Rs. 1.50 lakh was seen undervalued when 12 Are and 94 sqm area of land included in the same property was sold after 13 days for a consideration of Rs. 19.20 lakh. The case was not reported to the DR.
<p>After the case was pointed out, the sub registrar stated in March 2008 that the case would be examined. Further development has not been reported (September 2009).</p> <p>The matter was reported to the department in April 2008 and Government in March 2009; their reply has not been received (September 2009).</p>			
7.	<u>SRO, Kuttanallor</u> December 2008	2.59 lakh	An irrevocable power of attorney was executed for a value of Rs. 1 lakh, in the name of a company for development and construction of multistoried apartments/complex and to sell, lease or gift the said properties to any person(s). However, the executants of the power of attorney became the absolute owners of the said property by another document just two months before the execution of power of attorney for a consideration of Rs. 17.60 lakh. As the value shown in the power of attorney was not a match for the construction purpose and its sale value, at least the value of the land as shown in the sale deed should have been adopted as the consideration for the power of attorney.

	After the case was reported to the department in December 2008 and Government in February 2009, the Government stated in June 2009 that in the referred document there is no mention about the transfer of property other than authorising the agent to do certain things and the document was clearly a power of attorney. The reply was not correct as the document was a power of attorney authorising the company to develop and construct multistoreyed buildings which are liable to stamp duty at conveyance rate.	
8.	<u>SRO, Karunagapally</u> October 2008	2.23 lakh
	A document comprising of 27.42 cent of land and building registered for a consideration of Rs. 2 lakh (land value Rs. 1.40 lakh) was seen undervalued when sold within four months for a consideration of Rs. 38 lakh (land value Rs. 20 lakh). The undervaluation in respect of landed property alone worked out to Rs 18.60 lakh.	
	After the case was pointed out, the sub registrar stated in October 2008 that the previous value cannot be assessed for the second transaction. The fact remains that the land value increased almost 14 times within a time span of four months for which no justification is recorded. Further, the matter has not been reported to the DR also. The matter was reported to the department in November 2008 and Government in March 2009; their reply has not been received (September 2009).	

4.4.1.4 During scrutiny of the records in sub registry office, Kattakkada in June 2008, it was noticed that two sale deeds for 50 cent each of land were registered vide two documents in April 2006. Another sale deed of 16 cent of land and building was executed vide another document in March 2006 with a consideration of Rs. 5.50 lakh for land and Rs. 14.50 lakh for building. All the three plots lie in a single site of 2.78 acre, in the same survey number and have same road access. The first two documents were reported as cases of under valuation, in comparison to the land value of the third document, by the SR fixing the value of land as Rs. 4.00 lakh. However, the land value of the first two documents when worked out at the rate conceded in the third document comes to Rs. 34.38 lakh. This resulted in under reporting of consideration by Rs. 30.38 lakh and consequent short levy of stamp duty and registration fees of Rs. 3.65 lakh.

After the case was pointed out in July 2008, the department stated in April 2009 that the document to which the undervalued documents were compared was heavily priced in order to get maximum loan from banks and the undervaluation reported was based on the guideline value fixed by the department. The reply was not correct as the guideline value was not acceptable as it was not fixed by the Government. In the absence of fixed fair value, undervaluation can be estimated based on the prevailing market value of the adjacent plot.

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

4.4.2 Short levy due to misclassification

Under the schedule attached to Kerala Stamp Act as amended by Kerala Finance Act 2007, if an agreement relating to giving authority or power to a

promoter or developer for construction, development or sale or transfer of any immovable property is executed, the same duty as a conveyance on the sale or the estimated cost of the proposed construction/development of such property may be recovered.

During scrutiny of records in the sub registry office, Tripunithura, in September 2008, it was noticed that out of a total extent of 122 cents of land, a power of attorney was executed, in respect of 103.950 cents of land paying stamp duty of Rs. 150 and registration fee of Rs. 50, vide a document, in order to develop the property, construct buildings in the property and to enter into agreements with persons interested in purchasing undivided share of the said property for constructing apartments/commercial spaces/offices. From the narration of the document it could be seen that the document was not a mere power of attorney but was giving power of attorney to the promoter for construction or development of immovable properties which came under the amended provision of 5(c). The value of the property was not set forth in the document. Further scrutiny of records revealed that the balance property of 18.050 cents of land was transferred by the executant of the power of attorney to his wife by a deed of settlement vide another document, for a consideration of Rs. 21 lakh i.e., at a rate of Rs. 1.16 lakh per cent. As the value of the estimated cost of the proposed construction/development was not mentioned in the first document, the property should have been valued at the rate conceded in the second document. Failure to do so resulted in short levy of stamp duty and registration fees of Rs. 14.51 lakh.

After the case was reported to the department in October 2008 and Government in February 2009, the Government stated in June 2009 that the document was authorising the agent to do certain things other than selling the property and was clearly a power of attorney and the donor was not authorising the agent to sell the property. The reply was not correct as the power of attorney conferred on the builder was to develop, arrange for parties to sell undivided right in the property and to fix the sale price, which would tantamount to construction/development. Moreover, the agent was a well known developer in the construction field. Further replies have not been received (September 2009).

CHAPTER V TAXES ON VEHICLES

5.1 Results of audit

Test check of records of the offices of the Motor Vehicles Department conducted during the year 2008-09 revealed non/short levy of tax, incorrect classification, irregular exemption etc., amounting to Rs. 3.98 crore in 404 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of tax	212	1.09
2.	Incorrect classification	56	0.34
3.	Irregular exemption	20	0.19
4.	Other lapses	116	2.36
Total		404	3.98

During the year 2008-09, the department accepted 130 cases of underassessments and other deficiencies and recovered Rs. 56 lakh of which 21 cases involving Rs. 15.60 lakh were pointed out during 2008-09 and the rest in earlier years.

A few audit observations involving Rs. 2.36 crore are mentioned in the succeeding paragraphs.

5.2 Audit observations

Scrutiny of records of various Transport Offices revealed several cases of non-compliance of the provisions of the Motor Vehicles Act 1988 (MV Act) and Kerala Motor Vehicles Taxation Act (KMVT Act) and Government notifications and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Regional Transport Officers (RTOs) are pointed out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system.

5.3 Non-compliance of provisions of Acts/Rules

The provisions of the MV Act and KMVT Act and Rules made thereunder provide for:

- i) collection of revenue on transport vehicles/stage carriages;
- ii) levy of tax/fees at the prescribed rates within the due dates; and
- iii) levy of penalty for various offences.

It was noticed that the RTOs did not observe some of the above provisions which resulted in non/short levy of tax/fee/fine of Rs. 2.36 crore as mentioned in paragraphs 5.3.1 to 5.3.7.

5.3.1 Irregular renewal of driving licence

5.3.1.1 Under the MV Act, a driving licence issued or renewed shall, in the case of a licence to drive a transport vehicle (badge), be effective for a period of three years and in the case of any other licence, it is effective for a period of 20 years from the date of issue or renewal or until the licence holder attains the age of 50 years whichever is earlier. After attaining the age of 50 years, it shall be renewed for a period of five years. Instructions were issued by the department of motor vehicles, to indicate separate validity for licence to drive transport vehicle and non-transport vehicle when the same is issued or renewed.

During scrutiny of records in nine regional transport offices¹ (RTO) and 16 sub-regional transport offices² (SRTO) between July and November 2008 it was noticed that at the time of renewal of licences (badge) to drive transport vehicle, the computer system automatically renewed the period of validity of licences to drive non-transport vehicle also from the date of renewal of badge for a period upto 20 years or upto the age of 50 years even in the cases where validity to drive the non-transport vehicle had not expired. Though provision existed in the system itself to rectify the error in the software, it was not rectified while renewing the badges. The renewal of non-transport driving

¹ Alappuzha, Attingal, Ernakulam, Kannur, Kasaragod, Kozhikode, Malappuram, Palakkad and Vada-kara.

² Aluva, Chengannur, Cherthala, Kanhangad, Kazhakuttom, Mannarkkad, Mattancherry, N.Parur, Parassala, Pattambi, Perinthalmanna, Ponnani, Thalassery, Thaliparamba, Thripunithura and Tirur.

licences without an application and without medical certificate, wherever necessary, would enable a licensee to drive vehicles which would be a threat to road safety.

After the case was pointed out, the department stated between July and November 2008 that the matter would be brought to the notice of the Transport Commissioner and final reply would be furnished. Further developments have not been reported (September 2009).

The case was reported to the Government in February 2009; their reply has not been received (September 2009).

5.3.1.2 Under Rule 32 of the Central Motor Vehicles Rules, 1989, as amended by Government of India notification dated 10 April 2007, fee for renewal of driving licence is Rs. 250. Transport Commissioner, Kerala vide letter dated 20 June 2007 had directed the department to collect the fee at the revised rate for all applications received on or after 10 April 2007.

During scrutiny of the records in 16 RTOs³ and 38 SRTOs/Rural RTOs⁴ between April 2008 and December 2008, it was noticed that renewal fee in respect of 87,212 driving licences was collected at the pre-revised rate of Rs. 200 during the period from 10 April 2007 to June 2008 instead of the revised rate of Rs. 250. This resulted in short collection of Rs. 43.61 lakh.

After the case was pointed out, the department stated (February 2009) that the short collection could be realised as and when the licence holders approach the office for any service as well as during vehicle checking. The reply was silent regarding the reasons for collecting licence renewal fees at pre-revised rates up to June 2008 despite orders of TC to collect it at revised rates from 10 April 2007.

The case was reported to the Government in January 2009; the Government stated in April 2009 that many offices had issued demand notices to licence holders. Further development has not been reported (September 2009).

5.3.2 Non/short realisation of revenue on transport vehicles

5.3.2.1 Under the MV Act, omnibus means any motor vehicle constructed or adapted to carry more than six persons excluding the driver. The Government of India (GOI) as per the powers conferred under the Act, on 5 November 2004 revised the list of vehicles under transport and non-transport categories. 'Omnibus for private use' which was earlier listed as a non-transport vehicle was excluded from that category and a new entry 'omnibus' was included in the list of transport vehicles. The transport vehicles require a permit and certificate of fitness. The minimum fee specified for a regular permit under

³ Alappuzha, Attingal, Ernakulam, Idukki, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Pathanamthitta, Thiruvananthapuram, Thrissur and Vadakara.

⁴ Adoor, Aluva, Changanassery, Chengannur, Cherthala, Irinjalakkuda, Kanhangad, Kanjirappally, Karunagappally, Kayamkulam, Kazhakuttom, Kodungallur, Koduvally, Kothamangalam, Kottarakkara, Koyilandy, Mallappally, Mannarkkad Mattancherry, Mavelikkara, Neyyattinkara, N.Parur, Ottapalam, Pala, Parassala, Pattambi, Perinthalmanna, Perumbavoor, Ponnani, Punalur, Thalassery, Thaliparamba, Thiruvalla, Thodupuzha, Thripunithura, Tirur, Vaikom and Wadakkancherry.

Kerala Motor Vehicles Rules is Rs. 500 and fee for grant and renewal of certificate of fitness of medium motor vehicles and registration fee is Rs. 300 and Rs. 100 respectively.

During scrutiny of records in 16 RTOs⁵ and 41 SRTOs⁶ between May 2008 and September 2008, it was noticed that 7,056 omnibus registered for private use during 2006-07 and 2007-08 continued to be categorised as non-transport vehicle instead of classifying the vehicles as transport vehicles and fee due on permit and fee for certificate of fitness was not levied. The omission to levy and collect the fee for permit and renewal of certificate of fitness and short levy of fee for registration resulted in non/short levy of fee of Rs. 63.50 lakh.

After the case was pointed out, the department stated between May and September 2008 that clarification from GOI had been sought for. Further developments have not been reported (September 2009).

The case was reported to Government in March 2009; their reply has not been received (September 2009).

5.3.2.2 Under the Kerala Motor Vehicles Rules 1989, (KMVR) the minimum seating capacity of a stage carriage shall be directly proportionate to the wheel base of the vehicle. The tax due on stage carriage is determined on the basis of the seating capacity. The seating capacity can be reduced by two seats in respect of vehicles with separate entrance and exit and further reduced by one fifth in respect of vehicles operating as city/town service. However, such vehicles with reduced seating capacity are eligible for *moffusil* permit, only if the seating capacity is enhanced to the minimum capacity as prescribed in the rule.

During scrutiny of the records in seven RTOs⁷ and three SRTOs⁸ between April 2007 and January 2009, it was noticed that *moffusil* permits were granted to 34 vehicles after collecting tax based on the reduced seating capacity of the vehicles instead of collecting tax at the minimum seating capacity of stage carriage proportionate to wheel base. This resulted in short collection of tax of Rs. 12.12 lakh.

After the case was pointed out, the department stated between April 2007 and January 2009 that action would be taken to realise the balance tax. Report on recovery has not been received (September 2009).

The case was reported to Government in February 2009; their replies have not been received (September 2009).

⁵ Alappuzha, Ernakulam, Idukki, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Pathanamthitta, Thiruvananthapuram, Thrissur, Vadakara and Wayanad.

⁶ Adoor, Aluva, Attingal, Changanassery, Chengannur, Cherthala, Guruvayoor, Irinjalakuda, Kanhangad, Kanjirappally, Karunagappally, Kayamkulam, Kazhakkottam, Kodungallur, Koduvally, Kothamangalam, Kottarakkara, Koyilandy, Mannarkkad, Mattanchery, Mavelikkara, Muvattupuzha, N. Parur, Neyyattinkara, Ottapalam, Pala, Parassala, Pattambi, Perinthalmanna, Perumbavoor, Ponnani, Punalur, Thalassery, Thaliparamba, Thiruvalla, Thodupuzha, Thripunithura, Tirur, Vaikom, Vandiperiyar and Wadakkanchery.

⁷ Ernakulam, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad and Thrissur.

⁸ Kayamkulam, Irinjalakuda and Vaikom.

5.3.2.3 Under the MV Act, 'private service vehicle' is a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward. It was clarified by Ministry of Shipping, Road Transport and Highways, that 'private service vehicle registered in the name of an individual and if declared to be used by him solely for personal use' only can be classified under non-transport vehicle and others would come under transport vehicle.

During scrutiny of records in 10 RTOs⁹ and four SRTOs¹⁰ between June 2007 and November 2008, it was noticed that the department was classifying motor vehicles owned by a firm as private services vehicles for personal use under non-transport vehicle. This classification was against the provisions of the Act and has resulted in recurring revenue loss as fee for certificate of fitness and permit. The total revenue effect worked out to Rs. 7.47 lakh in 42 cases.

The matter was reported to Government in March 2009; the Government stated in June 2009, that Rs. 1.51 lakh was collected from 11 vehicle owners and efforts were being taken to collect the balance amount. Report on recovery of balance amount has not been received (September 2009).

5.3.2.4 Under the Central Motor Vehicles Rules, a certificate of fitness in respect of transport vehicle granted is valid for two years in the case of new transport vehicle and one year in the case of renewal of certificate of fitness of such vehicle.

During scrutiny of the records in eight RTOs¹¹ and 11 SRTOs¹² between April 2006 and March 2009 it was seen that validity of certificate of fitness in respect of 326 transport vehicles had been granted beyond the prescribed period resulting in short realisation of revenue of Rs. 2.23 lakh.

After the case was pointed out, the department replied between April 2006 to March 2009 that short collection would be made good.

The matter was reported to Government in March 2009; the Government stated in June 2009, that Rs. 60,500 was collected from 150 cases and efforts are being taken to collect the balance amount. Report on recovery of balance amount has not been received (September 2009).

5.3.3 Non-realisation of tax from stage carriages

5.3.3.1 Under the KMVT Act, exemption from payment of tax in respect of a motor vehicle which has not been used for the first month or for first and second month or for the whole quarter or the whole year shall be allowable if the owner furnishes a declaration in form 'G'. Tax is leviable for the part of the quarter for which declaration in form 'G' is not furnished.

⁹ Attingal, Ernakulam, Kannur, Kottarakkara, Kottayam, Kozhikode, Palakkad, Pathanamthitta, Thrissur and Wayanad.

¹⁰ Mannarkkad, Pattambi, Perumbavoor and Thiruvalla.

¹¹ Attingal, Kannur, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Thrissur and Thiruvananthapuram.

¹² Irinjalakuda, Kanhangad, Koduvally, Kottarakkara, Koyilandy, Mallappally, Mavelikkara, Perumbavoor, Punalur, Tirur and Wadakkancherry.

During scrutiny of the records in 11 RTOs¹³ between April 2006 and March 2009, it was noticed that in the case of 208 stage carriages, tax due was not realised for periods for which non-use intimation had not been filed. This resulted in short levy of tax of Rs. 25.53 lakh.

After the case was reported to Government in March 2009, the Government stated in June 2009 that Rs. 9.78 lakh was collected from 61 cases and further report would be furnished shortly. Further development has not been reported (September 2009).

5.3.3.2 Under the KMVT Act, tax shall be levied on every motor vehicle used or kept for use in the State at the rate specified for such vehicle in the Schedule. Under the KMVR, the minimum seating capacity of a stage carriage shall be directly proportionate to the wheel base of the vehicle and the rate of tax prescribed for interstate stage carriage is Rs. 690 for every seated passenger and Rs. 210 for every standing passenger. Government issued orders in December 1989 granting adjustment of rent of space utilised by Transport Commissioner's Office in Transport Bhavan, a building owned by Kerala State Road Transport Corporation (KSRTC) against the motor vehicles tax due.

- During scrutiny of records in RTO (Nationalised Sector), Thiruvananthapuram between August 2006 and June 2007, it was noticed that tax in respect of 33 inter-state stage carriages of KSRTC was remitted short due to incorrect reckoning of the seating capacity and standing capacity during 2005-06 and 2006-07. The short collection worked out to Rs. 7.94 lakh.

After the case was pointed out, the department stated (June 2007) that the case would be examined. Further developments have not been reported (September 2009).

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

- During scrutiny of records in Transport Commissioner's Office, between June 2007 and April 2009, it was noticed that even though the Transport Commissioner's Office was shifted in October 2006 from Transport Bhavan and the space utilised by Transport Commissioner's Office was in possession of KSRTC, the KSRTC had been remitting the tax after adjusting the rent payable by the Transport Commissioner's office. The irregular adjustment made during the period from October 2006 to March 2008 had resulted in short remittance of tax of Rs. 5.42 lakh.

After the case was reported to Government in April 2009; the Government stated in June 2009, that the department had requested KSRTC to remit the amount. Report on recovery has not been received (September 2009).

5.3.4 Non/short levy of one time tax

Under Section 3 of the KMVT Act, tax shall be levied on every motor vehicle used or kept for use in the State, at the rates specified for such vehicle in the Schedule which were based on the unladen weight of the vehicle. The rates

¹³ Alappuzha, Attingal, Ernakulam, Idukki, Kannur, Kottayam, Kozhikode, Palakkad, Pathanamthitta, Thiruvananthapuram and Vadamakara.

were revised with effect from 1 April 2007 at different rates for various classes of vehicles. As per proviso under section 3(1) of the Act, one time tax shall be levied from the date of purchase of vehicle at the rates specified at the time of first registration of the vehicle and the rates for motorcycles, motor cars, three wheelers and omnibus are six *per cent* of the purchase value of the vehicle.

5.3.4.1 During scrutiny of records in 12 RTOs¹⁴ and 31 SRTOs¹⁵ between April 2008 and February 2009, it was noticed that in 2,179 cases, one time tax was short levied due to incorrect computation of purchase value. This resulted in short levy of tax of Rs. 19.43 lakh.

After the case was pointed out, the department stated between April 2008 and February 2009 that loss would be made good. Report on recovery has not been received (September 2009).

The case was reported to Government in March 2009; their replies have not been received (September 2009).

5.3.4.2 During scrutiny of the records in three RTOs¹⁶ and five SRTOs¹⁷ between April 2008 and March 2009, it was noticed that in 30 cases registered after 1 April 2007 tax was collected on the basis of unladen weight of the vehicle instead of collecting one time tax at the rate of six *per cent* of purchase value of vehicle. This resulted in short levy of tax of Rs. 2.42 lakh.

After the case was reported to Government in March 2009; the Government stated in June 2009, that Rs. 1 lakh was collected from eight cases and that efforts were being taken to collect the balance amount. Report on recovery of balance amount has not been received (September 2009).

5.3.4.3 As per notification¹⁸ of Ministry of Shipping, Road Transport and Highways, one time tax in respect of motor cars weighing not more than 750 kg was Rs. 14,000 and for those weighing more than 750 kg but not more than 1,500 kg was Rs. 18,800.

During scrutiny of the records in eight RTOs¹⁹ and 16 SRTOs²⁰ between March 2008 and December 2008, it was noticed that in 317 vehicles, alterations were carried out by fitting liquified petroleum gas kits enhancing the unladen weight of the vehicles to more than 750 kg attracting additional

¹⁴ Alappuzha, Attingal, Ernakulam, Kannur, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Thrissur, Thiruvananthapuram and Vadakara.

¹⁵ Aluva, Changanassery, Chengannur, Cherthala, Guruvayur, Irinjalakuda, Kanjirappally, Karunagappally, Kazhakuttom, Kodungallur, Koduvally, Kothamangalam, Kottarakkara, Koyilandy, Mallappally, Mattanchery, Mavelikkara, North Parur, Neyyattinkara, Ottapalam, Pala, Parassala, Perumbavoor, Punalur, Thalassery, Thaliparamba, Thodupuzha, Thripunithura, Vaikom, Vandiperiyar and Wadakkancherry.

¹⁶ Attingal, Kasaragod and Kottayam.

¹⁷ Karunagappally, Kottarakkara, North Parur, Punalur and Thripunithura.

¹⁸ No. S.O 1248 (E) dated 5 November 2004.

¹⁹ Alappuzha, Attingal, Kannur, Kasaragod, Malappuram, Palakkad, Thrissur and Thiruvananthapuram.

²⁰ Aluva, Chengannur, Cherthala, Irinjalakuda, Kanhangad, Kayamkulam, Kodungallur, Koduvally, Mannarkkad, Mavelikkara, Pattambi, Perinthalmanna, Thalassery, Thripunithura, Tirur and Wadakkancherry.

tax of Rs. 4,800 each which was not levied. This resulted in short levy of tax of Rs. 15.22 lakh.

After the cases were reported to Government in March 2009; the Government stated in June 2009 that Rs. 4.25 lakh was collected from 86 cases and efforts are being taken to collect the balance amount. Report on recovery of balance amount has not been received (September 2009).

5.3.4.4 In case of vehicles originally registered in other States on or after 1 April 2007 and migrated to Kerala State as well as for the vehicles registered on or after 1 April 2007 and reclassified as non-transport vehicle from the category of transport vehicle, the one time tax shall be on percentage basis depending on the age of the vehicle.

During scrutiny of records in seven RTOs²¹ and eight SRTOs²² between April 2008 and March 2009, it was noticed that in 34 cases which were either altered as non-transport vehicle or migrated from other states and registered in the State, one time tax was not levied. This resulted in non-levy of tax of Rs. 4.74 lakh.

After the cases were reported to Government in March 2009; the Government stated in June 2009, that Rs. 1.23 lakh was collected from 11 cases and efforts were being taken to collect the balance amount. Report on recovery of balance amount has not been received (September 2009).

5.3.5 Non/short realisation of revenue

5.3.5.1 Under section 3 of KMVT Act, tax shall be levied on every motor vehicle used or kept for use in the State at the rate specified for such vehicle in the Schedule. The rates were revised with effect from 1 April 2007 at different rates for various classes of vehicles.

During scrutiny of records in 12 RTOs²³ and 18 SRTOs²⁴ between April 2008 and January 2009, it was noticed that in 2,984 cases, the tax at pre-revised rate was collected from 1 April 2007. The omission to collect the tax due at revised rate resulted in short collection of tax amounting to Rs. 8.45 lakh.

After the case was pointed out, the department stated between April 2008 and January 2009 that action would be taken to realise the amount. Further report has not been received (September 2009).

The case was reported to Government in February 2009; their replies have not been received (September 2009).

5.3.5.2 Two axled goods carriage vehicles registered in other State or Union Territories in India can ply in Kerala under national permit after remitting

²¹ Alappuzha, Kasaragod, Kottayam, Kozhikode, Malappuram, Palakkad and Thrissur.

²² Karunagapally, Kanhangad, Koduvally, Mavelikkara, Perumbavoor, Thaliparamba, Thripunithura and Tirur.

²³ Alappuzha, Attingal, Ernakulam, Kannur, Kasaragod, Kottayam, Kozhikode, Malappuram, Muvattupuzha, Palakkad, Thiruvananthapuram and Thrissur.

²⁴ Alathur, Changanassery, Chengannur, Cherthala, Guruvayur, Irinjalakuda, Kanjirappally, Kodungallur, Koduvally, Kottarakkara, Mattanchery, Mavelikkara, Pala, Ponnani, Punalur, Thaliparamba, Tirur and Wadakkanchery.

composite fee of Rs. 3,000 per annum up to 16 July 2006 and Rs. 5,000 per annum thereafter.

During scrutiny of records in the office of the Transport Commissioner, Thiruvananthapuram, in February 2009 it was noticed that composite fee in respect of 329 goods carriage vehicles for the period from July 2006 to September 2007 were realised at the pre-revised rate resulting in short realisation of composite fee of Rs. 6.74 lakh.

After the case was reported to Government in April 2009, the Government stated in June 2009, that State Transport Authorities were requested to collect the arrear amount. Further development has not been reported (September 2009).

5.3.5.3 Under the KMVT Act, when any registered owner or any person who has possession or control of any motor vehicle used or kept for use in the State has not paid the tax within the prescribed period, he shall pay, in addition to the tax, an additional tax as notified by the Government, not exceeding the amount of the tax due.

During scrutiny of records in four RTOs²⁵ between April 2006 and March 2009, it was noticed that though tax was not paid within the prescribed time, additional tax amounting to Rs. 2.60 lakh was not levied in 535 cases.

After the case was pointed out, the department stated in April 2006 and March 2009 that the loss would be made good. Report on recovery has not been received (September 2009).

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

5.3.6 Non-levy of penalty

Under the MV Act, no person shall drive any motor vehicle or trailer, the laden weight of which exceeds the gross weight specified in the certificate of registration. Under Section 194 of the Act, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of provisions of Section 113, 114 or 115, shall be punishable with minimum fine of Rs. 2,000 and an additional amount of Rs. 1,000 per tonne of excess load together with liability to pay charges for off loading the excess load.

During scrutiny of records in RTO, Palakkad in July 2008, it was noticed that 55 over loaded vehicles of other States/Union Territories were allowed to proceed without off loading the excess load and collecting the compounding fee. This had resulted in non-levy of minimum fine of Rs. 5.55 lakh.

After the case was pointed out in July 2008 and reported to Government in April 2009, the Government stated in June 2009 that check post authorities were directed to detect these vehicles and realise the dues. Further development has not been reported (September 2009).

²⁵ Ernakulam, Kannur, Kottayam and Palakkad

5.3.7 Irregular exemption of tax to vehicles of public sector undertakings/autonomous bodies

Under the KMVT Act, vehicles owned by Government of Kerala are exempted from payment of road tax.

During scrutiny of records in RTO, Thiruvananthapuram between August 2007 and August 2008, it was noticed that 12 vehicles owned by public sector undertakings/autonomous bodies were irregularly granted exemption from payment of tax during 2006-07 and 2007-08. This resulted in non-realisation of tax of Rs. 3.29 lakh.

After the case was pointed out, the department stated in May 2008 and April 2009 that the matter would be examined. Further reply has not been received (September 2009).

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

CHAPTER VI LAND REVENUE AND BUILDING TAX

6.1 Results of audit

Test check of records of the offices of the Land Revenue Department conducted during the year 2008-09 revealed underassessment and loss of revenue amounting to Rs. 325.62 crore in 91 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Recovery of arrears of revenue under the Revenue Recovery Act (A review)	1	317.21
2.	Underassessment and loss under other items	37	6.61
3.	Underassessment and loss under building tax	53	1.80
Total		91	325.62

During the year 2008-09, the department accepted and recovered underassessments and other deficiencies of Rs. 30.92 lakh involved in 15 cases, of which, one case involving Rs. 49,220 was pointed out during 2008-09.

A review on '**Recovery of arrears of revenue under the Revenue Recovery Act**' involving Rs. 317.21 crore and other audit observations involving Rs. 2.29 crore are mentioned in the succeeding paragraphs.

6.2 Recovery of arrears of revenue under the Revenue Recovery

Act

6.2.1 Highlights

- Revenue recovery requisitions/certificates covering an amount of Rs. 63.46 crore were seen returned without exhausting all means of recovery.

(Paragraph 6.2.12)

- Collection of revenue of Rs. 326.35 crore was blocked due to inordinate delay in RR action.

(Paragraph 6.2.13)

- Lack of co-ordination between Government Departments resulted in blocking up of revenue to the extent of Rs. 18.73 crore.

(Paragraph 6.2.14)

- Failure of the Excise Department to exercise the vested powers for recovery led to non-realisation of revenue of Rs. 102.69 crore.

(Paragraph 6.2.15)

- In the DCB Statement of *Tahsildar* (RR) Kochi, opening balance of 2004-05 was incorrectly carried forward from the closing balance of the previous year resulting in non-realisation of revenue of Rs. 8.41 crore.

(Paragraph 6.2.18.1)

- Bought-in-land valued at Rs. 11.98 crore was kept undisposed without conducting re-auction.

(Paragraph 6.2.19.3)

- Remission of demand for revenue recovery without the orders of the competent authority resulted in loss of revenue of Rs. 3.50 crore.

(Paragraph 6.2.20.1)

- Revenue recovery proceedings in respect of a defaulter having arrears of Rs. 1.12 crore was closed in Ernakulam District.

(Paragraph 6.2.20.2)

6.2.2 Introduction

The Kerala Revenue Recovery Act, 1968 (RR Act) governs the law relating to the recovery of arrears of public revenue in the State. The Act provides for recovery of arrears of public revenue together with interest and cost of process by attachment and sale of defaulter's movable and immovable property. Attachment can also be made either by appointing an agent for the management of defaulter's immovable property or arrest of the defaulter and his detention in prison. The Act is administered by Land Revenue Department (LRD).

A review on recovery of public revenue was incorporated in the Audit Report (Revenue Receipts) for the year ended 31 March 2000, Government of Kerala. The review has been discussed by the Public Accounts Committee. The present review on recovery of arrears of revenue under the Revenue Recovery Act covering the period from 2003-04 to 2007-08 revealed a number of deficiencies which are discussed in the succeeding paragraphs.

6.2.3 Organisational set-up

The LRD functions under the administrative control of the Principal Secretary (Revenue) at the Government level. The Commissioner of Land Revenue (CLR) is the head of the LRD who is assisted by District Collectors (DC) in 14 districts. The DCs are assisted by *tahsildars* at 63 *taluks*¹ and village officers at 1477 villages. In 20 *taluks*, where the number of revenue recovery cases are substantial, there are special revenue recovery units under the charge of special *tahsildars* (Revenue Recovery) exclusively for attending to revenue recovery proceedings.

6.2.4 Scope and methodology of audit

The review covering the period from 2003-04 to 2007-08 was conducted during December 2008 to June 2009 with reference to the records available with CLR, seven² out of 14 district collectorates and 18³ out of 63 *taluks*. One backward district, Idukki, was included as per the request of the Principal Secretary (Revenue).

6.2.5 Audit Objectives

The review was conducted to ascertain whether:

- any lacunae exists in the Act, Rules and accounting system;
- the provisions of the RR Act, Rules made thereunder and Government orders issued governing realisation of public revenue were properly complied with;
- revenue due to Government was recovered within the prescribed time frame and remitted to Government accounts;
- remission/write off allowed in respect of revenue recovery dues were under proper orders of the competent authority;
- timely follow up action was taken for vacation of stay orders of various authorities; and
- internal control mechanism existed and was effective.

¹ Sub-division of districts.

² Ernakulam, Idukki, Kollam, Kottayam, Kozhikode, Thiruvananthapuram and Thrissur.

³ Aluva (RR), Kanayannur (RR), Karunagappally, Kochi (RR), Kodungallur, Kollam (RR), Kottarakkara, Kottayam (RR), Kozhikode (RR), Koyilandy, Meenachil (RR), Neyyattinkara (RR), Thiruvananthapuram (RR), Thodupuzha, Thrissur (RR), Udumbanchola (RR), Vadakara and Vaikom.

6.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Land Revenue Department in providing necessary information and records for the review. An entry conference was conducted on 25 February 2009 in which the audit objectives were discussed with the Principal Secretary to Government. The review report was forwarded to the department and Government in June 2009. An exit conference was held with Principal Secretary (Revenue) and Commissioner of Land Revenue on 9 July 2009 wherein the department was informed of the audit findings. Replies of the department and Government have not been received (September 2009).

Audit findings

6.2.7 Trend of arrears under revenue recovery

The position of total demand for revenue recovery, demand settled and balance demand carried over to the next year from 2003-04 to 2007-08 as per the details furnished by the CLR, are furnished in table. Percentage vis-à-vis total demand is given in brackets.

(Rupees in crore)

Year	Demand		Demand settled/disposed			Total demand settled/disposed (col. 7 to 3)	Balance demand (col. 3 - 7)
	OB Demand for the year	Total	Remission/Write off etc.	RRC returned	Collection effected		
			Percentage with reference to total demand given in brackets				
1	2	3	4	5	6	7	8
2003-04	<u>1,067.61</u> 736.74	1,804.35	185.26 (10.27)	445.08 (24.67)	63.89 (3.54)	694.23 (38.48)	1,110.12 (61.52)
2004-05	<u>1,110.12</u> 779.85	1,889.97	446.63 (23.63)	208.76 (11.05)	64.43 (3.41)	719.82 (38.09)	1,170.15 (61.91)
2005-06	<u>1,170.15</u> 603.54	1,773.69	271.95 (15.33)	229.67 (12.95)	63.28 (3.57)	564.90 (31.85)	1,208.79 (68.15)
2006-07	<u>1,208.79</u> 567.01	1,775.80	274.01 (15.43)	178.82 (10.07)	69.08 (3.89)	521.91 (29.39)	1,253.89 (70.61)
2007-08	<u>1,253.89</u> 480.98	1,734.87	213.89 (12.32)	288.96 (16.66)	70.38 (4.06)	573.23 (33.04)	1,161.64 (66.96)
Total		4,235.73⁴	1,391.74	1,351.29	331.06	3,074.09	1,164.64

The stage-wise break up of demand in arrears as shown in column 8 are given in table. (Percentage to total demand for the year is given in brackets).

⁴ Total demand for the period of five years is the aggregate of the opening balance for 2003-04 and fresh demand for 2004-05, 2005-06, 2006-07 and 2007-08.

(Rupees in crore)

Year	Demand in arrear	Stage-wise details of arrear demand				Balance demand remaining uncollected during the year
		Stay by				
		Court	Government	Appellate Authority		
1	2	3	4	5	6	
2003-04	1,110.12	590.80 (32.74)	220.95 (12.25)	267.44 (14.82)	30.93 (1.71)	
2004-05	1,170.15	573.19 (30.33)	262.84 (13.91)	284.84 (15.07)	49.28 (2.61)	
2005-06	1,208.79	562.15 (31.69)	285.92 (16.12)	319.75 (18.03)	40.97 (2.31)	
2006-07	1,253.89	550.18 (30.98)	273.44 (15.40)	351.91 (19.82)	78.36 (4.41)	
2007-08	1,161.64	461.91 (26.63)	328.44 (18.93)	311.91 (17.98)	59.38 (3.42)	

Though demand collection balance (DCB) statement is being maintained in the districts test checked, the age wise pendency of arrears was not available either with the CLR or with the respective DCs. Due to this, further analysis of the pendency of arrears is neither possible by the department nor could be done by audit.

Collection effected varied from 3.41 *per cent* to 4.06 *per cent* (column 6 of the first table above) only as compared to the total demand for respective years. Detailed analysis of efficiency of revenue recovery mechanism in the districts covered under the review is illustrated in para 6.2.11.

There is no provision in the RR Act/Rules for return of revenue recovery certificates (RRC)/requisitions other than in those cases in which recoveries have to be effected by RR officers of other districts. It was noticed that during 2003-04 to 2007-08, cases involving revenue of Rs. 1,351.29 crore (column 5 of the first table above) were returned by the RR officers which was 31.90 *per cent* of the total demand. Further analysis on this aspect in respect of selected *taluks* is shown in paragraph 6.2.12.

Even though Government has no powers under the RR Act to stay recovery proceedings, an amount of Rs. 328.44 crore (column 4 of second table above) remained unrealised as on 31 March 2008 due to stay by Government. Similarly, Rs. 311.91 crore (column 5 of second table above) remained outstanding as on 31 March 2008 due to stay by various appellate authorities. Reason for not realising the collectable balance of Rs. 59.38 crore as on 31 March 2008 was not available. Arrear as at the end of March 2008 stood at Rs. 1,161.64 crore due to various reasons like stay by Court/Government/appellate authority etc., which was 66.96 *per cent* of the total demand for the year.

6.2.8 Achievements against target fixed

Targets fixed for RR collection was made available from 2005-06 onwards only. However, it was seen that the target included both Government and

non-Government dues and there was no mechanism to ascertain the target set against the Government dues for the period covered under the review. Targets of revenue recovery for the State of Kerala (both Government and non-Government dues) for 2005-06, 2006-07 and 2007-08 against the total demand and actual collection at the end of the respective years are furnished in the table below:

(Rupees in crore)

Year	Opening balance	Fresh demand	Total	Cases under stay	Collectable demand	Target fixed (percentage with reference to collectable demand)	Collection effected	Percentage of collection with reference to	
								Target	Collectable demand
2005-06	2,079.01	924.29	3,003.30	1,915.43	1,087.81	300 (27.58)	208.70	69.57	19.18
2006-07	2,117.89	686.16	2,804.05	1,929.96	874.09	500 (57.20)	224.60	44.92	25.70
2007-08	1,941.66	942.76	2,884.42	1,797.90	1,086.52	500 (46.02)	253.46	50.69	23.33

It may be mentioned that, cases are referred to the RR authorities after the departmental machinery has ceased all possible scope of recovery. These dues are, therefore, already old and the LRD does not have a mechanism to watch the age-wise pendency and thus any further delay on the part of RR authorities may result in loss of revenue. Target should invariably be fixed at 100 per cent of the collectable dues and all out efforts should be made to recover these.

However, it can be seen from the table above that the targets fixed were very low and varied from 28 per cent to 57 per cent of the collectable demand. Collection varied from 45 per cent to 70 per cent of the target fixed and 19 per cent to 26 per cent of collectable demand. Norms for fixation of target and the reason for shortfall in collection were called for from the LRC and it was stated that no norms/criteria were laid down for fixing target.

6.2.9 Government dues pending recovery under RR Act

As mentioned in the preceding paragraph, though the target for recovery of Government dues cannot be separately shown, the demand and arrear position of Government dues as at the end of March 2008 in respect of 18 test checked taluk offices in seven districts were as follows:

(Rupees in crore)

Name of district (taluks involved)	Total demand 2007-08	Stage wise amount (percentage)					
		Stay by Court	Stay by Government	Stay by Appl. authority	Re-assessment pending	Collectable balance	Total
1	2	3	4	5	6	7	8
Ernakulam (Aluva, Kochi and Kanayannur)	450.14	177.46 (39.42)	10.25 (2.28)	110.37 (24.52)	43.83 (9.74)	21.92 (4.87)	363.83 (80.83)
Idukki (Thodupuzha and Udumbanchola)	25.63	7.23 (28.21)	2.23 (8.70)	8.01 (31.25)	2.11 (8.23)	0.06 (0.23)	19.64 (76.62)

Name of district (<i>taluks</i> involved)	Total demand 2007-08	Stage wise amount (percentage)					
		Stay by Court	Stay by Government	Stay by Appl. authority	Re- assessment pending	Collectable balance	Total
1	2	3	4	5	6	7	8
Kollam (Karunagappally, Kollam and Kottarakkara)	337.80	58.49 (16.35)	82.10 (24.30)	69.19 (20.48)	65.87 (19.50)	3.11 (0.92)	278.76 (82.52)
Kottayam (Kottayam, Meenachil & Vaikom)	76.73	29.79 (38.82)	4.64 (6.05)	9.77 (12.73)	-	0.46 (0.60)	44.66 (58.20)
Kozhikode (Kozhikode, Vadakara and Koyilandy)	42.33	7.33 (17.32)	4.10 (9.69)	4.51 (10.65)	1.44 (3.40)	1.62 (3.83)	19.00 (44.89)
Thiruvanantha puram (Thiruvanantha puram & Neyyattinkara)	136.79	7.98 (5.83)	71.31 (52.14)	15.89 (11.62)	-	6.49 (4.74)	101.67 (74.33)
Thrissur (Thrissur and Kodungallur)	75.44	45.35 (60.11)	0.67 (0.89)	17.99 (23.85)		2.96 (3.92)	66.97 (88.77)
Total	1,144.86	333.64 (29.14)	175.30 (15.31)	235.73 (20.59)	113.25 (9.89)	36.62 (3.20)	894.53 (78.13)

The above table shows that out of the total demand of Rs. 1,144.86 crore for the year 2007-08, an amount of Rs. 894.53 crore was pending collection while the balance amount of Rs. 250.33 crore was disposed by various procedures. Percentage of the arrear worked out to 78.13 *per cent* of demand which was on a higher side.

6.2.10 Recovery stayed by Government

The RR Act and rules do not prescribe any provision for stay by government. The Government have issued guidelines vide order dated 14 March 2002 regarding their interference in RR procedure. It was reiterated therein that Government's intention was not to grant stay against realisation of RR dues but to grant instalment facility in appropriate cases to avoid hardship and inconvenience to the parties. However, from column 4 of the table in paragraph 6.2.9, it is seen that the Government had stayed the collection of demand to the extent of Rs. 175.30 crore, which is not justifiable and defeated the very purpose of the RR machinery. It was also seen that while calculating the collectable balance, this amount was excluded from the DCB statements. Exclusion of amount under 'Government stay' from collectable balance while preparing the DCB statements was not justifiable since intervention of the Government was only a temporary measure. Cases detected during the course of review are mentioned below.

6.2.10.1 Stay cards are issued on the basis of the orders passed by the Minister (Revenue) on the petitions for stay orders or instalments. This system is intended to enable the defaulters to produce the same before revenue officials for keeping the RR action in abeyance till the receipt of formal orders

of the Government in the matter. Stay cards are normally issued for a period of one month.

In RR office, Kottayam, RRC for recovery of arrears amounting to Rs. 14.06 crore in respect of a public sector undertaking for the year 1999-2000 to 2004-05 was received from Commercial Tax Officer, Kottayam through the DC in February 2007. A notice was issued by the *tahsildar* in March 2007. It was, however, noticed that the demand was stayed by issuing stay cards for more than one month for several occasions as mentioned below:

Issuing authority	Date of issue of stay card/order	Period of stay allowed
Minister (Revenue)	7.3.2007	3 months (upto 6.6.07)
-do-	30.5.2007	3 months (upto 6.9.07)
-do-	24.8.2007	6 months (upto 6.3.08)
-do-	25.2.2008	6 months (upto 6.9.08)
Principal Secretary to Government	5.6.07	3 months
-do-	29.3.08	6 months
-do-	24.10.08	Unlimited (till decision of the Government in the matter).

The stay order issued by the Principal Secretary to Government in October 2008 has not been vacated till date (September 2009).

6.2.10.2 Two RRCs were issued by the DC, Thiruvananthapuram in the month of June 2004 and July 2004 for recovery of dues of Rs. 27.56 lakh from Kerala State Rural Women's Electronic Industrial Co-operative Federation Ltd., Thiruvananthapuram. Notices were served on the defaulter in July and August 2004. However, recovery has been blocked due to the continuous stay by Government from 9 November 2004 onwards.

Thus, the Government machinery itself has defeated the RR procedure for realisation of Rs. 14.34 crore by granting indiscriminate stay orders/stay cards.

6.2.11 Disposal of revenue recovery cases

The performance and efficiency of the revenue recovery system in settling the cases in 18 selected *taluk* offices in seven districts during the period 1 April 2003 to 31 March 2008 is shown in the table below (percentage to demand given in brackets).

(Rupees in crore)

Name of district (<i>taluks</i> involved)	Total demand from April 2003 to March 2008	Demand settled/disposed				
		Reduction in demand due to re-assessment	Remission/write off	Return of RRCs	Actual collection	Total
Ernakulam (Aluva, Kochi & Kanayannur)	826.33	Nil	Nil	380.27 (46.02)	73.80 (8.93)	454.07 (54.95)
Idukki (Thodupuzha & Udumbanchola)	73.18	Nil	Nil	48.03 (65.63)	5.50 (7.52)	53.53 (73.15)

Kollam (Karunagappally, Kollam & Kottarakkara)	575.58	118.97 (20.67)	3.56 (0.62)	124.44 (21.62)	50.95 (8.85)	297.92 (51.76)
Kottayam (Kottayam, Meenachil & Vaikom)	205.60	Nil	1.22 (0.59)	139.33 (67.77)	20.47 (9.96)	161.02 (78.32)
Kozhikode (Kozhikode, Vadakara & Koyilandy)	186.10	35.81 (19.24)	-	115.70 (62.17)	15.66 (8.41)	167.17 (89.82)
Thiruvananthapuram (Thiruvananthapuram & Neyyattinkara)	247.10	51.65 (20.90)	0.93 (0.38)	70.24 (28.43)	22.96 (9.29)	145.78 (59.00)
Thrissur (Thrissur and Kodungallur)	123.70	Nil	Nil	40.50 (32.74)	16.28 (13.16)	56.78 (45.90)
Total	2,237.59⁵	206.43 (9.22)	5.71 (0.26)	918.51 (41.05)	205.62 (9.19)	1,336.27 (59.72)

The collection effected in these *taluks* were meagre and the collection was 9.19 *per cent* of total demand and large part of the demand was found settled by return of RRC which was 41.05 *per cent* of the total demand. As mentioned in paragraph 6.2.8, since the target as regards to Government dues cannot be separately shown, the performance of the RR authorities in collecting Government dues could not be analysed vis-à-vis the target set.

6.2.12 Irregular return of RR requisitions/certificates

During the period of review, cases involving revenue of Rs. 1,351.29 crore were returned by various RR authorities, which was 31.90 *per cent* of the total demand during the same period. Of these, RR requisitions involving Government dues of Rs. 918.51 crore were returned by 18 RR authorities⁶ selected for the review against the total dues of Rs. 2,237.59 crore, whereas the collection effected by them during the same period was Rs. 205.62 crore. Thus, the return of RRCs was 41.05 *per cent* of demand whereas the collection was only 9.19 *per cent*. Return of RRCs involving revenue of Rs. 63.46 crore was test checked and found not in compliance with the Act and Rules and also without exhausting all the recovery modes and measures. The RRCs were mainly returned due to various factors like defaulter did not possess any movable/immovable property; defaulter expired; dues under modification/re-assessment; and correct address of the defaulter was not available or staying in other *taluks*/districts.

⁵ Total demand for the period of five years is constituted by aggregation of opening balance as on 1 April 2003 and fresh demand for 2003-04 to 2006-07.

⁶ Aluva, Karunagappally, Kanayannur, Kochi, Kollam, Kottarakkara, Kottayam, Kodungallur, Kozhikode, Koyilandy, Meenachil, Neyyattinkara, Thodupuzha, Thiruvananthapuram, Thrissur, Udumbanchola, Vadakara and Vaikom.

A few illustrative cases involved in the irregular return of RRCs are mentioned below.

- Government dues of Rs. 27.26 crore involved in 75 RRCs of 11⁷ taluks were returned stating that the defaulter did not possess any movable/immovable property and the arrest of the defaulter would not yield the required result. For realisation of the dues, the Government can act upon any property even if transferred by the defaulter after the dues had fallen in arrears. However, these RRCs were returned merely based on the report of the concerned village officer and without any further probe at higher level.
- As per section 69(2) of the RR Act, recovery officer himself is empowered to modify the amount whenever the requisitioned amount is modified. However, Government dues of Rs. 13.29 crore involved in 62 RRCs of seven taluks were returned in order to modify the demand through fresh RRCs/requisitions consequent on revision/appellate decision.
- In the office of DC Kottayam, RRCs involving sales tax dues of Rs. 9.55 crore for the years 1994-95 and 1995-96 were returned stating that collection was not possible. However, as reported by the CTO Pala, the defaulter had some properties which were transferred after the demand had fallen in arrears.
- An arrear amount of Rs. 8.51 crore pertaining to a defaulter was returned by *tahsildar*, Thodupuzha stating that the defaulter was residing in another taluk. Audit scrutiny revealed that the defaulter had one-third share of ownership rights over 3.21 ares of landed property in the same taluk, but the *Tahsildar* did not take any action to attach the property.
- An arrear amount of Rs. 2.69 crore involved in 12 RRCs of four taluks⁸ were returned stating that the address was incorrect or the defaulter was absconding. Return of RRCs without ascertaining the correct address from the requisitioning department was not justified.
- Government dues of Rs. 94.28 lakh involved in one case was returned in March 2005 by the *Tahsildar*, Kozhikode stating that the defaulter firm could not be identified. The District Collector, Kozhikode again transferred the RRC to the *Tahsildar* in May 2005. Audit scrutiny revealed that the defaulter firm had approached the High Court against the RR proceedings. Hence, it was evident that the return of RRC at the first instance was without adequate enquiry about the defaulter.
- Recovery of arrears other than Land Revenue are effected as if they were arrears of land revenue. Under the RR Act landlord includes legal heirs. It was judicially held⁹ that RR can be effected against the legal heirs of the deceased defaulter.

⁷ Aluva (RR), Kanayannur, Karunagappally, Kochi (RR), Kodungallur, Kottayam (RR), Kollam (RR), Meenachil (RR), Thodupuzha, Udumbanchola (RR) and Vaikom.

⁸ Aluva (RR), Kanayannur, Meenachil (RR) and Vaikom.

⁹ Devi Vs State of Kerala 1977 KLT 781.

- Government dues of Rs. 1.22 crore involved in 10 RRCs in five *taluks*¹⁰ were returned stating that the defaulters had expired. But in none of these cases RR officer had ensured whether the legal heirs had inherited any property of the defaulter liable for attachment and auction.

Thus, it can be inferred from above that in all these cases further measures/action like whether the defaulter possesses landed property in other districts, the possibility of realising arrears from legal heirs, collection of arrears on the basis of revised assessments etc., were not resorted to by the RR officer in the best interest of revenue. It was further noticed that there was no mechanism to watch whether the requisitions returned were received back after modification for further recovery.

6.2.13 Delay in the implementation at various stages of RR Action

The LRD (erstwhile Board of Revenue) issued directives prescribing the periodicity for various stages of recovery procedure which stipulates that recovery process has to be completed within 20 weeks (maximum) from the date of registering a case.

The directives stipulated that on receipt of requisition from requisitioning authority, the DC concerned shall get it entered in the revenue recovery register and issue Revenue Recovery Certificate (RRC) to the *tahsildar* concerned within seven days. The *tahsildar* in turn shall prepare and forward the demand notice to village officer concerned in the second week after entering the details in the recovery ledger. The village officer shall take action to collect the dues.

While discussing the review included in the Audit Report for the year 1999-2000, the Public Accounts Committee in its report for 2006-08 has given strict instructions for supervision of issuance of RRCs and demand notices by DCs/*tahsildars*. However, Government have not prescribed any periodic return at different levels and a mechanism to ensure compliance of instructions issued on the subject from time to time. Audit scrutiny revealed that there was no internal control mechanism at any level to ensure compliance with the time schedule prescribed in the directives of LRD. Huge pendency of cases were noticed at all districts test checked which are discussed in succeeding paragraphs.

Test check of records of seven¹¹ district collectorates, 18¹² *taluk* offices and 10¹³ commercial tax offices revealed the following:

- A cross verification of records of the DC, Ernakulam with those of Deputy Commissioner of Commercial Taxes (Appeals), Ernakulam revealed that 399 appeal cases involving revenue of Rs. 105.29 crore were pending disposal as on 31 March 2008 and the delay ranged from one to four years.

¹⁰ Aluva (RR), Karunagapally, Kottarakkara, Kottayam (RR) and Meenachil (RR).

¹¹ Ernakulam, Idukki, Kollam, Kottayam, Kozhikode, Thiruvananthapuram and Thrissur.

¹² Aluva (RR), Kanayannur (RR), Karunagappally, Kochi (RR), Kodungallur, Kollam (RR), Kottarakkara, Kottayam (RR), Kozhikode (RR), Koyilandy, Meenachil (RR), Neyyattinkara (RR), Thiruvananthapuram (RR), Thodupuzha, Thrissur (RR), Udumbanchola (RR), Vadakara and Vaikom.

¹³ Special circles I, II & III Ernakulam, special circle Mattancherry, circles I, II & III Thiruvananthapuram, special circle Thrissur and special circle I & II Kozhikode.

There was no effective follow-up action by the department for expeditious disposal of cases which resulted in non-realisation of arrears of revenue of Rs. 105.29 crore.

- In District Collectorate, Kollam, it was noticed that the Government in October 2006 directed to keep in abeyance the recovery of the dues of Rs. 32.62 crore till disposal of the appeal petition before the appellate authority. Neither any action was taken by the RR officer to enquire about the fate of the case nor was any intimation given by the requisitioning department about further developments in the case.
- In the office of the *Tahsildar* (RR), Kollam, revenue recovery action on arrears of sales tax of Rs. 64.87 crore covered by 40 RRCs pertaining to the assessment years 1972-73 to 2000-01 in respect of Kerala State Cashew Development Corporation Ltd., Kollam was still pending (January 2009). Of this, an amount of Rs. 25.87 crore was under stay by the appellate authority and an amount of Rs. 28.84 crore was under stay by Government until disposal of appeal petitions by the appellate authority. Latest position of the appeal petition was not available with the RR officer and the entire amount was pending collection even though the RRCs were issued during the period 1998-99 to 2007-08.
- In two collectorates¹⁴, undue delay in issuing RRCs upto 11 months was noticed in respect of 88 cases resulting in non-realisation of revenue of Rs. 33.35 crore.
- In four¹⁵ districts, it was noticed that an amount of Rs. 33.19 crore involved in 149 cases was not pursued by the revenue authorities as the defaulters resided in other States.
- In 11 *taluks*, it was noticed that in 28 cases there was delay in sale of attached properties covering 6.28 hectares resulting in non-realisation of revenue of Rs. 15.52 crore.
- In the case of a cashew dealer, sale tax arrears amounting to Rs. 12.67 crore was pending collection in the RR office Kollam for more than 38 years on which no action was taken by the department.
- In 11 *taluks*¹⁶ in respect of 55 cases involving revenue of Rs. 10.32 crore, there was delay upto six years in issuing demand notices. In District Collectorate, Ernakulam it was noticed that sales tax dues of Rs. 1.09 crore could not be realised even after a period of five years of the issue of RRCs, as the department delayed issue of demand notice. Delay ranged between 8 to 16 months. Consequently, the demand notice could not be served as the defaulter shifted to Rajasthan.

¹⁴ Kollam and Thrissur.

¹⁵ Ernakulam, Kozhikode, Thiruvananthapuram and Thrissur.

¹⁶ Kanayannur, Kodungallur, Koyilandy, Kozhikode, Meenachil, Neyyattinkara, Thiruvananthapuram, Thodupuzha, Thrissur, Udumbanchola and Vadakara.

- In four offices¹⁷ delay ranging from one to seven years was noticed in the disposal of 12 cases. Consequently, revenue of Rs. 7.14 crore remained unrealised.
- Delay in attachment of property ranging from 1 to 80 months was noticed in 10 *taluks*¹⁸ in 65 cases. This resulted in non-realisation of revenue of Rs. 6.56 crore.
- Cross verification of entries in commercial tax offices in Thiruvananthapuram and Ernakulam with RR register of revenue recovery authorities revealed that 18 RRCs involving Rs. 3.73 crore were not traceable in revenue offices.

6.2.14 Lack of co-ordination between the Government departments resulted in blocking up of revenue

As per the timeframe prescribed by the LRD, recovery of arrears should be completed within maximum of 20 weeks. Cases of inordinate delay in processing the cases resulting in non-realisation of revenue had been pointed out in preceding paragraph. Scrutiny of records revealed that mechanism for periodic reconciliation of figures between the requisitioning departments and the recovery officers has not been prescribed. Though some of the departments were found to have taken up reconciliation in a few cases, there was no system for periodic reconciliation of these figures. Due to this lack of co-ordination, cases of non-realisation of revenue were noticed, which are mentioned in the following paragraphs.

- In a case involving revenue of Rs. 4.99 crore, Revenue Divisional Officer, Thiruvananthapuram returned the request for confirmation of sale of 10.40 ares of land in Parasuvackal village in August 2007 stating that the value of the property was not properly estimated and details of proceedings in connection with attachment and auction sale were not forthcoming in the files. However, the rectification report has not been received back even after a lapse of two years (September 2009).
- In Kanayannur, Thiruvananthapuram and Udumbanchola RR offices, it was noticed that 13 cases involving revenue of Rs. 4.87 crore were still pending (August 2009) for want of correct address/survey number of landed property on which RR action was discontinued between July 2003 and March 2007.
- In certain cases, recovery was kept in abeyance awaiting the details of re-assessment/modification. In four¹⁹ RR offices, 20 such cases involving revenue of Rs. 2.15 crore were pending (August 2009). However, timely information was not furnished by the requisitioning department.
- In *taluk* office (RR) Kanayannur, one RR case involving revenue of Rs. 1.28 crore was closed in the RR ledger as irrecoverable. However, as

¹⁷ CTOs : Special circle I Kozhikode and Thiruvananthapuram, second and third circle Thiruvananthapuram.

¹⁸ Kottayam, Kanayannur, Udumbanchola, Thodupuzha, Kodungallur, Thrissur, Kozhikode Vadakara, Koyilandy and Thiruvananthapuram.

¹⁹ Aluva, Kozhikode, Thrissur and Vadakara.

per records of the sales tax department, the case was still alive awaiting recovery particulars from LRD.

- Property transferred by the defaulter after government dues had fallen in arrears (in the requisitioning department), is liable for attachment. For this, RR Officer has to ascertain the date of issue of demand notice by the requisitioning department. Any transfer of property after this date, to defeat the recovery of arrears, is not binding on the Government. However, a test check conducted in Udumbanchola RR office revealed that in two cases involving revenue of Rs. 72.80 lakh, such enquiry was not conducted.
- *Tahsildar* (RR) Neyyattinkara in November 2004 attached property to the extent of 20.24 ares of land in Pallichal village to realise government dues of Rs. 40.25 lakh. The property was already attached by the RR officer, Kerala Financial Corporation Ltd. (KFC), for its dues. The DC, Thiruvananthapuram in June 2005 addressed the Manager, KFC to include Government dues also while selling the attached property. Further action for realisation of arrears of Government dues of Rs. 40.25 lakh was not taken by the RR officer.
- In nine *taluks*²⁰, the High Court had stayed RR proceedings involving Rs. 3.71 crore in 13 cases, till the disposal of appeal/revision. However, all these cases, stayed between March 2000 and February 2008 were still pending (July 2009) for want of disposal particulars from the requisitioning departments. In two cases involving revenue of Rs. 39.70 lakh in *Tahsildar* (RR) Kottayam and Kozhikode, present position of the court cases was not furnished by the Advocate General.
- In one case involving an arrear amount of Rs. 20 lakh, the village officer reported that the firm stopped business. *Tahsildar* (RR), Kanayannur addressed the Commercial Tax Officer, second circle, Thrippunithura in December 2004 seeking more details about the defaulter firm/partners, but no reply has been received from CTO even after lapse of almost five years (September 2009).

6.2.15 Failure of the Excise Department to exercise the vested powers for recovery of *abkari* revenue through RR action

By a notification issued in July 1970, Government had appointed the Deputy Commissioners of Excise and all Assistant Commissioners to exercise the powers and perform the functions of a 'Collector' under the RR Act for the purpose of collection of *abkari* revenue.

As per the DCB statement in CLR for the year 2007-08, total amount of excise dues pending collection through RR action as at the end of March 2008 amounted to Rs. 102.69 crore which remained pending for the period prior to 2003-04.

As the excise authorities have the powers to act as recovery officers, the cases were irregularly sent to the LRD, which also accepted the cases instead of

²⁰ Aluva, Kochi, Kodungallur, Koyilandy, Kollam, Kottarakara, Kottayam, Kozhikode, Neyyattinkara and Vadakara.

returning to the requisitioning department for further action as per the RR Act. It was also seen that the RR authorities had collected some revenue out of the requisitions as detailed below.

(Rupees in crore)

Year	Total demand	Amount recovered	Amount settled by remission/write off/RRC returned	Arrear dues
2003-04	127.29	3.36	7.09	116.84
2004-05	132.66	4.17	8.83	119.66
2005-06	123.22	4.92	21.69	96.61
2006-07	123.06	4.37	7.43	111.26
2007-08	128.41	8.89	16.83	102.69

It was seen that though the DCBs of respective districts were sent to CLR, even the CLR could not detect such irregular requisition and realisation of dues of excise department by its recovery machinery. As there was no system of periodic reconciliation of figures between the requisitioning and recovering departments, the Excise Department remained unaware of the position of recovery of dues.

Thus, there was failure of control mechanism at both the departments which ultimately led to non-realisation of revenue of Rs. 102.69 crore for such a long time.

6.2.16 Irregular mutation of ‘attached property’

Under Rule 7(2)(ii) of the Transfer of Registry Rules, 1966, the village officer shall check whether the property is under attachment by Government while preparing form ‘A’ statement for effecting transfer of registry (mutation) and facts should be reported to the *tahsildar*. Where a notice of attachment was issued to a defaulter, the defaulter shall restrain from transferring or charging²¹ the property.

In the office of *Tahsildar*, Kottarakkara, one-half share of a property of 15.6 ares was attached by a proceedings initiated in January 2002 for recovery of sale tax arrears of Rs. 9.33 lakh. This property was finally posted for sale in auction in December 2008. In the meantime, the property was sold between July and October 2007 by the defaulters and the purchasers got mutation of the property in their names in the village records nullifying the effect of attachment. Consequently, revenue of Rs. 9.33 lakh remained unrealised.

6.2.17 Internal control mechanism

Internal controls are intended to provide reasonable assurance of orderly, efficient and effective operations, safeguarding resources against irregularities, adhering to laws, regulations and management directives and developing and maintaining reliable data. Effective internal control system both in the manual as well as computerised environments are a pre-requisite for the efficient functioning of any department. The following deficiencies are noticed in internal control mechanism.

²¹ Creating an interest in the property in favour of another person.

Reconciliation of remittances into treasury was not done during the review period. Departmental inspection by LRC was pending and annual inspection by DC was not completed in many *taluk* offices. Reconciliation of RRCs issued by DCs and acknowledged by *tahsildars* was not done.

6.2.18 Lapses in the preparation of DCB statements of RR

The DCB statement is a consolidated statement of figures of RR compiled from primary records and is the essential basis for assessing the achievements/shortfall of the system. As such these statements should project a true picture of all transactions and the correctness of figures is essential for proper review by the higher authorities. The Public Accounts Committee (2006-08) in their 68th report has given strict instructions for the proper maintenance of DCB statements. The statement for March represents the consolidated figure for the whole year. The closing balance for a year should be the opening balance for the next year. The lapses noticed in the maintenance of DCB statements are given below:

6.2.18.1 Variation between closing balance and opening balance

Audit scrutiny of DCB statements of the *Tahsildar* (RR), Kochi for the year 2003-04, revealed that the closing balance for 2003-04 was Rs. 48.25 crore whereas the opening balance noted for 2004-05 was Rs. 39.84 crore only thereby the department had lost track of the RR action in respect of Rs. 8.41 crore.

The lapse was due to absence of an effective internal control mechanism for scrutiny of the entries in the DCB statement.

6.2.18.2 Variation between the figures of RR collection as per DCB statement and as per collection register

Details of all the RR collection effected in a month are entered in the RR collection register maintained in each *taluk* office. Monthly total of this register should agree with the collection figures as noted in the DCB statement for the month. Test check of these figures for a selected month in respect of sales tax (major item) in eight *taluks* revealed that in four *taluks* there were variations between the figures as mentioned below:

(Rupees in lakh)

Name of <i>Taluk</i>	Month	RR collection figures		Figures inflated in the DCB statement
		DCB statement	Collection register	
Kochi RR	March 2006	50.70	20.18	30.52
Kollam RR	April 2007	141.61	129.06	12.55
Vaikom	March 2008	13.69	1.36	12.33

After this was pointed out, all *tahsildars* stated between December 2008 and June 2009 that collections directly effected by the concerned requisitioning department (after commencement of RR actions) were ascertained and accounted in the DCB as collection of the concerned *tahsildar* under RR. The reply was not correct as the procedure adopted was not in order.

6.2.18.3 Amounts of unencashed cheques and revenue deposit accounted as sales tax collections

Figures of sales tax collections for the month of April 2007 as per the concerned registers of *Tahsildar* (Revenue Recovery), Kollam was Rs. 27.48 lakh.

Audit scrutiny revealed that cheque receipts are instantly accounted as collection for the month without waiting for realisation by the treasury. This is not in order as evidenced in the case of cheque No. 667940 dated 30 April 2007 of ICICI Bank Ltd. Tirupur for Rs. 33,334. This cheque was subsequently dishonoured by the Bank but the amount was already accounted as sales tax collection.

The *Tahsildar* (RR), Kollam accounted the bid amount of Rs. 20.59 lakh kept in revenue deposit (RD) in the month of April 2007 as sales tax collection for April 2007, pending confirmation of the auction sale. The amount was stated to be under RD and pending transfer credit to sales tax or refund to the bidder, as the case may be till date (September 2009).

6.2.18.4 Discrepancy between the figures of District DCB and the consolidated figures of the taluk DCBs

Consolidated amount under 'remission', 'write off' in the DCB statement of District Collector, Kollam for the month of March 2008 was Rs. 3.30 crore whereas the total of individual figures furnished by the respective *taluks* was Rs. 3.50 crore.

This discrepancy was a pointer to the lack of diligence in the preparation of DCB statements.

6.2.18.5 Revenue recovery figures of Land Revenue dues

DCB statements of RR should include the details of all the dues 'to be recovered/recovered' under the provisions of the RR Act. However, demand and collection in respect of land revenue dues covered by RR action was not incorporated in the DCB statement of RR in none of the districts test checked.

6.2.19 Bought-in-land

Under the RR Act, when land is put up for auction sale for recovery of dues, if there is no bidder or if the highest bid is insufficient to cover the arrears, the officer conducting the sale may bid the property on behalf of Government for a nominal amount or for the highest amount of bid increased by nominal amount, as the case may be. After confirmation of sale and issue of sale certificate, the property vests with the Government, free of all encumbrances and its possession is taken up to treat it as any other Government land. On confirmation of sale, collector is duty bound to issue the sale certificate. The deficiencies in maintenance of registers, lapses in possession, irregular management of bought-in-land etc., noticed during scrutiny of records are mentioned below.

6.2.19.1 Maintenance of registers

In the Government Order²² issued in June 1965, it was directed that all bought-in-land would be entered in a register used for the purpose in the *taluk* office and their disposal should be watched by the *tahsildar*. However, register for watching bought-in-land was not maintained properly in all the test checked *taluks*. Besides, it was also noticed that the *tahsildar*, Kottayam had not maintained records of 1.97 ares in Muttambalam and 585 ares in Nattakam village.

6.2.19.2 Lapses in possession

Government in the aforesaid Government order had ordered that possession of the bought-in-land shall be taken immediately after the issue of sale certificate and in no case delay should exceed more than one month from the date of sale certificate.

Audit scrutiny revealed that an extent of 3.25 ares was in possession of the defaulter in Kollam District. Similarly, 2.280 cents and 1.067 cents in Thopumpady, 2.40 cents and 34.50 cents in Rameswaram village and 123 cents in Edakochi village were in possession of the encroachers. This showed poor management of bought-in-land.

6.2.19.3 Irregular management of bought-in-land

During scrutiny of records of 18 *taluk* offices, it was noticed that 198 hectare 53 ares 77 sq. mtrs of land in respect of 278 RR cases were kept as bought-in-land in these *taluks*. Estimated value of 86.5093 hectares only was available which comes to Rs. 11.98 crore. Revenue department had not taken any step to examine the feasibility of re-auctioning the property to augment the revenue/reconvey the land to defaulters if they were ready to clear the arrears and pay the market value of the land within two years/assignment of the land on lease basis.

6.2.19.4 Irregular sale of bought-in-land

As per the guidelines, bought-in-land shall be resold in public auction if it is likely to fetch a bid amount more than or atleast equal to the amount of arrears involved with interest and other charges and the sale proceeds shall be credited to Revenue Department.

An extent of 1 acre 7 cents in Muttuchira village was sold in auction by Revenue Divisional Officer, Pala in September 2006 for Rs. 38,600 against the arrears of Rs. 8.22 lakh.

It was stated (March 2009) that the value of the said property was ascertained by the village officer and the property was included in '*Karinilam*' which was suitable only for one seasonal paddy cultivation. As per the guidelines, if the amount realised through auction was not sufficient to clear the arrears, the sale should not have been confirmed. As such, the department could have opted for re-auction to fetch a better price.

²² No. 578/Revenue dated 30 June 1965.

In another case, an extent of 19.20 Ares at Kondor village under Meenachil *taluk* was converted as bought-in-land in June 1995. However, a Co-operative Bank auctioned the same property in November 2002 to realise the dues from the same defaulter and sale certificate issued in December 2003. The purchaser sold the property to another person in March 2004. Irregular sale of bought-in-land came to the notice of revenue authorities only when the last purchaser applied for transfer of registry in village records. Thus, laxity in the management, possession and supervision of bought-in-land resulted in repeated sale of the same property by third parties.

6.2.19.5 Re-conveyance/surrender of bought-in-land

As per the modification issued in February 1968, to the Government order dated 30 June 1965, the Government ordered that reconveyance of bought-in-land to the original owner will be considered only if applied within two years from the date of confirmation of sale. As per Government order issued in March 1996, current market value of the land has also to be paid along with the arrears, interest, cost of process etc.

- In Meenachil *taluk*, a defaulter filed application (July 2005) for reconveyance of 2 ares and 7.38 ares of land in Lalam village which was converted as bought-in-land in October 2000 and November 2002 respectively. Government sanctioned reconveyance in these cases in January 2009 and November 2008 respectively on payment of entire arrears in April 2008. However, market value of Rs. 20 lakh in respect of the above land was not collected.
- In another case, application for reconveyance filed (September 2000) by a defaulter for reconveyance of 4.8 ares of land in Vellilappilly village, which was converted as bought-in-land in April 1989, was reconveyed to the defaulter in April 2005 on payment of arrears only without collecting market value (not available) of the land.
- In one case in Manakkadu village, an extent of 5.90 ares was bid in favour of Government as bought-in-land and the auction confirmed by Revenue Divisional Officer, Idukki in November 2001. However, DC Idukki in October 2002 ordered *Tahsildar*, Thodupuzha to release the bought-in-land to the defaulter on payment of arrears only. Consequently the bought-in-land was released without realising the market value (not available).
- In another case, an extent of 57.51 ares of land in Vizhinjam village was converted as bought-in-land in public auction conducted in January 2001 by *Tahsildar* (RR), Neyyattinkara. Auction sales were confirmed in May 2002. District Collector, in January 2003 ordered to release the bought-in-land on payment of dues. The bought-in-land was released to the defaulter in 2003 itself after realising *abkari* dues of Rs. 10.76 lakh, without realising balance ST dues of Rs. 4.87 lakh and market value thereof (not available).

6.2.20 Irregular remission of public revenue

Under the existing Government orders, heads of department can sanction remission/write off departmental dues limited to Rs. 10,000 in each case subject to a maximum of Rs. 50,000 in a year.

6.2.20.1 It was noticed during scrutiny of records of remission/write off of Government dues under RR for the year 2007-08 in *taluk* office, Kottarakkara that a total demand of Rs. 3.50 crore was irregularly disposed as remission/write off, though there was no proper order for the same.

The *Tahsildar* stated (January 2009) that irrecoverable cases were shifted to this category for clearing the arrears from the books of accounts. The reply was not in order as it was against the Government directions.

6.2.20.2 On the basis of request from the DC (land acquisition), the DC, Ernakulam issued an RRC against M/s Cochin International Airport Ltd. for an amount of Rs. 2.68 crore along with interest and collection charges. Revenue recovery action initiated by *Tahsildar* (RR), Aluva in March 2001 was withdrawn as Government had stayed the collection temporarily. Fresh RR action was initiated by special *tahsildar* in September 2003. Government finally vacated the temporary stay and decided to convert the dues as shares of the Government. An amount of Rs. 3.62 crore was adjusted as shares against the total amount of Rs. 4.74 crore (dues, interest and other charges) leaving a balance of Rs. 1.12 crore as outstanding. Even though arrears shown above was outstanding, *Tahsildar* (RR) closed the RR files resulting in non-realisation of revenue of Rs. 1.12 crore.

6.2.20.3 The *Tahsildar* (RR) Meenachil converted an extent of 81 ares of land as bought-in-land for nominal amount (Re.1) in the public auction held in January 2004 for realisation of sale tax arrears of Rs. 21.60 lakh and RRCs were cleared from the register without realising the arrears resulting in loss of revenue of Rs. 21.60 lakh.

6.2.21 Short levy of collection charges

Under the Kerala Revenue Recovery Rules 1968, collection charges are leviable on arrears collected at the rate of five *per cent* when the arrears do not exceed Rs. 5 lakh and at the rate of 7.5 *per cent* when the arrears exceed Rs. 5 lakh. Collection charges (CC) are leviable in respect of arrears recoverable on behalf of any institution and shall be deducted from the amount recovered and the balance alone shall be payable to the institution.

Under the RR Act, the requisitioning authority cannot collect the dues from the defaulters directly after giving requisition for initiating RR action. Audit checked the figures of total RR collection under Section 68 & 71 of the RR Act and the CC levied thereof for 2006-07 & 2007-08. It was found that in 11 *taluks*²³ CC levied was short to the extent of Rs. 1.97 crore even when the CC due was calculated at the minimum rate of five *per cent*.

²³ Aluva, Karunagapally, Kochi, Kodungallur, Koyilandy, Kollam, Kottarakkara, Kozhikode, Thrissur, Udumbanchola and Vada kara.

6.2.22 Conclusion

The Revenue Recovery Act is a law intended to enable the State to recover the dues with utmost expedition and without undue expenses. However, the collection effected was only 3.41 *per cent* to 4.06 *per cent* of the total demand during 2003-2004 to 2007-08. The department had not installed any mechanism for analysing the outstanding balance at periodical intervals and to take up the matter at appropriate level for write off in cases of irrecoverable dues. Revenue recovery certificates ranging from 10.07 *per cent* to 24.67 *per cent* of the demand were returned by the department due to various reasons. Uncollected demand as on 1 April 2008 worked out to Rs. 1,161.64 crore. Of this, an amount of Rs. 328.44 crore was under Government stay without any authority. Lack of prompt and sufficient action to get the court stay vacated, irregular stay by Government, delay in deciding appeal petitions and vacating stay of appellate authorities were the main contributing factors for the heavy arrears and poor performance of the RR system. Revenue recovery cases for Rs. 63.46 crore were returned without exhausting all means of recovery procedure. Collection of revenue of Rs. 326.35 crore was held up due to delay in various stages of RR proceedings. Lack of co-ordination between various departments had resulted in blocking up of revenue of Rs. 18.73 crore. Due to non-perusal of RR cases, Rs. 102.69 crore was not recovered. Records relating to bought-in-land were not properly maintained.

6.2.23 Recommendations

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

- prescribe time limit/procedure to be followed by the RR officers for follow-up action on stay cases;
- evolve a rational/scientific method in fixing targets and any shortfall in collection may be viewed critically to improve the efficiency of the system and collection of revenue;
- insist that RRC should be returned only after exploring all means of realising the arrears by the requisitioning departments;
- direct the requisitioning department to resort to revenue recovery action only after the expiry of appeal period;
- insist that the Excise Department should take care of the realisation of arrears under RR Act;
- enforce the timeframe prescribed strictly and periodic reconciliation of the RR cases to ensure that all requisitions are acted upon and sharing of information with other offices where the defaulters reside in other districts/states;
- serve a copy of the notice to the concerned Sub Registrar under his acknowledgment so as to comply with the provisions of the Transfer of Registry Rules 1966; and
- dispense with the system of direct collection by requisitioning department after the commencement of RR action and in special schemes enabling direct collection, RRC should be recalled from the RR department.

6.3 Other Audit observations

Scrutiny of records of various Taluk Offices revealed several cases of non-compliance of the provisions of the Rules for Assignment of Land within Municipal and Corporation Areas 1995 (RALMCO) and Kerala Revenue Recovery Rules 1968, (KRR Rules), Kerala Building Tax Rules (KBT) and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the tahsildars are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

6.4 Non-compliance of provisions of Acts/Rules

The provisions of the KBT Act/Rules, RALMCO and KRR Rules require:-

- i) levy of lease rent on land assigned to various persons at the prescribed rates;
- ii) levy of collection charges on the amount recovered under RR Act; and
- iii) assessment of building tax and luxury tax.

It was noticed that the tahsildars, did not observe some of the above provisions at the time of levying tax. This resulted in short levy of lease rent/building/collection charges of Rs. 2.29 crore as mentioned in the paragraphs 6.4.1 to 6.4.5.

6.4.1 Short levy of lease rent

Under the provisions of RALMCO, land held under lease, either current or time expired, and granted under any rule or orders at the time of such grant shall at the time of incorporation within the corporation limits, be granted fresh lease for a period not exceeding three years subject to the condition laid therein. The rule further prescribes the rate at which the land is to be leased out based on the purpose for which it is required and arrears, if any for the period upto the coming into force of the revised rate i.e., 1 April 2004, was to be settled by remitting 25 per cent of such amount.

During scrutiny of records in taluk office, Thrissur in August 2008, it was noticed that no action was taken to execute fresh lease with seven lease holders of land in the erstwhile panchayats, which were brought under the corporation limits in October 2000. This resulted in short levy of lease rent of Rs. 1.59 crore.

After the case was pointed out, the Tahsildar stated in August 2008 that action to collect the lease rent is in progress and that the collection particulars will be intimated in due course. A report on recovery has not been received (September 2009).

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

6.4.2 Short realisation of collection charges

Under the KRR Rules, collection charges at the rate of five *per cent* of the arrears not exceeding Rs. 5 lakh, collected on behalf of any Government department/notified institutions, are to be recovered from the defaulters.

During scrutiny of records in eight *taluk* offices²⁴ between September 2007 and September 2008, it was noticed that collection charges amounting to Rs. 33.85 lakh were short realised from the defaulters while recovering the arrears amounting to Rs. 20.82 crore during the period from April 2005 to March 2008.

After the cases were pointed out, the *tahsildars* stated between September 2007 and September 2008 that detailed reply would be furnished later. Further reply has not been received (September 2009).

The matter was reported to the department between November 2007 and October 2008 and Government in February 2009; their reply has not been received (September 2009).

6.4.3 Non-levy of irrigation cess

Under the village office manual, irrigation cess is leviable on the beneficiaries of irrigation projects at the rates specified therein.

During scrutiny of records of *taluk* office, Chengannur in August 2008, it was noticed that even though irrigation cess was leviable on 4,974 hectares of land under the Pamba Irrigation Project, it was levied on 453 hectares of land only from 1 April 1999. This resulted in non-levy of irrigation cess of Rs. 25.23 lakh.

After the case was pointed out, the Additional *Tahsildar* stated in August 2008, that joint verification of the areas has not been completed and all out efforts are made to finalise the assessment. Further development had not been reported (September 2009).

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

6.4.4 Non-assessment of building tax

Under the KBT Rules, every village officer shall transmit to the assessing authority, within five days of the expiry of each month a monthly list of buildings liable to assessment, together with extracts from the building application register of the local authority within whose area the buildings included in the list are situated.

During audit of records of two *taluk* offices²⁵ between December 2006 and March 2008, cross verification of records of one *panchayat*²⁶ and two village

²⁴ Cherthala, Chengannur, Moovattupuzha, North Parur, Ponnani, Thaliparamba, Thiruvalla and Vythiri.

²⁵ Sulthan Bathery and Thalapilly.

²⁶ Sulthan Bathery.

offices²⁷ with that of the respective *taluk* offices was done and it revealed that 22 buildings completed between 2004 and 2007, escaped assessment as the details of the buildings to be assessed were not furnished by the village officers concerned to the assessing authorities. This resulted in non-assessment of building tax of Rs. 6.04 lakh.

After the cases were reported to the department between December 2006 and March 2008 and Government in January 2009 and February 2009, the Government stated in June 2009 that in two cases in Thalapilly *taluk*, building tax has been assessed based on audit observation and an amount of Rs. 2.34 lakh collected and the balance amount is pending collection. Regarding the other 20 buildings mentioned in the report, 13 buildings have since been assessed, three buildings were functioning as soap factories with SSI licence and the remaining will be identified and assessed to tax. Further development has not been reported (September 2009).

6.4.5 Non-levy of luxury tax

Under the KBT Act as amended by the Finance Act, 1999, luxury tax at the rate of Rs. 2,000 is leviable each year on all residential buildings having a plinth area of 278.7 square metre or more and completed on or after 1 April 1999.

During scrutiny of records in four *taluk* offices²⁸ between August 2007 and May 2008, it was noticed that luxury tax was not demanded/realised on 106 residential buildings of plinth area exceeding 278.7 square metres, completed after 1 April 1999. This resulted in non-levy of luxury tax of Rs. 4.98 lakh.

After the case was reported to the department between September 2007 and May 2008 and Government in February 2009, the Government stated in July 2009 that an amount of Rs. 1.78 lakh has since been collected. A report on recovery of balance amount has not been received (September 2009).

²⁷ Kunnamkulam and Kanipayoor.

²⁸ Karthikappally, Kochi, Thiruvalla and Vythiri.

CHAPTER VII OTHER TAX RECEIPTS

7.1 Results of audit

Test check of records of the department of Commercial tax, Excise and Electrical Inspectorate conducted during 2008-09 revealed short levy of luxury tax, non/short levy of tax/fees/duty and other deficiencies amounting to Rs. 53.78 crore in 89 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
A. Luxury Tax			
1.	Short levy of luxury tax	2	0.13
B. State Excise			
2.	Loss due to non-levy of import fee	13	30.00
3.	Non/short levy of gallonage fee	17	21.02
4.	Blocking up of revenue due to non/short levy of excise duty	4	1.13
5.	Non-remittance of additional security	2	0.80
6.	Non/short levy of cost of establishment	22	0.21
7.	Loss of revenue due to short collection of interest	3	0.15
8.	Other lapses	15	0.06
C. Taxes and Duties on Electricity			
9.	Non/short levy of tax	7	0.21
10.	Other lapses	4	0.07
Total		89	53.78

During the year 2008-09, the concerned departments accepted underassessment and other deficiencies of Rs. 32.32 crore involved in 41 cases. The department recovered Rs. 4.57 lakh in 11 cases of which two cases involving Rs. 2.42 lakh were pointed out during 2008-09.

After the issue of draft paragraphs, the Electrical Inspectorate recovered an amount of Rs. 2.21 lakh in one case in full.

A few audit observations involving Rs. 52.21 lakh are mentioned in the succeeding paragraphs.

7.2 Audit observations

Scrutiny of records of various Commercial Tax Offices, State Excise Offices and Electrical Inspectorate revealed several cases of non-compliance of the provisions of the Kerala Tax on Luxuries Act, 1976, Kerala Rectified Spirit Rules, 1972 and Kerala Electricity Duty Act, 1963 and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the CTOs/Excise Officer/Chief Electrical Inspector are pointed out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for Government to improve the internal control system.

A. LUXURY TAX

7.3 Short levy of luxury tax

Luxury tax on services like ayurveda, travel, trekking etc., though leviable under the Kerala Taxes on Luxuries Act, was not levied on two hotels.

Under the Kerala Tax on Luxuries Act, every amenity and service provided in the hotel that ministers comfort are exigible to luxury tax.

During scrutiny of the records in two CTOs¹ between January 2008 and March 2008, it was noticed that while finalising the assessments of two hotels for the years 2003-04 and 2002-03 to 2004-05 between June 2006 and November 2006 respectively, the assessing authorities did not levy tax on the income amounting to Rs. 2.49 crore, derived from services such as ayurveda, travel and trekking charges, activity charges, health club, beauty parlour etc., provided in the hotels. This resulted in short levy of tax of Rs. 24.36 lakh.

After the matter was reported to the department in March and April 2008 and Government in August 2008, the Government stated in December 2008 that in one case² the assessments for the years 2003-04 and 2004-05 were revised with an additional demand of Rs. 13.80 lakh and that for the year 2002-03 had been cancelled as it had become time barred. The additional demand created was advised for revenue recovery.

In the other case³, the AA stated in January 2008 that the income received for other amenities relates to those received from agencies for providing the facilities available in the hotel for their tourists in the package tours and was not within the ambit of Luxury Tax Act. However, on verification of records of the concerned unit, it was noticed that the assessment has been revised in February 2009 in the lines of audit observation and additional demand of Rs. 12.82 lakh raised.

A report on recovery in the former case and a reply of the Government confirming reassessment in the latter had not been received (September 2009).

¹ Works contracts and Luxury tax (WC & LT), Ernakulam and Kattapana.

² WC & LT, Kattapana

³ WC & LT, Ernakulam

B. STATE EXCISE

7.4 Loss of revenue due to non-realisation of gallonage fee

Gallonage fees was not levied on excess allowance of transit/godown wastage.

Under Rule 14 of the Kerala Rectified Spirit Rules, 1972, gallonage fee shall be collected on rectified spirit issued from a distillery at the rate in force at the time of such issue. Rule 55 of the Distillery & Warehouse Rules envisages that no wastage would be allowed on spirits after they have been bottled and as per Section 17 and 18 of the *Abkari* Act, duty includes excise duty and gallonage fee.

During scrutiny of the records in eight⁴ distilleries between August 2008 and February 2009 it was noticed that 2.66 lakh bulk litres of Indian made foreign liquor and beer was allowed as transit wastage and storage wastage, for which there was no provision. Though excise duty was paid on the above quantity, gallonage fee was not levied. The gallonage fee leviable at the rate of Rs. 6.75 per bulk litres worked out to Rs. 17.93 lakh.

After the case was pointed out, it was stated (May 2009) that the difference in stock of Indian made foreign liquor/beer would be reconciled and the gallonage fee would be realised at the earliest. Further developments have not been reported (September 2009).

The case was reported to the Government in February 2009; their reply has not been received (September 2009).

C. TAXES AND DUTIES ON ELECTRICITY

7.5 Excess transmission loss

Though two licensees availed excess transmission loss, the department did not raise demand for recovery of duty.

Under the Kerala Electricity Duty Act, 1963, every licensee is liable to pay the duty calculated at the rate specified against that class worked out on the basis of energy purchased from Kerala State Electricity Board after deducting the quantum of transmission loss allowable to the licensees. Transmission loss allowable in these cases were eight *per cent*.

During scrutiny of records in the office of chief electrical inspector, Thiruvananthapuram, in January 2009, it was noticed that during the year 2007-08, two licensees had availed transmission loss of 16.5 *per cent* and 11.36 *per cent*. This was in excess of the allowable limit of eight *per cent* by 8.5 *per cent* and 3.36 *per cent*. This resulted in short levy of electricity duty of Rs. 7.02 lakh.

After the case was pointed out, the chief electrical inspector stated in May 2009 that the arrear bill on the excess claim of transmission loss had been demanded. A report on recovery has not been received (September 2009).

⁴ Alappuzha, Aluva, Kottayam, Nedumangad, Palakkad, Pathanamthitta, Thiruvalla and Tripunithura.

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

7.6 Non-levy of interest

For belated payment of electricity duty, interest of Rs. 2.90 lakh though leviable, was not levied.

Under the Kerala Electricity Duty Rule, 1963, every licensee is liable to pay duty payable under the Act for each month before the expiry of the next month, failing which, interest at the rate of 18 *per cent* shall be levied for such belated payment.

During scrutiny of records in the office of the chief electrical inspector, Thiruvananthapuram in January 2009, it was noticed that during the year 2007-08, interest was not levied on the belated payment of electricity duty by a licensee. This resulted in non-levy of interest of Rs. 2.90 lakh.

After the case was pointed out, the chief electrical inspector stated in May 2009 that interest of Rs. 2.90 lakh has been demanded. A report on recovery has not been received (September 2009).

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

CHAPTER VIII NON-TAX RECEIPTS

8.1 Results of audit

Test check of records of the offices of Technical Education Department, Forest Department, Police Department and Co-operation Department conducted during the year 2008-09 revealed misappropriation of Government dues, re-auction loss, supply/sale of raw material, short demand of cost of establishment etc., amounting to Rs. 7.53 crore in 21 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
A. Forest Receipts			
1.	Revenue loss on supply/sale of raw materials	5	0.95
2.	Loss due to re-auction	3	0.40
3.	Other lapses	10	1.91
B. Other Non-Tax Receipts			
4.	Misappropriation of Government dues	1	3.65
5.	Short demand of cost of establishment	2	0.62
Total		21	7.53

During the year 2008-09, the concerned departments accepted underassessments and other deficiencies of Rs. 41.26 lakh involved in six cases, of which, one case involving Rs. 6.71 lakh was pointed out during 2008-09. The departments recovered Rs. 34.55 lakh in five cases pointed out in the earlier years.

A few audit observations involving Rs. 4.27 crore is mentioned in the succeeding paragraphs.

8.2 Audit observations

Scrutiny of records of various aided colleges under the Technical Education Department, Forest Department, Police Department and Co-operative Department revealed several cases of non-compliance of the provisions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the departmental officers are pointed out in audit each year but not only 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.

A. FOREST RECEIPTS

8.3 Non-revision of seignorage rate

Due to non-revision of seignorage rate of sand in tune with those in Public Works Department (PWD), the Government was deprived of additional revenue of Rs. 57.12 lakh.

The Government of India in July 2001, approved diversion of 10.452 ha of forest land for various purposes from three divisions¹ on the basis of guidelines prescribed by the State Government for collection of sand. As per paragraph 2.1.1 (36) of Kerala Forest Code Vol. I, seignorage rate is the rate fixed as the minimum amount that must be assured to Government by the sale of trees and other forest produce collected from within the forest. The seignorage rate of Rs. 78/m³ was fixed in 1996 and the PWD schedule rate for sand was also Rs. 78/m³ at that time. Though the PWD schedule of rates was revised four times in 12 years enhancing the rate to Rs. 200/m³ in 1999, Rs. 400/m³ in 2004, Rs. 900/m³ in 2007 and Rs. 990/m³ in 2008, the seignorage rate was not revised in the Forest Department.

During scrutiny of the records in Divisional Forest Office, Thiruvananthapuram in June 2008, it was noticed that 12,798 m³ of sand was removed during the period from 2005 to 2008 in seven river sites comprised in 5.8 ha at the seignorage rates of Rs. 78/m³ fixed in 1996. Due to non-revision of seignorage rate in tune with the rates of PWD, the Government was deprived of additional revenue of Rs. 57.12 lakh.

After the case was reported to the Government in January 2009, the Government stated (April 2009) that action is being taken to revise the seignorage rate. Further report has not been received (September 2009).

¹ Thenmala, Thiruvananthapuram and Ranni.

B. OTHER NON-TAX RECEIPTS

TECHNICAL EDUCATION

8.4 Misappropriation of Government receipts

Revenue of Rs. 3.65 crore was unauthorisedly utilised for meeting other expenses by the polytechnic/engineering colleges.

Technical education colleges are administered by Government aided managements. Government extends financial assistance to aided institutions and exercise control over the structure of fees to be collected by them. Government have earmarked a portion of the special fee collected from students of aided colleges as non-tax revenue and the balance can be utilised by the colleges. At the time of enhancement of fees in 2003 and as part of mobilisation of non-tax revenue, Government revised the rate of special fees to be collected by the educational institutions. By an order issued in April 2003, Government have ordered to remit the revenue portion of special fee collected by aided polytechnic and engineering colleges into the Government account.

Scrutiny of records between June 2008 and March 2009 revealed that in cases of six polytechnic colleges² and three engineering colleges³, the revenue portion of special fee collected by these colleges for the year 2003-04 to 2007-08 had not been remitted into the Government accounts. This has resulted in non-remittance of revenue of Rs. 3.65 crore.

After the cases were pointed out, the principals of the colleges stated between July 2008 and April 2009 that the revenue portion of special fee collected was utilised for purchasing consumables, student stationary items, library books etc., and hence not remitted to Government account. The reply was not correct as it was unauthorised appropriation of revenue towards expenditure bypassing budgetary controls.

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

POLICE RECEIPTS

8.5 Short demand of cost of establishment

While calculating the fees for providing police guards, the element of dearness allowance was not taken into account resulting in short demand of Rs. 47.13 lakh.

Government of Kerala in the order issued in 17 February 2004 revised the rate of fee for providing service of police personnel for private parties/ entertainments/film shooting etc. Besides the rates so fixed, dearness allowance at the rates admissible was also to be recovered.

² Carmel polytechnic college, Alappuzha, NSS polytechnic college, Pandalam, Seethi sahib polytechnic college, Tirur, SN polytechnic college, Kottiyam, Swami Nithyananda polytechnic college, Kanhangad and Thyagaraja polytechnic college, Thrissur.

³ Mar Athanasius college of engineering, Kothamangalam, NSS college of engineering, Palakkad and TKM college of engineering, Kollam.

During scrutiny of records in the office of District Superintendent of Police, Kottayam in July 2008, it was noticed that while demanding the cost of establishment in respect of service rendered to some private parties, the element of dearness allowance was not included. This resulted in short demand of cost of establishment of Rs. 47.13 lakh.

After the case was pointed out, the Accounts Officer stated in July 2008 that the claim would be regularised after receiving clarification from headquarters. Further developments have not been reported (September 2009).

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

CO-OPERATION DEPARTMENT

8.6 Short demand of cost of audit

Due to issuance of irregular mode of calculation by the Registrar, there was short recovery of cost of audit of Rs. 14.64 lakh.

Under the Kerala Service Rules (Rules), average cost calculated for the purpose of recovery of audit cost is subject to periodical enhancement consequent on the revision of pay, dearness allowance and other compensatory allowances of State Government employees. Cost of service in respect of officials of Co-operative Department who are deputed to Co-operative Banks are to be realised from the respective banks, based on the calculation prescribed in the Rules.

During scrutiny of records in the five⁴ offices of Assistant Registrar (Audit) in August 2008, it was noticed that the Registrar had issued a circular prescribing the average cost which was calculated against the provisions of Rules. On the basis of this irregular circular, the Assistant Registrars had demanded the cost of service in respect of officials deputed to co-operative banks. This resulted in short demand of cost of service of Rs. 14.64 lakh.

After the cases were pointed out, the Assistant Registrars stated in August 2008 that the cost of service was worked out based on the directions of Registrar and the matter would be taken up with higher authorities for rectification of the irregularity. Further development has not been reported (September 2009).

⁴ Offices of the Assistant Registrar: Koyilandy, Manjeri, Perinthalmanna, Ponnani and Tirur.

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

**Thiruvananthapuram,
The**

**(S.NAGALSAMY)
Principal Accountant General (Audit), Kerala**

Countersigned

**New Delhi,
The**

**(VINOD RAI)
Comptroller and Auditor General of India**

ANNEXURE I

(Reference: Paragraph 2.2.10.3)

Name of Assessment Circle	Assessment order and date	Details of Form F	Commodity	Amount to be disallowed	Short levy (Rs. in crore)
			Value of goods		
CTO Punalur	32021112925 /2005-06	Four Forms F covering transactions of two months in each	Ceramic tiles	5,26,465	0.01
			10,76,390		
Special Circle Kollam	12016253/ 2004-05 dated 30.03.2007	Single Form F covering transactions for 6, 8 & 9/2004	Cashew Kernal	13,12,025	0.01
			15,44,805		
Special Circle I Ernakulam	23031065/ 2004-05 dated 19.11.2007	Single Form F covering transactions from 4/2004 to 3/2005	Gold	40,07,99,290	4.01
			44,34,60,890		
Special Circle II Kozhikode	33025096/ 2002-03 dated 22.04.2006	Single declaration covering transactions for different months	Cocoa	5,09,53,276	0.51
			5,55,85,932		
Total				45,35,91,056	4.54

ANNEXURE II
(Reference: Paragraph 2.2.12)

(Rupees in lakh)

Sl. No.	Assessment circle	Year	No of dealers	Import unaccounted		Sales TO	Tax	Interest	Penalty	Total
				Commodity	Value					
1.	CTO,Pala	05-06	1	Timber	55.76	61.33	7.67	2.68	15.33	25.68
2.	Spl circle, Kottayam	03-04	1	Tiles	137.74	201.88	26.95	18.06	53.90	98.91
3.	„	04-05	2	„	207.24	369.03	50.93	23.93	101.85	176.71
4.	„	05-06	1	„	112.71	123.98	15.50	5.42	31.00	51.92
5.	„	06-07	1	Timber	48.36	50.99	6.37	1.47	12.75	20.59
6.	Spl III, Ernakulam	05-06	2	„	417.19	544.83	68.1	23.84	136.21	228.15
7.	„	06-07	1	„	74.09	82.21	10.28	2.36	20.55	33.19
8.	II circle, Ernakulam	06-07	1	Tiles	26.35	28.99	5.80	1.33	11.60	18.73
9.	Spl circle Mattancherry at Aluva	06-07	1	Timber	83.31	93.73	11.72	2.63	23.43	37.78
10.	Special circle, Perumbavoor	06-07	1	Timber	33.52	39.8	4.97	1.24	9.95	16.16
11.	„	05-06	1	Timber	73.37	87.4	10.92	3.82	21.85	36.59
12.	Special circle, Thrissur	05-06	1	Timber	50.15	55.16	6.89	2.68	13.79	23.36
13.	„	06-07	1	Timber	162	178.3	22.29	5.13	44.58	72.00
14.	CTO, Irinjalakkuda	05-06	1	„	79.15	94.98	11.87	4.16	23.74	39.77
15.	Special circle Malappuram	05-06	1	Tiles	22.45	31.81	3.98	1.39	7.95	13.32
16.	„	05-06	1	Timber	43.49	47.83	5.98	2.09	11.96	20.03
17.	„	06-07	1	„	23.41	25.75	3.52	1.40	6.44	11.36
18.	II circle Thrissur	04-05	1	Timber	63.17	68.44	9.45	4.44	18.89	32.78
19.	„	05-06	1	„	56.5	61.82	7.73	2.70	15.46	25.89
20.	„	06-07	2	„	64.68	72.20	9.02	2.08	18.05	29.15
21.	Special circle II, Kozhikode	05-06	1	„	137.01	150.72	18.84	6.59	37.68	63.11
22.	„	06-07	1	„	52.08	58.28	7.28	1.68	14.57	23.53
23.	„	05-06	3	Tiles	357.80	393.57	49.19	17.22	98.40	164.81
24.	„	06-07	2	„	630.31	693.35	124.67	28.90	251.34	404.91
25.	I Circle, Kannur	05-06	1	Timber	26.58	29.82	3.73	1.30	7.46	12.49
26.	„	04-05	1	„	65.42	71.96	9.93	4.77	19.86	34.56
27.	Spl Circle, Kannur	05-06	1	Tiles	34.86	38.35	4.79	1.73	9.59	16.11
28.	„	05-06	1	Timber	73.97	81.36	10.17	3.66	20.34	34.17
29.	Spl Circle, Kasargod	06-07	1	Timber	77.61	85.97	10.75	2.58	21.49	34.82
30.	„	05-06	1	Timber	91.45	100.59	12.57	4.52	25.15	42.24
Total					3,381.73	4,024.43	551.86	185.80	1,105.16	1,842.82

ANNEXURE III

(Reference: Paragraph 6.4.1)

Sl. No	<u>Name of institution</u> Village	Area	Lease rent due (from 1.10.2000 to 31.3.2008) ¹ (Rs)	Lease rent realised (Rs)	Short demand (Rs)
1.	<u>Damin Institute</u> Ollukkara	12.94 Acre	28,99,564	2,912	28,96,652
2.	<u>Kuttanalloor Dewaswom</u> Ollur	2.02 Ares	1,16,150	52	1,16,098
3.	<u>Harijan Handicrafts Industrial Co-operative Society</u> Viyyur	12.14 Ares	1,03,192	53	1,03,139
4.	<u>Kasthurba Gandhi National Memorial Trust</u> Kanimangalam	3.78 Acres	6,52,050	312	6,51,738
5.	<u>Appan Thampuran Memorial Park</u> Ayyanthole	4.86 Ares	29,998	1,638	28,360
6.	<u>Kerala Co.op Milk Marketing Federation</u> Vilavattam	11.55 Acres	1,03,24,107	Nil	1,03,24,107
7	<u>Kerala Khadi & Village Ind. Board, Trichur</u> Aranattukara	1.03 Acres	18,15,375	1,125	18,14,250
Total			1,59,40,436	6,092	1,59,34,344

¹ Limited to 25 per cent for the period 1.10.2000 to 31.3.2004 as ordered in GO(P) 126/2004/RD dated 14.5.2004.