



# REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2011



(REPORT No. 3)  
(REVENUE RECEIPTS)

**GOVERNMENT OF JAMMU AND KASHMIR**

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## **PREFACE**

This Report for the year ended 31 March 2011 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The Audit of Revenue Receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising Sales Tax/VAT, Taxes on Motor Vehicles, State Excise, Stamp Duty and Registration Fees of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2010-11 as well as those which came to notice in earlier years but could not be included in previous years' Reports.

## OVERVIEW

This Report contains ten paragraphs including three Performance Audits on “**Cross Verification of Declaration Forms in Inter State Trade or Commerce**”, “**Computerisation in Motor Vehicles Department**” and “**Assessment and Levy of Stamp Duty and Registration Fee**” involving revenue implications of ₹ 39.90 crore, relating to system and compliance deficiencies leading to non/short levy of tax, interest, penalty etc.

Some of the significant audit findings are mentioned below:

### I. General

The overall receipts of the State stood at ₹ 22233.65 crore at the end of 31 March 2011 as against previous years’ receipts of ₹ 17587.82 crore indicating an increase of 26 *per cent*. The State’s own revenue (₹ 4575.69 crore) was 21 *per cent* of the total revenue receipts against 23 *per cent* in the preceding year. The balance 79 *per cent* were met from the funds received from Government of India (GOI) of which 82.63 *per cent* came in the form of Grant-in-aid. The Grant-in-aid from GOI constituted 65.62 *per cent* of the State’s total revenue receipts.

(Paragraph No 1.1.1)

Inspection reports issued upto June 2010 disclosed that 2053 paragraphs involving ₹ 1726.88 crore relating to 599 IRs remained outstanding at the end of June 2011. The large pendency of the IRs was due to non-receipt of replies which indicated failure of the Heads of Offices and Heads of the Departments to initiate action to rectify the defects, omissions and irregularities pointed out by us.

(Paragraph No 1.3.1)

### 2. Commercial Taxes Department

The VAT revenue increased from ₹ 1159.72 crore in 2006-07 to ₹ 2424.52 crore in 2010-11, an increase of 109 *per cent* over the period.

(Paragraph No 2.2)

The arrears of revenue, as on 31 March 2011, in respect of the VAT / Sales Tax as reported by the Department was ₹ 1426.38 crore of which ₹ 351.59 crore (25 *per cent*) were outstanding for more than five years.

(Paragraph No 2.7)

During the course of audit, the Department accepted underassessment and other deficiencies of ₹ 1.13 crore involved in 11 cases pointed out in 2010-11 and earlier years.

(Paragraph No 2.12)

## **Performance Audit on “Cross Verification of Declaration Forms in Inter-State Trade or Commerce”**

The Deputy Commissioner Sales Tax Jammu had got printed 1.40 lakh forms, of which, 30000 H forms had not been lifted at all by the Department as of March 2011 even after a lapse of more than 19 years. The printing of Declaration forms was not done on a realistic basis since the Declaration forms were printed far in excess of requirement. Their prolonged storage may cause damage to the forms.

**(Paragraph No 2.14.9.2)**

We found that computerised database of registered dealers in the State carrying out Inter-State sales had not been created by the Department, in absence of which, the uploading for cross verification of the data of Declaration forms relating to the dealers on the website was not possible. Thus Commissioner Commercial Taxes Department did not take advantage of TINXSYS website for cross verification purposes.

**(Paragraph No 2.14.10)**

The Department had not maintained any database of the dealers conducting Inter-State sale/stock transfer, and hence, it was not in a position to identify the dealers who had made Inter-State sales or ascertain total concession and exemption granted to the dealers during a year. In absence of such a database, the Government could not analyse the cost-benefit trade-off properly and also could not monitor submission of Declaration forms of those dealers who had claimed exemption/concessions.

**(Paragraph No 2.14.11)**

We noticed that exemption of tax had been allowed in 36 cases where Declaration forms were issued by the purchasers of other States between March 1985 and May 2003. The genuineness of Declaration forms had not been ascertained by the AAs though these forms were very old, having been issued decades ago.

**(Paragraph No 2.14.12)**

We found on cross verification short disclosure of purchases of ₹ 2.33 crore by 22 dealers. Besides, variations were found in the names of selling dealers in Inter-State transactions valued at ₹ 7.70 crore.

**(Paragraphs No 2.14.14.1 and 2.14.14.2)**

The Department did not notify loss of ‘C’ forms by a dealer resulting in misuse of one form and also did not ensure surrender of 150 Declaration forms issued to a dealer whose registration was cancelled. There was misuse of two such cancelled ‘C’ forms involving loss of revenue of ₹ 49.05 lakh.

**(Paragraphs No 2.14.14.4 and 2.14.14.5)**

Our cross verification of sales made by the registered dealers of the State with the dealers registered in other States revealed understatement of Inter-State sales of ₹ 67 lakh in seven cases and overstatement of sales by ₹ 4.59 crore in 12 cases. Further, dealers had actually purchased goods other than those on which exemption was claimed.

We found on cross verification that 65 'C' Declaration forms, on the basis of which exemption was granted to the dealers registered in the State were not issued to the dealers by the respective Commercial Taxes Departments of other States. Thus the exemption granted on fake forms required investigation for recovery of tax and penalty.

We found that the names mentioned in 'C' Forms on the basis of which exemption was granted to the selling dealers did not tally with the names shown by the purchasing dealers in their records. Tax involved in these fake forms was ₹ 1.27 crore which required investigation for recovery of the tax and interest/ penalty.

**(Paragraph No 2.14.15.1 to 2.14.15.4, 2.14.15.6)**

We found that exemption from payment of tax was allowed to two dealers, though they had not produced 'F' forms in support of their stock transfer of goods valued at ₹ 2.25 crore during 2005-07. This had resulted in incorrect grant of exemption having tax effect of ₹ 44.16 lakh, including interest.

**(Paragraph No 2.14.16.2)**

Exemptions/concessions were given to 74 dealers irregularly on Duplicate copies/photocopies/counterfoils and incomplete/blank Declaration forms.

**(Paragraphs No 2.14.16.3, 2.14.16.4 and 2.14.16.5)**

## Compliance Audit

We found that in Commercial Tax Circle Jammu 'O' that the Assessing Authority while assessing a dealer registered as contractor had applied a tax rate of 4.2 *per cent* instead of 12.6 *per cent* resulting in short levy of tax of ₹ 22.83 lakh.

**(Paragraph No. 2.15.1)**

We found that in CTO Circle Srinagar 'O' the Assessing Authority (AA) while finalising assessment of the dealer, exempted the Inter-State stock transfer of ₹1.20 crore during the year 2002-03 to 2004-05 even though the prescribed Declaration certificate in form 'F' had not been furnished by the assessee. This had resulted in short levy of tax and interest amounting to ₹ 27.60 lakh.

**(Paragraph No. 2.15.2)**

We found that in Commercial Taxes Officer Circle Jammu 'N' the Assessing Authority had failed to detect actual stock transfer by a dealer and after re-assessment, short accounting of stock valuing ₹ 12.27 lakh was detected leading to an additional demand of ₹ 7.86 lakh.

**(Paragraph No. 2.15.3)**

We found in three Commercial Tax Circles in Jammu that Assessing Authorities had failed to detect understatement of turnover of ₹ 20.05 lakh involving tax of ₹ 9.13 lakh.

**(Paragraphs No. 2.15.5)**

### **3. Taxes on Vehicles**

#### **Performance Audit on “Computerisations in Motor Vehicles Department”**

We found that implementation of VAHAN and SARATHI of the RTOs/ARTOs was taken up by the Department in 2005; however the system was implemented only in eight districts out of 22 RTOs/ ARTOs. The delay in implementation of the system in these eight districts ranged from six months to 49 months.

**(Paragraphs No.3.5.7.1 and 3.5.7.2)**

We found partial utilisation of VAHAN. The modules i.e. Issue of permits, Enforcement, Trade Certificate were present in the software but these were not put to use. We found that these modules were not got customised by the Department from NIC.

**(Paragraph No. 3.5.7.3)**

We noticed that the Department was not aware of any system design and user requirement for operating the two application systems and as such the Department had to depend on the NIC for updating of the system and its operation.

**(Paragraph No.3.5.7.5)**

We found, that out of the eight computerised RTOs, legacy data (i.e. data that existed prior to implementation of VAHAN) had been digitised and incorporated in the software of only one RTO, Kathua. We further noticed that the data so digitised and incorporated, was incomplete viz details of Purchase Date, Father Name, Laden Weight, Registration Date, Fitness Fee validation period had not been captured.

**(Paragraph No. 3.5.7.6)**

We found that consolidated inventory of the hardware procured by the Department before and after implementation of VAHAN and SARATHI and its distribution to various RTOs/ARTOs, had neither been maintained at the Commissioner level nor in the RTOs/ARTOs offices. Further, no physical verification had been carried out as verified in the seven RTOs/ ARTOs test-checked.

**(Paragraph No. 3.5.7.7)**

We observed that all the eight computerised RTOs/ ARTOs were not linked to the common database even after a lapse of six years from the start of the project in 2005 and consequently, objective of automatic flow of data into the State and National Registers could not be achieved.

**(Paragraph No. 3.5.7.8)**

Our analysis of the data base of VAHAN revealed that there were 3,032 cases of duplicate engine numbers, 17 cases of duplicate chassis numbers and 53 cases of blank Engine numbers in seven test-checked RTO/ARTOs, thereby rendering the data unreliable.

**(Paragraph No. 3.5.8.2)**

Buses registered in the name of the Educational institutions are allotted Code '8' in master table of VAHAN. However, we found that 636 buses registered in the name of the Educational institutions were allotted Code numbers other than the code '8'.

**(Paragraph No. 3.5.8.4)**

We observed that there was no anti-virus software loaded in any of the servers. The servers were found virus-infected, leaving the data risk-prone. The Department had not executed any contract for maintenance of hardware viz. computers, UPS, servers, and printers etc. to safeguard against breakdowns.

**(Paragraph No. 3.5.9.1)**

Our analysis of the database of RTO, Jammu revealed that in respect of 526 registered vehicles, the user name of the data entry operator was not available in the "dbo\_Owner" table of database, the main database of "VAHAN" software, thereby exposing the database to risk of unauthorised access.

**(Paragraph No. 3.5.9.4)**

We found that the Department had not nominated any staff for training. Therefore, the Department had to remain dependent on NIC for day-to-day management of software etc. For user's access to the system through user IDs and password, no documented password policy was in place in any of the RTOs/ARTOs.

**(Paragraph No. 3.5.9.5)**

We saw that 13,369 goods and passenger vehicles had defaulted on payment of token tax of ₹ 12.36 crore and the Department had not utilised the VAHAN Software for generating list of defaults for taking recovery action.

**(Paragraph No. 3.5.9.6)**

Our analysis of the SARTHI database of four out of seven test-checked RTOs/ ARTOs, revealed that two separate driving licenses had been issued to the same person in 298 cases and four licensees had been issued to a single person by one RTO indicating deficient input controls and validation checks in the software. The database was incomplete with large number of relevant entries/records relating to driving licenses being kept blank.

**(Paragraphs No. 3.5.10.2 and 3.5.10.3)**

Our test-check of database (Owner Table and Tax Table) of two RTOs revealed that fitness certificates in respect of 63 school buses had not been renewed even after a lapse of six days to three years. The Department had made no efforts to trace out the vehicles to ensure safety of children.

**(Paragraph No. 3.5.12)**

## **4. Stamp Duty and Registration Fees**

### **Performance Audit on “Assessment and Levy of Stamp Duty and Registration Fee”**

Our scrutiny revealed that the Department had neither prepared any Departmental Manual for Registrations of Instruments nor any compendium of instructions/amendments/clarifications issued by Government from time to time. Administrative inspection of the Sub Registrars/*Munsiffs* was never conducted by the Principal and District Session Judges who are the Administrative heads of the Registering offices.

#### **(Paragraphs 5.5.10.1 and 5.5.10.2)**

We noticed one instance of embezzlement due to weak internal controls in the office of the Sub-Judge (Sub Registrar), Jammu where the registration fee of ₹ 0.20 lakh collected by a cashier (*Nazir*) in May/June 2007 had not been remitted into Treasury.

#### **(Paragraph 5.5.10.3.1)**

As required under Registration Act, no certificate on registers pertaining to various Deeds was recorded and intimated to Controlling Authority by the Registering Authorities. There was no mechanism in the Department to keep watch over the number of Deeds executed by a Registering Authority at District, Division & State Level.

#### **(Paragraph 5.5.10.4)**

We found that the relevant records of the Department had not been computerised for an efficient and effective administration of Stamp Duty and Registration Fee including an effective control over the leakage of revenue.

#### **(Paragraph 5.5.10.5)**

We found that the entries regarding the value of stamps used with the number of stamps and denomination had not been made in the prescribed records.

#### **(Paragraph 5.5.10.6)**

We found in nine Sub-registrars that the Registering Authorities had charged Stamp Duty on instruments relating to lease deeds of over three years, executed between April 2007 and June 2010, at lower rates applicable under conveyance No.14, applicable to the lease of less than three years, than prescribed under conveyance No. 20, resulting in short-levy of ₹ 62.72 lakh involving 134 cases.

#### **(Paragraph 5.5.11)**

We found in 22 instruments of Sales of immovable properties that these were treated as cases of sale agreements and consequently attracted lesser rates than those prescribed under conveyance No. 20, resulting in short levy of Stamp Duty and Registration Fees of ₹ 10.86 lakh.

**(Paragraph No. 5.5.11.1)**

We found that 17 Registering authorities had not charged Stamp Duty and Registration Fee in 971 cases at the revised market rates on instruments of sale/gift deeds registered during the period from January to March 2011, resulting in short levy of Stamp Duty of ₹ 4.60 crore and Registration Fee of ₹ 70.71 lakh

**(Paragraph No. 5.5.11.2)**

We found that rates of Stamp Duty and Registration Fee applicable to urban areas since 2003, notifications issued by the Urban Development Department had not been applied while registering Instruments relating to properties situated in the areas within the Municipal limits, resulting in non-recovery of ₹ 2.73 crore .

**(Paragraph No.5.5.12)**

## CHAPTER-I GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Jammu and Kashmir during the year 2010-11, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given in the following table.

(₹ in crore)

Sl. No.	Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	Tax Revenue	1798.97	2558.18	2682.96	3027.32	3482.58
	Non-tax revenue	632.53	807.98	837.16	955.03	1093.11
	<b>Total</b>	<b>2431.50</b>	<b>3366.16</b>	<b>3520.12</b>	<b>3982.35</b>	<b>4575.69</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	Share of net proceeds of divisible Union taxes and duties	1413.43	1775.01	1826.95	1914.76	3066.98
	Grants-in-aid	7337.10	8135.87	8955.46	11690.71	14590.98
	<b>Total</b>	<b>8750.53</b>	<b>9910.88</b>	<b>10782.41</b>	<b>13605.47</b>	<b>17657.96</b>
<b>3.</b>	<b>Total revenue receipts of the State Government<sup>1</sup> (1&amp; 2)</b>	<b>11182.03</b>	<b>13277.04</b>	<b>14302.53</b>	<b>17587.82</b>	<b>22233.65</b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>22</b>	<b>25</b>	<b>25</b>	<b>23</b>	<b>21</b>

The above table indicates that during 2010-11 the over all receipts of the State increased by 26 per cent over the previous year. The State's own revenue (₹ 4575.69 crore) was 21 per cent of the total revenue receipts against 23 per cent in the preceding year. The balance 79 per cent were met from the funds received from Government of India (GOI) of which 82.63 per cent came in the form of Grant-in-aid. The Grant-in-aid from GOI constituted 65.62 per cent of the States receipts.

<sup>1</sup> For details please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of Jammu and Kashmir for the year 2010-11. 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 table.

**1.1.2** The following table presents the details of tax revenue raised during the period 2006-07 to 2010-11.

(₹ in crore)

Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/decrease (-) in 2010-11 over 2009-10
1.	Tax on Sales Trade (sales Tax/VAT) etc.	1159.72	1804.81	1835.99	2145.72	2424.52	(+)13
2.	State Excise	212.80	244.15	238.67	293.78	337.24	(+)15
3.	<b>Stamp Duty and Registration Fees</b>						
	Stamps judicial	7.48	5.00	5.83	9.01	12.49	(+)39
	Stamps non-judicial	41.36	50.48	41.75	51.97	59.24	(+)14
	Registration Fees	8.08	10.14	9.56	8.53	6.85	(-)20
4.	Taxes and Duties on Electricity	59.70	93.49	150.76	120.34	147.50	(+)23
5.	Taxes on Vehicles	63.96	72.60	65.47	83.09	115.33	(+)39
6.	Tax on Goods and Passengers	243.16	264.59	271.39	299.43	337.16	(+)13
7.	Taxes on immovable property on other than Agricultural Income	0.06	-	-	-	-	-
8.	Land Revenue	2.57	9.58	63.53	15.41	42.03	(+)173
9.	Others Taxes and Duties Commodities and Services	0.07	3.33	0.01	0.02	0.22	(+)1000
	<b>Total</b>	<b>1798.96</b>	<b>2558.17</b>	<b>2682.96</b>	<b>3027.30</b>	<b>3482.58</b>	<b>(+)15</b>

The above table indicates that the tax revenue collected by the State has increased over the period 2006-11. The tax revenues have increased by 15 per cent in 2010-11 as compared to 2009-10. Of the above, receipts under the 'Land Revenue' has shown fluctuating trends during the last five years. We did not receive the reasons for increase in receipts in 2010-11 over those of 2009-10 despite requests to the concerned Departments (August 2011).

Our analysis of the Finance Accounts for the year 2010-11 of the State and other information available, however, indicated that increase in 'State Excise' was mainly due to more revenue on account of sale of liquor. The increase in 'Taxes and Duties on Electricity' was corresponding to the increased Power Tariff under the head 0801 –

Power. The receipts under other heads have constantly been increasing due to increase in the dealer base, steady increase in cost of land, increase in number of vehicles etc.

**1.1.3** The following table presents the details of the non-tax revenue raised during the period 2006-07 to 2010-11.

(₹ in crore)

Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Power	478.94	600.94	629.98	723.64	822.09	(+)14
2.	Interest Receipts, Dividends and Profits	34.02	65.33	56.51	54.80	67.04	(+)22
3.	Forestry and Wild Life	18.99	32.20	31.61	37.46	47.47	(+)27
4.	Public Works	16.16	16.44	16.89	23.87	23.58	(-) 1
5.	Medical and Public Health	12.62	13.21	9.92	9.49	9.40	(-) 1
6.	Water Supply and Sanitation	10.95	13.64	14.65	13.16	15.97	(+)21
7.	Police	6.59	4.21	10.35	12.84	10.99	(-)14
8.	Non-ferrous Mining and Metallurgical Industries	9.98	16.43	14.86	25.34	34.51	(+)36
9.	Crop Husbandry	4.31	4.52	5.00	5.23	4.53	(-)13
10.	Animal Husbandry	4.75	4.66	4.70	5.13	5.41	(+)5
11.	Education, Sports, Art and Culture	1.69	1.53	1.61	2.21	2.56	(+)16
12.	Others	33.53	34.87	41.08	41.86	49.55	(+)18
	<b>Total</b>	<b>632.53</b>	<b>807.98</b>	<b>837.16</b>	<b>955.03</b>	<b>1093.10</b>	(+)14

The collection under non-taxes revenue heads too has shown steady rise since 2006-07. The non-tax receipts increased by 14 *per cent* in 2010-11 when compared to 2009-10. We did not receive the reasons for increase in receipts in 2010-11 over those of 2009-10 despite requests to the concerned Departments (August 2011).

## **1.2 Response of the Departments/Government towards audit**

Principal Accountant General (Audit) Jammu and Kashmir (PAG), conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The Heads of offices/ Government are required to comply promptly with the observations contained in the IRs, rectify the defects

and omissions and report compliance through initial reply to the PAG's office within one month from the date of receipt of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

### **1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government**

Inspection Reports issued upto June 2010 disclosed that 1948 paragraphs involving ₹ 1691.33 crore relating to 554 IRs remained outstanding at the end of June 2010 as mentioned in the following table along with the corresponding figures for the preceding two years.

	June 2008	June 2009	June 2010
Number of outstanding IRs	437	487	554
Number of outstanding audit observations	1503	1678	1948
Amount involved (₹ in crore)	725.59	745.83	1691.33

The Department-wise details of the IRs and audit observations outstanding as on 30<sup>th</sup> June 2010 and the amounts involved are mentioned in the following table:

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance	Taxes/VAT on Sales, Trade etc.	257	1226	727.47
2.	Excise	State Excise	63	135	130.00
3.	Transport	Taxes on Motor Vehicles	51	168	20.86
4.	Stamps and Registration	Stamps and Registration Fees	183	419	813.00
	<b>Total</b>		<b>554</b>	<b>1948</b>	<b>1691.33</b>

This large pendency of the IRs indicated that the Heads of Offices and Heads of the Departments do not take prompt action to rectify the defects, omissions and irregularities pointed out by the PAG. The prolonged delay in settlement of the audit observations is fraught with the risk of their becoming too old for effecting recovery action by the concerned Departments.

### **1.2.2 Departmental Audit Committee Meetings**

During the year 2010-11, no Audit Committee Meeting was held for settlement of the audit observations raised by the State Revenue Audit.

**We recommend that the Government should in the interest of revenue:**

- **advise the concerned Departments to hold Audit Committee Meeting frequently and monitor the progress of settlement of paragraphs and ensure that demands/recoveries are timely made; and**

- **take suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.**

### **1.2.3 Response of the Departments to draft audit paragraphs**

Serious and important audit observations (draft paragraphs) noticed during local inspections are proposed to be included in the Audit Report of the Comptroller and Auditor General of India (CAG), and are forwarded to the Secretaries of the Departments concerned, drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Departments is invariably indicated at the end of each such paragraph included in the Audit Report.

We conducted three Performance Audits during the year ended 2011. These Performance Audits along with seven draft audit paragraphs proposed to be included in the Audit Report of the Comptroller and Auditor General of India (CAG) for the year ended March 2011, Government of Jammu and Kashmir were forwarded to the concerned Secretaries of the respective Departments (September 2011). Performance Audits were discussed in the Exit Conference held with the Government/ concerned Departments.

### **1.2.4 Follow up on Audit Reports – Summary**

As per the instructions of State Finance Department, the Departments of the Government are required to prepare and send to the Jammu and Kashmir Legislative Assembly Secretariat, *suo-motu* Action Taken Notes (ATNs) on the audit paragraphs within three months of an Audit Report being laid on the table of the Legislature.

A review of the position in this regard revealed that as of October 2011, out of 71 paragraphs included in the Audit Reports for the years 2000-01 to 2009-10 the ATNs in respect of 60 paragraphs due between June 2002 and October 2011 had not been furnished.

## **1.3 Analysis of the mechanism for dealing with the issues raised by Audit**

The Succeeding Paragraphs 1.3.1 and 1.3.2 discuss the performance of the Commercial Taxes Department to deal with the cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2004-05 to 2008-09.

### **1.3.1 Position of Inspection Reports**

The summarised position of Inspection Reports issued during the last three years, paragraphs included in these Reports and their status as on 30 June 2011 are tabulated in the following table:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2008-09	423	1446	725.00	53	266	28.69	2	67	14.58	474	1645	739.11
2009-10	474	1645	739.11	70	342	935.57	4	96	49.20	540	1891	1625.48
2010-11	540	1891	1625.48	65	280	132.61	6	118	31.21	599	2053	1726.88

The above position indicates that the performance of the Department in clearance of the paragraphs is minimal when compared to the addition of IR paragraphs each year.

### 1.3.2 Assurances given by the Department/Government on the issues highlighted in the Audit Reports

#### 1.3.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 5 years, those accepted by the Department and the amount recovered are given in the following table:

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year	Cummulative position of recovery of accepted cases
2005-06	08	0.87	08	0.84	-	0.02
2006-07	08	1.82	08	1.82	0.00	0.02
2007-08	07	5.11	07	4.26	0.42	0.44
2008-09	05	0.94	05	0.94	0.01	0.45
2009-10	05	0.89	05	0.89	0.00	0.45
<b>Total</b>	<b>33</b>	<b>9.63</b>	<b>33</b>	<b>8.75</b>	<b>0.43</b>	<b>-</b>

Thus, against the accepted cases involving ₹ 8.75 crore, the Departments/Govt. could recover only a sum of ₹ 0.43 crore. This shows that the Departments/Government did not recover the dues fully even in the cases where the audit observations had been accepted.

**The Department may consider taking action to install a mechanism to pursue and monitor prompt recovery of dues involved in the accepted cases**

### 1.4 Audit planning

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

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

During 2010-11, we conducted audit of 71 units audited out of 273 auditable units which is 26 *per cent* of the total auditable units.

## **1.5 Results of Audit**

### **1.5.1 Position of local audit conducted during the year**

Test-check of the records of 71 units of Commercial Tax, State Excise, Motor Vehicles and other Departmental offices conducted during the year 2010-11 revealed underassessment/short levy/loss of revenue aggregating ₹ 68.92 crore in 300 cases. During the course of audit, the Departments concerned accepted underassessment and other deficiencies of ₹ 1.14 crore involved in 14 cases pointed out in 2010-11 and earlier years.

### **1.5.2 This Report**

This report contains seven paragraphs and three Performance Audits on “**Cross Verification of Declaration Forms in Inter State Trade or Commerce**”, “**Computerisation in Motor Vehicles Department**” and “**Assessment and Levy of Stamp Duty and Registration Fee**” involving revenue implication of ₹ 39.90 crore relating to short/non-levy of tax, duty, interest, penalty etc. The Departments/ Government have accepted audit observations involving ₹ 31.41 crore out of which ₹ 0.96 lakh has been recovered. The replies in the remaining cases have not been received (October 2011). These are discussed in the succeeding Chapters II to Chapter V.

## CHAPTER:II - SALES TAX/VAT

### 2.1 Tax administration

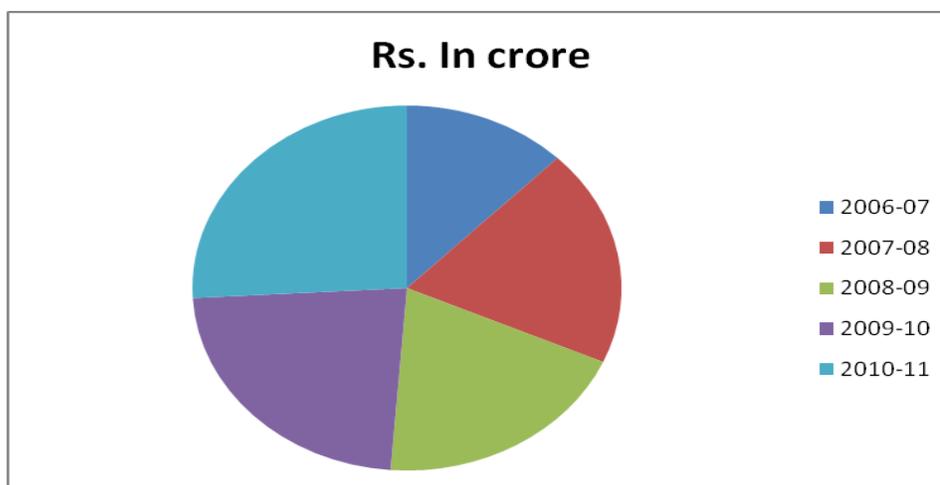
The Commercial Taxes Department is under the purview of Commissioner-cum-Secretary, Finance at the Government level. The Department is mainly responsible for collection of taxes and administration of the Jammu and Kashmir Value Added Tax (VAT) Act, the Central Sales Tax Act and the rules framed there under. The control and superintendence of the Department vests with the Commissioner Commercial Taxes (CCT), who is assisted by three Additional Commissioners of Commercial Taxes (two at Jammu and one at Srinagar) and 11 Deputy Commissioners, Commercial Taxes for carrying out various functions of the Department. The State has been divided into 45 Commercial Taxes Circles, each headed by a Commercial Taxes Officer (CTO).

### 2.2 Trend of receipts

Actual receipts from VAT during the last five years from 2006-07 to 2010-11 alongwith the total tax receipts during the same period are mentioned below:-

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-a-vis total tax receipts
2006-07	1235.00	1159.72	(-) 75.28	06	1798.97	64
2007-08	1422.31	1804.81	(+) 382.50	27	2558.18	71
2008-09	1778.00	1835.99	(+) 57.99	03	2682.96	68
2009-10	2065.70	2145.73	(+) 80.03	04	3027.32	71
2010-11	2572.69	2424.52	(-) 148.17	(-) 6	3482.58	70

As would be seen from the above, the VAT receipts of the State increased from ₹ 1159.72 crore (2006-07) to ₹ 2424.52 crore (2010-11), registering an increase of 109 per cent during the last five years.



The above graph shows that receipts from VAT have been increasing steadily during the last five years.

### 2.3 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of taxes on Sales Tax/VAT and Motor spirits during the year 2010-11 and corresponding figures for the preceding four years as furnished by the Finance (Commercial Taxes) Department is mentioned in the following table.

(₹ in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty delay for payment of taxes/duties	Total collection	Percentage of column 3 to 6
1	2	3	4	5	6	7
Taxes on Sales/VAT,	2006-07	887.11	1.00	-	888.11	100
	2007-08	1160.63	1.16	50.30	1212.09	96
	2008-09	1275.28	4.65	55.43	1335.36	96
	2009-10	1768.08	7.42	16.15	1791.65	99
	2010-11	2049.92	3.82	70.83	2124.57	96
Motor spirit tax.	2006-07	248.99	-	0.20	249.19	100
	2007-08	268.37	0.02	0.02	268.41	100
	2008-09	294.90	-	-	294.90	100
	2009-10	369.24	-	-	369.24	100
	2010-11	473.54	-	-	473.54	100

Source: Figures supplied by the Department.

The figures are at variance with the figures mentioned in the Finance accounts; the reasons of variance though called for, have not been received.

The foregoing table indicates that collection under the revenue heads “Sales taxes/VAT” and “Motor Spirit tax” at pre-assessment stage ranged between 96 to 100 *per cent*.

#### 2.4 Assessee profile

As per the information furnished by the Commercial Taxes Department, the number of registered VAT dealers had increased from 57722 in 2009-10 to 60679 in 2010-11.

Year	No. of assesseees on rolls	No. of assesseees required to file monthly returns	No. of returns received in 2009-10/2010-11 (12 months)	No. of returns not received during the year.
2009-10	57722	NA	NA	NA
2010-11	60679	NA	NA	NA

However, the Department did not furnish (November 2011) details such as number of Large tax Payers and status of filing of returns by the eligible dealers.

#### 2.5 Collection of VAT per assessee

The Commercial Taxes Department spent ₹ 22.17 crore on their tax administration during 2010-11 with reference to 60679 VAT dealers on their rolls, the average cost of VAT collection per assessee stood at ₹ 3654 *per annum* during 2010-11. The cost of collection of VAT per assessee had increased from the 2009-10 levels.

Year	No. of assesseees	Sales Tax/VAT (₹ in crore)	Cost of collection of VAT per assessee (in ₹)
2009-10	57,722	2,145.73	3,71,735
2010-11	60,679	2,424.52	3,99,564

Thus it would be seen from the above that with the increase in the tax base the revenue collection per assessee has also increased from ₹ 3.72 lakh to ₹ 4 lakh.

#### 2.6 Arrears in assessment

The details of assessments relating to Sales Tax/VAT and taxes on Works Contracts pending at the beginning of the year, additional cases due for assessment during the year, cases disposed during the year and cases pending at the end of each year during 2006-07 to 2010-11 as furnished by the Commercial Taxes Department were as given in the following table:

Year	Opening balance	New Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year	Percentage of disposed to total assessment
2006-07	19,769	408	20,177	11,654	8,523	58
2007-08	8,523	21,829	30,352	12,140	18,212	40
2008-09	18,279 <sup>1</sup>	10,815	29,094	9,838	19,256	34
2009-10	28,539 <sup>2</sup>	22,178	50,717	19,916	30,801	39
2010-11	30801	18647	49448	20265	29183	41

The above table indicates that the percentage of assessments completed to the total assessment ranged between 34 per cent and 58 per cent.

**We recommend that the Government may consider fixing a time limit for finalisation of the pending assessment and put in place a system for monitoring the progress of finalisation of assessment periodically, to ensure that the time limit so fixed is adhered to by the Departmental authorities.**

## 2.7 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 on account of taxes on Sale/VAT, Trades, etc. amounted to ₹1426.38 crore of which ₹ 351.59 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2006-07 to 2010-11.

(₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears	Percentage increase/decrease over the previous year
2006-07	877.08	943.48	
2007-08	943.48	960.39	2
2008-09	960.39	735.07	-23
2009-10	735.07	1153.66	57
2010-11	1153.66	1426.38	24

Source: Figures supplied by the Department

<sup>1</sup> The variation in closing balance ending 31 March 2008 and opening balance as on 01 April 2009 has been pointed out to the Department (September 2009), the reply is awaited (October 2011).

<sup>2</sup> The variations in closing balance ending 31 March 2009 and opening balance as on 01 April 2009 has been pointed out to the Department (September 2010), the reply is awaited (October 2011).

As can be seen, the arrears of revenue on account of VAT/Sales Tax have shown steep rise in 2009-10 except in 2008-09 when the arrears decreased by 23 per cent, the overall arrears of revenue accumulated to ₹ 1426.38 crore showing quantum increase of 24 per cent over the previous year.

Appropriate steps need to be taken for recovery. The arrears outstanding for more than five years constitute 25 per cent of the total arrears and need to be recovered on priority.

**We recommend that the Government may take immediate steps for recovery of the arrears of revenue, particularly in those cases which have been pending for a long time.**

## 2.8 Cost of collection

The gross collection of VAT receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the year 2008-09 to 2010-11 along with the relevant All India Average percentage of expenditure on collection to gross collections for the preceding years are mentioned in the following table.

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of the preceding year
Taxes/VAT on sales trade etc.	2008-09	1835.99	15.30	0.83	0.95
	2009-10	2145.73	23.56	1.09	0.88
	2010-11	2424.52	22.17	0.91	0.96

Source: Figures supplied by the Department.

The figures in the above table revealed that except in 2009-10, the cost of collection of VAT on Sales/Trade etc. has been lower than the all India average.

## 2.9 Evasion of tax

The details of the cases of evasion of tax detected, finalised and demands raised as on 31 March 2011, reported by the Commercial Tax Department, are mentioned in the following table:

Opening Balance	Additions	Total	Disposal		Closing balance
			No. of cases	Amount (in lakh)	
210	7918	8128	6425	273.86	1703

Source : Figures supplied by the Department.

The progress of recovery against the demand raised was not intimated (October 2011).

## 2.10 Write-off and waiver of revenue

As per the information furnished by the Department, ₹ 143.94 crore were under waiver, rectification, appeals and remissions as on 31 March 2011.

## 2.11 Refunds

The number of refund cases pending at the beginning of the year 2010-11, claims received during the year, refunds allowed during the year and cases pending at the close of the year (March 2011), as reported by the Sales Tax Department is mentioned below.

(₹ in lakh)			
S. No.	Particulars	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	10	12.80
2.	Claims received during the year	-	-
3.	Refunds made during the year	01	1.60
4.	Balance outstanding at the end of the year	09	11.20

Source: Figures supplied by the Department.

Reduction in pending refund cases as compared to previous year was not encouraging.

## 2.12 Results of Audit

During 2010-11, out of 67 auditable units, 36 units were planned and 25 units audited which is 37 per cent of the total auditable units.

Test-check of the records of 25 audited units revealed underassessment/short levy/loss of revenue aggregating ₹ 18.19 crore in 167 cases, which falls under the following categories.

(₹ in crore)			
Sl.No	Category	No. of cases	Amount
1	Short levy of tax under VAT/excess ITC	101	12.51
2	Short levy of tax under works contract	3	0.60
3	Incorrect grant of exemption	24	3.60
4	Short/non levy of penalty/TOT	21	0.43
5	Application of incorrect rate of tax	1	0.02
6	Other irregularities under VAT/other irregularities	17	1.03
<b>Total</b>		<b>167</b>	<b>18.19</b>

During the course of audit, the Departments concerned accepted underassessment and other deficiencies of ₹ 1.13 crore involved in 11 cases pointed out in 2010-11 and earlier years.

## 2.13 This Chapter

A Performance Audit on “Cross Verification of Declaration Forms in Inter-State Trade or Commerce” and few illustrative audit observations involving a financial impact of ₹ 18.77 crore are mentioned in the succeeding paragraphs.

## **2.14 Performance Audit on “Cross Verification of Declaration Forms in Inter-State Trade or Commerce”**

### **Highlights:-**

The Deputy Commissioner Sales Tax Jammu had got printed 1.40 lakh forms, of which, 30000 H forms had not been lifted at all by the Department as of March 2011 even after a lapse of more than 19 years. The printing of Declaration forms was not done on a realistic basis since the Declaration forms were printed far in excess of requirement. Their prolonged storage may cause damage to the forms.

**(Paragraph No 2.14.9.2)**

We found that computerised database of registered dealers in the State carrying out Inter-State sales had not been created by the Department, in absence of which, the uploading for cross verification of the data of Declaration forms relating to the dealers on the website was not possible. Thus Commissioner Commercial Taxes Department did not take advantage of TINXSYS website for cross verification purposes.

**(Paragraph No 2.14.10)**

The Department had not maintained any database of the dealers conducting Inter-State sale/stock transfer, and hence, it was not in a position to identify the dealers who had made Inter-State sales or ascertain total concession and exemption granted to the dealers during a year. In absence of such a database, the Government could not analyse the cost-benefit trade-off properly and also could not monitor submission of Declaration forms of those dealers who had claimed exemption/concessions.

**(Paragraph No 2.14.11)**

We noticed that exemption of tax had been allowed in 36 cases where Declaration forms were issued by the purchasers of other States between March 1985 and May 2003. The genuineness of Declaration forms had not been ascertained by the AAs though these forms were very old, having been issued decades ago.

**(Paragraph No 2.14.12)**

We found on cross verification short disclosure of purchases of ₹ 2.33 crore by 22 dealers. Besides, variations were found in the names of selling dealers in Inter-State transactions valued at ₹ 7.70 crore.

**(Paragraph No 2.14.14.1 and 2.14.14.2)**

The Department did not notify loss of ‘C’ forms by a dealer resulting in misuse of one form and also did not ensure surrender of 150 Declaration forms issued to a dealer

whose registration was cancelled. There was misuse of two such cancelled 'C' forms involving loss of revenue of ₹ 49.05 lakh.

**(Paragraph No 2.14.14.4 and 2.14.14.5)**

Our cross verification of sales made by the registered dealers of the State with the dealers registered in other States revealed understatement of Inter-State sales of ₹ 67 lakh in seven cases and overstatement of sales by ₹ 4.59 crore in 12 cases. Further, dealers had actually purchased goods other than those on which exemption was claimed.

We found on cross verification that 65 'C' Declaration forms, on the basis of which exemption was granted to the dealers registered in the State were not issued to the dealers by the respective Commercial Taxes Departments of other States. Thus the exemption granted on fake forms required investigation for recovery of tax and penalty.

We found that the names mentioned in 'C' Forms on the basis of which exemption was granted to the selling dealers did not tally with the names shown by the purchasing dealers in their records. Tax involved in these fake forms was ₹ 1.27 crore which required investigation for recovery of the tax and interest/ penalty.

**(Paragraph No 2.14.15.1 to 2.14.15.4, 2.14.15.6)**

We found that exemption from payment of tax was allowed to two dealers, though they had not produced 'F' forms in support of their stock transfer of goods valued at ₹ 2.25 crore during 2005-07. This had resulted in incorrect grant of exemption having tax effect of ₹ 44.16 lakh, including interest.

**(Paragraph No 2.14.16.2)**

Exemptions/concessions were given to 74 dealers irregularly on Duplicate copies/photocopies/counterfoils and incomplete/blank Declaration forms.

**(Paragraphs No 2.14.16.3, 2.14.16.4 and 2.14.16.5)**

### **2.14.1 Introduction**

Tax on sales is a State subject under the Constitution of India. However, tax on Inter-State Sales is governed by Central Sales Tax Act 1956, administered by Government of India. The assessment of Sales Tax on Inter-State transactions is levied under the Central Sales Tax Act, 1956 (CST Act) and Rules framed there under. The dealers making Inter-State Sales are required to register themselves in the Commercial Taxes Department under the CST Act. Under the Act/Rules, registered dealers are eligible to certain concessions and exemptions from payment of tax on Inter-State transactions on submission of prescribed Declarations in forms C, E-I/E-II/ and F. These incentives are granted to dealers for furtherance of Inter-State trade and commerce.

As the State largely imports, rather than manufactures goods, the number of dealers making Inter-State sales are relatively few. Inter-State sales are mostly made by the industrial units who are assessed in separate circles.

Further, under the provisions of 8(5) of the CST Act, State Government has issued a notification vide SRO 24 dated January 2004 stipulating that no tax under the CST Act shall be payable till 31<sup>st</sup> March 2015 on Inter-State Sale made by manufacturers registered with Directorate of Industries and Commerce, operating small, medium and large scale units in the State. This exemption is subject to furnishing of quarterly and annual returns for each accounting year by the dealers claiming exemptions. The local sales of these industrial units are also VAT exempt in terms of above notification and notification dated 16 March 2006.

The State Government has framed Central Sales Tax (Jammu and Kashmir Rules 1958) which also governs levy and collection of Central Sales Tax. It is the responsibility of the Department to ensure proper accounting of Declaration forms and take adequate safeguards against misutilisation of Declaration forms on which tax relief is allowed involving large amount of revenue to the state exchequer.

### **2.14.2 Organisational setup**

The Commissioner, Commercial Taxes (CCT) is responsible for the overall control and superintendence of Commercial Taxes Department which is under the administrative control of the State Finance Department. He is assisted by three Additional Commissioners of Commercial Taxes (one each in Jammu and Kashmir divisions and one for tax planning) and 13 Deputy Commissioners of Commercial Taxes (Jammu: 6, Kashmir: 5, one each for headquarters and judicial matters).

The State is divided into 52 Commercial Taxes assessment circles (Jammu: 25; Kashmir: 27), each headed by one Commercial Taxes Officer. Of these circles, six circles (three each in Jammu and Srinagar districts) deal exclusively with the assessment of dealers operating industrial units. Besides, three assessment circles (one in Kathua and two in Udhampur districts) in Jammu division and three assessment circles (two in Anantnag and one in Baramulla district) in Kashmir division deal with assessment of both industrial units holders and dealers engaged in trade. The Deputy Commissioner Stamps (DC) Jammu is responsible for procurement, issue and custody of Declaration forms.

### 2.14.3 Audit objectives

The Performance Audit was conducted with a view to assess whether:

- a foolproof system for custody and issue of the Declaration forms existed;
- exemption/concession granted by the assessing authorities was supported by the original Declaration forms;
- a system for uploading the particulars in TINXSYS website and monitoring the data available existed and was utilised for verifying the correctness of the forms;
- a system of cross verification for ascertaining genuineness of the forms for preventing evasion of tax existed;
- appropriate steps were taken on receipt and detection of fake, invalid and defective forms against the offending dealers and for notifying such dealers; and
- an effective and adequate internal control mechanism existed.

### 2.14.4 Audit criteria

We referred to the following Acts and Rules for the performance Audit:-

- Central Sales Tax Act, 1956 and Central Sales Tax (Registration and Turnover) Rules 1957;
- Central Sales Tax (Jammu and Kashmir) Rules 1958;
- Jammu & Kashmir VAT Act, 2005, Jammu & Kashmir VAT Rules 2005 and Notifications/SROs issued there under;
- Jammu & Kashmir GST Act, 1962 and notifications/SROs issued there under; and
- Notifications/SROs issued regarding exemption from payment of Central Sales Tax in respect of industrial units.

### 2.14.5. Scope of audit

We conducted Performance Audit of thirteen circles<sup>3</sup> selected on the basis of quantum of Inter-State sales and covered assessments that were completed during 2006-07 to 2009-10 and also where exemptions /concessions had been granted under the CST Act. The Performance Audit was conducted from January 2011 to September 2011. We selected 100 *per cent* cases in industrial circles involving gross turnover (GTO) of ₹ five crore and above; 50 *per cent* cases involving GTO between ₹ five crore and ₹ one crore, 25 *per cent* cases involving GTO between ₹ one crore and ₹ 50 lakh and 10 *per cent* cases involving GTO less than ₹ 50 lakh were test-checked. In addition to the deficiencies noticed during Performance Audit, other irregularities of similar nature noticed during audit of assessments of the selected period are also mentioned in the succeeding paragraphs.

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<sup>3</sup> Commercial Tax Circles A, B, C, D, E, G, H, I, L and Udhampur-I of Jammu province and Anantnag-II, Kupwara, Budgam of Kashmir province.

### 2.14.6 Audit Methodology

We collected data of 4521 'C' Declaration forms and 1586 'F' Declaration forms and got it cross-verified through the Offices of the Accountants General with the records of the Commercial Tax Department of the States that had issued the Declaration Forms. We received data relating to 469 'C' and 103 'F' Declaration forms of other States that were issued by the selling dealers of our State and verified the same with the assessment records of the dealers in the concerned assessment circles of the State. The errors/omissions noticed during this verification were brought to the notice of the concerned Assessing Authorities (AA) and verification reports communicated to the concerned Audit Offices for necessary action at their end. Based on these verification reports, we issued our observations to the concerned AAs, wherever mistakes/ omissions were detected.

### 2.14.7 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing necessary information to us. The audit objectives, criteria and methodology were discussed with the Commissioner-cum-Secretary, Finance Department, Government of J&K and Special Secretary Finance and Commissioner, Commercial Taxes Department during an Entry Conference held in January 2011. The Performance Audit Report was discussed with the Commissioner-cum-Secretary, Finance Department in the Exit Conference on 12 October 2011. The replies received during the course of audit and in the Exit Conference have been appropriately commented in the relevant paragraphs. Government has accepted all the audit recommendations proposed by us.

### 2.14.8 Trend of Revenue Receipts under CST Act

Preparation of Budget estimates is an important part of financial planning. However, our scrutiny revealed that no separate targets had been prepared by the Government in respect of receipts under CST and consequently, no monitoring for receipt of the tax could be exercised by the Department.

**We recommend that the Government may consider preparing Budget estimates in respect of CST and monitor the receipts there from.**

### Audit Findings

### System deficiencies

### 2.14.9 Deficiencies noticed in printing and custody of Declaration forms

The Deputy Commissioner (Stamps), Jammu was made responsible for printing, custody and issue of Declaration forms in the State. The Declaration forms were got printed from India Security Press, Nasik, Maharashtra on the basis of requisition received from the

Commercial Taxes Department. After receiving the Declaration forms, the same are stored in double lock custody.

**2.14.9.1** We, however, noticed that no system was put in place by the Department to assess the requirement of the forms before placing orders. Our analysis of the information received from Deputy Commissioner (Stamps), Jammu indicated that printing of the forms was in excess of the requirement. The year-wise position of printing/receipt and issuance of Declaration forms 'C' and 'F' from 2006-07 to 2009-10 is mentioned in the following table:-

Year	Nature of Forms	Opening balance of Forms	Forms Printed\ Received	Total	Forms Issued	Percentage of issued forms	Closing balance of Forms ***
2006-07	C	43075	700000	743075	288000	39	455075
	F	73213	200000	273213	44000	16	229313
2007-08	C	455075	145000	600075	115000	19	485075
	F	229313	Nil	229213	20000	9	209213
2008-09	C	485075	Nil	485075	150000	31	335075
	F	209213	Nil	209213	Nil	0	209213
2009-10	C	335075	Nil	335075	125000	37	210075
	F	209213	Nil	209213	20000	10	189213

\*\*\* Includes 75 damaged forms.

The above facts indicate that printing of Declaration forms was not got done on realistic basis, being far in excess of the requirement, and hence was vulnerable to damage due to prolonged storage. We further noticed that 75 forms included in the above details, had been shown as written off by the Department but were not destroyed and had remained part of closing stock.

After this was pointed out, the Dy. Commissioner (DC) Stamps, Jammu stated that Declaration forms were printed as per the assessed requirements projected by the Additional Commissioners concerned.

The reply was not correct in the light of the fact that the forms were got printed far in excess of the requirement as evident from the closing balance figures of the forms and no forms had been got printed thereafter. The procurement of Declaration forms should have been made after taking into account the availability of forms in stores and yearly consumption thereof to arrive at the actual requirement. However, no such exercise was done by the Department.

**2.14.9.2** Our scrutiny of records further revealed that the Deputy Commissioner, Sales Tax (Administration), Jammu had got printed 1.40 lakh forms (C, F, H, E-I and E-II), from Government Press Jammu at a cost of ₹ 85,000. The actual date of printing and

the reasons for getting the forms printed from Government Press, Jammu instead of getting them printed from India Security Press, Nasik was neither found on record nor furnished by the Department. Of these, 30,000 H forms had not been lifted at all by the Department as of March 2011. The General Manager, Government Press Jammu had requested (January 2002, February 2003) the Department for lifting of these forms so as to prevent their further deterioration. Again, in February 2004, the Press had informed the Department that, due to non-lifting of these forms for more than 12 years, the forms had been damaged.

The above facts indicate that the Department was negligent in placing orders for printing of the Declaration forms in excess of their requirements, and then not lifting the printed Declaration forms and not placing them in safe custody to prevent damage.

During the Exit Conference, the Department stated that the printing of Declaration forms is now being done on realistic basis and a Committee of officers would be framed for making disposal of thirty thousand 'H' forms which were lying unattended in Government Press, Jammu.

**We recommend that the Government may strengthen the system of procurement of forms by making DC (Stamps) responsible for obtaining periodical consumption statements of the Declaration forms from Additional Commissioners and for assessing/ascertaining the correct requirement before placing any orders for printing.**

#### **2.14.10 Non-utilisation of TINXSYS website**

Tax Information Exchange System (TINXSYS) is a centralised exchange of all Inter-State dealers spread across various states. The website is designed to help the Commercial Tax Departments of various States and Union Territories to effectively monitor Inter-State trade. Apart from the dealer verification, it is also to be used for verification of Central statutory forms issued by other State Commercial Tax Departments and submitted to them by the dealers in support of claim for concessions. The States are required to upload the particulars of the dealers and the forms issued to the dealers on the website for cross verification.

We, however, observed that electronic database of registered dealers carrying out Inter-State sales had not been created by the Department. In the absence of this data, the uploading for cross-verification of the data of Declaration forms relating to the dealers on the website was not possible. Thus Commissioner Commercial Taxes Department had not taken advantage of TINXSYS website for cross verification of dealers/forms. There was nothing on record to indicate that the Department developed manpower and information technology tools, which are necessary for being a partner in the TINXSYS.

After this was pointed out (May 2011), the Department stated in the Exit Conference that computerisation was already in hand and speedy steps would be taken for computerisation of the data relating to dealers and with regard to various statutory forms issued to them. It further stated that the Department was in the process of digitisation of the legal data and also with regard to various Declaration forms.

**We recommend that the Government may consider instructing the Department to develop the manpower and information technology tools to be a partner in TINXSYS and take speedy steps for computerisation of data relating to dealers and with regard to various statutory forms issued to them.**

#### **2.14.11 Non-maintenance of database of Inter-State sales**

Under Rule 3 of CST (J&K) Rules 1958, Commissioner Commercial Taxes is required to publish in the Government Gazette, not later than the 30 April every year, a list of dealers registered under the relevant section of the Act in Form-1. Amendments made to the said list from time to time and additions to the lists are also to be published by him in the Government Gazette within 15 days after the close of quarter to which amendments or additions relate.

The Department had not maintained any database of the dealers conducting Inter-State sale/stock transfer. Thus, it was not in a position to identify the dealers who had made Inter-State sales or ascertain total concession and exemption granted to the dealers during a year. The absence of such a database meant that the Government, while framing policies relating to exemptions to be granted to industrial units, could not analyse the issues of cost-benefit trade-off properly. In the absence of this data, the Department could not also monitor submission of Declaration forms of the dealers who had claimed exemption/concessions.

The Department during the Exit Conference stated that with computerisation of the Department the database would get automatically created which would address all the issues.

**We recommend that the Government may consider instructing the Department to maintain a database of the dealers conducting Inter-State Sales in the State for analysing cost-benefit of tax exemptions given by the State.**

#### **2.14.12 Deficiencies noticed in utilising Declaration forms**

A registered dealer can make Inter-State Sales to another registered dealer of other State at concessional rate of tax provided that the transactions are supported by valid Declaration forms prescribed under the Act. The purchasing dealer has to give Declaration forms to the selling dealer so as to enable him to avail of the concession in tax rate. An AA is required to take adequate safeguards against mis-utilisation of Declaration forms and ascertain genuineness of the forms before allowing tax exemption to the dealers.

During the test-check, we noticed that exemption of tax had been allowed in 2005-06 and 2006-07 in 36 cases where Declaration forms were issued by the purchasers of other States between March 1985 and May 2003. The genuineness of Declaration forms had not been ascertained by the AAs though these forms were very old, having been issued decades ago. We further noticed that in four out of these 36 cases, exemption had been allowed as mentioned in the following table:

Sl. no.	Issuing State	C/F form No.	Date of issue of forms	Amount of sales	Assessing officer	Date of Assessment
1	UP	0025796	21.01.2006	2,89,729	Jammu I	30.06.2008
2	Punjab	PB-AA/C-3325179	NA	14000	Jammu-I	30.06.2008
3	Haryana	HR04C0847698	-	5,55,000	Jammu-G	30.06.2008
4	Haryana	HR04C0532201	-	3,75,000	Jammu-G	30.06.2008

The above facts indicate that there was no system in the Department for getting Declaration forms cross-verified by the State Government Departments concerned, particularly in doubtful cases i.e. forms with overwriting/cuttings etc.

During the Exit Conference, the Department stated that system of verification of Declaration forms would be improved upon and all doubtful Declaration forms would be got verified from the concerned Commercial Taxes Departments of the respective States.

**We recommend that the Government may consider instructing the Department for putting in place a system for sample selection of Declaration forms for further verification with the State Government Departments concerned, besides ensuring that all doubtful forms are invariably cross verified.**

### Compliance deficiencies

#### 2.14.13 Discrepancies noticed in Declaration forms used in Inter State trade

As per Rule 6 (a) of Central Sales Tax (Jammu and Kashmir) Rules, 1958, a purchasing dealer or any responsible person authorised by him shall, before furnishing the Declaration to the selling dealer, fill in all required particulars in the form and also affix his usual signature in the space provided in the form for this purpose. Thereafter the counterfoil of the form shall be retained by the purchasing dealer and the other two portions marked "Original" and "Duplicate" shall be made over by him to the selling dealer. The import of the rule is to incorporate the details of full transactions of a consignment in all the three parts of the Declaration form so as to leave no scope for any interpolation in any part which could result in mismatch and misuse. We noticed following discrepancies in violation of above provisions.

#### 2.14.14 Deficiencies noticed in purchase of Goods from other States

We received data relating to Declaration forms and cross-verified the same with the assessment records of the purchasing dealers in their concerned assessment circles. The errors/omissions noticed during this verification are mentioned in the succeeding paragraphs:

#### **2.14.14.1 Concealment due to non/short disclosure of purchases by State dealers**

As per the data of 'C' forms collected by us from 11 states<sup>4</sup>, 22 dealers registered in 12 circles<sup>5</sup> of the State had made Inter State purchases of goods during 2002-03 to 2008-09 valued at ₹ 3.26 crore. Cross verification of the data with consumption statement of 'C' forms furnished by the dealers to the Assessing Authority in the respective Circles revealed that the dealers had shown the purchase of goods valued at ₹ 93.54 lakh only. This had resulted in understatement of purchases valued at ₹ 2.33 crore made against the 'C' forms Thus the possibility of tax evasion by the purchasing dealers on such purchases needs to be investigated.

Data of 'C' forms received from four states<sup>6</sup> was cross-verified with the assessment records of the dealers and it was found that two dealers in the State had purchased goods valued at ₹ 36.96 lakh on the basis of the four 'C' forms but these purchases were not accounted for in the Accounts (purchase statements) of the dealers. Similarly, other two dealers had made purchases of ₹ 98.71 lakh on the basis of two forms but had accounted for ₹ 91.22 lakh only in their Accounts. Thus, purchases valued at ₹ 44.46 lakh had been short accounted for by these dealers in their accounts resulting in concealment of purchases and consequential sale turnover having tax effect of ₹ 7.60 lakh.

The Department stated, during the Exit Conference, that necessary investigation would be conducted and demand would be raised against the defaulting dealers wherever necessary.

#### **2.14.14.2 Variation in the names of selling dealers in Declaration forms**

As per data of Declaration forms collected by us from four states,<sup>7</sup> four dealers registered in four circles<sup>8</sup> of the State had made Inter-State purchase of goods in 2005-06 and 2007-09 valued at ₹ 7.70 crore on the basis of seven 'C' Declaration forms issued by the purchasing dealers. Our cross-verification of these Declaration forms with the consumption statements furnished by the dealers to the concerned AA revealed that the forms had been issued for ₹ 7.62 crore in the name of dealers other than those mentioned in the Declaration form. Thus the possibilities of tax evasion by the purchasing dealers on such purchases need to be investigated.

#### **2.14.14.3 Short accounting of stock received from other States**

As per the data collected by us from Uttar Pradesh, two dealers had made stock transfer of goods valued at ₹ 1.28 crore to two dealers of Udhampur and Jammu K-circle. Our cross-verification of the data with the consumption statements of the dealers furnished by

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<sup>4</sup> Assam, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, M.P., Punjab, Rajasthan, U.P.

<sup>5</sup> Commercial Tax Circle Jammu (A, B, C, D, G, I, J, K, P), Kathua, Srinagar (B) & Sopore

<sup>6</sup> Bihar, Delhi, Goa & Rajasthan

<sup>7</sup> Goa, Gujarat, Rajasthan & U.P

<sup>8</sup> Commercial Tax Circle Jammu (C, E, G) & Srinagar (K)

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them in the respective circles revealed that the State dealers showed stock receipts of goods valued at ₹ 40.84 lakh only. Thus the apparent concealment of inward stock transfer valued at ₹ 87.59 lakh, having tax effect of ₹ 8.40 lakh, required investigation.

Of the above, one consignee (M/S Surya Trading Company, Udhamapur) had utilised four 'F' forms in favour of M/s Agarwal Oil Refinery UP, whereas the names of the consignors, as per consumption statement, were Uma Sales Allahabad, D.K. Enterprises, Kanpur, Singla Trading Co, Delhi and Kanpur twine, Kanpur. All these variations require investigation.

#### 2.14.14.4 Misuse of lost 'C' Forms

Rule 6 of Central Sales Tax (Jammu and Kashmir) Rules, 1958 provide that if any Declaration form is lost, destroyed or stolen, the dealer shall report the fact to the AA immediately who shall from time to time publish the particulars of such Declaration forms in the Government Gazette.

We noticed that one dealer, M/s Sheth Constructions (Tin No. 01881181547), had been issued two 'C' forms <sup>9</sup> on 06 March 2006 by the AA, Circle 'O' Jammu which had been reported lost by the dealer. No action was taken by the Department to notify the loss of 'C' forms to safeguard misuse of these forms in terms of the aforesaid rules. Our verification of 'C' forms revealed that one of the two forms <sup>10</sup> had been used by M/s N.K. Engineering, Gurdaspur, Punjab for sale of machinery parts, valued at ₹ 1.01 lakh, to the dealer. The misuse of another 'C' form could not be ruled out.

#### 2.14.14.5 Non-surrender of Declaration forms on cancellation of Registration Certificate

Rule 6 (f) of Central Sales Tax (Jammu and Kashmir) Rules, 1958 stipulate that any unused Declaration forms remaining in stock with a registered dealer, on cancellation of the registration certificate, shall be surrendered to the AA concerned.

We noticed during test-check of records of the Commercial Taxes Circle B, Srinagar that a dealer (M/s Hardev Traders CST No. 6020594 & GST No. 202618) had got issued 150 'C' forms from the AA in April 1990. The dealer had been assessed for the period from 1989-90 to 2000-01 during the years 1993-94 to 2002-03 for 'nil' tax liability. The registration of the dealer had been cancelled by the AA in January 2001 without insisting upon submission of consumption statement/surrender of unused 'C' forms to avoid chances of their misuse. During cross-verification of 'C' forms, we noticed that two dealers of Meghalaya {M/s K.M. & Co. R.C. No. GH (CST) 1400 & M/s Meghalaya Coal, R.C. No. GH (CST) 1266} had shown to have sold coal valued at ₹ 7.51 crore during 2009-10 to the dealer. The failure of the AA to obtain consumption statement/unused 'C' forms at the time of cancellation of registration of the dealer had resulted in their misuse resulting in loss of revenue of ₹ 49.05 lakh. The fate of remaining

<sup>9</sup> 03V-009169 & 03V-009170

<sup>10</sup> 03V-009169

148 'C' forms was not known and the possibility of their misuse too could not be ruled out.

After we pointed this out, the AA expressed grave concern and referred the matter to the Commissioner of Commercial Taxes for taking up the issue with the concerned State Government.

During the Exit Conference, the Department stated that the cases would be scrutinised and demands raised against the defaulting dealers, wherever necessary, and instructions for reviewing the cases, where registration of dealers had been cancelled without surrender of unused Declaration forms, would be issued to all the Assessing Authorities.

**It is recommended that the Commissioner of Commercial Taxes Department may consider issuing instructions for reviewing all the cases where Registration of dealers was cancelled without surrender of unused Declaration forms and get the unused forms surrendered or declare them invalid by issue of notifications.**

#### **2.14.14.6 Non-submission of utilisation certificates**

The Declaration forms are issued by Commercial Tax Circles to registered dealers to enable them to issue it to another registered dealer for purposes specified in their Registration Certificate. The dealers are required to submit the utilisation certificate (consumption statement) before new Declaration forms are issued to them by the Assessing Authority (AA).

We, however, noticed in two circles of Leh and Srinagar that 105 'C' forms were issued in April 2006 and March 2009 in favour of two dealers. Further 10 forms (5 each) were issued to the dealers in November 2007 & October 2010 without obtaining the consumption statement of already issued forms.

After we pointed this out, the AA stated (June 2011) that consumption statement of Declaration forms would be obtained from the dealers.

During the Exit Conference, the Department stated that instructions would be issued to all AAs that no Declaration forms be issued to dealers without obtaining consumption of previously issued Declaration forms.

#### **2.14.15 Deficiencies noticed in sale of Goods to other States**

We received verification reports in respect of data that was sent by us to Audit Offices of other States for cross-verification. The errors / omissions noticed, based on these verification reports, are mentioned in the following paragraphs.

##### **2.14.15.1 Understatement of sales**

In two circles<sup>11</sup>, seven dealers were assessed between April 2005 and March 2007 on Inter-State sales valued at ₹ 1.61 crore made by them to eight dealers of five States<sup>12</sup>. Our

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<sup>11</sup> Commercial Tax Circles Jammu (G & I)

<sup>12</sup> Chattisgarh, H.P., M.P., Maharashtra – I & U.P.

cross verification of data with the respective Commissioners of the Commercial Taxes Departments of the respective States, revealed that the dealers had actually purchased goods valued at ₹ 2.28 crore on the basis of eight 'C' forms issued by them to these selling dealers of the State. This resulted in understatement of Inter-State sales of ₹ 67 lakh by the selling dealers or excess account of purchases by the purchasing dealers to that extent. The matter may be investigated, as there is a possibility of concealment of sales of ₹ 67 lakh by the selling dealers and consequential loss of revenue to the State which needs to be recovered. Besides, penalty was leviable for misstatement/concealment.

#### **2.14.15.2 Overstatement of Sales**

In three circles<sup>13</sup>, 12 dealers had made sales valued at ₹ 10.14 crore to 19 dealers of eight states<sup>14</sup>. Our cross-verification of the data with the respective Commissioners of the Commercial Taxes Departments of the respective States revealed that the dealers had actually purchased goods valued at ₹ 5.55 crore on the basis of 22 'C' forms issued by them to the selling dealers of the States. The difference in sales, requires investigation, as there is a possibility of concealment of sales of ₹4.59 crore by the selling dealers and consequential loss of revenue which needs to be recovered. Besides penalty is also leviable for concealment.

#### **2.14.15.3 Variation in Nature of Goods sold**

In two circles<sup>15</sup>, where five dealers had made sales to seven dealers of four states<sup>16</sup>, our cross-verification of the data with the respective Commissioners of the Commercial Taxes Departments of the respective States revealed that the dealers had actually purchased goods other than those on which exemption was claimed. For example, sales shown were of 'Cold drinks' whereas the purchasing dealers had shown 'packing material' as purchases.

#### **2.14.15.4 Sales on Fake 'C' Forms**

In four circles<sup>17</sup>, 24 dealers had shown sales valued at ₹ 49.35 crore to 43 dealers of seven States<sup>18</sup> and UT Chandigarh. Cross verification of the data with the respective Commissioners of the Commercial Taxes Departments of the respective States revealed that 65 'C' forms on the basis of which exemption had been granted to the selling dealers were not issued to the purchasing dealers by their respective Departments. Thus the forms on which exemption had been claimed were not genuine and had, consequently, resulted in grant of incorrect exemption of tax of ₹ 6.43 crore. Besides, interest and penalty was also leviable.

<sup>13</sup> Commercial Tax Circles Jammu (D, I & G)  
<sup>14</sup> Delhi, H.P., M.P., Maharashtra – I, Rajasthan, U.P., Uttrakhand, West Bengal  
<sup>15</sup> Commercial Tax Circles Jammu (G & I)  
<sup>16</sup> H.P., M.P., U.P., West Bengal  
<sup>17</sup> Commercial Tax Circles Jammu (G, H, I & L)  
<sup>18</sup> Delhi, Haryana, Madhya Pradesh, Maharashtra, Punjab, U.P. , Rajasthan

### **2.14.15.5 Sales on 'C' forms claimed to be lost**

A dealer assessed in Circle I, Jammu had shown sales of ₹ 6.96 lakh to a dealer in Assam ('C' form No. AS/96 460315) during 2006-07 and had been allowed exemption on these sales. Cross-verification of the data with the respective Commissioners of the Commercial Taxes Department, Assam revealed that the purchasing dealer had shown the said form as having been lost. Thus, the exemption allowed on these sales having a tax effect of ₹ 1.71 lakh, required investigation to check the genuineness of the sale.

### **2.14.15.6 Incorrect Utilisation of Declaration forms that were not in the name of selling dealer**

In two circles (G&I Jammu), six dealers had made sales valued at ₹ 10.23 crore to 11 dealers of one Union Territory (UT) and seven States<sup>19</sup>. Cross-verification of the data with the respective Commissioners of the Commercial Taxes Departments of the respective States, revealed that the names mentioned in 'C' forms on the basis of which exemption was granted to the selling dealers did not tally with the names shown by the purchasing dealers in their records. The grant of exemption in these 16 cases required investigation for the exemption of tax of ₹ 1.27 crore, Besides, interest and penalty of ₹ 1.23 crore was also leviable. In absence of a system of cross verification of Declaration forms, the mistake remained undetected.

### **2.14.15.7 Deficiencies noticed in stock transfer of goods**

➤ In 'L' circle, Jammu, three dealers had made stock transfer to three dealers of two states<sup>20</sup>. A cross-verification of the data with the respective Commissioners of the Commercial Taxes Departments of the respective states revealed that the consignors had shown stock transfer of ₹ 9.72 lakh (11-F forms) against which the consignee had accounted for ₹ 60.72 lakh indicating excess stock transfer of ₹ 51 lakh. The difference in transfer of goods valued at ₹ 51 lakh was without 'F' forms and needs investigation. This may result in understatement of stock transfer by the consignor.

➤ In three circles<sup>21</sup>, five dealers had made stock transfer to six dealers of six states<sup>22</sup>. Our cross-verification of the data with the respective Commissioners of the Commercial Taxes Departments of the respective states revealed that the consignor had shown stock transfer of ₹ 3.03 crore against which the consignee had accounted for ₹ 2.17 crore in his accounts. The difference in transfer of goods valued at ₹ 86 lakh needs investigation. This may result in understatement of stock transfer by the consignor.

➤ In three circles<sup>23</sup>, five dealers had made stock transfer of goods valued at ₹ 40.79 crore to five dealers of Punjab and Chandigarh. Our Cross-verification of the data with

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<sup>19</sup> Bihar, Delhi, Gujarat, H.P., M.P., U.P., Dadra & Nagar Haveli , West Bengal

<sup>20</sup> Gujarat & H.P

<sup>21</sup> Commercial Tax Circles Jammu (G, I & L)

<sup>22</sup> Gujarat, Haryana, Maharashtra, Orissa, Tamil Nadu & U.P

<sup>23</sup> Commercial Tax Circles Jammu (G, I & L)

the respective Commissioners of the Commercial Taxes Departments of the respective states revealed that 25 'F' forms on the basis of which exemption had been granted to the consignors were not issued in the name of consignees by the Department. These forms were shown to have been issued by the respective Department to other consignees. Thus, exemption from payment of tax of ₹ 1.71 crore was incorrect. Besides, interest of ₹ 1.94 crore was also leviable. This may result in understatement of stock transfer by the consignor.

#### **2.14.15.8 Incorrect exemption on F forms that were not issued to consignees**

In two circles, two dealers had shown stock transfer valued at ₹ 1.66 crore to two dealers of Punjab and Chhattisgarh. A cross-verification of the data with the respective Commissioners of the Commercial Taxes Departments of the respective States revealed that eight 'F' forms on the basis of which exemption had been granted to the consignors were not issued by their respective Departments. Thus, exemption granted on these forms was not in order and had resulted in incorrect exemption of tax of ₹ 41.20 lakh. Besides, loss of interest of ₹ 57.54 lakh which was also leviable.

During the Exit Conference, the Department stated that the observations mentioned in the above paragraphs would be looked into and demands raised against the defaulting dealers, wherever necessary.

**We recommend that Government may consider developing a mechanism for ensuring that all the three parts of Declarations forms utilised in Inter-State trade are completely/correctly filled by purchasing dealers/consignees before they are issued to the concerned dealers.**

#### **2.14.16 Discrepancies noticed in Assessment records**

The AAs were required to scrutinise the returns and the documents furnished by the dealers along with their returns while finalising the assessments.

While conducting the Performance Audit of cross verification of Declaration forms we found that provisions of the Acts and Rules relating to submission of Declaration forms had not been followed. These are discussed in the succeeding paragraphs:-

##### **2.14.16.1 Sales not supported by Declaration forms 'C'**

Section 8 (4) of the Central Sales Tax Act 1956 provides that no exemption /concession from payment of tax shall be granted to a dealer making Inter-State sales unless the dealer furnishes to the prescribed authority a Declaration in the prescribed form, duly filled and signed by the registered dealer to whom the goods are sold. Further, as per provisions of Rule 12(7) of the CST (Registration and Turnover) Rules 1957, the Declaration forms 'C' or 'F' shall be furnished to the prescribed authority within three months after the end of the period to which Declaration relates.

We noticed that in three circles,<sup>24</sup> 13 dealers were not selected for audit assessment for the periods 2005-06 and 2007-09. However, the dealers had not furnished 'C' and 'F' forms for goods valued at ₹ 33.95 crore but had availed of exemption from payment of tax. This had resulted in incorrect grant of exemption/concession having tax effect of ₹ 8.29 crore including interest. Besides, in two circles (G&I Jammu), two dealers had not submitted the Declaration forms for the sales valued at ₹ 33.40 lakh during 2005-07 assessed in 2008-10. However, exemption was claimed /allowed by the AA incorrectly resulting in non-realisation of tax of ₹ 8.84 lakh.

#### **2.14.16.2 Stock transfers not supported by Declaration forms 'F'**

Under the CST Act 1956, movement of goods on branch transfers from one State to another cannot take place unless it is covered by requisite Declaration forms.

We noticed in Commercial Tax Circles('C' and 'G') of Jammu that exemption from payment of tax had been allowed to two dealers who had not produced 'F' forms in support of their stock transfer of goods valued at ₹ 2.25 crore during 2005-07. The AA while finalising the assessment between June 2008 and March 2010 had allowed exemption without obtaining the Declaration forms. This had resulted in incorrect grant of exemption having tax effect of ₹ 44.16 lakh, including interest.

During the Exit Conference, the Department stated that the dealers who had been allowed exemption/concession from tax without production of Declaration forms would be subjected to tax as per law. They did not give reasons for allowing exemption on Duplicate forms.

#### **2.14.16.3 Incorrect acceptance of Duplicate copies of Declaration forms 'C' & 'F'**

Rule 6 (b) of the J&K CST Rules, 1958 provides that a registered dealer who claims to have made a sale to another registered dealer shall, in respect of such claim, attach to his return, to be filled in Form IV, the portion marked 'original' of the Declaration, received by him from the purchasing dealer.

We noticed in four circles<sup>25</sup> that the concessional rate/exemption of tax had been allowed to 34 dealers by the AAs between 2008- 09 and 2009-10 for the assessment years from 2005-06 to 2007-08 on duplicate 'C' & 'F' forms without insisting on production of original Declaration forms. The grant of exemption on duplicate forms was not admissible and should have been disallowed by the AAs. These cases involved Inter-State sales/stock transfers of ₹ 422.88 crore having the tax effect of ₹ 99.93 crore including interest.

During the Exit Conference, the Department stated that original Declaration forms would be obtained from the dealers and in case a dealer is not able to produce original Declaration forms they would be charged tax as per law. They did not give reasons for allowing exemptions on Duplicate forms.

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<sup>24</sup> Commercial Tax Circles Jammu (B, I & L)

<sup>25</sup> Commercial Tax Circles Jammu (B, G, I & L)

#### 2.14.16.4 Exemption on photocopies/counterfoils of 'C' forms

According to Rule 6 (b) of the J&K CST Rules, 1958, a registered dealer who claims to have made a sale to another registered dealer shall in respect of such claim, attach to his return to be filled in Form IV the portion marked 'original' of the Declaration received by him from the purchasing dealer. The AA may under his discretion, also direct the selling dealer to produce for inspection the portion of the Declaration form marked 'Duplicate'.

We noticed in two circles<sup>26</sup> that the concessional rate/exemption of tax was allowed to 13 dealers by the AAs during 2008-10 for the assessment years from 2005-06 to 2007-08 on photocopies/counterfoils of 'C' & 'F' forms without insisting on production of original Declaration forms. The exemption was not admissible on photocopies/ counterfoils of Declaration forms on the goods valued at ₹ 54.09 crore having a tax effect of ₹ 14.77 crore including interest.

#### 2.14.16.5 Exemption on incomplete/blank Declaration forms

We noticed in two circles<sup>27</sup> that the concession/exemption of tax was allowed to eight dealers by the AAs between 2008-09 and 2009-10 for the assessment years from 2005-06 to 2006-07 on 'C' & 'F' forms that had incomplete details (like bill No, description of goods, etc.) in respect of the transactions in 92 cases. The grant of exemption on these Declaration forms of goods valued ₹ 87.41 crore was not admissible and should have been disallowed by the AA. Further, exemption from payment of tax was allowed to five dealers during 2008-09 & 2009-10 for the assessment years from 2005-06 & 2006-07 on sales of ₹ 12.07 crore involving tax of ₹ 3.04 crore on Declaration forms not mentioning the name of the dealer, goods supplied, etc. The AA had not verified the correctness of the forms but allowed the exemption.

Further, exemption from tax was allowed (between 2008-09 and 2009-10) to 11 dealers on Inter-State sales of ₹ 31.63 crore in two circles on Declaration forms that did not bear the name of the dealers to whom exemption was granted. This had resulted in inadmissible exemption from tax of ₹ 7.44 crore including interest.

The grant of exemption in these cases is fraught with the risk of misuse of Declaration forms and mis-classification of goods resulting in undue exemption to the dealers.

It was noticed in 'L' and 'B' circles of Jammu that three dealers had been allowed exemption from payment of tax on stock transfers of goods valued at ₹ 35 lakh involving tax effect of ₹ 8.72 lakh during 2008-09 and 2009-10 on 'F' forms not drawn in the name of the consignors.

**We recommend that the Government may issue instructions to the Department for complying with the provisions of the Act/Rules which forbid acceptance of duplicates/photocopies/counterfoils/incomplete Declaration forms at the time of**

<sup>26</sup> Commercial Tax Circles Jammu (G & I)

<sup>27</sup> Commercial Tax Circles Jammu (G & C)

### **assessment for the purpose of allowing exemptions concessions on this account.**

During the Exit Conference, the Department stated that instructions would be issued to the AAs that no exemption/concession on rate of tax is extended to dealers submitting photocopies/counterfoils/duplicate/incomplete/blank Declaration forms.

#### **2.14.17 Exemption allowed to industrial units without filing returns**

SRO 24 of January 2004 governing exemption of tax under the CST Act, 1956 on the sale of goods in the course of Inter-State sales made by a manufacturer/operating industrial unit in the State provides that such exemption shall be available subject to furnishing of quarterly/annual returns for each accounting year.

It was noticed in G&I Circles, Jammu that exemption had been allowed to nine dealers on Inter-State sales of ₹ 48.95 crore made during 2005-06 to 2008-09 though the dealers had not filed the requisite CST returns having a tax effect of ₹ 6.77 crore. The exemption had been granted (June 2008 to March 2010) by the AA on the basis of VAT returns submitted by the dealers under J&K VAT Act, 2005. The grant of exemption is not in accordance with the SRO 24 which stipulates the submission of separate return under CST Act.

During the Exit Conference, the Department stated that instructions would be issued to AAs that no exemption/concession be allowed to the industrial units who do not file CST returns.

#### **2.14.18 Exemption allowed to industrial units on late filing of Declaration forms**

As per provisions of Rule 12(7) of the CST (Registration and Turnover) Rules 1957, the Declaration forms 'C' or 'F' shall be furnished to the prescribed authority within three months after the end of the period to which Declaration relates.

It was noticed that six dealers had not furnished the Declaration forms within the stipulated time, i.e. within three months after the end of the period to which the Declaration relates. The AA while assessing the dealers did not take notice of this omission and allowed exemption from payment of tax to these dealers which was incorrect.

During the Exit Conference, the Department stated that instructions would be issued to Assessing Authorities for ensuring submission of Declaration forms within the stipulated time.

#### **2.14.19 Possible revenue loss due to non-obtaining of Declaration forms in respect of sales having zero per cent rate of tax**

Section 8 (1) of the CST Act, 1956 envisages that every dealer, who in the course of Inter State trade or commerce, sells to a registered dealer goods of the description referred to in Sub-section (3) shall be liable to pay tax under this Act, which shall be two per cent of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the Sales Tax Law of that State, whichever is lower.

It was noticed that the AAs (L and I Circles of Jammu) had not obtained Declaration forms ('C'/'F') on Inter-State sale of zero schedule goods, viz. walnut and rice, valued at ₹ 4.18 crore during 2005-06 from two dealers. Though there is no loss to the State Government, the possibility of concealment of purchases by purchasing dealers of other States could not be ruled out.

After we pointed this out, the Department accepted the fact (January 2011) that the possibility of concealment of purchases in the recovering States in respect of zero-scheduled goods sold to other States without obtaining 'C' forms from the purchasing dealer could not be ruled out and stated that this point would be taken care of by uniformity of tax rates following implementation of Goods and Service Tax Act. During the Exit Conference, the Department stated that this would be looked into.

#### **2.14.20 Conclusion**

The system and compliance deficiencies pointed out above had adversely impacted the revenue collections relating to Inter-State sales/ stock transfers. The printing of Declaration forms had not been done on a realistic basis after ascertaining the proper requirement. The Department had not created a computerised database of registered dealers carrying out Inter-State Sales and in its absence, the uploading of the data of Declaration forms relating to dealers to the TINXSYS website was not possible.

The selling dealers, and purchasing dealers, consignors and consignees had either understated or overstated their sales, purchases and stock transfers on Inter State transactions. Variation in the names of selling/ purchasing dealers was also noticed. In a number of cases, exemption was allowed to dealers on the basis of Declaration forms which were not drawn in the name of selling dealers and Declaration forms reported to have been lost by purchasing dealers were utilised for seeking concession/exemption. The Department allowed exemption/concessions of tax to the selling dealers/consignors without obtaining requisite Declaration forms or allowed claims based on Duplicate, photocopies, counterfoils of Declaration forms or on the Declaration forms not issued by the concerned Department to the dealers purchasing goods/consignees.

These facts indicate that the usage of forms was allowed in violation of the Rules and procedures governing the Declaration Forms and that there was no system in place for cross verification of Forms, resulting in leakage of revenue in implementation of the CST Act.

#### **2.14.21 Recommendations**

We recommend that the Government may consider:

- strengthening the system of procurement of forms by requiring that the DC (stamps) call for periodical consumption statement of the Declaration forms from the Additional Commissioners and assess/ascertain the correct requirement of Declaration forms before placing orders for printing;
- online issue of 'C' & 'F' forms like other States;

- developing a mechanism for ensuring that all the three parts of Declarations forms utilised in Inter-State trade are completely/correctly filled by purchasing dealers/consignees before issuing them to the concerned dealers;
- instructing the Department to comply with the provisions of the Act/Rules by not accepting Duplicate/photocopies, counterfoils and incomplete Declaration forms at the time of assessment before allowing exemptions/ concessions on this account;
- instructing the Department for developing the manpower and information technology tools to be a partner in TINXSYS and take speedy steps for computerisation of data relating to dealers and with regard to various statutory forms issued to them and for maintaining a database of the dealers conducting Inter-State Sale and for maintaining data in respect of exemption granted to the dealers during a year; and
- instructing the Department for putting a system in place for sample selection of Declaration forms for further verification with the State Government Department concerned and for compulsory cross verification of all doubtful forms.

## 2.15 Compliance Audit Observations

Our scrutiny of assessment records of Sales Tax/Value Added Tax (VAT) revealed several cases of non-observance of provisions of Acts, rules, non-levy/short levy of tax/interest/penalty, concealment of purchases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out by us. Such omissions on the part of assessing authority are pointed out by us each year, but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal control.

### Short levy of tax and interest

The Jammu and Kashmir General Sales Tax (J&K GST) Act, 1962 and rules made there under provide that where a contractee supplies material to a contractor for use in the works contract for a fixed price to be recovered or adjusted in the bills of contractor in order to ensure quality of material, such supply is sales.

**2.15.1** Our test-check (December 2008) of the records of Commercial Tax Circle 'O' Jammu revealed that a dealer registered as contractor had executed work through other registered contractors and supplied cement valued at ₹ 2.72 crore during 2002-04 to them on fixed price which included storage, supervision and handling charges, etc. The issuance of cement to the contractors was, as such, to be classified as 'sale'. The dealer, however, had

classified the issue of cement as works contract in his returns for 2002-03 and 2003-04 and paid tax of ₹ 11.42 lakh only. This fact was, however, not detected by the Assessing Authority while assessing (March 2007/March 2008) the dealer and instead of applying a tax rate of 12.6 *per cent* assessed the dealer at the rate of 4.2 *per cent* resulting in short levy of tax of ₹ 22.83 lakh.

After the case was pointed out (December 2008), the AA reassessed the dealer (March 2011) for both the years and raised additional demand of ₹ 73.94 lakh (tax: ₹ 24.87 lakh; interest: ₹ 49.07 lakh) against the dealer. Further, the Department stated (August 2011) that the proceedings have already been initiated by the Deputy Commissioner Commercial Taxes (Recovery) Jammu to recover the outstanding arrears from the defaulting dealer. Reply from Government was awaited (October 2011).

Section 6-A (I) of Central Sales Tax Act, 1956 provides that where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods on the ground that the movement of such goods from one state to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the assessing authority within the prescribed time or within such further time as that authority may, for sufficient cause, permit, a Declaration, duly filled and signed by the principal officer of the other place of business or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, alongwith the evidence of despatch of such goods.

**2.15.2** Our test-check of records (September 2007) of CTO Circle 'O' Srinagar revealed that the Assessing Authority (AA) while finalising assessment (November 2005) of the dealer, exempted the Inter State stock transfer of ₹ 1.20 crore during the year 2002-03 to 2004-05 even though the prescribed Declaration certificate in form 'F' had not been furnished by the assessee, resulting in short levy of tax and interest amounting to ₹ 27.60 lakh.

After this was pointed out (September 2007) by us, the AA re-assessed (December 2010) the dealer under relevant provisions of the Act for the year 2002-03 and raised a demand of ₹ 16.23 lakh including interest. For the years 2003-04 and 2004-05, the case was stated to be under process. Further, the Department stated (October 2011) that the additional

demand raised against the dealer had been referred to the Collector for recovery under Jammu and Kashmir Land Revenue Act. Reply from the Government was awaited (October 2011).

**2.15.3** Our test-check (October 2007) of records of Commercial Taxes Officer 'N' Circle Jammu revealed that a dealer had not disclosed stock transfer made by him on 11 'F' Forms valued at ₹ 96.32 lakh during the accounting year 2002-03. The Assessing Authority did not detect the mistake while finalising the assessment in March 2007. This resulted in short levy of tax of ₹ 45.57 lakh

After we pointed this out, the AA intimated (May 2011) that the dealer had been re-assessed (February 2011) and short accounting of stock valued at ₹ 12.27 lakh was noticed and an additional demand of tax of ₹ 1.55 lakh and ₹ 6.31 lakh on account of interest and penalty had been raised against the dealer. The reasons for not levying the tax on the remaining amount of ₹ 83.95 lakh have not been received.

After the matter was referred to Government/Department (May 2011) by us, the Department stated that the additional demand raised against the dealer has been referred

to the Collector for recovery under Jammu and Kashmir Land Revenue Act. Reply from the Government was awaited (October 2011).

#### **2.15.4 Short accounting of Inter-State purchases in best judgment assessments**

The J&K State GST Act, 1962 provides that if a dealer has not filed his return before the date prescribed or specified in this behalf, the Assessing Authority (AA) shall proceed to assess to the best of his judgement the amount of tax, if any, due from the dealer. For non-payment of tax, interest at prescribed rates is also chargeable on the unpaid tax.

Our test check (September 2007) of the Commercial Tax Circle 'O', Srinagar revealed that a dealer, in view of non-filing of the return, was assessed (January 2006) by the AA to tax on his best-judgement basis for the accounting year 2001-02 on the taxable turnover of ₹ 10 lakh at the rate of 8.4 *per cent*. A scrutiny of the consolidated purchase statement showed that the dealer had made an Inter-State purchase of ₹

19.28 lakh during the year and the items involved, as such, attracted tax at the rate of 12 *per cent*. This aspect was not taken into cognisance by the AA even subsequent to the assessment.

After we pointed this out, the AA reassessed (March 2010) the dealer and issued notices to him. As the dealer did not present his point of view on the issue, an additional demand of ₹ 6.54 lakh was raised against the dealer. On further enquiry (September 2011), the Deputy Commissioner Commercial Taxes Recovery informed (September 2011) that the dealer has started depositing the demand amount and an amount of ₹ 1000 had been deposited up to September 2011.

The matter was referred to Government/Department in September 2011.

#### **2.15.5 Short levy of tax , interest and penalty on concealment of sales**

The Jammu and Kashmir General Sales Tax (J&K GST) Act, 1962 and the Rules made thereunder provide that every dealer shall submit a true and correct return of his turnover in such a manner as may be prescribed under the Act. Further, if a person (dealer) who has, without any cause, failed to furnish correct return of turnover or has concealed any particulars of his turnover, the Assessing Authority (AA) shall direct that person to pay in addition to tax and interest payable by him, an amount by way of penalty not less than the amount of tax evaded, but not exceeding twice the amount of tax.

Our test-check of records of three Commercial Tax Circles revealed that against a taxable turnover of ₹ 1.03 crore, the dealers had declared taxable turnover of ₹ 82.63 lakh in their annual returns leading to concealment of ₹ 20.05 lakh. The Assessing Authorities while assessing the three dealers did not detect the omission, resulting in short levy of tax of ₹ 9.13

lakh including interest and penalty as mentioned in the following table:

(₹ in lakh)

Name of the circle	Asst year Date of assessment	Taxable turn over	Declared turn over	Concealment of turn over	Tax leviable	Penalty interest leviable	Total amount leviable
Jammu 'O'	2002-03 September 2003	13.64	8.24	5.40	0.73	2.89	3.72
After we pointed this out (December 2008), the AA reassessed (March 2011) the dealer and raised an additional demand of ₹ 3.72 lakh <sup>28</sup> on the concealed turnover of ₹ 5.80 lakh (Concealed: ₹ 5.40 lakh; Incidental charges: ₹ 0.39 lakh). Further progress of recovery was awaited (October 2011).							
Jammu 'K'	2004-05 March 2009	71.46	62.91	8.55	--	--	2.89
After this being pointed out (June 2009) by us, the AA reassessed the dealer (November 2010) and raised an additional demand of ₹ 2.89 lakh. Further progress in regard to recovery was awaited (July 2011).							
Jammu 'N'	2004-05 November 2007	17.58 <sup>29</sup>	11.48	6.10	--	--	2.52
After this being pointed out (March 2009), the AA reassessed the dealer (February 2010) and raised demand of ₹ 3.73 lakh <sup>30</sup> .							
Total		102.68	82.63	20.05	--	--	9.13

The matter was referred to Government/Department in (July 2011). In reply, the Department stated (August 2011) that the additional demand raised against the dealer has been referred to the Collector for recovery under Jammu and Kashmir Land Revenue Act. However, reply from the Government has not been received. (October 2011).

<sup>28</sup> Tax: ₹ 0.73 lakh, Interest: ₹ 1.46 lakh and Penalty: ₹ 1.53 lakh

<sup>29</sup> Attracting tax at the rate of eight *per cent*.

<sup>30</sup> Includes ₹ 1.21 lakh on misclassified taxable purchase of ₹ 2.44 lakh.

## CHAPTER III TAXES ON VEHICLES

### 3.1 Tax administration

Registration of motor vehicles, issue of licences/permits and levy and collection of fees and taxes in the Jammu and Kashmir State are regulated under the Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules 1989, the Jammu and Kashmir Motor Vehicles, Taxation Act, 1957, the Jammu and Kashmir Taxation Rules, 1957 and the Jammu and Kashmir Motor Vehicles Rules, 1991. The responsibilities of the Transport Department include registration of all types of vehicle, licensing of taxies/buses, issue of permits authorising the use of vehicles, besides collection of token taxes, fees and issue of driving licences etc. through Regional Transport Officers/Assistant Regional Transport Officers (RTOs/ARTOs).

### 3.2 Trend of receipts

Actual receipts from taxes on vehicles during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graph:

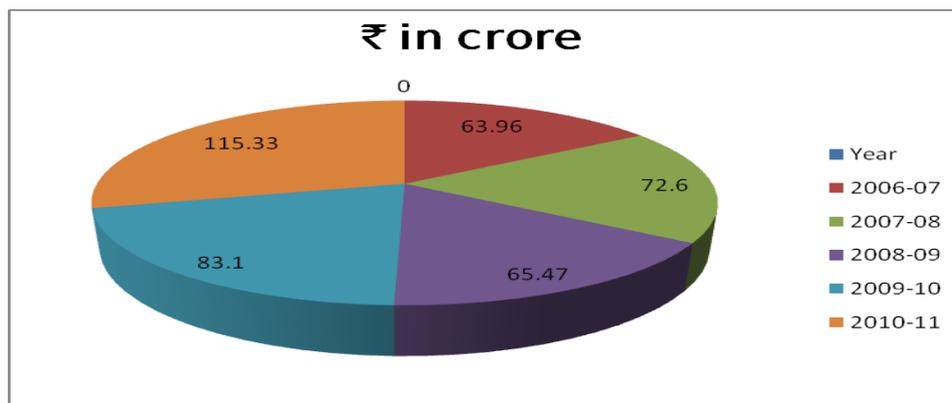
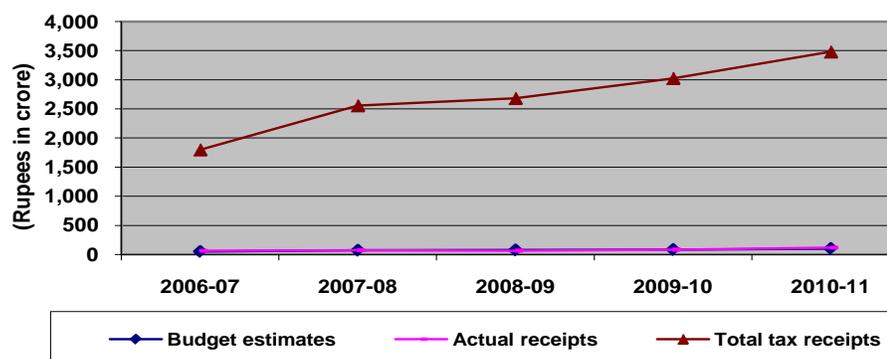
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	50.28	63.96	13.68	27.20	1798.97	3.56
2007-08	71.50	72.60	1.10	1.54	2558.18	2.84
2008-09	75.86	65.47	(-) 10.39	(-) 13.70	2682.96	2.44
2009-10	83.50	83.10	(-) 0.40	(-) 0.48	3027.32	2.75
2010-11	101.24	115.33	14.09	13.92	3482.58	3.31

The variation in the budget estimates and actual revenue was more than 27 per cent in 2006-07 and (-) 14 per cent in 2008-09.

The huge variations against budgeted figures indicate that preparation of budget was not realistic.

The graphical representation of the receipts vis-a-vis Budget Estimates during the last five years is given in the following graphs:



Status of revenue receipts during last five years

### 3.3 Cost of collection

The figures of gross collection in respect of the major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2006-2011 along with the relevant all India average percentage of expenditure on collection to gross collection are mentioned in the following table:

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Taxes on vehicles	2006-07	63.96	3.11	4.86	2.47
	2007-08	72.60	3.97	5.47	2.58
	2008-09	65.47	4.73	7.22	2.74
	2009-10	83.10	4.56	5.49	2.93
	2010-11	115.33	5.38	4.66	3.07

The cost of collection showed an increase from ₹ 3.11 crore to ₹ 5.38 crore during the period. The percentage of expenditure to gross collection showed an increasing trend during 2006-09 but dropped thereafter. The percentage cost of collection was higher than the all India average for the entire period. However the Gross collection of taxes

increased from ₹ 63.96 crore in 2006-07 to ₹ 115.33 crore in 2010-11, registering an increase of 80 *per cent*.

### 3.4 Results of Audit

#### 3.4.1 Position of local audit conducted during the year

During 2010-11, out of 15 auditable units, 11 units were planned and 08 units audited which is 53 *per cent* of the total auditable units.

Test-check of the records of 08 audited units revealed underassessment/short levy/loss of revenue aggregating ₹ 29 crore in 41 cases, which fall under the following categories

(₹ in crore)

Sl. No	Category	No. of cases	Amount
1	Non levy /collection of compounding fee	12	1.42
2	Other irregularities	29	27.57
<b>Total</b>		<b>41</b>	<b>28.99</b>

A Performance Audit on “**Computerisation in Motor Vehicle Department**” is mentioned in the succeeding paragraph.

### **3.5 Performance Audit on “Computerisations in Motor Vehicles Department”**

#### **Highlights**

We found that implementation of VAHAN and SARATHI of the RTOs/ARTOs was taken up by the Department in 2005; however the system was implemented only in eight districts out of 22 RTOs/ ARTOs. The delay in implementation of the system in these eight districts ranged from six months to 49 months.

**(Paragraphs No.3.5.7.1 and 3.5.7.2)**

We found partial utilisation of VAHAN. The modules i.e. Issue of permits, Enforcement, Trade Certificate were present in the software but these were not put to use. We found that these modules were not got customised from the Department from NIC.

**(Paragraph No. 3.5.7.3)**

We noticed that the Department was not aware of any system design and user requirement for operating the two application systems and as such the Department had to depend on the NIC for updating of the system and its operation.

**(Paragraph No.3.5.7.5)**

We found, that out of the eight computerised RTOs, legacy data (i.e. data that existed prior to implementation of VAHAN) had been digitised and incorporated in the software of only one RTO, Kathua. We further noticed that the data so digitised and incorporated, was incomplete viz details of Purchase Date, Father Name, Laden Weight, Registration Date, Fitness Fee validation period had not been captured.

**(Paragraph No. 3.5.7.6)**

We found that consolidated inventory of the hardware procured by the Department before and after implementation of VAHAN and SARATHI and its distribution to various RTOs/ARTOs, had neither been maintained at the Commissioner level nor in the RTOs/ARTOs offices. Further, no physical verification had been carried out as verified in the seven RTOs/ ARTOs test-checked.

**(Paragraph No. 3.5.7.7)**

We observed that all the eight computerised RTOs/ ARTOs were not linked to the common database even after a lapse of six years from the start of the project in 2005 and consequently, objective of automatic flow of data into the State and National Registers could not be achieved.

**(Paragraph No. 3.5.7.8)**

Our analysis of the data base of VAHAN revealed that there were 3,032 cases of duplicate engine numbers, 17 cases of duplicate chassis numbers and 53 cases of blank

Engine numbers in seven test-checked RTO/ARTOs, thereby rendering the data unreliable.

**(Paragraph No. 3.5.8.2)**

Buses registered in the name of the Educational institutions are allotted Code ‘8’ in master table of VAHAN. However, we found that 636 buses registered in the name of the Educational institutions were allotted Code numbers other than the code ‘8’.

**(Paragraph No. 3.5.8.4)**

We observed that there was no anti-virus software loaded in any of the servers. The servers were found virus-infected, leaving the data risk-prone. The Department had not executed any contract for maintenance of hardware viz. computers, UPS, servers, and printers etc. to safeguard against breakdowns.

**(Paragraph No. 3.5.9.1)**

Our analysis of the database of RTO, Jammu revealed that in respect of 526 registered vehicles, the user name of the data entry operator was not available in the “dbo\_Owner” table of database, the main database of “VAHAN” software, thereby exposing the database to risk of unauthorised access.

**(Paragraph No. 3.5.9.4)**

We found that the Department had not nominated any staff for training. Therefore the Department had to remain dependent on NIC for day-to-day management of software etc. For user’s access to the system through user IDs and password, no documented password policy was in place in any of the RTOs/ARTOs.

**(Paragraph No. 3.5.9.5)**

We saw that 13,369 goods and passenger vehicles had defaulted on payment of token tax of ₹ 12.36 crore and the Department had not utilised the VAHAN Software for generating list of defaults for taking recovery action.

**(Paragraph No. 3.5.9.6)**

Our analysis of the SARTHI database of four out of seven test-checked RTOs/ ARTOs, revealed that two separate driving licences had been issued to the same person in 298 cases and four licences had been issued to a single person by one RTO indicating deficient input controls and validation checks in the software. The database was incomplete with large number of relevant entries/records relating to driving licences being kept blank.

**(Paragraphs No. 3.5.10.2 and 3.5.10.3)**

Our test-check of database (Owner Table and Tax Table) of two RTOs revealed that fitness certificates in respect of 63 school buses had not been renewed even after a lapse of six days to three years. The Department had made no efforts to trace out the vehicles to ensure safety of children.

**(Paragraph No. 3.5.12)**

### 3.5.1 Introduction

The Motor Vehicle Department of Government of Jammu & Kashmir is governed by the provisions of Central Motor Vehicles Act 1988, Central Motor Vehicle Rules 1989, Jammu & Kashmir Motor Vehicle Taxation Act, 1957 and the Jammu and Kashmir Motor Vehicle Rules, 1991 along with various notifications issued by the State Government from time to time. The Motor Vehicle Department is primarily responsible for providing an efficient public transport system and enforcement of the provisions of the Act and the Rules framed there under which *inter alia* include assessment, levy and collection of taxes, fees and fines, issuance of certificate of fitness to vehicles, registration of motor vehicles, granting regular and temporary permits to the vehicles and issue of driving licences to the persons who are in possession of vehicles.

**Computerisation in the Department:** The Ministry of Road Transport and Highways (MORTH), Government of India had embarked upon a Scheme for creation of National Database network by introduction of Information Technology in Road Transport Sector. The scheme was to be implemented through National Informatics Centre (NIC) desired to be operated in such a way that data from all the RTOs in the State flows into the 'State Register' which in turn was to be captured at the National level. Two softwares were designed by the NIC for this purpose: (i) VAHAN that dealt with Registration of the vehicles and, (ii) SARATHI that dealt with issue of licences. The GOI advised (2001) all the State Governments to implement VAHAN and SARATHI software packages.

In the State, computerisation under comprehensive e-governance solution for Transport Sector was approved (March 2005) by the Ministry of Communication and Information and Technology (GOI) under e-Governance Action Plan (NeGAP) and the software (VAHAN and SARATHI) were adopted for issuing licences, registration of vehicles, issue of permits/fitness certificates etc. of motor vehicles and also for maintaining their databases so that the State Registers of motor vehicles and driving licences could be prepared for their integration with National level database.

The customisation of the softwares to the local needs was carried out by the NIC, Jammu & Kashmir (J&K) State unit and implemented in the Department in May 2005. These softwares were made operational in the Regional Transport Offices (RTOs)/Assistant Regional Transport Offices (ARTOs) on different dates in a phased manner during the period between 2005-06 and 2009-10.

### 3.5.2 Organisational setup

The State Motor Vehicles Department is headed by the Transport Commissioner (also being ex-officio Chairman of State Transport Authority) under the overall administrative control of the Commissioner/Secretary, Transport Department. There are three Regional Transport Officers (Jammu, Kathua and Srinagar) and 19 Assistant Regional Transport Officers (Budgam, Anantnag, Pulwama, Kupwara, Baramulla, Ganderbal, Kulgam, Shopian,

Bandipora, Doda, Kishtwar, Reasi, Ramban, Samba, Udhampur, Poonch, Rajouri, Leh and Kargil) assisting in carrying out the activities. Besides, three Check Posts at

Lakhanpur (Jammu Division), Lower Munda and Sonamarg (Kashmir Division) are also operational in the State.

### 3.5.3 Audit Objectives

The review of the Department was undertaken to assess whether:

- the overall objectives of computerisation through “VAHAN” and “SARATHI” were achieved;
- the phase-wise implementation schedule for “VAHAN and “SARATHI” were achieved as per timeframe fixed;
- customisation of the applications was carried out to suit the local needs;
- computerised system implementation was complete (module wise) and correct and complete data were captured by the RTOs/ARTOs offices;
- connectivity was established between RTOs/ARTOs in the State, for creation of State Registers of vehicles and licences for integration with National Register;
- the computerised National Permit System was implemented as planned and project objectives were achieved;
- reliable General and Security controls were in place to ensure data security and audit trail besides backup of data in the event of loss due to crash of the system for deriving an overall assurance of the functioning of the computerised system for the stated objectives; and
- internal control mechanism was in place to monitor implementation of the project.

### 3.5.4 Audit Criteria

We referred to the following Acts and Rules for the Performance Audit:

- Motor Vehicles Act, 1988;
- Central Motor Vehicles Rules, 1989;
- Jammu & Kashmir Motor Vehicle Taxation Act, 1957;
- Jammu and Kashmir Motor Vehicle Rules, 1991;
- The notifications issued by Government of Jammu and Kashmir and Transport Department from time to time; and
- Software of VAHAN and SARATHI developed by National Informatics Centre (NIC).

### 3.5.5 Scope and Methodology of Audit

The scope of present audit included audit and examination of documents relating to policies, implementation of computerised systems, development, controls in the software packages and discussion with the management. The selection of the units for the purpose

of the review was restricted to seven<sup>1</sup> out of eight<sup>2</sup> computerised RTOs/ARTOs (August 2011) as implementation of the software in the remaining 14 RTOs/ARTOs offices<sup>3</sup> was in the initial stages. The transaction data was examined for correctness, completeness and adequacy of controls through Computer Aided Audit Techniques (CAATs). The output generated by the system and their uses were also examined. The review was conducted between June 2011 and September 2011 and covered the period from the date of implementation (August 2005) of the programme up to June 2011. An Entry Conference was held with Transport Commissioner in June 2011.

### **3.5.6 Acknowledgement**

Indian Audit & Accounts Department acknowledges the co-operation of the Commissioner of Transport office in providing necessary information and record for audit. An Entry Conference was held with the Transport Commissioner, J&K in June 2011. The audit findings were discussed with the Commissioner/Secretary, Transport Department in the Exit Conference held in November 2011. The replies received during the Exit Conference and at other point of time have been appropriately mentioned in the relevant paragraphs

### **3.5.7 Deficiencies noted in Planning and implementation**

#### **3.5.7.1 Status of Computerisation of project**

The work of computerisation for implementation of VAHAN and SARATHI in the RTOs/ARTOs was taken up in 2005. There are 22 RTOs/ARTOs in the State. Out of these, we noticed that VAHAN system was implemented only in eight RTOs<sup>4</sup>/ARTO<sup>5</sup> and was not implemented in the remaining fourteen offices. The position of implementation is discussed in the succeeding paragraphs.

#### **3.5.7.2 Delay in implementation of the project**

Ministry of Communication and Information Technology, Government of India (GOI), in March 2005, granted ₹ 1.29 crore for implementation of VAHAN and SARATHI at 14 locations<sup>6</sup>. The Transport Department in consultation with NIC had fixed the target for implementation of the project as mentioned in the following table:

- 
- <sup>1</sup> RTO Jammu, RTO Kathua, RTO Srinagar, ARTO Budgam, ARTO Baramulla, ARTO Udhampur, ARTO Rajouri
- <sup>2</sup> RTO Jammu, RTO Kathua, RTO Srinagar, ARTO Budgam, ARTO Baramulla, ARTO Udhampur, ARTO Rajouri, ARTO Leh
- <sup>3</sup> ARTO Anantnag, ARTO Pulwama, ARTO Kupwara, ARTO Ganderbal, ARTO Kulgam, ARTO Shopian, ARTO Bandipora, ARTO Doda, ARTO Kishtwar, ARTO Reasi, ARTO Ramban, ARTO Samba, ARTO Poonch, and ARTO Kargil
- <sup>4</sup> RTO Jammu, RTO Kathua, RTO Srinagar, ARTO Budgam, ARTO Baramulla, ARTO Udhampur, ARTO Rajouri, ARTO Leh
- <sup>5</sup> RTO Jammu, RTO Kathua, RTO Srinagar, ARTO Budgam, ARTO Baramulla, ARTO Udhampur, ARTO Rajouri, ARTO Leh
- <sup>6</sup> RTO Jammu, Kathua, Srinagar, ARTO Budgam, Baramulla, Udhampur, Rajouri, Leh, Anantnag, Pulwama, Poonch, Kargil, Kupwara, Doda

S. No	Name of the District	Office status	Target Date of Implementation	Actual date of Implementation
1	Srinagar	RTO	Oct.2005	July 2006
2	Jammu	RTO	Oct.2005	April 2006
3	Kathua	RTO	April.2005	Nov 2005
4	Budgam	ARTO	Oct.2005	June 2007
5	Udhampur	ARTO	Oct 2005	May 2007
6	Baramulla	ARTO	March 2006	August 2009
7	Rajouri	ARTO	March 2006	April 2010
8	Leh	ARTO	Oct.2005	Oct 2006
9	Doda	ARTO	May 2007	Not Implemented
10	Poonch	ARTO	March 2006	Not Implemented
11	Kargil	ARTO	Oct.2005	Not Implemented
12	Pulwama	ARTO	March 2006	Not Implemented
13	Anantnag	ARTO	March 2006	Not Implemented
14	Kupwara	ARTO	March 2006	Not Implemented

It would be seen from the above that there was delay ranging from six months to 49 months in implementation of the system in eight districts while the system was not implemented in the remaining six districts at all.

The Government created eight<sup>7</sup> new districts in the State in August 2007. Simultaneously, the Transport Department created new ARTO offices in each district in February 2010. The Project approval for computerisation of these RTOs was granted by GOI in January 2011. The project has not been started yet the work of computerisation of the RTOs/ARTOs was taken up in 2005; however, there was nothing on record to indicate that any separate committee for watching / monitoring the progress of implementation was formed by the Department for planning and implementation of the project. This resulted in development of a non-integrated application and partial utilisation of its features

The Department in the Exit Conference stated that execution of the Project for eight districts in the phase was delayed due to procedural reasons as the Transport Department received funds from the Finance department, J&K in the month of March, 2006 for the computerisation of eight districts in the first phase and suggested that future delay can be minimised if the GOI releases funds directly to the Transport/ user Department. However, the fact remains that the Department has delayed the implementation even after the receipt of funds from the State Government

### 3.5.7.3 Partial Utilisation of VAHAN

The modules of VAHAN software have been designed with respect to different Acts/ Rules and provisions. Issue of permits, Trade Certificate and Enforcement activities fall within the purview of the MVT Acts/Rules

We found partial utilisation of VAHAN and the modules like Issue of permits, Enforcement, Trade Certificate were present in the software but these were not put to use

<sup>7</sup> ARTO Samba, ARTO Reasi, ARTO Kishtwar, ARTO Ramban, ARTO Kulgam, ARTO Ganderbal, ARTO Shopain and ARTO Bandipora

in VAHAN. We found that these modules were not got customised by the Department by the NIC.

The NIC representative present in the Exit Conference stated that the modules mentioned above can also be implemented depending upon the need of the Department.

Since these modules fall under the important functions of the Department, these should be made operational.

**We recommend that steps should be taken to make full use of the processing capabilities in VAHAN and SARATHI software and to discontinue manual intervention.**

#### **3.5.7.4 Insertion of an additional field without documentary evidence resulting in non -uniformity amongst the tables**

It was noticed that in Data Structure Tables of dbo\_account, dbo\_fitness\_fee, dbo\_vehins, dbo\_Rd\_tax and dbo\_owner of VAHAN, field of date i.e. RECP\_DT, RECP\_DT\_TIME was available in all the RTOs except in RTO Srinagar.

The reason for non uniformity in tables was not furnished. We noticed that in the tables provided by the NIC, Delhi the field RECP\_DT\_TIME was not mentioned. There was nothing on record to indicate, the stage and the authority by which the field has been inserted in the tables. Absence of documentary evidence indicates lack of monitoring of change management in the system.

**We recommend that documentary evidence may be kept for each change management and it should be ensured that uniformity in the tables is maintained.**

#### **3.5.7.5 Absence of System design and user requirement documentation with the Transport Department**

We noticed (August 2011) that modules for the software were developed by NIC Delhi. However, there was nothing on record to indicate that the Department was aware of any system design and user requirement for operating the system or any document in this regard was not handed over to the Transport Department. As such, the Department had to depend on the NIC for support for updating of system and in its operation.

After we pointed out this lapse, the Department stated (September, 2011) that NIC would be approached for furnishing of relevant documentation of softwares. The representative of the NIC stated in the Exit Conference that the issue would be taken up with NIC Headquarters at Delhi.

#### **3.5.7.6 Deficiencies noticed in Digitization and Status of Legacy data**

Computerisation of old records of the RTOs/ARTOS and its incorporation in the database is an important function of VAHAN and SARATHI. However the Department had not fixed any time limit for digitisation of the records.

We found that out of the eight computerised RTOs, legacy data (i.e. data that existed prior to implementation of VAHAN) had been digitised and incorporated in the software of RTO Kathua only. We further noticed that the data so digitised and incorporated, had

number of incompleteness viz. Purchase Date, Father Name, Laden Weight, Registration Date, Fitness Fee validation period have not been captured as detailed in the following table:

Incompletion noticed in VAHAN	Pvt/Com	Registration date	Purchase date	Laden Weight (Goods Vehicles)	PAN	Pin code	Address
RTO Kathua	13	13	43	1731	13579	13573	13

We checked the data base of VAHAN only and found the above mistakes indicating that the incorporation of back log data had not been made after proper checks. Thus it was an incomplete database to that extent.

After this was pointed out by us the Department stated (September 2011) that digitisation of manual records was under process in other seven RTOs and the deficiencies in the computerisation of old records incorporated in the main database of RTO Kathua will be rectified. The Department also stated that digitisation was complete and was being rechecked in the following RTOs:

System	Name of RTO/ARTO
VAHAN	Pulwama, Budgam, and Baramulla
SARATHI	Jammu, Doda, Rajouri, Udhampur and Poonch

**We recommend that the Department may check the data of SARATHI also in Kathua to ensure that the database is complete and correct. The Department may also fix a time limit for digitisation of the records for all the RTOs.**

### **3.5.7.7 Non- existence of consolidated inventory and physical verifications of Inventory received from NICS**

As per the data furnished by NIC, Delhi, items of hardware that were supplied by the NICS to the TC/RTO/ARTO included 10 Servers, 45 Desk Top, 10 UPS, 33 Web Cameras, 18 Finger Print Devices, six Colour Printers, 23 Laser Printers, 22 Dot Matrix Printers, 10 Network Switches, 10 Racks and 21 UTP Cable system softwares.

We found that consolidated inventory of the hardware procured by the Department before and after implementation of the VAHAN and SARATHI system and its distribution to various RTOs/ARTOs, had neither been maintained at the Commissioner level nor in the RTO/ARTO offices. Further, no physical verification had been carried out (August 2011) as verified in seven test-checked RTOs/ ARTOs.

The Department stated (September 2011) that steps would be taken to maintain centralised inventory and instructions would be issued to all RTOs/ARTOs for maintenance of the inventory. Also a team would be constituted for physical verification of hardware items.

### **3.5.7.8 Non-maintenance of State Register and absence of connectivity**

Sections 63 and 26 of the MV Act and Rules 75 and 23 of the CMV Rules prescribe the maintenance of a State Register of motor vehicles in Form 41 and a State Register of driving licences in Form 10 respectively. The aim of computerisation was to allow flow of data of vehicles and driving licences from the RTOs/ARTOs to a Central State Server for a State Level register and further transfer thereof to the Central Server maintained at the National level for 'National Register'.

We observed that all the eight computerised RTOs/ARTOs were not linked to a common database even after a lapse of six years from the start of the project in 2005. In the absence of a centralised data-base and connectivity linking all the sites, the intended objectives of computerisation in the Motor Vehicle Department were not fulfilled and consequently, one of the main objectives of automatic flow of data into the State Register and National had remained unachieved. As regards National Register, we were informed the NIC collected data from the computerised eight RTO/ARTO offices and feed them directly to the National Register.

After we pointed this out, the NIC representative present in the Exit Conference stated that intra linkages between the RTO was yet to be provided. He further stated that State Register and National Register are being maintained. However, NIC neither showed us any State or National Register nor we found maintenance of a consolidated data for the entire State even for the RTO that were computerised.

## **VAHAN application System**

### **3.5.8 Data Accuracy and completeness of data**

#### **3.5.8.1 Incorrect feeding of rates of goods tax in Master Table**

VAHAN was implemented in RTO Rajouri in April 2010. The rates in respect of goods tax mentioned in the notification dated April 2005 issued by the Government were required to be fed into the System. However, we found that incorrect rates of goods tax were entered into the tax module as mentioned in the following table:

S. No	Rates as per notification dated April 2005		Rates mentioned in the Master table	
	Laden weight	Tax rate (₹ Per Quarter)	Laden weight	Tax rate (₹ Per Quarter)
1	Upto 1000 kg	400	Upto 1000 kg	400
2	Laden weight 1001 to 3600 kg	900	Laden weight 1001 to 2600 kg	900
3	Laden weight 3601 to 8100 kg	1000	Laden weight 2600 to 4500 kg	1000
4	Above 8100 kg	1100	Above 4500 kg	1100

Thus a vehicle with laden weight in the range of more than 2600 kg but less than 3600 kg will be charged by system tax of ₹ 1000 per quarter instead ₹ 900 per quarter i.e more by ₹100 per quarter. We found in the data base that in 146 goods vehicles, system had charged more goods tax of ₹ 0.28 lakh. As such the mistake needs rectification and the correctness of the tax paid need to be ascertained by the Department.

After being pointed by us, the Department stated in the Exit Conference that Transport Commissioner would look into the variation of rates between those approved and the rates actually charged and will take up matter with NIC and rectify the error in the system.

### 3.5.8.2 Duplicate Engine Number/Chassis Number thereby rendering the data unreliable

Every vehicle engine is marked with an engine number and a chassis number by the factory. The Chassis number and Engine number helps in tracking the vehicle make and model. The chassis number and engine number are to be checked by the RTA Inspector at the time of registration of the vehicle. So each vehicle should have a unique alphanumeric Chassis Number and Engine Number assigned by the manufacturer.

However, our analysis of the data base of VAHAN revealed 3032 cases of duplicate engine numbers, 17 cases of duplicate chassis numbers and 53 cases of blank Engine numbers in seven test-checked RTOs/ARTOs thereby rendering the data unreliable. The details are mentioned in the following table:

S. No	Name of the RTO/ARTO	Duplicate Engine No	Blank Engine No	Duplicate Chassis No
1	RTO Srinagar	108	01	1
2	ARTO Budgam	5	0	-
4	RTO Jammu	2606	09	5
5	RTO Kathua	313	05	11
6	RTO Baramulla	-	02	-
7	RTO Udhampur	-	36	-
<b>Total</b>		<b>3032</b>	<b>53</b>	<b>17</b>

The above duplications were due to errors in data entry which could not be prevented in absence of validation checks at the initial stage.

After we pointed this out, the Department stated (September 2011) that validation checks to arrest duplicate engine/chassis number had been made. However, the Department had not corrected the mistakes already made prior to the introduction of the validation check as detailed above.

We further noticed that even after the introduction of validation checks, system accepted the blank field in the database field for entry of 'Engine number'. Thus, the validation checks needed further strengthening.

The Department, while accepting the facts in the Exit Conference, stated that action to rectify the data would be taken up after digitisation of back-log entries/data.

### 3.5.8.3 Partial capturing of Data in owner database, despite complete information available with the Department

Under Rule 47 of the Central Motor Vehicle Rules 1989, the owner of a vehicle shall apply in "Form-20" for the registration of his vehicle which shall contain vital information relating to the owner of the vehicle and the vehicle itself.

Our analysis of data available in the table 'owner' showed that though the data was available with the Department (in 'form 20'), it was partially captured. A few fields like purchase date, address, PAN and parentage had been left blank or bogus numbers had been entered in the database in the test-checked RTOs/ ARTOs as shown in the following table:

Particulars	Srinagar	Budgam	Baramulla	Jammu	Kathua	Udhampur	Rajouri
Number of vehicles registered	52283	10100	6376	148127	29442*	11971	2933
Purchase date	45	1	1	330	45	27	-
Address	1	-	2	9	18	164	-
PAN	52283	10002	6376	148127	29430	11961	2933
Fathers name	1	-	2	7	126	164	-
Laden weight	-	-	-	7	1938	13	-
PV_Com	19	2	-	139	14	17	-

(\*Includes 13581 records pertaining to digitisation of old records)

We noticed that the above fields were not made mandatory. Lack of validation checks rendered the database of the RTOs/ARTOs incomplete.

The Department stated (September 2011) in the Exit Conference that instructions would be issued to the concerned to make necessary corrections in the database and avoid such mistakes in future

**We recommend that Department should take necessary steps to build in appropriate input and validation controls to prevent capturing of incomplete data in the system to this extent.**

### 3.5.8.4 Incorrect entry of 'category code' of buses registered with the Educational Institutions

There are 12 categories of vehicles in VAHAN. Each category has been codified in the master table<sup>8</sup> of VAHAN by allotting it a specific number. Of these, code '8' has to be

<sup>8</sup> dbo\_owcode

allotted to the vehicles registered for Educational Institutions meant solely for transporting students or staff of the Educational Institutes.

We checked the database of six out of seven RTOs/ARTOs and found that 841 buses with a specified seating capacity were registered in the name of the Educational institutions. These buses should have been allotted Code '8' in master table of VAHAN. But we noticed that in cases of 636 school buses, different code other than Code '8' was allotted as mentioned in the following table:

Name of the RTO	Code number in which school buses were registered				Total
	Code '1' meant for individual	Code '2' meant for a firm	Code '5' meant for State Government	Code '8' meant for a Education Institutions	
Srinagar	148	1	2	134	285
Budgam	46	1	0	10	57
Baramulla	26	0	0	1	27
Jammu	318	9	1	11	339
Kathua	62	2	0	45	109
Udhampur	19	1	0	4	24
Total	619	14	3	205	841

The above facts indicate that the data is not being entered correctly in the VAHAN defeating the very purpose for which the structure has been designed. Thus, the Department was not in a position to ascertain the correct number of vehicles registered under this category viz '8'. This may lead to non- monitoring of the collection of taxes and issue of fitness certificate.

The Department stated (September 2011) that instruction would be issued to the concerned RTOs/ARTOs to make necessary correction in the database to avoid such mistakes in future.

### 3.5.9 Safety and Security of data

#### 3.5.9.1 Absence of contract for maintenance, safety and protection of hardware and software

Information Systems Security policy through physical and logical access restricts access to the system only to authorised individuals. We noticed that neither any security policy had been formulated by the Department nor any guidelines issued to the RTOs/ARTOs for protection of hardware and software, by taking preventive measures like installing and updating anti-virus software.

We observed that no Anti Virus Software was loaded in any of the servers. The servers were found virus-infected, leaving the data risk-prone. The Department had also not entered into any contract of any sort or Annual Maintenance Contract (AMC) of hardware viz. computers, UPS, servers, and printers etc., to safeguard against breakdowns.

The Department stated (September 2011) that measures would be taken to install anti-virus on the existing servers and in respect of AMC there were standing instructions and same would be undertaken.

**We recommend that the Department should issue guidelines to the RTOs/ARTOs for protection of hardware and software. Preventive and detective measures like installing and updating anti-virus software should be put in place. The security policy should be well-documented.**

### **3.5.9.2 Absence of Security features in documents issued for Registration/Fitness certificates/Driving licences/National permits of vehicle.**

We found that security features to prevent forging of Registration /Fitness certificates/ Driving licences/ National permits issued by the Department were not taken by Department. The RTOs/ARTOs issued computerised registration/fitness certificates etc. on the printed stationery and driving licences on plastic cards. These did not contain any Departmental logo or mark that could make it a unique document. These could easily be forged, through scanner/coloured photocopier or with the latest printing techniques, which would not be discernible to the naked eye.

After we pointed this out the Department stated (September 2011) that security features for issue of Registration /Fitness certificates/ Driving licences/ National permits were under active consideration and would be effected in a short period of time. Further in the Exit Conference the Department stated that a hologram would be got designed and affixed on all computer generated documents. This would prevent the forging of the documents.

### **3.5.9.3 Lack of business continuity /disaster recovery plan in case of an eventuality or a disaster.**

The objective of business continuity planning is to reduce downtime and minimise loss to business. Regular backup of data is the backbone of a business continuity plan. Business continuity planning is essential to ensure that the organisation can prevent disruption of business and resume processing instantly in the event of a total or partial interruption.

We found that the Department did not have a formal business continuity or disaster recovery plan for continuation of the Departmental activities in the eventuality of a disaster. There was no documented procedure about the frequency of taking backups of data and its storage away from the premises in an off-site, fire-safe location. We found that no standby/backup servers were installed in any of the seven test-checked RTOs/ARTOs, to ensure resumption of the work in case of failure of the server due to fault or crash.

The Department stated (September 2011) that formation of backup policy, prescribing frequency of taking backup of data, medium therefor and location for safe storage of data was under process and would be implemented soon.

**We recommend that the Department should evolve a disaster management policy to restore the system in the event of loss of data due to natural disasters and install fire safety measures like fire extinguishers, fire alarm and smoke detection systems.**

#### **3.5.9.4 Loss of Trail due to deletion of user name**

Our analysis of the database of RTO, Jammu revealed that in respect of 526 registered vehicles, the user name of the data entry operator was not available in dbo\_Owner database, the main database of “VAHAN” software.

Absence of this trail indicates that the database had been tampered with by using backend facilities as a result of which the system was exposed to the risk of unauthorised access and resultant damage could not be ruled out. There was also no restriction on login attempts to prevent unauthorised access.

After we pointed this out, the Department and the representative of NIC present in the Exit Conference stated that VAHAN and SARATHI database have been locked with password and the password given to database administrator. The Department contested the audit observation and stated that tempering of the data was not possible. We, however, demonstrated the problem to all the officers present in the Exit Conference.

#### **3.5.9.5 Training of staff**

In order to exercise control over passwords and backend usage, the Department was to impart proper and effective training to the staff to act as Data-base/System Administrators.

It was, however, observed that the Department had not nominated any staff for training as a result of which the Department had to remain dependent on NIC for day-to-day management of software etc. For user’s access to the system through user IDs and password, no documented password policy was in place in any of the RTOs/ARTOs audited.

The Department stated (September 2011) that due to shortage of staff it could not assign duties of System/Database Administrator to the persons from the Department and the same was done by NIC.

**We recommend that the Department should take immediate steps to train the existing staff and engage the technical staff by approaching State Government so that the systems at all the RTO/ARTO/Check Posts already computerised or likely to be computerised in the future are operated properly by competent Departmental staff.**

### 3.5.9.6 Generation of List of Defaulters and provision for calculating additional tax

J&K Motor Vehicle Taxation Act 1957 and Rules made there-under stipulates that tax shall be paid by the owner of a vehicle in advance either quarterly, half yearly or annually and in case of default in payment of tax, additional tax at the rate of 2% of such tax for each month shall be leviable.

Our test-check of database of seven RTOs/ARTOs revealed that the system was not designed for auto generation of information in respect of the vehicles that had defaulted in payment of tax. Thus, the system could not be utilised for monitoring realisation of the tax from defaulters. The Department was not aware of the total number of owners that had defaulted in payment of tax.

Though this exercise could have been generated with the help of the software by performing some additional exercises, the Department had not done any such exercise so as to review the database to ascertain the actual number of vehicles that were on road and liable to pay tax.

We found that 13,369 Goods and Passenger Vehicles had defaulted in payment of tax of ₹12.36 crore in the seven computerised RTOs/ ARTOs as mentioned in the following table:

(₹ in lakh)

S.No	Name of the RTO/ARTO	Defaulted Goods Vehicles			Defaulted Passenger Vehicles			Total 1+4	Total 2+3+5+6
		No	Tax	Additional amount	No	Tax	Additional amount		
		1	2	3	4	5	6		
					(₹ in lakh)				
1	RTO Srinagar	2616	69.64	17.34	758	9.80	2.25	3374	9.03
2	ARTO Budgam	1178	59.59	20.00	260	8.73	2.83	1438	91.15
3	ARTO Baramulla	278	3.90	0.36	75	0.74	0.08	353	5.08
4	RTO Jammu	3405	152.00	51.55	953	22.12	6.54	4358	232.21
5	RTO Kathua	717	35.19	13.52	255	5.78	2.02	972	628.73
6	ARTO Udhampur	978	70.60	24.05	1646	58.52	20.24	2624	173.41
7	ARTO Rajouri	86	2.26	0.29	164	3.85	0.27	250	6.67
	<b>Total</b>	<b>9258</b>	<b>393.18</b>	<b>127.11</b>	<b>4111</b>	<b>681.76</b>	<b>34.23</b>	<b>13369</b>	<b>1236.28</b>

The Department stated (September 2011) that matter would be taken up with the NIC for modification/change in the VAHAN software for calculating additional amount in the shape of fine at the rate of 2 per cent on the token tax not paid on the due date and for generating the list of defaulter vehicles.

The Department while accepting the audit observation in the Exit Conference stated that the defaulters would be intimated through public notices to avoid cancellation of registration of their vehicles.

### **3.5.10 SARATHI**

A few deficiencies noticed in SARATHI are mentioned in the following paragraphs:

#### **3.5.10.1 Partial utilisation of SARATHI**

In SARATHI there are provisions for issue/renewal of driving licences, conductor licences and licences to motor training schools.

We found that the modules for issue of licence to conductors, driving schools had not been utilised though these were present in the software. These have not been customised.

#### **Lack of Input control in SARATHI**

#### **3.5.10.2 Issue of more than one driving licence to same person**

As per section 6 of Central Motor Vehicle Act 1988 no person shall, while he holds any driving licences for the time being in force, hold any other driving licences except a learner's licence.

Our analysis of the database of four out of seven test-checked RTOs/ ARTOs showed that two separate driving licences had been issued to the same person in 298 cases and, four licences had been issued to a single person by one RTO indicating deficient input controls and validation checks in the software to arrest incidence of such cases.

In respect of three<sup>9</sup> ARTOs, computerised learner licences were being issued whereas driving licences were being issued manually due to non-availability of card printers. Thus, the inadequacies, if any, in the software could not be identified.

The Department while accepting the audit observation stated that there was no check on issuance of more than one licences in the Department at that time. However, the Department, in the Exit Conference stated (September 2011) that matter would be taken up with NIC for introducing necessary checks in the software to arrest such lapses in future and instructions would be issued to the concerned RTOs to look into such lapses for corrective action.

#### **3.5.10.3 Incomplete database**

We found that important fields were not made mandatory for data input. Consequently, a few important fields were not captured in the system as detailed in the following table in respect of four<sup>10</sup> RTOs test checked:

<sup>9</sup> ARTO Rajouri, ARTO Budgam and ARTO Baramulla

<sup>10</sup> RTO Jammu, RTO Srinagar, RTO Kathua and ARTO Udampur

Sl. No.	Name of the table and total number of records	Name of the field	Number of records found blank
1.	DDLICENCE (1,51,214)	DL issuing authority	112286
2.		DL issue date	34919
3.		Testing Authority name/designation	151214
4.		Test vehicle Registration Number	151214
5.		Telephone Number	145788
6.		Qualification of DL holders	98245
7.		1 <sup>st</sup> Identification Mark 2 <sup>nd</sup> Identification Mark	117118 150214

In the absence of mandatory details of driving test such as “testing authority” and “registration number” of the vehicle on which driving test was conducted we could not derive reasonable assurance that driving tests were actually being conducted before issue of driving licences.

The Department stated in the Exit Conference that a Committee would be constituted by the Transport Commissioner to identify the mandatory fields in addition to the existing one. We recommend that the Government may issue directions for capturing data in such important fields. The Government may ensure completeness of the IT system by incorporating business rules and putting in place proper validation controls which would ensure generation of complete and reliable information.

### 3.5.11 National Permit

#### 3.5.11.1 Implementation of new composite fee regime for National Permit

As per the decision (April 2010) of MoRTH (GOI), on-line National Permit System was to be made effective by all the States from May 2010 for providing a framework for uninterrupted movement of goods carriages across the country.

It was noticed that necessary amendments in the taxation laws were carried out (August 2010) by the State Government but made effective in the State from 08 October 2010 only, after development of software in consultation with NIC. The new permit system was implemented at the Transport Commissioner level both at Jammu & Srinagar after a delay of five months. However, we found that access to the national web portal was not granted to RTO/ARTO/Check Posts/Moveable enforcement wings to ascertain genuineness of documents and payment of taxes by the vehicles.

**We recommend that access to the national web portal may be extended to RTO/ARTO/Check Posts/Moveable enforcement wings to ascertain genuineness of documents.**

#### 3.5.11.2 Non-computerisation of the check posts

Check posts are the important enforcement points where vehicles are checked for possession of valid permits, payment of tax and overloading of goods in the vehicles. We found that all the existing three Check Posts in the State had not been computerised and no policy had been framed by the Department for computerisation of these Check Posts (September 2011).

Due to non-computerisation of the Check Posts, the information relating to overloaded vehicles detected at the Check Posts continued to be communicated to the respective RTOs/ARTOs manually. Further, the possession of valid national/local permits/driving licences and liability of tax dues could not be checked at these check posts meant for the purpose.

The Department stated (September 2011) that computerisation of Check Posts were under consideration and formal project would be forwarded to higher authorities for approval.

### **3.5.11.3 Non-issuance of smart cards**

The Department of Road Transport and Highways, GOI instructed (December 1999 and January 2001) all States to adopt smart cards for issue of licences and registration certificates so that a national register of motor vehicles readable throughout the country could be prepared and leakage of revenue prevented.

It was, however, seen by us that the Department did not issue smart cards (August 2011) despite possessing necessary technical infrastructure for issuance thereof, thus defeating the objectives of the scheme. The Department had decided (July, 2010) to outsource the project for issuance of smart cards and approval for the same was awaited from Government as of August 2011.

The Department stated (September 2011) that issuance of smart card was under active consideration of the Department.

## **Other implementation Issues**

### **3.5.12 School buses plying without fitness certificate**

As per the rule 62(1)(a), fitness certificates granted under the Act in respect of a newly registered transport vehicle is valid for two years and is required to be renewed every year thereafter on payment of the prescribed fee applicable to the category of the vehicle .

Our test-check of database (Owner Table and Tax Table) of two<sup>11</sup> RTOs revealed that fitness certificates in respect of 63<sup>12</sup> school buses have not been renewed even after a lapse of six days to three years. The Department had made no efforts to trace out the vehicle ensure safety of children

The Department stated (September 2011) that instruction would be issued to the concerned RTOs/ARTOs to take action against defaulters through enforcement agencies.

### **3.5.13 Duplicate Insurance Cover Notes**

Section 146 of the Central Motor Vehicles Act, 1988 envisages that no person shall use, except as a passenger, or cause or allow any other person to use, a Motor Vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or other person, as the case may be, a policy of insurance. An application for registration of

<sup>11</sup> RTO Jammu and RTO Srinagar

<sup>12</sup> RTO Srinagar 34 and RTO Jammu 29

a Motor Vehicle shall be made in Form 20 to the Registering Authority within a period of 7 days from the date of delivery of such vehicle excluding the period of journey and accompanied by Valid Insurance Certificate.

Our analysis of the database of seven test-checked RTOs/ARTOs revealed one insurance cover note was being used by two or more vehicle owners. We found that in 28,024 cases, multiple cover insurance was entered into the system. Thus instead of a policy of insurance a cover insurance note that may consist of a number of insurance policies was being produced before the registering authorities.

We found that under a single insurance cover note vehicles ranging from two to 933 were being registered. Moreover, in 311 cases, the cover note number field had been left blank. Thus the fact indicate that the Department was not following the provisions of the Act. The RTO wise details are mentioned in the following table:

S. No	Name of the RTO/ARTO	Duplicate	Blank	Remarks
1	RTO Srinagar	611	17	Single Insurance cover note no ranged from 2 to 46
2	ARTO Budgam	59	Nil	Single Insurance cover note no ranged from 2 to 6
3	ARTO Baramulla	760	Nil	Single Insurance cover note no ranged from 2 to 6
4	RTO Jammu	24948	199	Single Insurance cover note no ranged from 2 to 933
5	RTO Lakhanpur	978	84	Single Insurance cover note no ranged from 2 to 66
6	ARTO Udhampur	660	11	Single Insurance cover note no ranged from 2 to 95
7	ARTO Rajouri	8	Nil	4 duplicate
	<b>Total</b>	<b>28024</b>	<b>311</b>	

Due to the absence of proper inbuilt validation checks at the entry level, the system failed to restrict the registration of more than one vehicle under the same insurance cover note.

The Department stated (September 2011) that the matter would be taken up with NIC for introduction of validation checks to arrest duplicate insurance cover. The NIC representative stated in the Exit Conference that the checks for prevention of duplicate cover notes were in place, which was, however, proved wrong on demonstration by us to the Department and NIC.

### 3.5.14 Conclusion

The Performance Audit revealed a number of deficiencies in the implementation of the project of computerisation. Though the work of computerisation of the RTOs/ARTOs was taken up in 2005 but could be implemented only in eight districts. The remaining fourteen districts were yet to be computerised. The modules like Issue of permits, Enforcement, Trade Certificate though present in the software were not put to use in VAHAN. Out of the eight computerised RTOs, old data had been digitised and incorporated only in RTO Kathua. No account of inventory of the hardware procured by the Department before and after implementation of VAHAN and SARATHI system and its distribution to various RTOs/ARTOs was maintained. All the eight computerised RTOs/ARTOs were not linked to a common database even after a lapse of six years from

the start of the project in 2005 and consequently, objective of automatic flow of data into the State Register and National Register could not be achieved.

Our analysis indicated 3,032 cases of duplicate engine numbers, 17 cases of duplicate chassis numbers and 53 cases of blank Engine numbers in six out of seven test-checked units. Fitness certificates in respect of 63 school buses have not been renewed even after a lapse of six days to three years. There was no anti-virus software loaded in any of the servers. The servers were found virus-infected, leaving the data risk-prone. The Department had not executed any contract for maintenance of hardware. The Department issued two separate driving licences to the same person in 298 cases and four licences had been issued to a single person by one RTO indicating deficient input controls and validation checks in the software. Several components of the modules were not in operation and software deficiencies were found which necessitated manual intervention for rectification, thereby rendering the system unreliable. The system lacked uniformity across all RTOs/ARTOs resulting in non-realisation of benefits of computerisation. The objectives of implementation of “VAHAN” & “SARATHI” for better services and improving working of RTOs/ARTOs/ enforcement agencies and revenue collection could not be fully achieved.

### 3.5.15 Recommendations

The Government may consider taking the following steps to enhance the efficiency and effectiveness of the Transport Information System:

- developing an IT strategy and IT Plan to avoid *ad hoc* implementation of computerisation efforts;
- maintaining a well documented change management procedure for ensuring transparency and effective internal controls;
- establishing a State wide area network with interconnectivity of all offices to integrate the database so that the data being captured at RTOs/ARTOs level can be integrated at the State level in order to establish the State Register of vehicles;
- strengthening the input and validation control features to ensure that incorrect and incomplete data are not fed into the system;
- training Departmental officials in system management and database operation on priority basis to reduce dependence on NIC;
- framing the security and backup policies and define the business continuity plan;
- ensuring proper supervisory checks/controls over the system; and
- enabling the system to generate periodical reports as a tool of Management Information System (MIS) to help management to effectively monitor revenue collection and take suitable corrective measures required.

## Chapter -IV STATE EXCISE

### 4.1 Trend of receipts

Actual receipts from State Excise during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table:

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2006-07	223.00	212.80	(-) 10.20	(-) 5	1798.97	11.83
2007-08	225.00	244.15	(+) 19.15	9	2558.18	9.54
2008-09	245.00	238.67	(-) 6.33	(-) 3	2682.96	8.90
2009-10	260.00	293.78	(+) 33.78	13	3027.32	9.70
2010-11	280.00	337.24	(+) 57.24	20	3482.58	9.68

The percentage of State Excise receipts vis-a-vis total tax receipts of the State remained between 8.90 per cent to 11.83 per cent during 2006-07 to 2010-11.

### 4.2 Cost of collection

The figures of gross collection in respect of State Excise, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 are mentioned below:

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
State excise	2008-09	238.67	11.10	4.65	3.34
	2009-10	293.78	12.37	4.21	3.66
	2010-11	337.24	14.38	4.26	3.64

The percentage of cost of collection during 2008-09 to 2010-11 was higher than the

national average.

### 4.3 Results of Audit

During 2010-11, out of 36 auditable units, 14 units were audited which is 39 per cent of the total auditable units. Test-check of the records of 14 audited units revealed underassessment/short levy/loss of revenue aggregating ₹ 7.74 crore in 29 cases, which fall under the following categories:

(₹ in crore)

Sl.No	Category	No.of cases	Amount
1	Short levy of additional licence fees	9	7.72
2	Other irregularities	20	0.02
<b>Total</b>		<b>29</b>	<b>7.74</b>

During the course of audit, the Department concerned accepted underassessment and other deficiencies of ₹ 1.25 lakh involved in 03 cases pointed out in 2010-11 and earlier years.

## CHAPTER V STAMP DUTY AND REGISTRATION FEES

### 5.1 Tax administration of Stamp Duty and Registration Fees

Stamp Duty and Registration Fee are levied in the State on all the sales/gifts or transfer of land/property within the jurisdiction of the State, in consideration of the value of land/property involved, at the rates prescribed by the State under various Acts in force from time to time. The levy of Stamp Duty and Registration Fee in the State is regulated under the J&K, Stamp Act *Samvat* 1977 (1920 AD) and J&K, Registration Act SVT 1977 (1920 AD) and also the executive instructions, amendments, notifications, SROs issued on the subject by the State Government.

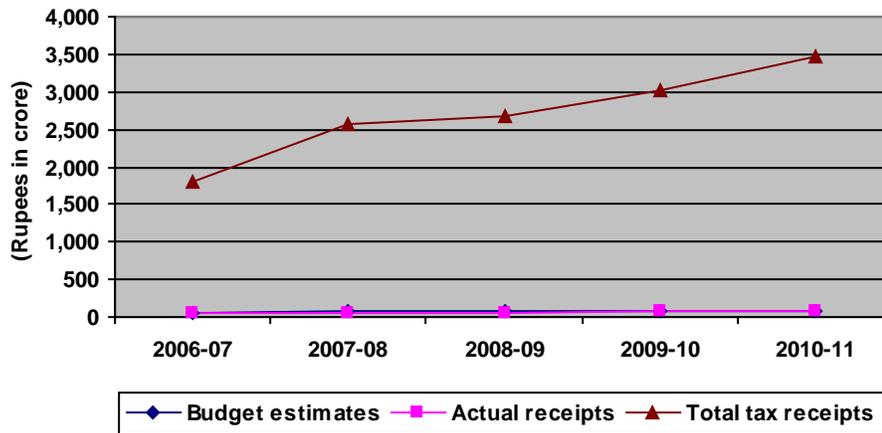
The State Government appoints an officer as Inspector General of Registrations for the State as a whole. In the State, the Chief Justice, High Court, J&K has been conferred the powers and duties of Inspector General of Registrations. The Principal District and Session Judges act as District Registrars at the District level who are assisted by Sub-Registrars (Sub-Judges, *Munsiffs* and Judicial Magistrates etc.) at the District and the tehsil levels. The overall administrative control lies with the State Law Department under Commissioner Secretary, Law.

The purchase and sale of stamps in the State fall under the jurisdiction of the Commissioner, Commercial Taxes who also acts as Commissioner Stamps and is assisted by two Deputy Commissioners (DC) Stamps, one each at Srinagar and Jammu. The DC Stamps, Jammu looks after the purchase aspects and distributes stamps to the Jammu-based treasuries and to the DC Stamps Srinagar (for distribution to Kashmir-based treasuries) on the basis of indents.

### 5.2 Trend of receipts

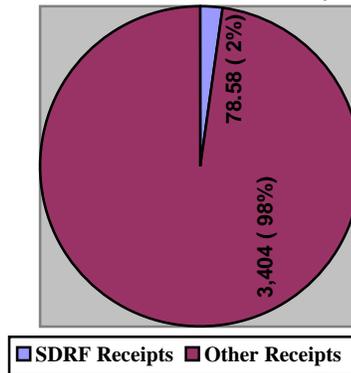
Actual receipts from Stamp Duty and Registration Fees (SDRF) during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graph:

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2006-07	47.35	56.93	9.58	20	1798.97	3.16
2007-08	66.70	65.63	(-) 1.07	(-) 2	2558.18	2.57
2008-09	79.17	57.14	(-) 22.03	(-) 28	2682.96	2.13
2009-10	82.61	69.51	(-) 13.10	(-) 16	3027.32	2.30
2010-11	67.23	78.58	11.35	17	3482.58	2.26



(₹ in crore)

Share of SDRF in Total Taxes (2010-11)



### 5.3 Cost of collection

The figures of gross collection in respect of the major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the previous year are mentioned below:

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Stamp duty and registration fees	2008-09	57.14	6.04	10.57	3.44
	2009-10	69.51	7.80	11.22	2.77
	2010-11	78.58	12.68	16.14	2.47

The expenditure on collection in Stamp Duty and Registration Fee was more than the all India average during the years 2008-11 and hence the Government needs to look into this aspect.

## 5.4 Results of Audit

### 5.4.1 Recovery at the instance of Audit

our test check of the Registration Authorities pointed out non/ short levy of ₹ 1.62 crore on account of Stamp Duty levied short and ₹ 5.46 lakh on account of short levy of Registration Fee during the period from 1996 to 2010. However, no recovery of Stamp Duty and Registration Fee was made by Registration Authorities.

### 5.4.2 Stamp Duty and Registration Fee

During 2010-11, out of 148 auditable units, 35 units were planned for audit and 24 units audited which is 16 *per cent* of the total auditable units.

Test-check of the records of 24 audited units revealed underassessment/short levy/loss of revenue aggregating ₹ 14 crore in 63 cases, which fall under the following categories:

(₹ in crore)

Sl.No	Category	No.of cases	Amount
1	Performance Audit on “ Assessment and levy of stamp duty and Registration fee”	1	8.77
2	Short levy of Stamp Duty and Registration Fees	43	5.12
3	Other irregularities	19	0.11
<b>Total</b>		<b>63</b>	<b>14.00</b>

A Performance Audit on “Assessment and levy of stamp duty and Registration fee” is mentioned in the succeeding paragraph.

## 5.5 Performance Audit on “Assessment and Levy of Stamp Duty and Registration Fee”

### Highlights

Our scrutiny revealed that the Department had neither prepared any Departmental Manual for Registrations of Instruments nor any compendium of instructions/amendments/clarifications issued by Government from time to time. Administrative inspection of the Sub Registrars/*Munsiffs* was never conducted by the Principal and District Session Judges who are the Administrative heads of the Registering offices.

**(Paragraphs 5.5.10.1 and 5.5.10.2)**

We noticed one instance of embezzlement due to weak internal controls in the office of the Sub-Judge (Sub Registrar), Jammu where the registration fee of ₹ 0.20 lakh collected by a cashier (*Nazir*) in May/June 2007 had not been remitted into Treasury.

**(Paragraph 5.5.10.3.1)**

As required under Registration Act, no certificate on registers pertaining to various Deeds was recorded and intimated to Controlling Authority by the Registering Authorities. There was no mechanism in the Department to keep watch over the number of Deeds executed by a Registering Authority at District, Division & State Level.

**(Paragraph 5.5.10.4)**

We found that the relevant records of the Department had not been computerised for an efficient and effective administration of Stamp Duty and Registration Fee including an effective control over the leakage of revenue.

**(Paragraph 5.5.10.5)**

We found that the entries regarding the value of stamps used with the number of stamps and denomination had not been made in the prescribed records.

**(Paragraph 5.5.10.6)**

We found in nine Sub-registrars, that the Registering Authorities had charged Stamp Duty on instruments relating to lease deeds of over three years, executed between April 2007 and June 2010, at lower rates applicable under conveyance No.14, applicable to the lease of less than three years, than prescribed under conveyance No. 20, resulting in short-levy of ₹ 62.72 lakh involving 134 cases.

**(Paragraph 5.5.11)**

We found in 22 instruments of Sales of immovable properties that these were treated as cases of sale agreements and consequently attracted lesser rates than those prescribed

under conveyance No. 20, resulting in short levy of Stamp Duty and Registration Fees of ₹ 10.86 lakh.

**(Paragraph No. 5.5.11.1)**

We found that 17 Registering authorities had not charged Stamp Duty and Registration Fee in 971 cases at the revised market rates on instruments of sale/gift deeds registered during the period from January to March 2011, resulting in short levy of Stamp Duty of ₹ 4.60 crore and Registration Fee of ₹ 70.71 lakh

**(Paragraph No. 5.5.11.2)**

We found that rates of Stamp Duty and Registration Fee applicable to urban areas since 2003, based on notifications issued by the Urban Development Department, had not been applied while registering Instruments relating to properties situated in the areas within the Municipal limits, resulting in non-recovery of ₹ 2.73 crore .

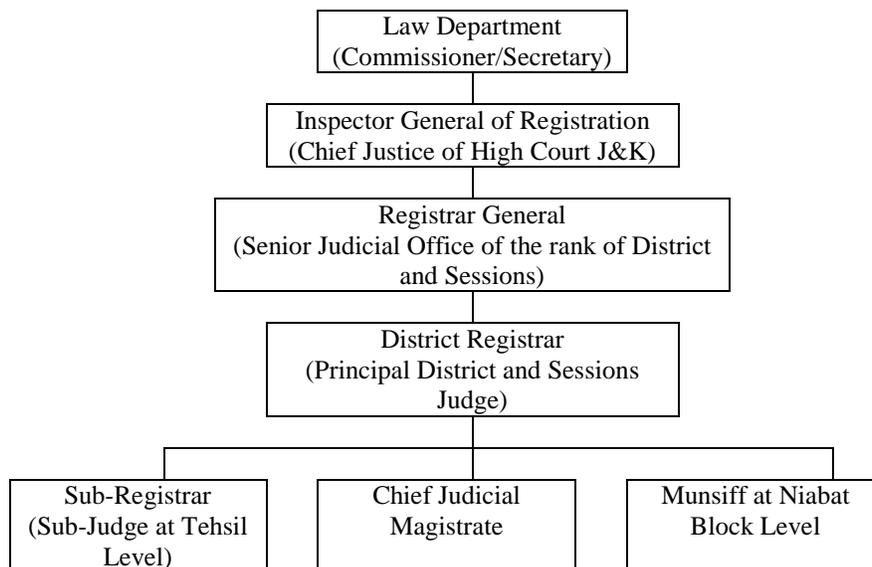
**(Paragraph No.5.5.12)**

### 5.5.1 Introduction

Stamp Duty and Registration Fee are levied in the State on all the sales/gifts or transfer of land/property within the jurisdiction of the State, in consideration of the value of land/property involved, at the rates prescribed by the State under various Acts in force from time to time. The levy of Stamp Duty and Registration Fee in the State is regulated under the J&K, Stamp Act *Samvat* 1977 (1920 AD) and J&K, Registration Act SVT 1977 (1920 AD) and also the executive instructions, amendments, notifications, SROs issued on the subject by the State Government.

### 5.5.2 Organisational set up

The organisational set-up of the Department is as under:



The State Government appoints an officer as Inspector General of Registrations for the State as a whole. In the State, the Chief Justice, High Court, J&K has been conferred the powers and duties of Inspector General of Registrations. The Principal District and Session Judges act as District Registrars at the District level who are assisted by Sub-Registrars (Sub-Judges, *Munsiffs* and Judicial Magistrates etc.) at the District and the tehsil levels. The overall administrative control lies with the State Law Department under Commissioner Secretary, Law.

The purchase and sale of stamps in the State fall under the jurisdiction of the Commissioner Commercial Taxes who also acts as Commissioner Stamps and is assisted by two Deputy Commissioners (DC) Stamps, one each at Srinagar and Jammu. The DC Stamps, Jammu looks after the purchase aspects and distributes stamps to the Jammu-based treasuries and to the DC stamps Srinagar (for distribution to Kashmir-based treasuries) on the basis of indents.

### 5.5.3 Audit Objective

The Performance Audit was conducted to assess whether:

- declared public offices discharged their functions in regard to levy of Stamp Duty and Registration Fees in accordance with the prescribed Rules and procedures;
- the Rules framed under various Acts were enforced effectively; and
- suitable internal control mechanism existed to ensure proper assessment and realisation of Stamp Duty and Registration Fee.

### 5.5.4 Audit Criteria

The levy of Stamp Duty and Registration Fee in the state is based on and regulated by the following Acts:

- J&K Stamp Act *Samvat* 1977 (1920 AD);
- J&K Taxation Laws (Amendment Act 2000);
- J&K Stamp and Registration Act *Samvat* 1977 (1920-AD); and
- J&K Statutes containing Notifications/SROs issued by the State Government from time to time.

### 5.5.5 Scope of Audit and Methodology

The Performance Audit of the system of assessment and levy of Stamp Duty and Registration Fee for the period from 2006-07 to 2010-11 was conducted from January 2011 to May 2011 by test check of records of 42 of 135 Sub Registrars (registering authorities). The selection of Sub Registry was based on the quantum of revenue

collected by the registering authorities while the selection of cases for test-check of each Sub Registrar was done through random sampling method.

### 5.5.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges cooperation of the Law Department for providing necessary information and records for audit check. An Entry Conference was held (February 2011) with the Secretary, Law Department, J&K Government wherein the audit objectives were discussed. The deficiencies noticed in the system of Assessment and Levy of Registration Fee and Stamp Duty as a result of audit were discussed with the Sub Registrars/*Munsiffs* of the courts of each test-checked unit and their replies incorporated at appropriate places.

Findings of audit were, however, discussed with the Secretary to the Government, Jammu and Kashmir, and Law Department who, while accepting the audit contention, assured that remedial action would be taken.

### 5.5.7 Trend of Revenue

The position of budget estimates and the actual receipts of Stamp Duty and Registration Fee during the years 2006-07 to 2010-11 was as follows.

(₹ in crore)

Year	Budget Estimate	Actual realisation	Percentage increase /decrease over budget estimate	Percentage increase/decrease over previous year
2006-07	47.35	56.93	(+) 20	(+) 22.61
2007-08	66.70	65.63	(-) 2	(+) 15.28
2008-09	79.17	57.14	(-) 28	(-) 12.93
2009-10	82.61	69.51	(-) 16	(+) 21.65
2010-11	67.23	78.57	(+) 17	(+) 13.03

The actual realisation of Stamp Duty and Registration Fee during the period 2007-08 to 2009-10 ranged between 72 and 98 *per cent* and was less than the budget estimates, which did not seem to be based on either the previous years' collections or the notifications issued by the Government which entailed increase in revenue in a particular year. This can be gauged from the fact that despite increase in the rates of payment of Stamp Duty and Registration Fee applicable from 1 January 2011, the revenue estimates had come down from ₹ 82.61 crore in 2009-10 to ₹ 67.23 crore in 2010-11. The reasons therefor, though called for (June 2011), were not furnished.

### 5.5.8 Procurement and distribution of stamps

To meet its requirements, the State Government projects its demand to the Indian Security Press (ISP), Nasik and receives stamps in its Central Stores at Jammu. The position of indents placed with the ISP, the supplies received there against, those issued

to treasuries and balances lying with the Central Store Jammu for the last five years are depicted in the table.

(₹ in crore)

Year	OB	Indents placed	Supply received	Stamps issued to treasury	Closing Balance
2006-07	69.70	53.85	56.30	55.70	70.30
2007-08	70.30	64.06	48.88	56.62	62.56
2008-09	62.56	48.46	36.55	55.08	44.03
2009-10	44.03	45.67	58.46	61.62	40.87
2010-11	40.87	60.61	87.57	76.60	51.84

Source: Data furnished by the D.C Stamps, Jammu

It can be seen that the basis of the assessment of the requirement was not known as the annual indents did not take into account the closing stock and the consumption of stamp papers of the previous years. The Government orders issued from time to time for indent of stamp paper were not kept in view while placing demand for the stamp paper. Details collected from DC Stamps showed that damaged, obsolete and unserviceable stamps valued at ₹ 1.83 crore were lying in the stores which had not been destroyed or written off as of March 2011. The amount included stamps valued at ₹ 0.46 lakh relating to court fee and non-judicial stamps of different denominations. The Department had not taken action to destroy the stamps and write off the value thereof from the books (September 2011).

### 5.5.9 Audit findings

Our test check of records revealed a number of system and compliance deficiencies. These are mentioned in the following paragraphs:

#### System deficiencies

#### 5.5.10 Lack of Internal controls in levy and collection of Stamp duty and Registration fee

Internal control mechanism in a Department is meant to ensure that its activities are carried out according to the prescribed rules and regulations in an economical, efficient and effective manner. The control mechanism in the Department should be guided by Act, Rules, Manuals and Compendium of instructions etc. to protect the resources of the Government and to ensure that revenue is correctly levied and timely realised by the Government. Our scrutiny revealed lapses while adhering to these rules as discussed in the following paragraphs.

#### 5.5.10.1 Manuals and compendium of Instructions not prepared

We found that Department had not prepared any Manual prescribing the procedures necessary for conducting office work relating to Registration of Instruments. Besides it

had not prepared any Compendium of Instructions in absence of which the Sub registrar offices did not apply revised rates of Stamp Duty resulting in short realisation of revenue.

#### **5.5.10.2 Administrative Inspections not carried out**

As per the J&K State Budget Manual, Administrative inspection of the subordinate offices is required to be conducted periodically by the next higher Authority so as to exercise necessary checks and controls over the resources and functions of office/division.

Administrative inspection of the Sub Registrars/*Munsiffs* was never conducted by the Principal and District Session Judges although the same had been pointed out by us repeatedly. Had the Administrative inspection been conducted, various deviations noticed by us would have come to the attention of the supervisory authorities in time and loss to the public ex-chequer could have been avoided.

**We recommend that the Government may consider instructing the Department for preparing a Departmental Manual indicating the procedure and responsibilities of the persons responsible for registering the documents.**

#### **5.5.10.3 Absence of Internal Audit Wing (IAW)**

Internal Audit is a control of controls. It helps the executive and the top management to know the strengths and weaknesses in the system. As such, it is imperative on the part of Department to have an IAW.

We found that there was no IAW for conducting internal audit of registering offices and audit was also not conducted by the Director, Audit Inspection (Finance Department), J&K. In absence of the wing a number of discrepancies remained undetected. An illustrative case indicating the need for an IAW is mentioned in the following paragraphs:

##### **5.5.10.3.1 Embezzlement of Government money**

Rule 2.2 of the J&K State Financial Code provides that money received by any State officer in his official capacity be remitted in full to the nearest treasury immediately without any deduction whatsoever.

We noticed that four Sub-registrars deposited their revenue proceeds in the treasuries belatedly without any justification, with delays ranging from one day to 26 days. The retention of money for longer periods than justified, besides being in violation of rules, is prone to embezzlement/misappropriation of Government money.

*We noticed one such instance of embezzlement resulting from failure of internal controls in the office of the Sub-Judge (Sub Registrar), Jammu where registration fee of ₹ 0.20 lakh collected from 12 April 2007 to 9 May 2007 by a cashier (Nazir) had not been remitted into treasury.*

*After we pointed this out, ₹ 19,300 were recovered from the cashier. The progress of recovery of balance amount was awaited as on April 2011. Action taken against the defaulting official, though called for, was not intimated.*

**We recommend that Government may consider setting up of an IAW to watch the correctness of levy and collection of revenue and its timely remittance to Government account, in view of the substantial revenues collected by these offices.**

#### **5.5.10.4 Non Reporting of Deeds executed**

Every Registering Authority under Rule 30 of Registration Act, Samvat 1977 is required to certify, after the last entry of each current volume, the number of entries made in that volume during the year at the close of each year.

However, we found that no such certificate on registers pertaining to various deeds is recorded and intimated to Controlling Authority by the Registering Authorities. There was no mechanism in the Department to keep watch over the number of Deeds executed by a Registering Authority at District, Division & State Level.

#### **5.5.10.5 Computerisation of the Registration records**

For an efficient and effective administration of Stamp Duty and Registration Fee, including an effective control over the leakage of revenue, computerisation of data and records is an essential prerequisite. However, the relevant records of the Department had not been computerised yet.

The Secretary, Law Department stated (April 2011) that computerisation of courts was being conducted under National e-courting programme and the State courts were being covered under 1<sup>st</sup> phase to be completed by the year 2011-12.

#### **5.5.10.6 Incomplete maintenance of records**

Section 69 under Rule 60 of the Registration Act related to 'copying of documents into register' provides that when a document has been admitted to registration and the necessary endorsements have been recorded, it should be made over to the registration *moharir* to be copied into its appropriate book and the registration officer should see that no unnecessary delay occurs and that documents are always entered in the book in the order of their admission. In the first column of the register should be entered the value of stamps (if any) and the number of stamps used, duly authenticated by the registering officer daily.

Notwithstanding the Rule, check of registers 'A' and 'B' and *Dakhla Vasaik* registers showed that the entries regarding the value of stamps used, with the number of stamps and denomination had not been made therein.

After this being pointed out, the Registering Authorities stated that the records would be maintained in future.

**We recommend that the Department may consider implementation of computerisation of the registering offices, e-stamping for registration deeds and proper maintenance of records.**

### **Compliance deficiencies**

Scrutiny of records of various registration offices showed cases of non-compliance of the provisions of the Stamp and Registration Acts which came into force in the State from time to time. The cases discussed in the succeeding paragraphs are based on the test-check of records carried out by us.

#### **5.5.11 Short realisation of Stamp Duty and Registration Fee due to application of incorrect rates on lease deeds of over three years**

The Stamp Duty Act 1977 provides that in the cases where the lease purports to be for a period in excess of three years, the Stamp Duty shall be the same as is applicable to the conveyance (No. 20) for a consideration equal to the amount of the value of the average annual rent reserved (₹ 216 per thousand) within Municipal limits and ₹ 72 per thousand for the locations outside the Municipal areas.

Test check of records of nine sub-registrars showed that the Registering Authorities had charged Stamp Duty on instruments relating to lease deeds of over three years, executed between April 2007 and June 2010, at lower rates applicable under conveyance No.14, applicable to the lease of less than three years, than prescribed under conveyance No. 20, which had resulted in short-levy of ₹ 62.72 lakh involving 134 cases.

After we pointed out the mistake three Sub Registrars while accepting the audit observation stated that the amount would be recovered. Four Sub Registrars did not reply to the audit observation. The Sub Registrar, Kulgam, however, directed (August 2011) the Collector to recover the amount of ₹ 17.32 lakh levied short as the concerned parties had not responded to the notices issued to them on this behalf.

##### **5.5.11.1 Incorrect classification of sale deed as sale agreement**

The Jammu and Kashmir Stamp Duty Act 1977 provides that when the possession of an immovable property is handed over by the vendor to the vendee in lieu of the consideration fixed and received by the vendor in full or part thereof, the deal/transaction is deemed to be a sale and is chargeable with Stamp Duty and Registration Fee as per conveyance 20 of the Act.

We found that though in 22 instruments of Sales of immoveable properties, (between June 2007 and February 2010), consideration had been paid in full by the vendee and the vendor had ceased to hold any right over the transferred properties, yet four Sub

Registrars had classified the cases of sale as sale agreements, which therefore attracted lesser Stamp Duty and Registration Fee than those applicable to conveyance 20 of the Act. Due to application of lesser rates on account of nomenclature of the Deed being changed by the Sub Registrars, there was short levy of Stamp Duty and Registration Fee of ₹ 10.86 lakh.

After we pointed this out (March 2011), the Sub Registrars stated that the cases would be re-examined and recovery effected accordingly.

#### **5.5.11.2 Non-levy of Stamp Duty and Registration Fee at the market value of land**

In exercise of the powers vested under J&K Stamps (Determination of Market value of property) Rules, 2006, the Divisional Commissioner, Jammu notified (December 2010) market rates of land situated in urban and rural areas of Jammu division applicable for the calendar year 2011, effective from 1<sup>st</sup> January 2011. By virtue of the order, the Registering Authorities were required to consider these market rates of land for levy of Stamp Duty and Registration Fee at 10 and 7 *per cent* of the market value of the land prescribed for urban and rural areas, respectively while registering the sale/gift deeds.

Test check of records of 17 (out of 42) Sub Registrars showed that the Registering authorities had not charged Stamp Duty and Registration Fee in 971 cases at the revised market rates on instruments of sale/gift deeds registered during the period from January to March 2011 resulting in short levy of Stamp Duty (₹ 4.60 crore) and Registration Fee (₹ 70.71 lakh). We found that there was delay in forwarding the orders at all the levels viz. Divisional Commissioner (14 days), Registrar General (15 days) and the Principal, District and Sessions Judge (6 days). This resulted in short realisation of the Government dues.

After we pointed this out, the Registering authorities accepted (January to April 2011) the fact that the duty could not be levied correctly due to late receipt of the order and the matter would be looked into and the duty short-levied would be got recovered from the concerned. Further action in the matter was awaited (May 2011). The reply of the Registering authorities, on verification, was found to be correct. Reasons for delay in issuance of orders at these levels which had led to loss to the Government, though called for, were awaited.

#### **5.5.12 Non-levy of Stamp Duty and Registration Fee at applicable rates**

Under the Jammu and Kashmir Municipal Act 2000, a conveyance of immovable property situated within a Municipality, Town Area or such other areas as the Government may from time to time notify, shall be chargeable with the Stamp Duty at three times the rates hereinbefore provided in a Municipality and at double the rates in Town Area or Notified area or other areas notified by the Government. By virtue of this, the Stamp Duty was to be levied at ₹ 216 per thousand of the amount of consideration on

each sale/gift deed in respect of immovable property situated in these areas against the rate of ₹ 72 per thousand applicable before the issuance of the orders.

Our scrutiny of records also showed that rates of Stamp Duty and Registration Fee applicable to urban areas had not been applied in the Instruments relating to properties in the areas within the Municipal limits, resulting in non-recovery of ₹ 2.73 crore as brought out in the following paragraphs.

### **5.5.12.1 Short charging of Stamp Duty and Registration Fee in Municipal Areas**

**5.5.12.1.1** Housing and Urban Development Department *vide* notification dated 18 February 2003 formed 78 Municipal Committees and six Municipal Councils by upgradation/reorganisation of Town Area Committees/ Notified Area Committees in the State.

As Per the notification dated April 2000 instruments falling under the Municipal areas presented for registration attracted Stamp Duty and Registration Fee at the rate of ₹ 216 per thousand i.e. three times the rate applicable mentioned in Article 20 of Schedule 1 of the Act.

We noticed that 938 instruments registered between April 2004 and December 2010 in 16 registries fell within the areas of Municipal Committees and six Municipal Councils Corporation in the State. As such the Stamp Duty should have been charged at the rate of ₹ 216 per thousand in terms of the above notification. However, we found that the stamp duty in these cases had been levied at the rate of ₹ 72 per thousand. This resulted in short charging of stamp duty of ₹ 1.57 crore. We had pointed such lapses/ irregularity from time to time through our Local Audit Inspection Reports but no action was taken by the registering authorities till date.

**5.5.12.1.2** In Jammu, Housing and Urban Development Department *vide* notification dated September 2003 and December 2003 included some areas/ *Mohallas* under the limits of Municipal Corporation Jammu.

We found that 160 sale/gift instrument of the land/property registered in five Sub Registries between February 2006 and November 2010 fell within the municipal area of Municipal Corporation Jammu. However the Registering authorities had charged stamp duty at the rate ₹ 72 per thousand applicable to rural areas instead of ₹ 216 per thousand applicable to Municipal areas. This resulted in short charging of stamp duty of ₹ 63.22 lakh.

After we pointed this out the Sub Registrar, Sub-Judge, Jammu stated (February 2011) that the matter would be taken up with the Deputy Commissioner, Jammu for circulation of the notifications mentioned above. The reply is not correct as the notifications had already been published in J&K State and the registering authorities should have taken cognizance of the notifications while levying the stamp duty. Besides, application of

incorrect rates for such a long period is itself an indicative of the fact that proper mechanism of updating the working of the Registering Authorities does not exist in the Department.

**We recommend that the Department put in place a system for updating the norms on the basis of which stamp duty is being levied.**

Registers called register 'A' and *Dakhla Vasaik Register* are maintained in each registry. Revenue received on account of stamp duty is entered in these Registers. Besides, the amount of Stamp Duty and Registration Fee levied is mentioned at counter file<sup>1</sup> of the Sale Deed.

However we found in the office of Sub-Judge, Jammu that in four instruments registered (September and October 2009), amount of stamp duty was neither mentioned in the 'Register 'A' nor was the same depicted in the counter file of the Sale Deeds. The stamp duty involved was ₹ 31.97 lakh. We further noticed that in eight cases Stamp Duty had been levied at lesser rates resulting in short levy of ₹ 20.72 lakh. The reasons for the short levy were not found on record.

**We recommend that the Government may consider instructing the Department for strictly adhering to the provisions of the Act and Rules made there under and ensure that correct rates as notified by the Government from time to time are applied.**

### **5.5.13 Conclusion**

We noticed short/non-levy of Stamp Duty and Registration Fees at all the levels due to several systems and compliance deficiencies in working of the Law Department which is responsible for levy and collection of Stamp Duty and Registration Fees. We found that the Department had neither prepared any Manual for Registrations of Instruments nor had it prepared any compendium of instructions stipulating the rates as prescribed by the Government from time to time relating to Stamp Duty. Administrative inspections of the Sub Registrars/*Munsiffs* had never been conducted by the Principal and District Session Judges. Lack of internal controls alongwith absence of Internal Audit resulted in embezzlement of ₹ 0.20 lakh. We also found that the Registering Authorities charged Stamp Duty on instruments at lesser rates applicable to properties situated in urban areas, despite notifications having been issued by the Urban Development Department. There were cases of Mis-classification of Deeds and consequent short levy of Stamp Duty which needs to be recovered.

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<sup>1</sup> It is a copy of the deed kept for office records in the registry.

#### **5.5.14 Recommendations**

In view of the above we recommend that the Government may consider:

- instructing the Department for preparing a Departmental Manual indicating the procedure and responsibilities of the persons responsible for registering the documents;
- setting up of an IAW to watch the correctness of levy and collection of revenue and its timely remittance to Government Account, in view of the substantial revenues collected by these offices;
- implementing Computerisation of Registering offices, e-stamping for registration deeds and proper maintenance of records; and
- instructing the Department for strictly adhering to the provisions of the Act and Rules made there under and ensure that correct rates as notified by the Government from time to time are applied.

**Srinagar/Jammu  
The**

**(Venkatesh Mohan)  
Principal Accountant General  
Jammu and Kashmir**

**Countersigned**

**New Delhi  
The**

**(Vinod Rai)  
Comptroller and Auditor General of India**