



**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended 31 March 2014**



**Government of Rajasthan
Report No. 2 of the year 2015**

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PREFACE

This Report for the year ended 31 March 2014 has been prepared for submission to the Governor of Rajasthan under Article 151 of the Constitution of India.

This Report contains significant results of the performance audit and compliance audit of the Departments of the Government of Rajasthan under the Economic Services (Revenue Sector). The results of audit of the Commercial Taxes, Transport, Land Revenue, Registration and Stamps, State Excise, Mines, Geology and Petroleum Departments have been included in the Report.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2013-14 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2013-14 have also been included, wherever necessary.

Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

OVERVIEW

OVERVIEW

This Report contains 34 paragraphs involving ₹ 228.02 crore, including two Performance Audits on **‘Levy and Collection of Value Added Tax on Works Contract’** and **‘Receipts from Minor Minerals’**. Some of the significant audit findings are mentioned below:

I. General

The total revenue receipts of the Government of Rajasthan during 2013-14 were ₹ 74,470.37 crore as against ₹ 66,913.01 crore for the year 2012-13. The revenue raised by the Government amounted to ₹ 47,052.95 crore comprising tax revenue of ₹ 33,477.70 crore and non-tax revenue of ₹ 13,575.25 crore. The receipts from the Government of India were ₹ 27,417.42 crore (State’s share of divisible Union taxes of ₹ 18,673.07 crore and grants-in-aid of ₹ 8,744.35 crore).

(Paragraph 1.1)

Inspection Reports (IRs) issued upto December 2013 disclosed that 9,477 paragraphs involving ₹ 4,592.63 crore relating to 2,896 IRs remained outstanding at the end of June 2014.

(Paragraph 1.6)

II. Taxes/VAT on Sales, Trade, etc.

A Performance Audit of **‘Levy and Collection of Value Added Tax (VAT) on Works Contract’** disclosed the following:

- There was no separate sub-head for classifying the works contract receipts as such the performance of the Department relating to the total receipts on account of works contract could not be ascertained.

(Paragraph 2.4.7)

- Analysis of data of returns revealed that during the last three years on an average 66 *per cent* dealers had either not filed their returns or had filed their returns with nil turnovers. No attempt was made by the Department to ascertain the reasons for non-filing or filing of returns with nil turnovers.
- Audit found that four dealers were assessed with nil turnover though their turnover was ₹ 91.20 crore, involving tax liability of ₹ 1.57 crore.

(Paragraph 2.4.8)

- No system existed for watching the receipt of the Form VAT-40 received from the awarders and for utilising the information, wherever received in the registration and assessment of the concerned dealers. Twelve works contractors involving a tax liability of ₹ 93.80 lakh were not found registered with the Department.

(Paragraph 2.4.9)

- The Assessing Authorities of five WT circles issued 41,767 VAT-41 forms during 2008-09 to 2012-13 to 527 awarders, though they were not authorised to issue the same. In five cases interest and penalty of ₹ 32.97 lakh were not levied on the awarders for delay in depositing the tax deducted at source (TDS) by them while in another case TDS was deposited short by ₹ 39.12 lakh.

(Paragraphs 2.4.10 & 2.4.11)

- In nine cases deductions of turnover of ₹ 79.76 crore from the taxable turnover was allowed to sub-contractors, without ascertaining that the payment of tax was made by the principal contractors.
- Nine principal contractors did not deduct TDS amount of ₹ 2.39 crore while making payment to sub-contractors. There was nothing on record to indicate that the principal contractors had paid the tax on this turnover.

(Paragraph 2.4.12)

- The Assessing Authorities did not follow the correct procedure laid down in the RVAT Rules for determination of taxable turnover. This resulted in underassessment of taxable turnover and consequently short levy of tax of ₹ 2.39 crore, including interest of ₹ 0.63 crore.

(Paragraph 2.4.13.1)

- Application of incorrect rate of exemption fee resulted in short levy of exemption fee and interest of ₹ 12.85 crore.

(Paragraph 2.4.14)

Inadmissible benefit of concessional tax was allowed on motor vehicles sold to works contractors in the course of inter-State sale which resulted in short levy of tax and interest amounting to ₹ 1.99 crore.

(Paragraph 2.7)

Non-levy of entry tax on the goods purchased from other States for consumption or use in the business resulted in non-recovery of tax of ₹ 4.72 crore and interest of ₹ 1.69 crore.

(Paragraph 2.9)

III. Taxes on Vehicles, Goods and Passengers

Motor vehicle tax and special road tax of ₹ 12.37 crore in respect of 4,054 vehicles for the period between April 2010 and March 2013 were either not paid or paid short.

(Paragraph 3.4)

Short realisation of special road tax, surcharge and penalty aggregating to ₹ 2.81 crore was noticed against a fleet owner Rajasthan State Road Transport Corporation.

(Paragraph 3.5)

IV. Land Revenue

In two cases the Department applied incorrect District Level Committee rates in working out the cost of lands allotted to a religious body of Barmer and to Rajasthan Housing Board. This resulted in short realisation of revenue of ₹ 4.81 crore.

(Paragraph 4.5)

Agricultural Land was used for non-agricultural purposes without conversion of land use resulting in either non-recovery or short recovery of conversion charges of ₹ 1.87 crore.

(Paragraph 4.6)

In three cases, 421.165 *bigha* land was allotted in excess of limit prescribed for allotment of land to Solar Power Producers at concessional rate of 10 *per cent* of District Level Committee rates resulting in short realisation of ₹ 95.90 lakh.

(Paragraph 4.8)

V. Stamp Duty and Registration Fee

Three Sub-Registrars (SRs) determined the value of the properties purchased by educational institutions at agricultural rate instead of 1.5 times of the residential rate (RR). This resulted in short levy of Stamp Duty (SD) and Registration Fee (RF) amounting to ₹ 59.34 lakh.

(Paragraph 5.4)

Benefit of lower rate of SD, available to Power of Attorney holders under Article 44 (ee) (ii) to the Schedule of the Rajasthan Stamp Act, 1998, was irregularly extended to ineligible persons. This resulted in short levy of SD of ₹ 60.54 lakh.

(Paragraph 5.6)

The recitals of 42 documents of sale of plots/flats/shops disclosed that developers were entitled to retain and dispose of developed property. These were to be classified as conveyance deeds instead were treated as development agreements. This resulted in short-levy of SD and RF of ₹ 13.91 crore.

(Paragraph 5.7.1)

Mis-classification of development agreements and undervaluation of property resulted in short levy of SD and RF amounting to ₹ 26.48 crore.

(Paragraph 5.7.2)

The SR allowed rebate in SD treating the property as heritage property in contravention of notification dated 24 March 2005 as the property was neither a heritage property nor was declared so by Tourism Department. The SR also undervalued the part of the property treating it partly as industrial and partly as residential resulting in short recovery of SD of ₹ 4.39 crore.

(Paragraph 5.8)

VI. State Excise

Special Vend Fee (SVF) of ₹ 3.69 crore on IMFL and beer were neither deposited by the CSD nor demanded by the Department. This resulted in non-levy of SVF amounting to ₹ 3.69 crore.

(Paragraph 6.5)

In District Excise Officer (DEO), Alwar 1.55 lakh bulk litres (19,851 cartons) of beer involving excise duty of ₹ 66.66 lakh exported by five breweries were either not or short delivered. Duty was neither paid by the Breweries nor was it demanded by the Department. This resulted in non-levy of State Excise Duty of ₹ 66.66 lakh.

(Paragraph 6.6)

In DEO, Behror it was found that 7,609 cartons of beer became non-potable in the bonded warehouses as these remained unsold for a period over six months from the date of their manufacture. The department neither recovered the duty nor referred the case to the Commissioner, State Excise for decision. This resulted in non-levy of excise duty of ₹ 29.41 lakh.

(Paragraph 6.7)

DEO Alwar in the month of July 2012 had accounted for production of 40.06 lakh BL strong beer in monthly statement instead of 41.01 lakh BL resulting in excess wastage of 0.81 lakh BL beer beyond the permissible limit. This resulted in non-levy of state excise duty of ₹ 36.92 lakh.

(Paragraph 6.9)

VII. Non-Tax Receipts

A Performance Audit of **'Receipts from minor minerals'** disclosed the following irregularities/deficiencies.

- Audit scrutiny of records of 10 AME/ ME disclosed that the Environment Management Fund ₹ 6.53 crore was not collected from 289 lessees, permit holder and contractors

(Paragraph 7.4.10)

- Nine committees/Joint Inspection Teams were formed for investigating the illegal extraction and allotment of leases of minor mineral in five cases. Of these, in one case of *Moda Pahar* four committees/JIT were formed while in another case two committees were formed without any fruitful results. The amount involved in the illegal extraction aggregated to revenue of ₹ 177.08 crore.

(Paragraph 7.4.11)

- During test check of records revealed that in 11 selected ME/AME offices, Out of 5,250 appeal cases, 4,588 appeal cases were disposed of and 662 cases were pending with the Department.

(Paragraph 7.4.12)

- Grant of leases of mineral masonry stone in the area reserved for the noble metals in Sikar district.

(Paragraph 7.4.13)

- In seven ME/AME offices, out of 10,751 assessment cases, 8,177 assessment cases were finalised leaving 2,574 assessment cases pending as on 31 March 2013. No time limit was fixed for finalisation of the assessments.

(Paragraph 7.4.14.1)

- It was noticed that 75 works contractors excavated/consumed minerals like masonry stone, *bajri*, *murrum*, ordinary soil, *etc.* either without obtaining short term permits (STP) or in excess of 25 *per cent* over the quantity permitted in the STP. The cost of minerals illegally excavated worked out to ₹ 8.33 crore.

(Paragraph 7.4.15)

- In nine ME/AME offices, 1969 STPs involving royalty of ₹ 10.41 crore issued during the year 2009-10 to 2012-13 to the Public Works Department contractors were pending for royalty assessments.

(Paragraph 7.4.19)

- Internal Audit was not being conducted by the Department since 2004-05; the inspections were also not conducted in accordance with the prescribed norms. No co-ordination was found between Rajasthan State Pollution Control Board and the Director Mines and Geology to ascertain the quantity of the mineral extracted in excess of the prescribed quantity.

(Paragraph 7.4.20)

One lessee excavated and despatched mineral in excess of the quantities assessed by the Mining Engineer. This resulted in non-recovery/short recovery of royalty of ₹ 2.46 crore for minerals Quartz and Felspar.

(Paragraph 7.5)

CHAPTER-I

GENERAL

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Rajasthan during the year 2013-14, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding four years are mentioned in the table 1.1.1.

Table 1.1.1

(₹ in crore)

Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
1.	Revenue raised by the State Government					
	• Tax revenue	16,414.27	20,758.12	25,377.05	30,502.65	33,477.70
	• Non-tax revenue	4,558.22	6,294.12	9,175.10	12,133.59	13,575.25
	Total	20,972.49	27,052.24	34,552.15	42,636.24	47,052.95
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	9,258.13	12,855.63	14,977.05	17,102.85	18,673.07
	• Grants-in-aid	5,154.39	6,020.33	7,481.56	7,173.92	8,744.35
	Total	14,412.52	18,875.96	22,458.61	24,276.77	27,417.42
3.	Total revenue receipts of the State Government (1 and 2)	35,385.01	45,928.20	57,010.76	66,913.01	74,470.37¹
4.	Percentage of 1 to 3	59	59	61	64	63

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 47,052.95 crore) was 63 *per cent* of the total revenue receipts. The balance 37 *per cent* of receipts during 2013-14 was from the Government of India by way of share of net proceeds of divisible Union Taxes and duties and grants-in-aid.

¹ For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Rajasthan for the year 2013-14. Figures under the head 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0022 - Taxes on agriculture income, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties and 0044 - Service tax - share of net proceeds assigned to State booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

1.1.2 The details of the budget estimates (BE) and the actual receipts in respect of the tax revenue raised during the period from 2009-10 to 2013-14 are given in the table 1.1.2.

Table 1.1.2

(₹ in crore)

Heads of revenue	BE Actual	2009-10	2010-11	2011-12	2012-13	2013-14	Percentage of increase (+)/ decrease (-) in 2013-14 over 2012-13
Taxes on sales, trade, etc.	BE	9,599.64	11,514.82	13,088.08	15,402.08	19,528.00	
	Actual	9,681.38	11,901.24	14,665.63	17,214.34	19,834.72	(+) 15
Central sales tax	BE	430.36	215.18	401.92	1,147.92	1,522.00	
	Actual	482.15	728.35	1,100.80	1,360.31	1,380.79	(+) 2
State excise	BE	2,300.00	2,450.00	2,623.00	3,250.00	4,500.00	
	Actual	2,300.48	2,861.41	3,287.05	3,987.83	4,981.59	(+) 25
Stamp duty and registration fees							
Stamps-judicial	BE	46.47	35.60	43.15	60.14	105.40	
	Actual	30.47	43.07	79.40	144.27	104.59	(-) 28
Stamps-non-judicial	BE	1,393.53	1,379.48	1,577.08	2,264.97	3,268.57	
	Actual	1,104.79	1,522.01	2,153.68	2,693.13	2,577.76	(-) 4
Registration fee	BE	210.00	234.92	279.77	474.89	526.03	
	Actual	227.68	375.96	418.29	497.47	442.98	(-) 11
Taxes on motor vehicles	BE	1,300.00	1,450.00	1,650.00	1,900.00	2,500.00	
	Actual	1,372.87	1,612.25	1,927.05	2,283.13	2,498.90	(+) 9
Taxes and duties on electricity	BE	707.23	778.80	846.64	1,505.25	1,512.61	
	Actual	699.99	905.81	1,094.48	1,570.06	948.93	(-) 40
Land revenue	BE	250.06	185.06	196.06	196.06	185.51	
	Actual	147.66	222.17	209.01	304.55	337.98	(+) 11
Taxes on goods and passengers	BE	225.00	252.00	265.00	280.00	300.00	
	Actual	176.10	230.69	220.13	248.57	287.92	(+) 16
Other taxes and duties on commodities and services	BE	69.59	74.99	78.74	50.99	55.00	
	Actual	58.52	64.43	43.44	48.47	68.46	(+) 41
Other taxes ² etc.	BE	209.77	450.00	300.00	300.00	50.00	
	Actual	132.18	290.73	178.09	150.52	13.08	(-) 91
Total	BE	16,741.65	19,020.85	21,349.44	26,832.30	34,053.12	
	Actual	16,414.27	20,758.12	25,377.05	30,502.65	33,477.70	9.75
Percentage of increase of actual over previous year			26.46	22.24	20.19	9.75	

² Other taxes on income and expenditure, tax on professions trades, callings and employments and land tax.

There has been continuous increase in the collection of tax revenue during the last four years. The growth of revenue was the least (9.75 *per cent*) during 2013-14.

The decrease (91 *per cent*) in 'other taxes *etc*', was due to the abolition of land tax in the State while reasons for decrease in taxes and duties on electricity (40 *per cent*) though called for (November 2014) were not received from the Department.

1.1.3 The details of the budget estimates (BE) and the actual receipts in respect of the non-tax revenue raised during the period from 2009-10 to 2013-14 are given in the table 1.1.3.

Table 1.1.3

(₹ in crore)

Heads of revenue	BE Actual	2009-10	2010-11	2011-12	2012-13	2013-14	Percentage of increase (+)/ decrease (-) in 2013-14 over 2012-13
Non-ferrous mining and metallurgical industries	BE	1,450.00	1,760.00	2,060.00	2,500.00	3,210.00	
	Actual	1,612.26	1,929.58	2,366.32	2,838.59	3,088.66	(+) 9
Interest receipts	BE	1,189.32	1,129.25	1,229.22	1,428.79	1,933.88	
	Actual	1,185.45	1,276.70	1,714.53	2,067.00	2,142.49	(+) 4
Miscellaneous general services	BE	1,342.83	216.02	195.40	324.29	576.17	
	Actual	739.30	271.19	353.09	686.10	846.36	(+) 23
Police	BE	102.00	200.00	150.00	165.00	170.48	
	Actual	126.24	133.93	143.54	192.07	167.27	(-) 13
Other administrative services	BE	52.82	61.49	60.99	78.88	89.94	
	Actual	49.12	80.33	110.99	85.50	147.38	(+) 72
Major and medium irrigation	BE	59.76	61.27	69.21	122.21	90.62	
	Actual	48.83	86.04	91.83	87.21	80.62	(-) 8
Forestry and wild life	BE	56.79	61.50	61.60	56.05	66.67	
	Actual	56.35	93.20	74.95	91.24	77.52	(-) 15
Public works	BE	64.00	70.00	75.75	75.75	65.00	
	Actual	62.75	62.10	55.85	57.63	69.16	(+) 20
Medical and public health	BE	31.84	42.78	48.17	61.88	61.00	
	Actual	56.55	45.46	59.38	96.04	65.61	(-) 32
Co-operation	BE	30.00	23.81	21.12	23.65	20.42	
	Actual	21.03	16.35	22.38	22.02	18.80	(-) 15
Other non-tax receipts ³	BE	903.64	1,349.82	2,466.69	4,114.64	6,370.23	
	Actual	600.34	2,299.24	4,182.24	5,910.19	6,871.38	(+) 16
Total	BE	5,283.00	4,975.94	6,438.15	8,951.14	12,654.41	
	Actual	4,558.22	6,294.12	9,175.10	12,133.59	13,575.25	(+) 12
Percentage of increase of actual over previous year			38.08	45.77	32.24	11.88	

³ Other non-tax receipts constitute from housing, village and small industries, fisheries, dividends and profit, contribution and recoveries towards, pension and other retirement benefits, *etc.*

There has been regular increase in the collection of non-tax revenue during the last four years. However, the growth of revenue was the least (11.88 *per cent*) during 2013-14.

There was increase (72 *per cent*) in revenue under the head 'Other administrative services' which was mainly due to more receipts on account of civil defence, motor garage and other receipts.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 relating to some principal heads of revenue amounted to ₹ 4,032.86 crore of which ₹ 1,476.82 crore was outstanding for more than five years, as given in the table 1.2.

Table 1.2

(₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2014	Amount outstanding for more than five years as on 31 March 2014
1.	Commercial taxes	3,026.15	1,096.18
2.	Transport	63.82	19.30
3.	Land revenue	356.87	56.25
4.	Registration and stamps	172.63	52.93
5.	State excise	219.82	203.88
6.	Mines, geology and petroleum	193.57	48.28
Total		4,032.86	1,476.82

Source: Furnished by the concerned Departments.

It would be seen from the table that recovery of ₹ 1,476.82 crore was pending for more than five years. The stages at which arrears were pending collection though called (November 2014) for were not intimated by the Departments. The State Excise Department intimated that the cases involving ₹ 35.55 crore were referred for write off and other cases were also being pursued regularly.

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the respective Departments in respect of Commercial Taxes, Registration and Stamps and Mines, Geology and Petroleum are given in the table 1.3.

Table 1.3

Name of the Department	Opening balance	New cases due for assessment during 2013-14	Total assessments due	Cases disposed of during 2013-14	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Commercial taxes	20	3,72,542	3,72,562	3,72,547	15	99.99
Registration and Stamps	5,750	5,378	11,128	4,288	6,840	38.53
Mines, geology and petroleum	14,933	13,138	28,071	16,739	11,332	60.00

Source: Furnished by the concerned Departments.

As would be seen the percentage of disposal of cases was the least in Registration and Stamps Department. The Department may take necessary action for disposal of the cases.

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected, cases finalised and the demands for additional tax raised, as reported by the Commercial Taxes Department are given in the table 1.4.

Table 1.4

Sl. No.	Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2014
					Number of cases	Amount of demand (₹ in crore)	
1.	Commercial Taxes	201	4,379	4,580	4,248	217.98	332

Source: Furnished by the Commercial Taxes Department.

It would be seen from the above table that 93 *per cent* of the total cases were settled during the year 2013-14. However the amount recovered on account of settlement in these cases was not intimated (December 2014).

1.5 Pendency of refund cases

The number of refund cases pending at the beginning of the year 2013-14, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2013-14 as reported by the Department is given in the table 1.5.

Table 1.5

(₹ in crore)

Sl. No.	Particulars	Sales tax/VAT		Registration and stamps	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	182	63.34	918	3.70
2.	Claims received during the year	5,392	503.13	1,864	8.68
3.	Refunds made during the year	5,368	467.89	1,953	7.47
4.	Balance outstanding at the end of year	206	98.58	829	4.91

It would be seen from the above that there has been increase in the outstanding refund cases in Commercial Taxes Department while the number of outstanding cases has gone down in the Registration and Stamps Department. Necessary action may be taken by the concerned Department(s) for speedy disposal of the refund cases. This would not only benefit the claimants but would also save the Government from payment of interest on the delayed payment of refunds.

1.6 Response of the Government/Departments towards audit

The Accountant General (Economic & Revenue Sector Audit), Rajasthan, Jaipur conducts periodical inspection of the Government/Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed by Inspection Reports (IRs) which incorporate irregularities detected during the inspection and not settled on the spot. The IRs are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the Accountant General within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued upto December 2013 disclosed that 9,477 paragraphs involving ₹ 4,592.63 crore relating to 2896 IRs remained outstanding at the end of June 2014. The figures as on June 2014 along with the corresponding figures for the preceding two years are given in the table 1.6.

Table 1.6

Particulars	June 2012	June 2013	June 2014
Number of IRs pending for settlement	2,628	2,882	2,896
Number of outstanding audit observations	8,260	9,489	9,477
Amount of revenue involved (₹ in crore)	5,958.95	7,731.42	4,592.63

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in table 1.6.1.

Table 1.6.1

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Amount involved (₹ in crore)
1.	Commercial taxes	Taxes/VAT on sales, trade, <i>etc.</i>	590	2,595	835.86
		Entertainment tax, luxury tax <i>etc.</i>	24	27	0.07
2.	Transport	Taxes on motor vehicles	435	1,495	186.69
3.	Land revenue	Land revenue	178	408	745.92
4.	Registration and Stamps	Stamp duty and registration fee	1,258	3,342	204.47
5.	State excise	State excise	109	214	80.37
6.	Mines, geology and petroleum	Non-ferrous mining and metallurgical industries	302	1,396	2,539.25
Total			2,896	9,477	4,592.63

Audit did not receive first replies from the heads of offices even after expiry of more than one month from the date of issue in respect of 24 IRs issued during 2013-14. The huge pendency of the IRs is indicative of the fact that the heads of offices and the Departments did not take adequate action to rectify the defects, omissions and irregularities pointed out by Audit through the IRs.

The Government may advise the concerned Departments to make more efforts for rectifying the defects and irregularities pointed out by Audit. It may also direct the heads of the offices to furnish their first replies within the prescribed period.

1.6.2 Departmental Audit Committee Meetings

The Government set-up audit committees to monitor and expedite the progress of the settlement of the paragraphs in the IRs. The details of the audit committee meetings held during the year 2013-14 and the paragraphs settled are mentioned in the table 1.6.2.

Table 1.6.2

Sl. No.	Name of the Department	Number of audit committee meetings held	Number of audit sub-committee meetings held	Number of paragraphs settled	Amount (₹ in crore)
1.	Commercial taxes	4	Nil	Nil	Nil
2.	Transport	3	Nil	Nil	Nil
3.	Land revenue	2	11	74	117.62
4.	Registration and Stamps	4	6	70	0.80
5.	State excise	4	Nil	Nil	Nil
6.	Mines, geology and petroleum	4	Nil	Nil	Nil
	Total	21	17	144	118.42

It would be seen from the above that in six meetings held in respect of land revenue and stamp duty 144 paragraphs were settled while in respect of Commercial Taxes, Transport, State Excise, Mines, Geology & Petroleum Department though 15 meeting were held, not a single paragraph was settled.

1.6.3 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Accountant General to the Principal Secretaries/Secretaries of the concerned Departments, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the Department/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Forty one draft paragraphs clubbed into 34 paragraphs including two Performance Audit were sent to the Principal Secretaries/Secretaries of the respective Department by name between April to December 2014. The Principal Secretaries/Secretaries of the Departments did not send replies to four draft paragraphs, the same have been included in this Report without the response of the Department.

1.6.4 Follow-up on the Audit Reports - summarised position

The Rules and Procedures of the Public Accounts Committee (PAC) of the Rajasthan State Assembly framed in 1997, prescribe that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the PAC. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 190 paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Rajasthan for the years ended 31 March 2009, 2010, 2011, 2012 and 2013 were placed before the State Legislative Assembly between 12 March 2010 and 18 July 2014. The action taken explanatory notes from the

concerned Departments on these paragraphs were received late with an average delay of 70 days in respect of each of these Audit Reports. The PAC discussed 62 selected paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2009-10 and its recommendations on 45 paragraphs were incorporated in their five Reports (2011-12 to 2013-14). Action taken explanatory notes had not been received from the Transport Department in respect of 19 recommendations of the PAC as mentioned in table 1.6.4.

Table 1.6.4

Year	Transport Department
2008-09	11
2009-10	8
Total	19*

*Action taken explanatory notes will become due on 16.01.2015

1.7 Analysis of the mechanism for dealing with the issues raised by Audit in Commercial Taxes Department

To analyse the system of addressal of the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years for one Department was evaluated.

The succeeding paragraphs 1.7.1 to 1.7.2 discuss the performance of the Commercial Taxes Department on the cases detected in the course of local audit during the last ten years and also the cases included in the Audit Reports for the years 2003-04 to 2012-13.

1.7.1 Position of inspection reports

The summarised position of the inspection reports pertaining to Commercial Taxes Department, issued during the last 10 years, paragraphs included in these reports and their status as on 30 September 2014 are tabulated in the table 1.7.1.

Table 1.7.1

(₹ in crore)

Sl. No.	Position upto 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
1.	2004-05	274	1,263	456.49	203	838	264.02	95	719	231.77	382	1,382	488.74
2.	2005-06	382	1,382	488.74	228	910	655.53	289	972	560.63	321	1,320	583.64
3.	2006-07	321	1,320	583.64	174	594	327.13	129	557	282.57	366	1,357	628.20
4.	2007-08	366	1,357	628.20	140	617	387.30	113	604	303.46	393	1,370	712.04
5.	2008-09	393	1,370	712.04	78	452	136.57	73	472	387.86	398	1,350	460.75
6.	2009-10	398	1,350	460.75	81	558	56.99	36	296	173.27	443	1,612	344.47
7.	2010-11	443	1,612	344.47	66	633	142.76	33	342	44.47	476	1,903	442.76
8.	2011-12	476	1,903	442.76	104	867	1,897.45	35	354	31.20	545	2,416	2,309.01
9.	2012-13	545	2,416	2,309.01	88	689	1,087.44	21	338	134.77	612	2,767	3,261.68
10.	2013-14	612	2,767	3,261.68	72	526	87.57	73	834	2,565.68	611	2,459	783.57

The Government arranges audit sub-committee meetings between the Department and the Audit Office to settle the old paragraphs. However, there was a continuous increase in the outstanding IRs and number of the objections specially during the last five years except 2013-14. This is indicative of the fact that adequate steps were not taken by the Department in this regard resulting in increase of the outstanding IRs and paragraphs.

1.7.2 Recovery of accepted cases

The details of paragraphs relating to Commercial Taxes Department included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in the table 1.7.2.

Table 1.7.2

(₹ 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	Cumulative position of recovery of accepted cases as of 31.03.2014
2003-04	7	28.29	6	14.08	0	2.85
2004-05	13	98.45	8	3.06	0	1.59
2005-06	14	100.98	10	10.05	0	1.55
2006-07	9	150.60	6	144.26	0.01	0.15
2007-08	5	17.88	3	0.82	0.22	0.54
2008-09	10	28.24	7	17.79	0	0.96
2009-10	8	4.47	6	3.38	0.60	1.18
2010-11	9	105.18	9	3.38	0	1.95
2011-12	6	396.20	5	337.28	3.05	3.05
2012-13	7	161.16	7	14.51	7.14	7.14
Total	88	1,091.45	67	548.61	11.02	20.96

The Department could recover an amount of ₹ 20.96 crore only during the period of ten years against total 88 observations valuing of ₹ 1,091.45 crore, out of which 67 observations of ₹ 548.61 crore were already accepted by it. The recovery was just 3.82 *per cent* of the accepted amount of observations.

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

1.7.3 Action taken on the recommendations accepted by the Departments/Government

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

During the last five years, four performance audits were conducted in the Commercial Taxes Department in which 24 recommendations were made for improving the working and system of tax collection. The Department has

accepted all the recommendations and has taken action in respect of 14 recommendations by issuing instructions/guidelines relating to cross verification of transactions, disposal of appeal cases, display of the declaration forms online in the computerised system, examination of annual returns/Audit Reports, verification of tax deposits before allowing input tax credit *etc.* The progress made in the implementation of the remaining ten recommendations has not been received (December 2014).

1.8 Audit Planning

The unit offices working under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which, *inter-alia*, include 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, audit coverage and its impact during past five years, etc.

During the year 2013-14, 345 units were planned and 343 units had been audited.

Two performance audits were also conducted one each in Commercial Taxes Department and Mines, Geology and Petroleum Department to examine the efficacy of the revenue administration system.

1.9 Results of audit

Position of local audit conducted during the year

Test check of the records of 343 units of Commercial Taxes, Transport, Land Revenue, Registration and Stamps, State Excise, Mining and other Departmental offices conducted during the year 2013-14 revealed underassessments, short levy/loss of revenue *etc.* aggregating to ₹ 790.81 crore in 23,612 cases. During the year, the concerned Departments accepted underassessments and other deficiencies in 24,483 cases involving Government revenue of ₹ 452.57 crore, of which 7,179 cases involving ₹ 75.79 crore were pointed out in audit during 2013-14 and the rest in the earlier years. The Departments recovered ₹ 36.45 crore in 7,398 cases during 2013-14.

1.10 Coverage of this Report

This Report contains 34 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including two Performance Audit on 'Levy and Collection of Value Added Tax (VAT) on Works Contract' and 'Receipts from Minor Minerals' involving financial effect of ₹ 228.02 crore.

The Departments/Government have accepted audit observations involving ₹ 97.66 crore out of which ₹ 5.08 crore had been recovered. The replies in the remaining cases were either not received or found unsatisfactory. These are discussed in Chapters II to VII.

CHAPTER-II
**TAXES/VAT ON SALES,
TRADE, *ETC.***

CHAPTER-II: TAXES/VAT ON SALES, TRADE, ETC.

2.1 Tax administration

Sales Tax/Value Added Tax laws and rules framed thereunder are administered at the Government level by the Principal Secretary (Finance). The Commissioner is the head of the Commercial Taxes Department (CTD) and is assisted by 27 Additional Commissioners, 48 Deputy Commissioners (DC), 98 Assistant Commissioners (AC), 146 Commercial Taxes Officers (CTO), 402 Assistant Commercial Taxes Officers (ACTO) and a Financial Adviser (FA). They are assisted by Junior Commercial Taxes Officers and other allied staff for administering the relevant Tax laws and rules.

The Rajasthan Value Added Tax (RVAT) Act, Rajasthan Tax on Entry of Goods into Local Areas (RET) Act, Rules framed thereunder and notifications issued from time to time govern the levy and collection of value added tax and entry tax, levy of interest and penalty.

2.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. The Wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of units audited by the Internal Audit Wing during the last five years is as under:

Year	Pending units for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2009-10	104	393	497	299	198	40
2010-11	198	384	582	489	93	16
2011-12	93	384	477	411	66	14
2012-13	66	384	450	267	183	41
2013-14	183	414	597	287	310	52

There was a shortfall in conducting internal audit ranging between 14 and 52 per cent during the years 2009-10 to 2013-14.

It was further noticed that 17,921 paragraphs of internal audit were outstanding at the end of the year 2013-14. The year-wise break up of outstanding paragraphs is as under:

Year	Upto 2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Total
No. of paras	10,702	1,520	1,402	1,661	1,386	1,250	17,921

Non-settlement of large number of outstanding paragraphs indicates that the Department is not monitoring settlement of the observations raised by its own Internal Audit Wing.

It is recommended that the Department may take immediate effective steps to address the issues raised by the Internal Audit Wing.

2.3 Results of audit conducted by the Comptroller and Auditor General of India

In 2013-14, test check of VAT/Sales tax assessment and other records of 54 units showed underassessment of tax and other irregularities involving ₹ 85.70 crore in 972 cases, which fall under the following categories as given in Table:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Performance audit on 'Levy and Collection of VAT on Works Contract'	1	22.28
2.	Underassessment of tax	372	49.51
3.	Acceptance of defective statutory forms	109	3.18
4.	Evasion of tax due to suppression of sales/purchase	22	1.98
5.	Irregular/incorrect/excess allowance of Input Tax Credit	157	3.78
6.	Other irregularities relating to		
	(i) Revenue	264	4.17
	(ii) Expenditure	47	0.80
Total		972	85.70

During the year, the Department accepted underassessment and other deficiencies of ₹ 7.33 crore in 608 cases which were pointed out in audit during the earlier years. An amount of ₹ 1.18 crore was recovered in 145 cases during the year 2013-14.

The Department accepted and recovered entire amount of ₹ 36.54 lakh in six cases pointed out by audit after issue of draft paragraphs to the Government. These paragraphs have not been discussed in the Report.

A Performance Audit on '**Levy and Collection of Value Added Tax (VAT) on Works Contract**' involving ₹ 22.28 crore and a few illustrative cases involving ₹ 9.79 crore are discussed in the paragraphs from 2.5 to 2.9.

2.4 Performance Audit on 'Levy and Collection of Value Added Tax (VAT) on Works Contract'

Highlights

- There was no separate sub-head for classifying the works contract receipts as such the performance of the Department relating to the total receipts on account of works contract could not be ascertained.

(Paragraph 2.4.7)

- Analysis of data of returns revealed that during the last three years on an average 66 *per cent* dealers had either not filed their returns or had filed their returns with nil turnovers. No attempt was made by the Department to ascertain the reasons for non-filing or filing of returns with nil turnovers.
- Audit found that four dealers were assessed with nil turnover though their turnover was ₹ 91.20 crore, involving tax liability of ₹ 1.57 crore.

(Paragraph 2.4.8)

- No system existed for watching the receipt of the Form VAT-40 received from the awarders and for utilising the information, wherever received in the registration and assessment of the concerned dealers. Twelve works contractors involving a tax liability of ₹ 93.80 lakh were not found registered with the Department.

(Paragraph 2.4.9)

- The Assessing Authorities of five WT circles issued 41,767 VAT-41 forms during 2008-09 to 2012-13 to 527 awarders, though they were not authorised to issue the same. In five cases interest and penalty of ₹ 32.97 lakh were not levied on the awarders for delay in depositing the tax deducted at source (TDS) by them while in another case TDS was deposited short by ₹ 39.12 lakh.

(Paragraphs 2.4.10 & 2.4.11)

- In nine cases deductions of turnover of ₹ 79.76 crore from the taxable turnover was allowed to sub-contractors, without ascertaining that the payment of tax was made by the principal contractors.
- Nine principal contractors did not deduct TDS amount of ₹ 2.39 crore while making payment to sub-contractors. There was nothing on record to indicate that the principal contractors had paid the tax on this turnover.

(Paragraph 2.4.12)

- The Assessing Authorities did not follow the correct procedure laid down in the RVAT Rules for determination of taxable turnover. This resulted in underassessment of taxable turnover and consequently short levy of tax of ₹ 2.39 crore, including interest of ₹ 0.63 crore.

(Paragraph 2.4.13.1)

- Application of incorrect rate of exemption fee resulted in short levy of exemption fee and interest of ₹ 12.85 crore.

(Paragraph 2.4.14)

2.4.1 Introduction

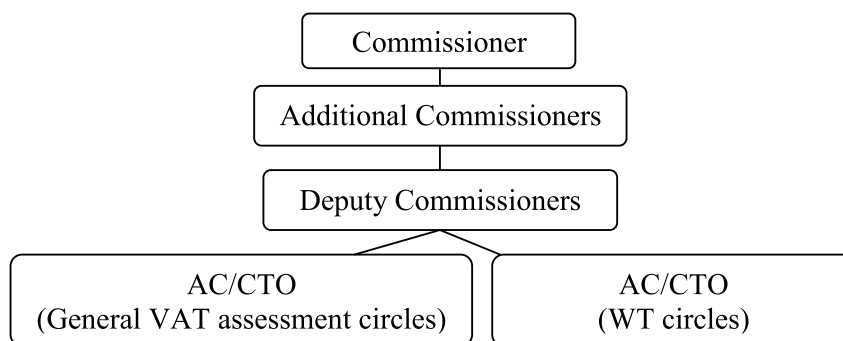
The assessment, levy and collection of VAT is governed by the Rajasthan VAT (RVAT) Act, 2003 and RVAT Rules, 2006 framed thereunder. Works contract means a contract for carrying out any work which includes assembling, construction, building, altering, manufacturing, processing, fabrication, erection, installation, fitting, improvement, repair or commissioning of any movable or immovable property. VAT is leviable on transfer of property in goods involved in the execution of a works contract. Every works contractor (also called a dealer) whose annual turnover exceeds ₹ 10 lakh is required to be registered under RVAT Act. The works contracts are allotted by awarders. Awarder means any person at whose instance or for whose benefit a works contract is executed. The awarders (henceforth called specified awarders) *i.e.* a Department of any Government, a corporation, a public undertaking, a cooperative society, a local body, a statutory body, an autonomous body, a trust or a private or public limited company are liable to deduct tax at the time of crediting the amount or making payment by any mode to the works contractors. The rate of tax deduction at source (TDS) is three *per cent*. However, no provision for TDS has been stipulated for the awarders other than the specified awarders.

The State Government introduced (11 August 2006) an exemption scheme for the works contractors specifying the rate of exemption fee (ranging from 0.25 to 3 *per cent*) on total value of the works contract. The works contractor can pay the tax on the goods transferred in execution of the works contract as per the rate stipulated in Schedules of RVAT Act or opt for the exemption scheme. Under the scheme, Exemption Certificates (EC) are issued by the Assessing Authorities (AAs) mentioning the rate and amount of exemption fee on the basis of applications submitted by works contractors along with copy of the work orders. In case of EC, the awarder shall deduct an amount based on the rate of exemption fee as mentioned in the EC. The amount deducted shall be deposited by the awarder within 15 days of the close of the month of such deduction. Every registered works contractor shall assess his liability and furnish VAT return to the AA. The amount deducted at source by the awarder shall be adjusted against the tax liability created at the time of assessment of the works contractor and refunds or demands shall be allowed or raised accordingly.

2.4.2 Organisational Set-up

The Commissioner Commercial Taxes (CCT) administers the RVAT and CST receipts under the overall control of Secretary, Finance (Revenue) Department, Government of Rajasthan. The Commercial Taxes Department (Department) is divided into 15 zones. Each zone except Jaipur-IV, Pali and anti-evasion has one works contracts and leasing tax circle. Thus, there are 12 Works Contracts and Leasing Tax Circles (WT circles) in the State.

The Deputy Commissioner is the senior most administrative officer at the zonal level. The assessment and recovery of tax is undertaken by AA at the level of Assistant Commissioners (AC)/Commercial Taxes Officers (CTO) and Assistant Commercial Taxes Officers (ACTO) posted in circles and wards respectively.

ORGANOGRAM**2.4.3 Audit Objectives**

The Performance Audit was conducted with a view:

- to ascertain whether the provisions of RVAT Act and Rules governing the registration, assessment, levy and collection of tax on works contract were adequate and to evaluate the degree of compliance by the dealers/awarders with the provisions of the Act;
- to ascertain whether a database of on-going construction work in the State was maintained by the Department and the information was utilised for identification of the unregistered dealers and for other purposes; and
- to verify the adequacy and effectiveness of the internal control mechanism.

2.4.4 Scope and Methodology

The Performance Audit on 'Levy and Collection of VAT on Works Contract' was conducted covering the period 2010-11 to 2012-13, wherein the assessments for the financial year from 2008-09 to 2010-11 were finalised. The State is divided into 15 zones containing 129 circles. The dealers whose fifty *per cent* of gross turnover or more in an accounting year relates to the works contract and/or leasing of goods are required to be assessed in WT circles. Out of the 12 WT circles, 6 WT circles¹ were selected through statistical sampling on the basis of probability proportion to size sampling method. Information from other Government Departments *i.e.* North Western Railway (NWR), Central Public Works Department (CPWD) and Public Works Department (PWD) awarding the contracts were also obtained by audit for this Performance Audit.

¹ WT circles: Ajmer, Bhilwara, Jaipur-I, Jaipur-III, Jodhpur and Sriganganagar.

2.4.5 Audit Criteria

The audit criteria for Performance Audit were derived from the provisions of the following Acts, Rules and notifications/circulars issued thereunder:

State Laws

- Rajasthan Value Added Tax Act, 2003; and
- Rajasthan Value Added Tax Rules, 2006;

Central Laws

- Central Sales Tax Act, 1956; and
- Central Sales Tax (Registration and Turnover) Rules, 1957.

2.4.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation extended by the Commercial Taxes Department, their officers and staff in providing necessary information and records to audit.

An Entry Conference was held on 6 March 2014 with Secretary, Finance (Revenue) Department and Commissioner, Commercial Taxes wherein objectives, scope and methodology of Performance Audit were explained. The Factual Statement/Draft Paragraph was forwarded to the Government and the Department in August/November 2014. An Exit Conference was held on 3 December 2014 with Commissioner, Commercial Taxes and Secretary, Finance (Revenue) Department wherein the findings of the Performance Audit were discussed. The replies received during the Exit Conference and at other points of time have been appropriately considered in the relevant paragraphs.

Audit findings

2.4.7 No Separate sub-head for works contract receipts

RVAT is credited under the budget head 0040 'Tax on sales, trade, etc'. However, there was no separate sub-head for credit of tax received under works contract. There were 12 WT circles exclusively responsible for assessment and collection of tax on works contract. The receipts of WT circles as collected and furnished by the Department are mentioned in the table 2.4.7.

Table 2.4.7

(₹ in crore)

Year	Receipts shown by WT circles	Total Taxes on Sales, Trade etc.	Increase in receipts from taxes on sales, trade, etc. over the preceding year (in per cent)	Increase/decrease in WT receipts over the preceding year (in per cent)
(1)	(2)	(3)	(4)	(5)
2009-10	353.29	9,681.38	NA	NA
2010-11	236.22	11,901.24	24.26	(-) 33.13
2011-12	245.66	14,665.63	24.84	4.00
2012-13	243.77	17,214.34	17.81	(-) 0.77
2013-14	284.54	19,834.72	14.22	16.72

It would be seen from the above that during the period 2009-10 to 2013-14, the collection of receipts in WT circles has come down from ₹ 353.29 crore to ₹ 284.54 crore *i.e.* reduced by 19.46 *per cent* whereas there was increase in overall receipts from taxes on sales, trade, *etc.*

It was noticed that apart from these 12 WT circles, collection and assessment of tax from works contracts were also being done by other regular assessment circles. Further, awarders were depositing the TDS relating to works-contracts in their jurisdictional regular circles. It could, therefore, be concluded that the total receipts of the WT circles did not depict the overall receipts from works contracts and as such the performance of the Department in collection of the receipt could not be ascertained. A separate sub-head for works contract receipts would have given a clear true picture of these receipts. This would help in fixing the rate of exemption fee in a scientific manner and in revising the same from time to time. In view of the above it is recommended that the Department may consider the feasibility of a separate sub-head to depict the works contract receipts.

The CCT during Exit Conference accepted the audit contention and assured to check the feasibility of a separate sub-head to depict the works contract receipts.

2.4.8 Analysis of filing of returns by registered dealers

Information provided by the Department disclosed that on an average 66 *per cent* of the dealers registered with WT circles had either not filed returns or filed returns with nil turnovers for the assessment years 2010-11 to 2012-13 as shown in table 2.4.8.

Table 2.4.8

Year	Total number of dealers				
	Registered with the Department	Submitting returns	Not submitting returns	Submitting returns with nil turnover	Not submitting the returns or showing nil returns (4+5)
(1)	(2)	(3)	(4)	(5)	(6)
2010-11	10,819	5,122	5,697	1,726	7,423
2011-12	11,548	10,390	1,158	6,167	7,325
2012-13	12,024	10,486	1,538	6,518	8,056
Average of the three years	11,464	8,666	2,798	4,804	7,601
Percentage to column number 2.		76	24	42	66

As would be seen from the table above, 24 *per cent* dealers did not file their returns during 2010-11 to 2012-13.

CCT had issued (24 July 2007) instructions for cancellation of registration of the dealers who had not filed their returns for the years 2005-06 and 2006-07. However, thereafter, no such instructions were issued. The dealers, thereafter continued to default in submission of the returns, no action was taken by the

Department to call for the returns or to check whether the dealers had closed their business or whether business being conducted in a clandestine manner. Evasion of tax cannot be ruled out in these cases.

Scrutiny of the table 2.4.8 also revealed that on an average 42 *per cent* of the dealers had filed returns with 'nil' turnover. It was observed that the Department had not taken any action to check the correctness of the returns by obtaining the information from awarders or utilising the information available with it. Cross verification of returns and audit reports submitted by the dealers with certificates issued by the awarders in form VAT-41² disclosed a number of discrepancies in disclosure of turnover. A few instances of non/short disclosure of turnover are discussed in the following paragraphs:

- In WT circle, Jodhpur a dealer (a Pvt. Ltd. company) had filed return with 'nil' turnover for the year 2009-10. The AA had assessed the nil turnovers on the basis of the return filed by the dealer. Scrutiny of the information obtained from the jurisdictional³ AA of the awarder (Maharana Pratap Airport Authority, Udaipur) revealed that the dealer had received payment of ₹ 3.94 crore during the year 2009-10 on account of works contract executed. Thus, the nil turnovers for this year shown by the dealer in his return was incorrect. This resulted in suppression of turnover of ₹ 3.94 crore involving a tax effect of ₹ 5.91 lakh. The dealer was liable to pay interest and penalty on the concealed turnover.
- In WT circle, Jodhpur, a dealer (a Pvt. Ltd. company) was awarded three works contracts valued at ₹ 3.31 crore. The dealer applied for payment of tax under the exemption scheme of 2006 and the AA issued ECs at the rate of three *per cent* on these works during 2009-10.

The dealer however, filed his return with 'nil' turnover for the year 2009-10. The AA also assessed the dealer on 'nil' turnovers and did not issue any demand notice. However, on cross verification with VAT audit report of the dealer, it was noticed that the dealer had received a sum of ₹ 2.62 crore during the relevant year on account of works contract executed by him. This resulted in non-levy of tax of ₹ 7.85 lakh. Further, the dealer had not filed return for the year 2010-11 and AA assessed nil turnover without ensuring payment of the exemption fees on the remaining works of ₹ 69 lakh.

- Scrutiny of assessment record of two dealers of WT circle Jaipur-I revealed that the dealers had filed returns online for the year 2010-11 showing the turnover of ₹ 84.64 crore and tax liability of ₹ 1.43 crore. However, the AA finalised the assessments of the dealers without considering these returns and assessed the dealers for nil turnovers. This resulted in non-levy of tax of ₹ 1.43 crore.

The Government replied (November 2014) that revised assessment orders of the works contractors had been passed and position of recovery would be intimated. Further progress made for recovery of the amount has not been received.

² Form VAT-41 has all details of the contract viz. date of contract, nature of contract, value of contract, amount deducted at source voucher no and date of credit *etc.*

³ Jurisdictional Authority refers to that office of the Department within whose jurisdiction the office of the awarder is located.

2.4.9 Absence of a system to detect unregistered dealers

Section 11 of the RVAT Act, stipulates that where a dealer liable to be registered under this Act does not make application for registration, the registering authority shall proceed to register such person as a dealer from the date he becomes liable to pay tax under this Act.

As per Rule 40(1) of RVAT Rules, where any works contractor enters into a contract with any awarder and where the gross value of such contract exceeds ₹ five lakh, the awarder shall furnish within one month from the date of the contract, the particulars of the contract in Form VAT-40 to the jurisdictional authority and shall also send a copy of Form VAT-40 to the Authority empowered to assess the contractor.

Audit scrutiny disclosed that Department had not put in place any system for watching the receipt of the Form VAT-40 from the awarders. Further, wherever such forms were received from the awarders, no system was put in place to maintain a data of such transactions and utilize the same in the registration and assessment of the concerned dealers. Audit cross verified the data available in *Rajtax*⁴ with the information available with the Department and obtained in respect of works contracts awarded by three Government Departments (38 by North Western Railway (NWR), 18 by CPWD and 21 by PWD). The findings are discussed in the succeeding paragraphs:

Registration of works contractors

2.4.9.1 Absence of a monitoring system for registration of dealers

NWR had not submitted any return in VAT 40 to the Department. Audit obtained information in respect of 38 contractors and found that six works contractors had exceeded the threshold limit of turnover (ten lakh) required for registration during the years 2008-09 to 2010-11. These contractors, though liable to be registered under RVAT Act were not found registered in the *Rajtax*. These contractors had received payments aggregating to ₹ 19.99 crore with a tax effect of ₹ 59.97 lakh. Thus absence of a monitoring system for watching the receipt of Form VAT 40 resulted in non-registration of the dealers and escaping of the tax.

2.4.9.2 Non-utilisation of information received from awarders

Audit noticed that in respect of 18 works contracts the awarder namely CPWD had submitted statements of TDS to the WT circle, Jaipur-II between January 2011 and December 2013. The return contained details of the amount paid to works contractors. The Department had made no attempt to cross verify the data with the software *Rajtax* available with it to ascertain the registration of the dealers. Audit cross verified these details with *Rajtax* and found that six out of the 18 works contractors had exceeded the threshold limit (ten lakh) of necessary for registration. However, these dealers were not registered under RVAT Act. These contractors had received payments amounting to ₹ 22.55 crore during January 2009 to December 2013 involving tax liability of ₹ 33.83 lakh.

⁴ Official website of Commercial Taxes Department of Rajasthan.

This indicates that the Department had not utilised the information available with it for registration of dealers resulting in escaping of the tax.

2.4.9.3 Survey is an important tool to detect unregistered works contractors and to widen the tax base. It was noticed that no survey for identifying/ registering works contractors was conducted in six test checked circles during the period from 2009-10 to 2012-13.

Though the dealers are also required to get themselves registered once their turnover exceeds a prescribed limit, under the RVAT Act, a number of violations have been noticed and a number of dealers have remained outside the tax net. Provisions for stringent measures like levy of higher rate of TDS in case of unregistered works contractors as provided in Delhi and Maharashtra VAT Act may be prescribed.

After this was pointed out, the CCT during Exit Conference stated that RVAT Rules had been amended (July 2014) for submission of online returns by awarders showing details of works contracts awarded. CCT also stated that the suggestion regarding higher rate of TDS in case of unregistered works contractors would be considered by the Government.

Registration of awarders

2.4.9.4 RVAT Act provides for tax deduction at source, its timely remittance to Government account by the awarder and in case of violation of statutory provisions, penalty on the awarder. However, no specific provisions are provided in RVAT Act for allotment of 'tax deduction account number' to the awarders to ascertain their liability as provided in Section 203A of Income Tax Act, 1961 that every person deducting tax shall be allotted a 'tax deduction account number'.

After this being pointed out (December 2013), CCT in the Exit Conference stated that Rule 40 has now been amended (July 2014) and provisions for registration of the awarders have been made.

Tax Deduction at Source

2.4.10 Non- follow up of the system in issue of blank TDS forms

Rule 40(3)(a) of RVAT Rules provides that blank Forms VAT-41 (TDS certificate forms) shall be obtained by the awarder from the jurisdictional AC/CTO. The CCT has also instructed (July 2013) that TDS certificate forms should only be obtained by the awarders from their jurisdictional Authority.

- Scrutiny of the Form Issue Registers in the six test-checked WT circles disclosed that five WT circles⁵ issued 41,767 VAT-41 forms during 2008-09 to 2012-13 to 527 awarders though they were not authorised to issue the same. The awarders were required to obtain the same from their regular circles. Thus issue of the forms to these awarders was irregular. Since the registration of the awarders under RVAT Act was not prescribed, timely and correct deposit of TDS could not be ascertained.

⁵ WT circles: Bhilwara, Jaipur-I, Jaipur-III, Jodhpur and Sriganganagar.

- Scrutiny of WT circle Jaipur-I disclosed that the circle had issued 350 VAT-41 forms to a builder/developer though the circle had no jurisdiction over the builder/developer. It was seen that after issuing the forms, WT circle Jaipur-I neither enquired about the tax liability of the builder/developer nor passed any order to ascertain the timely deposit of TDS amount. The information regarding forms was also not sent to the Circle-G Jaipur to which it pertained. As a result, the regular circle also failed to monitor the tax liability. Scrutiny of VAT-42 submitted by the builder/developer disclosed that the builder/developer had deducted a sum of ₹ 88.05 lakh as TDS but deposited only ₹ 48.93 lakh. TDS amount of ₹ 39.12 lakh was, therefore, short deposited.

After this being pointed out (December 2013), CCT in the Exit Conference stated that Rule 40 has been amended (July 2014) and it has been made clear that TDS certificate forms should be obtained by the awarders from their jurisdictional Authority. However the reply was silent about the recovery in this case.

2.4.11 Non-imposition of penalty for delayed deposit of TDS

2.4.11.1 As per Section 55 of the RVAT Act, where any person commits a default in making the payment of any amount of tax leviable or payable within the specified time, he shall be liable to pay interest on such amount at the rate of 12 *per cent* for the delay and as per section 63(1) of RVAT Act, where an awarder fails to deposit the TDS amount within the prescribed time, he shall be liable to pay TDS amount and a penalty at the rate of two *per cent* per month on the amount of TDS deposited with delay.

- Scrutiny of assessment records of three WT circles⁶ disclosed that four awarders⁷ had deposited TDS amount of ₹ 4.35 crore with delays ranging between 1 and 742 days. Though the awarders issued the TDS certificates showing the date of deduction and deposit of TDS, the AAs did not levy interest and penalty of ₹ 24.45 lakh for delayed deposit.

The Government replied (October 2014) that demand of ₹ 1.86 lakh had been raised against one awarder. Reply in other cases is awaited (November 2014).

- Information regarding deposit of TDS collected from an awarder (CPWD) disclosed that the awarder had deposited TDS amount of ₹ 93.98 lakh with delay ranging between 2 to 256 days during the year 2010-11 to 2012-13. The awarder had also submitted the details of deposited TDS to WT circle Jaipur II. Despite this, the AA did not levy interest and penalty of ₹ 8.52 lakh on delayed deposit of TDS.

- Scrutiny of the assessment records of four WT circles⁸ disclosed that 17 TDS certificates involving tax effect of ₹ 2.83 crore issued by 13 awarders were incomplete, either the date of payment to the works contractors or date of TDS deposited into treasury were not mentioned. The AAs accepted incomplete certificates and allowed adjustment of tax on these incomplete

⁶ WT circles: Ajmer, Jodhpur and Sriganganagar.

⁷ M/s Soma Isolux Kishangarh Beawar Tolway Pvt. Ltd., M/s National Building Construction Corporation Ltd., M/s Kishangarh Hi-tech Ttextiles Park Ltd and SE, Ministry of Road, Transport & Highway, Govt. of India, Jaipur.

⁸ WT circles: Ajmer, Jaipur-I, Jodhpur and Sriganganagar.

certificates. Thus, timely and correctness of the deposits could not be ascertained.

The Government replied (October 2014) that demand of ₹ 1.41 lakh had been raised against one awarder. Reply in other cases is awaited (November 2014).

- Scrutiny of assessment records of five test checked WT circles⁹ disclosed that 58 TDS certificates involving transactions of ₹ 6.36 crore were issued by 28 awarders. These certificates though required to be furnished monthly were furnished belatedly after 2 to 12 months. Similarly two awarders (NWR and CPWD) did not submit the certificates at all to the jurisdictional authorities. However, penalty at the rate of ₹ 25 for every day of the default period though leviable under Section 64 of RVAT Act was not levied.

2.4.11.2 As per Rule 40 of RVAT Rules, the awarder shall issue TDS certificate to the works contractor in VAT-41 forms obtained from the jurisdictional office of the Department and also send a copy of such certificate to the issuing authority. The issuing authority after receiving the copy of the certificate, shall verify that the amount of the TDS has been deposited into the Government treasury and send the same immediately to the AA of the works contractor. The AA of the works contractor shall adjust the verified TDS amount against the tax liability created at the time of the assessment of the works contractor.

Scrutiny of assessment records of 18 works contractors of five WT circles¹⁰ disclosed that the AAs adjusted TDS involving ₹ 21.26 crore at the time of finalisation of assessments of these works contractors without verification of the credits into the Government account by the issuing authority.

In another case of WT circle, Jaipur-III, the AA accepted TDS certificate involving ₹ 21.62 lakh in a self-printed certificate on plain paper instead of the prescribed Form VAT 41 while finalising the assessments for the years 2009-10 and 2010-11.

The CCT during Exit Conference stated that directions had been issued to allow the adjustment of TDS after its verification and for levying interest and penalty on defaulting awarders. He further stated that an online system for generation of TDS forms had been introduced.

2.4.12 Absence of mechanism to verify the tax liability of sub-contracts

Rule 22(2A) of RVAT Rules provides that where a principal contractor exercises option to pay exemption fee on a works contract and awards the whole or part of such contract to a sub-contractor, the turnover of such transaction shall be deducted from the total turnover of the sub-contractor. No provision was incorporated in RVAT Act to ascertain that principal contractor had paid the tax on the turnover of the sub-contract before allowing deduction to the sub-contractor. A few instances highlighting the result of absence of mechanism to verify the tax liability in sub-contracts are as follows:

⁹ WT circles: Bhilwara, Jaipur-I, Jaipur-III, Jodhpur and Sriganganagar.

¹⁰ WT-circles: Ajmer, Bhilwara, Jaipur-I, Jodhpur and Sriganganagar.

2.4.12.1 During scrutiny of the assessment records of three WT circles¹¹ it was noticed that AAs had allowed the deductions of turnover of ₹ 79.76 crore for the years 2009-10 to 2010-11 to nine sub-contractors from the taxable turnover without ascertaining the payment of tax by the principal contractors. Non-verification of the transactions is fraught with the risk of non-payment of taxes.

2.4.12.2 Scrutiny of assessment records of four WT circles¹² disclosed that during 2008-09 to 2010-11, out of 10 principal contractors, 9 did not deduct TDS amount of ₹ 2.39 crore while making payment of ₹ 79.76 crore to sub-contractors. There was nothing on record that the TDS amount of ₹ 2.39 crore was paid by the principal contractor.

2.4.12.3 It was noticed that a sub-contractor of WT circle Jodhpur received a payment of ₹ 15.77 crore from a principal contractor of WT circle Ajmer during the year 2010-11. The sub-contractor intimated that all the goods involved in execution of the works contract were supplied by the principal contractor and the cost of the materials was deducted from the payment made to him. As such tax was required to be paid by the principal contractor. Assessment records of the principal contractor, however, revealed that he had not paid any tax on this transaction indicating therein non-payment of the tax.

The value of the material supplied by the principal contractor was not available in the assessment record of the principal contractor as well as the sub-contractor with the result that the amount of tax due could not be worked out on escaped turnover.

A provision to ascertain that principal contractor had paid the tax on the turnover of the sub-contract before allowing deduction to the sub-contractor exists in Maharashtra (Section 45 of VAT Act). The Government may consider a similar provision for RVAT Act.

The CCT during Exit Conference accepted the audit contention and stated that the issue regarding ascertaining the tax liability of the sub-contractors would be taken into consideration at the time of Budget 2015-16.

2.4.13 Underassessment of turnover

Section 4(1) of RVAT Act and Section 6 of CST Act provide for levy of tax on taxable turnover. Further, as per rule 22(2) of RVAT Rules in case of works contract, while determining the taxable turnover, the amount of labour shall be deducted from the total value of the contract. Further, as per explanation given under this Rule, where the amount of labour is not determinable from the accounts of a works contractor, the deduction towards labour charges shall be allowed by the AA according to the norms laid down in the RVAT Rules.

2.4.13.1 During scrutiny of assessment records of five works contractors of three WT circles¹³ for the years 2008-09 to 2010-11, it was observed that the AAs determined the taxable turnover by adding certain percentage of profit

¹¹ WT circles: Ajmer, Jaipur-I and Sriganganagar.

¹² WT circles: Ajmer, Jaipur-I, Jodhpur and Sriganganagar.

¹³ WT circles: Bhilwara, Jaipur-I and Jodhpur.

element in the value of goods purchased by the works-contractors and did not follow the procedure laid down in the RVAT Rules for determination of taxable turnover. This resulted in underassessment of taxable turnover as detailed below:

(₹ in crore)

Name of dealers	Total receipts of works-contracts	Taxable turnover calculated as per RVAT Rules ¹⁴	Taxable turnover calculated by AAs ¹⁵	Under - assessment of taxable turnover by AAs	Short levy of tax	Interest
(1)	(2)	(3)	(4)	(5)	(6)	(7)
A	180.77	108.91	94.23	14.68	0.62	0.25
B	32.02	22.41	16.66	5.75	0.23	0.10
C	7.53	5.27	4.58	0.69	0.03	0.01
D	76.32	35.06	32.49	2.57	0.10	0.04
E	38.47	26.93	11.37	15.56	0.78	0.23
Total	335.11	198.58	159.33	39.25	1.76	0.63

Underassessment of taxable turnover resulted in short levy of tax of ₹ 1.76 crore besides interest of ₹ 0.63 crore.

2.4.13.2 Section 6(2) of CST Act stipulates that sale during the transit in the course of inter-State trade shall not be exempt from tax unless the dealer affecting the sale furnishes a declaration (Form E-I) of the registered dealer from whom the goods were purchased and another declaration (Form- C) of the registered dealer to whom the goods were sold.

During scrutiny of the assessment records of WT circle Bhilwara, it was noticed that a works contractor had purchased goods valued at ₹ 74.21 crore and sold these goods for ₹ 162.86 crore. The works contractor claimed exemption of tax on the sales made during the transit of goods. However, the works contractor did not submit E-I forms for the purchase value of ₹ 13.34 crore. As per details submitted by the works contractor, these goods were sold for the value of ₹ 55.60 crore. Accordingly, tax of ₹ 1.11 crore was leviable. However, while finalising the assessment, the AA levied tax of ₹ 26.64 lakh on the purchase value of goods (₹ 13.34 crore). This resulted in short levy of tax of ₹ 0.84 crore besides interest of ₹ 35.52 lakh.

The CCT during Exit Conference stated that directions had been issued to AAs to comply with the RVAT Rules.

¹⁴ Taxable turnover was determined by deducting allowable expenses from the total receipts where details of labour and other expenses were submitted and where details were not submitted 30 per cent for the labour and other expenses were deducted from the total receipts.

¹⁵ AAs determined the taxable turnover by adding certain percentage of profit element in the value of goods purchased by the works-contractors.

Exemption Scheme

2.4.14 Short levy of exemption fee

The State Government notified (11 August 2006) a scheme and exempted the registered works contractors engaged in the execution of works contract from payment of tax leviable on the transfer of property in the goods involved in the execution of works contract subject to the condition that AA shall issue the EC and such works contractors shall pay exemption fee at the rate specified as under:

Sl. No.	Description of works contract	Rate of exemption fee (per cent of the total value of contract)
1.	Works contract where the cost of material does not exceed five <i>per cent</i> of the total contract amount (with effect from 9 March 2010).	0.25 <i>per cent</i>
2.	Building, roads, bridges, dams, sewerage system.	1.50 <i>per cent</i>
3.	Installation of plants and machinery including PSPO, water treatment plant, laying of pipe line with material.	2.25 <i>per cent</i>
4.	Any other kind of works contract not covered by above items.	3.00 <i>per cent</i>

For availing the benefit of the scheme, a works contractor has to submit an application mentioning the nature of the works contract and applicable rate of exemption fee. On receipt of the application, the AA on being satisfied as to the correctness of the facts mentioned therein, shall issue EC showing description of works contract, total value of the contract, rate of exemption fee and amount of exemption fee.

Scrutiny of the assessment records of the six selected circles and information collected from an awardee (NWR) revealed that while issuing ECs, AAs did not determine correct category of the works contract which resulted in short levy of exemption fee of ₹ 12.32 crore in respect of 82 works contractors as discussed in the following paragraphs:

2.4.14.1 Works contracts for composite works

A works contract order, awarded for different nature of works (composite works contract) is not covered under serial number one to three of notification (2006). The rate of exemption fee leviable on the composite was three *per cent*.

During scrutiny of records of three WT circles¹⁶ and an awardee (NWR), it was noticed that 48 works contracts were awarded for composite works¹⁷ valued at ₹ 1,114.64 crore. For these works contracts, 10 AAs had issued ECs

¹⁶ WT circles: Jaipur-III, Jodhpur and Sriganganagar.

¹⁷ Such as 'execution of advancement part of water supply project including transmission mains, water treatment plant, pump house, pumping machinery and switch yard, RCC reservoir, electrical enhancement at all pumping stations with related ancillary works etc' and 'construction of new/addition/alteration of service building, passenger platforms, platform shelters and other miscellaneous civil works on stations/sections related to gauge conversion project'. for the composite works contracts.

to 33 works contractors at the rate of 1.00/1.50/2.25 *per cent* instead of correct rate of three *per cent* of the total value of the contract. The AAs had levied exemption fee of ₹ 23.52 crore instead of leviable exemption fee of ₹ 33.44 crore. This resulted in short levy of EC fee of ₹ 9.92 crore.

2.4.14.2 Works contracts for boundary walls

Works contracts awarded for construction of only boundary walls is not covered under serial number one to three of the table given in the above notification. Thus, rate of exemption fee leviable on the construction of only boundary walls was three *per cent*.

During test check of the records of the selected circles, it was noticed that AAs of four WT circles¹⁸ had issued ECs for construction of boundary walls and levied exemption fee of ₹ 37.80 lakh at the rate of 1.5 *per cent* instead of leviable exemption fee of ₹ 75.60 lakh at the rate of three *per cent* on the contract value of ₹ 25.20 crore. This resulted in short levy of exemption fee of ₹ 37.80 lakh.

2.4.14.3 Works contracts for miscellaneous civil works

Works contracts awarded for miscellaneous civil works not mentioned in category from serial number one to three are leviable at the rate three *per cent*.

Scrutiny of records of selected WT circles¹⁹ revealed that 16 works contractors had applied for exemption certificates for civil works such as swimming pool, gravelling, cable trench, transformer track, foundation, supply and fixing of vitrified tiles *etc.* at Power Grid Sub-stations. These works are not covered under serial number one to three of the table given in the above notification. Thus, the exemption fee was leviable at the rate of three *per cent* for contract value of ₹ 53.20 crore. AAs had incorrectly issued ECs at the rate of 1.5 *per cent* and levied exemption fee of ₹ 79.80 lakh instead of ₹ 159.60 lakh at the correct rate of three *per cent*. This resulted in short levy of exemption fee of ₹ 79.80 lakh.

2.4.14.4 Works contracts for installation of plant and machinery

Works contract relating to installation of plant and machinery was covered under serial number three of the table given in the above notification in which exemption fee for works contracts relating to 'installation of plant and machinery' was notified at the rate of 2.25 *per cent*.

During scrutiny of assessment records of WT circle Jaipur-I, it was noticed that a works contractor executed the works contract of ₹ 150.90 crore relating to erection and installation of wind mills during 2008-09 and 2009-10 for which ECs were incorrectly issued at the rate of 1.5 *per cent*. The AA while finalising the assessments of the dealer, assessed (February 2011 and February 2012) exemption fee of ₹ 2.26 crore at the rate of 1.5 *per cent* instead of ₹ 3.39 crore at the correct rate of 2.25 *per cent*. This resulted in short levy of exemption fee of ₹ 1.13 crore and interest of ₹ 53.02 lakh.

¹⁸ WT circles: Ajmer, Jaipur-III, Jodhpur and Sriganganagar.

¹⁹ WT circles: Ajmer, Jodhpur and Sriganganagar.

2.4.14.5 Works contracts for repair of road

The State Government vide notification dated 26 March 2012 notified one *per cent* rate of exemption fee for 'works contracts relating to construction of roads'. Thereafter, vide notification dated 6 March 2013, it was substituted with 'works contract relating to construction or repair of roads'. The exemption fees was, therefore, leviable at the rate of three *per cent* during the period 26 March 2012 to 5 March 2013 on works contracts relating to repair of roads.

Scrutiny of records of two WT circles²⁰ disclosed that AAs had incorrectly issued 35 ECs to 22 works contractors at the rate of one *per cent* for the works contracts of ₹ 4.50 crore 'relating to repair of roads' awarded during the period 26 March 2012 to 5 March 2013 and levied exemption fee of ₹ 4.50 lakh instead of leviable exemption fee of ₹ 13.49 lakh. This resulted in short levy of exemption fee of ₹ 8.99 lakh.

The CCT during Exit Conference agreed and stated that directions had been issued to the AAs to examine the nature of works contract before grant of exemption certificate.

Assessment of escaped turnover

2.4.15 Sale of flats/villas/shops on pre-booking basis prior to completion of construction

The construction of flats/villas/shops *etc.* after accepting advance from prospective buyers on a pre-construction agreement comes under the purview of works contract and is to be taxed under Section 4(1) of RVAT Act. It was, however, noticed that not a single developer/builder was assessed to tax as works contractor in the selected circles on the basis of pre-construction booking.

Scrutiny of test check records of WT circle Ajmer disclosed that Department had made initial enquiries (June 2012) about four builders/developers/dealers who were engaged in building/developing malls/residential colonies in Ajmer zone. The construction was being done through contractors as well as by builders/developers themselves. As per the enquiry report, shops/flats, *etc.* were sold on pre-booking basis before completion of the construction of the buildings/malls. In certain cases, either cement or steel was provided free of cost to the contractors or costs of goods supplied to the contractors were deducted from their bills. Such transactions were liable to be taxed under RVAT Act. It was noticed that the WT circle Ajmer, did not take any action beyond preliminary enquiries and a report was sent to the concerned AAs of the awarders/dealers for necessary action. No further action was found to have been taken in this regard. Scrutiny of these enquiry reports and information collected from the concerned circles revealed irregularities in following cases:

²⁰ WT circles: Ajmer and Sriganganagar.

2.4.15.1 A registered dealer of Circle-B, Jaipur had developed/constructed a mall at Ajmer with the project cost of ₹ 40 crore. The shops, offices, *etc.* were sold on pre-booking basis before completion of the mall.

Scrutiny of the Entry tax assessment files of the dealer for the years 2009-10 and 2010-11 disclosed that the builder/developer had purchased goods such as mild steel bars, tiles, wooden doors, electrical cables, DG sets, pre-engineered building structures, *etc.* valued at ₹ 18.64 crore from outside the State during 2009-10 and 2010-11. The dealer had stated that these goods were used in the construction of various projects in the State. As per enquiry report submitted by the Junior Commercial Taxes Officer, shops, offices, *etc.* were sold on pre-booking basis. These goods were, therefore, liable to be taxed under RVAT Act. However, the AA did not assess tax on these goods.

2.4.15.2 A builder/developer was developing a housing colony at Ajmer with the project cost of ₹ 50 crore. The construction work was being done through various contractors.

Scrutiny of the work orders submitted by the builder/developer in WT circle Jaipur-I disclosed that the builder/developer was providing cement and steel to the contractors free of cost and in some cases the cost of supplied material was deducted from the bills of the contractors. The materials supplied by the builder/developer were taxable under RVAT Act if the flats, villas, shops were sold on pre-booking basis. However, no investigation was made by the Department to ascertain the tax liability of the builder/developer.

2.4.15.3 A Developer was constructing/developing a residential complex with a project cost of ₹ 55 crore. As per the enquiry report of WT circle Ajmer, materials were purchased by the developer from outside the State. Further, 170 flats out of 392 flats were sold on pre-booking before completion of the construction work. The enquiry report was forwarded to Circle-B, Jaipur for further action. It was noticed that no action was taken on this report to ascertain the tax liability of the developer.

2.4.15.4 As per the enquiry report, a registered dealer was building a mall at Ajmer with the project cost of ₹ 40 crore. The firm had used cement and steel, *etc.* of ₹ 12.07 crore in the construction of the mall. The shops were sold on pre-booking basis before completion of the construction. No reason regarding non-assessment of tax on these transactions was found on record.

2.4.15.5 Information collected by Audit from a financial institution disclosed that four developers/builders had sold 324 flats in four projects situated at Jaipur before completion of construction/finishing of the flats. These developers/builders were, therefore, liable to pay tax on the goods used in the execution of works contracts. However, on cross-verification with *Rajtax*, it was found that these developers/builders were not registered under RVAT Act. In absence of further details, actual loss of revenue could not be ascertained.

The above deficiencies indicate that the Department did not ascertain the liability of tax on sale of flats/villas/shops on pre-booking basis prior to completion of construction, though information was available with the Department.

The CCT during Exit Conference stated that specific provisions regarding liability of VAT on builders and developers had been incorporated (July 2014) in the RVAT Rules; however, VAT liability on builders and developers for the period up to March 2014 had been exempted by the State Government.

The CCT also stated that directions had been issued to conduct enquiry and register the developers/builders. It was also stated that information was being collected in this regard from Urban Local Bodies, Stamps and Registration Department, Labour Department, etc.

Thus, the facts indicate that a large amount of money that could have been collected has been forgone though provisions for levy of tax already existed in the Act.

2.4.16 Failure to conduct 'audit of business' of dealers

Section 27 of RVAT Act and Rule 47 provide that the CCT may arrange for audit of the business (business audit) of such registered dealers who are selected on the basis of any criterion specified or on a random selection basis or if there are reasons to believe that detailed scrutiny of their business is necessary. An audit report is required to be prepared under the Act.

The CCT prescribed norms in 2009 and 2011 for selection of five *per cent* of the total number of registered dealers for business audit. It was noticed that not a single dealer was selected for business audit during the years 2010-11 to 2012-13 in the test checked WT circles.

Failure to conduct business audit as per instructions issued by the CCT resulted in non-ensuring the correctness of the returns submitted by the works contractors and prevention of leakage of revenue.

The CCT in the Exit Conference stated that directions had been issued to select the works contractors for business audit.

2.4.17 Audit of WT circles by the Internal Audit Wing

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules, executive instructions, etc. Such controls are also exercised through internal audit.

Scrutiny of the records of the Internal Audit Wing (IAW) of the Department disclosed that all the 12 WT circles were selected by the IAW. But the IAW audited only six to seven WT circles during each year during 2010-11 to 2012-13. It was also noticed that irregularities were detected in 189 cases during 2010-11 to 2012-13, action was taken only in 21 cases.

2.4.18 Conclusions and Recommendations

The Commercial Taxes Department, being the principal contributor of revenue receipts to the State Government, has introduced some significant changes like online filing of returns by dealers and assessment thereof, verification of ITC claims through IT module, etc. However, the following areas require special attention:

- There was no system either for maintaining the database of ongoing construction works or utilising the same to identify the unregistered works contractors, wherever it was available. Besides, no stringent measures like higher rate of TDS in case of unregistered works contractors were available in the RVAT Act. *The Government may consider evolving a system for maintaining database of ongoing construction works and utilise it to identify the unregistered works contractors. The Government may also consider incorporating a suitable provision in the RVAT Act for levy of higher rate of TDS in case of unregistered works contractors.*
- Liabilities of awarders regarding deduction of TDS, timely deposition and submission of monthly statement were not ascertained, which resulted in non-levy/imposition of interest and penalty. *The Government may consider issuing instructions to assess the liability of awarders regarding correct deduction and timely deposition of TDS.*
- Deductions of sub-contract value from the taxable turnover of sub-contractors were allowed by the AAs without ascertaining that the principal contractors had paid tax on that turnover. *The Government may consider incorporating a provision in the RVAT Act on the lines of Maharashtra VAT Act for ascertaining that the tax has been paid on the turnover related to sub-contract by the Principal contractor before allowing any deduction from the taxable turnover by obtaining declarations in a prescribed form.*
- The Departmental machinery was not vigilant towards collection of tax from pre-bookings of flats/shops by the builders/developers. It had not made any investigation in any of the cases that were in its knowledge. *The Government may evolve a system for identification of such builders/developers and take steps to check leakage of revenue due to sale of flats/villas/shops/malls on pre-booking basis.*
- Internal control mechanism in the Department was not adequate to verify the correctness of returns filed by works contractors and unearth concealed taxable turnover. *The Government may direct the Department to examine the correctness of nil turnover reported in returns and consider stringent provision of revocation of registration of works contractors, who had not filed returns for three to five consecutive years, when they had clear taxable turnover to disclose and after due verification of information from awarders/available with the Department.*
- Failure to conduct business audit resulted in non-detection of under-declaration of turnover by the works contractors. *The Government may consider issuing necessary directions to bring the works contractors under the sphere of business audit.*

2.5 Non-levy of purchase tax

As per Section 4(2) of the RVAT Act, 2003, every dealer who in the course of his business purchases any goods other than exempted goods in the circumstances in which no tax under sub section (1) is payable on the sale price of such goods and the goods are disposed of for the purpose other than specified in clause (a) to (g) of sub section (1) of Section 18, shall be liable to pay tax on the purchase price of such goods at the rate mentioned against each of such goods in schedule III to schedule VI of the Act. Besides, interest at 12 *per cent* per annum is also payable as per Section 55 of the Act.

During test check of the assessment records of Assistant Commissioner, Special Circle-Rajasthan, Jaipur, it was noticed (September 2013) that a dealer purchased wheat valuing ₹ 5.26 crore from unregistered dealers for making flour. The dealer did not deposit purchase tax on the value of wheat which is a taxable raw material and transferred the wheat flour to its branch offices located out of the State. The Assessing Authority also while finalising the assessment of the dealer for the year 2010-11, did not levy purchase tax. This resulted in non-levy of purchase tax of ₹ 21.02 lakh and interest of ₹ 6.31 lakh (upto March 2013).

The omission was pointed out to the Department (September 2013) and reported to the Government (May 2014). The Government intimated (September 2014) that demand of ₹ 21.02 lakh and interest of ₹ 9.67 lakh had been raised and ₹ 2.10 lakh had been recovered. Report on remaining recovery is awaited (December 2014).

2.6 Irregular allowance of input tax credit

Section 18(2) of the RVAT Act, 2003 provides that the claim of input tax credit (ITC) shall be allowed on the tax deposited on the basis of original VAT invoice within three months from the date of issuance of such invoice. The Commissioner, Commercial Taxes had issued instructions (1 September 2009) to verify the claims of ITC within six months from the date of filing of return. Further, Section 61(2)(a) provides that where any dealer has availed ITC wrongly on the basis of false or forged VAT invoices, the Assessing Authority shall reverse such credit of input tax and shall impose a penalty equal to four times of the amount of such wrong credit.

During test check of assessment records of Assistant Commissioner, Circle-B, Bharatpur for the period 2010-11, it was noticed (June 2013) that a dealer had availed ITC of ₹ 8.79 lakh and the same was allowed by the Assessing Authority without any verification at the time of assessment. The dealer had availed ITC of ₹ 5.97 lakh on the basis of invoices issued by some of the selling dealers whose sales statements were available online.

Cross verification of sellers records and buyer returns revealed that the dealer availed credit of ₹ 5.97 lakh whereas as per sales statements of selling dealers, tax collected from the dealer was only ₹ 0.02 lakh only. Thus, excess credit of ₹ 5.95 lakh was availed by the dealer. Non-verification of ITC by the Assessing Authority resulted in irregular allowance of ITC of ₹ 5.95 lakh and non-imposition of four times penalty of ₹ 23.79 lakh.

After being pointed out, the Department and the Government intimated (September 2014) that demand of ₹ 5.85 lakh and penalty of ₹ 23.25 lakh had been raised. Report on recovery is awaited (December 2014).

2.7 Short levy of tax on inter-State sale

As per Section 8 of CST Act, the 'C' form can be issued by a registered dealer only for the purchase of goods intended for re-sale by him or for use by him in manufacture or processing of goods for sale or in the communication network or in mining or in the generation or distribution of electricity. Further, the Section provides that the tax payable by any dealer on sale of goods in the course of inter-State trade not fulfilling the prescribed conditions shall be at the rate applicable on sale of such goods inside the State.

During test check of assessment records of Assistant Commissioner, Circle-Special Rajasthan, Jaipur for the year 2010-11, it was noticed that a dealer (M/s Tata Motors Ltd. Jaipur) sold motor vehicles to the following works contractors (dealers) in the course of inter-State trade with the support of 'C' forms and paid tax at the rate of two *per cent*.

(₹ in lakh)

Sl. No.	Name of Purchasing dealer	'C' form no.	Value of sales
1.	M/s Varaha Infra Ltd., Haryana	4840337	809.97
2.	M/s Varaha Infra Ltd., Haryana	4840338	154.27
3.	M/s SRC Real Tech Pvt. Ltd., Haryana	3175560	163.04
Total sale upto 8.3.2011			1,127.28
4.	M/s G.R.Infra Projects Ltd., Jharkhand (Sale after 8.3.2011)	0980421	143.27
Total			1,270.55

Since the motor vehicles were not used for the intended purposes (for use by him in manufacture or processing of goods for sale or in the communication network or in mining or in the generation or distribution of electricity) the tax, therefore, on these inter-State sales was leviable at the rate applicable in the state which was 14/15 *per cent* as mentioned below:

(₹ in lakh)

Sale Period	Value of sale	Difference in rate of tax (<i>per cent</i>)	Tax leviable	Interest leviable (Upto March 2013)
Upto 8.3.2011	1,127.28	12	135.27	40.58
After 8.3.2011	143.27	13	18.63	4.47
Total	1,270.55		153.90	45.05

However, these facts were not considered by the Assessing Authority while finalising the assessments, which resulted in short-levy of tax of ₹ 1.54 crore and interest of ₹ 45.05 lakh.

After this being pointed out, the Department and the Government intimated (September 2014) that tax of ₹ 1.54 crore and interest of ₹ 69.25 lakh had

been raised and ₹ 22.32 lakh had been recovered. Report on remaining recovery is awaited (December 2014).

2.8 Non-levy of interest on delayed payment

The State Government prescribed interest on delayed payment of tax at the rate of 24 *per cent* upto 31 March 2002, 18 *per cent* from 1 April 2002 to 11 July 2004 and 12 *per cent* thereafter under Section 58 of the RST Act, 1994 and Section 55 of RVAT Act, 2003.

During test check of records of Commercial Taxes Officer, Circle, Baran for the period 2012-13, it was noticed (August 2013) that a dealer had deposited (8 January 2013) a demand of ₹ 40.89 lakh pertaining to the period from 1994-95 to 1998-99. However, the Assessing Authority did not levy interest on delayed deposit of demand. This resulted in non-levy of interest of ₹ 81.79 lakh.

The omission was pointed out to the Department (August 2013) and reported to Government (May 2014). The Government intimated (September 2014) that demand of ₹ 81.79 lakh had been raised in September and November 2013. It was also stated that recovery proceedings had been initiated and Bank account had been seized. Report on recovery is awaited (December 2014).

2.9 Non-levy of entry tax

By issue of a notification dated 8 March 2006 under Section 3(1) of the Rajasthan Tax on Entry of Goods into Local Area Act, 1999, the State Government specified the tax payable by a dealer in respect of the specified goods brought into any local areas for consumption or use or sale therein, at such rates as shown in the notification.

As per Form VAT-47/VAT Audit Report/VAT-10A and other records enclosed with VAT returns 20 dealers had purchased goods valued at ₹ 369.66 crore from outside the State during 2009-10 to 2010-11 on which entry tax was leviable. The AAs, while finalising the entry tax assessments of the dealers, did not check the records available with the department. This resulted in non-levy of Entry Tax of ₹ 4.72 crore and interest of ₹ 1.69 crore.

After this being pointed out (August 2013 to April 2014), the Department and the Government intimated (September 2014) that demand of ₹ 5.44 crore (entry tax ₹ 3.70 crore, interest ₹ 1.23 crore and penalty ₹ 51.02 lakh) had been raised and tax of ₹ 84.68 lakh had been recovered. Reports on remaining recovery have not been received (December 2014).

CHAPTER-III
**TAXES ON VEHICLES,
GOODS AND PASSENGERS**

CHAPTER-III: Taxes on Vehicles, Goods and Passengers

3.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and rules made thereunder and are under the administrative control of the Transport Department. The receipts from road tax and special road tax are regulated under the provisions of the Rajasthan State Motor Vehicles Taxation (RMVT) Act 1951, the rules framed thereunder and notification issued from time to time which are administered by the Transport Commissioner of the State.

The Transport Department is headed by the Transport Commissioner and is assisted by 5 Additional Transport Commissioners and 13 Deputy Transport Commissioners. The entire State is divided into 11 regions, headed by Regional Transport Officers (RTO) cum *ex officio* Member, Regional Transport Authority. Besides, there are 37 vehicles registration cum taxation offices headed by District Transport Officers (DTO).

3.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This Wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria laid down by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit was as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in per cent
2009-10	16	79	95	89	6	6
2010-11	6	43	49	49	-	-
2011-12	-	43	43	43	-	-
2012-13	-	43	43	43	-	-
2013-14	-	43	43	39	4	9.30

It was noticed that 11,981 paragraphs upto 2013-14 were outstanding at the end of 2013-14. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1991-92 to 2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Paras	7,759	726	730	831	977	958	11,981

There were 7,759 paragraphs of internal audit reports outstanding up to the year 2008-09. The huge number of outstanding paragraphs indicates that the

Department needs to pay more attention for settlement of the observations raised by the Internal Audit Wing.

The Government may issue appropriate instructions to the Department for early disposal of outstanding observations raised by the Internal Audit Wing.

3.3 Results of audit conducted by the Comptroller and Auditor General of India

During 2013-14, test check of the records of 20 units relating to special road tax, registration fee, permit fee, driving licence fee, conductor licence fee, penalties and composite fee under the National Permit Scheme showed underassessment of tax and other irregularities involving ₹ 20.03 crore in 9,082 cases, which fall under the following categories :

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Non/short realisation of tax, penalty, interest and compounding fee	5,419	17.04
2.	Other irregularities	3,663	2.99
Total		9,082	20.03

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 14.76 crore in 8,568 cases, which were pointed out in earlier years. An amount of ₹ 6.56 crore was recovered in 2,702 cases during the year 2013-14.

A few illustrative cases involving ₹ 15.96 crore are discussed in the paragraphs from 3.4 to 3.6.

3.4 Taxes on motor vehicles not realised

Under Sections 4 and 4B of the RMVT Act, 1951 and the rules made thereunder, motor vehicle tax and special road tax are to be levied and collected on all motor vehicles used or kept for use in the State at the rates prescribed by the State Government from time to time. Further, as per notification dated 09 March 2011, surcharge at the rate of 5 *per cent* on tax was also payable.

During test check of the registration records, tax ledgers and general index registers of 18 Regional Transport Offices (RTOs) and District Transport Offices (DTOs) for the period 2010-11 to 2012-13, it was noticed (between May 2013 and March 2014) that motor vehicle tax and special road tax in respect of 4,054 vehicles for the period between April 2010 and March 2013 were either not paid or paid short by the owners of these vehicles. There was nothing on record to show that the vehicles were off the road or were transferred to any other District/State. The taxation officers did not initiate any action to realise the tax due. This resulted in non/short realisation of tax and surcharge amounting to ₹ 12.37 crore as mentioned below:

Sl. No.	Category of vehicles	No. of vehicles	Period of tax	Amount (₹ in crore)	Name of office
(1)	(2)	(3)	(4)	(5)	(6)
1	Goods vehicles	1,204	April 2010 to March 2013	2.33	RTOs- Ajmer, Udaipur, Kota, Jodhpur, Bharatpur, Bikaner, Dausa and Sikar; DTOs- Dholpur, Bhilwara, Banswara, Churu, Nagaur, Hanumangarh, Tonk and Jhalawar.
2	Contract carriages (seating capacity upto 13 persons excluding driver)	1,638	April 2010 to March 2013	3.02	RTOs- Kota, Jodhpur, Bharatpur, Bikaner, Dausa, Sikar, Ajmer, and Udaipur; DTOs- Dholpur, Nagaur, Hanumangarh, Tonk, Jhalawar, Jaipur (CC), Bhilwara, Dungurpur and Churu.
3	Contract carriages (seating capacity more than 13 persons excluding driver)	190	April 2010 to March 2013	3.40	RTOs- Jodhpur, Udaipur, Bikaner and Sikar; DTOs- Nagaur, Hanumangarh, Jaipur (CC) and Churu.
4	Stage carriages	118	April 2010 to March 2013	0.82	RTOs- Jodhpur, Dausa, Sikar and Udaipur; DTOs- Nagaur, Hanumangarh and Jhalawar.
5	Articulated goods vehicles	503	April 2010 to March 2013	1.41	RTOs- Kota, Jodhpur, Bikaner, Sikar, Ajmer and Udaipur; DTOs- Nagaur, Hanumangarh, Tonk and Bhilwara.

(1)	(2)	(3)	(4)	(5)	(6)
6	Passenger vehicles kept without permits	12	April 2012 to March 2013	0.13	RTOs- Jodhpur and Udaipur.
7	Dumpers/ tippers	361	April 2010 to March 2013	1.15	RTOs- Kota, Jodhpur, Bharatpur, Bikaner, Sikar, Ajmer and Udaipur; DTOs- Nagaur, Tonk, Jhalawar, Bhilwara, Dungurpur and Churu.
8	Private service vehicles	28	April 2011 to March 2013	0.11	DTO-Jaipur (CC)
Total		4,054		12.37	

After the matter was pointed out (between June 2013 and May 2014), the Government stated (August 2014) that in respect of 890 vehicles, ₹ 2.35 crore had been recovered and in respect of 35 vehicles, ₹ 0.08 crore were not recoverable due to deposit of lump sum tax, *etc.* However, the records produced at the time of audit did not reflect the stated position. The report on progress of recovery in the remaining cases is awaited (December 2014).

3.5 Short realisation of special road tax, surcharge and penalty in respect of stage carriages of fleet owner

As per the Government of Rajasthan, Transport Department's notification dated 11 June 2008, special road tax (SRT) on stage carriages owned by a fleet owner shall be payable at the rate of 2.05 *per cent* of the cost of chassis of the entire fleet of vehicles used or kept for use as stage carriages. The monthly tax was required to be deposited on or before 14th day of each month failing which penalty at the rate of 1.5 *per cent* per month was leviable for delayed payment. Surcharge was leviable at the rate of 10 *per cent* on tax.

Scrutiny of records of Regional Transport Officer, Jaipur for the year 2012-13 disclosed (December 2013) that the Rajasthan State Road Transport Corporation (RSRTC) was required to deposit an amount of ₹ 115.59 crore on account of tax surcharge and penalty during the year 2012-13. RSRTC, however, deposited only ₹ 112.77 crore on account of tax, interest, surcharge and penalty. This resulted in short realisation of SRT, surcharge and penalty amounting to ₹ 2.81 crore.

The omission was pointed out to the Department and reported to the Government (between December 2013 and May 2014). No reply has been received (December 2014).

3.6 Non-recovery/short recovery of outstanding instalments of lump-sum tax

Under section 4-C of the RMVT Act, 1951, a lump-sum tax on transport vehicles shall be levied at the rates prescribed by notification from time to time by the State Government. The lump-sum tax payable may be paid in full or in three equal instalments within a period of one year. Surcharge was leviable at the rate of 10 *per cent* on tax.

During test check of the records of eight Regional Transport Offices (RTOs)/ District Transport Offices (DTOs)¹ for the years 2010-11 to 2012-13, it was noticed (between March 2013 and March 2014), that the owners of 202 transport vehicles opted to pay lump-sum payment of tax in three equal instalments. The owners paid the first instalment in full but the remaining instalments were either not paid or tax deposited was less than the tax dues. The taxation officers also did not initiate any action to realise the amount of tax due. This resulted in non-realisation of lump-sum tax amounting to ₹ 78.10 lakh.

The matter was reported to concerned offices and the Government (between June 2013 and May 2014). The Government stated (August 2014) that in respect of 56 vehicles, ₹ 16.38 lakh had been recovered. The report on action taken in remaining cases is awaited (December 2014).

¹ RTO- Kota, Jodhpur, Sikar, Udaipur. DTO- Jaipur(CC), Jhalawar, Dungurpur, Bhilwara.

CHAPTER-IV
LAND REVENUE

CHAPTER-IV: LAND REVENUE

4.1 Tax administration

Assessment and collection of land revenue are governed under the Rajasthan Land Revenue Act, 1956 and rules framed thereunder. Land revenue mainly comprises rent on land, lease rent, premium, conversion charges and receipts from sales of Government land.

The Revenue Department functions as the Administrative Department of the Government and it administers all matters relating to assessment and collection of land revenue. The overall control of revenue related judicial matters along with supervision and monitoring over revenue officers vests with the Board of Revenue (BOR). The BOR is assisted by 33 Collectors at the district level, 289 Sub-Divisional Officers (SDOs) at the sub-division level and 314 *Tehsildars* at the *Tehsil* level. The BOR is also the State level implementing authority for computerisation of land records in Rajasthan.

The Rajasthan Land Revenue Act, 1956, the Rules made thereunder and the notifications issued by the Government from time to time govern the allotment of land and other related issues.

4.2 Internal audit conducted by the Department

The Financial Adviser, BOR is the head of the Internal Audit Wing. There were 14 internal audit parties. The position of number of units due for audit, number of units actually audited and number of units remaining unaudited during the period from 2009-10 to 2013-14 is as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2009-10	134	570	704	532	172	24
2010-11	172	570	742	707	35	5
2011-12	35	624	659	589	70	11
2012-13	70	672	742	670	72	10
2013-14	72	672	744	586	158	21

Source: Information provided by the Board of Revenue, Ajmer.

The Department stated that the arrear in audit was due to addition of 48 new auditable units during the year 2011-12 and deployment of staff in general election.

It was noticed that 19,731 paragraphs were outstanding at the end of 2013-14. Year-wise break up of outstanding paragraphs of internal audit wing is as under:

Year	Upto 2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Paras	9,450	815	1,062	1,756	2,788	3,860	19,731

Source: Information provided by the Board of Revenue, Ajmer.

9,450 paragraphs of internal audit wing pertaining to period upto 2008-09 were pending for want of compliance/corrective action.

The Government may take steps to ensure expeditious compliance with the outstanding observations raised by the Internal Audit Wing.

4.3 Results of audit conducted by the Comptroller and Auditor General of India

During test check of records of 38 units of Land Revenue Department conducted during the year 2013-14, audit noticed non-recovery, non-regularisation and other irregularities amounting to ₹ 41.03 crore in 611 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non-recovery of cost of land in command area	28	0.09
2.	Non-regularisation of cases of trespassers on Government land/realisation from Government land/encroachment cases	58	25.00
3.	Non-recovery/short recovery of premium and lease rent from State Government Departments	106	11.57
4.	Non-recovery/short recovery of conversion charges from <i>khatedars</i> ¹	409	3.51
5.	Other irregularities	10	0.86
	Total	611	41.03

During the year 2013-14, the Department accepted audit observation of ₹ 337 crore in 6,620 cases, of which one case involving ₹ 2.58 crore was pointed out in audit during the year 2013-14 and the rest in earlier years. The Department recovered ₹ 13.41 crore in 244 cases during the year 2013-14 which related to the earlier years.

A few illustrative cases involving ₹ 8.22 crore are discussed in the paragraphs from 4.4 to 4.8.

¹ *Khatedars* are tenants on Government land to whom land is given for agricultural purpose.

4.4 Non-recovery of lease rent

As per Government's notification dated 13 October 2005, an annual lease rent at the rate of 10 *per cent* of the cost of land is payable for Government land allotted to certain Companies/Corporations/Institutions mentioned in the notification.

During test check of allotment files of District Collector, Jodhpur, it was noticed (July 2013) that land measuring 250 *bigha* bearing *Khasra* no. 1/1 in village Narava Khinchyan was transferred (July 2008) to Rajasthan Co-operative Dairy Federation Limited, Jaipur. Though the possession of the land was given, no lease agreement was found to have been executed, resulting in non-realisation of lease rent of ₹ 22.50 lakh² till July 2013.

The matter was brought to the notice of the Department (October 2013) and reported to the Government (May 2014); their reply has not been received (December 2014).

4.5 Short recovery of cost of land

4.5.1 As per Clause 3 (ii) (a) of terms of Allotment of Unoccupied Government Agricultural Lands for Buildings of Public Utility as notified on 20 July 1963, allotment to Non-Government institutions shall be made at the rates recommended by the District Level Committee (DLC). The cost of land depends on the location/distance of the land from highway. The cost of the land located at a distance of 100 metre is more than that of land located at more than 100 and 200 metre.

During test check of records of District Collector, Barmer, it was noticed (February 2014) that 7.10 *bigha* Government land³ was allotted (July 2011) to a trust⁴ for construction of Public Community Centre, etc; at a cost of ₹ 25.88 lakh. The Department applied the DLC rate of ₹ 3.45 lakh per *bigha* prescribed for land located beyond 200 metre from highway.

However, records revealed that the land was situated within 100 metre from Barmer-Gadra Highway Road for which the DLC rate was ₹ 6.90 lakh per *bigha*. The leviable cost of land, therefore, works out to ₹ 51.75 lakh. This resulted in short recovery of cost of land amounting to ₹ 25.87 lakh.

The matter was brought to the notice of the Department (March 2014) and reported to the Government (May 2014); their reply has not been received (December 2014).

4.5.2 As per Government's circular (November 1996), the cost of Government land allotted to Rajasthan Housing Board (RHB) shall be charged at the rate of agricultural land of same class situated in neighborhood.

During test check of records of District Collector, Ajmer, it was noticed (March 2014) that 360 *bigha* land bearing *khasra* No. 961/2 situated at village Madanganj, *Tehsil* Kishangarh was allotted (December 2012) to RHB at a cost of ₹ 22.77 crore at the rate of ₹ 6.32 lakh per *bigha* considering the

² Lease rent at the rate of ₹ 4.50 lakh per year, being 10 *per cent* of the value of land was not demanded by the Collector since July 2008.

³ Land bearing *khasra* No. 3157/1589 situated at Barmer City.

⁴ *Shri Jain Shwetamber Murtipujak Oswal Shri Sangh*, Barmer.

adjoining land situated between 1 km to 2 km from turning point on Khoda Ganesh Road.

It was found that a portion of land was in fact situated on Khoda Ganesh Road within one km from turning point for which the DLC rate of ₹ 7.59 lakh per *bigha* was applicable. The leviable cost of land accordingly works out to ₹ 27.32 crore. This resulted in short recovery of cost of land amounting to ₹ 4.55 crore.

The matter was brought to the notice of the Department (April 2014) and reported to the Government (May 2014); their reply has not been received (December 2014).

4.6 Non-recovery/short recovery of conversion charges

As per Rule 7 of Rajasthan Land Revenue (RLR) (Conversion of Agricultural Land for Non-agricultural purposes in Rural Areas) Rules, 2007, premium for conversion of agricultural land for non-agricultural purpose shall be charged at the rates prescribed by the Government from time to time.

During test check of records of Collectors (Land Records), Ajmer, Jaisalmer, Bundi and Sriganganagar, it was noticed (December 2013 and January 2014) that *Khatedari* land was used for industrial, commercial and institutional purposes.

- In 66 cases of Ajmer, Jaisalmer and Sriganganagar conversion charges amounting to ₹ 95.23 lakh were neither demanded nor paid by the owners of the land. This resulted in non-recovery of conversion charges amounting to ₹ 95.23 lakh.
- In Sriganganagar and Bundi, it was noticed (between October 2013 and December 2013) in 74 cases that 8.48 lakh square metre agricultural land was used for industrial purpose for establishment of brick kiln industry. Conversion charges of ₹ 64.82 lakh were short recovered from 59 brick kiln units while in 15 cases brick kilns were set up on 1.37 lakh square metre land without converting the land for industrial purposes. Conversion charges of ₹ 27.35 lakh were leviable. Thus, conversion charges of ₹ 92.17 lakh were either short recovered or not recovered.

The matter in all the above cases was brought to the notice of the Department (November 2013 and January 2014) and reported to the Government (May 2014). The Government replied (October 2014) that demands of ₹ 59.36 lakh had been raised in 46 cases and in 18 cases involving revenue of ₹ 16.37 lakh the demands were being raised. It was also stated that stay had been granted by court in three cases, while reply was awaited in seven cases of Bundi.

4.7 Non-remittance of Government's Share

As per Government's notification (December 2010), two *per cent* of the capitalized value of land disposed of by the Municipal Councils through sale, allotment or regularisation has to be deposited in the State Government account.

During test check of the records of District Collector and Municipal Council (MC), Jaisalmer, it was noticed (March 2014) that MC had collected ₹ 17.86 crore on disposal of land through sale and allotment during the year 2011-12 and 2012-13. However, MC did not deposit ₹ 35.72 lakh in Government account.

The matter was brought to the notice of the Department (April 2014) and reported to the Government (May 2014); their reply has not been received (December 2014).

4.8 Short recovery of cost of land due to allotment of land in excess of maximum allottable land at concessional rate

The Clause 14.2.2 of the Solar Energy Policy, 2011 provides that the Government land required for Solar Power Plant shall be allotted to Solar Power Producer at a concessional rate of 10 *per cent* of the rate recommended for agricultural land by the District Level Committee (DLC). Further, as per Clause 14.2.8 of the policy, maximum area of land for setting up of Solar Power Plant on different technology was specified.

During test check of records of Collector (Land Records), Jaisalmer, it was noticed (March 2014) that in three cases, 1,363.25 *bigha* land was allotted to Solar Power Producers against the maximum allottable land of 942.085 *bigha*. Thus, 421.165 *bigha* land was allotted in excess of the limit prescribed for allotment of land at concessional rate of 10 *per cent* of DLC rates resulting in short realisation of ₹ 95.90 lakh.

The matter was brought to the notice of the Department (April 2014) and reported to the Government (May 2014); their reply has not been received (December 2014).

CHAPTER-V
**STAMP DUTY AND
REGISTRATION FEE**

CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

5.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State are regulated under the Indian Stamp Act, 1899, the Registration Act 1908, the Rajasthan Stamp (RS) Act, 1998 and the rules made thereunder. The SD is leviable on execution of instruments and RF is payable on registration of instruments.

The Secretary, Finance (Revenue) is responsible for determination of policy, monitoring and control at the Government level. The Inspector General, Registration and Stamps (IGRS) is the head of the Registration and Stamps Department. He is assisted by an Additional Inspector General in administrative matters and by a Financial Adviser in financial matters. Besides this, one Additional Inspector General, Jaipur is entrusted with the work of Chief Vigilance Officer. The entire State has been divided into 13 circles, of which 10 circles are headed by Deputy Inspector General (DIG) cum *ex-officio* Collector (Stamps) and three circles at Jaipur are headed by DIG cum *ex-officio* Collector (Stamps), Additional Collector (Stamps) and DIG (vigilance). There are 33 District Registrars (DRs), 91 Sub-Registrars (SRs) and 426 *ex-officio* SRs¹.

5.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of the Financial Adviser. Planning for internal audit of units is made on the basis of importance and revenue realisation. The position of the internal audit conducted and units remaining unaudited during the years 2009-10 to 2013-14 was as under:

Year	Pending units*	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in per cent
2009-10	-	369	369	148	221	59.89
2010-11	-	369	369	132	237	64.22
2011-12	-	369	369	149	220	59.62
2012-13	-	369	369	183	186	50.40
2013-14	-	369	369	117	252	68.29

Source: Information provided by the IG, Registration and Stamps, Ajmer.

* Audit has been conducted from the month of previous audit to last preceding month of current audit.

The short fall in coverage of units due for audit ranged between 50.40 *per cent* and 68.29 *per cent* during 2009-10 to 2013-14. The Department stated that the short fall was due to grounding of two audit parties.

¹ *Tehsildars* and *Naib Tehsildars* have been declared as *ex-officio* SRs.

It was noticed that 11,017 paragraphs of internal audit reports were outstanding at the end of 2013-14. Year-wise breakup of outstanding paragraphs of internal audit reports is as under:

Year	Upto 2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Paras	5,805	844	938	1,050	1,469	911	11,017

* Source: Information provided by the IG, Registration and Stamps, Ajmer.

As many as 5,805 paragraphs were outstanding upto 2008-09, action on which would become increasingly difficult with passage of time. As such, these need immediate and focused attention of the Government. Thus, the huge outstanding position defeated the very purpose of internal audit.

The Government needs to strengthen the internal audit wing so that timely detection and correction of errors in levy and collection of revenue are ensured. Further, efforts may be made for expeditious settlement of outstanding issues raised by the internal audit wing.

5.3 Results of audit conducted by the Comptroller and Auditor General of India

During the year 2013-14, test-check of records of 180 units of the Department of Registration and Stamps disclosed short realisation of Stamp Duty and Registration Fee amounting to ₹ 173.89 crore in 3,474 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of Cases	Amount
1.	Incorrect determination of market value of property	1,193	21.44
2.	Non/short levy of Stamp Duty and Registration Fee	611	54.02
3.	Other irregularities ²	1,670	98.43
	Total	3,474	173.89

During the year 2013-14 the Department accepted underassessment and other deficiencies of ₹ 48.27 crore pertaining to 1,944 cases of which 1,202 cases involving ₹ 44.66 crore were pointed out during the year 2013-14 and the rest in the earlier years. The Department recovered ₹ 3.85 crore in 754 cases during the year 2013-14 of which 13 cases involving ₹ 0.24 crore related to the year 2013-14 and rest of the earlier years.

In addition, the Department recovered Stamp Duty of ₹ 17.82 lakh in six cases pertaining to SR, Jodhpur-I after issue of draft paragraphs to the Government and the Department.

A few illustrative cases involving ₹ 73.10 crore are discussed in the paragraphs from 5.4 to 5.13.

² Includes non-recovery due to non-finalisation of court cases, non-realisation of revenue due to non-vacation of stay orders, non-recovery due to non-execution of attachment orders etc.

5.4 Short levy of SD and RF due to undervaluation of properties

The State Government vide notification dated 9 March 2011 specified that rates of land for institutional purposes would not be less than 1.5 times of the rates of residential land and rates would be fixed separately for institutional purposes. The rates were not fixed separately for educational institutions. However, in supersession of notification dated 9 March 2011, a provision was inserted under Rule 58 vide notification dated 8 May 2011 that the rates of land for institutional purposes shall be equal to 1.5 times of rate of residential land.

During test check of records of SRs Mundawar, Bansur and Jasole, it was noticed (October 2013 and December 2013) that four sale deeds were executed between August 2011 and May 2012, wherein lands were purchased by educational institutions. The SRs determined the value of the property at agricultural rate instead of 1.5 times the residential rate (RR). This resulted in short levy of SD, surcharge and RF amounting to ₹ 59.34 lakh as mentioned in the following table:

(₹ in lakh)

Name of SR	Document no. Area	Money value adopted	Money value to be adopted i.e. 1.5 times of RR	SD/RF levied	SD/RF leviable	Short recovery
Mundawar	<u>2943</u> 13275 sqyd	13.63	116.89	0.89	6.93	6.04
Bansur	<u>3043</u> 214124 sqft	79.20	738.73	3.76	41.13	37.37
Bansur	<u>2543</u> 30128 sqft	11.05	103.94	0.72	6.22	5.50
Jasole	<u>2101</u> 121923 sqft	9.74	192.03	0.63	11.06	10.43
Total		113.62	1,151.59	6.00	65.34	59.34

The matter was pointed out to the Department (November 2013 and January 2014) and reported to the Government (April 2014). The Government replied (October 2014) that in all the four sale deeds, cases had been registered with DIGs (Stamps) for adjudication.

5.5 Non-levy of SD and RF due to non-registration of a document categorised as an agreement to sell with transfer of possession

As per explanation (i) below Article 21 of the Schedule to the RS Act, 1998, an agreement to sell of an immovable property shall in case of transfer of the possession of such property before, at the time of or after execution of instrument, be deemed to be a conveyance and SD thereon shall be chargeable accordingly.

During test check of records of SR Udaipur-I, it was noticed (January 2014) that a sale deed was executed on 20 September 2012 between Smt. Meera Dangi through Power of Attorney holder Shri Jitesh Kumawat partner M/s Pooja Enterprises and M/s Navkar Buildhome Pvt. Ltd. As per recital of

the deed, Smt. Meera Dangi had executed a Power of Attorney (POA) on 17 September 2012 for three years through which she had given power to Shri Jitesh Kumawat to sell the land, receive sale consideration, handover possession, etc. It was also found that before the above stated transaction, Smt. Meera Dangi had executed sale agreement on 16 July 2006 with M/s Pooja Enterprises vide which she had obtained the entire sale consideration amount of ₹ 52.97 lakh and transferred possession of land to M/s Pooja Enterprises on 25 March 2008. This fact was not noticed by the SR while registering the sale deed on 20 September 2012 and the SD was not recovered as on conveyance on transfer of possession on 25 March 2008 as per extant provision on market value of ₹ 154.48 lakh at the DLC rate of ₹ 30.61 lakh per *bigha*. This resulted in non-levy of SD and RF amounting to ₹ 9.00 lakh.

The matter was pointed out to the Department (January 2014) and reported to the Government (June 2014). The Government replied (October 2014) that a case had been registered with DIG (Stamps).

5.6 Short levy of SD on power of attorney

As per Article 44 (ee) of the Schedule to the RS Act, 1998, when power of attorney (POA) is given, without consideration to sell immovable property to-

- (i) the father, mother, brother, sister, wife, husband, son, daughter, grand-son or grand-daughter of the executants, SD of ₹ 2,000 would be chargeable,
- (ii) any other person, SD at the rate of two *per cent* of the market value of the property, which is the subject matter of power of attorney, would be chargeable.

During test check of records of SR Jasole (Barmer) and Jodhpur-II, it was noticed (December 2013 and January 2014) that POAs given for sale of lands were levied SD of ₹ 12,000 at the rate of ₹ 2,000 per document in six cases and ₹ 1.13 lakh on area mentioned in sale deeds instead of whole area as mentioned in two POAs. The deeds fell within the category mentioned in Article 44 (ee) (ii) of the RS Act, 1998. As such SD should have been charged at the rate of two *per cent* on market value of the properties valued at ₹ 28.09 crore. This resulted in short levy of SD aggregating to ₹ 60.54 lakh.

The matter was pointed out to the Department (January and February 2014) and reported to the Government (June 2014). The Government replied (October 2014) that in all the eight deeds, cases had been registered and partial recovery of ₹ 0.96 lakh had been made in six cases.

5.7 Non-levy/short levy of SD and RF on development agreements

5.7.1 Non-levy of SD on development agreements and non-levy of SD and RF on transfer of property through such agreements

As per Section 3 of the RS Act, 1998, every instrument shall be chargeable with duty at the prescribed rates mentioned in the Schedule to the RS Act.

As per the provisions of Article 5 (bbbb) and 5 (e) of the Schedule to the RS Act, an agreement or memorandum of agreement, if relating to giving

authority or power to a promoter or a developer, by whatever name it may be called, for construction or development of any immovable property, was chargeable to SD at the rate of one *per cent* upto 25 March 2012, five *per cent* from 26 March 2012 to 5 March 2013 and one *per cent* from 6 March 2013 on the market value of the property.

Section 2(xi) of RS Act, 1998 defines conveyance as every instrument by which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person, *inter-vivos*, and which is not otherwise specifically provided for by the Schedule. As per Article 21 (i) of the Schedule to the RS Act, 1998, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property.

During test check of records of 14 SRs³, it was noticed that 42 documents were registered for sale of plots/flats/shops. The recitals of the instruments disclosed that multistoried flats/shops were to be constructed by developers on behalf of the owners as per terms and conditions of the development agreements. It was not clear from these documents whether the development agreements referred to in these documents were presented to the SRs and appropriate SD had been charged.

It was also noticed that in six other cases, the owners had entered into agreement for development of their properties with the builders. As per terms of development agreements, the land owners had either handed over possession of the entire property or had transferred a portion of the property to the developer. The developers were also entitled to retain and dispose of developed property in any manner they liked.

As such stamp duty was leviable at conveyance on the market value of the share transferred to the developers. However, the SRs had failed to charge the SD on such share. Non-levy of SD on development agreements and non-charging of SD and RF on transfer of share in developed property resulted in non-levy of SD, surcharge and RF of ₹ 13.91 crore.

The matter was brought to the notice of the Department and reported to the Government (June 2014). The Government replied (July and August 2014) that cases had been registered in 17 documents with DIG (Stamps). It was also stated that notices had been issued in 23 cases. Information for the remaining two cases is awaited (December 2014).

5.7.2 Short levy of SD and RF due to mis-classification of development agreements and undervaluation of property mentioned therein

5.7.2.1 During scrutiny of records of 17 SRs⁴, it was noticed that 133 development agreements were registered between April 2007 and March 2014. It was observed that these instruments were classified on the basis of their title and SD was levied at the rate of one *per cent* of the market value of the

³ Jaipur-VI, Jaipur-VII, Jaipur-VIII, Sanganer-II, Amer, Kota-II, Alwar-II, Jodhpur-I, Jodhpur-II, Jodhpur-III, Udaipur-II, Jaipur-I, Jaipur-V and Jaipur-II.

⁴ Jaipur-I, Jaipur-II, Jaipur-III, Jaipur-IV, Jaipur-V, Jaipur-VI, Jaipur-VII, Jaipur-VIII, Amer, Bhiwadi, Jodhpur-III, Udaipur-I, Udaipur-II, Kishangarhbas, Jodhpur-I, Ajmer-II and Vallabh Nagar.

property as per Article 5 (bbbb) of the Schedule to the RS Act. The owners of the land had authorised the developers to take possession of the land with right to construct, develop and deal with the land in exchange of entitlement to the extent of 30 to 85 *per cent* of the property. The developers were entitled to dispose of the portion to the extent of 30 to 85 *per cent* of developed property without requiring any consent from the owners. Such authorisation fell under the category of conveyance as per explanation below Article 21 of the Schedule to the RS Act and SD was chargeable at the conveyance rate on the share of property transferred to the developer. Non-levy of SD at conveyance rate on the share of property transferred to the developer resulted in short levy of SD and RF amounting to ₹ 12.52 crore.

The matter was brought to the notice of the Department and reported to the Government (June 2014). The Government replied (August 2014) that in 107 documents, cases had been registered and in 24 cases notices had been issued.

5.7.2.2 During audit of records from 2007-08 to 2011-12 of 12 SRs⁵, it was noticed that 27 documents were registered as development agreements. On scrutiny of these instruments, it was noticed that the owners had made collaboration with developers for developing land/plots. It was found that the SRs had not made valuation properly as per applicable rates prescribed by DLC and cost of construction was not taken into account in valuation. It was also noticed that share in property between 38 and 100 *per cent* had been transferred to the developers through these instruments. As the power to sell along with possession of above property had been given to developer, the documents were to be categorised as conveyance in respect of assigned shares ranging between 38 and 100 *per cent* attracting levy of SD on the above documents under Article 21 (i) on transferred area.

The Department levied one *per cent* SD on these documents under Article 5 (bbbb) on the market value assessed instead of conveyance rate applicable for residential and commercial purposes. This resulted in short levy of SD of ₹ 13.96 crore.

The matter was brought to the notice of the Department and reported to the Government (June 2014). The Government replied (August 2014) that in 19 objections, cases had been registered and in seven cases, notices had been issued.

5.7.3 Irregular exemption of SD on development agreement

The Government vide notification dated 24 August 2007 exempted SD on instrument of conveyance executed in favour of any developer on purchase of land from a local body, individual farmers/land owners or Rajasthan State Industrial Development and Investment Corporation (RIICO), for establishment of a Special Economic Zone (SEZ), on the condition that the above exemption for any piece of land will be given only on one transaction *i.e.* when the developer company acquires land. There shall be no subsequent SD exemptions *i.e.* if the developer company appoints another co-developer

⁵ Jaipur-II, Jaipur-V, Jaipur-VI, Jaipur-VII, Jaipur-VIII, Amer, Alwar-I, Alwar-II, Bhiwadi, Jodhpur-I, Udaipur-I and Udaipur-II.

and transfers land to such co-developers or where developer company allots/sells land to units within the SEZ.

During scrutiny of records from 2007-08 to 2011-12 of SR Sanganer-II, it was noticed that a document (No. 3767 dated 06.12.2007) was executed as development agreement. The recital of the document revealed that a development agreement was executed between land owner and developer for development of SEZ for Information Technology Park on land measuring 20.1366 hectare situated in villages Thikariya; Prithvisinghpura also called as Naiwala; Balmukundpura also called as Nada and BagruKhurd. It was noticed that no instrument of conveyance was executed in favour of developer but the SR had given 100 *per cent* exemption in SD in contravention of notification dated 24 August 2007. This resulted in irregular exemption of SD at the rate of one *per cent* on development agreement amounting to ₹ 9.36 lakh.

The matter was brought to the notice of the Department and reported to the Government (June 2014). The Government replied (August 2014) that factual position had been called for from the SR.

5.8 Short levy of SD due to undervaluation and irregular exemption on lease deed considering the property as heritage

As per notification dated 24 March 2005, SD chargeable on instrument of purchase or lease of more than 100 years old Heritage Property in the State for the purpose of hotel development under the Scheme declared by the Tourism Department shall be reduced by 75 *per cent*.

During test check of records of SR Bharatpur, it was noticed (February 2012) that properties, *viz.* Moti Mahal, Gol Bagh, Circus and Lal Kothi alongwith adjoining land situated in Bharatpur were leased out for 99 years by Maharaja Vishvendra Singh to Godawari Shilpkala Hospitality Pvt. Ltd. for hotel purpose.

Audit observed that valuation of a leased property was done at ₹ 110.54 crore for levying of SD/RF. The entire property transferred, was to be used for hotel purpose. However, two treatments were given to the property, one portion of leased property was valued at ₹ 4.49 crore applying the residential rate of ₹ 135 per sq feet, instead of ₹ 9.28 crore at industrial rate of ₹ 278.81 per sq feet. There was nothing on record to indicate reason as to why this portion of land leased for hotel purpose was treated as residential purpose. The total valuation of the property, therefore, should have been ₹ 115.32 crore on which stamp duty of ₹ 5.77 crore was leviable.

It was also found that the SR worked out the SD of ₹ 5.53 crore on the value of ₹ 110.54 crore but charged ₹ 1.38 crore after allowing rebate of ₹ 4.15 crore erroneously treating the property as heritage property in contravention of conditions prescribed vide notification dated 24 March 2005. The property was neither a heritage property nor was declared so by Tourism Department. Thus, SD of ₹ 4.39 crore was short levied due to incorrect valuation of property and irregular allowance of rebate on lease deed considering the property as heritage.

The matter was pointed out to the Department (March 2012) and reported to the Government (June 2014). The Government replied (September 2014) that a case had been registered with DIG (Stamps).

5.9 Non-recovery of SD due to irregular exemption granted under RIPS

As per serial number 4 of Annexure-I of the Rajasthan Investment Promotion Scheme (RIPS)-2010, 50 *per cent* exemption in SD is admissible to only those enterprises that are established at a site of an existing sick industrial enterprise.

During test check of records of SR Jaipur-I it was noticed (December 2013) that benefits of concessional rate of SD under RIPS were irregularly allowed as per details given below:

(₹ in lakh)

Sl. No.	Name of SR Office	Document No./ Name of party	Non-recovery of SD	Reasons
1	Jaipur-I	(i) 6918/11.7.2012 Toho Manu Machine Parts Pvt. Ltd.	16.66	As per Sl. no. 4 of annexure –I of RIPS, enterprise established at the site of an existing enterprise would not be eligible for benefit of exemption. It was found that the SR had allowed irregular exemption despite the fact that there already existed an enterprise.
		(ii) 4451/25.4.12 M/s RimjhimVinimay Pvt. Ltd.	7.47	

This resulted in non-recovery of SD amounting to ₹ 24.13 lakh.

The matter was pointed out to the Department (January 2014) and reported to the Government (August 2014). The Government replied (October 2014) that in both documents cases had been registered with DIG (Stamps).

5.10 Short levy of SD and RF due to undervaluation of properties

As per Article 21 (i) of the Schedule to the RS Act, 1998, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Rule 58 of the RS Rules, 2004 provides that the market value of the land shall be assessed on the basis of the rates recommended by the DLC or the rates approved by the IGRS, whichever is higher.

During test check of records of seven SRs⁶, it was noticed that the SRs had evaluated the market value of properties on lower side for various reasons in case of 13 documents. A few instances are given below:

⁶ Jaipur-I, Jaipur-III, Swaimadhopur, Jodhpur-II, Garhi, Vallabh Nagar and Desuri.

Sl. no.	Nature of irregularity	No. of Documents No. of SRs	Stamp Duty leviable Amount of Stamp Duty paid	Short levy of Stamp duty (₹ in lakh)
1	It was noticed that plotting was done in <i>khasra</i> no. 580/4 as per site inspection report. In spite of that, the SR valued the lands in question at agricultural rate.	<u>4</u> 1	<u>12,42,866</u> 4,95,905	7.47
2	It was noticed that agricultural DLC had been taken for valuation instead of residential rate despite the fact that a plot was sold in Prabhat Nagar residential scheme by another document.	<u>1</u> 1	<u>14,29,980</u> 2,60,000	11.70
3	It was noticed that area of fort was 2,47,856.4 sqft as per document but the SR had valued the land on 485 sqft and charged SD on face value of ₹ 50 lakh.	<u>1</u> 1	<u>61,16,684</u> 4,40,000	56.77
4	It was noticed that land was allotted for housing colony in industrial area by RIICO but the SR had valued the land at industrial rate.	<u>1</u> 1	<u>1,37,83,630</u> 44,85,830	92.98

This resulted in short levy of SD and RF amounting to ₹ 2.02 crore.

The matter was pointed out to the Department (November 2013 to April 2014) and reported to the Government (July 2014). The Government replied (October 2014) that for all the 13 documents, cases had been registered with DIGs (Stamps).

5.11 Short levy of SD and RF on mis-classification of documents as settlement deeds

Section 2(xi) of RS Act, 1998 defines conveyance as every instrument by which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person, *inter-vivos*, and which is not otherwise specifically provided for by the Schedule. As per Article 21 (i) of the Schedule to the RS Act, 1998, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Section 2 (xxxiv) defines settlement as any non-testamentary disposition, in writing, of immovable property made for the purpose of distributing property of the settlor among his family or to those whom he desires or to some person dependent on him.

During test check of records of SR Bikaner-II, it was noticed (February 2014) from the recital of four documents that the absolute ownership was given to a party (condition no. 2 of the deeds). As such, the documents should have been classified as conveyance. The SR had misclassified the documents as settlement deed and charged SD and RF of ₹ 5.61 lakh instead of leviable SD and RF of ₹ 20.03 lakh. Mis-classification of documents resulted in short levy of SD and RF amounting to ₹ 14.42 lakh.

The matter was pointed out to the Department (March 2014) and reported to the Government (July 2014). The Government replied (August 2014) that in all the four deeds, cases had been registered with DIG (Stamps).

5.12 Short levy of SD and RF due to mis-classification of transfer of lease by way of assignment

As per Article 55 of the Schedule to the RS Act, 1998, in case of instrument of transfer of lease by way of assignment, the SD is leviable as a conveyance on the market value of the property which is the subject matter of transfer. The IGRS vide circular no. 6/2009 clarified that the instrument executed for change in the partnership will come in the category of transfer of lease by way of assignment.

During test check of records of SRs Jaipur-III and Bharatpur, it was noticed (March 2014) that three documents of revised lease deeds were registered after change in share of partners in the partnership firms on retirement of old partners/addition of new partners. Hence, the immovable properties possessed by the old partners were transferred to new partners or share of existing old partners had increased. Thus, the instrument fell under the category of transfer of lease by way of assignment, on which SD and RF of ₹ 19.46 lakh was leviable at conveyance rate on market value of the property. Mis-classification of these documents as revised lease deeds resulted in short levy of SD and RF amounting to ₹ 19.46 lakh.

The matter was pointed out to the Department (April 2014) and reported to the Government (June 2014). The Government replied (September 2014) that cases in all the three deeds had been registered with DIGs (Stamps).

5.13 Short levy of SD on lease deed due to valuation of property as industrial instead of commercial

As per Article 33 (A) (iii), in case of lease where the lease purports to be for a term in excess of twenty years or in perpetuity or where the term is not mentioned, the SD would be chargeable as on a conveyance on the market value of the property which is the subject matter of the lease. The benefits of Capital Investment Subsidy as per Clause 7 and exemption as per Clause 8 would be extended to all units other than those covered in the list of ineligible units under Clause 5 of RIPS-2010. Provision of RIPS-2010 shall be applicable to all new investments and investment made by existing units and enterprises for Modernisation/Expansion/Diversion subject to the condition that units shall commence commercial production/operations during the operative period of the Scheme. The State Government clarified (23 September 2011) that exemption in SD under Clause 5 of RIPS-2010 would not be extended to mixed activities *i.e.* trading of articles as well as providing of services.

During test check of records of SR Sanganeer-I, it was noticed that a lease deed (no. 4622) was executed (24 January 2013) between RIICO and M/s Diligent Pinkcity Centre Pvt. Ltd. for a period of 60 years for development of Exhibition-cum-Convention Centre at Sitapura Industrial Area on Public Private Partnership (PPP) basis for which an authorisation agreement was also executed. Under the authorisation agreement, four main elements namely an Exhibition facility, a Convention Centre, a four star or above category Hotel and Commercial-Rental and Office Complex facilities were to be developed. On presentation of lease deed for registration, the SR valued the property at

the rate prescribed for industrial properties and charged SD of ₹ 3.02 crore (SD ₹ 2.74 crore + Surcharge ₹ 0.28 crore) after allowing 50 *per cent* exemption in SD on the basis of entitlement certificate issued by Industries Department. As the land was leased for commercial activities as per authorisation agreement, the valuation should have been made at commercial rate prescribed for the area by the DLC which works out to ₹ 497.40 crore on which SD of ₹ 27.36 crore was leviable. This resulted in short levy of SD of ₹ 24.34 crore.

The matter was pointed out to the Department (February 2014) and reported to the Government (August 2014). The Government replied (October 2014) that exemption was granted under RIPS and Department of Industries was responsible for noticing the violation of the conditions. The above fact indicates that the coordination between the Department of Registration and Stamps and Department of Industries needs to be strengthened in the interest of revenue.

CHAPTER-VI
STATE EXCISE

CHAPTER-VI: STATE EXCISE

6.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven Zones which are headed by the Additional Excise Commissioners (AECs) (Ajmer, Jaipur, Jodhpur, Kota, Bikaner, Udaipur, and Bharatpur Zones). District Excise Officers and 164 Excise Inspectors under the control of the Additional Excise Commissioners (AECs) of the respective Zones are deputed to oversee and regulate levy/collection of excise duties and other levies.

6.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit was as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remained unaudited	Percentage of units remaining unaudited
2009-10	88	40	128	58	70	55
2010-11	70	40	110	83	27	25
2011-12	27	40	67	60	7	10
2012-13	7	41	48	41	7	15
2013-14	7	41	48	42	6	13

It was also noticed that 733 paragraphs were outstanding at the end of 2013-14 of which 249 paragraphs were outstanding for more than five years. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Paras	249	25	87	130	242	0	733

Thus, the huge pendency of paragraphs defeated the very purpose of internal audit.

The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

6.3 Results of audit conducted by the Comptroller and Auditor General of India

In 2013-14, test check of the records of 19 units relating to excise duty, licence fee receipts, *etc.* showed non-realisation/short realisation of excise duty/licence fee/interest/penalty and other irregularities involving ₹ 22.52 crore in 3,240 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Audit of bar licences issued by the State Excise Department	1	0.56
2.	Non-realisation/short realisation of excise duty and licence fee	203	11.63
3.	Non-recovery of special vend fee	47	3.82
4.	Non-recovery of renewal application fee	1,334	3.45
5.	Loss of excise duty on account of excess wastages of liquor	174	0.86
6.	Non-recovery of interest on security deposits	1,359	0.62
7.	Other irregularities	122	1.58
Total		3,240	22.52

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 7.02 crore in 2,772 cases which were pointed out in earlier years. An amount of ₹ 2.57 crore was recovered in 1,788 cases during the year 2013-14.

The Department recovered the entire amount of ₹ 18.54 lakh in two cases after issue of draft paragraphs to the Department and the Government. These have not been included in this Report.

Audit of bar licences issued by the State Excise Department and few illustrative cases involving ₹ 5.94 crore are discussed in the paragraphs from 6.4 to 6.10.

6.4 Audit of bar licences issued by the State Excise Department

6.4.1 Introduction

The State Excise Department (Department) of Rajasthan issues licences to the hotels, restaurants and club bars that serve alcoholic drinks *i.e.* beer, wine, liquor and cocktails for consumption ‘on the premises’ to the visitors. The licensee cannot sell liquor for any other purpose or to any other person or in sealed bottles.

A duly registered club, hotel or restaurant may be granted bar licences by Excise Commissioner (EC) under rule 48 of the Rajasthan Excise (RE) Rules, 1956 subject to the fulfilment of terms and conditions prescribed under the provisions of RE Rules 1956, the Grant of Hotel Bar/Club Bar Licences Rules, 1973, the Rajasthan Excise (Grant of Restaurant Bar Licences) Rules, 2004 and Excise Policy from time to time.

6.4.2 Scope and objective of Audit

The total number of hotel, heritage hotel, restaurant and club bar licences as on 31 December 2013 was 853 under the jurisdiction of 34 District Excise Officers (DEOs) of the State. Out of these, we selected five DEOs¹ and 136 licences for test check. The test check was conducted with a view to ascertain the efficiency and effectiveness of the Department in monitoring bar licences. The audit findings are discussed in subsequent paragraphs.

Audit findings

6.4.3 Non-maintenance of prescribed register

Under rule 3(4) of Grant of Hotel Bar/Club Bar Licences Rules 1973, a register called “Form B Register” is required to be maintained at each DEO for watching the disposal of applications received for grant of bar licences. It contain 13 columns *i.e.* name of applicant, address, amount of initial fee deposited, challan number and date of entry, initial of DEO, etc.

During audit of five selected DEOs, it was noticed that Form B register was not maintained in any of the offices. The IT system available with the department does not provide for recording the details mentioned in the register. As such, the total number of applications received and disposed of in respect of bar licences could not be ascertained.

For ensuring transparency, control over receipt and disposal of applications for bar licences it is essential that the Department may consider having a provision of “Register B” in its IT system and till such a provision is made, hard/ manual copies of the registers may be maintained by the department.

The matter was pointed out to the Department (July 2014) and reported to the Government in October 2014. The Government replied (October 2014) that directions had been issued to all DEOs for maintaining the register.

¹ Alwar, Bhilwara, Jaipur City, Sirohi and Udaipur.

6.4.4 Discrepancies noticed in issue of bar licences

In compliance of Excise and Temperance Policy for the year 2010-11, the instructions issued (9 April 2010) by the EC stipulated that the application for bar licence should be disposed of within 30 days.

As per proviso under Rule 3(1) of the Grant of Hotel Bar/Club Bar Licences Rules 1973, the Government may set up a committee to make recommendations on an application for grant of Hotel/Club bar licence to any establishment. EC may grant or renew licence on recommendations of such committee. The State Government reconstituted (13 March 2006) Zonal committees² to make recommendations on the applications for grant of Hotel/Club bar licences.

6.4.4.1 Delay in issue of licences

A test check of files of bar licences issued during 2011-13 in selected units disclosed that 42 licences in 2011-12 and 36 licences in 2012-13 were issued after the prescribed time limit of 30 days owing to discrepancies/ incompleteness noticed at the level of Additional Commissioner, Zone or EC. Consequently, the finalisation of licences was delayed and excise duty and permit fee could not be realised.

To ensure timely submission and disposal of the application(s), a checklist was prescribed by EC. The checklist contains certain information which was required to be furnished by the applicants. If an applicant did not furnish any or all the required information, his application was liable to be rejected at the initial stage itself by the concerned DEO. However the DEOs did not get the applications completed before forwarding it for approval defeating the very purpose of the check list.

6.4.4.2 Loss of revenue due to non-issue of licence

It was also noticed that the Department failed to sanction the licences within the same year in case of 3 applications³ for 2010-11 and 6 applications⁴ for 2011-12 submitted at DEOs Alwar, Bhilwara and Jaipur City for obtaining bar licences. Due to delay in getting the required sanction, the applicants requested the Department to grant the sanction for the next year. The Department accepted the request and allowed to carry forward the initial fees and process fees to next year and accordingly licences were issued for the next year. These hotels, thus, could not run their business during the preceding year. Had the Department taken prompt action and issued the licences timely, revenue of ₹ 56.00 lakh could have been realised.

The matter was pointed out to the Department (July 2014) and reported to the Government in October 2014. The Government replied (October 2014) that the process of sanction takes time and that in case of carry forward of application for next year, the process fee is charged again. It was also intimated that licence fee was payable/adjustable on sanction of licence.

² The Zone level committee constituted by the Government comprises: (1) Additional Commissioner Zone: President, (2) Nominee of District Collector not below the rank of SDO: Member, (3) District Tourism Officer or Deputy Assistant Director of Tourism Department: Member Secretary, and (4) Concerned DEO : Member.

³ Hotel Mighty Days and Chaudhary Hotel at Alwar and Boutique Hotel at Jaipur.

⁴ Hotel Jagdamba Palace & Restaurant and Janta at Bhilwara; Mango, Chhavi Holidays, Heritage Village and Tree of Life at Jaipur.

The fact however remains that there was delay in issue of bar licence despite departmental instructions. This also indicates that the Department was not following its own instructions regarding completion of licence process within a period of 30 days.

6.4.5 Delay due to incomplete and incorrect examination of the facts

During test check of licences issued during 2011-13 by EC, it was observed that DEOs did not examine and evaluate applications with reference to criteria specified for grant of bar licences and forwarded all the applications to the committee for its recommendation. Thus, the Department shifted its primary responsibility on the committee. Further, the committees, in absence of any prescribed checklist, were not uniform in their functioning.

Scrutiny of 78 case files disclosed that in eight cases, committees recommended for granting bar licences without examining the basic conditions required for bar licence as mentioned in the table below:

Sl. No.	Points not examined by the committee	Name of applicants
1	Initial fees was not deposited with application	Mukesh Hotel and Restaurant, Sriganganagar; Amantra Comfort Hotel, Udaipur and M/s Jeevan Tara Club & Resort, Udaipur.
2	Prescribed norms for construction of hotel were not followed by applicant	Hotel Roop Palace, Jaipur.
3	Proof of ownership and conversion of land for commercial use of property were not enclosed with applications	Hotel Maharani Palace, Sri Dungargarh, Bikaner; Kukas Inn Hotel, Jaipur and Hotel Topaj, Tonk
4	Norms regarding width of road, parking and separate toilets were not followed by applicant	Hotel Doda's Palace, Jaipur

The committee in the above cases made recommendations in favour of applicants without ensuring that the conditions required for issue of licence for hotel bar were fulfilled. However mistakes were pointed out at EC level resulting in delay in issue of the licences.

The matter was pointed out to the Department (July 2014) and reported to the Government in October 2014. The Government replied (October 2014) that a new checklist had been issued to all DEOs and they had been directed to ensure compliance of each point.

6.4.6 Discrepancies in stock registers

Scrutiny of 111 stock registers out of 333 (maintained during 2012-13) produced to audit by the DEOs of selected units disclosed that the bar licencees were not maintaining their stock registers properly and accurately. In absence of proper guidelines regarding maintenance of stock registers and lack of verification/checking by excise authorities, a number of irregularities were found in practice which indicated that the Department did not focus on controlling the operations of bar licencees keeping in view public health,

hygiene and other social aspects. A few instances are mentioned in the **Appendix**.

The matter was pointed out to the Department (July 2014) and reported to the Government in October 2014. The Government replied that explanation was called for from the concerned hotels and instructions to all Additional Commissioners, Zones and DEOs had been issued in this regard.

The Department should ensure that the stock registers are verified/checked on regular basis to ensure genuineness of the entries made therein.

6.4.7 Conclusion and Recommendations

For ensuring transparency, control over receipt and disposal of applications for bar licences it is essential that the Department may consider for having a provision of “Register B” in its IT system and till such a provision is made hard/ manual copies of the registers may be maintained by the department.

There was a delay in issue of bar licence despite departmental instructions regarding completion of licence process within 30 days. These instructions need to be followed strictly for revenue maximisation.

The Department shifted its primary responsibility of examination of the applications to the Zonal committees resulting in delay in issue of licences. The Zonal committees were not uniform in their functioning or in a position to examine all aspects required for granting bar licences. The examination of the cases may be done scrupulously by the Department.

Departmental inspection may be done so discrepancies in the accounts of the dealers can be eradicated timely.

6.5 Non-recovery of special vend fee

As per sub rule 6 of rule 69 of the Rajasthan Excise (RE) Rules, 1956, the special vend fee (SVF) is leviable for sale of foreign liquor to retail on, retail off and composite retail off licencees of Indian Made Foreign liquor (IMFL) and Beer at the rate of ₹ 10 and ₹ 5 per bulk litre (BL) respectively.

During test check of permits issued by District Excise Officers (DEO) Jaipur City and Bikaner, it was noticed (between September 2013 and January 2014) that wholesale depots of Canteen Store Department (CSD) at Jaipur and Bikaner had sold 34.83 lakh BL IMFL and 4.23 lakh BL Beer to its retail off licencees (unit run canteens) in the State during the period from 1 April 2012 to 4 November 2012. However, SVF of ₹ 3.48 crore on IMFL and ₹ 21.17 lakh on Beer were neither deposited by the CSD nor demanded by the Department. This resulted in non recovery of SVF amounting to ₹ 3.69 crore.

The Government stated (September 2014) that recovery was being made regularly after 5 November 2012 and for the recovery relating to previous period, instructions had been issued to DEOs, Jaipur City and Bikaner. It was also stated that in case the recovery cannot be effected, proposal for remission of revenue would be moved. Further progress on the matter is awaited (December 2014).

6.6 Non-levy of excise duty on transit wastage of beer exported to other States

Rule 41 of the Rajasthan Brewery Rules, 1972 provides that no beer shall be removed from a brewery until the duty imposed under Section 28 of the Rajasthan Excise Act, 1950 has been paid or until a bond under Section 18 of the Act in form R.B.11 or R.B.12 has been executed by the brewer for export of beer outside the State. Condition no. (2) of the bond provides that if the quantity of beer mentioned in the bond has not been delivered at the destination, the brewer is liable for any loss of duty, which the Government may suffer by reason of such non-delivery or short delivery, by paying on demand the duty at the rate in force. There is no provision in the rules regarding transit wastage of beer exported outside the State.

During scrutiny of the Excise Verification Certificates of beer exported by five breweries⁵ during the period 2012-13 under District Excise Officers (DEOs), Alwar and Behror, it was noticed (September 2013, December 2013 and January 2014) that during the course of export of beer outside the State under bond, 1,54,825.87 bulk litres (19,851 cartons) of beer, involving excise duty of ₹ 66.66 lakh, were either short delivered or not delivered at the destination. The short delivery was depicted as transit wastage.

Neither the duty was paid by the brewers nor was it demanded by the Department. The concerned Assistant Excise Officers deputed by the Department at the breweries did not raise demand despite recording of transit wastage in the EVCs. This resulted in non-levy of Excise Duty of ₹ 66.66 lakh.

⁵ M/s Carlsberg India Pvt. Ltd. Alwar, M/s United Breweries Ltd. Bhiwadi, M/s Rochees Breweries Ltd. Neemrana, M/s Mount Shivalik India Pvt. Ltd. Behror and M/s Deewan Modern Breweries Ltd. Behror.

After it was pointed out (between October 2013 and April 2014), the Government stated (July 2014) that ₹ 5.13 lakh had been recovered (March 2014) in respect of one unit. The report on remaining cases is awaited (December 2014).

6.7 Non-levy of excise duty on non-potable beer

Conditions and Restrictions on establishment of Bonded Warehouse provide that State Government shall not be responsible for loss of liquor in bond during the currency of licence period. In case of any loss, if it is found that the loss could have been prevented by reasonable precautions on the part of licensee, he may be required to pay duty for the loss of liquor thus caused and the decision of the Excise Commissioner shall be final and binding on the licensee.

As per point no. 9.6 of Liquor Sourcing Policy 2008-09 of M/s Rajasthan State Beverages Corporation Limited, any stock of beer lying unsold for a period over six months from the date/month of bottling, becomes unfit for human consumption and it shall be drained out.

During scrutiny of the records of two breweries⁶ for the period 2012-13 under District Excise Officer (DEO), Behror, it was found (December 2013) that 7,609 cartons of beer became non-potable in the bonded warehouses as they remained unsold for a period over six months from the date of their manufacture. However, the department neither recovered the duty nor referred the case to the Commissioner, State Excise for further necessary action. This resulted in non-levy of excise duty of ₹ 29.41 lakh.

After this was pointed out (between December 2013 and April 2014), the Government stated (July 2014) that part amount ₹ 28.55 lakh had been recovered from both units. The progress of recovery in respect of remaining amount is awaited (December 2014).

6.8 Non-levy of excise duty on excess wastage of rectified spirit transported under bond

Rule 5 of the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959 provides for an allowance for the actual loss in transit due to leakage or evaporation of spirit transported under bond at the rate of 0.2 *per cent* to 0.4 *per cent* as per duration of journey. The loss is to be determined by deducting from the quantity of spirit despatched from the distillery, the quantity received at the place of destination, both quantities being stated in terms of London Proof Litre (LPL).

Rule 5(5) provides for levy of excise duty on wastage exceeding permissible limit. However, before charging such duty the Excise Commissioner shall afford to the consigner of spirit a reasonable opportunity of being heard and in case it is found that the wastage was due to an accident involving no negligence on his part, or due to any other reasonable cause beyond his control, no duty shall be charged.

⁶ Arian Breweries and Distilleries Ltd and M/s United Breweries Ltd. Bhiwadi.

During test check of the records of M/s Ojas Industries private Limited, Neemrana for the year 2012-13 under the jurisdiction of District Excise Officer (DEO), Behror, it was found (January 2014) that 21,432.74 LPL Rectified Spirit (RS) was shown as received at the unit against despatch of 33,260.00 LPL RS showing wastage of 11,694.22 LPL RS in transit over and above the maximum permissible wastage of 133.04 LPL. Excise duty of ₹ 19.88 lakh was leviable at the rate of ₹ 170 per LPL prevailing at the time of consignment on such excess wastage. However, neither the duty was demanded by DEO nor the case was referred to the Excise Commissioner for appropriate action.

After this was pointed out (between January 2014 and April 2014) the Government accepted the facts (September 2014) and stated that under provision of Rule 5 of the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959, the Excise Commissioner would decide the case after hearing the concerned consigner. Further progress, however, is awaited (December 2014).

6.9 Non-levy of excise duty on excess wastage of beer in production

Rule 49-A of the Rajasthan Brewery Rules, 1972 provides allowance for wastage on production of beer at the rate of seven *per cent* of the total quantity brewed or actual wastage, whichever is less. Further, Rule 26 lays down special duty on the officer-in-charge posted at brewery to see that the entries are made by the brewer in the brewing book in form RB 4, promptly and correctly. Furthermore, as per Rule 7 of the Rajasthan Stock Taking and Wastage of Liquor (Distilleries and Warehouses) Rules 1959, officer-in-charge is liable to prepare the statement of each kind of wastage on monthly basis and has to send it to the District Excise Officer (DEO) in the first week of the next month. As per Rule 8 of the Conditions and Restrictions on Establishment of Bonded Warehouse Rule, 1956, licensee will be liable to pay duty on excess wastage.

During scrutiny of the Brewer's book in form RB 4 containing details of production of beer and monthly statement of wastage maintained at the brewery M/s Carlsberg India Pvt. Limited, Alwar for the period 2012-13 under DEO Alwar, it was noticed that during July 2012 the brewer had taken production of 40.06 lakh BL strong beer in monthly statement instead of 41.01 lakh BL (as per brewing book RB 4). On the basis of above production, excess wastage of 0.81 lakh BL beer occurred during July 2012 beyond the permissible limit of seven *per cent* as detailed below:

Sl. No.	Particulars	Quantity shown in RB 4 (in BL)	Quantity shown in monthly statement (in BL)
1.	Opening balance	13,66,174.00	13,66,174.00
2.	Production in the month 7/2012	41,00,996.00	40,05,624.00
3.	Total (1+2)	54,67,170.00	53,71,798.00
4.	Closing balance at the end of month	16,80,899.60	16,80,899.60
5.	Beer issued for production (3-4)	37,86,270.40	36,90,898.40
6.	Net production	34,40,199.96	34,40,199.96
7.	Wastage of beer in production (5-6)	3,46,070.44	2,50,698.44
8.	Allowable wastage (7 <i>per cent</i> of sl.5)	2,65,038.93	2,58,362.89
9.	Excess wastage (7-8)	81,031.51	-

However, the DEO or officer-in-charge neither analysed the reasons for excess wastage nor demanded excise duty on excess wastage from the brewer which resulted in non-levy of state excise duty of ₹ 36.92 lakh on excess wastage.

After this was pointed out (between October 2013 and April 2014), the Government while accepting the facts stated (July 2014) that action had been initiated for recovery.

6.10 Short realisation of composite fee from country liquor shops

As per provisions of the Rajasthan Excise and Temperance Policy for the years 2010-11, 2011-12 and 2012-13, composite licence fee for composite shops located within five kilometres radius from the municipal area was to be levied at the same rate of licence fee which was leviable for Indian Made Foreign Liquor(IMFL)/Beer shops located in that municipal area.

During test check of records of District Excise Officer (DEO), Baran for the year 2010-11, it was noticed (October 2013) that in respect of four composite shops⁷, located within five kilometres of municipal limit, the Department recovered licence fee at the rate applicable for shops located in rural area instead of rate applicable for IMFL/Beer shops located in urban area. This resulted in short realisation of composite fee amounting to ₹ 15.95 lakh as per the details given below:

Sl. No.	Name of shops	Nearest municipal area	Composite fees payable	Composite fees recovered	Short recovery of composite fees
1	Boomaliakalan	Anta(Baran)	3,90,000	36,236	3,53,764
2	Palayatha	Anta(Baran)	3,90,000	61,587	3,28,413
3	Fatehpur	Baran	4,80,000	37,571	4,42,429
4	Mandola	Baran	4,80,000	10,000	4,70,000
Total					15,94,606

After this was pointed out (April 2014), the Government stated (September 2014) that ₹ 9.91 lakh had been recovered. The progress of recovery in respect of remaining amount is awaited (December 2014).

⁷ Composite shop is a shop holding licence for sale of country liquor and Indian Made Foreign Liquor.

CHAPTER-VII
NON-TAX RECEIPTS

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Tax administration

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. The DMG is assisted by five Additional Directors, Mines (ADM) and three Additional Directors, Geology (ADG) in administrative matters and by a Financial Advisor in financial matters. The ADMs exercise control through seven circles headed by Superintending Mining Engineer (SME).

There are 39 Mining Engineers (ME)/Assistant Mining Engineers (AME), who are responsible for assessment and collection of revenue, besides prevention of illegal excavation and despatch of minerals from areas under their control. The Department has a separate vigilance wing for prevention of illegal excavation and despatch of minerals, headed by Deputy Inspector General (Vigilance), Jaipur.

7.2 Internal audit conducted by the Department

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner and that subordinate offices are maintaining various records, registers/account books properly and accurately besides taking adequate safeguards against non-collection/short collection or evasion of revenue.

Scrutiny of records of the Director, Mines and Geology (DMG), Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit, the Departmental authorities were not aware of the areas of the weakness in the system which resulted in evasion/leakage of revenue. The matter was pointed out in the Comptroller and Auditor General's Audit Report 2012-13. However, no action was taken by the Department.

7.3 Results of audit conducted by the Comptroller and Auditor General of India

In 2013-14, test check of the records of 32 units relating to the Department of Mines and Geology and the Department of Petroleum showed non-recovery/ short recovery of revenue and other irregularities amounting to ₹ 447.64 crore in 6,233 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Performance audit on 'Receipts from minor minerals'	1	88.22
2.	Non-conservation of minerals	13	50.86
3.	Non/short recovery of dead rent and royalty	211	27.04
4.	Unauthorised excavation	517	263.29
5.	Non-recovery of financial assurance	1,615	4.50
6.	Other irregularities	3,876	13.73
	Total	6,233	447.64

During the year 2013-14, the Departments accepted short realisation and other deficiencies of ₹ 38.19 crore in 3,971 cases, of which 1,473 cases involving ₹ 13.01 crore were pointed out during the year 2013-14 and rest in earlier years. The Departments recovered ₹ 8.88 crore in 1,765 cases, of which 102 cases involving ₹ 0.27 crore pertained to the current year audit and the others pertained to earlier years.

A Performance Audit on '**Receipts from Minor Minerals**' involving ₹ 88.22 crore and a few illustrative cases involving ₹ 3.78 crore are discussed in the paragraphs from 7.5 to 7.6.

7.4 Performance Audit on 'Receipts from minor minerals'

Highlights

- Audit scrutiny of records of 10 AME/ME disclosed that the Environment Management Fund ₹ 6.53 crore was not collected from 289 lessees, permit holder and contractors.

(Paragraph 7.4.10)

- Nine committees/Joint Inspection Teams were formed for investigating the illegal extraction and allotment of leases of minor mineral in five cases. Of these, in one case of *Moda Pahar* four committees/JIT were formed while in another case two committees were formed without any fruitful results. The amount involved in the illegal extraction aggregated to revenue of ₹ 177.08 crore.

(Paragraph 7.4.11)

- During test check of records revealed that in 11 selected ME/AME offices, Out of 5,250 appeal cases, 4,588 appeal cases were disposed of and 662 cases were pending with the Department.

(Paragraph 7.4.12)

- Grant of leases of mineral masonry stone in the area reserved for the noble metals in Sikar district.

(Paragraph 7.4.13)

- In seven ME/AMEs offices, out of 10,751 assessment cases, 8,177 assessment cases were finalised leaving 2,574 assessment cases pending as on 31 March 2013. No time limit was fixed for finalisation of the assessments.

(Paragraph 7.4.14.1)

- It was noticed that 75 works contractors excavated/ consumed minerals like masonry stone, *bajri*, *murrum*, ordinary soil, *etc.* either without obtaining short term permits (STP) or in excess of 25 *per cent* over the quantity permitted in the STP. The cost of minerals illegally excavated worked out to ₹ 8.33 crore.

(Paragraph 7.4.15)

- In nine ME/AME¹ offices, 1969 STPs involving royalty of ₹ 10.41 crore issued during the year 2009-10 to 2012-13 to the Public Works Department contractors were pending for royalty assessments.

(Paragraph 7.4.19)

¹ Ajmer, Bharatpur, Bijolia, Dungarpur, Jaisalmer, Jodhpur, Nagaur, Rajsamand-I and Tonk.

- Internal Audit was not being conducted by the Department since 2004-05, the inspections were also not conducted in accordance with the prescribed norms, no co-ordination was found between Rajasthan State Pollution Control Board and the Director Mines and Geology to ascertain the quantity of the mineral extracted in excess of the prescribed quantity.

(Paragraph 7.4.20)

7.4.1 Introduction

Receipts from minerals constitute major share in non-tax revenue of the State of Rajasthan. Minerals are divided into two categories, Major minerals and Minor minerals. Section 3(e) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 define minor minerals as building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purpose and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral. The State Government framed separate rules *i.e.* the Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 for regulation and extraction of minor minerals. The State Government framed (28 January 2011) a new Mineral Policy, 2011 to promote proper use of mineral resources for sustainable economic development in supersession of its erstwhile Mineral Policy, 1994.

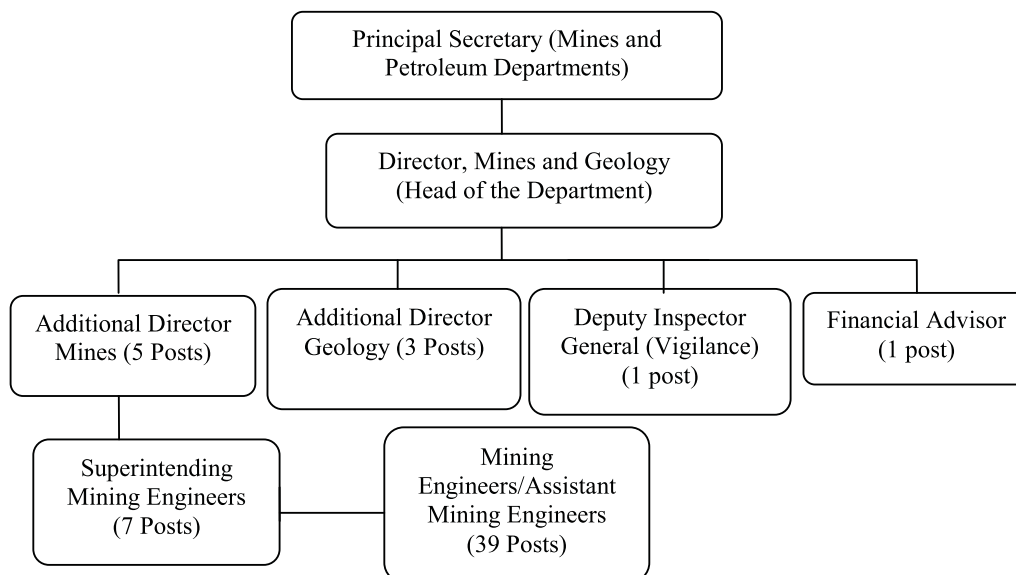
The Geological Wing of the State of Rajasthan identifies the potential areas of minor minerals. Thereafter, the Department delineates the areas for grant of leases and quarry licences. As per the new Mineral Policy, 50 *per cent* minor mineral quarry licences (QL) and mining leases (ML) are granted on priority basis giving preferential rights to some specified persons subject to certain restrictions and 50 *per cent* by auction as laid down in the RMMC Rules, 1986. Rates of royalty and dead rent in respect of minor minerals are notified by the State Government from time to time.

7.4.2 Organisational set-up

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. The DMG is assisted by five Additional Directors, Mines (ADM) and three Additional Directors, Geology (ADG) in administrative matters and by a Financial Advisor in financial matters. The ADMs exercise control through seven circles headed by Superintending Mining Engineer (SME).

There are 39 Mining Engineers (ME)/Assistant Mining Engineers (AME), who are responsible for regulation, assessment and collection of revenue receipt on account of minerals. The Department has a separate vigilance wing for prevention of illegal excavation and despatch of minerals, headed by Deputy Inspector General (Vigilance), Jaipur.

The organisational chart of the Department as on 31 March 2013 is given below:



7.4.3 Audit Objectives

The Performance Audit (PA) was conducted with a view to ascertain whether:

- adequate provisions existed in the Acts and Rules made thereunder for correct estimation, levy, assessment and collection of mining receipts and the extent to which such functions have been computerised;
- the mining policies and the system evolved by the Government for grant of the mining leases and excavation of the minor mineral were effective, efficient and transparent; and
- adequate internal controls and monitoring mechanism existed in the Department for preventing illegal excavation of minerals and for safeguarding the Government revenue.

7.4.4 Audit criteria

The audit criteria for PA were derived from the provisions of the following Acts, Rules and notifications/circulars issued thereunder:

State laws

- The Rajasthan Minor Mineral Concession Rules, 1986;
- The Rajasthan Mineral Policy, 2011;
- The Rajasthan Marble Policy, 2002; and
- The Rajasthan Granite Policy, 2002.

Central Laws

- The Mines and Minerals (Development and Regulation) Act, 1957.

7.4.5 Scope and methodology

The PA was conducted covering the period from 2009-10 to 2012-13. Out of 39 AME/ME offices, 11 AME/ME offices² were selected on the basis of revenue realised from minor minerals and by adopting probability proportional to size with replacement random sampling method. In addition, records maintained by Principal Secretary, Mines and Petroleum Jaipur, Director, Mines and Geology (DMG) Udaipur, Additional Directors, Mines (ADM) Jaipur, Jodhpur and Udaipur and Superintending Mining Engineers (SME) Bharatpur, Jaipur, Jodhpur and Udaipur were also test-checked.

The issues relating to illegal mining in the State were being regularly highlighted by the Print and Electronic media. Besides a number of illegal mining cases were noticed during local inspection by audit. Therefore, it was decided to conduct a PA of this sector.

7.4.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation extended by the Mines and Geology Department, its officers and staff in providing necessary information and records to Audit. An entry conference was held on 5 March 2014 with DMG and Deputy Secretary (Mines), Government of Rajasthan, Jaipur wherein objectives, scope and methodology of PA were explained.

An exit conference was held on 11 November 2014 with the Principal Secretary, Mines and Petroleum, Government of Rajasthan, Jaipur in which results of audit and recommendations were discussed. The replies of the Government/Department received during the exit conference and at other points of time have appropriately been included in the respective paragraphs.

7.4.7 Trend of Revenue

As per paragraph 10.1 of Section 2 and paragraph 11.1 of Section 2A of the Budget Manual Volume-I, Estimating Officers of revenue earning departments are responsible for preparation of estimates of revenue expected to be received during the ensuing financial year and revised estimates for the current financial year.

The budget estimates, revised estimates and actual revenue from major mineral, minor mineral and 'others' realised by the State Government during

² ME Ajmer, ME Bharatpur, ME Bijolia, AME Dungarpur, AME Jaisalmer, ME Jodhpur, ME Nagaur, ME Rajsamand-I, ME Ramganjmandi, ME Sikar and AME Tonk.

the years 2009-10 to 2012-13 were as under:

(₹ in crore)

Year	Budget estimates	Targets (Revised Estimates)	Achievements			Total	(-)Shortfall/ (+) excess (BEs vis-a-vis actuals)	Percentage
			Major	Minor	Others			
2009-10	1,450.00	1,560	971.91	420.42	220.28	1,612.61	(+) 162.61	11.21
2010-11	1,760.00	1,805	1,180.71	516.25	232.62	1,929.58	(+) 169.58	9.64
2011-12	2,060.00	2,260	1,329.67	751.62	285.03	2,366.32	(+) 306.32	14.87
2012-13	2,500.00	2,910	1,518.31	858.41	461.87	2,838.59	(+) 338.59	13.54

Note: Others receipts includes application fees, permit fees, prospecting licence fees *etc.*

The above table shows that the trends of revenue realisation with respect to budget estimates were on higher side ranging from 9.64 to 14.87 *per cent* during 2009-10 to 2012-13.

Audit findings

7.4.8 Approval of mining plans/simplified mining schemes

Prior to 19 June 2012, mining plans were required to be submitted only in respect of granite and marble leases. Thereafter, a Chapter IV- A (Systematic, Scientific and Environment Friendly Mining) was inserted (19 June 2012) in the RMMC Rules, 1986. Rule 37(I) of these rules stipulates that mining operation is to be carried out in accordance with approved MP and SMS³.

Scrutiny of records pertaining to MPs/SMSs of nine AME/ME offices⁴ disclosed that 4,195 lessees/quarry licensees (out of 9,515) had not submitted the MP and SMS. Further, though 5,320 lessees/quarry licensees had submitted the MP and SMS to the concerned offices only 3,807 MP/SMS were got approved.

As a result, 5,708 lessees/quarry licensees were doing their mining operations without approval of MP/SMS.

After this being pointed out, the Government replied (November 2014) that notices had been issued to the lease/quarry licence holders to submit MP/SMS for approval and the same was also reiterated in the exit conference.

7.4.9 Non-submission of financial assurance

Rule 37(J) of RMMC Rules 1986, (effective from 19 June 2012) provides that each ML/QL/STP holder shall furnish financial assurance in the form of fixed deposit receipt of any scheduled bank. It shall be forfeited along with interest accrued thereon in case of the contravention of the provisions contained in the mining closure plan.

Scrutiny of the records of eleven AME/ME offices disclosed that the financial assurance of ₹ 5.00 crore in 1,159 cases out of 12,650 cases of MLs and QLs

³ 'Mining Plan and Simplified Mining Scheme' means a plan prepared under Rules 37 B to 37 H of chapter –IV of RMMC Rules, 1986 and duly approved by the competent authority for the development of minor mineral deposits in the area concerned.

⁴ Ajmer, Dungarpur, Jaisalmer, Jodhpur, Nagaur, Rajsamand-I, Ramganjmandi, Sikar and Tonk.

had not been obtained though required under Rule 37(J) of RMMC Rules 1986. Thus, the risk that the exploited areas may not be reclaimed/rehabilitated by the licensees as envisaged under rules cannot be ruled out.

After this being pointed out, the Government replied (November 2014) that notices had been issued to the lessees/licensees to deposit financial assurance amount and the same was also reiterated in the exit conference.

7.4.10 Environment Management Fund

As per Rule 37T(5) of the RMMC Rules, 1986, an amount towards Environment Management Fund (EMF) shall be collected from lessees. The amount so collected shall be utilised on the environmental works in accordance with provisions of Rules. However, no system was put in place for recovering the amount.

Audit scrutiny of records of 10 AME/ME⁵ disclosed that the EMF amount of ₹ 6.53 crore was not collected from 289 lessees, permit holders and contractors as detailed below:

(₹ in lakh)

Category	Number	Amount
Lessees dealing with execution and despatch of mineral	104	68
Permit holders dealing with excavation of mineral and for self use in public works	173	121
Royalty collection contractors dealing with collection of royalty	12	464
Total	289	653

After this being pointed out, the Government replied (November 2014) that notices had been/were being issued to recover outstanding EMF amount.

It was stated in exit conference that EMF amount could not be collected due to confusion about the procedure of recovering the amount and instructions have been issued (February 2013) for the recovery of the amount. Thus, absence of the system resulted in non-recovery of the amount for eight months from June 2012 to March 2013.

7.4.11 Formation of committees submission and non-submission of reports

Committees were set-up by the Government/Department either on the directives of courts or on representation by lessees or on the basis of complaint for ascertaining and investigating the extent of illegal extraction of mineral and allotment of mining leases.

Scrutiny of records of Principal Secretary, Mines and Petroleum, DMG and selected units disclosed that nine committees/joint inspection teams (JIT) were formed during September 2001 to June 2014 to examine the quantity illegally excavated and for allotment of leases. Of these, in one case (*Moda Pahar*)⁶, four committees/JIT were formed while in other case two committees were

⁵ Ajmer, Bharatpur, Bijolia, Dungarpur, Jaisalmer, Jodhpur, Nagaur, Ramganjmandi, Sikar and Tonk.

⁶ The name of the hill containing mineral "masonry stone".

formed and in the remaining three cases one committee in each was formed. It was observed either no reports were furnished by the committees or wherever reports were furnished no action was taken with the result illegal extraction went on abetted as discussed in the following paragraph 7.4.11.1 to 7.4.11.5.

7.4.11.1 Illegal mining continued in *Moda Pahar* due to lackadaisical action of the Department

Scrutiny of the records in the office of Principal Secretary Mines and Petroleum, Jaipur, DMG and ME Sikar, disclosed that illegal mining in *Moda Pahar* was rampant and continued unabatedly. Four committees were formed one after another without any fruitful results. The formation of committees and the action taken thereof has been briefly discussed in the following table.

Sl. No.	Particulars of inspecting officer/ joint inspection team/ committee	Action taken by ME/ joint inspection team/committee and duration	Date of submission of <i>Panchanamas</i> / reports	Quantity and cost of illegally excavated mineral	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1.	ME Sikar detected illegal mining.	Prepared <i>Panchanamas</i> from 06.07.2001 to 11.07.2001	9 lessees were found excavating mineral masonry stone from outside the sanctioned leased area during 6.7.2001 to 11.7.2001	0.79 lakh MT (₹ 0.40 crore)	Though <i>Panchanamas</i> were prepared against the lessees, no action for recovery was taken.
2.	Against the <i>Panchanamas</i> prepared, lessees approached the ADM, Jaipur who constituted (17.9.2001) a joint team for computation of the quantity of illegally excavated mineral	Joint inspection team prepared <i>Panchanamas</i> during 26.9.2001 to 30.9.2001	18 lessees were found excavating mineral masonry stone from outside the sanctioned leased area during 26.9.2001 to 30.9.2001.	6.71 lakh MT (₹ 2.25 crore)	Only four lessees deposited ₹ 1.82 lakh as cost of mineral.
Remarks: Thus, it would be seen that the number of cases of illegal mining increased nine to 18. There was nothing on record to indicate that the Department has taken any action to curb the illegal mining from 2001 to 2011.					
3.	On the direction of the DMG dated 7 January 2011, ME Sikar terminated (8 January 2011) 18 leases on weak grounds such as non-erection of boundary pillars, non-placement of sign boards, etc. instead on the ground of illegal mining outside the sanctioned leased area and took possession of leases on 10 January 2011. The ADM, Jaipur revived (June and July 2011) 16 leases on the grounds stated above and two leases were not restored due to expiry of lease term.				No action was taken for illegal excavation against the lessees.
The Department cancelled the leases for not displaying the signboards etc. as mentioned above, instead of cancelling the leases for illegal mining. As such, these were restored by ADM Jaipur.					
4.	On receipt of complaints from the lessees, DMG constituted (25.10.2010) another committee for computation of the quantity of illegally excavated mineral.	Committee conducted detailed survey of the area during the period 28.10.2010 to 14.11.2010.	23 lessees were found excavating mineral masonry stone from outside the sanctioned leased area. The committee's factual report was sent to the Government by DMG on 11.3.2011.	23.59 lakh MT (₹ 23.93 crore)	Only one crore was deposited by five lessees against demand raised for ₹ 23.93 crore.

(1)	(2)	(3)	(4)	(5)	(6)
5.	On the direction of Hon'ble Lokayukt, State Government further constituted (18.11.2011) another committee for computation of the quantity of illegally excavated mineral	Committee conducted detailed surveys of the area during the period 13.12.2011 to 17.12.2011 and 9.2.2012 to 11.2.2012.	24 lessees were found excavating mineral masonry stone from outside the sanctioned leased area. Committee submitted report on 18.2.2012.	80.34 lakh MT (₹ 149 crore)	The lessees did not agree with the committee's report on the quantity of mineral illegally excavated. Hence, no action for recovery could be initiated by ME.
6.	The lessees approached the Hon'ble Rajasthan High Court due to dispute regarding the quantity of illegally excavated mineral. The court directed (24.4.2014) to constitute a new committee for computation of the quantity of illegally excavated mineral	State Government constituted (20.6.2014) a new Committee which surveyed the area during 12.8.2014 to 14.8.2014 and 21.8.2014 to 23.8.2014.	Report of committee was awaited.	-	Government stated (11.11.2014) at the time of exit conference that the report of committee constituted as per direction of Hon'ble High Court had been received and action would be taken accordingly.

The above facts revealed that Department did not take commensurate stringent action against those who were engaged in illegal mining. The approach of the Department resulted in illegal extraction of 80.34 lakh MT of masonry stone cost by ₹ 149 crore. The cases are presently under litigation.

7.4.11.2 No action on illegal mining and framing a committee

During test check of records of ME Sikar, it was noticed that two leases (No. 367/06 and 368/06) for the mineral marble were sanctioned in favour of M/s Rakesh Mordiya. As per inspection conducted (21 March 2012) by ME office, the lease holder excavated and despatched the mineral marble over and above the quantities authorised in the *rawannas*. A quantity of 3.25 lakh MT of the mineral marble *khanda* was despatched without *rawanna* and payment of the royalty to the Department. The ME office issued (5 April 2012) a notice to the lease holder for illegal despatch of mineral but thereafter no action was taken against the lessee. Neither the recoverable cost of mineral was calculated nor action for raising the demand for cost of mineral illegally excavated was initiated. The recoverable cost of the mineral from the lessee worked out to ₹ 21.09 crore.

It was further noticed (May 2014) that DMG constituted (5 May 2014) a committee comprising of ME Alwar and ME Jaipur to ascertain the quantity of illegally excavated mineral after inspecting both mining leases within seven days from the date of constitution of the committee but the committee's report was still awaited (November 2014).

On being pointed out, the Government replied (November 2014) that action would be taken upon receipt of the committee's report.

7.4.11.3 Allotment of leases in catchment area of *Raila* dam

Twenty leases of masonry stone were sanctioned (between 2010 to 2012) in area of the *Raila* dam in Sikar. The villagers complained against the leases. This was also highlighted in the print media. The Government constituted (13 May 2013) a committee to ascertain the extent of catchment area in which mining was carried out.

The committee constituted by the Government had not given its report despite a lapse of more than one year. Government further stated in exit conference (11 November 2014) that matter would be seen in the light of the committee's report.

7.4.11.4 Illegally excavated limestone detected by vigilance wing

During test check of records of ME Nagaur, it was noticed (May 2014) that the ME (Vigilance), Jodhpur inspected (July 2004) 10 limestone mining leases and found that 2.45 lakh MT limestone (burning) had been illegally excavated and despatched from outside leased areas by misusing the *rawannas* issued for sanctioned leases. Accordingly, ME issued (22 December 2004 and 11 May 2005) show cause notices for illegal mining and raised a demand (17 October 2005) of ₹ 7.97 crore in 10 cases.

The Government constituted (30 June 2006) a committee comprising DS, Mines Jaipur, Additional Geologist and Accounts Officer of DMG, Udaipur for calculating the quantity of limestone (burning) illegally excavated by these lessees.

The committee in its meeting (13 December 2006) decided to calculate the quantity of limestone in respect of all 10 lessees by deploying an inspecting team consisting of SME Bikaner, Sr. Geologist Jodhpur, ME Udaipur and AME Sriganganagar. Meanwhile, the ME sent a proposal to revoke eight leases, while two leases had already been revoked (30 June 2004 and 28 September 2004) and action under the Rajasthan Land Revenue Act, 1956 had also been initiated (28 April 2007) to recover the amount. It was noticed that no amount could be recovered in these nine cases against the demand of ₹ 6.99 crore. Also, neither the committee nor inspecting team furnished its finding due to promotion and transfer of the members.

A new committee was again constituted (24 May 2013) to finalise the matter, progress of which was not available on records.

The issue of illegally excavated limestone, therefore, could not be settled even after eight years from the date of constitution of the first committee by the Government because of poor monitoring and lack of follow up action.

After this being pointed out, the Government replied (November 2014) that action would be taken upon receipt of committee's report.

7.4.11.5 Inaction on committees' report regarding the delay in grant of Quarry Licences in village *Keru*, Jodhpur

During test check of the records of ME, Jodhpur it was noticed (July 2014) that a committee was constituted (16 December 2009) by the Government

because of reports of rampant illegal mining in village *Keru*, Jodhpur. It was further noticed that 3,300 *bigha* out of 13,551 *bigha* of *siwaichak* land in village *Keru* was given to the Mining Department for allotment of QLS before 2003.

For the remaining area, the Divisional Commissioner, Jodhpur had restricted (1993) mining as it was falling under the catchment area of *Kayalana* lake. The committee in its report had given recommendations regarding the status of the available land and the catchment area. The committee reported (2 June 2010) that under the changed circumstances there was no importance of catchment area of *Kayalana* lake as it was fed by the water of Indira Gandhi Canal and the water from rainfall was no more going to the lake. The committee, therefore, recommended that additional land measuring 950 *bigha* may be allotted to the Department so that 800 QLS may be sanctioned which would enhance mineral availability apart from giving employment to 1,500 persons. Further, the State Government would receive one time application fee of ₹ 15.00 crore and royalty of ₹ 2.00 crore and licence fees of ₹ 0.32 crore per year.

It was noticed that no action was taken by the Department though more than four years had lapsed after the committee's recommendations. As a result, the issue of illegal mining in the area could not be addressed due to inaction of the Department. Besides, revenue in the form of application fee, royalty or licence fee could not be realised.

7.4.12 Pendency of appeals with the Department

Rule 43 of the RMMC Rules, 1986 provides that any person aggrieved by an order of SME/ME/AME passed under these rules shall have right to appeal to the DMG. The powers of the DMG in this respect has been delegated to ADM. Similarly, any person aggrieved by any order passed in appeal by the ADM shall have the right to appeal to the Government.

7.4.12.1 During test check of records of Office of the Principal Secretary, Mines and Petroleum Rajasthan, Jaipur, DMG Udaipur and selected ME/AME offices, it was noticed (April 2014 to July 2014) that out of 5,250 appeal cases, 4,588 appeal cases were disposed of and 662 cases were pending for want of decision.

Sl. No.	Name of the office and units under his jurisdiction	Cases pending as on 1 April 2009	Cases added or disposed of during 1 April 2009 to 31 March 2013		Pending cases (in the court of ADM)
			Added	Disposed of	
1.	ADM Jaipur	786	1,443	2,098	131
2.	ADM Udaipur	153	836	831	158
3.	ADM Jodhpur	494	1,538	1,659	373
	Total	1,433	3,817	4,588	662

The ADM Jaipur stated that cases were disposed of belatedly due to incomplete records/replies received from sub-ordinate offices and shortage of staff. However, the other two ADM offices did not give any reasons for pendency.

7.4.12.2 In ME Dungarpur, the Department noticed that a lessee had illegally excavated and despatched 20,412 MT mineral Serpentine valuing ₹ 3.57 crore from outside of sanctioned leased area. Against the notice (6.4.2009) issued by the ME, lessee filed a revision and the DS Mines upheld (28.7.2010) the demand against the lessee. The lessee approached Rajasthan High Court that remanded the case to DS Mines, Jaipur with the orders for taking a decision within two weeks *i.e.* 25.4.2012. The case has not been decided till date.

7.4.13 Grant of leases of mineral masonry stone in area declared for allotment of leases for mining of noble metals

Rule 4(5) of the RMMC Rules, 1986 envisages that no mining lease shall be granted or renewed in respect of lands notified by the Government as reserved for use of the Government or local authorities for any other public or special purposes.

During test check of the records of ME Sikar, it was noticed (December 2013) that 17.50 square KM area in *tehsil* Neemkathana, Sikar was reserved for the Geological Survey of India (GSI) on the directions (4 February 2002) of DMG for prospecting and investigation of base metal and associated minerals. The area was declared free for allotment exclusively for noble metals vide DMG notification dated 26 April 2008 after completion of prospecting and investigation work by GSI. A note to this effect was made in a Register meant for this purpose. However, the ME Sikar sanctioned 24 leases (12 leases were granted during the period from 2005 to 2008 and 12 leases were granted after 2008) for 20 years for excavation of masonry stone in part of the reserve area during the period from 7 March 2005 to 5 April 2010.

The DMG decided on 26 July 2012 to cancel the 24 leases but instead of issuing cancellation orders directed the ME to issue (12 December 2012) show cause notices to 24 lessees for declaring the leases as *null and void*. The ME sent (7 February 2013) a proposal accordingly. However, no final decision was taken and mining operations were being carried out by the lease holders (December 2013). The above facts indicate that the Department was not following its own instructions and the monitoring at the apex level was also inadequate. Further, the incorrect grant of leases in the area reserved for the noble metals indicated that the Department was not serious about development of noble metals.

On being pointed out, the Government replied (November 2014) that the proposals for declaring the leases *null and void* had been sent (February 2013) by SME, Jaipur but the same were pending with DMG. The reply supports the contention of Audit regarding the lack of monitoring and inadequate action taken on the matter.

7.4.14 Management and control of leases

Management and regulation of mining activities is an important function of ME/AME offices besides supervision and inspection of mining areas to see that terms and conditions of leases are observed in full without any deviation by the lessees. As most of the mines pertain to minor minerals which are prone

to theft and pilferage, the concerned MEs/AMEs have to remain more vigilant. The MEs/AMEs have to ensure that regular inspections are done so as to check illegal mining activities and ensure safe and eco-friendly mining besides timely assessment and recovery of dues. The cases of non-observance of terms and conditions of leases are discussed below:

7.4.14.1 Pending royalty assessments

Rule 38 of the RMMC Rules, 1986 provides that assessment of royalty shall be made by assessing authority after filing of the return for the respective year by the assessee. If the assessee fails to submit returns within the prescribed period, the assessing authority may assess the royalty to the best of his judgement. It was observed that no time limit was prescribed for assessment of royalty after filing of returns by the lessees.

Audit observed that in seven ME/AMEs⁷ offices, out of 10,751 assessment cases of minor minerals pertaining to the period 2009-10 to 2012-13, 8,177 assessment cases (76 per cent) were finalised leaving 2,574 assessment cases (24 per cent) pending as on 31 March 2013. The reasons for non-finalisation of pending assessment cases were not furnished to audit.

The Government replied in Exit conference (November 2014) that pending royalty assessments would be finalised soon.

It is recommended that a time limit may be prescribed for assessment of royalty after filing of returns by the lessees.

7.4.14.2 Lack of monitoring over units receiving minerals from unexplained sources

Rule 54 of the RMMC Rules, 1986 provides that any person engaged in trading of minerals shall maintain a correct account of mineral purchased, stocked and sold and is liable to produce the accounts for inspection. As per Rule 68 of the RMMC Rules, 1986, for the mineral transported without transit pass issued by the ME/AME, the defaulter shall have the liability to pay the cost of mineral along with compound fees.

- Out of 11 ME/AME offices test checked, five MEs/AMEs⁸ furnished the information that 140 crushers were operational in their jurisdiction. However, none of the ME/AMEs maintained any records regarding the establishment and operational activities carried out by the crushers and issue of transit pass to the crushers except the AME Tonk. It was further noticed that no inspection of crushers was carried out by ME/AME to verify the sources of mineral obtained by them.

After this being pointed out, the Government replied (November 2014) that action was being taken for the registration and issue of TP to the crushers. However, it was stated in Exit Conference that TPs were not being issued due to ambiguity in rules which would be cleared by amending the rules.

⁷ Ajmer, Bharatpur, Jaisalmer, Jodhpur, Nagaur, Ramganjmandi and Tonk.

⁸ Dungarpur, Jodhpur, Nagaur, Ramganjmandi and Tonk.

- Audit further noticed that the ME was not even prompt and vigilant in a case detected by ME Jodhpur (vigilance). An inspection of a crusher situated in area Savki (*tehsil* Bhopalgarh) was conducted (1 March 2013) by a vigilance team comprising of SME, ME (Vigilance) and Surveyor (ME Jodhpur). The vigilance team had found 5,700 MT mineral *Mungia* and 500 MT raw mineral Rhyolite at site. In addition, the vigilance team had also concluded that material was excavated from two pits measuring 75x22x9 metre and 30x22x9 metre adjacent to crusher's site. The vigilance team report was submitted on 1 March 2013. However, till date, no action was found to have been taken to work out the quantity of mineral illegally excavated.

The concerned ME neither assessed the quantity of the mineral nor raised the demand of ₹ 60.02 lakh for 35,306 MT mineral illegally excavated even after lapse of two years.

After this being pointed out, it was stated in exit conference that the matter would be looked into.

7.4.14.3 Removal of masonry stone without paying royalty

The Government inserted (14 October 2011) Rule 63(A) in the RMMC Rules, 1986 and made STP mandatory if the mineral waste was removed (by other than tenant) on advance payment of royalty and permit fee at the rate of ₹ 10 per MT.

During test check of the records of ME Bijolia (June 2014), it was noticed that the masonry stone, excavated alongwith dimensional sandstone from the quarry licences sanctioned for mineral sandstone, was lying as a waste in the quarries. The masonry stone so excavated was removed by persons without obtaining STP or without paying any fees or royalty from quarries. The ME Bijolia stated (June 2014) that the royalty evasion on masonry stone removed from waste from sanctioned and closed quarries was to the tune of ₹ 2.95 crore per year. Thus, the loss of revenue of ₹ 4.33 crore had occurred during the period from 14 October 2011 to 31 March 2013. The Department need to take necessary steps for prevention of such losses.

It was stated in exit conference (11 November 2014) that the condition regarding payment of royalty on removal of masonry stone from waste would be inserted in the new RCC contracts.

Short term permits

7.4.15 Unauthorised excavation and use of minerals by public works contractors

As per Government's circular dated 8 October 2008, the public works contractor shall have to obtain STP, for the minerals to be used in the works, from the concerned ME/AME before starting the work. In case of use of mineral in works without STP, the concerned Works Department is responsible for depositing the cost of minerals used without STP after recovering the same from the contractor.

During cross verification of STPs issued to public works contractors by the ME/AME and the work orders' 'G' schedules⁹ maintained in seven ME/AME¹⁰ offices, it was noticed (July 2013 to March 2014) that 75 works contractors excavated/ consumed minerals like masonry stone, *bajri*, *murrum*, ordinary soil, *etc.* either without obtaining STP or in excess of 25 *per cent* over the quantity permitted in the STP. The cost of minerals illegally excavated worked out to ₹ 8.33 crore. The Department had not taken the matter with the concern Departments for recovery of the amount from the concerned contractors.

After this being pointed out, the Government replied (November 2014) that matter will be taken up with concerned Departments for effecting the recovery from the contractors. Further action taken in recovery has not been received.

7.4.16 Illegal mining operations

The amount of the mining dues is to be recovered under RMMC Rules, 1986 and under the provision of the Land Revenue Act.

Information collected from the 11 ME/AME revealed that 1,931 cases of illegal mining involving 1.24 crore MT mineral valued at ₹ 162.46 crore were detected by the Department. The Department could recover only five *per cent* of the total cost of the mineral and remaining amount of ₹ 154.32 crore remained unrecovered. The year-wise position was as under:

No. of unit	Year	No. of cases	Quantity of Mineral (thousand MT)	Recoverable cost alongwith compound fee (₹ in crore)	Outstanding recoverable amount (₹ in crore)
11	2009-10	503	13	0.39	Nil
	2010-11	460	1,676	25.21	23.04
	2011-12	240	10,604	130.61	128.83
	2012-13	728	191	6.25	2.45
	Total	1,931	12,484	162.46	154.32

⁹ Abstract of cost.

¹⁰ Ajmer, Bijolia, Dungarpur, Jaisalmer, Jodhpur, Nagaur and Sikar.

After this being pointed out, the Government replied (November 2014) that action was being taken for recovery either as per provisions of the RMMC Rules, 1986 or under the provisions of the Land Revenue Act.

7.4.17 Illegal mining in forest area

During test check of the records of Principal Secretary, Department of Mines and Petroleum, Jaipur, it was noticed (April 2014) that 23 leases were sanctioned near the forest area under the jurisdiction of the ME Kota. It was further noticed that Regional Forest Officer, Indergarh had intimated (9 August 2011) DFO, Bundi that 10 lessees had excavated and despatched 2.03 lakh MT mineral masonry stone costing ₹ 3.45 crore from the safety zone of the forest area which was outside the sanctioned lease areas. However, no action was found to have been initiated either for cancellation of leases or for recovery of cost of excavated mineral by the ME Kota.

The matter was pointed out to the Government (September 2014), the reply has not been received (December 2014).

7.4.18 Formulation of a new policy for marble mining at Makrana

The paragraph 10.31 of Rajasthan Mineral Policy 2011 stipulated for formulation of a new policy for marble mining at Makrana. Though more than three years had passed since the introduction of Mineral Policy 2011, no separate policy had been framed for mining of marble at Makrana and mining was being done without any such policy.

The Government stated (November 2014) that the matter was under active consideration of the Department. In exit conference (11 November 2014), it was stated that the earlier policy could not be implemented due to litigation.

7.4.19 Absence of a monitoring system for royalty assessments in case of short term permits

Rule 63 (6) of the RMMC Rules, 1986 stipulates that STP holders shall be responsible for submission of records of minerals actually excavated/despatched within 15 days of expiry of validity of STP. The State Government vide orders dated 8 October 2008 and 15 November 2011 passed instructions for assessment of royalty on the minerals consumed in works.

During test check of the records of nine ME/AME¹¹ offices, it was seen that 1969 STPs involving royalty of ₹ 10.41 crore issued during the year 2009-10 to 2012-13 to the Public Works Department contractors were pending for royalty assessments. There was nothing on record to indicate that any attempt/procedure has been made for assessment of these short term permits.

It was also stated in exit conference that a simple procedure would be made for assessment of STP.

¹¹ Ajmer, Bharatpur, Bijolia, Dungarpur, Jaisalmer, Jodhpur, Nagaur, Rajsamand-I and Tonk.

7.4.20 Internal Control

7.4.20.1 Internal Audit

Internal audit is an important tool in the hands of administration for ascertaining that rules and procedures prescribed by the Department are being followed and are sufficient to safeguard proper collection of revenue.

During test check of the records of the DMG (June 2014), it was noticed that internal audit of all the mining units was pending since 2004-05. In absence of internal audit, the departmental authorities were not aware of the areas of the weakness in the system.

After this being pointed out, the Government stated in exit conference (11 November 2014) that internal audit could not be conducted due to shortage of staff and the process would be started after appointing retired Government employees.

7.4.20.2 Inspection of mining leases and quarry licences

As per Directorate's order dated 21 September 1984, every ME and AME has to inspect 48 mining leases including 6 leases of sub-divisions during the year. The norms of inspection further increased from 48 to 60 vide Directorate's order dated 13 December 2012.

Scrutiny of records of selected ME/AME offices disclosed that four offices did not maintain any records of inspection of leases. The ME Jodhpur and ME Sikar provided incomplete information. Three ME/AME offices did not achieve the prescribed targets of inspection as tabulated below:

Name of unit	Period	Prescribed targets	Inspection conducted	Shortfall	Percentage of shortfall
ME Ramganjmandi	2009-13	194	66	128	66
ME Dungarpur	2009-13	194	160	34	18
AME Tonk	2009-13	194	133	61	31

However, the ME Ajmer and ME Nagaur conducted inspection as per prescribed norms.

After this being pointed out, the Government replied (November 2014) that efforts were being made to conduct inspections as per norms. It was also stated in exit conference that shortage in number of inspections was due to lack of staff and directions would be given to maintain the guard files/records for proper documentation of inspections.

7.4.20.3 Loss due to non-extension of contract

It was noticed that the registration of a Royalty Collection Contractor in Bijolia was going to expire on 31 December 2012; the Department refused to extend the contract on the ground that it was going to expire in 31 March 2011. The contract was awarded on 25 May 2011 by the Department to the same contractor. The royalty of ₹ 4.91 lakh from 1 April 2011 to 24 May 2011 was collected Departmentally. The extension of contract would have earned revenue of ₹ 19.97 lakh. This omission of registration remained unnoticed and resulted in loss of royalty of ₹ 15.06 lakh.

7.4.20.4 Absence of co-ordination with Rajasthan State Pollution Control Board

Under Section 21(4) of the Air (Prevention and Control of Pollution) Act, 1981 and Section 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974, a lessee is required to obtain 'consent to operate' from the Rajasthan State Pollution Control Board (RSPCB) determining quantity of minerals that can be excavated during the prescribed period.

In one case of ME Nagaur, audit observed (June 2013) that one lessee was allowed by the RSPCB to produce 10,000 MT quantity of mineral limestone per year. However, the lessee produced 16850.350 MT quantity of mineral limestone during the year 2011-12 violating order of the RSPCB as detailed under:

Name of Mineral	Period	Quantity allowed (MT)	Quantity excavated/ despatched (MT)	Illegal production (MT)	Cost of minerals (Royalty x 10)
Limestone	1 April 2011 to 31 March 2012	10,000	16,850.35	6,850.35	44,52,728

The Department also issued *rawannas*¹² for removal of mineral without considering the production limits fixed by the RSPCB. Thus, excess production of 6,850.35 MT mineral (valued at ₹ 44.53 lakh) was allowed over and above the authorised quantity.

Audit noticed that there was no system for informing the RSPCB of the excess mineral excavated by the lessees. Thus, production of 6,850.35 MT mineral was extracted without permission of RSPCB. Neither the Department nor the lessee took the matter with the RSPCB for regularisation of their mineral unauthorisely extracted.

The above facts indicate the Department needs to strengthen its internal control mechanism for smooth running and prompt collection of the Government revenue.

¹² *Rawanna* means delivery challan for removal or despatch of mineral from mines.

7.4.21 Conclusions and Recommendations

The Department of Mines and Geology introduced significant changes in the mining operations as well as in allotment of mining leases. As per the amended RMMC Rules, 1986 which came into force from 19 June 2012, each lessee/licensee/short term permit holder is required to submit mining plan/simplified mining scheme to concerned ME/AME for approval. Systematic, scientific and environment friendly mining provisions were also introduced in the amended rules. Revenue receipts from minor minerals showed healthy up trend and increased from ₹ 420.42 crore in 2009-10 to ₹ 858.41 crore in 2012-13. However, the following areas require strengthening:-

- Out of 9,515 lessees/quarry licensees, 4,195 lessees/quarry licensees had not submitted the mining plans/simplified mining schemes. Further, 1,513 mining plans/simplified mining schemes were awaiting approval. *The Government may evolve a monitoring mechanism for timely submission and approval of mining plans/simplified mining schemes and its proper follow up to ensure systematic, scientific and eco-friendly mining operations and rehabilitation of exploited areas.*
- Lack of inspections as per norms fixed by the Directorate for AME/ME adversely impacted correct assessment of royalty. *The Department may ensure that inspections are carried out as per norms with proper documentation.*
- Illegal mining operations continued unabatedly at several places. Committees were to be set-up by the Government/Department to inspect, investigate and report on matters relating to mining activities. There were instances of delay in constitution of committees. Also, there were cases where the committees failed to submit their reports or action on committee's reports was not taken by the Department.

The Government may strengthen the mechanism of prevention and detection of illegal mining through more vigorous implementation of the Land Revenue Act and RMMC Rules.

The Government may issue instructions for streamlining the procedure for setting up of committees. It may ensure timely submission of reports by the committees and may take prompt action on the recommendations made by these committees.

- The lessee is required to obtain 'consent to operate' from Rajasthan State Pollution Control Board (RSPCB) before start of mining operations, which prescribes standards for eco-friendly mining, viz. permissible quantity of pollutant in water and air, maximum limit of production of mineral in a given period, etc. There was no monitoring either by the Mining Department or by RSPCB to check compliance with the prescribed standards. *The Government may evolve a mechanism to ensure that the prescribed standards for eco-friendly mining are observed.*

7.5 Non-recovery/short recovery of royalty

Section 9(2) of the MMDR Act, 1957 envisages that the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the Second Schedule of the Act in respect of that mineral.

As per Rule 27(1)(i) and (j) of the MC Rules, 1960 the lessee shall keep accurate and faithful accounts showing the quantity and particulars of all minerals obtained and despatched from mine. The lessee shall keep accurate records of all trenches, pits and drillings made by him in the course of mining operation carried by him under the lease.

During test check and cross-verification of concession files, assessment files and pits and trenches shown in mining plan submitted by the lessee in the office of the ME Amet, it was noticed (January 2014) that Mining leases (No. 27/2005 and 35/2003) for mineral Quartz and Felspar were effective in favour of Shri Ashok Kumar Jain. Scrutiny of returns submitted by the lessee disclosed that the lessee had excavated and despatched mineral in excess of quantities assessed by the Mining Engineer for payment of royalty. This resulted in short recovery of the royalty of ₹ 2.46 crore as detailed below:

(₹ in crore)

Sl. No.	Lease no.	Period	Name of mineral	Excavated/ despatched quantity assessed by Audit (MT)	Quantity assessed by ME on which royalty paid (MT)	Rate of the mineral PMT	Rate of royalty (in per cent)	Total royalty (5x7x8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	27/05	2003-04 to 2009-10	Sub-grade of pegmatite	44,479	0	250	12	0.13
			Quartz	22,239	507	250	15	0.08
			Felspar	1,11,198	16,347	250	12	0.28
2	35/03	2005-06 to 2009-10	Sub-grade of pegmatite	1,68,241	0	250	12	0.51
			Quartz	84,121	4,232	250	15	0.30
			Felspar	4,20,605	34,678	250	16	1.16
Total								2.46

The matter was pointed out to the Department (February 2014) and reported to the Government (May 2014). The Government replied (November 2014) that a committee had been constituted vide DMG's order dated 14 May 2007 for detailed examination and further action would be taken on receipt of report from the committee. The fact, however, remains that the Department had failed to detect short payment of royalty since 2003-04.

7.6 Non-recovery of excess royalty and interest thereon

Section 9(2) of the MMDR Act, 1957 provides that the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate specified in the second Schedule of the MMDR Act in respect of that mineral. Government instructions issued in April 2000, provides that competent authorities should calculate royalty in respect of despatched mineral on monthly basis, raise demand and initiate action for recovery thereof. Further, under Rule 64(A) of MC Rules, 1960, simple interest at the rate of 24 *per cent* per annum on royalty due to Government is chargeable from the sixtieth day of the expiry of the due date fixed for payment.

Test check of the demand register and assessments files of ME, Nagaur disclosed (June 2013) that the assessments of two lessees were done after a period of one year four months to four years and demand of the excess royalty was erroneously shown as adjusted against the amount received for further issue of *rawannas*. This resulted in non-recovery of the excess royalty of ₹ 95.19 lakh on which interest of ₹ 36.73 lakh was also leviable up to 31 March 2013 as per details given below:

(₹ in lakh)

Name of lessee	ML no	Assessment period	Assessment date	Excess royalty	Delay in days (from 60 th day)	Interest recoverable
Rajasthan State Mines and Mineral Ltd.	1/99	20.6.2008 to 19.6.2011	4.10.2012	64.38	591	25.02
M.W.Mines (P) Ltd.	1/88	3.7.2010 to 2.7.2011	8.1.2013	30.81	578	11.71
Total				95.19		36.73

The matter was pointed out to the Department (July 2013) and reported to the Government (May 2014). The Government replied (October 2014) that notices had been issued for depositing the balance amount in both the cases and an amount of ₹ 30.44 lakh had been deposited by M. W. Mines (P) Ltd.

JAIPUR,
The

(S. ALOK)
Accountant General
(Economic & Revenue Sector Audit), Rajasthan

Countersigned

NEW DELHI,
The

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

Appendix

(Refer paragraph no. 6.4.6; page 65-66)

Discrepancies in stock registers

- Stock registers were not authenticated by excise authorities for the entries made therein.
- Licensees sold 1,717 bottles of non-potable beer of various brands after six months of its receipt.
- Stock registers of licensees showed non potable beer in their stock throughout the year but no action was found initiated by the Department to drain out such beer.
- Nine licensees sold 18,840 ml IMFL and 613 bottles of beer to visitors on dry days but no separate register of accounts of liquor served to the foreign tourists and visitors on dry days was found maintained.
- Inaccurate entries were made in the stock registers by 13 licensees on various dates which resulted in increase or decrease of stock position without actual receipt or sale.
- 11 licensees made entries of opening balances of liquor either in excess or short of quantity by ignoring the balance of the previous month.
- Stock entry with pencil was found in the stock register of Amet Haveli, Udaipur.
- Cutting, overwriting, correction with fluid and tampering of entries were made in stock registers without authorisation by the excise officers.
- Non-submission of stock position of liquor at the time of renewal of licenses.
- 1,188 bottles of beer were shown issued from stock registers of hotel Sarovar Portico and Park Inn, Jaipur on various dates but only 312 bottles were accounted for in bar registers which resulted in direct or illegal sale of 876 bottles of beer of various brands.
- Four licensees did not take into stock 2,328 bottles of beer and 45 bottles of IMFL purchased from RSBCL.
- Hotel Laxmi Vilas, Udaipur purchased only two brands of IMFL from RSBCL but entered five additional brands in stock register.
- Entry of liquor made in stock register before the date of purchase in case of two licensees.
- Late entry of purchase by Hotel Udai Vilas, Udaipur (6 to 14 days) in stock register.
- Inspection of bar was not conducted as per norms prescribed in Excise Manual in case of hotel Rajputana and Sweet Dream, Jaipur and inspection was done only once in four and two years respectively.