



**Report of the  
Comptroller and Auditor General of India  
(Revenue Sector)  
for the year ended March 2015**



**Government of Telangana  
Report No. 1 of 2016**



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## **P R E F A C E**

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2015 has been prepared for submission to the Governor of Telangana under Article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2014-15 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 2014-15 have also been included, wherever necessary.

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



## OVERVIEW

The report contains 50 paragraphs involving ₹ 223.88 crore relating to non/short levy of taxes, interest, penalty etc., including a Performance Audit on “Implementation of VAT (including IT Audit of VATIS)” with financial impact of ₹ 104.83 crore. Some of the significant audit findings are mentioned below.

### 1 GENERAL

- The total revenue receipts of the State Government for the year 2014-15 amounted to ₹ 51,041.80 crore. State tax and non-tax revenue accounted for 70 *per cent* of this (₹ 29,288.30 crore and ₹ 6,446.82 crore respectively). The remaining 30 *per cent* was received from Government of India as State share of divisible Union taxes (₹ 8,188.58 crore) and Grants-in-aid (₹ 7,118.10 crore).

(Paragraph 1.1.1)

- Test check of 216 units of Commercial Taxes Department, Prohibition and Excise Department, Registration and Stamps Department, Transport Department, Land Revenue Department and other departmental offices conducted during 2014-15 revealed preliminary audit findings involving non levy/short levy of taxes, duties etc., amounting to ₹ 393.43 crore in 1299 cases.

(Paragraph 1.10.1)

### 2 TAXES / VAT ON SALES, TRADE etc.

A Performance Audit on “Implementation of VAT (including IT Audit of VATIS)” with money value of ₹ 104.83 crore revealed the following:

- In 10 offices, penalty and interest of ₹ 3.38 crore was not levied on 68 dealers for belated payment of tax

(Paragraph 2.4.8.1)

- Incorrect application of rate of tax for the years 2011-12 to 2013-14 resulted in short levy of tax of ₹ 5.94 crore by three CTOs on three dealers.

(Paragraph 2.4.8.2)

- In six offices, 12 dealers incorrectly claimed ITC of ₹ 41.01 crore.

(Paragraph 2.4.8.5)

- In two offices, deferred sales tax of ₹ 5.93 crore was not recovered in 13 cases and in four offices interest of ₹ 76 lakh was not levied on belated payment of deferred sales tax in nine cases.

(Paragraph 2.4.9)

- Non-compliance with checks prescribed in VAT Audit manual resulted in leakage of revenue of ₹ 45.92 crore.

**(Paragraph 2.4.10.4)**

Audit also noticed that

- Incorrect application of rate of tax for the years 2008-09 to 2013-14 resulted in short levy of tax of ₹ 38.59 crore by 14 CTOs on 26 dealers.

**(Paragraph 2.5)**

- There was short levy of tax of ₹ 8.24 crore on six works contractors due to incorrect determination of their taxable turnovers.

**(Paragraph 2.6.1.1)**

- In three offices, incorrect exemption of turnover of three works contractors who did not maintain accounts resulted in short levy of tax of ₹ 98.91 lakh.

**(Paragraph 2.6.1.2)**

- In three offices, incorrect exemption of interstate purchases of goods worth ₹ 36.11 crore incorporated in works led to short levy of tax of ₹ 4.76 crore.

**(Paragraph 2.6.2.1)**

- In 14 offices, allowing concessional rate of tax in 16 cases based on invalid statutory forms resulted in short levy of tax of ₹ 3.69 crore.

**(Paragraph 2.7.1)**

- In 12 cases, exemption under CST Act was allowed without proper documentary evidence which resulted in short levy of tax of ₹ 3.33 crore.

**(Paragraph 2.7.2.1)**

- Incorrect computation of taxable turnover under CST for the years 2009-10 and 2010-11 resulted in short levy of tax of ₹ 62.31 lakh by five CTOs in the case of five dealers.

**(Paragraph 2.7.5)**

- In 14 offices, interest of ₹ 4.14 crore was not levied on 23 dealers for belated payment of tax.

**(Paragraph 2.8)**

- In six offices, six dealers incorrectly claimed ITC of ₹ 5.95 crore.

**(Paragraph 2.9.1)**

- Penalty of ₹ 1.61 crore was not levied on 48 dealers for failure to file returns.

**(Paragraph 2.10.1)**

- In 20 cases, penalty of ₹ 3.27 crore for under declaration of tax was not/short levied.

**(Paragraph 2.10.2)**

- In six offices, tax of ₹ 2.54 crore was not levied in seven cases on transfer of right to use goods.

**(Paragraph 2.11)**

- Incorrect computation of taxable turnover for the years 2008-09 to 2011-12 resulted in short levy of tax of ₹ 96.50 lakh by 17 CTOs on 19 dealers.

**(Paragraph 2.13)**

### **3 STATE EXCISE DUTIES**

- In seven offices of Prohibition and Excise Superintendents, toddy rentals for 41 Toddy co-operative Societies (TCS) and Tree For Tapper scheme (TFTs) were collected at rates applicable to rural areas instead of at higher rates applicable to urban areas. This resulted in short levy of toddy rentals amounting to ₹ 26.52 lakh.

**(Paragraph 3.4)**

- In four offices of Prohibition and Excise Superintendents, additional licence fee of ₹ 23.60 lakh was not levied on five bar and restaurants for the years 2011-14.

**(Paragraph 3.5)**

### **4 STAMP DUTY AND REGISTRATION FEES**

- Test check of five offices of District Registrars and 10 Sub-Registrars revealed that undervaluation of properties in 134 documents such as sale deeds, gift-deeds, partition deeds, settlement/release deeds, development agreements etc. resulted in short levy of stamp duty, transfer duty and registration fees of ₹ 2.50 crore.

**(Paragraph 4.4)**

- Audit noticed during test check of records of District Registrar Rangareddy (West) and 10 Sub Registrars that 28 documents (sale deeds, mortgage deeds, partition deeds, dissolution of partnership deeds, conveyance deeds, etc.) were misclassified. Misclassification of documents resulted in short levy of stamp duty, transfer duty and registration fees amounting to ₹ 1.84 crore.

**(Paragraph 4.5)**

- Test check of records of offices of two District Registrars and three Sub-Registrars revealed that registering authorities did not consider service tax component of ₹ 106.36 crore payable by lessees on behalf of lessors while computing duties payable on lease rentals. This resulted in short levy of stamp duty and registration fees of ₹ 1.15 crore.

**(Paragraph 4.7)**

- In four offices of District Registrars and four offices of Sub-registrars registering authorities did not consider factors such as complete built-up area, higher rate for the structure as agreed to be paid by the builder to land owner, valuation of property as per market value guide lines, etc. for levy of stamp duty. This resulted in short levy of stamp duty of ₹ 1.12 crore.

**(Paragraph 4.8)**

- District Registrar Rangareddy (West), adopted lesser area of construction than was sanctioned by Greater Hyderabad Municipal Corporation. This resulted in short levy of stamp duty of ₹ 40.27 lakh.

**(Paragraph 4.9)**

- In two offices of District Registrars, Audit noticed that in two lease deeds, stamp duty of ₹ 89.24 lakh was short levied due to incorrect calculation.

**(Paragraph 4.11)**

- Audit noticed in two offices of District Registrars and in the office of Sub-Registrar, Marredpally that the registering officers did not register documents such as gift, partition, sale and memorandum of compromise which are to be compulsorily registered under the Indian Stamp Act. This resulted in non-realisation of stamp duty and registration fees of ₹ 51.53 lakh.

**(Paragraph 4.12)**

## **5 TAXES ON VEHICLES**

- Quarterly tax of ₹ 4.23 crore and penalty of ₹ 8.45 crore were not realised from owners of 2,644 transport vehicles.

**(Paragraph 5.4)**

- Non-renewal of fitness certificate (FC) of 31,087 transport vehicles resulted in non-realisation of fitness certificate fee of ₹ 1.13 crore during the years 2012-13 and 2013-14 in six offices of Deputy Transport Commissioners and five offices of Regional Transport Officers.

**(Paragraph 5.5)**

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## **6 LAND REVENUE**

- It was noticed from audit of 20 offices of Land Acquisition Officers that Land acquisition deposits of ₹ 294.78 crore were made in various nationalised and private banks in contravention to the provisions of AP Financial Code. Interest of ₹ 2.93 crore was utilised for purposes other than land acquisition.

**(Paragraph 6.4.3)**

- Audit of offices of 12 Revenue Divisional Officers/Special Deputy Collectors revealed that in 19 cases provision for valuation of land being acquired were disregarded while acquiring 462.41 acres of land. This resulted in excess payment of ₹ 12.18 crore towards compensation.

**(Paragraph 6.4.4.1)**

- Conversion tax of ₹ 1.31 crore was short levied due to adoption of incorrect basic value in three Revenue Divisional Offices in 25 cases.

**(Paragraph 6.5)**

- Lack of co-ordination between Revenue Divisional Offices and Divisional Level Panchayat Officers led to non-levy of conversion tax and penalty of ₹ 37.46 lakh.

**(Paragraph 6.6)**

## **7 OTHER TAX AND NON-TAX RECEIPTS**

- It was noticed during the audit of offices of two Assistant Directors of Mines and Geology that seigniorage fee of ₹ 72.21 lakh and penalty amounting to ₹ 3.57 crore were not levied in two cases.

**(Paragraph 7.2)**

- In four offices of Assistant Directors of Mines and Geology royalty was levied and collected at rates lesser than prescribed resulting in short levy of royalty of ₹ 95.25 lakh.

**(Paragraph 7.3)**

- In two offices of Assistant Directors of Mines and Geology in four cases, penalty was levied at pre revised rate instead of five times the seigniorage fee prescribed leading to short levy of penalty of ₹ 22.89 lakh.

**(Paragraph 7.4)**



# ***CHAPTER-I***

## ***GENERAL***



## CHAPTER I GENERAL

### 1.1 Revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Telangana, 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 period from 2 June 2014 to 31 March 2015 are mentioned in **Table-1.1.1**.

**Table- 1.1.1**  
**Revenue receipts**

		(₹ in crore)
	Particulars	2 June 2014 to 31 March 2015 <sup>1</sup>
1.	<b>Revenue raised by the State Government</b>	
	• Tax revenue	29,288.30
	• Non-tax revenue	6,446.82
	<b>Total</b>	<b>35,735.12</b>
2.	<b>Receipts from the Government of India</b>	
	• Share of net proceeds of divisible Union taxes and duties	8,188.58
	• Grants-in-aid	7,118.10
	<b>Total</b>	<b>15,306.68</b>
3.	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>51,041.80</b>
4.	<b>Percentage of 1 to 3</b>	<b>70</b>

The revenue raised by the State Government (₹ 35,735.12 crore) was 70 *per cent* of the total revenue receipts. The remaining 30 *per cent* of the receipts during the period was from Government of India.

<sup>1</sup> For details please see Statement No.14- Detailed accounts of revenue by minor heads in the Finance Accounts of Telangana for the period 2 June 2014 to 31 March 2015. Figures under the major heads '0020-Corporation tax, 0021-Taxes on income other than Corporation tax, 0028-Other taxes on income and expenditure, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties, 0044-Service tax and 0045-Other taxes and duties on commodities and services - share of net proceeds assigned to states booked in the Finance Accounts under A-Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this table.

**1.1.2** The details of the tax revenue raised during the period 2 June 2014 to 31 March 2015 are given in **Table 1.1.2**.

**Table 1.1.2**  
**Details of Tax Revenue raised**

(₹ in crore)

Sl. No.	Head of revenue	2 June 2014 to 31 March 2015 <sup>2</sup>	
		Budget Estimates	Actuals
1.	Taxes on sales, trade etc.	26,963.30	22,120.78
2.	State excise	2,823.54	2,807.69
3.	Stamp duty and registration fees	2,583.88	2,176.90
4.	Taxes on vehicles	2,226.86	1,617.66
5.	Land revenue	72.89	9.25
6.	Others	10,457.13	556.02
	<b>Total</b>	<b>45,127.60</b>	<b>29,288.30</b>

The Land Revenue Department reported that due to lack of revenue collection machinery at village level, there was large variation between Budget Estimates and Actuals.

The reasons for variations between Budget Estimates and Actuals were not furnished by other Departments.

**1.1.3** The details of the Non-tax revenue raised during the period 2 June 2014 to 31 March 2015 are indicated in **Table 1.1.3**:

**Table 1.1.3**  
**Details of Non-tax revenue raised**

(₹ in crore)

Sl. No.	Head of revenue	2 June 2014 to 31 March 2015 <sup>3</sup>	
		Budget Estimates	Actuals
1.	Interest receipts	2,638.20	2,766.01
2.	Mines and minerals	1,877.52	1,719.29
3.	Education, Sports, Art and Culture	826.72	411.57
4.	Others	7,899.58	1,549.95
	<b>Total</b>	<b>13,242.02</b>	<b>6,446.82</b>

<sup>2</sup> Source: Statement 14 of Finance Accounts.

<sup>3</sup> Source: Statement 14 of Finance Accounts.

## 1.2 Analysis of arrears of revenue

The arrears of revenue, as on 31 March 2015 on some principal heads of revenue amounted to ₹ 11,727.35 crore as reported by the respective Departments is detailed in **Table -1.2**

**Table 1.2**  
**Arrears of revenue**

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2015	Amount outstanding for more than five years as on 31 March 2015
1	Taxes on sales, trade etc.	7,022.13	4,799.69
2	State excise	31.24	28.70
3	Taxes on vehicles	1,109.50	1,095.70
4	Stamp duty and registration fees	74.47	Not furnished by the Department
5	Mines and minerals	92.48	88.07
6	Land revenue	143.15	Not furnished by the Department
7	Taxes and duties on electricity	3,254.38	1,916.21
<b>Total</b>		<b>11,727.35</b>	

Source : Information furnished by the concerned Departments.

The concerned Departments did not provide any reasons for the large amounts in arrears in respect of Taxes on vehicles and Taxes and duties on electricity, collection of which was pending for more than five years.

## 1.3 Arrears in assessments

As per the provisions of the AP VAT Act<sup>4</sup>, which is applicable in Telangana also, annual assessments are not mandatory for the VAT dealers. Assessments under the CST Act are to be completed within four years. However, no information was furnished by the Commercial Taxes Department on arrears of CST assessments.

## 1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Departments, cases finalised, the demands for additional tax raised and cases pending for finalisation as on 31 March 2015 in respect of different heads of revenue were called for from the concerned Departments. State Excise and Energy Departments have reported that there were no cases of evasion of tax during the year. The Departments of Transport, Industries and Commerce, Commercial taxes, Stamps and Registration and Land Revenue, however, did not furnish the information on tax evasion cases detected by the Department.

<sup>4</sup> Changed from APVAT Act to Telangana VAT Act vide G.O.Ms.No.32 Revenue (CT-II) Department dated 15 October, 2014.

## 1.5 Pendency of Refund Cases

The number of refund cases pending as on 2 June 2014, claims received during the period till 31 March 2015, refunds allowed during the period and the cases pending as on 31 March 2015 as reported by the Departments are given in **Table 1.5**.

**Table 1.5**  
**Details of pendency of refund cases**

(₹ in crore)

Sl. No.	Particulars	Commercial Taxes		Excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	Nil	Nil	50	0.41
2.	Claims received during the year	100	1.47	3	0.44
3.	Refunds made during the year	100	1.47	6	0.70
4.	Balance outstanding at the end of year	Nil	Nil	47	0.15

Land Revenue Department stated that there were no cases of refunds during the year. Other Departments did not furnish the details though called for.

## 1.6 Response of the Government / Departments towards Audit

The Accountant General (E & RSA), Andhra Pradesh and Telangana 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 up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of 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 AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

Inspection reports issued upto December 2014 disclosed that 15,115 paragraphs involving ₹ 6,465.16 crore relating to 4,193 IRs relating to Revenue Sector remained outstanding in the 10 districts of Telangana at the end of June 2015.

**1.6.1** The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the **Table 1.6.1**.

**Table 1.6.1**  
**Department-wise details of IRs**

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipt	Number of outstanding Inspection Reports	Number of outstanding audit observations	Money value involved
1.	Revenue Department	Taxes on sales, trade etc.	2,026	8,462	2,293.14
		State excise	240	564	36.59
		Land revenue	643	1,521	828
		Stamp duty and registration fees	1,000	3,522	176.48
2.	Transport, Roads and Buildings	Taxes on motor vehicles	182	670	1,654.54
3.	Industries and Commerce	Mines and minerals	80	343	1,019.36
4.	Energy	Taxes and duties on electricity	22	33	457.05
<b>Total</b>			<b>4,193</b>	<b>15,115</b>	<b>6,465.16</b>

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs in respect of 69 IRs issued during 2014-15. Pendency of the IRs is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

The Government may consider putting in place an effective system for prompt and appropriate response to audit observations.

### **1.6.2 Departmental Audit Committee Meetings**

The Government set up Audit Committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. During the year 2014-15, 10 Audit Committee Meetings (ACMs) were held with Prohibition and Excise Department. During these meetings, 563 paras involving ₹ 13.55 crore were settled. Other Departments did not initiate any action for holding the ACMs.

### **1.6.3 Non-production of records to Audit for scrutiny**

The programme of local audit of Tax Revenue / Non-tax revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the Departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2014-15, as many as 399 assessment files, returns, refunds, registers and other relevant records were not made available to Audit, as given in **Table 1.6.3**

**Table 1.6.3**  
**Details of non-production of records**

Name of the Office/ Department		Number of cases not audited
Revenue	Commercial Taxes	362
	Excise and Prohibition	13
	Stamps and Registration	2
	Land Revenue	11
Transport, Roads and Buildings	Transport	8
Industries and Commerce	Mines and Geology	3
<b>Total</b>		<b>399</b>

#### **1.6.4 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 AG 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 Departments/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

79 draft paragraphs including one Performance Audit were sent to the Principal Secretaries / Secretaries of the respective Departments by name between July and October 2015. The replies received during Exit Conference of Performance Audit have been incorporated in the Report. The Principal Secretaries/ Secretaries of the Departments did not send replies to other draft paragraphs despite issue of reminders and the same have been included in this Report without the response of the Departments.

#### **1.6.5 Follow up on the Audit Reports - summarised position**

The internal working system of the Public Accounts Committee, notified in December 2002, laid down 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 explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports are delayed inordinately. 171 paragraphs (including Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Andhra Pradesh for the years ended 31 March 2010, 2011, 2012, 2013 and 2014 were placed before the State Legislative Assembly between March 2011 and March 2015. Of these 40 paragraphs pertain exclusively to Telangana whereas 131 paragraphs pertain to both Andhra Pradesh and Telangana. The explanatory notes from the concerned Departments of Telangana on these paragraphs were received in respect of only 29 paragraphs pertaining to Telangana and eight paragraphs pertaining to both the States with delay ranging from two to 49 months. Explanatory notes in respect of 134 paragraphs from eight Departments (Commercial Taxes, Excise, Land Revenue, Transport, Registration, Industries

& Commerce, Energy and Endowments) have not been received for the Audit Reports from year ended March 2010 to March 2014 so far (January 2016).

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

To analyse the system of addressing the issues highlighted in the Inspection Reports by the Departments, the action taken on the paragraphs of last 10 years for one Department is evaluated and included in this Audit Report.

The paragraph 1.7.1 discusses the performance of the Commercial Taxes Department under revenue head Taxes on sales, trade etc., and cases detected in the course of local audit during the last 10 years. These cases relate only to the 10 districts of the successor State of Telangana.

### 1.7.1 Position of Inspection Reports

The summarised position of the inspection reports relating to Commercial Taxes Department, issued during the last 10 years in the 10 districts of the successor State of Telangana, paragraphs included in these reports and their status as on 31 March 2015 are tabulated in **Table -1.7.1**.

**Table 1.7.1**  
**Position of Inspection Reports**

(₹ in crore)

Sl. No.	Year	Opening Balance			Additions during the year			Clearance during the year			Closing balance		
		IRs	Paras	Money Value	IRs	Paras	Money Value	IRs	Paras	Money Value	IRs	Paras	Money Value
1	2005-06	1557	5535	721.80	89	806	229.15	34	206	5.59	1612	6135	945.36
2	2006-07	1612	6135	945.36	92	752	68.50	20	244	11.22	1684	6643	1002.64
3	2007-08	1684	6643	1002.64	100	691	160.13	25	531	61.30	1759	6803	1101.47
4	2008-09	1759	6803	1101.47	98	846	346.66	46	311	20.57	1811	7338	1427.56
5	2009-10	1811	7338	1427.56	104	896	196.00	29	278	349.07	1886	7956	1274.49
6	2010-11	1886	7956	1274.49	102	927	232.38	16	253	13.49	1972	8630	1493.38
7	2011-12	1972	8630	1493.38	114	1316	423.45	2	298	1123.30	2084	9648	793.53
8	2012-13	2084	9648	793.53	29	299	48.12	54	1416	57.65	2059	8531	784.00
9	2013-14	2059	8531	784.00	92	1387	380.34	16	272	24.93	2135	9646	1139.41
10	2014-15	2135	9646	1139.41	81	1320	407.58	3	155	111.64	2213	10811	1435.35

The Government arranges Audit Committee meetings between the Department and AG's office to settle the old paragraphs. As would be evident from the above table, against 1,557 outstanding IRs with 5,535 paragraphs as at the beginning of 2005-06, the number of outstanding IRs increased to 2,213 with 10,811 paragraphs at the end of 2014-15. 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.

### 1.8 Action taken on the recommendations accepted by the Department/Government

The draft performance reviews conducted by the AG are forwarded to the concerned Department/ Government for their information with a request to furnish their replies. These reviews are also discussed in an exit conference and the Department's / Government's views are included while finalizing the reviews for the Audit Reports.

The following performance reviews were featured in the last five years Reports. The number of recommendations and their status are given in **Table 1.8** below:

**Table 1.8**

**Status of Audit recommendations**

Year of Report	Name of the PA	No. of recommendations	Status
2009-10	Functioning of the Prohibition and Excise Department	9	Explanatory notes are yet to be submitted by the Government
2010-11	Taxation of works contracts under the APVAT Act	5	
	Cross verification of Declaration Forms used in Interstate Trade.	7	
	Alienation of Government land and conversion of agricultural land for non-agricultural purposes.	3	
2011-12	VAT Audits and Refunds.	3	
2012-13	Functioning of the Directorate of Mines & Geology.	6	
	Functioning of Registration and Stamps Department including Information Technology (IT) Audit of CARD in Andhra Pradesh	6	
2013-14	Performance audit of Public Service Delivery including functioning of IT Services (CFST) in Transport Department.	5	

### 1.9 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of 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, factors of the tax administration, audit coverage and its impact during past five years etc.

There were total of 934 auditable units of which 229 units were planned and 216 units were audited during the year 2014-15, which is 23 *per cent* of the total auditable units. Besides the compliance audit mentioned above, one Performance Audit was also taken up to examine the efficacy of the tax administration of these receipts.

## **1.10 Results of audit**

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

Test check of the records of 216 units of Value Added Tax, State Excise, Motor Vehicles, Land Revenue, Stamp Duty and Registration Fees etc. conducted during the year 2014-15 showed under-assessment/ short-levy/ loss of revenue aggregating to ₹ 393.43 crore in 1299 cases. During the course of the year, the Departments concerned accepted under-assessments and other deficiencies of ₹ 59.82 crore in 181 cases which were pointed out in audit during 2014-15. The Departments collected ₹ 2.48 crore in 104 cases during 2014-15, pertaining to the audit findings of previous years.

### **1.10.2 Coverage of this Report**

This Report contains 50 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 one Performance Audit on 'Implementation of VAT (including IT Audit of VATIS)', involving financial effect of ₹ 223.88 crore.

The Departments/ Government have accepted audit observations involving ₹ 62.08 crore out of which ₹ 0.29 crore had been recovered. The replies in the remaining cases have not been received (January 2016). These are discussed in succeeding Chapters.



***CHAPTER-II***

***TAXES/VAT ON***  
***SALES, TRADE etc.***



## **CHAPTER II**

### **Taxes/VAT on Sales, Trade etc.**

#### **2.1 Tax administration**

The Commercial Taxes Department is under the purview of Principal Secretary to Revenue Department. The Department is mainly responsible for collection of taxes and administration of AP Value Added tax (VAT) Act (Changed to Telangana VAT Act vide G.O.Ms. No. 32 dated 15 October 2014), Central Sales Tax (CST) Act, AP Entertainment Tax Act, AP Luxury Tax Act<sup>5</sup> and rules framed thereunder. Commissioner of Commercial Taxes (CCT) is the Head of Department entrusted with overall supervision and is assisted by Additional Commissioners, Joint Commissioners (JC), Deputy Commissioners (DC) and Assistant Commissioners (AC). Commercial Tax Officers (CTOs) at circle level are primarily responsible for tax administration and are entrusted with registration of dealers and collection of taxes. The DCs are controlling authorities with overall supervision of the circles under their jurisdiction. There are 104 offices (12 Large Tax Payer Units (LTUs) headed by ACs and 92 Circles headed by CTOs) functioning under the administrative control of DCs. Further, there is an Inter State Wing (IST) headed by a Joint Commissioner within Enforcement wing, which assists CCT in cross verification of interstate transactions with different States.

#### **2.2 Internal audit**

The Department did not have a structured Internal Audit Wing that would plan and conduct audit in accordance with a scheduled audit plan. Internal audit is organized at Divisional level under the supervision of Assistant Commissioner (CT). There are 12 Large Tax Payers Units (LTUs) and 92 circles in State. Each LTU/circle is audited by audit teams consisting of five members headed by either CTOs or Deputy CTOs. Internal audit report is submitted within 15 days from the date of audit to DC (CT) concerned, who would supervise rectification work giving effect to findings in such report of internal audit.

#### **2.3 Results of audit**

In 2014-15, test check of the assessment files, refund records and other connected documents of the Commercial Taxes Department showed underassessment of Sales Tax/VAT and other irregularities involving ₹ 308.10 crore in 773 cases which fall under the following categories as given in **Table 2.1**.

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<sup>5</sup> AP Entertainment Tax Act and AP Luxury Tax Act and Rules have not been formally adopted by Government of Telangana, however, by virtue of Sections 100 and 101 of the Andhra Pradesh Reorganisation Act 2014, these are applicable in the State of Telangana.

**Table 2.1 : Results of audit**

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Performance Audit on Implementation of VAT (including IT Audit of VATIS)	1	104.83
2	Excess Input Tax allowed	107	29.54
3	Non-levy/Short levy of Interest and Penalty	136	12.75
4	Short levy of tax on works contract	43	10.44
5	Excess authorisation of refunds	7	1.18
6	Incorrect exemption of taxable turnover	71	18.84
7	Short levy of tax due to application of incorrect rate of tax	137	51.03
8	Under-declaration of VAT	73	33.03
9	Other irregularities	198	46.46
	<b>Total</b>	<b>773</b>	<b>308.10</b>

During the year, Department accepted under-assessments and other deficiencies in 172 cases involving ₹ 57.85 crore. An amount of ₹ 1.29 crore in 57 cases was realised during the year 2014-15.

Performance Audit of “Implementation of VAT (including IT Audit of VATIS)” involving ₹ 104.83 crore, and a few illustrative cases involving ₹ 85.93 crore are discussed in the following paragraphs:

## **2.4 Performance Audit on “Implementation of VAT (including IT Audit of VATIS)”**

### **2.4.1 Introduction**

The Andhra Pradesh Value Added Tax Act (AP VAT Act) was introduced in the erstwhile combined State of Andhra Pradesh (AP) in 2005 to provide for and consolidate the laws relating to levy of value added tax on sale or purchase of goods in the State. It replaced Andhra Pradesh General Sales Tax Act, 1957 (APGST Act). Rules supporting AP VAT Act, known as Andhra Pradesh Value Added Tax Rules (AP VAT Rules) were also introduced in the same year. The Commercial Taxes Department uses an IT system known as Value Added Tax Information System (VATIS) to aid the implementation of the Act in the State.

### **2.4.2 Organisational setup**

Commercial Taxes Department (CTD) is under the purview of the Principal Secretary, Revenue Department at the Government level. At Commissionerate level, Commissioner of Commercial Taxes (CCT) is the head of the Department and is assisted by Additional Commissioners, Joint Commissioners (JC), Deputy Commissioners (DC) and Assistant Commissioners (AC). Divisional offices at field level are headed by the DCs and are assisted by the ACs, Commercial Tax Officers (CTO), Deputy

Commercial Tax Officers (DCTO) and Assistant Commercial Tax Officers (ACTO).

There are 104 assessing offices functioning under the administrative control of the DCs consisting of 12 Large Taxpayer Units<sup>6</sup> (LTUs) headed by ACs and 92 circles headed by the CTOs.

### **2.4.3 Audit Objectives**

The Performance Audit was conducted to

- assess the adequacy of systems in place to ensure compliance with legal provisions relating to registration, scrutiny of records and cancellation of registration of the dealers;
- assess the effectiveness of the system of assessments; and
- evaluate adequacy of IT Policy and relevant controls.

### **2.4.4 Scope, Sources of Audit Criteria and Methodology**

Performance Audit on Implementation of Value Added Tax (including IT Audit of VATIS) covers the period from 2011-12 to 2013-14 and was conducted from September 2014 to June 2015.

The performance of the Department was benchmarked against audit criteria derived from the following:

- APVAT Act and Rules, 2005
- VAT Audit Manual<sup>7</sup> issued by the Government of Andhra Pradesh
- Orders/notifications issued by the Government/Department from time to time
- Citizen's Charter 2012

For conducting this Performance Audit, out of the 12 LTUs and 92 circles, LTU Abids and Punjagutta and 13 circles<sup>8</sup> were selected by simple random sampling method. IT audit of VATIS for the period from April 2011 to March 2014 was also conducted as part of the Performance Audit. Data related to selected sample (15 units) was extracted from the centralized data provided by the CCT and was analysed using IDEA software. The general controls and application controls were evaluated with reference to audit objectives.

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<sup>6</sup> Large Taxpayer Units have under their jurisdiction 25-50 dealers of each Division selected on the basis of criteria like tax payments, complexity of transactions, etc. as decided by the CCT.

<sup>7</sup> Commercial Tax Department revised Manual during 2012.

<sup>8</sup> Begumpet, Gadwal, General Bazar, Hydernagar, Jeedimetla, Kothagudem, Mahankali Street, Malkajiri, Nacharam, Punjagutta, Somajiguda, Siddipet and Warangal.

#### **2.4.5 Acknowledgment**

Audit acknowledges the co-operation extended by the Department in providing server data, records and other necessary information. The entry conference was held on 2 December 2014 with the CCT and departmental officers in which the Department was apprised of the scope and methodology of audit. An exit conference was held on 23 November 2015 in which the audit results and recommendations were discussed with the representatives of the Department and the Government. The Government was represented by the Principal Secretary while the Department was represented by the CCT. Responses of the Government and Department have been suitably incorporated in the report.

#### **Audit Findings**

##### **Adequacy of systems for compliance**

CTD is responsible for ensuring that eligible dealers in the State are registered and paying appropriate tax. Provisions have been made in the VAT Act, Rules and Manuals to protect the interest of Government revenue as well as to streamline the processes. Registration of dealers provides the basis for controlling the VAT dealers.

The registered dealers are mandatorily required to submit their returns and supporting documents. These form the basis for calculation of the tax liability/ITC of the dealers by CTD.

Cancellation of registration can be done on the request of the dealer or by CTD if certain legal provisions have been violated by the dealer. In such cases, audit is to be conducted by the CTD to ensure that Government revenues are protected.

##### **2.4.6 Non-conducting of street surveys for identifying new dealers**

Section 17 of the APVAT Act, 2005 provides that every dealer, other than a casual dealer shall be liable to be registered in accordance with the provisions of the Act. It further provides that dealers having turnover more than ₹ 7.5 lakh but less than ₹ 50 lakh should get registered as 'Turnover Tax' (TOT) dealer and dealers with turnover more than ₹ 50 lakh should invariably be registered as VAT dealers. With a view to identify such dealers who are liable to be registered and pay tax but have remained unregistered, street survey is an important tool. Appendix V of the VAT Audit Manual prescribes to conduct street surveys to identify and ensure registration of dealers. However, neither any procedure nor a periodicity has been prescribed.

Audit observed that street surveys had not been conducted in any of the 13 selected circles during the period covered under audit. In the absence of any such surveys CTD deprived itself of the opportunity of detecting the eligible unregistered dealers and bringing them under the tax net. However, there is no other enabling provision in this regard. The matter had earlier been raised by

Audit in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009.

The matter was referred to the Government in October 2015. The Government stated (November 2015) that street surveys were being conducted regularly and a special drive was conducted in the month of September 2015. However during the course of audit the CTOs had stated that no street surveys conducted during the period covered under audit and DC(CT)s had also stated that no circular instructions were issued in this regard.

#### **2.4.7 Absence of penal provisions resulted in non-compliance**

##### **2.4.7.1 Non-filing of VAT 200A and VAT 200B returns**

According to Section 13(6) of APVAT Act, ITC for transfer of taxable goods outside the State otherwise than by way of sale was to be allowed for the amount of tax in excess of four *per cent*/five *per cent*<sup>9</sup>. As per Section 13(5), no ITC was to be allowed if inputs are used for manufacture of exempt goods. As per Rule 20 of AP VAT Rules, dealers to whom Sections 13 (5) or (6) apply, are to file VAT 200A returns monthly and VAT 200B returns annually. These returns give the breakup of the transactions which are required for correct calculation of ITC eligibility in the case of interstate transfer of goods/manufacture of exempt goods. However, there was no provision for imposing any penalty for non-submission of these returns.

During the course of audit, in 10 circles<sup>10</sup>, it was noticed (September 2014 to March 2015) from VATIS data analysis that in 8,227 cases<sup>11</sup> dealers had effected transfers of taxable goods to their branches outside the State or sold exempt goods within the State and claimed ITC amounting to ₹ 1549.29 crore during the period 2011-14. Unlike VAT 200, there was no provision in VATIS for online submission of VAT 200A and VAT 200B returns and the manual copies were also not made available to audit. In the absence of these returns, correctness of ITC claims could not be checked. The AAs could not insist on compliance as there was no penal provision in the Act/Rules.

On this being pointed out (September 2014 to May 2015) the CTOs in the test checked circles replied that notices would be issued to these dealers for submission of returns in VAT 200A and VAT 200B. However, in the absence of any penal provisions, non-compliance with the provisions resulted in allowing of ITC amounting to ₹ 1549.29 crore without checking the correctness of the claims.

The matter was referred to the Government in October 2015. The Government stated that online submission of returns would be implemented from 15 December 2015.

<sup>9</sup> Tax rate revised from four to five *per cent* from 14 September 2011 vide Act No. 11 of 2012.

<sup>10</sup> Begumpet, Gadwal, Jeedimetla, Kothagudem, Mahankali Street, Malkajgiri, Nacharam, Siddipet, Somajiguda and Warangal.

<sup>11</sup> One case means one financial year for which the returns were to be submitted.

#### **2.4.7.2 Non-filing of financial statements**

Para 5.12 of VAT Audit Manual prescribes mandatory basic checks on figures reported by VAT dealers in their monthly VAT returns, and comparison of the figures with those recorded in certified financial statements to detect under-declaration of tax, if any. As per Rule 25(10) of AP VAT Rules, every VAT dealer whose annual total turnover is more than ₹ 50 lakh shall furnish, for every financial year the financial statements certified by a Chartered Accountant, on or before 31 December subsequent to the financial year to which the statements relate.

During the course of audit, in five circles<sup>12</sup> it was noticed from the data available in VATIS (November 2014 to March 2015), that in all 5057 cases<sup>13</sup>, VAT dealers (who had a turnover of more than ₹ 50 lakh during that financial year) did not submit the audited financial statements during the period 2011-14. Neither had the dealers complied with the provisions under rules nor had AAs insisted on submission of financial statements. In the absence of certified financial statements, CTD cannot check whether the turnover disclosed in the returns are correct unless the dealers are selected for audit.

There was a provision under Section 14(1-B) of Andhra Pradesh General Sales Tax Act 1957, to levy penalty on non-submission of financial statement duly certified by the Chartered Accountant. In the AP VAT Act these provisions were dispensed with, owing to which the AAs could not insist on compliance.

After audit pointed this out, the AAs replied that notices would be issued to the dealers.

The matter was referred to the Department in August 2015. The Government agreed (November 2015) that there were no penal provisions in the Act to ensure filing of financial statements. No specific reply has been received on how the Government would ensure compliance with the Rules.

#### **Effectiveness of the system of assessment**

During the course of audit of the two DC(CT) offices and 13 circles, test check of files and VATIS data analysis, cases of short/non levy of taxes due to incorrect allowance of ITC, adoption of incorrect rate of tax, incorrect declaration of taxes and non-levy of penalty and interest on belated payment of taxes etc. were noticed. The cases are discussed in the following paragraphs.

#### **2.4.8.1 Non-levy of interest and penalty on belated payments**

As per Section 22 (2) of APVAT Act, in case of delayed payment of taxes, dealers have to pay interest at 1.25 *per cent*<sup>14</sup> per month on tax due for the period of delay from the prescribed or specified date for its payment. Further

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<sup>12</sup> Kothagudem, Mahankali Street, Malkajgiri, Siddipet and Warangal.

<sup>13</sup> One case means one financial year for which tax was to be assessed.

<sup>14</sup> One *per cent* of tax due up to 14 September 2011 and 1.25 *per cent* from 15 September 2011 per month.

according to Section 51(1) of AP VAT Act, where a dealer who fails to pay tax due on the basis of the return submitted by him by the last day of the month in which it is due, he shall pay penalty of 10 *per cent* of the amount of tax due.

During the course of audit it was noticed in DC(CT) Abids office and nine circles<sup>15</sup> (September 2014 to February 2015) that the AAs had not levied interest and penalty in respect of 68 dealers though they had paid tax with the delay ranging from one day to 487 days. The total non-levy of interest and penalty works out to ₹ 3.38 crore.

#### **2.4.8.2 Adoption of incorrect rate of tax**

As per Section 4(1) of AP VAT Act, every VAT dealer shall pay tax on each sale of goods, at the rates specified in the Schedules. As per Section 4(7)(b), every dealer executing works contract and opting to pay tax under composition<sup>16</sup> shall pay tax at five *per cent*<sup>17</sup> on the total amount. According to Section 4(9)(d), dealers selling food and beverages, if their annual total turnover is more than ₹ five lakh but less than ₹ 1.5 crore, shall pay tax at the rate of five *per cent* on the taxable turnover of the sale or supply of goods, being food or drink served in restaurants, sweet-stalls, clubs, any other eating house or anywhere, whether indoor or outdoor or by a caterer.

During the test check of records, in CTO General Bazar circle, it was noticed (March to April 2015), that a dealer had been incorrectly declaring sales for the period 2013-14 of Rexine under exempted sales, though the commodity was listed under Schedule IV and taxable at five *per cent*. The AA did not check the returns and registration records of the dealer. This resulted in short payment of tax of ₹ 5.89 crore.

Similarly, in CTO, Siddipet Circle, Audit noticed (February 2015) from the online data in VATIS that a works contractor during the period 2011-13, continued to pay tax at four *per cent* under composition, instead of the revised rate of five *per cent*. There was short payment of tax of ₹ three lakh.

In CTO Hydernagar circle (September 2014) Audit noticed that a dealer had paid tax by incorrectly adopting the rate of tax on sale of food and claimed ITC though his turnover was less than ₹ 1.5 crore, tax at five *per cent* was payable without claiming ITC. This had resulted in under declaration of output tax of ₹ two lakh.

#### **2.4.8.3 Variations between the figures of returns and financial statements**

In Nacharam Circle, Audit observed (January to February 2015) that AAs failed to notice that there were variations between the sale turnover as per the

<sup>15</sup> Begumpet, Gadwal, General Bazar, Kothagudem, Nacharam, Punjagutta, Siddipet, Somajiguda and Warangal.

<sup>16</sup> Under said Section, the dealer can opt to pay tax by way of composition at the prescribed rate on the total value of the contract.

<sup>17</sup> Prior to 14 September 2011 the rate of tax was four *per cent*, rates revised vide Act No.11 of 2012.

financial statements and those reported in VAT returns by four dealers for the years 2012-13 and 2013-14. In all the cases the sales turnover as per financial statements were more than those reported in VAT returns. There was under-declaration of turnover by ₹ 4.63 crore resulting in short payment of tax of ₹ 23 lakh. This indicates absence of proper scrutiny and cross linking between the financial statements and monthly returns submitted by the dealers.<sup>18</sup>

#### **2.4.8.4 Non-declaration of VAT on taxable turnover**

As per the Government orders issued in July 2011<sup>19</sup>, the commodity “textiles and fabrics” was added to Schedule IV to AP VAT Act and hence its sales were to be taxed at five *per cent*. Later in June 2013 this commodity was included<sup>20</sup> in Schedule-I making its sales exempt. In General Bazar Circle, Audit observed (March to April 2015) that 21 dealers, during the period 2012-14, declared the sales of this commodity as exempted from tax while the commodity was added in Schedule IV and made taxable at five *per cent*. Although details were available in the VAT returns, AA failed to detect incorrect declaration of tax which resulted in non-payment of tax amounting to ₹ 1.10 crore.

#### **2.4.8.5 Incorrect claims of ITC**

As per Section 13(1), no ITC shall be allowed on tax paid on the purchase of goods specified in Schedule VI. Provisions under Sections 13(5) and 13(6) stipulate restrictions on claiming ITC. As per Rule 20 of the AP VAT Rules, a VAT dealer making taxable sales, exempted sales and exempt transactions of taxable goods shall restrict his ITC as per the prescribed formula<sup>21</sup>.

Audit noticed in two DC(CT) offices<sup>22</sup> and four circle offices<sup>23</sup> (November 2014 to April 2015) from VAT 200 returns, Forms 200A and 200B returns of 12 dealers for the years from 2010-11 to 2013-14, that these dealers were making exempt sales, taxable sales and/or exempt transactions of taxable goods and Schedule VI goods but ITC was claimed without applying the prescribed formula for restrictions. This resulted in excess claim of ITC of ₹ 41.01 crore.

#### **2.4.8.6 Incorrect ITC claimed by works contractors**

As per Section 4(7)(b) of AP VAT Act read with Rule 17(2) of AP VAT Rules, the works contractors who opt to pay tax under composition scheme shall not be eligible to claim ITC. Further as per Section 13(7) of the Act,

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<sup>18</sup> As per Section 2(35) of Act, ‘Tax period’ means a calendar month. As per Section 20 of the Act read with Rule 23 of AP VAT Rules, every VAT dealer shall file a return within 20 days after the end of the tax period. Further, the return so filed shall be subject to scrutiny to verify the correctness of calculation, application of correct rate of tax and input tax credit claimed therein and full payment of tax payable.

<sup>19</sup> G.O.Ms.No.932, Revenue (CT-II) Department, dated 08 July 2011.

<sup>20</sup> G.O.Ms.No.308, dated 07 June 2013.

<sup>21</sup>  $A*B/C$ , where A is the input tax for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

<sup>22</sup> Abids and Punjagutta.

<sup>23</sup> Kothagudem, Mahankali Street, Malkajgiri and Nacharam.

where any works contractor pays tax on the value of goods incorporated in the works as per Schedules (if accounts are maintained properly), the dealer shall be eligible to claim 75 per cent of the taxes paid on such purchases.

Audit noticed (November 2014 to April 2015) in CTO, Begumpet and Siddipet that six works contractors in their VAT 200 returns claimed ITC of ₹ 1.51 crore on the total purchase turnover for the period 2013-14. These dealers were works contractors and hence were either not eligible to claim ITC or eligible only for 75 per cent of tax paid on the goods purchased and incorporated in works. The excess claim of ITC claimed works out to ₹ 38 lakh.

#### **2.4.8.7 Under-declaration of turnover by Bar and Restaurants (Hoteliers)**

As per Section 4(9)(c) of AP VAT Act, 2005, every dealer, whose annual total turnover is ₹ 1.5 crore and above shall pay tax at the rate of 14.5 per cent of the taxable turnover of the sale or supply of goods, being food or drink, served in restaurants, sweet-stalls, clubs, any other eating houses or anywhere whether indoor or outdoor or by caterers. Section 2(39) defines 'Total Turnover' as the aggregate of sale prices of all goods, taxable and exempted, sold at all places of business of the dealer in the State.

Audit noticed (January to March 2015) in seven<sup>24</sup> CTOs that 13 dealers running bar and restaurants declared the turnover in 26 cases<sup>25</sup> during the period from 2011-12 to 2013-14, less than ₹ 1.5 crore and paid VAT at five per cent on the sale of food only. However, annual total turnover of the dealers including the liquor sales as per the data obtained by Audit from Andhra Pradesh Beverages Corporation Limited was more than ₹ 1.5 crore per annum and the dealers were liable to pay tax at 14.5 per cent. Under-declaration of turnover resulted in under-declaration and short payment of VAT to the tune of ₹ 18 lakh. The AAs failed to check the correctness of turnover declared by the dealers though they had been registered as 'bar and restaurant'.

These observations were brought to the notice of the Department (June 2015 to September 2015) and Government (October 2015). The Government stated that in most of the cases either show cause notices were issued or demands raised and assured that action would be taken in the remaining cases.

#### **2.4.9 Non-recovery of deferred sales tax and interest**

Under 'Target 2000 sales tax incentives scheme' promulgated by the State Government in 1996, industrial units were allowed deferment of sales tax to the extent of incentive limit as mentioned in Final Eligibility Certificate (FEC). When AP VAT Act was introduced, all industrial units availing tax holiday or tax exemption on the date of commencement of the Act were to be treated as units availing tax deferment under Section 69 of this Act. As per Rule 67 of AP VAT Rules, the repayment of deferred tax was to commence

<sup>24</sup> Begumpet, Hydernagar, Kothagudem, Nacharam, Punjagutta, Siddipet and Warangal.

<sup>25</sup> One case means one financial year for which tax was to be assessed.

after the completion of the deferment period. In case of non-remittance of deferred sales tax on the due dates under the 'Target 2000 sales tax incentives' scheme, interest at 21.5 *per cent* per annum was payable as per the conditions mentioned in the FECs.

Audit observed that there is no effective mechanism to ensure recovery of dues in the case of units which had been allowed deferment as is evident from the following:

In CTOs, Kothagudem and Nacharam, a scrutiny of the files dealing with the incentives schemes revealed (January to February 2015) that 13 dealers had availed the facility of deferment of tax amounting to ₹ 5.93 crore which was recoverable after completion of the deferment period during 2010-2014. Neither had the dealers had made any payment, nor did the Department take any action to recover the same. This had resulted in non-recovery of deferred sales tax of ₹ 5.93 crore, besides applicable interest at the rate of 21.5 *per cent*.

In four CTOs<sup>26</sup> (September 2014 to February 2015) it was noticed from tax deferment records that nine dealers had paid deferred tax amounting to ₹ 2.15 crore with delay ranging from 50 to 2229 days for which they were liable to pay interest at the rate of 21.5 *per cent* per annum as required. Department did not levy interest of ₹ 76 lakh on belated payments.

On this being pointed out, AAs replied (September 2014 and February 2015) in respect of non-recovery cases and five cases of non-levy of interest that matter would be examined and notices would be issued. In the remaining four cases, CTO Nacharam stated (January 2015) that matter would be examined and final action taken intimated in due course.

The matter was referred to the Department in July 2015. The Government stated (November 2015) that show cause notices had been issued to the dealers.

### **VAT Audits**

As per para 5.12 of the VAT Audit Manual, every Audit Officer shall exercise the basic checks prescribed such as verification of the purchase particulars, comparison with the financial statements, verification of payment of Output tax etc., and enclose these particulars along with the audit files. Para 5.12.4 and Appendix VIII of the VAT Audit Manual on "examination of annual accounts" prescribes for verification of the financial statements of the dealers so as to review any disparities between the details available in the VAT returns submitted by the dealer and his financial statements for that period.

VAT audits cover only around 10 *per cent* of dealers every year which may not be sufficient to prevent leakage of revenue. No norms have been prescribed for conducting minimum number of VAT audits in VAT Audit Manual. The details of VAT audits conducted during the period from 2011-12 to 2013-14 in the erstwhile combined State of AP are as follows:

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<sup>26</sup> Jeedimetla, Kothagudem, Nacharam and Punjagutta.

Year	Total no. of registered dealers	Audits completed	Percentage of audits with respect to dealers	Revenue from VAT audits (₹ in crores)
2011-12	189945	18947	9.97	493.78
2012-13	230381	23468	10.19	823.55
2013-14 (upto Dec. 2013) <sup>27</sup>	278693	14080	3.05	863.67

Audit reviewed VAT Audit files and observed the following system and compliance deficiencies which reflect on the quality/insufficient checks being carried out in VAT audits:

#### **2.4.10.1 Non-completion of VAT audit before cancellation of registration**

As per Rule 14(4) of AP VAT Rules 2005, every VAT dealer whose registration has been cancelled under this rule shall pay back ITC availed in respect of all taxable goods on hand on the date of cancellation. In the case of capital goods on hand on which ITC has been received, the ITC to be paid back shall be based on the book value of such goods on that date. The VAT Audit Manual clearly prescribes several guidelines for selecting units for audit. It is one of the conditions laid down in the VAT Audit Manual that if a dealer applies for cancellation, an audit should be conducted to ascertain the correctness of ITC availed of by the dealer and only after completion of audit the cancellation was to be done.

During the course of audit it was noticed (November 2014 to February 2015) in five circles<sup>28</sup> from for the period 2011-12 to 2013-14 that CTD did not audit 1844 dealers before the cancellation of their registrations, owing to which the correct ITC to be recovered from such dealers could not be checked and protection of revenue could not be ensured. For example, in Nacharam circle in the case of a dealer Audit found that he had claimed ITC of ₹ 1.41 lakh in the VAT 200 return for September 2012. Though the registration of the dealer was cancelled (October 2012), Audit noticed that ITC was not reversed by the dealer nor did the AA insist on its payment from the Payments Status Report. As no audit was conducted before cancellation of the registration of the dealer, the dealer could get away without payment of ITC claimed on inputs.

After Audit pointed out the cases, the AAs of five circles stated that the matter would be brought to the notice of the DC (CT) for further necessary action. The CTO Nacharam stated that VAT audit would be taken up and action taken intimated to Audit in due course.

The matter was referred to the Department in August 2015. The Government replied (November 2015) that conducting audit in all cases of cancellation is difficult. They promised to examine the issue. Suitable guidelines are to be framed for audit of dealers whose registration is cancelled, in the interest of revenue.

<sup>27</sup> Department provided information for the period upto December 2013.

<sup>28</sup> General Bazar, Kothagudem, Mahankali Street, Malkajgiri and Siddipet.

#### 2.4.10.2 Non-receipt of records after audit

The CCT issued circular instructions<sup>29</sup> to DCs to authorize audits to any officer of the Division not below the rank of DCTO. After completion of audits, audit files were to be transferred to the circles where the dealers were registered for further action to collect taxes, penalty and interest. Further, CCT issued instructions<sup>30</sup> to DCs to ensure that the demands raised according to the audits were taken into account by the relevant circle.

During the course of audit of 13 circles (November to April 2015), VAT audit records in respect of 1935 cases in respect of 2011-14 were called for by Audit, but the Department could produce only 1517 audit files. For the remaining 418 audit files, it was observed that those were not received in the respective jurisdictional circle offices after completion of VAT Audit. Due to non-receipt of the audit files, the compliance of the assessments finalized could not be ensured. Monitoring of the demands raised cannot be done by the respective CTOs in the absence of documents. After Audit pointed out the cases, the AAs stated that the matter would be brought to the notice of DCs for necessary action.

Matter was referred to the Department in August 2015. The Government stated (November 2015) that a check memo would be prepared at DC(CT) level and watched periodically to ensure timely receipt of records.

#### 2.4.10.3 Improper maintenance of VAT audit files

It was observed (between September 2014 and April 2015) during test check of 1517 cases in DC(CT) Abids office and 13 circles that there were several omissions in the audit files as indicated below.

Sl. No.	Type of omission	No. of cases
1	Audit officers did not enclose the checklist	452 files (29.80 per cent of the test checked cases)
2	P&L account was not enclosed	193 cases (12.72 per cent)
3	Purchase particulars were not enclosed	675 cases (44.50 per cent)
4	Returns were not available	678 cases (44.69 per cent)
5	Details of G.I.S data were not available	1316 cases (86.75 per cent)
6	Non-verification of filing of statutory forms	1281 cases (84.44 per cent)

Due to the above mentioned omissions, Audit could not verify the accuracy of the assessment/penalty orders.

The issues were brought to the notice of the assessing authorities (between September 2014 and May 2015). They replied that the matter would be brought to the notice of concerned DCs(CT).

<sup>29</sup> CCTs Ref. No. B.II(2)/122/2006 dated 04 October 2006.

<sup>30</sup> No.BV(3)/120/2008 dated 16 April 2008 (Appendix XVIII of VAT Audit Manual).

The matter was referred to the Department (between June 2015 and September 2015) and to the Government (October 2015). Their reply has not been received (January 2016).

#### **2.4.10.4 Leakage of revenue due to non-compliance with provisions**

As per para 5.12 of the VAT Audit Manual, every AO shall exercise the basic checks prescribed such as verification of the purchase particulars, comparison with the Financial statements, verification of payment of output tax etc. and results to be recorded as a checklist in the audit files.

VAT audit is the final stage of scrutiny for finalization of assessment. A scrutiny of VAT audit files revealed that due to deficient exercise of checks during VAT audit resulted in short levy of tax due to incorrect adoption of rate tax, incorrect restriction/allowance of ITC, incorrect determination of taxable turnover, short/non-levy of penalties and interest as discussed below.

- In nine circles<sup>31</sup>, it was noticed (September 2014 to January 2015) from VAT audit files of 19 dealers that turnovers reported in their VAT 200 returns were not tallying with those reported in financial statements. During the course of VAT audit, the AOs did not notice this issue. This resulted in short levy of tax of ₹ 2.95 crore that could have been prevented if the audit checks had been mandatorily followed.
- In Mahankali Street circle it was observed (November to December 2014) from a VAT audit file that the AO issued two assessment notices on the same date, first demanding tax of ₹ 9.08 lakh stating that the dealer had not produced books of accounts and second demanding a tax of ₹ 7,171, stating that the dealer had produced the books of account which however, were not available in the records. The reasons for such drastic revision of the demand was thus not supported by any document warranting the steep downward revision of assessed tax within hours. The assessment was finalized for ₹ 7,171 only.
- In DC(CT) Abids office and Punjagutta circle, it was noticed (September 2014 to February 2015) from VAT audit files of six dealers that they had paid tax after due date i.e., 20<sup>th</sup> of succeeding month. However, during the course of audit, the AOs did not levy interest on belated payment. This resulted in non-levy of interest of ₹ 34 lakh.
- In DC(CT) Abids office and nine circles<sup>32</sup> it was noticed (September 2014 to February 2015) from VAT audit files of 33 dealers that AOs had not/short levied penalty of ₹ five crore on under-declaration of tax though tax had been levied in all cases.

<sup>31</sup> Hydernagar, Jeedimetla, Mahankali Street, Malkajgiri, Nacharam, Punjagutta, Siddipet, Somajiguda and Warangal.

<sup>32</sup> Begumpet, Gadwal, Hydernagar, Jeedimetla, Kothagudem, Malkajgiri, Punjagutta, Siddipet and Somajiguda.

- In DC(CT) Abids office it was noticed (January to February 2015) from an audit file that the dealer had effected purchases from unregistered dealers during 2011-13 and utilised them for dispatch of goods outside the State otherwise than by way of sale in the course of interstate trade. The dealer was thus liable to pay purchase tax on purchases from unregistered dealers. However, the AO did not levy purchase tax of ₹ four lakh.
- In four circles<sup>33</sup> it was noticed (September 2014 to February 2015) from VAT audit files of four dealers that they had received an amount of ₹ 1.28 crore towards hire charges/transport receipts of automobiles. AOs, while finalising the assessment, did not levy tax on hire charges received. This resulted in non-levy of tax of ₹ 18 lakh.
- In DC(CT) Abids office and five circles<sup>34</sup> it was noticed (September 2014 to March 2015) from VAT audit files of 15 dealers that they were engaged in exempt sales/exempt transactions along with taxable sales and were to claim ITC proportionately. However, they claimed full/excess ITC. This was not observed in VAT audit by AOs which resulted in short levy of tax of ₹ 1.97 crore.
- In General Bazar circle, it was noticed (March to April 2015) from the VAT audit files of two dealers of textiles and fabrics (to be taxed at five *per cent* or at one *per cent* if dealer opted to pay under composition) for the years 2012-13 and 2013-14 (April and May 2013), that one dealer did not pay any tax and the other paid tax at one *per cent* without opting for composition. In both cases, these were to be taxed at five *per cent*. AO, instead of assessing the tax at five *per cent* treated both dealers under composition and allowed tax at one *per cent* though neither had opted to pay tax under composition. This resulted in non/short levy of tax of ₹ 2.95 crore.
- During the course of audit, in DC(CT) Abids office and Punjagutta circle, Audit noticed (September 2014 to February 2015) from VAT audit files of four dealers that the dealers had purchased and sold used vehicles during 2009-13 and claimed ITC of ₹ 5.83 crore. Although the purchases were made from customers who were not VAT dealers and the claimants were not in possession of tax invoices as provided in Section 13(1) and 13(3) of AP VAT Act, the AO while finalising the assessments allowed ITC. This resulted in short levy of tax amounting to ₹ 5.83 crore.
- In DC(CT) Abids office and five circles<sup>35</sup> it was noticed (September 2014 to April 2015) from VAT audit files and other records of the eight dealers that they declared output tax at four/five *per cent* instead of at the rate of 12.5 *per cent*/14.5 *per cent* (rate on Schedule V commodities) on commodities which were falling under Schedule V.

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<sup>33</sup> Hydernagar, Kothagudem, Nacharam and Somajiguda.

<sup>34</sup> Kothagudem, Mahankali Street, Nacharam, Punjagutta and Somajiguda.

<sup>35</sup> Jeedimetla, Mahankali Street, Punjagutta, Kothagudem and Nacharam.

Misclassification and incorrect rate of tax was not noticed by the AOs which resulted in short levy of tax of ₹ 21.22 crore.

- As per Section 4(7) of APVAT Act read with Rule 17(3) of APVAT Rules, any dealer engaged in construction and selling of residential apartments, houses, buildings or commercial complexes may opt to pay tax by way of composition at the rate of four *per cent*/five *per cent* of 25 *per cent* of the consideration received or receivable or the market value fixed for the purpose of stamp duty whichever is higher. Further as per Section 4(7)(h) of APVAT Act, amounts paid to sub-contractors are exempted from tax if the main contractors are paying tax under composition. In Punjagutta circle, Audit noticed (September 2014 and October 2014) from the VAT audit file of a dealer that he had claimed exemption of tax under Section 4(7)(h) on receipts from the sub-contract. The claim of exemption was allowed by the AO during the course of VAT Audit. However, on cross verification of the turnovers of the main contractor, Audit observed that he was not engaged in construction and selling of apartments. Hence, the dealer was not eligible for exemption. Incorrectly allowing exemption resulted in short levy of tax of ₹ 15 lakh.
- In Punjagutta circle it was observed (September 2014 to October 2014) from the VAT audit file of a dealer, who was engaged in construction and selling of apartments and paying tax under Section 4(7)(d) of the Act, that he recovered the cost of the material supplied to the sub-contractor who was exempted from tax as per the provisions mentioned above. As the dealer recovered cost of the material, it was to be treated as sale and was taxable in his hands. During the course of audit, the AO did not levy tax on the cost of the material recovered. This resulted in short levy of tax of ₹ 48 lakh.
- As per Section 4(7)(e) of APVAT Act, any dealer, having opted for composition, purchases any goods from outside the State and uses such goods in the execution of the works contracts, shall pay tax at the rates applicable to the goods under the Act and the value of such goods shall be excluded (from the turnover) for the purpose of computation of turnover on which tax by way of composition at four *per cent* is to be paid. In DC(CT), Abids office and Punjagutta circle it was noticed (September 2014 to February 2015) from VAT audit files that two dealers had opted to pay tax under composition and purchased goods from outside the State. They incorporated the goods in their works for which they were liable to pay tax at the rates applicable. However, during the course of audit, the AOs did not levy the differential rate of tax on the value of goods purchased from outside the State. This resulted in short levy of tax of ₹ 32 lakh.
- Audit noticed (September 2014 to February 2015) in DC(CT), Abids office and four circles<sup>36</sup> from VAT audit files of eight works

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<sup>36</sup> Hyderabad, Kothagudem, Punjagutta and Somajiguda.

contractors that AOs arrived at taxable turnovers under works contract incorrectly by allowing ineligible deductions<sup>37</sup>, resulting in short levy of tax of ₹ 1.43 crore.

- As per Section 13(7) of AP VAT Act, where any VAT dealer pays tax under Section 4(7)(a) (one who has not opted to pay under composition), he shall be eligible to claim ITC at 90 per cent (75 per cent from 15 September 2011) of the related input tax. During the course of audit, in DC(CT), Abids office and three circle offices<sup>38</sup> it was noticed (November 2014 to February 2015) from VAT audit files of five works contractors that AOs while finalising the assessment allowed ITC at 100 per cent, though the dealers had not opted to pay tax under composition. This resulted in allowing of excess ITC of ₹ 28 lakh.
- In DC(CT) Abids office Audit noticed (January 2015 and February 2015) from VAT assessment file of a dealer for the year 2010-11 that the AA arrived at tax due of ₹ 1.17 crore under composition. However, TDS credit taken against the composition works was ₹ 1.53 crore which was in excess of ₹ 35 lakh over the tax due. The excess amount was to be forfeited under Section 57 of the Act. No action was initiated by the AO for forfeiture of excess TDS amount retained.
- It was noticed from VAT audit files of another works contractor for the years 2010-11 and 2011-12 that he had awarded works to sub-contractors on back to back basis and was paying tax under non-composition. The TDS amounts retained by him were not forfeited though required under Section 57. This resulted in non-forfeiture of ₹ 2.43 crore.

From the cases mentioned above it is clear that the VAT audits conducted did not ensure compliance with rules.

The issues were brought to the notice of CTD in July and August 2015. The Government stated (November 2015) that in most of the cases either show cause notices have been issued or demands were raised and action has been assured in the remaining cases.

#### **2.4.11 Internal audit**

Department does not have a structured Internal Audit Wing that would plan and conduct audit in accordance with a scheduled audit plan. Internal audit is organised at Divisional level under the supervision of Assistant Commissioner (CT). Internal Audit Report is to be submitted within 15 days from the date of audit to the DC(CT) concerned, who would supervise rectification work.

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<sup>37</sup> While arriving taxable turnover, certain expenditure such as finance charges, excess profit and administrative expenses relating to supply of labour were incorrectly deducted from gross turnover etc.

<sup>38</sup> Begumpet, General Bazar and Punjagutta.

**2.4.11.1** During the course of test check of the two DC(CT) offices and 13 circles (September 2014 to May 2015), it was observed in one circle<sup>39</sup> that internal audit was not conducted for the last three years. In three circles<sup>40</sup> internal audit was not conducted for last two years and in two DC(CT)<sup>41</sup> offices and nine circle offices<sup>42</sup> internal audit was not conducted for the year 2013-14. Further in all the cases where internal audits were completed, reports were not issued. From the above it is evident that the internal audit mechanism was not effective.

**2.4.11.2** As per para 4.9.6 of VAT Audit Manual, allocation of audits should be recorded as computerized listings in divisions and circles mentioning dates of allocation, audit and finalization. Watch registers are to be maintained for monitoring the details of audit in offices.

It was noticed that the watch registers and details were not maintained in DC(CT) Abids office and four circle offices<sup>43</sup>, without which the information on the status of audits authorised and completed could not be verified. There is a risk of duplicate or erroneous allocation of audits in the absence of watch registers.

## **IT Audit of VATIS**

### **2.4.12 Adequacy of IT policy and controls**

CTD has been using Information Technology (IT) since 1989 and VATIS came into existence along with introduction of AP VAT Act in 2005. The original VATIS was developed in centralized architecture by Tata Consultancy Services Limited (TCS) and field offices were connected to the Central Data Centre located at the office of CCT. Processes relating to dealer registration, VAT/TOT returns, VAT audit and assessment and Goods Information System (GIS) that monitors interstate transactions etc., were computerized under this. To improve the response time of the system as a part of the realigned focus of the CTD, reengineering of VATIS was conceived. It was to extend departmental services (Service Oriented Architecture) to the dealers through multiple media like Internet, e-Seva and citizen service centres (CSC). The re-engineered VATIS has modules like e-Return, e-Registration, online issue of Statutory Forms and Complaint/Feedback system. The functional architecture of VATIS is as shown:

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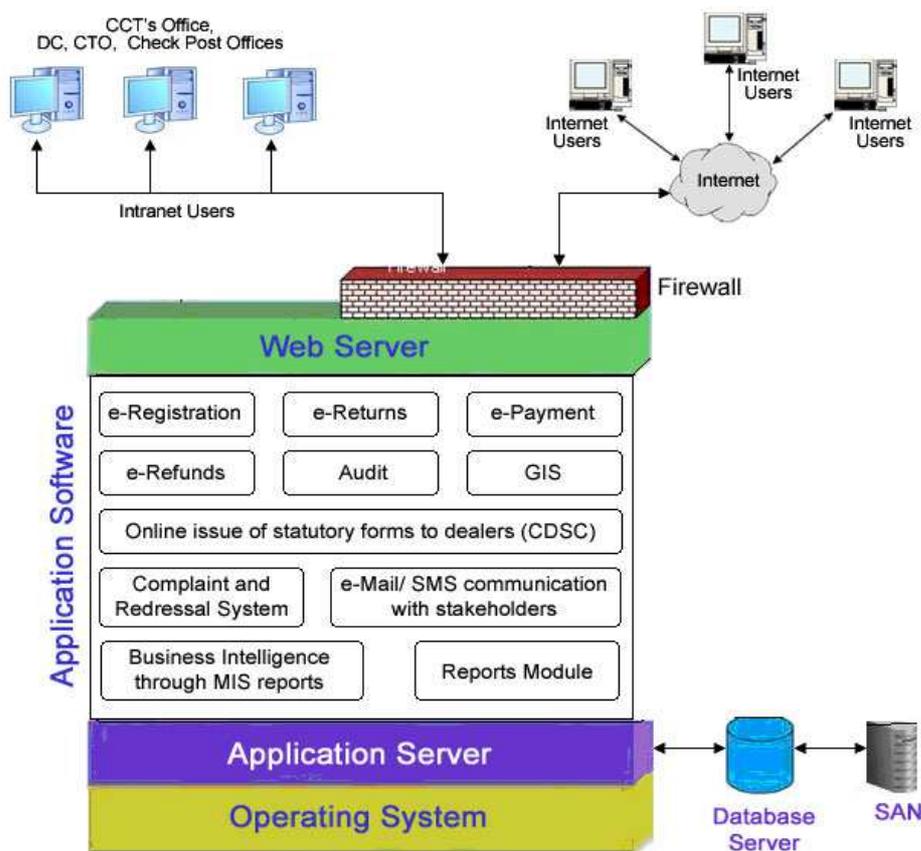
<sup>39</sup> Siddipet.

<sup>40</sup> Kothagudem, Punjagutta and Somajiguda.

<sup>41</sup> Abids and Punjagutta.

<sup>42</sup> Begumpet, Gadwal, General Bazar, Hydernagar, Jeedimetlaand Mahankali Street, Malkajgiri, Nacharamand Warangal.

<sup>43</sup> Kothagudem, Mahankali street, Punjagutta and Siddipet.



### FUNCTIONAL ARCHITECTURE

The application has been built using Windows servers (database and application servers) with SQL Server and .NET framework. All the offices are inter-connected through intranet using AP State Wide Area Network (APSWAN) and other stakeholders get connected to the application via internet for obtaining services.

Audit conducted IT audit of Registration, Return, Audit, Payments, Refunds and Complaint / Feedback modules of VATIS application for the period April 2011 to March 2014. Data related to selected sample (15 units) were extracted from the centralized data provided by the CCT and was analysed using 'Interactive Data Extraction and Analysis (IDEA)'. The general controls and application controls were evaluated with reference to audit objectives.

The audit revealed deficiencies in the system relating to planning and use of IT application, mapping of business rules, access controls, data capture and validations, data integrity and system security issues etc. as mentioned in the succeeding paragraphs.

#### 2.4.12.1 Lack of documented IT policy

Information Technology Policy ensures support of computing and communication resources to the Department in order to achieve compliance with requirements and effective use of resources, duly addressing the risks in

the best possible way. The IT policy needs to be prepared without ambiguity and approved by Senior Management. It has to meet the needs of CTD.

CTD does not possess an IT Policy that addresses the issues of using IT resources in accordance with applicable rules and objectives. Implementation of VATIS with the objectives of developing single core application was embarked upon<sup>44</sup> (August 2010) to take care of all the core tax functions, providing functionality as per the guidelines of the Government, offering quality service to the departmental staff as well as the dealers and to facilitate interface with other Government Departments. However, due to the lack of a documented policy addressing the alignment of requirements and implemented services, Audit could not check if the objectives had been completely achieved. The Government stated (November 2015) that the Department did not have an IT policy exclusive to it; however, such a policy including document retention policy would be formulated.

### **2.4.13 VATIS Implementation**

The implementation of VATIS began in February 2012 and the system switched over to maintenance mode from May 2013. Though CTD has accepted all the modules after testing, Audit found some deficiencies relating to data migration and processes covered under VATIS including lack of mapping of business rules, data inconsistencies etc., which have not been addressed even after two years of implementation. These are given below:

#### **2.4.13.1 Piecemeal approach adopted in developing the new VATIS software**

An agreement was concluded with LGS Global Ltd in April 2011. LGS was to start project implementation within 230 days of entering into contract. Requests for proposal (RFP) for the purpose of re-engineering VATIS was issued in August 2010 by the Government and upon evaluation of the bids received. The implementation, however, began 10 months after agreement i.e. from February 2012. The timeline was extended initially up to September 2012 and then to April 2013. The new software (re-engineered VATIS) development model was changed from originally planned waterfall approach (all changes at once) to iterative (module wise replacement) to save cost. Meanwhile, a module for registration of dealers was developed in parallel by Centre for Good Governance (CGG) which as per the orders of CCT (March 2011) was implemented in all divisions by June 2011. This was replaced by the registration module of the reengineered VATIS (February 2012).

Delivery of different modules took place on different dates from February 2012 (Registration module) to April 2013 (email/SMS to communication with Stakeholders). The developers were required to develop software in accordance with the System Requirement Specifications (SRS) and User Requirement Specifications (URS) which are to be frozen before implementation in order to ensure that development process is completed within timelines specified.

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<sup>44</sup> Date of RFP.

Audit observations pertaining to the contract for reengineering VATIS and its implementation revealed the following:

- System Requirements Specifications (SRS) document was prepared by the developer after implementation of all the modules (April 2013). This shows that the project was started without identifying the requirements of CTD and involving user groups which resulted in the creation of a system which did not meet the requirements of the Department. For example, as stated earlier in para 2.4.7.1, additional returns of VAT 200A and VAT 200B required for restricting the ITC are not being obtained from the dealers. Neither is there any provision for online submission of these returns. Audit observed that no requirement was projected with regard to this in the RFP, though filing of these additional returns is mandatory. Absence of facilities to automatically generate notices/reports also corroborates the fact.
- CTD had supplied (January 2013) IT related infrastructure to its branch offices without conducting requirement study, which is essential as different circle and divisional Offices handle varying quanta of work and manpower. The nature of transactions dealt with by them are different. It was noticed in audit that the number of systems supplied to branch offices were not as per strength of operating ACTOs, DCTOs, CTOs and DC.
- Department conducted module-wise testing of the application internally and gave acceptance to the developer in a phased manner along with implementation of the modules from February 2012 to April 2013 (final acceptance). Out of all the tests conducted before acceptance of the system, documentation exists only for the validation tests conducted by the developer. Audit also noticed that validation tests were conducted after implementation of the modules like audit, payment and registration. A stable production environment requires appropriate testing infrastructure. Before going for implementation of computer application, test data needs to be removed from the production database. It is observed that test cases were not separated (August 2014) from production data even though final acceptance had been given more than a year ago. These show that standard software development and testing practices were not followed.
- Change management process enables improvement of organisation's performance in relevance to the changes brought in to the existing system. Change management documentation ensures chronological recording of the changes adopted and becomes knowledge base for future changes to be made. Audit observed that workflow issues have not been documented and change management documentation was not produced to Audit in spite of repeated requests. Also, no third party or security audit was conducted during the period 2011-2014 for VATIS.

The Government, while responding to observation of inadequacy of documentation at the stage of requirement study and implementation, stated (November 2015) that requirement study had been conducted for VATIS by

constituting a committee with officials, trade representatives and IT experts. Regarding test data being present along with production data, it was stated that the testing platform has been completely separated and testing is currently being done using only test data. On the observations relating to not conducting a security/third party audit, it was stated that third party audit was conducted and they had issued a certificate in April 2015.

However, as seen from the documents, SRS was finalised after implementation, test data was present along with production data for more than a year after final acceptance and third party audit certificate was obtained two years after completion of implementation and acceptance.

#### **2.4.13.2 Incomplete data migration and inadequate data capture**

In the case of tax Departments like CTD, maintenance of legacy data is critical. It was observed that the data that was ported from the previous version of the VATIS was not in line with the new table structures. It was found that after migrating the data to the re-engineered VATIS from old VATIS, the data columns of the re-engineered VATIS were left empty or filled with universal data values, as no corresponding data value or column existed in the old VATIS. Thus due to ineffective data migration, CTD has to simultaneously maintain two databases, portals and associated infrastructure. It also necessitates users to hop through different portals and databases for report generation which is cumbersome to users.

Audit also observed that though it is mandatory to capture PAN, it was not captured with registration data of 69 dealers out of 27095 active VAT dealers and 3121 dealers out of 6198 active TOT dealers in the period 2011-14. Therefore, the data migration and data capture was not effective.

In respect of incomplete integration of old VATIS data with new VATIS data the Government stated (November 2015) it is difficult because the technology and table structures are different; however, the data pertaining to the period after June 2011 was 100 *per cent* consistent.

The Department needs to ensure that the data it requires is easily available and is consistent in order to ensure proper monitoring of dealers.

#### **2.4.13.3 Lack of portability of data from Debt Management Unit portal**

Before reengineering of VATIS, the departmental users were obtaining details pertaining to the demands of arrears by accessing the data residing on a separate Debt Management Unit portal (DMU). An observation on lack of reliable data in DMU portal had featured in Para 2.5.4 of CAG's Audit Report on Revenue Sector for the year ended March 2014.

It was found in audit that the data of arrears from DMU portal was not directly ported to the re-engineered VATIS but was re-entered into the application manually. As the DMU data itself was not found reliable, re-entering of such data into new VATIS requires assurance that the data entered is rectified while re-entering. However, no certification was obtained either from the

departmental officers concerned or from any third party service provider. The officials now cross check data in old VATIS/DMU with the data entered in new VATIS and also manual records of demand, collection and write off pertaining to the period before 2006 to arrive at arrears. This again necessitates users to hop through three different data groupings. This reveals lack of planning in data migration and porting.

#### **2.4.14 Processes covered under VATIS**

An analysis of data and application of VATIS revealed that VATIS was not being fully utilized by CTD, either due to non-incorporation of Rules/procedures or due to lack of data/awareness. None of the processes have been completely automated. Business rules like advance rulings and court judgments are not being mapped into system. The observations made are mentioned below:

##### **2.4.14.1 Registration**

When a dealer is applying for registration with CTD, the application must have adequate provisions for capturing important details like PAN of the dealer, the address and contact details, principal activities of the dealer and principal commodities he deals with.

A study of the registration module of the reengineered VATIS revealed that though application forms for registration as VAT dealer (VAT 100) or TOT dealer (TOT 001) could be filed online during the audit period, all the supporting documents still needed to be sent through post along with print outs of filled application forms. VATIS also allowed dealers to mention a maximum of only five principal activities and five principal commodities while applying. An analysis of data in respect of the 15 sample offices for the period 2011-14 revealed that the commodity details captured was 'others' in 5992 cases (dealers registered before reengineered VATIS) out of 34663 total VAT dealers. 36 such cases were registered under reengineered VATIS. Commodity wise reports cannot be generated in the absence of proper commodity classification. The details of commodities being dealt with by dealers are necessary to calculate tax liability and to monitor the transactions relating to evasion prone commodities.

Besides, Audit also noticed anomalies in available data like registration effect date being prior to application date in 7499 cases out of 27095 VAT dealers who were active during the period 2011-14 in the sample offices and in 2325 cases out of 6198 TOT dealers. The same error was observed in 36 registrations done after implementing of the present system.

##### **2.4.14.2 Returns**

As stated earlier, VAT 200A and 200B returns could neither be filed online nor could the details be entered in VATIS during the audit period. The calculation of tax liability/ITC claim thus require the dealer to manually file the return and the AA to manually account for the adjustments to be made on exempt transactions/sales.

VAT 200 returns also do not have commodity-wise data and details of sales/purchases (e.g. TIN of the dealer to whom a commodity was sold or from whom a commodity was purchased) but only tax rate-wise data.

Currently, from the data in VAT 200 returns, it is possible to check only if tax had been paid on the amounts declared by the dealer under each rate. There is no mechanism to capture commodity wise sales or purchases to verify whether the dealer was dealing only in goods for which he was registered, whether the commodity was classified under the correct Schedule and whether the taxes were paid accordingly. There is no mechanism to verify if there is any disparity in sales claimed to be made by a dealer, say A to another dealer B as neither A nor B has to disclose the buyer/seller details in their monthly returns. Thus, eReturns module of VATIS does not support cross checking of sales and purchases.

It was also observed that wherever revised returns were filed and payments made, the ledgers of the dealer and the payment status reports were showing a mismatch due to the Returns module not being updated even if Payment module was being updated.

Government stated (November 2015) that system of online submission of VAT 200A and VAT 200B would be implemented from 15 December 2015. However, it was checked and found that it was not implemented till the end of December 2015.

#### **2.4.14.3 Implementation of automatic notice and report generation**

VATIS does not alert users to convert TOT dealers to VAT dealers based on turnover. Though it was part of RFP, automatic notice and reminder generation, and their delivery through email and SMS is not fully implemented. Interest and penalty on belated/non-filing of returns or belated payment of tax is not automatically calculated. It is left to the assessing authority to manually scrutinise the returns and related documents and levy the demand.

An analysis of payment and dealer details available in VATIS package revealed that in 45728 cases of delayed submission of returns in Telangana, penalty and interest amounting to ₹ 104.13 crore was not realised during the period 2011-14. This could have been avoided by automating notice generation at least in cases of belated payment/filing of returns.

It was also observed that 1175 out of 13381 active dealers who were registered before March 2011 in the sample offices did not file monthly returns and total number of such pending returns is 9252 as on August 2014. Penalty at the rate of ₹ 2500 for each instance of non-filing is to be charged.

Analysis of data in VATIS package also revealed that both mobile and telephone numbers were not captured for 1206 out of 27095 active VAT dealers. For 1033 out of 27095 active VAT dealers and 1285 out of 6198 TOT dealers records, bank account number was not captured. For 325 out of total 34663 VAT dealers and 19 out of 27095 active VAT dealers email-id was not

captured. Lack of these data will hamper the efforts of CTD to automate notice and reminder generation.

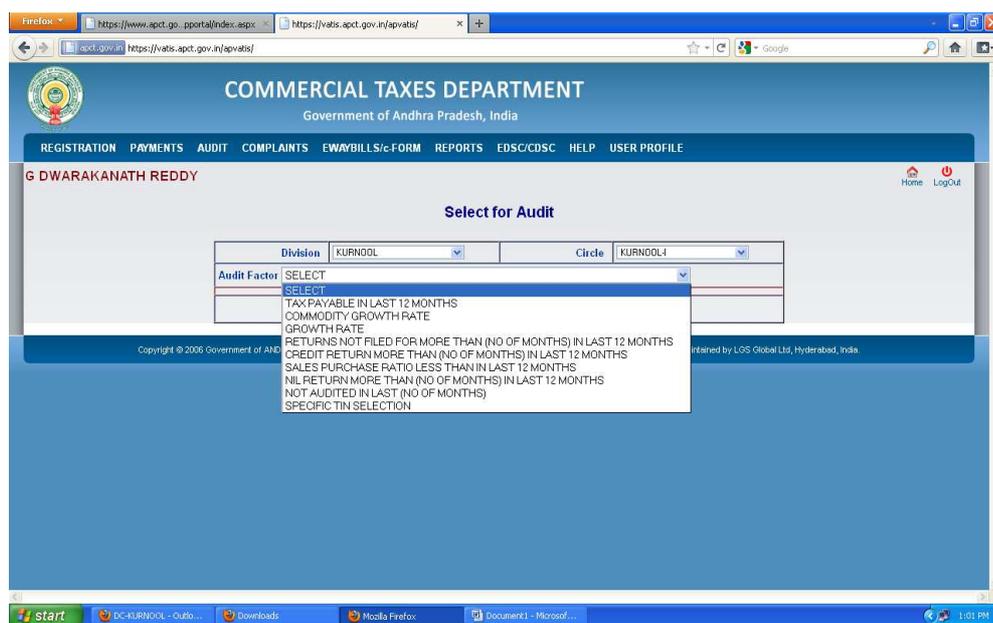
The Government stated (November 2015) that automatic generation of penalty notices was available in VATIS initially, but due to huge number of notices generated by the system even in the cases of small amounts, to avoid burden on the system the provision was consciously removed.

Since the Act provides for levy of penalty in the case of belated payments, automatic generation of demand and penalty is required.

#### 2.4.14.4 Audit

VAT Audit Manual being currently used by CTD was brought out in June 2012 five months after the implementation of reengineered VATIS which began in February 2012. Audit module was accepted and implemented from September 2012. A comparison between the Manual and the Audit module revealed the following:

- While the VAT Audit Manual gives 15 criteria for selection of dealers for general audit, only four of these have been mapped to VATIS Audit module.



In fact, while the Audit Manual clearly stipulates that top six *per cent* of the VAT dealers excluding LTU VAT dealers are to be audited every 12 months in each Division, data available in VATIS package clearly shows that in 13 circles covered under the sample that nearly 83 *per cent* of top 100 dealers who came under jurisdiction of the offices were not audited during 2013-2014.

Selection-parameter wise breakup (as available in VATIS) of 1583 audit authorizations in sample offices for the period April 2013 to March 2014 as recorded in VATIS is tabulated below:

Selection parameter	Audit cases
Nil return more than (no. of months) in last 12 months	2
Commodity growth rate	7
Returns not filed for more than (no. of months) in last 12 months	1
Sales purchase ratio less than in last 12 months	50
Credit return more than (no. of months) in last 12 months	166
Not audited in last (no. of months)	982
Growth rate	18
Specific TIN selection	164
Tax payable in last 12 months	193

This table clearly shows that audits were not selected based on parameters provided in the Manual. Selection of 164 dealers based on 'Specific TIN selection' (total 10.36 *per cent* of audit selections) shows that discretionary powers were exercised for selection of dealers for audit.

- VAT Audit Manual also calls for Specific Audit in (a) cases resulting from other audits where audit officers have identified evidence of serious fraud or based on information provided by intelligence and other agencies which require in-depth investigation and (b) cases where there is evidence of inter-state fraud or international fraud or investigation involving more than one division should be passed on to CIU / Enforcement Wing at Headquarters.

In VATIS audit module, data captured/processed pertaining to tax declared, waybills usage, check post data, belated registrations, revised returns and interest amounts payable are not furnished as inputs for selection for specific audit. Thus business requirements have not been mapped to implement in VATIS package for specific audits.

- Only active user\_ids with designation of DC or above can authorize VAT Audits as per business rules. An analysis of data relating to authorizations in VATIS package revealed that in four cases, authorization of audit of dealers coming under the sample offices was done by users whose user-ids were not present in user\_master table. In 1542 cases out of 3123 audits conducted (September 2012 to March 2014) of dealers in the sample offices it was observed that audit inspection details had been entered by junior assistants instead of the officers who conducted audit. These show that logical access controls are not in place in case of audit authorizations and entry of data relating to audit inspections.
- In 19 cases among the cases where audit inspection conducted during the period September 2012 to March 2014 in the sample offices resulted in additional demand. However, the additional demand amounts were posted to tables but no specific reason was assigned to the additional demand. VAT audit inspection details were also not available in another 19 cases (for the three month period from January to March 2014) in audit inspection table indicating inspection details

were not uploaded. These show that the Audit module is not being utilized by effectively by CTD.

- VATIS also does not provide results of VAT audit to CST assessment. Thus, a dealer can escape declaring his true turnover by declaring certain turnovers as relating to CST during VAT assessment and not declare it at the time of CST assessment, leading to loss of revenue to the Government.
- It was observed that in case of 334 out of 821 cases where additional demand was raised due to audit during September 2012 to March 2014 in the sample offices, it took more than 90 days to complete assessment after serving notice. This delay may result in assessments getting time-barred.
- In 13 cases relating to the sample offices in the period from September 2012 to March 2014, it was observed that VAT audit of dealers were done by same officers consecutively against the instructions<sup>45</sup> of CCT.
- It was observed that cancelled dealers are not being audited as per VAT Act and only 154 out of 3804 cancelled cases (from September 2012 to March 2014) in the sample offices were audited.

#### **2.4.14.5 Refund**

Currently, a dealer who is eligible can apply for refund of ITC while filing the monthly returns. Audits are usually conducted before authorization of refunds to verify the claims. This is done manually as it involves cross-verification of sales/purchase particulars with CTOs under whom the dealers having business transactions with the dealer claiming the refund are registered. Details are entered in Refund module only after refund is authorized. Even the voucher for refund payment is also generated manually. There is no provision for capturing voucher number and date of generation of voucher in the module. Audit test checked the data relating to refunds of the 15 sample offices where refunds had been authorized as per the VATIS package. A cross-verification of the manually maintained refund registers with VATIS data revealed that in three sample offices<sup>46</sup> there was mismatch in the number of refunds. There were three cases in two offices where corresponding register entries were not available though entries had been made in VATIS and 34 cases in which there were no corresponding entries in VATIS though refunds had been made as per refund registers.

#### **2.4.14.6 Grievance redressal**

An analysis of entries of the table 'CCRS\_FEEDBACK' in VATIS package relating to complaints received revealed that in 58 out of 445 complaints entered in VATIS from January 2013 to March 2014 relating to erstwhile combined State of AP, complaint details like the officer to whom complaint was addressed was not captured. Due to the faulty design of the form which

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<sup>45</sup> CCT's Ref.No. B.II(2)/122/2006 dated 4 October 2006.

<sup>46</sup> Begum Bazar, Punjagutta and Somajiguda.

allows such critical data to be omitted, these complaints could not be allocated to anyone for resolution.

#### **2.4.15 Data validation problems**

Audit observed while test-checking the data relating to sample offices that data validation checks that were supposed to be incorporated in the system were either not incorporated or incorrectly incorporated resulting in the following inconsistencies:

- For 27 out of 27095 active VAT dealers of sample offices, starting date of tax liability (first tax period date) was not within 30 days from approved registration date (RC-effect date).
- An analysis of data in the table relating to the details of quarterly returns filed by TOT dealers in VATIS showed that in 191 out of 986743 records available for the erstwhile combined State of AP for the period covered under audit, though details of returns were available, returns themselves were not available.
- It was also observed that there were five records in 'PAYMENT\_DTL' relating to the sample offices in the period covered under audit where 'tax period\_from' was later than 'tax period to'.

#### **2.4.16 Inadequate data capture**

Registration data of VATIS indicate status of the dealer as 'REGD' (Registered) and 'CNCL' (Cancelled) basing on the status of the dealer's registration. Dates of Registration or Cancellation were also captured to indicate change in dealer's status from active status to cancelled status. Audit observed in cases of cancelled dealer's data that the 'registration effective to' date was not recorded in 3803 out of 8733 cancelled dealers among 15 sample offices during the period covered under audit. Out of these cases, 917 cancellations were done after the introduction of re-engineered VATIS. This indicates that data capture is incomplete.

#### **2.4.17 Non-compliance with Citizen's charter**

The timeframe fixed for issue of registration certificate to the applicants (when pre-registration visit is required) is 24 days from application date excluding application date. In two cases of new registrations (out of 122 in sample offices in 2013-14) done with pre-visit requirement, Audit noticed that registration took more than 24 days.

As per Citizen's Charter of CTD, registration of dealers not requiring pre-visits is to be completed within six days of application. Audit observed from VATIS package that during the year 2013-14, registration of 126 VAT dealers not requiring pre-visit by the registering authority (out of 5993 registrations in sample offices) took more than six days which is not in line with the Citizen's charter.

#### **2.4.18 IT Security, monitoring of outsourced services and business continuity**

Security policy defines how an organisation plans to protect physical and information Technology (IT) assets that include servers, systems, software and data. For any IT system, it is important that sufficient measures be taken to ensure smooth functioning of critical functions even if disasters occur. This is especially so for a system like VATIS, which supports the CTD, the main revenue-earning wing of the State.

It is observed that risks associated with data and content management are not being adequately addressed. Outsourced service providers facilitate services of portal, and backup recovery issues and facility management services and CTD has not yet evolved a mechanism to maintain and manage data as per required retention period of CTD. There is no security policy drafted but for the items listed in System Requirement Specifications.

RFP 7.2 of annual maintenance contract (AMC) and facility management (FM) services prescribes maintenance of details of problems and issues related to application/ database/network failures and time taken to resolve them at branch offices/data centre chronologically through an automated tracking solution implemented by service providers. However CTD is yet to furnish details to Audit. In the same R.F.P, clause 3.2.1.1 stipulates virus protection services to IT infrastructure of the Department. However log of antivirus updating on client machines in branch offices was not available, leaving Audit with no assurance as to whether they were being updated. This indicates that performance of outsourced technical team (HCL) is not being monitored.

Backup activity of reengineered VATIS data and related information is being done at central office. However, Audit found in all the sample offices backup of branch office's assessment documents, notices, vakalat filings and other important documentation was neither done locally (CTO office) nor at central office as VATIS does not have a mechanism to backup these orders and documents. Thus, VATIS has only a superficial amount of data when compared to the physical documents available in unit offices.

Presence of disaster recovery site in the same city or geographical proximity does not address risks like earthquakes. It was observed that only one disaster recovery site is located that too within three km radius of main site which is not sufficient to ensure business continuity. From these, it is clear that the disaster preparedness of CTD is not adequate.

The Government accepted (November 2015) the audit observation of disaster recovery site being in the same city and promised to take action.

#### **2.4.19 Training and change management**

Training policy and implementation of the same is critical to inculcate awareness among users of IT infrastructure when new systems are introduced to ensure smooth transition. It is observed that CTD has no training policy. Audit also observed that user manuals have not been provided to local offices.

RFP stipulates change requests maintenance. However it was found that Change Management documentation was not available either with CTD or developers. Lack of change management documentation can cause problems with business continuity.

The Government stated (November 2015) that training was imparted to most of the officials in 2015 and help documentation was available online.

#### **2.4.20 Conclusion**

Audit found that CTD is not insisting on filing of returns and that the level of scrutiny of records is inadequate as was evidenced by non-levy of penalty/interest on non-filing of returns and belated payments. The selection of dealers for audit remains mostly discretionary. The checks prescribed are not completed and the documentation is inadequate in assessment files. Integration of various modules in and with VATIS is still incomplete. There is no assurance regarding integrity of data as there are problems associated with data migration as well as logical access controls. Filing of returns has not yet fully been made available online and a lot of critical data is still maintained at local offices which have no backup.

#### **2.4.21 Recommendations**

- Built in provisions for automatic scrutiny of returns when they are filed, and generation of penalty/demand notices in cases of non-filing and belated payment be introduced.
- Audit file tracking system may be integrated with VATIS so that the progress can be monitored. The checklist for the checks prescribed may also be integrated.
- Data in VATIS should be purged of inconsistencies and module integration taken up in a time-bound manner.

## **Audit observations**

*During scrutiny of records of the Offices of the Commercial Taxes Department relating to assessment and revenue collection towards VAT and CST, Audit observed several cases of non-observance of provisions of Acts/Rules, resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions are pointed out in audit every year, but not only do the irregularities persist; these remain undetected till an audit is conducted again. There is a need for improvement of internal controls so that repetitions of such omissions can be avoided or detected and rectified.*

### **2.5 Under-declaration of tax due to adoption of incorrect rate of tax**

Under Section 4(1) of the AP VAT Act, 2005<sup>47</sup> (VAT Act) tax on sales is to be levied at the rates applicable to the goods as prescribed in the Schedules to the VAT Act. Commodities not specified in any of these schedules fall under Schedule V and tax is to be levied at the rate of 14.5 *per cent*<sup>48</sup>. Works contractors who opt to pay tax under composition<sup>49</sup> are liable to pay tax at the rate of five *per cent*<sup>50</sup>.

Audit noticed (between January 2012 and January 2015) during the test check of VAT records of 26 dealers in 14 circles<sup>51</sup> for the assessment period from 2008-09 to 2013-14 that 11 works contractors who opted to pay tax under composition paid tax at the pre-revised rate of four *per cent* instead of five *per cent*. In two cases, the Assessing Authorities (AAs) while finalising assessments during April 2012 and February 2014 incorrectly exempted the sale turnover of stone ballast and alburel which were to be taxed at Schedule IV rates for the period 2008-09 to 2013-14. In 13 other cases, on the sale of commodities, viz., battery scrap, roofing material like purlin, galvalume galvanized coloured coated sheets, empty gas cylinders, electric meter, cables and scrap, ready to cook food, rubber scrap etc., which fall under Schedule V to the VAT Act, the AAs either levied tax at lesser rates or the dealers under-declared tax in their monthly VAT returns for the period 2009-10 to 2013-14. The application of incorrect rates of tax resulted in under-declaration/short levy of tax of ₹ 38.59 crore on the turnover of ₹ 428.41 crore.

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<sup>47</sup> Changed to Telangana VAT Act vide G.O.Ms. No. 32 dated 15 October 2014.

<sup>48</sup> Rate was revised from 12.5 *per cent* to 14.5 *per cent* with effect from 15 January 2010.

<sup>49</sup> Works contractors can pay tax in two ways – if they are under composition, they pay tax at a uniform rate on the entire value of the works contract. Otherwise they have to maintain accounts and pay tax on goods incorporated at the rates applicable.

<sup>50</sup> Four *per cent* before 14 September 2011.

<sup>51</sup> Afzalgunj, Ashoknagar, Basheerbagh, Fort Road, Gandhinagar, Hyderguda, IDA Gandhinagar, Marredpally, M.J.Market, R.P Road, S.D. Road, Special Commodities, Sultan Bazar and Vanasthalipuram.

After Audit pointed out the cases, the concerned AAs replied as follows:

Assessing Authority	No. of cases	Reply to audit observation	Audit's opinion
CTO Ashoknagar (June 2015)	One	DC (CT), Secunderabad dropped revision proposals after comparison with financial statements.	Reply is not relevant to the objection raised as the dealer had included supply of ballast under labour charges which cannot be verified from P&L Accounts.
CTO Gandhinagar (September 2014)	One	Levy of tax was correct as per STAT orders.	Neither reference to the STAT order nor a copy of the same was furnished.
CTO Hyderguda (November 2014)	Two	Tax at four <i>per cent</i> rate was being collected as per the Advance Ruling <sup>52</sup> that over the counter sales of sweets are covered under Schedule IV.	Reply is not tenable in light of the latest advance ruling in the case of 'Sweet magic' Vijayawada <sup>53</sup> , wherein it was clarified that counter sales of sweets are taxable at the rate applicable to schedule V of the VAT Act.
CTO M.J. Market (January 2015)	Two	Empty gas cylinders come under packing material (covered in Entry 90 of Schedule IV)	Entry 90 specifically excludes storage tanks. Punjab High Court has ruled <sup>54</sup> that in the case of dealers manufacturing LPG cylinders, the cylinders cannot be treated as 'packing materials'.
CTO Basheerbagh (May 2015)	One	VAT audit file was submitted to the DC (CT) Abids Division for revision.	
CTO, IDA Gandhinagar and S.D. Road (December 2012 to March 2015)	Ten	Demand notices were issued to the dealers.	
Seven CTOs <sup>55</sup> (February 2012 to November 2014)	Eight	The matter would be examined.	
CTO M.J. Market	One	No reply was furnished.	

The matter was referred to the Department between October 2012 and May 2014. Their reply has not been received (January 2016).

<sup>52</sup> PMP/P&L/AR.Com/10/2009 dated 30 July 2009.

<sup>53</sup> A.R.com/72/2012, dated 5 July 2013.

<sup>54</sup> W.P No. 16 of 2007 IOCL vs. State of Punjab dated 19 May 2009.

<sup>55</sup> Afzalgunj, Fort Road, Marredpally, R.P. Road, Special Commodities, Sultan Bazar and Vanasthalipuram.

## **2.6 VAT on works contracts**

### **2.6.1 Payment of VAT under non-composition method**

#### **2.6.1.1 Short levy of tax due to incorrect determination of taxable turnover under works contract**

Under Section 4(7) (a) of the VAT Act, tax on works contract is to be paid on the value of goods incorporated in the work at the rates applicable to such goods. To determine the value of goods incorporated, deductions prescribed under Rule 17(1) (e) of VAT Rules are to be allowed from the total consideration and the remaining turnover is to be taxed in proportion to the goods purchased at the rates applicable to them.

Audit noticed (between January 2013 and November 2014), during test check of the VAT assessment files of two DC(CT)s and three circles<sup>56</sup>, that the AAs while finalising the assessments in six cases for the years from 2008-09 to 2012-13 between February 2012 and February 2014, incorrectly determined the taxable turnover by allowing inadmissible deductions like bank interest, computer maintenance, advertising, office expenditure, books etc., from gross turnovers which were not prescribed under the rules. In three of the above cases, profit earned on labour charges was incorrectly determined. This resulted in short levy of tax of ₹ 8.24 crore.

After Audit pointed out the cases, in one case, DC(CT) Abids contended (February 2013) that profit earned on labour is to be calculated by applying the formula “profit x labour/material and labour”. The contention of the Department is not tenable as administrative and other expenses are also to be included in the denominator in the calculation. In one case, DC(CT) Secunderabad contended (April 2014) that the dealer while computing labour charges for claiming exemption, forgot to add charges incurred towards salaries of site staff, bonus and over time allowance paid to staff etc. The reply is not acceptable as expenditure on salaries paid to staff cannot be attributed to labour charges. In one case, CTO Srinagar colony stated (February 2015) that the audit file was submitted to DC(CT) Secunderabad Division for revision and in the remaining three cases two CTOs<sup>57</sup> stated (between March 2014 and September 2014) that the matter would be examined and report submitted in due course.

The matter was referred to the Department between October 2014 and June 2015. Their reply has not been received (January 2016).

#### **2.6.1.2 Short levy of tax on works contractors who did not maintain detailed accounts**

As per Rule 17(1) (g) of VAT Rules, if a works contractor has not maintained detailed accounts to determine the correct value of the goods at the time of

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<sup>56</sup> DC(CT)s-Abids, Secunderabad CTOs-Gandhinagar, Srinagar Colony and Tarnaka.

<sup>57</sup> Gandhinagar and Tarnaka.

incorporation, he shall pay tax at the rate of 14.5 *per cent*<sup>58</sup> on the total consideration after allowing permissible deductions. As per Government Orders<sup>59</sup>, printing and developing photographic films are to be treated as works contracts.

Audit noticed (between June 2014 and December 2014) during the test check of VAT audit files of three circles<sup>60</sup> that in three cases, for the period from 2009-10 to 2012-13, detailed accounts were not maintained by the dealers. Though assessments were to be done as per Rule 17(1)(g), the AAs exempted turnover of ₹ 15.48 crore incorrectly. This resulted in short levy of tax of ₹ 98.91 lakh.

After Audit pointed out the cases, all the CTOs stated (between June 2014 and December 2014) that the matter would be examined and report submitted in due course.

The matter was referred to the Department between December 2014 and June 2015. Their reply has not been received (January 2016).

## **2.6.2 Payment of VAT under composition method**

### **2.6.2.1 Short levy of tax on works contract under composition**

As per the provisions of Section 4(7) (b) of the VAT Act, under the scheme of paying tax under composition, any works contractor may opt to pay tax on the total consideration for works contract at five *per cent*<sup>61</sup>. As per Section 4(7)(e) of VAT Act, if any dealer who opts to pay tax under composition, procures goods from outside the State for using them in execution of works contracts, he shall pay tax on the goods at the rates applicable to them in the State. The value of such goods shall be excluded from the total turnover under composition on which tax at five *per cent* is payable.

During test check of VAT records of three circles<sup>62</sup> (between October 2013 and July 2014) for the period from 2009-10 to 2011-12 Audit noticed that in case of two works contractors who opted to pay tax under composition, the AAs while finalising the assessments (between May 2012 and January 2013) did not levy tax on the purchases of ₹ 36.11 crore made from dealers outside the State. In another case, the AA allowed exemption on an expenditure of ₹ 1.38 crore incurred towards labour charges though such exemption was not admissible if the dealer had opted to pay tax under composition. This resulted in short levy of tax of ₹ 4.76 crore.

After Audit pointed out the cases, in two cases, CTO Gowliguda and Madhapur stated (October 2013 and April 2014) that the matter would be examined and report submitted in due course. In the remaining case, CTO Vidyanagar stated (July 2014) that notice would be issued to the dealer.

<sup>58</sup> 12.5 *per cent* before 26 April 2010.

<sup>59</sup> Memo No. 47340/CT.II(i)/2006 dated 9 February 2007.

<sup>60</sup> Nampally, Nizamabad III and Srinagar Colony.

<sup>61</sup> Four *per cent* before 14 September 2011.

<sup>62</sup> Gowliguda, Madhapur and Vidyanagar.

The matter was referred to the Department between May and September 2015. Their reply has not been received (January 2016).

## **2.7 Interstate sales**

### **2.7.1 Incorrect grant of concessional rate of tax due to acceptance of invalid statutory forms**

According to Sections 6A and 8 of Central Sales Tax (CST) Act, 1956 read with Rule 12 of CST (Registration & Turnover) Rules, 1957 every dealer shall file a single declaration in form 'C' covering all interstate sales, which take place in a quarter of a financial year between the same two dealers to claim concessional rate of two *per cent* tax and form 'F' to cover all interstate transfer of goods other than sales every month to claim exemption. As per Section 8(2) of the Act, interstate sale turnover not covered by proper declaration forms shall be taxed at the respective State rates as applicable to all goods.

Audit noticed (between August 2013 and March 2015) during the test check of the CST assessments of DC(CT) Adilabad and 13 circles<sup>63</sup> that the AAs while finalising assessments in 14 cases between January 2012 and March 2014 for the years 2008-09 to 2010-11 incorrectly allowed concessional rate of tax on the interstate sales turnover of goods belonging to Schedules IV and V amounting to ₹ 33.97 crore on the basis of invalid 'C' forms i.e. local 'C' forms, forms covering more than a quarter etc. In two other cases, AAs while finalising assessments for the years 2009-10 to 2011-12 between June 2012 and March 2014, incorrectly exempted turnover on the branch transfer turnover of cotton and its by-products and drugs and medicines amounting to ₹ 3.96 crore on the basis of invalid 'F' forms, i.e. 'F' forms not signed by principal officer of other State, outdated 'F' forms issued for the State of Mysore etc. This resulted in short levy of tax of ₹ 3.69 crore in 16 cases.

After Audit pointed out the cases, in nine cases, DC(CT) Adilabad and seven CTOs<sup>64</sup> stated (between August 2013 and March 2015) that the matter would be examined and report submitted in due course. CTO, IDA Gandhinagar in one case relating to acceptance of local 'C' forms contended (September 2013) that as per the documents filed by the dealer, there was transfer of documents of title to the goods during the course of movement of goods from one State to another and hence the 'C' forms could be accepted. The reply is not acceptable as there was no movement of goods from one State to another and the transactions took place between two local dealers. In five cases, five CTOs<sup>65</sup> stated (between November 2013 and November 2015) that the assessment files were submitted to DCs (CT) concerned for revision. In one case, CTO Basheerbagh stated (November 2014) that notice would be issued to the dealer to produce records for verification.

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<sup>63</sup> Basheerbagh, Begumpet, Hyderguda, Hydernagar, IDA Gandhinagar, Keesara, Kothagudem, Lord Bazar, Nacharam, Saroornagar, Tarnaka, Vengalraonagar and Vidyanagar.

<sup>64</sup> Basheerbagh, Begumpet, Hyderguda, Hydernagar, Lord Bazar, Nacharam, and Tarnaka.

<sup>65</sup> Keesara, Kothagudem, Saroornagar, Vengalraonagar and Vidyanagar.

The matter was referred to the Department between October 2013 and June 2015. Their reply has not been received (January 2016).

### **2.7.2 Incorrect exemption on interstate transactions not covered by documentary evidence**

As per Sections 5, 6, 6A and 8 of CST Act read with Rule 12 of CST(R&T) Rules,

- (i) export of goods and goods sold for export are not to be taxed on production of documentary evidence such as bill of lading, purchase order and 'H' form in support of the transaction;
- (ii) sales during interstate transit are exempt from tax if they are supported by E1/E2 and C Forms;
- (iii) interstate transfer of goods to branches of the dealer are exempted on production of form 'F' for each month;
- (iv) interstate sales made to any unit located in SEZ is exempted from tax on production of Form 'I'.

If the dealer fails to file statutory forms, the transactions are to be treated as interstate sale not covered by 'C' form and tax levied under Section 8(2) of the Act at the rates applicable to such goods inside the State.

**2.7.2.1** During the test check of the CST assessment files of seven circles<sup>66</sup> for the period 2009-10 to 2011-12, Audit noticed (between February 2014 and January 2015) that in 12 cases where the assessments were completed between June 2012 and March 2014, the AAs incorrectly allowed exemption on a turnover of ₹ 32 crore representing export sales, transit sales, interstate SEZ sales and stock transfer of goods though not supported by proper documentary evidence. The incorrect exemption resulted in non-levy of tax of ₹ 3.33 crore.

After Audit pointed out the cases, three CTOs<sup>67</sup> (between June 2014 and January 2015) stated in five cases that the matter would be examined and report submitted in due course. In five cases, four CTOs<sup>68</sup> stated (between February 2014 and November 2015) that the files were sent to DCs(CT) concerned for revision. In the remaining two cases, CTO Bowenpally contended (July 2014) that as per verdict of Supreme Court<sup>69</sup> read with Commissioner's orders, submission of foreign buyer's purchase order is not mandatory and Form 'H' declaration was taken into consideration for finalizing the assessment. The reply of the Department is not tenable because the order of Supreme Court related to case of deemed exports whereas the objection was on non-production of evidence to the commercial taxes office to prove that the sales were made for export.

<sup>66</sup> Basheerbagh, Bowenpally, IDA Gandhinagar, Lord Bazar, Madhapur, Mehdipatnam and Saroornagar.

<sup>67</sup> Jeedimetla, Lord Bazar and Madhapur.

<sup>68</sup> Basheerbagh, IDA Gandhinagar, Mehdipatnam and Saroornagar.

<sup>69</sup> Consolidated Coffee Vs Coffee Board (1980), 46 STC 164 (SC).

The matter was referred to the Department between October 2014 and May 2015. Their reply has not been received (January 2016).

**2.7.2.2** Audit noticed (between November 2011 and January 2015) during test check of the CST assessment files of two circles<sup>70</sup> that the AAs, while finalising the assessments in two cases for the years from 2007-08 to 2010-11 between January 2011 and March 2014, levied tax at concessional rate, on turnover relating to transit sale covered by local 'C' forms which were however not supported by "E" forms. As the dealers did not file "E" forms the turnover should have been treated as local sales and tax to be levied accordingly. Thus, there was a short levy of tax of ₹ 5.01 lakh.

After Audit pointed out the cases, CTO Begumpet in one case, stated (November 2011) that notice was issued to the dealer and in the remaining case, CTO M.J. Market contended (January 2015) that the dealer effected transit sales and the goods have evidently moved from the other State; the delivery was taken by another AP State dealer which was evidence for the transit sales. The reply is not tenable as the dealer could be entitled to pay tax at concessional rates only on presentation of proper statutory forms.

The matter was referred to the Department in April 2012 and May 2015. Their reply has not been received (January 2016).

### **2.7.3 Non-levy of penalty for misuse of 'C' forms in interstate purchases**

As per Section 8(3)(b) of CST Act, a dealer registered under the Act shall mention the goods intended to be purchased from outside the State. These goods shall be included in the registration certificate. These goods are to be intended only for (i) resale; (ii) manufacture or processing of goods for sale; (iii) mining; (iv) generation or distribution of electricity or any other form of power; (v) packing of goods for sale/resale.

In Circular<sup>71</sup> dated 30 August 2012, CCT also clarified that works contractors are not entitled to issue C forms against the purchase of goods like plant and machinery, earth moving equipment etc. as works contracts cannot be treated as manufacturing or processing of goods.

Under Section 10A of CST Act, penalty not exceeding 1.5 times the tax which would have been levied is to be imposed if the dealer violates the provisions of Section 8(3)(b) of CST Act.

Audit noticed (between November 2013 and January 2015) during the test check of CST records of five circles<sup>72</sup> for the period from September 2007 to July 2013, that in six out of seven cases, dealers made interstate purchase of electrical goods, paints, colours, furniture, adhesive, timber and sizes, sanitary ware, batteries, drugs and medicines, refrigerators etc., which were not specified in their RCs. In the remaining case, a works contractor purchased

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<sup>70</sup> CTOs Begumpet and M.J. Market.

<sup>71</sup> CCT's Reference No. AII(2)/292/2012 dated 30 August 2012.

<sup>72</sup> Hydernagar, Begumpet, Nacharam, Punjagutta and S.D. Road.

earth moving equipment and issued 'C' forms against the purchases. These dealers thus misused 'C' forms as these purchases were in violation of provisions of Section 8(3)(b)(ii) of CST Act. Penalty on the turnover of ₹ 19.03 crore could have been levied (₹ 2.56 crore) if penal action under Section 10A of the CST Act had been taken for misuse of 'C' forms.

After Audit pointed out the cases, AAs stated in four cases (between December 2013 and September 2014), that the matter would be examined and report submitted in due course. In two cases, CTO Begumpet stated (November 2014), that notice would be issued and penalty collected. In one case, CTO S.D. Road stated (July 2015) that show cause notice had been issued to the dealer.

The matter was referred to the Department between November 2014 and July 2015. Their reply has not been received (January 2016).

#### **2.7.4 Short/ Non-levy of tax on interstate sales**

If the dealer fails to file statutory forms, transactions which involve interstate transfer of goods are to be treated as interstate sale not covered by 'C' form and tax levied under Section 8(2) of the Act at the rates applicable to such goods inside the State.

As per Government orders<sup>73</sup> the excess demands raised over the concessional rate of *two per cent* on interstate sale of rice not covered by 'C' form may be waived if the dealer produced triplicate copies of way bills by mentioning the names of check posts through which goods had been transported and gives references of relevant entries in the Registers maintained at the check posts.

Audit noticed (between June 2014 and March 2015) during the test check of the CST assessment files of 16 circles<sup>74</sup> that in three cases the AAs, while finalising the assessments (between March 2012 and March 2014) for the years 2008-09 to 2010-11 incorrectly allowed concessional rate of tax on the interstate sales of rice not covered by 'C' forms though the dealers did not fulfill the requirements. In one of these cases, though the dealer had filed triplicate copies of way bills, the names of check posts through which goods were transported were not mentioned. Verification of Goods Information System (GIS) data of two other dealers revealed that they transported lesser quantity of rice to other States than the turnover assessed. In 24 cases, incorrect rate of tax was allowed on the interstate sales/stock transfer of goods though not supported by statutory forms. This resulted in non-levy of tax of ₹ 1.25 crore in these 27 cases.

After Audit pointed out the cases, in 17 cases, AAs stated (between June 2014 and March 2015) that the matter would be examined. In 10 cases, eight

<sup>73</sup> Memo No.20354/CT-II (1)/2011-12 dated 8 June 2011.

<sup>74</sup> Bodhan, Bowenpally, Charminar, Fatehnagar, Gadwal, IDA Gandhinagar, Jeedimetla, Keesara, Madhapur, Malkajgiri, Nacharam, Narsampet, Saroornagar, Somajiguda, Vanasthalipuram and Warangal.

CTOs<sup>75</sup> stated (between August 2014 and November 2015) that files were sent to DCs concerned for revision.

The matter was referred to the Department between April 2015 and July 2015. Their reply has not been received (January 2016).

### **2.7.5 Short levy of tax due to incorrect computation of taxable turnover under CST Act**

As per Section 9 (2) of CST Act, the authorities empowered to assess and enforce payment of tax under general sales tax law of the respective State shall perform similar functions under CST Act as well.

During the test check of CST assessment files of five circles<sup>76</sup> for the period 2009-10 and 2010-11, Audit noticed (between October 2013 and February 2015) that in five cases, the AAs did not compute the taxable turnovers correctly due to non-comparison with Profit and Loss accounts, returns, allowing exemption on certain transactions like sale of software licences, etc. This resulted in short levy of tax of ₹ 62.31 lakh.

After Audit pointed out the cases, in one case, CTO Khammam - I stated (May 2014) that the matter would be examined and report submitted in due course. In one case, CTO Bhongir stated (July 2014) that the assessment would be revised. In one case, CTO Madhapur stated (October 2014) that the dealer was an exporter and filed clearance certificates issued by the Software Technologies Park of India (STPI) in support of the exemption. The reply is not tenable as the sale of licences was neither reported by the assessee nor assessed by the AA as exports. In the remaining two cases, CTOs Ferozguda and Tarnaka stated (April 2015 and August 2015) that the assessment file was submitted to DCs concerned.

The matter was referred to the Department between May 2014 and July 2015. Their reply has not been received (January 2016).

### **2.8 Non-levy of interest on belated payment of tax**

According to Section 22(2) of the VAT Act, if any dealer fails to pay the tax due on the basis of return submitted by him within the time prescribed, he shall pay, in addition to the amount of such tax or penalty or any other amount, interest calculated at 1.25 *per cent*<sup>77</sup> per month for the period of delay.

Audit noticed (between May 2012 and February 2015) during the test check of the VAT records of three DC(CT)s<sup>78</sup> and 11 circles<sup>79</sup> that 22 dealers paid tax of ₹ 87.13 crore for the assessment period 2005-06 to 2013-14 as declared in

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<sup>75</sup> Bowenpally, IDA Gandhinagar, Jeedimetla, Keesara, Saroornagar, Somajiguda, Vanasthalipuram and Warangal.

<sup>76</sup> Bhongir, Ferozguda, Khammam-I, Madhapur, and Tarnaka.

<sup>77</sup> One *per cent* before 15 September 2011.

<sup>78</sup> Adilabad, Begumpet and Hyderabad (Rural).

<sup>79</sup> Agapura, Basheerbagh, Fatehnagar, Hyderguda, Nalgonda, Narayanaguda, Punjagutta, Rajendranagar, Ramgopalpet, R.P. Road and Vanasthalipuram.

their monthly VAT returns with delay ranging from one day to 2002 days. In six of these cases, in six circles<sup>80</sup> where assessments were finalised, the AAs either did not levy or short levied interest on belated payment of tax. In one case, sales tax exemption sanctioned to a dealer for the period from March 2002 to March 2009 was cancelled by Director of Industries (August 2010) due to irregular sanction and the unit was asked to repay the amount availed. By the end of March 2013, the dealer paid back the amount of ₹ 11.68 crore availed during 2006-07 to 2007-08. However, AA did not levy any interest for the belated repayment. This resulted in non-levy/payment of interest of ₹ 4.14 crore in all 23 cases.

After Audit pointed out the cases, three DC (CT)s and five CTOs<sup>81</sup> in 11 cases stated (between March 2014 and January 2015) that matter would be examined and report submitted in due course. CTOs Agapura, Narayanaguda and Punjagutta in nine cases stated (between December 2013 and August 2015) that notices were issued to the dealers. In one case, CTO Rajendranagar stated (November 2015) that interest was levied but copy of demand letter was not furnished. CTOs Basheerbagh and Nalgonda in two cases stated (June 2012 to June 2014) that the files would be transferred to DCs(CT) concerned for revision.

The matter was referred to the Department between July 2013 and July 2015. Their reply has not been received (January 2016).

## **2.9 Input tax credit**

### **2.9.1 Under-declaration of tax due to incorrect claim of input tax credit**

Under Section 13(1) and 13(3) of the VAT Act, input tax credit (ITC) shall be allowed for the tax paid on all purchases of taxable goods, if such goods are meant for use in the business of the VAT dealer and he is in possession of tax invoices. Rule 20(2) of VAT Rules gives the list of goods on which a VAT dealer cannot claim ITC.

Audit noticed (between February 2014 and November 2014), during test check of VAT records of DC(CT) Punjagutta and five circles<sup>82</sup> that in three out of six cases, the dealers incorrectly claimed ITC amounting to ₹ 35.21 lakh on purchase of coal, cement used for own consumption and on inputs used in construction or maintenance of buildings though the dealers were not works contractors, for the period from 2006-07 to 2011-12. The claim of ITC in these cases were in contravention of provisions under Rule 20(2). In one case, a dealer claimed ITC of ₹ 1.48 lakh for the year 2011-12 on purchase of used vehicles without valid tax invoices. In one case, the dealer claimed ITC of ₹ 5.56 crore for the tax period from August to November 2010 on the purchases made from a dealer whose registration was cancelled. In the remaining case, ITC of ₹ 2.44 lakh claimed by a dealer during September

<sup>80</sup> Agapura, Basheerbagh, Hyderguda, Nalgonda, Rajendranagar and Vanastalipuram.

<sup>81</sup> DC(CT)s-Adilabad, Begumpet, Hyderabad (Rural) CTOs- Fatehnagar, Hyderguda, Ramgopalpet, R.P. Road and Vanasthalipuram.

<sup>82</sup> Hyderguda, Malkajgiri, Nalgonda, Vanasthalipuram and Vidyanagar.

2012 to March 2013 did not match with the sale details of the selling VAT dealer during cross verification. This resulted in incorrect claim of ITC of ₹ 5.95 crore in all six cases.

After Audit pointed out the cases, the AC(LTU) Punjagutta, CTOs Hyderguda and Nalgonda stated (between July 2014 and November 2015) that the audit files of the dealers were forwarded to DC(CT)s concerned for revision. CTO Vanasthalipuram in one case stated (July 2014) that matter would be examined and report submitted in due course. CTO Malkajgiri in one case, stated (April 2014) that the point has been noted and further action would be initiated in due course. In the remaining case, CTO Vidyanagar stated (February 2015) that a revised show cause notice was issued.

The matter was referred to the Department between November 2014 and May 2015. Their reply has not been received (January 2016).

### **2.9.2 Incorrect allowance of input tax credit to works contractor**

As per Section 13 of the VAT Act, no ITC is allowed if a works contractor opts to pay tax under composition scheme. If the works contractor is not paying tax under composition, the input tax credit shall be limited to 75 per cent<sup>83</sup> of the related input tax. As per Section 4(7)(i) read with amended provisions of Section 4(7)(d) of the VAT Act, the amount received as sub-contractor is exempt from tax if the main contractor opted to pay tax under composition.

Audit noticed (between June 2014 and January 2015), during test check of VAT records of six CTOs<sup>84</sup> that in four out of seven cases, for the period between April 2009 and October 2013, the AAs allowed 100 per cent ITC on purchases of works contractors instead of restricting it to 90 per cent/ 75 per cent. In one case, during the years 2010-11 to 2011-12, though there was no tax liability on sub-contractor, the main contractor transferred TDS to the sub-contractor and the sub-contractor claimed it as ITC. In another case, for the period between December 2010 and June 2012, the dealer executing works contracts, both under composition and non-composition, claimed ITC in full. In another case for the year 2013-14, a dealer who opted to pay tax under composition as per provisions of Section 4(7)(d) of the VAT Act claimed ITC. This resulted in incorrectly allowing excess ITC of ₹ 61.06 lakh in seven cases.

After Audit pointed out the cases, in three cases, CTOs General Bazar and Vidyanagar stated (November 2014 and July 2015) that revised show cause notices were issued to the dealers. In two cases, CTOs Gandhinagar and Vengalraonagar stated (July 2014 and September 2014) that the matter would be examined. In two cases, CTO Marredpally and Nizamabad II stated (November 2014 and December 2014) that the audit files would be submitted to DC concerned for revision.

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<sup>83</sup> It was 90 per cent before 15 September 2011.

<sup>84</sup> Gandhinagar, General Bazar, Marredpally, Nizamabad II, Vengalraonagar and Vidyanagar.

The matter was referred to the Department between October 2014 and June 2015. Their reply has not been received (January 2016).

### **2.9.3 Excess claim/allowance of input tax credit on exempt sales**

As per Section 13(5) of the VAT Act, no input tax credit (ITC) shall be allowed on sale of exempted goods (except in the course of export), exempt sales and transfer of exempted goods outside the State otherwise than by way of sale. As per Section 13(6) of the VAT Act, ITC for transfer of taxable goods outside the State otherwise than by way of sale (exempt transactions) shall be allowed for the amount of tax in excess of five *per cent*<sup>85</sup>.

VAT dealers making taxable sales, exempted sales and exempt transactions of taxable goods shall restrict the ITC claim as per Rule 20 of VAT Rules. As per entry 59 of Schedule I to the VAT Act, sales made to SEZ units is exempt from tax and no ITC is to be allowed on such sales.

During the test check of VAT records of DC(CT) Nalgonda Division and six circles<sup>86</sup> for the assessment period from 2008-09 to 2012-13, Audit noticed (between May 2011 and January 2015) that in VAT returns of four cases for the assessment period 2009-10 to 2010-11, though sale transactions involved taxable sales, exempt sales and also exempt transactions, the dealers had claimed ITC in excess, without proper restriction as per the formula prescribed. In five other cases, the AAs, while finalising the VAT assessments of the dealers between May 2012 to July 2013 for the assessment years 2008-09 to 2012-13 had not restricted ITC correctly as per provisions of Rule 20. This resulted in allowance of excess claim of ITC of ₹ 22.22 lakh in nine cases.

After Audit pointed out the cases, five CTOs<sup>87</sup> in seven cases, stated (between January 2014 and January 2015) that the matter would be examined and report submitted in due course. In one case, CTO Bhongir partially raised demand by revising the assessment. DC(CT), Nalgonda in one case, stated (November 2015) that assessment was revised duly levying tax but copy of revised assessment was not furnished.

The matter was referred to the Department (between November 2014 and July 2015). Their reply has not been received (January 2016).

### **2.9.4 Incorrect allowing of ITC on ineligible items**

As per Section 13(4) of the VAT Act read with Rule 20(2)(r) of VAT Rules, a VAT dealer cannot claim input tax credit on furnace oil and other fuels like LPG etc., used in manufacture or processing units. CCT clarified in Advance Ruling<sup>88</sup> that usage of LPG in hotels should also be treated as manufacturing activity.

<sup>85</sup> It was four *per cent* before 15 September 2011.

<sup>86</sup> Bhongir, Gandhinagar, Malkajgiri, Nacharam, Rajendranagar and S.D.Road.

<sup>87</sup> Gandhinagar, Malkajgiri, Nacharam, Rajendranagar and S.D.Road.

<sup>88</sup> Advance Ruling -A.R.Com/79/2012, dt.21 February 2013.

Audit noticed (between June 2014 and January 2015), during test check of VAT audit files of five circles<sup>89</sup> that in five cases, the AAs allowed ITC amounting to ₹ 22.63 lakh on purchase of LPG and furnace oil for the period from April 2009 to January 2013, though no ITC is allowable on these goods. This resulted in incorrect allowing of ITC of ₹ 22.63 lakh.

After Audit pointed out the cases, CTOs Malakpet and M.J.Market stated (June 2014 and January 2015) in two cases that the matter would be examined and report submitted in due course. In two cases, CTOs Marredpally and Srinagar Colony stated (January 2015 and February 2015) that the files would be submitted to DC(CT)s concerned. In the remaining case, CTO Basheerbagh stated (December 2014) that the records of the assessee would be called for and reply submitted on verification of facts.

The matter was referred to the Department (between October 2014 and April 2015). Their reply has not been received (January 2016).

### **2.9.5 Allowing of excess ITC on purchases**

Section 13 provides for allowing of ITC to dealers for the tax paid on purchase of taxable goods. As per Section 38 (1) (d) of the VAT Act, a VAT dealer who paid tax in excess of the tax due for a tax period may claim credit in the next tax return. As per Para 5.11.4 of VAT Audit Manual 2005, the audit officer auditing the accounts of a VAT dealer is required to cross-verify the details given by the dealer in VAT returns with the financial statements for the period.

Audit noticed (between March 2011 and January 2015) during the test check of VAT Audit records of six CTOs<sup>90</sup> for the assessment period from April 2010 to March 2013 that four out of six dealers dealing in alloy steel castings; non-ferrous castings and general engineering; cement & PVC pipes and hardware items declared purchase turnover of ₹ 16.67 crore in their VAT 200 returns, whereas the purchases as per Profit and Loss accounts was ₹ 14.80 crore only. The dealer claimed ITC as per the declared turnover whereas AAs did not reconcile the difference while finalising the assessments. In two other cases, the dealers incorrectly carried forward ITC of ₹ 4.34 lakh, which was disallowed in the previous assessment and one dealer incorrectly adjusted it against his tax liabilities. This resulted in excess claim of ITC of ₹ 14.43 lakh in six cases.

After Audit pointed out these cases, in one case CTO Balanagar stated (April 2015) that show cause notice was issued to the dealer. In the other four cases, four CTOs<sup>91</sup> stated (between May 2011 and January 2015) that the matter would be examined and reply furnished in due course and in the remaining case CTO Keesara stated (September 2015) that file sent to DC for revision.

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<sup>89</sup> Basheerbagh, Malakpet, Marredpally, M.J.Market and Srinagar Colony.

<sup>90</sup> Balanagar, Keesara, Khairtabad, Lord Bazar, Malkajgiri and Narsampet.

<sup>91</sup> Khairtabad, Lord Bazar, Malkajgiri and Narsampet.

The matter was referred to the Department between April 2015 and May 2015. Their reply has not been received (January 2016).

## **2.10 Levy of penalties under VAT**

### **2.10.1 Non-levy of penalty on belated payment of tax**

Under Section 51(1) of the VAT Act a dealer who fails to pay tax due on the basis of the return submitted by him by the last day of the month in which it is due, shall be liable to pay tax and a penalty of 10 *per cent* of the amount of tax due.

Audit noticed (between June 2012 and February 2015) during the test check of VAT records of two DC(CT)s and 14 circles<sup>92</sup> for the period 2005-06 to 2013-14 that in 48 cases the dealers paid tax of ₹ 16.06 crore as per the monthly returns submitted by them but after the last day of month in which it was due. The AAs did not levy penalty for belated payment of tax as required under Section 51(1) of the VAT Act. This resulted in non-levy of penalty of ₹ 1.61 crore.

After Audit pointed out the cases, in 14 cases, the AAs stated (between April 2014 and February 2015) that the matter would be examined and report submitted in due course. In nine cases, CTO Narsampet stated (June 2014) that action would be taken to collect the penalty. In 11 cases, four CTOs<sup>93</sup> stated (between June 2014 and November 2015) that notices were issued to the dealers. In three cases, three CTOs<sup>94</sup> stated (between June 2012 and June 2014) that files were sent to DC(CT) concerned. In 10 cases, four CTOs<sup>95</sup> stated (between May and November 2015) that penalty was levied. However, no documentary evidence was furnished by CTOs in proof of taking the demand to DCB Register. In the remaining case, CTO R.P.Road stated (January 2015) that penalty was levied but an appeal was pending before ADC.

The matter was referred to Department between November 2014 and July 2015. Their reply has not been received (January 2016).

### **2.10.2 Non/short levy of penalty for under-declaration of tax**

As per Section 53(1) of VAT Act, where any dealer has under-declared tax, and where it has not been established that fraud or willful neglect has been committed, if under-declared tax is (i) less than 10 *per cent* of the tax, a penalty shall be imposed at 10 *per cent* of such under-declared tax; (ii) more than 10 *per cent* of the tax due, a penalty shall be imposed at 25 *per cent* of such under-declared tax. Under Section 53(3) of VAT Act, any dealer who has under-declared tax and where it is established that fraud or willful neglect has

<sup>92</sup> DC(CT)s - Adilabad, Begumpet CTOs - Agapura, Basheerbagh, Bhongir, Fatehnagar, Gowliguda, Hissamgunj, Lord Bazar, Nalgonda, Nampally, Narsampet, Narayanaguda, Rajendranagar, Ramgopalpet and R.P.Road.

<sup>93</sup> Basheerbagh, Hissamgunj, Nampally and Narayanaguda.

<sup>94</sup> Basheerbagh, Bhongir and Nalgonda.

<sup>95</sup> Agapura, Bhongir, Gowliguda and Rajendranagar.

been committed, he shall be liable to pay penalty equal to the tax under-declared.

During the test check of the VAT audit files in 14 circles<sup>96</sup> during the period 2008-09 to 2012-13, Audit noticed (between October 2013 and November 2014) that in 11 out of 20 cases where the dealers under-declared tax of ₹ 1.1 crore which was more than 10 *per cent* of the total tax due, AAs levied penalty at less than 25 *per cent*. In one case, where a dealer under-declared tax of ₹ 7.62 lakh on which penalty at the rate of 10 *per cent* was leviable, AAs levied penalty of less than 10 *per cent*. In eight other cases, although the AAs recorded in their reports that the dealers under-declared tax of ₹ 5.70 crore willfully, AAs either did not levy or short levied penalty. This resulted in non/short levy of penalty of ₹ 3.27 crore.

After Audit pointed out the cases, in 13 cases, the AAs stated (between April 2014 and December 2014) that the matter would be examined and report submitted in due course. In four cases, four CTOs<sup>97</sup> stated (between June 2014 and November 2014) that the files would be sent to DC(CT)s concerned. In one case, CTO Kothagudem contented (June 2015) that the dealer paid tax by way of TDS and non-reporting of the turnover in VAT returns was due to non-receipt of TDS certificate (Form 501) at the dealer's end. The reply is not acceptable as there is no provision in VAT Act permitting dealers to declare their turnover only after TDS certificates have been received. In one case, CTO Agapura, did not furnish any specific reply to the audit query and in the remaining case CTO Saroornagar stated (November 2015) that the file was submitted to DC for revision.

The matter was referred to the Department between October 2014 and May 2015. Their reply has not been received (January 2016).

### **2.10.3 Non-levy of penalty for failure to register as VAT dealers**

Under Section 49(2) of VAT Act, any dealer who fails to apply for registration before the end of the month subsequent to month in which he was to register as a VAT dealer shall pay penalty of 25 *per cent* of the amount of tax due.

Audit noticed (September 2014) during the test check of VAT records in CTO Keesara circle for the period 2011-12 to 2012-13, that the Vigilance and Enforcement (V&E) Department obtained details of lease rentals of ₹ 4.94 crore received by eight unregistered dealers. Based on the reports, they were assessed and levied with VAT of ₹ 71.67 lakh under VAT Act. However, penalty under Section 49(2) was not levied for failure to register as VAT dealers. This resulted in non-levy of penalty of ₹ 17.92 lakh.

After Audit pointed out the cases, the AA stated (November 2015) that notices were issued. Orders will be passed accordingly. Action taken report would be submitted.

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<sup>96</sup> Agapura, Balanagar, Basheerbagh, Bhongir, Bowenpally, Khairatabad, Kothagudem, Madhapur, Nizamabad II, Nizamabad III, Rajendranagar, Saroornagar, Vanasthalipuram and Vengalraonagar.

<sup>97</sup> Bhongir, Nizamabad II, Rajendranagar and Vengalraonagar.

The matter was referred to the Department in January 2015. Their reply has not been received (January 2016).

#### **2.10.4 Short levy of penalty for using false tax invoice**

As per Section 55(2) of VAT Act, any dealer who issues false tax invoice or receives and uses a tax invoice knowing it to be false, shall be liable to pay a penalty of 200 *per cent* of tax shown on the false invoice.

Audit noticed (July 2014) during the test check of VAT assessments in CTO Vanasthalipuram circle that in one case, AA levied tax of ₹ 1.17 lakh for use of false tax invoice for the period February and March 2012. Penalty of ₹ 0.12 lakh at the rate of 10 *per cent* only was levied instead of ₹ 2.34 lakh at the rate of 200 *per cent* of tax shown on the false invoice. This resulted in short levy of penalty of ₹ 2.22 lakh.

After Audit pointed out the case, AA stated (July 2014) that the matter would be examined and report submitted in due course.

The matter was referred to the Department in October 2014. Their reply has not been received (January 2016).

#### **2.11 Non-levy of VAT on transfer of right to use goods**

As per Section 4(8) of VAT Act, every VAT dealer who leases out or licenses others to use taxable goods, for cash or consideration in the course of his business shall pay tax at the rates on the consideration as are applicable to the goods involved.

Audit noticed (between October 2013 and October 2014) during the test check of records of DC(CT) Hyderabad (Rural) and five circles<sup>98</sup> that in seven cases, the AAs while finalising the assessments for the years from 2007-08 to 2012-13 either did not levy or short levied tax on a turnover of ₹ 20.65 crore representing lease rentals of audio visual equipment, proclain, transport vehicles, machinery and concrete mixer. This resulted in non-levy of VAT of ₹ 2.54 crore.

After Audit pointed out the cases, the AAs in six cases replied (between February 2014 and October 2014) that the matter would be examined and result intimated in due course. In one case CTO Tarnaka replied (April 2015) that the audit file was sent to DC(CT) Secunderabad for revision.

The matter was referred to the Department between February 2014 and April 2015. Their reply has not been received (January 2016).

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<sup>98</sup> Fatehnagar, Madhapur, Malakpet, Narasampet and Tarnaka.

## **2.12 Sales tax incentives**

### **2.12.1 Non-levy of interest on belated repayment of sales tax deferment**

As per the provisions of Section 69 of the VAT Act, all sales tax exemption cases sanctioned prior to the enactment of VAT Act were converted as sales tax deferment by doubling the period left over without change in monetary limit of the amount sanctioned. Further, as per the Government orders<sup>99</sup>, repayment of deferred sales tax was to commence after the end of the period of deferment. In case of non-remittance of deferred tax on the due dates, interest at the rate of 21.5 *per cent* per annum was to be charged as per the guidelines of the sales tax deferment scheme.

Audit noticed (between June and November 2014) during test check of records of five circles<sup>100</sup> that in six cases, the dealers availed sales tax deferment but repaid the deferred tax amounting to ₹ 1.59 crore belatedly (delay of four to 730 days). The AAs however, did not levy any interest. This resulted in non-levy of interest of ₹ 18.72 lakh.

After Audit pointed out the cases, in two cases, CTO Ashoknagar stated (July 2015) that notices were issued to the dealers. In one case, CTO Bhongir stated (June 2014) that matter would be examined. In one case, CTO IDA Gandhinagar stated (February 2015) that notices would be issued to the dealer. CTO, Vanasthalipuram stated (November 2015) that interest was levied in one case. In the remaining case, CTO Marredpally stated (May 2015) that notice was issued to the dealer.

The matter was referred to the Department between November 2014 and July 2015. Their reply has not been received (January 2016).

### **2.12.2 Incorrect/excess availing of deferment**

As per Rule 67(2) of VAT Rules, the units already availing tax deferment prior to commencement of the VAT Act, shall continue to avail the benefit up to the period as mentioned in their final eligibility certificates (FECs). The tax deferment should be availed only for the products mentioned in FEC of the respective dealer.

Audit noticed (between June and November 2014) during test check of deferment records in two circles<sup>101</sup> that in one of the two cases, the AA while finalising assessment in May 2013 for the year 2007-08 adjusted an amount of ₹ 27.67 lakh to deferment whereas the actual output tax for the commodity mentioned in the FEC was ₹ 14.19 lakh only. In another case, the unit availed sales tax deferment of ₹ 1.05 lakh after completion of deferment period. This resulted in incorrect/excess availment of deferred tax of ₹ 14.54 lakh.

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<sup>99</sup> G.O.Ms.No.503, dated 8 May 2009.

<sup>100</sup> Ashoknagar, Bhongir, IDA Gandhinagar, Marredpally and Vanasthalipuram.

<sup>101</sup> Khammam I and Srinagar Colony.

After Audit pointed out these cases, in one case, CTO Srinagar Colony stated (February 2015) that the audit file was submitted to DC(CT) Punjagutta for revision and in the remaining case, CTO Khammam I stated (September 2015) that a demand of ₹ 1.05 lakh was raised and taken into Debt Management Unit (DMU) records and dealer paid partly an amount of ₹ 0.30 lakh. However, copy of DMU records was not furnished.

The matter was referred to the Department in November 2014 and January 2015. Their reply has not been received (January 2016).

### **2.12.3 Non/Short recovery of deferred sales tax**

As per Rule 67(5) of VAT Rules, the repayment of deferred tax shall commence after the completion of the deferment period.

Audit noticed (October 2013 and July 2014) during test check of deferment records in Afzalgunj and Madhapur circles that in four cases, the dealers availed sales tax deferment of ₹ 75.06 lakh for the period 1996-97 to 2008-09 which was to be repaid from February 2010 onwards. In one case, AA partly recovered an amount of ₹ 4.13 lakh out of sanctioned amount of ₹ 29.77 lakh and no recovery was made in the remaining cases. This resulted in non/short recovery of deferred sales tax of ₹ 70.93 lakh.

After Audit pointed out the cases, AAs stated that matter would be examined and report submitted in due course.

The matter was referred to the Department in March 2015. Their reply has not been received (January 2016).

### **2.13 Short levy of tax due to incorrect determination of taxable turnover**

As per Section 21 (4) of VAT Act, the authority prescribed may, based on any information available or on any other basis, conduct a detailed scrutiny of the accounts of any VAT dealer and where any assessment as a result of such scrutiny becomes necessary, such assessment shall be made within a period of four years from the end of the period for which the assessment is to be made.

Audit noticed (between June 2011 and December 2014) during the test check of VAT assessments and other VAT records of 17 circles<sup>102</sup> that in three out of 19 cases, the AAs for the years 2008-09 to 2011-12 under assessed the purchase turnover of bearings and receipts of royalty and warranty claims. In 13 cases, the AAs, assessed less sales turnovers than those reported in trading/profit and loss accounts. In one case, the dealer declared less sales turnover than those reported in trading/profit and loss accounts. In another case, SEZ sale turnover of ₹ 4.88 lakh as reported by the dealer for the year 2012-13 but not supported by documentary evidence was incorrectly

<sup>102</sup> Afzalgunj, Agapura, Begumbazar, Bodhan, Fatehnagar, Hyderguda, Jubilee Hills, Khairatabad, Malkajgiri, M.G.Road, Nampally, Saroornagar, Ramgopalpet, R.P.Road, Srinagar Colony, Tarnaka and Vidyanagar.

exempted. In the remaining case, for the year 2011-12 sale turnover of 'sugar' exempted by the AA was much higher than that of the turnover as per sales ledgers of the dealer. This resulted in short levy of tax of ₹ 96.50 lakh in 19 cases.

After Audit pointed out the cases, in eight cases, eight CTOs<sup>103</sup> stated (between September 2013 and January 2015) that the matter would be examined and report submitted in due course. In 10 cases, AAs stated (between March 2014 and November 2015) that the files were submitted to DCs(CT) concerned and revision was under process. In the remaining case, CTO Fatehnagar contended (November 2012) that the differential turnover related to high sea sales under CST Act. The reply is not tenable as the said turnover was not assessed under CST Act.

The matter was referred to the Department between March 2014 and May 2015. Their reply has not been received (January 2016).

#### **2.14 Short levy of VAT due to incorrect exemption**

As per Section 4(9)(c) of VAT Act, every dealer, whose annual total turnover is ₹ 1.5 crore and above shall pay tax at the rate of 14.5 *per cent* of the taxable turnover of the sale or supply of goods, being food or any other article for human consumption or drink. Sale of goods to any unit located in SEZ is exempted from tax as per entry 59 of Schedule I to VAT Act. However, supply of food to SEZ units does not qualify for such exemption.

Audit noticed (September 2014), during the test check of VAT assessment files in CTO Khairatabad that in one case, AA while finalising the assessment for the years 2011-12 to 2012-13 allowed exemption on a turnover of ₹ 3.69 crore being sale of food to a unit located in SEZ. This resulted in short levy of tax of ₹ 47.59 lakh.

After Audit pointed out the case, AA stated that the matter would be examined and report submitted in due course (January 2016).

The matter was referred to the Department in December 2014. Their reply has not been received (January 2016).

#### **2.15 Non-forfeiture of excess collection of tax**

As per provisions of Section 57(2) of the VAT Act, no dealer shall collect any amount by way of tax at a rate exceeding the rate at which he is liable to pay tax. If any tax is collected in excess of the liability, it shall be forfeited to the Government under Section 57(4) of the VAT Act.

Audit noticed (July 2014) during the audit of two circles<sup>104</sup> for the period from April 2011 to May 2013 that in two cases, tax of ₹ 14.19 lakh was collected in

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<sup>103</sup> Afzalgunj, Agapura, Begum bazar, Bodhan, Jubilee Hills, Khairatabad, Malkajgiri and M.G.Road.

<sup>104</sup> Malakpet and Tarnaka.

excess of tax liability. However, the AAs did not forfeit the same. This resulted in non-forfeiture of excess tax collections of ₹ 14.19 lakh.

After Audit pointed out the cases, AAs replied that the matter would be examined and report submitted in due course.

The matter was referred to the Department in November 2014. Their reply has not been received (January 2016).

### **2.16 Non-levy/declaration of purchase tax**

Under Section 4(4) of the VAT Act, purchase tax is to be levied on purchase of taxable goods made without paying tax (through purchase from unregistered dealers or if the selling dealer is not liable to pay tax) if the goods are used as inputs either for exempt products or for goods which are disposed of by any means other than by sale. Purchase tax is to be levied proportionately if the originally purchased goods are used as common inputs for products which separately necessitate and do not necessitate levy of purchase tax.

Audit noticed (September 2014) during the test check of VAT records of CTO Rajendranagar for the period from 2010-11 to 2012-13, that in one case, the dealer reported exempt transactions of gram and sale of exempted goods such as husk of pulses derived from taxable goods i.e., pulses. In this case, the dealer purchased taxable goods from unregistered dealers. Out of the total purchases of taxable goods worth ₹ 17.33 crore from unregistered dealers, the purchase price of ₹ 2.13 crore corresponding to the exempt transactions and exempt sales attracted purchase tax. However, neither had the dealer paid the tax nor was the same levied by the AA during VAT audit of the case (December 2013). This resulted in non-levy/declaration of purchase tax of ₹ 9.98 lakh.

After Audit pointed out the case, CTO Rajendranagar stated that the audit file would be submitted to DC(CT) Saroornagar for further verification.

The matter was referred to the Department in June 2015. Their reply has not been received (January 2016).

### **2.17 Short levy of tax due to arithmetical mistakes**

Levy of taxes under VAT Act is governed by Section 4 of the Act and tax under CST Act is levied under the provisions of Section 8 of CST Act.

Audit noticed (between June and October 2014) during the test check of three CST assessment files and two VAT audit files in four circles<sup>105</sup> that in three out of five cases, the AAs while finalising the assessments between March 2013 and March 2014 for the period 2009-10 and 2010-11, worked out the tax to be levied as ₹ 3.92 lakh instead of ₹ 11.54 lakh due to arithmetical errors, resulting in short levy of tax of ₹ 7.60 lakh. In one case, excess credit of

<sup>105</sup> Bowenpally, Fatehnagar, Hydernagar and Malakpet.

₹ 0.53 lakh was arrived at erroneously and in the remaining case, penalty was short levied by ₹ 0.58 lakh. Thus there was total short levy of tax/penalty of ₹ 8.73 lakh due to arithmetical errors.

After Audit pointed out the cases, three CTOs<sup>106</sup> in three cases stated (between July and October 2014) that the matter would be examined and report submitted in due course. CTO Hydernagar in two cases stated (September 2014) that the assessments would be revised.

The matter was referred to the Department between November 2014 and June 2015. Their reply has not been received (January 2016).

### **2.18 Loss of revenue due to non-finalisation of assessment**

As per Section 14 (3) of APGST Act, 1957, where any dealer liable to tax under the Act fails to (i) submit return before the due date prescribed, or (ii) produce the accounts, registers and other documents after inspection, or (iii) submit a return subsequent to the date of inspection, the assessing authority may, within a period of six years from the expiry of the year to which the assessment relates, issue a notice to the dealer and conducting enquiry assess to the best of his judgment, the amount of tax due from the dealer on his turnover for that year.

Audit noticed (April 2014), during test check of V&E records in CTO Narayanaguda circle that, in one case, the V&E Department had cautioned (January 2004) about the evasion of tax on works contract turnover not reported for the period 1997-98 to 1999-2000. However, the Department failed to take timely action and issued show cause notice (March 2008) after a lapse of four years from the date of receipt of information on evasion of tax. By the time, the assessments had become time barred. This resulted in loss of revenue of ₹ 7.40 lakh.

After Audit pointed out the case, the CTO Narayanaguda stated (November 2014) that the said reference of V&E was received from DC(CT) Abids in February 2008. When an attempt was made to finalise the assessment by issuing the show cause notices, the dealer's reply showed that the assessments were barred by limitation of time. There was no laxity on the part of CTO. The reply is not acceptable as the Department failed to ensure finalisation of assessment in time.

The matter was referred to the Department in December 2014. Their reply has not been received (January 2016).

### **2.19 Short levy of tax and penalty for failure to convert as VAT dealer**

Under Section 17(3) of the VAT Act, every dealer whose taxable turnover exceeds ₹ 50 lakh in the preceding 12 months shall be liable to be registered as a VAT dealer.

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<sup>106</sup> Bowenpally, Fatehnagar and Malakpet.

As per Section 49(2) of the VAT Act, any dealer who fails to apply for registration as required under Section 17 shall be liable to pay penalty of 25 *per cent* of the tax due prior to the date of registration.

Audit noticed (June 2014) during the test check of records of Turnover Tax (TOT) dealer of CTO Karimnagar-I that in one case, though the turnover of the dealer exceeded ₹ 50 lakh in preceding 12 months, AA did not convert the dealer to VAT dealer. On the turnover of ₹ 30.04 lakh that exceeded the threshold limit in this case, VAT of ₹ 4.05 lakh was not levied due to non-conversion as VAT dealer. The dealer was also to be levied with a penalty of ₹ 1.01 lakh for failure to register as a VAT dealer.

After Audit pointed out the case, the CTO Karimnagar-I stated (May 2015) demand had been raised against short payment of tax and notice was issued for non-payment of penalty. However, no documents were made available.

The matter was referred to the Department in November 2014. Their reply has not been received (January 2016).



***CHAPTER-III***

***STATE EXCISE  
DUTIES***



## CHAPTER III STATE EXCISE DUTIES

### 3.1 Tax administration

The Prohibition and Excise Department is governed by the Telangana Excise Act, 1968<sup>107</sup>. The Principal Secretary to Government, Revenue Department is the controlling authority at Government level. The Commissioner, Prohibition and Excise Department is the head of the Department in all matters connected with administration of the Act. He is assisted by Director of Enforcement for implementation of the Act. The ten districts of the State, each headed by a Deputy Commissioner (DC), are classified under 24 excise districts. Each of the excise district is under the charge of a Prohibition and Excise Superintendent (P&ES) who is assisted by the Assistant Excise Superintendent and other staff. Prohibition and Excise Inspectors are in charge of excise stations and check posts, while 10 Deputy Commissioners and 12 Assistant Commissioners supervise the overall functioning of the offices of Excise Superintendents.

### 3.2 Internal audit

Internal audit is an important mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. It is the responsibility of the Accounts Branch of the Head of the Department to conduct internal audit of the Regional Offices, District Offices, Unit Offices etc., periodically (at least once in a year) and furnish reports to the Commissioner.

No internal audit was conducted in the offices of Deputy Commissioners (10)/ Assistant Commissioners (12)/Prohibition and Excise Superintendents (24).

### 3.3 Results of audit

Test check of records of 30 offices of Prohibition and Excise Department conducted during the year 2014-15 revealed non-levy/short realisation of fees and other irregularities involving ₹ 3.41 crore in 70 cases which fall under the following categories:

**Table 3.1 : Results of audit**

(₹ in crore)			
Sl.No.	Category	No. of cases	Amount
1.	Non-levy of Additional Licence Fee	17	1.92
2.	Non-disposal of A4 shops	6	0.36
3.	Non-levy and collection of permit room licence fee	12	0.53
4.	Short levy and collection of toddy rentals	11	0.46
5.	Other irregularities	24	0.14
<b>Total</b>		<b>70</b>	<b>3.41</b>

<sup>107</sup> Previously known as “Andhra Pradesh Excise Act, 1968”, “Andhra Pradesh” substituted by “Telangana” vide G.O.MS No. 162 dated 10 September 2015 issued by Revenue (Excise-II) Department, Government of Telangana.

During the year 2014-15, Department accepted under-assessments and other deficiencies in 59 cases involving ₹ 1.76 crore. An amount of ₹ 1.64 crore in 53 cases was realised during the year 2014-15.

A few illustrative cases involving ₹ 89.11 lakh are mentioned in the succeeding paragraphs.

### **3.4 Short levy of Toddy rentals**

As per Rule 5(5) of The Telangana<sup>108</sup> Excise (Grant of Licence to sell Toddy, conditions of licence and Tapping of Excise trees) Rules 2007, read with Government orders<sup>109</sup>, the rent per toddy tree is ₹ 25 in rural areas and ₹ 50 in urban areas with effect from 01 October 2007.

Audit noticed (between September 2014 and February 2015) during test check of the records of seven offices<sup>110</sup> of the Prohibition and Excise Superintendents (P&ESs) that toddy rentals for 41 TCSs<sup>111</sup> and TFTs<sup>112</sup> in some areas were collected at the rates applicable in rural areas. Based on the classification of area as per Census-2011 by the Directorate of Census Operations, in 40 out of the 41 cases, the areas were to be classified as urban areas and rates applicable in urban areas were to be applied. In one case relating to an earlier period<sup>113</sup>, rentals were collected at rates applicable to rural areas though the area had been upgraded as Nagar Panchayat for which rates for urban areas are applicable. Application of incorrect rates in these cases resulted in short levy of toddy rentals of ₹ 26.52 lakh.

After Audit pointed out these cases, P&ES, Karimnagar replied (September 2014) that as per Excise Gazette 2011-12, TCSs Arepally, Rekurthy and Chinthakunta were in rural areas and therefore higher rates were not collected. However, the difference amount would be collected in respect of TCS, Huzurabad and TFTs, Husnabad and Jammikunta. The reply is not tenable as Commissioner (Prohibition & Excise) Andhra Pradesh had ordered<sup>114</sup> to collect the rentals in conformity with the Census-2011. Arepally and Chinthakunta were shown as urban areas under outer growth of Karimnagar Municipal Corporation and Rekurthy was declared as Census Town (CT) as per Census-2011.

P&ESs, Adilabad and Mancherial replied (between January 2015 and February 2015) that action would be taken to collect the balance amount from TCS/TFT and progress intimated to Audit in due course. Remaining P&ESs

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<sup>108</sup> Previously known as “Andhra Pradesh (Grant of Licence to sell Toddy, conditions of licence and Tapping of Excise Trees) Rules, 2007”, “Andhra Pradesh” substituted by “Telangana” vide G.O.MS No. 24 dated 4 September 2014 issued by Revenue (Excise-II) Department, Government of Telangana.

<sup>109</sup> G.O.Ms.No.1433, Revenue (Ex-III), dated 13 November 2007.

<sup>110</sup> Godavarikhani, Karimnagar, Khammam, Nalgonda, Miryalguda, Mancherial and Adilabad.

<sup>111</sup> Toddy Co-operative Societies.

<sup>112</sup> Tree for Tappers Scheme.

<sup>113</sup> October 2009.

<sup>114</sup> Circular no. 11565/2012/CPE/E1 dated 9 October 2012.

replied (between September 2014 and January 2015) that matter would be examined and Audit intimated.

The matter was referred to the Department in April 2015. Their reply has not been received (January 2016).

### **3.5 Non-levy of Additional Licence Fee (ALF) on non-contiguous additional enclosures**

As per Section 28 of the Telangana Excise Act, 1968, read with Rule 10 of Telangana<sup>115</sup> Excise (Grant of licence of selling by bar and conditions of licence) Rules, 2005, any additional enclosures for consumption of liquor, which is not contiguous, shall attract ALF at 10 *per cent* of the annual licence fee.

In terms of explanation given below the Rule 10, the word 'enclosure' means an area of consumption of liquor which is contiguous in utility for consumption. If one consumption enclosure is separated from another enclosure by non-contiguity and interposition of areas of different utilities other than consumption of liquor, it attracts ALF.

Audit noticed (between August 2014 and February 2015) during test check of the records of four offices<sup>116</sup> of P&ESs for the years 2011-12 to 2013-14 that the P&ESs did not levy 10 *per cent* additional licence fee of ₹ 23.60 lakh on five bar and restaurants having non-contiguous consumption enclosures like consumption halls situated in different places under different roofs of bar premises, different floors of bars connected externally by steps, rooms situated in different areas in which liquor was served and in open areas outside bars etc.

After Audit pointed out these cases, P&ES, Warangal, in one case, replied (September 2014) that the roof of the two RCC buildings were interconnected with fibre sheets under which the liquor serving area was located and hence there was contiguity. The reply is not tenable as the location of the bar premises as per the approved plan was in two different buildings with separate consumption enclosures and therefore to be treated as non-contiguous consumption enclosures. P&ES, Adilabad in one case, replied (February 2015) that Dy. Commissioner of P&E, Adilabad had verified the bar premises and found that consumption enclosures in the bars were contiguous. The reply is not acceptable as the layout plan submitted by the licensee showed that a consumer could enter into the bar consumption areas in upper floor through external staircase without entering the bar consumption area in ground floor and hence both the floors were non-contiguous.

<sup>115</sup> As per G.O.Ms No.9 Revenue (Excise-II) Department dated 27 January 2015 issued by Government of Telangana, provisions of Andhra Pradesh Excise (Grant of licence of selling by bar and conditions of licence) Rules, 2005 as applicable to the Andhra Pradesh State on 1 June 2014 were adapted to State of Telangana.

<sup>116</sup> Adilabad, Saroornagar, Secunderabad and Warangal.

P&ESs, Saroornagar and Secunderabad in three cases, replied (August and November 2014) that the matter would be examined and reply furnished to Audit in due course.

The matter was referred to the Department between September 2014 and April 2015. Their replies have not been received (January 2016).

### **3.6 Non/short levy of permit room<sup>117</sup> licence fee**

As per Section 28 of the Telangana Excise Act, 1968, read with Rules 25 and 26 of Telangana<sup>118</sup> Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012, upto the year 2012-13, the holder of Licence (in Form A-4) in places other than municipalities and municipal corporations where population exceeds 5000 shall also be licensed in Form A-4(B) to have a Permit Room on payment of licence fee of ₹ one lakh for a year or part thereof. However, from the year 2013-14 onwards, all A4 licencees in all places where population exceeds 5,000 shall also be licenced in Form A-4(B) to have a permit room on payment of ₹ two lakh for a year or part thereof.

Audit noticed (between September and November 2014) during the scrutiny of A4 shop files of five offices<sup>119</sup> of the P&ESs, that licence fee for permit rooms amounting to ₹ 17.83 lakh for the licence period 2012-13 and 2013-14 in respect of 18 shops was either not levied or levied short, in spite of the fact that the population of the villages, in which these shops were situated, exceeded 5000 as per Census-2011.

After Audit pointed out these cases, P&ES, Sangareddy in three cases, replied that licence fee was collected proportionately as the allotment of shops was made in the third and fourth round notification. The action of the Department was not in accordance with the relevant Rules as full licence fee was leviable even for part of year.

P&ES, Medak in nine cases, replied that Gajwel Nagar Panchayat was considered as a third grade municipality and therefore permit room licence was not given. The reply is not tenable as Nagar Panchayats were not to be classified as municipalities as per Government Order<sup>120</sup> dated 23 January 2001 and hence permit room fee was to be levied.

P&ESs, Godavarikhani, Saroornagar and Adilabad in two cases each replied that the matter would be examined and reply furnished to Audit in due course.

The matter was referred to the Department in January 2015. Their reply has not been received (January 2016).

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<sup>117</sup> Consumption area adjacent to the liquor shop.

<sup>118</sup> As per G.O.Ms No.85 Revenue (Excise-II) Department dated 29 June 2015 issued by Government of Telangana, provisions of Andhra Pradesh Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012 as applicable to the Andhra Pradesh State on 1 June 2014 were adapted to State of Telangana.

<sup>119</sup> Adilabad, Godavarikhani, Medak, Sangareddy and Saroornagar.

<sup>120</sup> G.O Ms.No.25 MA&UD (J2) Department, dated 23 January 2001.

### 3.7 Short fixation of licence fee for liquor shops

As per Section 28 of the Telangana Excise Act, 1968, read with Rule 16 of Telangana Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012, the annual licence fee for liquor shop (A-4 shops) shall be levied on the basis of population and at the rates notified by the Government from time to time.

Government in their order<sup>121</sup> dated 22 June 2013 notified various rates of annual licence fee applicable for liquor shops for the year 2013-14 on population basis. It was also provided therein that the fixation of licence fee for the shops situated in a village/town which are within a radius of two km from the Municipalities shall be at the rates applicable to the shops situated within the limits of such municipalities.

During the scrutiny of records of three offices<sup>122</sup> of the P&ESs, Audit noticed (between September 2014 and February 2015) that population of the area had increased due to inclusion of certain Gram Panchayats and Nagar Panchayats (between March and June 2013) in nearby Municipal limits and therefore higher licence fee in accordance with population figures should have been fixed in respect of five shops for the year 2013-14. The Department fixed the demand for ₹ 1.63 crore as against ₹ 1.78 crore calculated based on revised population figures. This resulted in short fixation of annual licence fee of ₹ 15.50 lakh for the licence period 2013-14.

After Audit pointed out these cases, P&ES, Medak in two cases, replied (September 2014) that there was no loss to the Government as the dealers had to pay the privilege fee for the extra quantity of liquor lifted by them over and above seven times the licence fee collected. The reply is irrelevant as fixation of annual licence fee of liquor shops and collection of privilege fee are two different aspects and the dealers have to pay licence fee irrespective of the quantity of liquor lifted by them during the year.

P&ES, Nalgonda in one case, replied (October 2014) that due to renewal of existing licence, fresh licence was not issued and the licence fee for the year 2013-14 was at the rates applicable for the year 2012-13. The reply is not tenable as the population of the places where the A4 shop was situated, had increased as per the Census 2011 and revised rates as per the increased population should have been collected.

P&ES, Adilabad in two cases, replied (February 2015) that action would be taken to collect the differential licence fee.

The matter was referred to the Department in January 2015. Their replies have not been received (January 2016).

<sup>121</sup> G.O.Ms.No.358 Revenue (Excise-II) Department dated 22 June 2013.

<sup>122</sup> Adilabad, Medak and Nalgonda.

### **3.8 Non-levy of interest on belated payments of permit room licence fee**

As per Section 28 of the Telangana Excise Act, 1968, read with Rule 26 of Telangana Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012, the licence fee for a Permit Room shall be ₹ one lakh for the licence period or part thereof and is payable in lumpsum at the time of completion of formalities specified under Rule-16. Government enhanced the amount of licence fee to ₹ two lakh in June<sup>123</sup> 2013.

As per Rule 3 of AP Excise (Levy of Interest on Government Dues) Rules, 1982, the arrears of money recoverable shall bear interest at the rate of 18 *per cent* per annum.

Audit noticed during the scrutiny of A4 shop files for the years 2012-13 and 2013-14 in five offices<sup>124</sup> of the P&ES, that in 266 cases, licensees had paid permit room licence fee belatedly with delays ranging from one to 273 days. However, no penal interest was levied by the Department. Interest to be levied on belated payments amount to ₹ 5.66 lakh.

P&ES, Jagtial replied (September 2014) that the interest would be collected from the licensees and remitted to Government treasury after receipt of clarification from the Commissioner. However, no clarification was required as the provisions were clear. P&ESs, Mahabubnagar and Kamareddy replied (December 2014) that action would be taken to collect the penal interest. Remaining P&ESs replied that the matter would be examined and detailed reply furnished to Audit in due course.

The matter was referred to the Department between January and April 2015. Their replies have not been received (January 2016).

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<sup>123</sup> G.O.Ms.No.357, Revenue (Excise-II) Department, dated: 22 June 2013.

<sup>124</sup> Jagtial, Kamareddy, Mahabubnagar, Nagarkurnool and Nizamabad.

***CHAPTER-IV***

***STAMP DUTY AND  
REGISTRATION FEES***



## CHAPTER IV STAMP DUTY AND REGISTRATION FEES

### 4.1 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899 (IS Act), Registration Act, 1908 and the rules framed thereunder as applicable in Telangana State and are administered at the Government level by the Principal Secretary (Revenue). The Commissioner and Inspector General of Registration and Stamps (CIGR) is the head of the Department, who is empowered with the task of superintendence and administration of registration work. He is assisted by six Deputy Inspectors General (DIG), 22 District Registrars/Asst. IGs (DR/AIG) and 198 Sub-Registrars (SR) respectively.

### 4.2 Internal audit

There is a separate Internal audit wing in the Department to examine the lapses of the registering officers if any, in the cases of undervaluation of properties registered which cause loss of revenue to the State exchequer. Monthly Audit programmes are drawn up and teams consisting of District Registrar (Market Value & Audit) and Sub Registrar (Market Value & Audit) would conduct Audit of Sub Registrars (SRs) and District Registrars (DRs) of the State as per the given programme. An officer in the rank of Deputy Inspector General (Registration & Stamps) would supervise and review the audit procedures.

### 4.3 Results of audit

Test check of records of 72 offices of District Registrars and Sub Registrars conducted during 2014-15, showed non/short levy of stamp duty and registration fees etc. and other irregularities amounting to ₹ 24.66 crore in 360 cases, which fall under the following categories:

**Table 4.1 : Results of audit**

(₹ in crore)			
Sl.No.	Category	No. of cases	Total
1.	Short levy of duties	272	16.53
2.	Misclassification of documents	23	1.88
3.	Undervaluation of properties	35	3.09
4.	Adoption of incorrect rates	17	0.32
5.	Other irregularities	13	2.84
<b>Total</b>		<b>360</b>	<b>24.66</b>

During the year 2014-15, the Department accepted under-assessments and other deficiencies in 68 cases involving ₹ 89.55 lakh. An amount of ₹ 76.25 lakh in 51 cases was realised during the year 2014-15. A few illustrative cases involving ₹ 10.52 crore are mentioned in the succeeding paragraphs.

#### **4.4 Short levy of duty due to undervaluation of properties**

Stamp duty to be levied on a deed covering any transaction of property depends on the market value or consideration whichever is higher. The Market Value Register of the Department of Registration and Stamps gives the market values of different types of properties and structures while the provisions of the Indian Stamp Act specify the rates at which duty is to be levied.

During test check of records of five District Registrars<sup>125</sup> and 10 Sub Registrars<sup>126</sup>, Audit noticed (between August 2014 and March 2015) that while registering 118 sale deeds, seven gift deeds, four Agreement of Sale cum General Power of Attorney deeds, two Partition deeds, one Release deed, one settlement deed and one Development Agreement between April 2012 and March 2014, the registering officers undervalued the properties for various reasons as mentioned in **Annexure I**.

Undervaluation of these properties resulted in short levy of stamp duty, transfer duty and registration fees of ₹ 2.50 crore.

After Audit pointed out these cases, Sub Registrar, Nizamabad (Rural) replied that the stamp duty was levied as per rates prescribed for residential areas in the market value guidelines register. The reply is not acceptable as the property was located in the commercial area, and hence the rates as applicable to commercial areas were to be adopted. The remaining registering officers replied that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June 2015 and July 2015. Their replies have not been received (January 2016).

#### **4.5 Short levy of stamp duty and registration fees due to misclassification of documents**

Schedules I and I-A to the Indian Stamp Act give the rates to be adopted for each type of document. The documents are to be classified as per the clauses contained in it and not according to the title of the deed.

Audit noticed (between May 2011 and January 2015) during test check of records of District Registrar, Rangareddy (West) and 10 Sub Registrars<sup>127</sup> that 15 sale deeds, three mortgage deeds, three partition deeds, two cases each of dissolution of partnership deeds, conveyance deeds, reconveyance of mortgage deed and one Agreement of Sale cum General Power of Attorney were misclassified and lesser stamp duty levied. This resulted in short levy of stamp duty, transfer duty and registration fees amounting to ₹ 1.84 crore as detailed in **Annexure II**.

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<sup>125</sup> DRs- Hyderabad, Hyderabad (South), Karimnagar, Rangareddy (East), Rangareddy (West).

<sup>126</sup> SRs Chevella, Doodhbowli, Golkonda, Ibrahimpatnam, Kukatpally, Narapally, Nizamabad (Rural), Rajendranagar, Uppal and Wanaparthy.

<sup>127</sup> Champapet, Chikkadpalli, Gandipet, Kalwakurthy, Karimnagar (Rural), Kukatpally Siddipet (Urban), Uppal, Vallabhanagar and Vikarabad.

After Audit pointed out these cases, Sub Registrar, Siddipet (Urban) replied (June 2014) that notices would be issued. Sub Registrar, Gandipet replied (November 2014) that the amount would be collected. In the remaining cases, the registering officers replied (between May 2011 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between May and July 2015. Their replies have not been received (January 2016).

#### **4.6 Short levy of stamp duty on amalgamation deeds**

As per Article 20 (d) read with Article 21 of IS Act, in the cases of amalgamation or merger of companies under the order of High Court, stamp duty is to be levied at two *per cent* on the market value of the property which is being transferred. Market value would include the amount of total value of the shares issued or allotted by the transferee company and the amount of the consideration paid for such amalgamation or merger. The value of the share shall be its average price on the day of the instrument.

Audit noticed (January 2015) in two District Registrars<sup>128</sup> that in the cases of two amalgamation deeds, the registering authorities adopted nominal share price as mentioned in the document as the market value instead of the share price quoted on the stock market as on the date of Amalgamation Order issued by the Court. This resulted in undervaluation of properties and subsequent short levy of duties of ₹ 1.19 crore.

After Audit pointed out these cases, the registering authorities replied (January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.7 Short levy of stamp duty and registration fees on lease deeds due to non-inclusion of service tax paid by lessee on lease rentals**

Article 31(a) of Schedule I-A to the IS Act, prescribes the stamp duty to be levied on leases. As per Explanation to the Article *ibid*, if the lessee undertakes to pay any recurring charge on behalf of the lessor including taxes/fees due to the Government, it shall be taken to be part of the rent and duties levied accordingly. Service tax falls under this category.

Audit noticed (between June 2014 and January 2015) during test check of records of offices of two District Registrars<sup>129</sup> and three Sub Registrars<sup>130</sup> that on seven lease deeds registered between November 2011 and November 2013, the registering authorities, while registering the documents, did not consider

<sup>128</sup> Hyderabad (South) and Rangareddy (West).

<sup>129</sup> Hyderabad, Rangareddy (West).

<sup>130</sup> Champapet, Kapra and Malkajiri.

the service tax component of ₹ 106.36 crore payable by lessees on behalf of the lessors while calculating duties to be paid on lease rentals. This resulted in short levy of stamp duty and registration fees of ₹ 1.15 crore.

After Audit pointed out these cases, the Sub Registrar, Champapet contended (November 2014) that service tax is not part of the lease rent requiring levy of stamp duty. The reply is not correct as per the explanation cited. In the remaining cases, the registering authorities replied (between June 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between May and July 2015. Their replies have not been received (January 2016).

#### **4.8 Short levy of stamp duty on DGPA's due to undervaluation**

Under Article 6(B) of Schedule I-A to IS Act, read with Government Orders<sup>131</sup>, Development Agreements-cum-General Power of Attorney (DGPA) are to be charged with stamp duty at one *per cent* on the higher of the following: (i) amount of sale consideration (ii) market value or (iii) estimated market value for land and complete construction valued as per the schedule of the rates approved by the Commissioner.

Audit noticed (between June 2014 and March 2015) during test check of records of offices of four District Registrars<sup>132</sup> and four Sub Registrars<sup>133</sup> that in 12 out of 16 DGPA's registered between May 2012 and January 2015 for development of the land by building multi-storied residential/commercial complexes, the registering authorities did not consider the complete built up area such as landowners' share of structure, parking, stilt etc for computation of market value of the properties. In two cases, higher rate for the structure as agreed to be paid by the builder to the land owner was not considered for levy of stamp duty. In two other cases, the properties were not valued as per the market value guidelines. Thus, the properties registered were undervalued. This resulted in short levy of stamp duty of ₹ 1.12 crore.

After Audit pointed out these cases, District Registrar, Hyderabad (South) replied that notices would be issued to the parties for collection of duties. The remaining registering authorities replied (between June 2014 and March 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.9 Short levy of stamp duty on development agreement**

As per Article 6(B) of Schedule I-A to the IS Act read with Government Order<sup>134</sup>, stamp duty is to be levied on Development Agreements at

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<sup>131</sup> G.O.Ms.No.1481 Revenue (Regn-I) Department, dated 30 November 2007 and G.O.Ms.No.568 Revenue (Regn-I) Department, dated 01 April 2008.

<sup>132</sup> Rangareddy (East), Rangareddy (West), Hyderabad, Hyderabad (South).

<sup>133</sup> Kukatpally, Peddapalli, Rajendranagar and Saroornagar.

<sup>134</sup> G.O.Ms.No.1481, Revenue (Regn-I) Department, dated 03 December 2007.

five *per cent* on the higher of the following: (i) the amount of sale consideration; (ii) market value of property or (iii) estimated market value for land and complete construction in accordance with schedule of rates.

Audit noticed (January 2015) during test check of records of District Registrar, Rangareddy (West), that in respect of a development agreement registered in November 2012, the registering authority adopted lesser area of construction than the area of construction sanctioned by the Greater Hyderabad Municipal Corporation. This resulted in undervaluation of property and subsequent short levy of stamp duty of ₹ 40.27 lakh.

After Audit pointed this out, the District Registrar, Rangareddy (West) replied (January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.10 Short levy of stamp duty on AGPAs**

As per Article 6(B) of Schedule I-A to IS Act, read with Government Orders<sup>135</sup>, stamp duty to be levied on Agreements of sale coupled with General Power of Attorney (AGPA) is six per cent on consideration or market value of the property, whichever is higher.

Audit noticed (between August 2014 and January 2015) during test check of records of offices of District Registrar, Hyderabad and two SRs<sup>136</sup> that on 112 AGPA documents involving properties worth ₹ 158.70 lakh registered after 20 September 2010, the registering authorities levied stamp duty at the rate of less than six *per cent*. This resulted in short levy of stamp duty of ₹ 14.81 lakh as detailed in **Annexure III**.

After Audit pointed out these cases, the registering authorities replied (between August 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

#### **4.11 Short levy of duties on lease deeds**

As per Article 31(a)(vi) of Schedule I-A to IS Act read with Government Order<sup>137</sup> dated 11 May 2010, (i) if lease period is between five and 10 years, stamp duty is to be levied at the rate of five *per cent* on 1.5 times average annual rent (AAR) and (ii) where the lease period exceeds 30 years, stamp duty should be levied at five *per cent* on the value of the property under lease as declared by the party. Registration fee is to be levied at 0.5 *per cent* on 10 times AAR.

<sup>135</sup> G.O.Ms.No.1178, Revenue (Regn.-I) Department, dated 16 September 2010.

<sup>136</sup> Ibrahimpatnam and Vanasthalipuram.

<sup>137</sup> G.O.Ms.No.408 Rev (Reg-I) Dept, dated 11 May 2010.

Audit noticed (between January 2013 and January 2015) during test check of records of two District Registrars<sup>138</sup> that in two lease deeds registered between April 2008 and April 2012, the registering authorities while registering the documents short levied stamp duty of ₹ 89.24 lakh due to incorrect calculation.

After Audit pointed out these cases, District Registrar, Hyderabad (South) replied that efforts would be made for collection of deficit duties. The remaining registering authorities replied (between January 2013 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

#### **4.12 Loss of revenue due to non-registration of documents to be registered compulsorily**

Section 17 of the Registration Act, 1908 enlists the type of documents which are to be compulsorily registered.

Audit noticed (between August 2014 and March 2015) during test check of records of two District Registrars<sup>139</sup> and Sub Registrars, Marredpally that in two sale deeds, one gift settlement and one DGPA registered between August 2012 and June 2013, there was mention of earlier transactions such as gift, partition, sale and memorandum of compromise etc. which were to be compulsorily registered under Section 17 but were not registered. The registering authorities, while registering the documents, did not consider the earlier transactions which resulted in short levy of stamp duty and registration fees of ₹ 51.53 lakh.

After Audit pointed out these cases, all the registering authorities replied (between August 2014 and March 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.13 Short levy of duties on documents involving distinct matters**

As per Section 5 of IS Act if an instrument relates to several distinct transactions, it shall be charged with an amount of duty equivalent to the sum of duties that would have been levied if each transaction were to be registered as a separate instrument.

In two District Registrars<sup>140</sup> and Sub Registrar, Malkajgiri, Audit noticed (between December 2014 and January 2015) from the recitals of three documents that duties were not levied on various distinct transactions which

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<sup>138</sup> Hyderabad (South) and Rangareddy (West).

<sup>139</sup> Rangareddy (East) and Sangareddy.

<sup>140</sup> Hyderabad (South) and Karimnagar.

resulted in short levy of duties amounting to ₹ 23.47 lakh as detailed in **Annexure IV**.

After Audit pointed out these cases, District Registrar, Hyderabad (South) replied that the document must be read as a whole and as the property was partitioned, there was no release involved. Reply is not tenable as the two of the members have taken cash in lieu of immovable property which was equivalent to release, under Article 40, Schedule I-A of the IS Act. The remaining registering officers replied (between December 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between May and July 2015. Their replies have not been received (January 2016).

#### **4.14 Short levy of duties due to intentional splitting of sale of land abutting highway**

Section 27 of the IS Act requires that an instrument contains details like consideration, market value of the property and all other facts and circumstances affecting the levy of duty on it. Section 64-A of the IS Act provides for recovery of stamp duty short levied.

The CIGR in a circular <sup>141</sup> instructed all Sub Registrars to check undervaluation of property and to plug all loopholes to arrest any leakage of revenue. These instructions were issued in the wake of cases noticed in respect of splitting of the high valued land abutting National Highways by their owners with a view to escape stamp duty.

During test check of records of District Registrar, Rangareddy (East), Audit noticed (March 2015) that a land owner registered two separate DGPA's for the land admeasuring 4300 sq. yards (February 2014) by splitting them into plots of 3600 sq. yards and 700 sq. yards with different market values of ₹ 8000 and ₹ 20000 per sq. yard respectively. The split was made in such a way that the smaller plot carrying the higher market value abutted the National Highway while the bigger plot of lesser market value had no direct access to the road. Similarly, in District Registrar, Rangareddy (West) (January 2015), the owner of two contiguous plots (474.44 and 740.56 sq. yards) sold the plots to the same vendee (November 2012) by adopting two different market values of ₹ 22,000 and ₹ 11,000 per sq. yard respectively.

In all these cases, the registering authorities did not check undervaluation by linking the documents. This resulted in short levy of duties of ₹ 10.43 lakh.

After Audit pointed out the cases, all the registering authorities replied (between April 2014 and March 2015) that the matter would be examined and detailed reply furnished in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

<sup>141</sup> Rc.No.MV2/10472/2008 dated 11 July 2008.

#### **4.15 Short levy of duties due to non-verification of facts**

As per the Rule 7 of AP Revision of Market Value Guidelines Rules, 1998, different values have been fixed for agricultural lands fit for house sites/residential localities. Rule 4 (1)(ii)(a) of the Rules *ibid* provides for different rates for valuation of agricultural land and non-agricultural land for levy of stamp duty and registration fees. Section 64-A of the IS Act provides for recovery of deficit stamp duty, if any.

During test check of records of District Registrar, Karimnagar and two Sub Registrars<sup>142</sup>, Audit noticed (between September 2014 and January 2015) that in the case of two sale deeds and one AGPA executed between May 2013 and July 2013, the registering authorities, while registering the documents, did not verify the status and category of the land from the Land Revenue authorities and adopted agricultural rates for lands which had already been converted for non-agricultural purposes. In one of the above cases, registered, in the office of SR, Jagtial, the property was already on lease for running a Junior college by the time it was sold. Therefore, the property sold was to be valued at the rate applicable to agricultural land fit for house sites. However, registering authority had adopted agricultural rate instead. The properties were thus undervalued resulting in short levy of stamp duty and registration fees of ₹ 9.67 lakh.

After Audit pointed out these cases, Sub Registrar, Jagtial stated (September 2014) that it was not the duty of the registering officer to verify the previous registrations and that at the time of registration of document, vendor produced all evidence such as pattadar pass book, title deed, webland pahani<sup>143</sup> etc. Sub Registrar contended therefore that the land was agricultural land. The reply is not acceptable as the lands had already been converted or the landowners had obtained permission for using the land for non-agricultural purposes. The provisions of Section 64-A of the IS Act can be invoked by the registering officers to collect the deficit stamp duty. In the remaining two cases registering officers replied (between September 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

#### **4.16 Short levy of duty on partition deeds due to omission of joint share**

As per Article 40 of Schedule I-A to IS Act in case of partition among family members, stamp duty should be levied at one *per cent* on the amount or the market value of the property partitioned after exempting the major share.

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<sup>142</sup> Jagtial and Kalwakurthy.

<sup>143</sup> Land Records extracted from the online land records system called WEBLAND accessible through <http://webland.telangana.gov.in>.

Further, as per the Standing Orders<sup>144</sup> properties set apart for common enjoyment have to be treated as one distinct share.

Audit noticed (between November 2014 and January 2015) during test check of records of District Registrar, Rangareddy (West) and two Sub Registrars<sup>145</sup> that in three partition deeds registered between August 2013 and March 2014, the registering authorities while registering the documents did not consider the un-partitioned property for common use before arriving at the value of the properties partitioned for levying duties. This should have been treated as one of the shares as per the Standing Orders. Not doing so resulted in short levy of stamp duty and registration fees of ₹ 9.66 lakh.

After Audit pointed out these cases, all the registering authorities replied (between November 2014 and January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

#### **4.17 Short remittance of duties on sale deeds**

According to Article 47-A of Schedule I-A to the IS Act, instruments of sale are to be charged with stamp duty at five *per cent*<sup>146</sup> on the amount set forth in the instrument or the market value of the property, whichever is higher. Further, transfer duty is to be levied at two *per cent* on the above value as per the provisions of various Acts of local bodies.

Audit noticed (January 2015) during test check of records of District Registrar, Rangareddy (West) that, the registering authority while registering two sale deeds between March and April 2013 levied and collected duties amounting to ₹ 9.60 lakh. Cross verification of the challans remitted into the bank with bank statements however revealed that ₹ 0.69 lakh only was remitted into the Government account. This short remittance resulted in loss of revenue of ₹ 8.91 lakh to Government.

After Audit pointed out these cases, the District Registrar, Rangareddy (West) replied (January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in July 2015. Their replies have not been received (January 2016).

<sup>144</sup> SO 405(g) of Andhra Pradesh Registration Manual Part-II, read with Board's proceedings No.L.Dis.W3/3335/1960, dated 24 November 1960 & L.Dis.No.W/7761/61, dated 19 March 1962, L.Dis.No.7354/61, dated 12 February 1962.

<sup>145</sup> Ghatakesar and Rajendranagar.

<sup>146</sup> This rate came into effect from 01 August 2010 vide G.O.Ms.No.719 Revenue (Registration-I) Department, dated 30 July 2010. Previous rate was seven *per cent* in Corporations/Special/Selection Grade Municipalities and six *per cent* in other areas.

#### **4.18 Short levy of stamp duty on dissolution of partnership firm**

As per Article 41-C(a) of Schedule IA to the IS Act read with Government Order<sup>147</sup>, stamp duty on dissolution of partnership firm is to be charged at three *per cent* on the market value of the property distributed to the partners.

Audit noticed (January 2015) during test check of records of District Registrar, Rangareddy (West), that in the case of an instrument of dissolution of partnership firm, registered in February 2014, the registering authority did not consider the total value of property of the firm for computation of stamp duty. This resulted in short levy of stamp duty of ₹ 8.49 lakh.

After Audit pointed out the case, the District Registrar, Rangareddy (West) replied (January 2015) that the matter would be examined and reply sent in due course.

The matter was referred to the Department in May 2015. Their reply has not been received (January 2016).

#### **4.19 Short levy of registration fee**

As per Government Order<sup>148</sup>, registration fees is to be levied at the rate of 0.5 *per cent* on all gift deeds in favour of local bodies and on Agreements of sale of immovable properties/ GPAs with sale clause subject to a maximum of ₹ 10,000 and ₹ 20,000 respectively. Registration fee is to be charged on lease deeds at the rate of 0.1 *per cent* on the value taken for charging stamp duty.

Audit noticed (January and February 2015) during test check of records of offices of two District Registrars<sup>149</sup> and two Sub Registrars<sup>150</sup> that in six cases each of General Power of Attorneys, sale agreements, lease deeds and gift deeds in favour of local bodies registered after August 2013, the registering authorities collected registration fee at pre-revised rates. This resulted in short levy of registration fee of ₹ 5.02 lakh.

After Audit pointed out these cases, District Registrar, Hyderabad replied that out of ₹ 0.95 lakh, an amount of ₹ 0.68 lakh was collected in one case. Other registering authorities replied that the matter would be examined and reply sent in due course.

The matter was referred to the Department between June and July 2015. Their replies have not been received (January 2016).

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<sup>147</sup> G.O.Ms.No.584 Revenue (Registration-I) Department, dated 30 November 2013.

<sup>148</sup> G.O.Ms.No.463, Revenue (Registration-I) Department, dated 17 August 2013.

<sup>149</sup> Hyderabad and Rangareddy (West).

<sup>150</sup> Kapra and Saroornagar.

***CHAPTER-V***  
***TAXES ON VEHICLES***



## **CHAPTER V TAXES ON VEHICLES**

### **5.1 Tax administration**

The Transport Department of Government of Telangana<sup>151</sup> is governed by Motor Vehicles (MV) Act, 1988, Central Motor Vehicle (CMV) Rules, 1989, Telangana Motor Vehicles Taxation (TMVT) Act, 1963, Telangana Motor Vehicle (TMV) Rules, 1989. The Transport Department is primarily responsible for enforcement of provisions of Acts and Rules framed thereunder which, inter alia, include provisions for collection of taxes and fees, issue of driving licences and certificates of fitness to transport vehicles, registration of motor vehicles and granting regular and temporary permits to vehicles. At Government level, Principal Secretary (Transport, Roads and Buildings Department) heads Transport Department. Transport Commissioner (TC) is in charge of the Department. At district level, there are Deputy Transport Commissioners (DTC) and Regional Transport Officers (RTOs) who are in turn assisted by Motor Vehicles Inspectors (MVIs) and other staff.

### **5.2 Internal audit**

Internal audit provides a reasonable assurance of proper enforcement of laws, rules and departmental instructions, and this is a vital component of the internal control frame work. There was no system of internal audit in the Department to ascertain compliance with Rules/Government orders by the Department. When this was pointed out in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009, Department assured that internal audits would be conducted in future. However, Department did not furnish any information/records in respect of its implementation (January 2016).

### **5.3 Results of audit**

In 2014-15 test check of records of 13 units relating to token tax, special road tax, registration fee, permit fee, driving licence fee, conductor licence fee, penalties and composite fee under the National Permit Scheme showed under-assessments of tax and other irregularities involving ₹ 14.57 crore in 61 cases, which fall under the following categories:

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<sup>151</sup> Government of Telangana vide G.O.Ms.No.2,Transport, Roads & Buildings (Tr-I) Department, dated 17 June, 2014 issued Telangana Adaptionof Motor Vehicles law order 2014 and ordered to substitute the word Telangana for the word Andhra Pradesh throughout the State Transportation laws. In view of the above, the word Andhra Pradesh has been substituted by Telangana.

**Table 5.1 : Results of audit**

(₹ in crore)

Sl.No.	Category	No. of cases	Amount
1.	Non-realisation of fee due to non-renewal of Fitness Certificates	11	1.13
2.	Non-levy of Quarterly Tax and penalty	11	12.76
3.	Non/Short levy of Life Tax	13	0.19
4.	Non-finalisation of action on VCRs under Section 200	10	0.20
5.	Non-levy and collection of Green Tax	11	0.11
6.	Other irregularities	5	0.18
<b>Total</b>		<b>61</b>	<b>14.57</b>

During 2014-15 the Department accepted short levy and other deficiencies of ₹ 17.03 lakh in eight cases pointed out during 2014-15. A few illustrative cases involving ₹ 14.46 crore are mentioned in the succeeding paragraphs.

#### **5.4 Non-levy of quarterly tax**

Section 3 of Telangana Motor Vehicles Taxation (TMVT) Act, 1963 stipulates that every owner of a motor vehicle is liable to pay tax at rates specified by Government. Section 4 of the Act specifies that tax shall be paid in advance either quarterly, half yearly or annually within one month from commencement of quarter. Under Section 6 of TMVT Act read with Rule 13(1) of Telangana Motor Vehicles Taxation (TMVT) Rules, 1963, penalty for belated payment of tax shall be levied at the rate equivalent to quarterly tax demanded, if tax is paid within two months and at twice the rate of quarterly tax if tax is paid beyond two months from beginning of quarter on cases detected.

Audit noticed (between December 2014 and February 2015) during test check of data in the offices of six Deputy Transport Commissioners (DTCs)<sup>152</sup> and five Regional Transport Officers(RTOs)<sup>153</sup> that quarterly tax of ₹ 4.23 crore was neither paid by the owners of 2644 transport vehicles nor demanded by the Department. Besides, penalty of ₹ 8.45 crore was also to be levied at twice the rate of quarterly tax for delay exceeding two months in payment of tax. There was non-realisation of tax and penalty amounting to ₹ 12.68 crore.

After Audit pointed out these cases, DTCs Warangal, Adilabad, Karimnagar and RTOs Mahabubnagar, Mancherial, Hyderabad (West Zone) replied (between December 2014 and February 2015) that the details of vehicles would be verified and action taken under intimation to Audit. The remaining DTCs and RTOs replied (January and February 2015) that the matter would be examined.

The matter was referred to the Department in June 2015. Replies have not been received (January 2016).

<sup>152</sup> Adilabad, Karimnagar, Medak, Nalgonda, Nizamabad and Warangal.

<sup>153</sup> Hyderabad (South Zone), Hyderabad (West Zone), Khammam, Mahabubnagar and Mancherial.

### 5.5 Non-renewal of fitness certificates resulting in non-realisation of fitness certificate fee

As per Section 56 of the Motor Vehicle (MV) Act, 1988, a transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness (FC) issued by the prescribed authority. As per Rule 62 of the Central Motor Vehicle (CMV) Rules, 1989, the certificate of fitness in respect of the transport vehicles shall be renewed every year. Rule 81 of CMV Rules prescribes the fee for conducting test of a vehicle for grant and renewal of the certificate of fitness.

Audit noticed (between December 2014 and February 2015) during test check of the records relating to grant of fitness certificates and analysis of data of offices of six DTCs<sup>154</sup> and five RTOs<sup>155</sup> that during the years 2012-13 and 2013-14, FCs of 31087 vehicles had not been renewed although their status was active as per CFST<sup>156</sup> database. Active status implies that the vehicle has all the requisite certificates. Non-renewal of FC, which is issued after testing of the vehicle for fitness, jeopardized public safety besides resulting in non-realisation of FC fee of ₹ 1.13 crore.

It was replied by nine offices<sup>157</sup> (between December 2014 and February 2015) that the FCs were being renewed whenever the owners approached the offices and that the vehicles plying without FCs would be intercepted by enforcement officers. DTC Medak and RTO Hyderabad (South Zone) replied (January 2015) that the matter would be examined.

However, under Section 56 of MV Act, it is mandatory to renew FC. Presumption that vehicles without FCs would be invariably checked by enforcement authorities and that vehicles not so detected were not plying on the roads is fallacious. Absence of an in-built mechanism in CFST package to give alerts regarding validity of FC while making payment of quarterly tax, led to non-monitoring of fitness of vehicles.

The matter was referred to the Department between May and June 2015. Replies have not been received (January 2016).

<sup>154</sup> Adilabad, Karimnagar, Nalgonda, Nizamabad, Medak at Sangareddy and Warangal,

<sup>155</sup> Hyderabad (South Zone), Hyderabad (West Zone), Khammam, Mahabubnagar and Mancherial .

<sup>156</sup> IT system "Citizen Friendly Services of Transport Department".

<sup>157</sup> DTCs - Adilabad, Karimnagar, Nalgonda, Nizamabad and Warangal.  
RTOs - Hyderabad (West Zone), Khammam, Mahabubnagar and Mancherial.

## **5.6 Non-realisation of compounding fee**

As per Section 200 of MV Act read with Government Order<sup>158</sup>, dated 18 August 2011, officers of Transport Department not below the rank of Assistant Motor Vehicle Inspectors (AMVIs) can compound certain offences<sup>159</sup> noticed during checking of vehicles by collecting compounding fee at the rates specified by the Government. The offences noticed are to be noted in the Vehicle Check Reports (VCRs). In case the offences are not compounded on the spot, these VCRs are to be sent to the concerned Regional Transport Authorities (RTOs/DTCs) for taking action against the registered owners of those vehicles.

Audit noticed (between December 2014 and February 2015) during test check of data analysis of VCRs for the years 2012-13 and 2013-14 of offices of five DTCs<sup>160</sup> and four RTOs<sup>161</sup> that in 809 cases the offences were neither compounded nor prosecution taken up. This resulted in non-realisation of compounding fee of ₹ 19.64 lakh.

After Audit pointed out these cases, DTC, Nizamabad replied (January 2015) that compounding fee would be collected as and when the owners approach the office for release of vehicle or for any other transaction. RTO Mahabubnagar replied (December 2014) that compounding fee was levied on some of the vehicles in the list and action would be taken in respect of the remaining vehicles. The RTO, however, did not produce any evidence in support of the reply. In the remaining cases, the transport authorities replied (January and February 2015) that action would be taken to dispose of VCRs and intimated to Audit.

The matter was referred to the Department in May 2015. Reply has not been received (January 2016).

## **5.7 Short levy of life tax in respect of second and subsequent non-transport vehicles owned by individuals**

As per Section 4(1)(aa) of TMVT Act, the motor vehicle tax levied under the second proviso to Section 3(2) of the Act shall be for the lifetime of the motor vehicle and shall be paid in advance in lump sum by the registered owner of the motor vehicle or any other person having possession or contract thereof.

Third, Sixth and Seventh Schedules to the TMVT Act (Act 11/2010) prescribe rates of life tax for vehicles. For first vehicle, if it is a two wheeler, the applicable tax rate is nine *per cent*; if it is a four wheeler, if the cost of the vehicle is less than ₹ 10 lakhs the rate is 12 *per cent*; otherwise 14 *per cent*. For second and subsequent non-transport vehicles having up to seating

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<sup>158</sup> G. O.Ms.No.108, R&B(TR-I) dated 18 August 2011.

<sup>159</sup> Offences like over loading, driving without Licence, Registration Certificate, Fitness Certificate, under age driving, driving at excessive speed, wrong parking etc.

<sup>160</sup> Adilabad, Karimnagar, Nalgonda, Nizamabad and Warangal.

<sup>161</sup> Hyderabad(South Zone), Hyderabad(West Zone), Khammam and Mahabubnagar.

capacity of 10 in all, owned by individuals, the tax rate is 14 *per cent*. The above provisions came into operation with effect from 02 February 2010.

Audit noticed (between December 2014 and February 2015) during scrutiny of data of offices of five DTCs<sup>162</sup> and four RTOs<sup>163</sup> that life tax in respect of 388 second or subsequent non-transport vehicles owned by individuals was collected at rates applicable to first vehicles, resulting in short levy of life tax amounting to ₹ 18.31 lakh during the years 2012-13 and 2013-14.

After Audit pointed out these cases, DTCs Warangal, Karimnagar, Adilabad and RTOs Mahabubnagar, Hyderabad (West Zone) replied (January and February 2015) that list of vehicles would be verified and action taken accordingly. In the remaining cases, the DTCs/RTOs replied (between December 2014 and February 2015) that the matter would be examined.

The matter was referred to the Department in June 2015. Replies have not been received (January 2016).

### **5.8 Non-realisation of bilateral tax and penalty**

Interstate vehicular traffic of goods is regulated by bilateral agreements under the provisions of MV Act and Rules made there under. In terms of Section 88 of the MV Act, a permit granted by State Transport Authority (STA)/Regional Transport Authority (RTA) of any State/Region shall not be valid in any other State/Region, unless the permit has been countersigned by the STA of that State or by the RTA concerned.

As per Government Order<sup>164</sup> dated 16 December 2008, bilateral tax of ₹ 5000 per annum (under TMVT Act) shall be levied on every goods carriage covered by countersignature permit which is registered in the State of Maharashtra and is plying in Telangana area. Tax shall be paid in advance in lumpsum before fifteenth of April every year failing which an additional sum of ₹ 100 for each calendar month of default shall be charged as penalty.

Audit noticed (February 2015) during test check of the tax watch registers and analysis of data of the office of DTC, Adilabad that bilateral tax for the years 2012-13 and 2013-14, amounting to ₹ 12.30 lakh, besides penalty of ₹ 4.34 lakh, was not collected in respect of 130 vehicles registered in Maharashtra, which were granted countersignature permits.

Further, there was no mechanism to monitor payment of bilateral tax after granting countersignature permits and the office was collecting the tax only when the owners approach for payment of tax.

After Audit pointed out these cases, DTC replied (February 2015) that the matter would be verified and action taken accordingly.

<sup>162</sup> Adilabad, Karimnagar, Nalgonda, Nizamabad and Warangal.

<sup>163</sup> Hyderabad(South Zone), Hyderabad (West Zone), Khammam and Mahabubnagar.

<sup>164</sup> G.O.Ms.No.362, TR&B (TR.II) Department, dated 16 December 2008.

The matter was referred to the Department in May 2015. Reply has not been received (January 2016).

### **5.9 Non-levy of green tax**

Government by an order dated 23 November 2006<sup>165</sup>, ordered that “green tax” be levied on the transport vehicles and non-transport vehicles completing seven years and 15 years of age respectively from the date of registration. The rate of tax is ₹ 200 per annum for the transport vehicles, it is ₹ 250 per annum for motorcycles and ₹ 500 for other vehicles for every five years.

Audit noticed (between December 2014 and February 2015) during scrutiny of Green Tax table and analysis of CFST data of the offices of four DTCs<sup>166</sup> and three RTOs<sup>167</sup> that green tax aggregating to ₹ 10.35 lakh, on 3337 transport vehicles and 859 non-transport vehicles which had completed seven years and 15 years of age respectively, was not levied and collected for the period from April 2012 to March 2014.

After Audit pointed out these cases, DTCs Nizamabad, Sangareddy, Nalgonda and RTO Hyderabad (West Zone) and Mahabubnagar replied (between January and February 2015) that Green Tax would be collected as and when the owners approach the office for any transaction. DTC Warangal and RTO Hyderabad (South Zone) replied (January 2015) that the matter would be examined. However, taking action on the cases pointed out by Audit as a result of test check would not be sufficient, suitable action is required to be taken to plug such lapses also.

The matter was referred to the Department in May 2015. Replies have not been received (January 2016).

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<sup>165</sup> G.O.Ms.No.238, (TR&B)(TR.I) Department dated 23 November 2006.

<sup>166</sup> Medak, Nalgonda, Nizamabad and Warangal.

<sup>167</sup> Hyderabad (South Zone), Hyderabad (West Zone) and Mahabubnagar.

***CHAPTER-VI***  
***LAND REVENUE***



## CHAPTER VI LAND REVENUE

### 6.1 Tax administration<sup>168</sup>

At the apex level, Chief Commissioner of Land Administration (CCLA) is responsible for administration of Board's Standing Orders (BSO), Andhra Pradesh (AP) Water Tax Act, 1988, AP Agricultural land (Conversion for non-agricultural purpose) Act, 2006 and Rules and orders issued thereunder. Telangana State is divided into 10 districts, each of which is headed by a District Collector who is responsible for the administration of the respective district. Each district is divided into revenue divisions and further into Mandals, which are kept under administrative charge of Revenue Divisional Officers (RDOs) and Tahsildars respectively. Each village in every Mandal is administered by a Village Revenue Officer (VRO) under the supervision of the Tahsildar. VROs prepare tax demands under all the Acts mentioned above for each Mandal from the village accounts and get it approved by the concerned *Jamabandi* officers. VROs/Revenue Inspectors are entrusted with work of collection of revenue/taxes such as water tax, conversion fee for agricultural lands etc. At Government level, Principal Secretary (Revenue) is in charge of overall administration of Revenue Department.

### 6.2 Internal audit

The Department did not have a structured internal audit wing that would plan and conduct audit in accordance with a scheduled audit plan.

### 6.3 Results of audit

Test check of records of 21 Land Revenue Offices conducted during the year 2014-15 revealed that conversion tax amounting to ₹ 3.79 crore was not/short levied in 10 cases. A few illustrative cases involving ₹ 1.69 crore are mentioned in the succeeding paragraphs.

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<sup>168</sup> Acts pertaining to Land Revenue Department which were in force in the unified state of Andhra Pradesh are still in force in Telangana State.

## **6.4 Land acquisition by Revenue Department**

### **6.4.1 Introduction**

The Land Acquisition Act, 1894 (Central Act), as amended in 1984, empowers the State Governments to acquire land for public purpose. This Act is also supplemented by Andhra Pradesh Board's Standing Orders, Andhra Pradesh Land Acquisition (Negotiation Committee) Rules, 1992 and executive instructions issued by the Government. The subject of land administration in Telangana is dealt with by the Revenue Department headed by the Principal Secretary, Revenue Department.

#### **6.4.1.1 Land acquisition process**

Revenue Divisional Officers (RDOs) and Special Deputy Collectors (SDCs) function as Land Acquisition Officers (LAOs). The acquisition process starts with receiving requisition proposals from requisitioning Department by the RDO/SDC.

Under Section 4 and 6 of Land Acquisition Act 1894 (LA Act) and Andhra Pradesh Board's Standing Orders (BSO), on receipt of the proposal, LAO conducts joint inspection of land proposed to be acquired with the officials of the requisitioning Department and sends land cost estimate to it. After receipt of funds, the LAO submits feasibility report to the District Collector. The District Collector then issues Preliminary Notification<sup>169</sup> (PN) and Draft Declaration<sup>170</sup> (DD). For preparing the Preliminary Valuation Statement<sup>171</sup> of the land under acquisition, the LAO obtains details of sales of land in the village of acquisition for three years preceding the date of notification from the office of the Sub-Registrars. Based on it, the market value of the land is fixed and allowances viz. 30 per cent solatium<sup>172</sup>, 12 per cent Additional Market Value (AMV) and increase towards time lag may be added to it. The LAO submits the statement to the Collector for approval. After approving of the statement, the District Collector passes an Award<sup>173</sup>. The Award has to be passed within two years of draft declaration.

As per Andhra Pradesh Land Acquisition (District Level Negotiations Committee) Rules, 1992 and Andhra Pradesh Land Acquisition (State Level Negotiations Committee) Rules 1998, if the valuation is not accepted by the pattadars, they may convey their willingness to settle through the District Level Negotiation Committee (DLNC), headed by the District Collector as Chairman. The DLNC may enhance the compensation by a maximum of

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<sup>169</sup> Meant for information of the pattadars and shows the intention of the Government to acquire land. Also empowers authorised officers to enter the land and conduct survey.

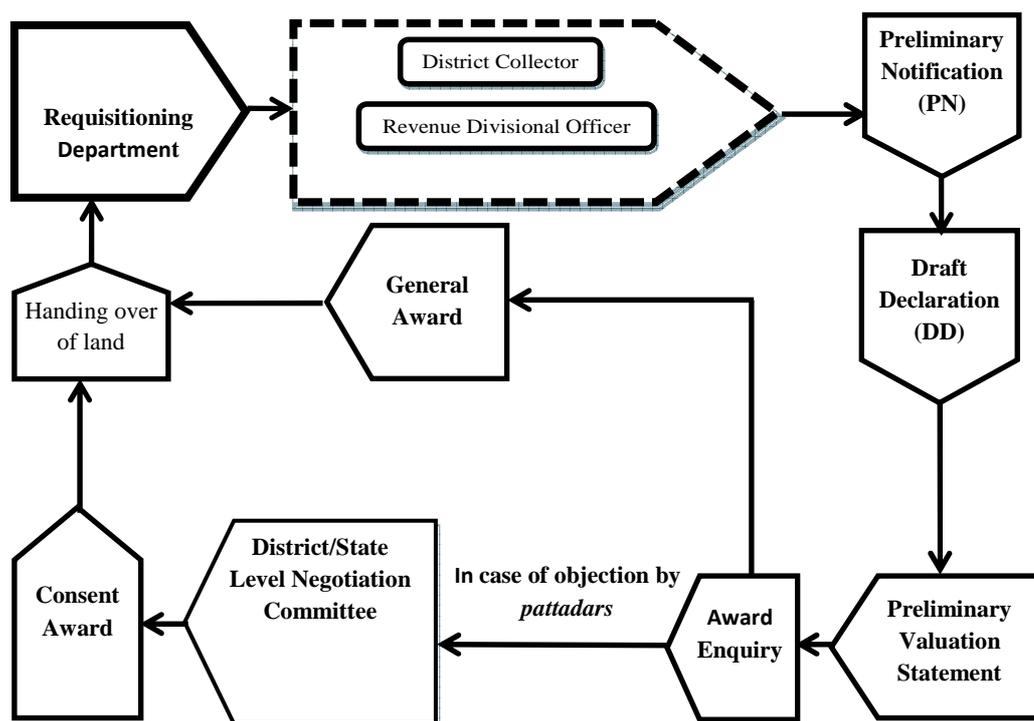
<sup>170</sup> A declaration shall be made to the effect that the particular land is needed for a particular purpose (like dwelling house for the poor) under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders.

<sup>171</sup> It is a statement showing the value of the land under acquisition approved by the Collector.

<sup>172</sup> It is a sum awarded on market value of land, in consideration of the compulsory nature of the acquisition.

<sup>173</sup> It contains the true area of the land, compensation to be allowed and the apportionment allowed (Section 11(1) of the LA Act, 1894).

50 per cent. (Any further increase has to be referred to the Government or State Level Negotiation Committee). In such cases, Consent Award is passed by the LAO after its approval by the Chairman of DLNC and payments are made as per the Award. In case of dispute over ownership or apportionment of compensation, reference is to be made to a Civil Court and the disputed amount deposited with the Court. In case of urgency, advance possession can be taken after issuing Preliminary Notification under Section 17 of LA Act. In case of advance possession of land, 80 per cent of estimated compensation shall be paid to the pattadars. The process is shown in the following flow chart:



#### 6.4.2 Scope and methodology of audit

Audit was conducted during July 2014 to February 2015 in the offices of 12<sup>174</sup> out of 43 LAOs under Land Revenue Department, selected on the basis of expenditure incurred on land acquisition during the period 2012-15. The audit findings and observations that appeared in Local Audit Reports of 14 Revenue Divisions in the years 2013-15 but could not be included in earlier Audit Reports, have also been included in this Report. Audit findings on the records on Land acquisition collected from the SDC (LA), Hyderabad Metro Rail Project (Hyderabad Metro) are also included in this Report.

<sup>174</sup> RDOs Gadwal, Mahbubnagar, Medak, Miryalguda, Mulug, Nalgonda, Nirmal, Nizamabad, Peddapally, Sangareddy, Warangal and SDC, LA (Industries), Rangareddy.

## Audit findings

### 6.4.3 Parking of land acquisition deposits outside the Government account and unauthorised utilisation of interest funds

As per Article 262 of AP Financial Code, compensation for lands acquired under LA Act comes under Revenue Deposits. Further as per Article 261, Revenue Deposits come under Civil Deposits head of Government Accounts.

During the course of Audit of 20 LAOs<sup>175</sup>, it was observed from the records that in contravention to the provisions, land acquisition deposits were deposited in various nationalised and private banks. The LAOs intimated during the period from August 2013 to February 2015 that an amount of ₹ 294.78 crore was lying in various bank accounts. It was also observed that out of these 20 LAOs, in four LAOs<sup>176</sup> interest accrued on land acquisition deposits, amounting to ₹ 2.93 crore, was utilised for payment of utility charges and purchases of laptops and Xerox machines, protocol charges etc.

Keeping the funds outside the Government account takes them out of the budgetary control and expenditure monitoring system of the Government.

On parking of funds in banks, 11 LAOs<sup>177</sup> out of 20 accepted (October 2013 to February 2015) that the deposits were made in banks instead of depositing them in treasuries. The remaining nine RDOs<sup>178</sup> replied (August 2013 to January 2015) that the matter would be examined and a detailed reply furnished in due course. On the utilization of interest, all the four RDOs accepted the fact (August 2013 to February 2014) but did not give any reasons for non-compliance.

### 6.4.4 Excess payment due to non-compliance with the prescribed procedure and rules

It was noticed that non-compliance with the prescribed procedure and rules by the LAOs resulted in additional burden of ₹ 15.31 crore to the Government exchequer as discussed in the subsequent paragraphs.

#### 6.4.4.1 Discarding of sale statistics obtained from Sub-Registrar

As per Order 90(3) of BSO, for valuing lands, details of preceding three years land sales obtained from Sub Registrar offices in the locality should be taken into account. This is known as 'comparative sales' method. In case it is not possible to get comparable sale statistics, capitalization method, in which valuation is done by multiplying annual yield by a factor of, say 10, is to be

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<sup>175</sup> Asifabad, Bodhan, Bhongir, Gadwal, Jangaon, Karimnagar, Khammam, Malkajgiri, Mancherial, Medak, Miryalaguda, Mulug, Nalgonda, Nizamabad, Peddapalli, Saroornagar, Utnoor, Vikarabad, Warangal and SDC, LA (Industries) Rangareddy.

<sup>176</sup> Karimnagar, Medak, Nizamabad and Saroornagar.

<sup>177</sup> Bodhan, Gadwal, Karimnagar, Medak, Miryalaguda, Mulug, Nalgonda, Nizamabad, Peddapalli, Vikarabad and Warangal .

<sup>178</sup> Asifabad, Bhongir, Jangaon, Khammam, Malkajgiri, Mancherial, Saroornagar, Utnoor and SDC LA (Industries) Rangareddy.

adopted. Audit checked the files related to land acquisition in 12 RDOs/SDCs and observed that in 19 cases, though in the Awards it was stated that value as per comparative sales was used, the provisions for valuation were disregarded while acquiring 462.41 acres of land. This resulted in excess payment of ₹ 12.18 crore towards compensations. Audit worked out preliminary value on the basis of sales statistics obtained from the Sub-Registrars concerned and compared it with the value paid as tabulated below:

Office	Audit Observation	Replies of the offices/ Government	Remarks
RDOs Khammam, Mahabubnagar, Medak, Mulug, Nirmal and Nizamabad.	In seven cases in which 189.50 acres were acquired, ₹ 1215.97 lakh was paid against ₹ 614.70 lakh as allowed under provisions. In these cases, the market values of lands in other villages were considered for fixing preliminary value ignoring the sale statistics in the village where land was being acquired.	RDOs of Mahbubnagar, Medak, Mulug and Nirmal (July 2014 to February 2015) accepted the observation. Others replied (September 2013 to October 2014) that the matter would be examined.	Replies have not been received (January 2016).
RDOs Gadwal, Medak, Peddapally and Utnoor	In four cases in which 109.45 acres of land was acquired, ₹ 581.02 lakh was paid against ₹ 370.34 lakh allowed as per provisions. The market values of lands were adopted on local enquiry for fixing preliminary value and were not based on sale statistics.	RDO Gadwal replied (February 2015) that PV was fixed by the Joint Collector and Award approved by the Collector. RDOs of Medak and Peddapalli replied (August 2014 to February 2015) that the landowners were registering documents at less than the actual rates to avoid payment of stamp duty and prevailing market rates were higher than those furnished by the SR Office. RDO Utnoor stated (September 2014) that the matter would be examined.	In the absence of comparative sales, capitalisation method was to be adopted. The Act does not provide for discarding sale statistics on the grounds mentioned by the RDOs.

Office	Audit Observation	Replies of the offices/ Government	Remarks
RDO, Gadwal	In three cases, in which 50.90 acres of land was acquired, ₹ 336.27 lakh was paid as compensation as against ₹ 185.43 lakh payable. The values of lands were enhanced for fixing preliminary valuation as the lands were stated to be suitable for horticulture or cotton cultivation and were near Gadwal town.	RDO Gadwal stated (February 2015) that the JC, Mahbubnagar had fixed the PV during physical verification and that the Award was approved by the Collector.	The reply is not relevant. Moreover, nearness to town and suitability of land for cultivation usually gets accounted for in the value during normal sales transactions.
RDO, Mulug	In one case in which 12.55 acres of land was acquired ₹ 51.20 lakh was paid as compensation as against ₹ 42.07 lakh based on sale statistics. The value of land as was overstated by the Sub-Registrar while sending the sale statistics.	RDO Mulug accepted (July 2014) that excess payment was made.	
RDOs, Adilabad, Sangareddy, SDC, LA (Industries), Rangareddy	In four cases in which 101.80 acres of land was acquired, ₹ 1613.68 lakh was paid against ₹ 1367.75 lakh admissible based on the values calculated using sale statistics. No valid reason was given in these cases.	The offices replied (September 2014 to January 2015) that matter would be examined and detailed reply furnished in due course.	Replies have not been received (January 2016).

Further replies are awaited (January 2016).

#### 6.4.4.2 Violation of prescribed procedures

Land compensation was to be paid by adopting the procedures laid down in the LA Act and Government instructions. However during the course of Audit, cases of non-compliance with the prescribed procedure at the time of fixing the compensation were noticed that resulted in excess payment of ₹ 3.13 crore as discussed below:

Violation	Reply of the offices/Department	Remarks
Section 17 (3A) (a) of the LA Act states that before taking possession of any land in cases of urgency, the Collector shall tender payment of 80 per cent of compensation as estimated by him. However no such advance payment was made in three cases in RDOs Mulug, Nizamabad and Warangal. Hence when final payment was made, interest of ₹ 2.21 crore had to be paid at nine per cent	RDO, Mulug replied (July 2014) that due to non-receipt of funds and advance not being insisted upon by the pattadars at the time of taking possession, 80 per cent advance was not paid. RDO, Warangal replied (August 2015) that the requisitioning Department had taken over the possession of the land without depositing the amount of 80 per cent of the cost of the land as per LA Act. Hence the acquisition	Reply of RDO Mulug is not tenable as advance was to be paid compulsorily as per the Act provisions. RDO Warangal should have insisted that the requisitioning Department deposit the amount as the amount was to be paid in any case.

for first year and 15 <i>per cent</i> for second year on 80 <i>per cent</i> of the amount for acquisition of 29.18 acres, which could have been avoided if the advance payment was made.	was made without payment of advance. RDO, Nizamabad replied (October 2014) that the matter would be examined and a detailed reply would be furnished in due course.	
As per Section 4(1) of LA Act, among the various modes of publications <sup>179</sup> , date of last publication of notification for acquisition of land was to be treated as the final date of publication for all purposes during the process of acquisition of that land. Under Section 23(1A) of the Act, Additional Market value at 12 <i>per cent</i> per annum was to be paid from the date of publication of Notification to the date of Award or date of taking possession of land, whichever is earlier. However due to non-reckoning of the date of the last publication as the final date of publication, AMV was paid for excess periods, ranging from three days to 167 days in 13 cases of SDC, LA (Industries), Rangareddy, SDC, (LA), Hyderabad Metro, Hyderabad and RDOs Medak, Nalgonda, Sangareddy and Warangal. There was excess payment of ₹ 75.12 lakh in these cases whereby 60.90 acres of land was acquired.	RDO, Medak replied (February 2015) that the date of publication of notification in newspaper was taken as date of notification and accordingly award was passed. RDO, Nalgonda replied (November 2014) that date of Gazette Notification was taken into account. RDO, Warangal (August 2014) replied that date of public notice in local areas was not taken as date of publication of notification but the date of notification in the District Gazette. In four (₹ 8.62 lakh) out of seven cases, SDC (LA), Hyderabad Metro stated (January 2015) that the Audit observation would be noted for future guidance. In three cases (₹ 36.71 lakh), SDC (LA), Hyderabad Metro and in one case, SDC LA (Industries) Rangareddy replied (January 2015) that matter would be examined and detailed reply would be furnished in due course.	The replies are not tenable as in all these cases, dates of notification adopted were not the dates of last publication of notification. The Act clearly specifies that the date of last publication is to be taken as the final date of publication for calculation of AMV.
As per Section 23 of LA Manual in Andhra Pradesh, payment for wells should not be made. However, payment for compensation of ₹ 16.54 lakh for wells in four cases in an Award was made under which 19.48 acres were acquired by RDO Peddapalli.	No specific reply was furnished.	Replies have not been received (January 2016).

Further replies have not been received (January 2016).

#### **6.4.5 Blocking of State Funds**

The RDO, Sangareddy, in the bill of estimates for acquisition of 4.10 acres of land, estimated the cost of acquisition as ₹ 5.69 crore. The requisitioning Department, deposited the amount as per the estimates made by the RDO. However, actual expenditure incurred on acquisition of 7.38 acres was only ₹ 1.02 crore. State funds amounting to ₹ 4.67 crore were blocked in Revenue

<sup>179</sup> Gazette Notification, two daily newspapers, public notice in the locality.

Division for over 50 months i.e. from March 2010 to May 2014 due to incorrect estimates.

On this being pointed out, RDO, Sangareddy replied (October 2014) that the matter would be examined and a detailed reply furnished in due course.

Reply of the Department has not been received (January 2016).

#### **6.4.6 Conclusion**

Parking of funds outside Government account and making excess payments in violation of laid down rules were observed. Procedure prescribed for land acquisition was not followed in many cases. Wrong estimation of expenditure resulted in blocking of State funds.

#### **6.5 Short levy of conversion tax due to undervaluation**

As per Section 3(1) of Andhra Pradesh Agricultural Land (Conversion for non-agricultural purposes) Act, 2006, no agricultural land in the State shall be put to non-agricultural use without the prior permission of the Revenue Divisional Officer.

Section 4(1) of the Act provides that every owner<sup>180</sup> or occupier of agricultural land shall pay conversion tax at nine *per cent* of the basic value<sup>181</sup> of the land converted for non-agricultural use.

Audit noticed (September and October 2014) in three Revenue Divisional Offices<sup>182</sup> that in 25 cases, individuals applied for conversion of agricultural land for non-agricultural uses and paid conversion tax. However, conversion tax was arrived at by applying the general basic value<sup>183</sup> instead of specific basic value<sup>184</sup> fixed for the particular survey number in all these cases. Due to incorrect adoption of basic values which were less than the rates specified by the Registration and Stamps Department conversion tax was short levied. In all these cases, conversion tax of only ₹ 29.64 lakh was levied instead of ₹ 160.69 lakh. This resulted in short levy of conversion tax of ₹ 1.31 crore.

After Audit pointed out the cases, RDOs, Nizamabad and Sangareddy replied (October 2014) that conversion tax was levied based on the basic values furnished by Sub Registrar and matter would be taken up with them. RDO, Adilabad stated (September 2014) that the matter would be examined and Audit intimated.

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<sup>180</sup> As per Section 2(m) of the Act, 'owner' includes any lessee/local authority to whom lands have been leased out by State Government or the Central Government.

<sup>181</sup> 'Basic value' means the land value entered in the Basic Value Register notified by Government from time to time and maintained by the Sub-Registrar.

<sup>182</sup> Adilabad, Nizamabad and Sangareddy.

<sup>183</sup> Applicable to the area covered under a survey number in general.

<sup>184</sup> Rate applicable to specific portions of area covered under a survey number, which is usually more than the general basic value due to proximity to amenities, road, etc.

The matter was referred to the Department in January 2015. Their replies have not been received (January 2016).

### **6.6 Lack of Co-ordination between Revenue and Panchayat Raj Departments resulted in non-levy of conversion tax and penalty**

Under Section 5 of the Act, Revenue Divisional Officer (RDO) is competent to convert the land use from use for agricultural to non-agricultural purposes. Under Section 6(2) of the Act, if any agricultural land has been put to use for non-agricultural purpose without obtaining permission, the competent authority shall impose fine of 50 *per cent* over and above the conversion tax. As per Rule 6 of Andhra Pradesh Gram Panchayat Land Development (Layout and Building) Rules, 2002, Gram Panchayats are the administrative sanctioning authorities for layouts. Division Level Panchayat Officers (DLPOs) exercise supervision and control and provide guidance to the Gram Panchayats and their executives in their jurisdiction.<sup>185</sup>

Audit noticed (September 2014) during cross verification of the layouts approved by the Gram Panchayats coming under DLPOs' jurisdiction<sup>186</sup> with the conversion granted in two RDOs<sup>187</sup>, that in seven cases layouts were approved by the Gram Panchayats and 30.02 acres of land was converted without authorisation from the RDO. Neither had the individuals/organisations approached the RDOs concerned nor did the Department make any effort to levy conversion tax in these cases. Due to lack of co-ordination between the RDOs and DLPOs/Gram Panchayats, conversion tax and penalty amounting to ₹ 37.46 lakh could not be levied.

After Audit pointed out the cases, the RDOs replied (September 2014) that the matter would be examined and Audit intimated in due course.

The matter was referred to the Department in January 2015. Their replies have not been received (January 2016).

<sup>185</sup> G.O.Ms.No. 70, PR&RD (Rules) Department., Dated. 29 February 2000.

<sup>186</sup> Audit collected the information of layouts approved by GPs through the DLPOs.

<sup>187</sup> Adilabad, Bodhan.



***CHAPTER-VII***

***OTHER TAX AND  
NON-TAX RECEIPTS***



## CHAPTER VII OTHER TAX AND NON-TAX RECEIPTS

### 7.1 Results of audit

Test check of the records of 20 offices of Deputy Directors/Assistant Directors of Mines and Geology conducted during the year 2014-15 revealed preliminary audit findings of under assessments of tax and other irregularities involving ₹ 38.90 crore in 25 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Nature of irregularity	No. of cases	Amount
1.	Short levy of royalty	8	0.95
2.	Non/Short recovery of seigniorage fee	5	4.32
3.	Short levy/collection of penalty	2	0.37
4.	Short levy of dead rent	2	0.09
5.	Non-forfeiture of security deposit	3	0.17
6.	Other irregularities	5	33.00
<b>Total</b>		<b>25</b>	<b>38.90</b>

During the year 2014-15, the Department accepted under-assessments and other deficiencies of ₹ five crore in nine cases, of which an amount of ₹ 4.42 lakh was realised in one case. A few illustrative cases involving ₹ 5.56 crore are mentioned in the succeeding paragraphs.

### 7.2 Non-levy and collection of seigniorage fee

As per Rule 10 of Telangana Minor Mineral Concession Rules, 1966 (TMMC Rules)<sup>188</sup>, seigniorage fee<sup>189</sup> shall be charged on all minor minerals despatched or consumed from the land at the rates specified in the Schedules to the Rules. Government revised the rates of seigniorage fee on minor minerals through an order<sup>190</sup>.

As per Rule 26(3)(ii) of TMMC Rules if no documentary proof is produced in token of having paid the mineral revenue due to Government by any person who has used or consumed or is in possession of any material including the processed mineral, he shall be liable to pay five times normal seigniorage fee as penalty, in addition to the normal seigniorage fee.

<sup>188</sup> "Andhra Pradesh" was substituted by "Telangana" throughout the AP Minor Mineral Concession Rules 1966 vide G.O.Ms No. 55 dated 26 August 2015 issued by Department of Industries and Commerce (Mines-I), Government of Telangana.

<sup>189</sup> 'Seigniorage fee' is fee charged on minor minerals.

<sup>190</sup> G.O.Ms.No.198, Industries and Commerce (M-I) Department, dated 13 August 2009.

During the test check of records of offices of two Assistant Directors of Mines and Geology<sup>191</sup> (ADsMG), Audit noticed (between September and October 2014) that in one case, while finalising the Mineral Revenue Assessment (MRA) Department did not levy the seigniorage fee against certain quantity of black granite permitted to be dispatched. In another case, though the Department noticed through a survey that the lessee extracted stone and metal in excess of the quantity permitted, the Department did not levy seigniorage fee and penalty on quantity of the mineral extracted illegally. This resulted in non-levy of seigniorage fee of ₹ 72.21 lakh in both the cases and penalty amounting to ₹ 3.57 crore in one case.

After Audit pointed out the cases, ADMG, Nalgonda replied (September 2014) that the MRA would be revised. ADMG, Rangareddy replied (October 2014) that necessary measures as per rules would be initiated to recover the mineral revenue dues from defaulters.

The matter was referred to the Department between March and July 2015. Replies have not been received (January 2016).

### **7.3 Short levy of royalty**

As per Section 9 of Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), the holder of the mining lease shall pay royalty in respect of any mineral extracted or consumed by him or his agent, manager, employee, contractor, or sub lessee from the leased area at the rates prescribed in the Second Schedule to the Act. As per circular instructions<sup>192</sup> of Director of Mines and Geology, dated 08 July 2003, the State Government shall compute the royalty by adding 20 *per cent* to the benchmark value published by Indian Bureau of Mines (IBM) every month. This value shall be reckoned to be the sale price for the purpose of computation of royalty.

In case of lessees such as cement companies which extract limestone mineral for captive consumption, the limestone clinker factor<sup>193</sup> is also to be adopted in addition to other items like permitted quantity, dispatched quantity etc., for arriving at the quantity to be adopted in MRAs.

During the test check of records of offices of four ADsMG<sup>194</sup>, Audit noticed (September 2014) that royalty was levied and collected at rates lesser than the prescribed on quantities extracted during the period from 2011-12 to 2013-14. In ADMG, Miryalaguda, the Department did not work out the quantity of limestone extracted during 2013-14 by three cement companies based on limestone clinker factor. This resulted in short levy of royalty amounting to ₹ 95.25 lakh.

After Audit pointed out the cases, in three cases, ADsMG, Nalgonda, Mahabubnagar and Warangal replied (September 2014) that revision would be

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<sup>191</sup> Nalgonda and Rangareddy.

<sup>192</sup> Circular Memo No.33932/MRI/98 dated 08 July 2003.

<sup>193</sup> Quantity of limestone required for production of one metric tonne of clinker (a substance used in the manufacture of cement).

<sup>194</sup> Kothagudem, Mahabubnagar, Nalgonda and Warangal.

done in case of short levy. In three cases, ADMG, Kothagudem replied (September 2014) that difference of royalty would be collected after finalisation of assessment for the subsequent year. In the remaining cases, it was replied that the matter would be examined.

The matter was referred to the Department between March and June 2015. Replies have not been received (January 2016).

#### **7.4 Short levy of penalty on minor minerals consumed without permit**

As per Rule 10 of TMMC Rules, the seigniorage fee or dead rent whichever is higher, shall be charged on all minor minerals despatched or consumed from the land at the rates specified in the Schedules to the Rules. As per Rule 26 (3) (ii) read with Government order<sup>195</sup>, if no documentary proof is produced in token of having paid the mineral revenue due to Government by any person who has used or consumed or is in possession of any material including the processed mineral, he shall be liable to pay five times the normal seigniorage fee as penalty (prior to 1 October 2010 it was one time normal seigniorage fee), in addition to the normal seigniorage fee.

During the test check of records of offices of two ADsMG (Vigilance)<sup>196</sup>, Audit noticed (between May and September 2014) that in four cases, the Department levied penalty, for consuming minor minerals without permit, at pre-revised rate i.e. equal to one time normal seigniorage fee instead of five times the normal seigniorage fee. This resulted in short levy of penalty of ₹ 22.89 lakh.

After Audit pointed out the cases, ADMG, Suryapet replied (May 2014) that detailed reply would be submitted after verification. ADMG, Sangareddy replied (September 2014) that the matter would be examined.

The matter was referred to the Department between September 2014 and March 2015. Replies have not been received (January 2016).

#### **7.5 Short levy of dead rent**

As per Section 9A of MMDR Act, 1957 read with the proviso thereunder, the holder of a mining lease shall be liable to pay royalty/dead rent whichever is higher in respect of any area covered under a mining lease at such rates as specified in the Third Schedule. As per notification<sup>197</sup> dated 13 August 2009, dead rent is to be paid at ₹ 1,000 per hectare per annum in case of lease granted for medium value minerals i.e., manganese ore, etc, in the third and fourth year of lease by the lessee and ₹ 2,000 per hectare per annum from the fifth year.

<sup>195</sup> G.O.Ms.No.102, Industries & Commerce (Mines I) Department, dated 28 September 2010.

<sup>196</sup> Sangareddy and Suryapet.

<sup>197</sup> GSR 575(E) dated 13 August 2009.

During test check of records of ADMG, Mancherial, Audit noticed (December 2014) on scrutiny of MRAs for the period from 2009-10 to 2012-13 that in eight cases, dead rent on manganese ore was levied at lower rates than stipulated. This resulted in short levy of dead rent amounting to ₹ 8.32 lakh.

After Audit pointed out the cases, ADMG, Mancherial replied (December 2014) that the matter would be examined.

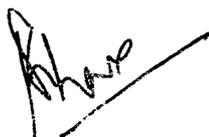
The matter was referred to the Department in March 2015. Reply has not been received (January 2016).



**(Lata Mallikarjuna)**  
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**(Economic & Revenue Sector Audit)**  
**Andhra Pradesh and Telangana**

**Hyderabad**  
**The**

**Countersigned**



**(Shashi Kant Sharma)**  
**Comptroller and Auditor General of India**

**New Delhi**  
**The**

***ANNEXURES  
AND  
GLOSSARY***



**Annexure I**  
**Paragraph 4.4**  
**(Short levy of duty due to undervaluation of properties)**

Name of the office	Document		Date of registration	Reasons for undervaluation	Violations under Schedule I-A of IS Act/Rules/C&IG's instructions
	Type (No. of documents)				
DR, Rangareddy (East)	Development Agreement (1)		March, 2014	Lower value was adopted for valuation whereas the same property was acquired at higher value.	Article 6B & IG's proceedings No.MV1/20363-A/90, dt. 10 August 1990
	Release deed (1)		January, 2014		
DR, Rangareddy (West)	Sale deed (4)		November 2012 to March 2014	Rate of land as per market value guidelines register was more than the rate adopted.	Article 47 & IG's proceedings No.MV1/20363-A/90, dt. 10 August 1990
DR, Karimnagar	Sale deed (1)		May, 2013		Article 47A & A.P.M.V. Guidelines Rules, 1998
SR, Chevella	Gift deed (2)		August, 2012		Article 29 & A.P.M.V. Guidelines Rules, 1998
SR, Golkonda	AGPA deed (1)		August, 2012		Article 6B & C&IG Memo No.S1/ 11217/2010, dated 22 November 2010
SR, Ibrahimpatnam	Sale deed (56)		February 2012 to March 2014		Article 47A & A.P.M.V. Guidelines Rules, 1998
SR, Narapally	Sale deed (2)		April, 2013		Article 47A & A.P.M.V. Guidelines Rules, 1998
SR, Nizamabad (Rural)	AGPA deed (1)		March, 2014		Article 6B & C&IG Memo No.S1/ 11217/2010, dated 22 November 2010
SR, Rajendranagar	Sale deed (1)		November, 2012		Article 47A & A.P.M.V. Guidelines Rules, 1998
SR, Uppal	Sale deed (4)		July 2012 to April 2013		Article 47A & A.P.M.V. Guidelines Rules, 1998
	AGPA deed (1)		April, 2013		Article 6B & C&IG Memo No.S1/ 11217/2010, dated 22 November 2010
SR, Wanaparthy	Gift settlement deeds (3)		April, 2012	Article 29 & A.P.M.V. Guidelines Rules, 1998	
	AGPA deed (1)		January, 2014	Article 6B & C&IG Memo No.S1/ 11217/2010, dated 22 November 2010	

Name of the office	Document		Date of registration	Reasons for undervaluation	Violations under Schedule I-A of IS Act/Rules/C&IG's instructions
	Type (No. of documents)				
DR, Hyderabad	Gift deed (2)		August, 2012	Structure rate as per market value guidelines register was not adopted.	Article 29 & A.P.M.V. Guidelines Rules, 1998
	Partition deed (1)		August, 2012		
DR, Rangareddy (West)	Sale deed (1)		March, 2014		Article 40 & A.P.M.V. Guidelines Rules, 1998
DR, Hyderabad (South)	Settlement deed (1)		April, 2013	Land value only considered and structure value of the property was omitted.	Article 47A & A.P.M.V. Guidelines Rules, 1998
SR, Rajendranagar	Sale deed (48)		April, 2012 to March, 2014	Total consideration paid by the vendees was not taken into consideration for levy of stamp duty.	Article 49
SR, Kukatapally	Sale deed (1)		December, 2012	Higher rate as per market value guidelines register was not adopted and lesser market value of the property was adopted.	Article 47A
SR, Doodhbowli	Partition deed (1)		July, 2013	Value of separated share was computed short.	Article 47A

**Annexure II**  
**Paragraph 4.5**  
**(Short levy of stamp duty and registration fee due to misclassification of documents)**

Sl. No.	Registering authority	Nature of transaction	Document to be classified	Document actually classified		Short levy of duties of duties (₹ in lakh)	Violations under IS Act/Rules/ C&IG's instructions
				Type	No.		
1.	DR, Rangareddy (West)	Material alteration was done by changing floor and flat number.	Sale deed	Rectification deed	1	1.08	I.G's Proceedings No. S3/4371/83, dated 19 September 1984
		Firm property was distributed among partners.	Dissolution of partnership	Partition deed	1	6.85	Article 41-C
		Sale certificates were issued by Income tax recovery officer	Sale deed	Sale certificate	2	0.62	Article 16
2.	SR, Champapet	Possession of property was given to mortgagor.	Mortgage with possession deed	Mortgage deed	1	20.00	Article 35(a)
3.	SR, Chikkadpally	Consideration was received for giving GPA.	Agreement of Sale cum GPA	GPA	1	24.64	Article 6B
4.	SR Gandipet	Material alteration was done by changing floor and flat number.	Sale deed	Rectification deed	1	0.68	I.G's Proceedings No. S3/4371/83, dated 19 September 1984
5.	SR, Kalwakurthy	Release was executed for consideration.	Conveyance	Release deed	2	3.55	Article 20
		Parties to partition do not fall under the definition of family	Partition among other than family	Partition deed	1	0.76	Article 40
6.	SR, Karimnagar (Rural)	Sale certificate was issued by Indian Bank.	Sale deed	Sale certificate	1	4.39	Article 16
7.	SR, Kukatpally	Re-conveyance was misclassified as receipt.	Re-conveyance of mortgage deed	Receipt	2	2.33	Article 45(b)
8.	SR, Siddipet (Urban)	Partition cum ratification deed was misclassified as ratification deed.	Partition cum ratification deed	Ratification deeds	2	3.96	Article 40
9.	SR, Uppal	Mutation was done on the basis of Agreements of sale cum GPA.	Sale deeds	Agreement of Sale cum GPA	10	72.63	Article 47 A
10.	SR, Vallabhanagar	Possession of property and right to collect rents was given to mortgagor.	Mortgage with possession deed	Mortgage deed	2	32.50	Article 35(A)
11.	SR, Vikarabad	Firm property was distributed among partners.	Dissolution of partnership	Partition deed	1	10.22	Article 41(c)
<b>Total</b>					<b>28</b>	<b>184.21</b>	

**Annexure III**  
**Paragraph 4.10**  
**(Short levy of stamp duty on AGPAs)**

Sl. No.	Name of the office	No. of cases	Short levy of duties (₹ in lakh)
1.	DR, Hyderabad	7	7.82
2.	SR, Ibrahimpatnam	2	0.95
3.	SR, Vanasthalipuram	103	6.04
<b>Total</b>		<b>112</b>	<b>14.81</b>

**Annexure IV**  
**Paragraph 4.13**  
**(Short levy of duties on documents involving distinct matters)**

Sl. No.	Name of the office	No. of cases	Distinct matter	Short levy of duties (₹ in lakh)	Remarks
1.	DR, Hyderabad (South)	1	Partition involves Release of property.	3.90	It was mentioned in the recitals of the partition document registered in November 2012 that partition involved release of share in the property for a consideration. However, duties were not levied on the distinct matter of release.
2.	DR, Karimnagar	1	Dissolution of partnership involves partition	16.91	It was mentioned in the recitals of the document registered in December 2013 that partition of the property was also involved in addition to dissolution of partnership of firm. However, duties were not levied accordingly.
3.	SR, Malkajgiri	1	Partition involves settlement of the property and release	2.66	It was mentioned in the recitals of the partition document registered in March 2013 involved release of share and settlement of the property in addition to partition. However, duties were not levied on the distinct matters of release of share and settlement.
<b>Total</b>		<b>3</b>		<b>23.47</b>	

<b>GLOSSARY</b>	
AA	Assessing Authority
AC (CT)	Assistant Commissioner (Commercial Taxes)
ACTO	Assistant Commercial Tax Officer
ADMG/ADM&G	Assistant Director of Mines and Geology
AG	Accountant General
AGPA	Agreement of sale coupled with General Power of Attorney
AIG	Assistant Inspector General
ALF	Additional Licence Fee
AMC	Annual Maintenance Contract
AMV	Additional Market Value
AMVI	Assistant Motor Vehicles Inspector
AO	Audit Officer
AP SWAN	Andhra Pradesh State Wide Area Network
APBCL	Andhra Pradesh Beverages Corporation Limited
APGST	Andhra Pradesh General Sales Tax
APVAT	Andhra Pradesh Value Added Tax
BSO	Board's Standing Orders
CARD	Computer-aided Administration of Registration Department
CCLA	Chief Commissioner of Land Administration
CCT	Commissioner of Commercial Taxes
CDSC	Computerized Dealer Service Centre
CFST	Citizen Friendly Services of Transport Department
CGG	Centre for Good Governance
CIGR	Commissioner and Inspector General of Registration and Stamps
CMV Rules	Central Motor Vehicle Rules, 1989
CSC	Citizen Service Centre
CST	Central Sales Tax
CST (R&T) Rules	Central Sales Tax (Registration and Turnover) Rules, 1957
CTD	Commercial Taxes Department
CTO	Commercial Tax Officer
DC	Deputy Commissioner
DC (CT)	Deputy Commissioner (Commercial Taxes)
DCB	Demand Collection and Balance
DCTO	Deputy Commercial Tax Officer
DD	Demand Draft
DD	Draft Declaration
DDMG/DDM&G	Deputy Director of Mines and Geology
DGPA	Development Agreement cum General Power of Attorney

DIG	Deputy Inspector General
DLNC	District Level Negotiations Committee
DLPO	Division Level Panchayat Officer
DMG	Director of Mines and Geology
DMU	Debt Management Unit
DR	District Registrar
DTC	Deputy Transport Commissioner
E&RSA	Economic and Revenue Sector Audit
FEC	Final Eligibility Certificate
FM	Facility Management
GIS	Goods Information System
GO	Government Order
GP	Gram Panchayat
GPA	General Power of Attorney
IDEA	Interactive Data Extraction and Analysis
IR	Inspection Report
IS Act	Indian Stamp Act, 1899
IT	Information Technology
ITC	Input Tax Credit
JC	Joint Commissioner
LA	Land Acquisition
LA Act	Land Acquisition Act, 1894
LAO	Land Acquisition Officer
LPG	Liquified Petroleum Gas
LTU	Large Taxpayer Unit
MIS	Management Information System
MMDR Act	Mines and Minerals (Development and Regulation) Act, 1957
MRA	Mineral Revenue Assessment
MV Act	Motor Vehicles Act, 1988
MVI	Motor Vehicles Inspector
P&E	Prohibition and Excise
P&ES	Prohibition and Excise Superintendent
PAN	Permanent Account Number
PN	Preliminary Notification
PV	Preliminary Valuation
RCC	Reinforced Cement Concrete
RDO	Revenue Divisional Officer
RFP	Request for Proposal
RTA	Regional Transport Authority
RTO	Regional Transport Officer
SDC	Special Deputy Collector
SEZ	Special Economic Zone

SLNC	State Level Negotiations Committee
SMS	Short Message Service
SQL	Structured Query Language
SR	Sub Registrar
SRS	System Requirement Specifications
STAT	Sales Tax Appellate Tribunal
TC	Transport Commissioner
TCS	Tata Consultancy Services
TCS	Toddy Co-operative Society
TFT	Tree For Tappers
TIN	Taxpayer Identification Number
TMMC Rules	Telangana Minor Mineral Concession Rules, 1966
TMV Rules	Telangana Motor Vehicle Rules, 1989
TMVT Act	Telangana Motor Vehicles Taxation Act, 1963
TOT	Turnover Tax
URS	User Requirement Specifications
V&E	Vigilance and Enforcement
VAT	Value Added Tax
VATIS	Value Added Tax Information System
VCR	Vehicle Check Report
VRO	Village Revenue Officer
WEF	with effect from

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