



**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended 31 March 2016**



**Government of Gujarat  
Report No. 4 of the year 2016**

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## PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2016 has been prepared for submission to the Governor of Gujarat under Article 151 of the Constitution of India.

The Report contains significant findings of audit of the Receipt and Expenditure of major Revenue earning Departments under the Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 and Regulations on Audit and Accounts, 2007 issued thereunder by the Comptroller and Auditor General of India.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2015-16 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 2015-16 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

This Report contains 23 paragraphs including two Performance Audit involving ₹ 190.43 crore. Some of the major findings are as mentioned below:

### I. General

The total revenue receipts of the Government of Gujarat in 2015-16 were ₹ 97,482.58 crore as against ₹ 91,977.78 crore during 2014-15. The revenue raised by the State from tax receipts during 2015-16 was ₹ 62,649.41 crore and from non-tax receipts was ₹ 10,193.51 crore. State's share of divisible Union taxes and grants-in-aid from the Government of India were ₹ 15,690.43 crore and ₹ 8,949.23 crore respectively. Thus, the revenue raised by the State Government was 75 *per cent* of the total revenue receipts. The main sources of tax revenue during 2015-16 were value added tax/central sales tax (₹ 44,091.05 crore) and Taxes and Duties on Electricity (₹ 5,999.66 crore). The main receipt under non-tax revenue came from non-ferrous mining and metallurgical industries (₹ 3,350.19 crore).

(Paragraph 1.1)

### II. Value Added Tax (VAT)/Sales Tax

In 55 assessments of 54 dealers, there was short levy of VAT of ₹ 5.27 crore due to misclassification of commodities.

(Paragraph 2.3)

In assessments of nine dealers, there was short levy of tax of ₹ 1.91 crore due to incorrect determination of turnover.

(Paragraph 2.4)

In assessments of 21 dealers, the Assessing Authority (AA) had allowed excess input tax credit (ITC) or had either not reversed/reduced ITC or had reduced ITC less than that was due to the Government side. This had resulted in non/short reduction/reversal of ITC to the extent of ₹ 1.51 crore.

(Paragraph 2.5)

### III. Land Revenue

In three Collector offices, premium price of ₹ 47.27 lakh was short recovered in eight cases of change of tenure of land for the period 2012-13 and 2013-14.

(Paragraph 3.2)

In two Collector offices, the conversion tax of ₹ 7.33 crore was not levied in two cases for the period 2012-13 and 2013-14.

(Paragraph 3.3)

## **IV. Taxes on vehicles**

Performance Audit of “Administration of Motor Vehicles Tax” revealed the following:

All the modules of VAHAN and SARATHI were not implemented. Out of the five modules of VAHAN Software, only Vehicle Registration module was implemented and was in operation. In SARATHI Software, of the four modules only two modules viz., Learner Licence and Driving Licence modules were implemented and were in operation.

**(Paragraph 4.2.7.1)**

The check posts were not interlinked with National/ State Register of RTOs, check posts and the deficiencies pointed out in the earlier Audit Report persisted.

**(Paragraph 4.2.7.2)**

The Department did not know the number of the vehicles that were plying without valid fitness certificates. As a result, the fitness of the vehicles required for plying on road was not ensured, thus compromising road safety norms.

**(Paragraph 4.2.8)**

Operators of 3,267 transport and non-transport vehicles had neither paid tax nor filed non-use declarations for the periods between 2010-11 and 2014-15. This resulted in non-realisation of motor vehicles tax of ₹ 12.43 crore.

**(Paragraph 4.2.19)**

Periodical targets were not fixed by the Department for the recovery of arrears of tax related to RRC cases.

**(Paragraph 4.2.20.2)**

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

Performance Audit of “IT Audit of gARVI- System of registration of documents” revealed the following:

There was absence of proper documentation and ownership of source code.

**(Paragraph 5.3.5.1)**

User requirement specifications were not assessed. As a result, manual intervention continued in the process of registration of the documents such as non provision of access to gARVI system to the Deputy Collectors (SDVO) for determination of market value of properties, levy of penalty in case of delay in presentation of documents for registration, etc.

**(Paragraph 5.3.5.3)**

There were inadequate input controls and validation checks in the system which compromised the correctness and reliability of data being fed in the system.

**(Paragraph 5.3.6)**

gARVI was not integrated with the website of Stock Holding Corporation of India Limited (SHCIL) to facilitate locking of E-Stamps as a result of which the possibility of fraud by using e-stamps on more than one occasion cannot be ruled out.

**(Paragraph 5.3.7.1)**

Follow-up Audit of the Performance Audit of “Levy and Collection of Stamp Duty and Registration Fees” revealed the following:

- Due to persistent lack of co-ordination with Registrar of Companies, the Department could not ascertain whether 13,225 out of 14,140 companies/firms have paid stamp duty of ₹ 81.32 crore on the issue of shares during the period from 2012-13 to 2014-15.

**(Paragraph 5.4.4.1)**

- There were 2,18,989 cases pending as on 31.03.2015 for finalisation under Section 32A of the Gujarat Stamp Act, 1958. This was due to lack of monitoring mechanism and absence of a timeframe for finalisation of determination of market value cases.

**(Paragraph 5.4.5.1)**

In four Sub Registrar offices, the market value of the properties was determined incorrectly in 19 documents, which resulted in short levy of stamp duty and registration fees of ₹ 91.58 lakh.

**(Paragraph 5.5)**

In three Sub Registrar offices, there was short levy of stamp duty and registration fees of ₹ 27.17 lakh in three documents due to incorrect calculation of average annual rent (in case of lease deed)/ non consideration of market value of immovable property (in case of partnership deed/ dissolution of partnership).

**(Paragraph 5.8)**

## **VI. Other Tax and Non-tax Receipts**

During test check of the Demand and Collection Registers of the office of the Assistant Geologist, Gandhinagar for the period 2009-10 to 2013-14, we noticed in nine cases that the Department failed to ensure recovery of royalty in advance. This resulted in short levy of royalty of ₹ 35.51 lakh.

**(Paragraph 6.4)**

In the offices of two Assistant Geologists for the period 2009-10 to 2013-14, in 23 cases of minor minerals, either the lease holders did not extract any

minerals from the leased area or the royalty payable was less than dead rent payable. They were liable to pay dead rent or differential amount between dead rent and royalty paid. However, no demand for the same was raised by the Department. This resulted in non/ short levy of dead rent of ₹ 17.60 lakh.

**(Paragraph 6.5)**

## CHAPTER-I GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Gujarat during the year 2015-16, the State's share of net proceeds of divisible Union Taxes and duties assigned to the State and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are as mentioned in **Table 1.1.1**:

**Table 1.1.1**

(₹ in crore)

Sl. No.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	44,252.29	53,896.69	56,372.37	61,339.81	62,649.41
	• Non-tax revenue	5,276.52	6,016.99	7,018.31	9,542.61	10,193.51
	<b>Total</b>	<b>49,528.81</b>	<b>59,913.68</b>	<b>63,390.68</b>	<b>70,882.42</b>	<b>72,842.92</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	7,780.31	8,869.05	9,701.93	10,296.35	15,690.43 <sup>1</sup>
	• Grants-in-aid	5,649.87	6,445.80	6,883.13	10,799.01	8,949.23
	<b>Total</b>	<b>13,430.18</b>	<b>15,314.85</b>	<b>16,585.06</b>	<b>21,095.36</b>	<b>24,639.66</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>62,958.99</b>	<b>75,228.53</b>	<b>79,975.74</b>	<b>91,977.78</b>	<b>97,482.58<sup>2</sup></b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>79</b>	<b>80</b>	<b>79</b>	<b>77</b>	<b>75</b>

(Source: Finance Accounts of the State)

The above table indicates that there was overall increase in collection of revenue during the last five years. The revenue raised by the State Government (₹ 72,842.92 crore) during the year 2015-16 was 75 per cent of the total revenue receipts against 77 per cent in the preceding year. The balance 25 per cent of the receipts during 2015-16 was from the Government of India.

<sup>1</sup> Figures under the 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, 0045 - Other taxes and duties on commodities and services", - share of net proceeds assigned to State booked in the Finance Accounts under 'A - Tax Revenue', have been excluded from revenue raised by the State and included in State's share of divisible Union taxes, in this statement.

<sup>2</sup> For details, please see **Statement No. 14-** Detailed Statement of revenue and capital receipts by minor heads of the Finance Accounts of the Government of Gujarat for the year 2015-16.

1.1.2 The details of the tax revenue raised during the period 2011-12 to 2015-16 are given in **Table 1.1.2**:

**Table .1.1.2**

(₹ in crore)

Sl. No.	Heads of revenue	2011-12	2012-13	2013-14	2014-15	2015-16	Percentage of increase (+) or decrease (-) in 2015-16 over 2014-15
1.	Sales tax/Value Added Tax <sup>3</sup>	27,259.38	34,086.69	35,685.20	38,418.73	37,755.00	(-) 1.73
	Central sales tax	3,942.93	5,377.98	5,290.86	5,726.53	6,336.05	(+) 10.64
2.	Taxes and duties on electricity	3,654.56	4,406.60	4,692.77	5,877.65	5,999.66	(+) 2.08
3.	Stamp duty and registration fees	4,670.27	4,426.93	4,749.35	5,503.34	5,549.42	(+) 0.84
4.	Land revenue	1,477.18	2,207.85	1,727.41	1,892.65	2,528.50	(+) 33.60
5.	Taxes on vehicles	2,251.03	2,276.26	2,282.81	2,695.09	3,007.98	(+) 11.60
6.	Taxes on goods and passengers	208.34	210.58	833.56	210.35	265.19	(+) 26.07
7.	State excise	72.11	84.91	109.82	140.27	123.32	(-) 12.08
8.	Other taxes on income and expenditure <sup>4</sup>	222.18	207.80	222.22	230.87	240.72	(+) 4.27
9.	Other taxes <sup>5</sup>	494.31	611.09	778.37	644.33	843.57	(+) 30.92
	<b>Total</b>	<b>44,252.29</b>	<b>53,896.69</b>	<b>56,372.37</b>	<b>61,339.81</b>	<b>62,649.41</b>	<b>(+) 2.13</b>

(Source: Finance Accounts of the State)

- It would be seen from the above table that the tax revenue raised by the State Government has increased by 42 per cent during the last five years. The overall tax revenue as well as different types of tax receipts had shown upward trend during 2015-16 except receipts under “Sales Tax/ Value Added Tax” and “State excise”.
- The decrease (-12.08 per cent) in receipts under major head “State excise during 2015-16 over 2014-15 was mainly due to decrease in receipts under the minor head “Malt Liquor” and “Medicinal and toilet preparations containing alcohol, opium, etc.”.
- The reasons for substantial decrease/ increase, wherever applicable though called for, were not reported by the concerned Departments.

<sup>3</sup> Sales Tax/Value Added Tax includes tax on sales of Motor Sprit and Lubricants, Trade Tax and Other Receipts.

<sup>4</sup> Other taxes on income and expenditure include “Taxes on Professions, Trades, Calling and Employment” and “Share of Net Proceeds assigned to States”.

<sup>5</sup> Other taxes include “Taxes on Immovable Property other than Agricultural land”, “Entertainment Tax”, “Luxury Tax” etc.

**1.1.3** The details of the non-tax revenue raised during the period 2011-12 to 2015-16 are indicated in **Table 1.1.3**:

**Table 1.1.3****(₹in crore)**

Sl. No.	Heads of revenue	2011-12	2012-13	2013-14	2014-15	2015-16	Percentage of increase (+) or decrease (-) in 2015-16 over 2014-15
1.	Non-ferrous mining and metallurgical industries	1,819.64	1,847.16	1,578.34	4,285.85	3,350.19	(-) 21.83
2.	Interest receipts	631.89	1,325.84	1,267.18	1,011.47	843.00	(-) 16.66
3.	Major and medium irrigation	684.15	714.13	897.51	1,034.91	1,028.42	(-) 0.63
4.	Miscellaneous general services	69.65	(-)334.66 <sup>6</sup>	90.62	26.27	1,443.86	(+) 5,396.23
5.	Other administrative services	70.27	102.22	100.32	169.07	129.99	(-) 23.11
6.	Police	138.97	163.84	177.81	214.20	219.82	(+) 2.62
7.	Medical and public health	90.76	126.34	111.88	243.57	171.51	(-) 29.58
8.	Public works	38.07	44.36	54.99	59.27	130.01	(+) 119.35
9.	Forestry and wild life	39.93	54.39	60.04	48.15	48.92	(+) 1.60
10.	Other non-tax receipts <sup>7</sup>	1,693.19	1,973.37	2,679.62	2,449.85	2,827.79	(+) 15.43
	<b>Total</b>	<b>5,276.52</b>	<b>6,016.99</b>	<b>7,018.31</b>	<b>9,542.61</b>	<b>10,193.51</b>	<b>(+) 6.82</b>

(Source: Finance Accounts of the State)

- The non-tax revenue raised by the State Government has increased by 93 per cent during the last five years. There was an overall increase of 6.82 per cent in non-tax receipts during the year 2015-16 as compared to 2014-15.

<sup>6</sup> Includes ₹ 471.87 crore on account of recovery of debt waiver (write off) granted by Government of India to Government of Gujarat for 2009-10, which remained to be adjusted in the accounts for 2011-12.

<sup>7</sup> This includes receipts under “Ports and light houses”, “Education, Sports, Arts and Culture”, “Labour and Employment”, “Housing”, “Fisheries”, “Village and Small Industries”, “Crop Husbandry”, etc.

- There was steep increase (+5,396.23 per cent) in receipts under major head “Miscellaneous General Services” during 2015-16 over 2014-15. This was due to increase in receipts under the minor heads “Other receipts” and “Deduct- Refunds”.
- There was increase (+119.35 per cent) in receipts under major head “Public Works” during 2015-16 over 2014-15. This was due to increase in receipts under the minor heads “Rents” and “Other receipts”.
- There was decrease (-21.83 per cent) in receipts under major head “Non-ferrous mining and metallurgical industries” during 2015-16 over 2014-15. This was due to decrease in receipts under the minor heads “Mineral concession fees, rents and royalties”, “Receipts under the Carbide of Calcium Rules” and “Other receipts”, etc.
- There was decrease (-29.58 per cent) in receipts under major head “Medical and public health” during 2015-16 over 2014-15. This was due to decrease in receipts under the minor heads “Receipts from Employees State Insurance Schemes”, “Medical Stores Depots”, etc.
- The reasons for substantial variations, wherever applicable though called for, were not reported by the concerned Departments.

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 on some principal heads of revenue amounted to ₹ 32,359.25 crore of which ₹ 11,522.63 crore was outstanding for more than five years, as detailed in the **Table-1.2:**

**Table 1.2**

(₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2016	Amount outstanding for more than five years as on 31 March 2016	Remarks
1.	VAT/ Sales Tax	30,869.23	10,140.24	Out of total outstanding amount of ₹ 30,869.23 crore, recovery of ₹ 2,328.44 crore was covered by Revenue Recovery Certificates, recovery of ₹ 16,014.40 crore was stayed by High Court/ Other Judicial Authorities and Government, recovery of ₹ 619.45 crore was outstanding due to dealers being insolvent. Details of the stages of pendency/recovery of remaining amount were not furnished by the Department.
2.	Stamp Duty and Registration Fees	1,125.41	1,125.41	The concerned Department did not furnish the stages at which the arrears of revenue were pending for collection or whether the cases were referred for write off, if any, despite being requested by Audit.

3.	Taxes and duties on electricity	135.64	128.83	Out of total outstanding amount of ₹ 135.64 crore, recovery of ₹ 8.09 crore was pending with BIFR, recovery of ₹ 127.55 crore was stayed by Courts.
4.	Taxes on Vehicles and Taxes on Goods and passengers	228.97	128.15	The concerned Department did not furnish the stages at which the arrears of revenue were pending for collection or whether the cases were referred for write off, if any, despite being requested by Audit.
	<b>Total</b>	<b>32,359.25</b>	<b>11,522.63</b>	

(Sources: Information furnished by the Departments)

It would be seen from the table that arrears aggregating to ₹ 11,522.63 crore were pending for more than five years under the above four heads of revenue.

The other Department like Revenue Department (in respect of Land Revenue), and Industries and Mines Department, etc. did not furnish the details regarding arrears of revenue despite being requested in May/ July 2016. As such total arrears of tax and non-tax revenue pending for collection could not be ascertained.

### 1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed off during the year and number of cases pending for finalisation at the end of the year as furnished by the Commercial Tax Department in respect of Value Added Tax/ Sales Tax and Profession Tax was as in **Table 1.3**:

**Table 1.3**

Head of revenue	Opening balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed off during 2015-16	Balance at the end of the year as on 31 March 2016	Percentage of disposal (col.5 to 4)
1	2	3	4	5	6	7
Value Added Tax/Sales Tax	2,11,972	1,14,850	3,26,822	1,26,084	2,00,738	38.58
Profession Tax	41,260	17,003	58,263	7,866	50,397	13.50
<b>Total</b>	<b>2,53,232</b>	<b>1,31,853</b>	<b>3,85,085</b>	<b>1,33,950</b>	<b>2,51,135</b>	<b>34.78</b>

(Sources: Information furnished by the Department)

It could be seen from the above table that percentage of assessments made during 2015-16 was 34.78 *per cent* indicating therein that the Department needs to make more efforts to dispose off cases expeditiously.

## 1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table 1.4**:

**Table 1.4**

(₹ in crore)

Sl. no.	Head of revenue	Cases pending as on 1 April 2015	Cases detected during 2015-16	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2016
					Number of cases	Amount of demand	
1.	Value Added Tax/ Sales Tax	632	393	1,025	716	1,088.56	309
2.	Taxes on Vehicles and Taxes on Goods and passengers	58,786	25,446	84,232	24,854	183.62	59,378
3.	Stamp Duty and Registration Fees	3,916	286	4,202	398	31.14	3,804
	<b>Total</b>	<b>63,334</b>	<b>26,125</b>	<b>89,459</b>	<b>25,968</b>	<b>1,303.32</b>	<b>63,491</b>

(Sources: Information furnished by the Departments)

Overall 71 per cent cases were still pending for finalisation in the Departments.

The other Departments like Revenue Department (in respect of Land Revenue), Industries and Mines Department, etc. did not furnish the details regarding evasion of tax/ revenue despite being requested in May/ July 2016.

## 1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2015-16 as reported by the Department is given in **Table 1.5**:

**Table 1.5**

(₹ in crore)

Sl. no.	Particulars	Taxes on Vehicles and Taxes on Goods and Passengers		Taxes and Duties on Electricity	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	28	3.87	00	0.00
2.	Claims received during the year	1,248	15.79	05	5.56
3.	Refunds made during the year	1,191	15.99	05	5.56
4.	Balance outstanding at the end of year	85	3.67	00	0.00

(Sources: Information furnished by the Departments)

The Revenue Department (in respect of Land Revenue), Commercial Tax Department and Industries and Mines Department did not furnish the details regarding claims outstanding at the beginning of the year, claims received during the year, balance outstanding at the end of year and refunds made during the year despite being requested in May/ July 2016.

## 1.6 Response of the Government/ Departments towards audit

The Accountant General (Economic and Revenue Sector Audit), Gujarat, Ahmedabad (AG), conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of offices/ Government are required to comply promptly on 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 receipt of the IRs. Serious financial irregularities are reported to the Heads of the Departments and the Government.

Inspection Reports issued upto December 2015 disclosed that 3,545 paragraphs involving ₹ 1,260.01 crore relating to 918 IRs remained outstanding at the end of June 2016 as mentioned below alongwith the corresponding figures for the preceding two years in **Table 1.6**.

**Table 1.6**

Particulars	June 2014	June 2015	June 2016
Number of Inspection Reports pending for settlement	3,518	1,526	918
Number of outstanding audit observations	12,846	7,262	3,545
Amount of revenue involved (₹ in crore)	7,510.40	4,562.83	1,260.01

**1.6.1** The Department-wise details of the IRs and audit observations outstanding as on 30 June 2016 and the amounts involved are mentioned in the **Table 1.6.1**.

**Table 1.6.1**

(₹ in crore)

Sl. no.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance (Commercial Tax)	Taxes/ VAT on sales, trade etc. including Profession Tax	341	1,212	469.44
2.	Revenue	Land revenue	95	460	289.99
		Stamp duty and registration fees	239	1,079	378.28
		Valuation of Property	21	64	7.04
		Expenditure <sup>8</sup>	109	338	18.80
3.	Ports and Transport	Taxes on Vehicles and Taxes on Goods and Passengers	61	269	28.45
4.	Energy and Petrochemicals	Electricity duty	9	13	14.44
		Director of Petroleum	4	11	39.11
5.	Industries and Mines	Mining Receipts	39	99	14.46
<b>Total</b>			<b>918</b>	<b>3,545</b>	<b>1,260.01</b>

Audit did not receive even the first replies from the heads of office within one month from the date of issue of IRs for 44 IRs issued during 2015-16 pertaining to the Commercial Tax Department, Revenue Department, Ports and Transport Department and Energy and Petrochemicals Department. In respect of remaining Departments, the first replies of IRs were received within one month of issue of IRs. The pendency of the IRs due to non-receipt of the replies indicated that the heads of offices and the Department need to take effective action to rectify the defects, omissions and irregularities pointed out in the IRs.

### 1.6.2 Departmental audit committee meetings

The Government sets up Audit Committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. During 2015-16, 11 Audit Committee Meetings were held in respect of Commercial Tax Department, Revenue Department (in respect of Land Revenue), Industries and Mines Department and Energy and Petrochemicals Department in which 823 paragraphs were settled.

Audit Committee meetings in respect of Ports and Transport Department and Revenue Department (in respect of Stamp Duty and Registration Fees) were not held. However, it has been noticed that there has been a gradual decrease in the number of outstanding audit inspection reports and number of audit observations as mentioned in **Table 1.6**.

<sup>8</sup> Money value of the paragraphs included in IRs pertaining to Revenue Department issued by AG (General and Social Sector Audit), Gujarat, Rajkot has not been considered.

### 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 2015-16 as many as 995 assessment files, returns, refunds, registers and other relevant records, which had become due for audit in the year, were not made available to audit. Break-up of these cases is given in **Table 1.6.3**:

**Table 1.6.3**

Name of the office/ Department	Year in which it was to be audited	Number of cases not produced for audit
Sales Tax/VAT	2015-16	794
Land Revenue	2015-16	201
	<b>Total</b>	<b>995</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 Department, 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.

Twenty three draft paragraphs including two Performance Audits were sent to the Principal Secretaries/Secretaries of the respective Department by name between January and August 2016. The Principal Secretary of the Revenue Department did not send replies to five draft paragraphs despite issue of reminders (September 2016) and the same have been included in this Report without the response of the Department.

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

The internal working system of the Public Accounts Committee, notified in March 1966, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislature Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately.

Two hundred and sixty eight paragraphs (including performance audit reports) included in the Reports of the Comptroller and Auditor General of India on the

Revenue Receipts/ Revenue Sector of the Government of Gujarat for the years ended 31 March 2010, 2011, 2012, 2013, 2014 and 2015 were placed before the State Legislature Assembly between March 2012 and March 2016. Action taken explanatory notes in respect of 107 paragraphs from four Departments (Finance Department, Revenue Department, Ports and Transport Department and Energy and Petrochemicals Department) had not been received from the Audit Report for the year ended 31 March 2010 onwards so far (October 2016).

## **1.7 Audit Planning and Results of Audit**

The unit offices under various Departments are categorised into high, medium and low risk according to their revenue realisation, past trends of 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, white paper on state finances, reports of the Finance Commission (Central and State), recommendations of the taxation reforms committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years etc.

During the year 2015-16, the audit universe comprised 699 auditable entities, of which audit of 99 entities was planned and 103 entities were audited during the year, which is 14.74 *per cent* of the total auditable entities.

Besides the compliance audit mentioned above, two performance audits were also taken up to examine the efficacy of the tax administration of these receipts.

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

Test check of the records of units of Commercial Tax Department, Revenue Department, Ports and Transport Department, Energy and Petrochemicals Department and Industries and Mines Department conducted during the year 2015-16 revealed under assessment/ short levy/ loss of revenue amounting to ₹ 225.62 crore in 926 cases.

During the course of the year, the concerned Departments accepted under assessment and other irregularities of ₹ 20.25 crore involved in 312 cases which were pointed out in audit during 2015-16 and earlier years. The Departments recovered ₹ 9.31 crore in 274 cases at the instance of audit.

## **1.8 Coverage of this Report**

This report contains 23 paragraphs including two Performance Audits of “Administration of Motor Vehicles Tax”, and IT audit of gARVI – System of registration of documents, relating to irregular/excess allowance of ITC, short/non-levy of VAT/ CST/ premium price/ stamp duty/ registration fees and other irregularities involving financial effect of ₹ 190.43 crore.

The concerned Departments/ Government have accepted audit observations involving ₹ 13.08 crore out of which ₹ 4.34 crore have been recovered. The replies in the remaining cases have not been received (October 2016). These are discussed in the succeeding Chapters II to VI.



## CHAPTER-II VALUE ADDED TAX/ SALES TAX

### 2.1 Tax Administration

Value Added Tax laws and rules framed there under are administered at the Government level by the Additional Chief Secretary (Finance). The Commissioner of Commercial Tax (CCT) is the head of the Commercial Tax Department (CTD), who is assisted by one Special CCT, four Additional CCTs, 11 Joint CCTs, 23 Deputy CCTs, 103 Assistant CCTs and Commercial Tax Officers (CTOs). They are assisted by Commercial Tax Inspectors and other allied staff for administering the relevant Tax laws and rules.

### 2.2 Results of Audit

Test check of records of Commercial Tax Department during the year 2015-16 revealed underassessment of tax and other irregularities involving ₹ 23.76 crore in 398 cases which broadly falls under the following categories:

Sl. No.	Category	No. of cases	Money Value (₹ in crore)
1.	Incorrect rate of tax and mistake of computation	69	6.84
2.	Incorrect concession/exemption	5	0.19
3.	Non/Short levy of interest and penalty	34	1.17
4.	Irregular/ Excess grant of Input Tax Credit	88	4.60
5.	Non/ short levy of tax	124	8.60
6.	Other regularities	72	2.07
7.	Expenditure Audit	6	0.29
	<b>Total</b>	<b>398</b>	<b>23.76</b>

During the course of the year, the Department accepted underassessment of tax and other irregularities of ₹ 12.94 crore in 148 cases, which were pointed out in audit during 2015-16 and earlier years. An amount of ₹ 2 crore was recovered in 110 cases.

A few illustrative audit observations involving ₹ 13.01 crore are mentioned in the succeeding paragraphs.

### 2.3 Non/ Short levy of VAT due to misclassification

Section 7 of the GVAT Act, 2003 provides for levy of tax on turnover of sales of goods specified in the Schedule II or Schedule III of the Act at the rate set out against each of them. Additional tax at the rate of 2.5/1 *per cent* is also leviable from 1 April 2008. Further, as per residuary entry No. 87 of Schedule II, all goods other than those specified in Schedule I or Schedule III and in the preceding entries of Schedule II attract tax at the rate of 15 *per cent* including additional tax at the rate of 2.5 *per cent*.

During test check of the assessment records of 14 offices we noticed<sup>1</sup> in 55 assessments<sup>2</sup> of 54 dealers that there was short levy of VAT of ₹ 5.27 crore due to misclassification of commodities or incorrect application of rate of tax as detailed below. Besides, interest and penalty was also recoverable, wherever applicable.

**2.3.1** As per entry 37 of Schedule II, husk of all types including groundnut husk are taxable at the rate of five *per cent* including additional tax at the rate of one *per cent*. Further, husk of all types excluding 'groundnut husk' and 'rice husk' were exempt from whole of tax by entry 18 of Notification No. (GHN-44)VAT-2006- S.5(2)(3)-TH Dated 29-4-06 u/s 5(2). Thus, 'rice husk' was taxable at the rate of five *per cent* including additional tax at the rate of one *per cent*.

In case of 38 dealers of two offices<sup>3</sup>, the Assessing Authorities (AAs), had treated the rice husk (rice bran) worth ₹ 35.71 crore as exempted goods by classifying it as cattle feed under entry 11 of Schedule I and did not levy any tax. Thus, there was non levy of VAT to the extent of ₹ 1.70 crore excluding interest and penalty due to misclassification of goods.

We pointed out the cases to the Department in July and October 2015. The Department accepted (September 2016) our observation in all cases and raised demand of ₹ 2.80 crore including leviable interest and penalty in 29 cases. In remaining cases show cause notices have been issued.

**2.3.2** Under Section 7 of the GVAT Act, electric motor stamping, parts of motor vehicles, old vehicles, food colours, food and dietary supplements, prilled ammonium nitrate (CEH:31023000), batteries, electronic weigh bridge and modular/ cable tray are taxable at the rate of 15 *per cent* including additional tax at the rate of 2.5 *per cent* under residuary entry No. 87 of Schedule II.

In case of 10 assessment of nine dealers of eight offices<sup>4</sup>, the AAs while assessing the cases misclassified the goods valued at ₹ 31.01 crore.

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<sup>1</sup> Between May 2013 and October 2015

<sup>2</sup> For the year 2008-09, 2009-10, 2010-11 and 2011-12, assessed between April 2012 and March 2015

<sup>3</sup> ACCT Unit-11, Ahmedabad and Unit-49, Nadiad

<sup>4</sup> ACCT Unit-8, 10 and 11 Ahmedabad; DCCT: Range-1, 5 and 6 Ahmedabad; Range-23 Rajkot and DCCT Corporate Cell-2 (Div-5), Surat

This resulted in short realisation of tax of ₹ 2.57 crore as mentioned in the following paragraphs:

- (i). The Government vide Notification dated 29-04-2006 and 15-02-2010 specified the transformer stamping/stamping lamination and Ammonium Nitrate (CEH:31021000) as industrial inputs which are taxable at the rate of five per cent including additional tax at the rate of one per cent under Entry 42A of the GVAT Act.

The AAs, in one case, classified the electrical motor stamping worth ₹ 6.06 crore as transformer stamping and in another case prilled ammonium nitrate (CEH:31023000) worth ₹ 1.05 crore as ammonium nitrate (CEH:31021000) and levied tax at the rate of five *per cent* under Entry 42-A instead of 15 *per cent* under residuary Entry-87 of Schedule-II. This resulted in short levy of tax to the extent of ₹ 58.88 lakh excluding interest and penalty.

We pointed out the cases to the Department in September 2014 and January 2015. The Department accepted (September 2016) the audit observation in one case and raised demand of ₹ 93.57 lakh. The reply of Department in the other case has not been received (October 2016).

- (ii). In one case, the parts of motor vehicles worth ₹ 1.10 crore were treated as machinery parts and tax was levied at the rate of five *per cent* under Entry 58-A instead of 15 *per cent*. This resulted in short levy of tax to the extent of ₹ 9.11 lakh excluding interest and penalty.

The reply of the Department has not been received (October 2016)

- (iii). In one case, the sale of old vehicles worth ₹ 80.06 lakh was treated as sale of machinery and was taxed at the rate of five *per cent* instead of 15 *per cent*. This resulted in short levy of tax to the extent of ₹ 6.63 lakh excluding interest and penalty.

We pointed out the case to the Department in May 2015. The Department accepted (September 2016) our observation and initiated revision proceedings.

- (iv). In one case, the food colours worth ₹ 2.76 crore were treated as dyes and tax was levied at the rate of five *per cent* under Entry 29 instead of 15 *per cent*. This resulted in short levy of tax to the extent of ₹ 22.88 lakh excluding interest and penalty.

We pointed out the case to the Department in May 2014. The Department accepted (September 2016) our observation and raised demand of ₹ 63.63 lakh including leviable interest and penalty.

- (v). The Department in case of M/s Claris Life Science Ltd. determined that food and dietary supplements are taxable at the rate of 15 *per cent* including additional tax at the rate of 2.5 *per cent*.

In case of a dealer, the AAs treated the food and dietary supplements worth ₹ 15.21 crore as drugs and medicines and tax was levied at the rate of five *per cent* under entry 28A instead of 15 *per cent*. This resulted in short levy of tax to the extent of ₹ 125.97 lakh excluding interest and penalty.

The jurisdictional JCCT did not accept (April 2015) our observation and stated that the dealer manufactured 'Atta premix' which is used in hospitals, Government *Anganwadi* and mid-day meals and falls under entry 28A of 'drugs and medicines.

The reply is not correct as entry 28A of Schedule-II pertaining to drugs and medicines excludes 'food and dietary supplements'. Determination dated 17.04.2008 under Section 80 of the Act determined that food and dietary supplements are taxable under entry 28A.

- (vi). We observed in two cases that the batteries worth ₹ 1.45 crore were treated as parts of IT products and electronic weight bridge worth ₹ 0.68 crore was treated as IT/ digital equipment and tax was levied at the rate of five *per cent* under Entry 45 instead of 15 *per cent* under residuary Entry-87 of Schedule-II. This resulted in short levy of tax to the extent of ₹ 17.69 lakh excluding interest and penalty.

We pointed out the cases to the Department in May 2013 and May 2014. The jurisdictional JCCT did not accept (July 2013) our observation and stated that the batteries were used in the manufacture of uninterruptible power supply (UPS) which are IT products. The reply is not correct as the dealer is not a manufacture but a trader. The batteries were sold separately and were not sold as part of UPS.

In another case relating to electronic weigh bridge, the Department did not accept (May 2016) our observation and stated that electronic weigh bridge was manufactured by the use of computer printed circuit board (PCB), printer, load cell, integrated circuit and mother board etc. Hence, it was IT equipment falling under entry 45 of Schedule II. The reply of the JCCT is not correct as it was not covered / specified as an IT product in the Notification No. GHN-21 dated 01.08.2009 issued by the State Government.

- (vii). The modular cable tray worth ₹ 1.89 crore was treated as machinery parts/specified goods and tax was levied at the rate of five *per cent* under entry 58A instead of 15 *per cent* under residuary Entry 87 of Schedule-II of the Act. This resulted in short levy of tax to the extent of ₹ 15.63 lakh excluding interest and penalty.

After this being pointed out the Jurisdictional JCCT replied (October 2014) that reassessment proceedings were under process.

**2.3.3** The Government *vide* Notification dated 11.10.2006 fixed the rate of lump-sum tax at 2 *per cent* on works contract related to electric works,

mechanical works and fabrication while the rate of lump-sum tax for the civil works contract was fixed at 0.6 *per cent*.

In case of three works contractors falling under the jurisdiction of ACCT-104 Gandhidham, engaged in the execution of works contract related to electrical, mechanical and fabrication works that the AAs in assessment treated these works valued at ₹ 14.69 crore as civil works contracts and levied lump-sum tax at the rate of 0.6 *per cent* instead of correct rate of two *per cent*. This resulted in short levy of tax to the extent of ₹ 20.56 lakh excluding interest and penalty.

We pointed out the cases to the Department in May 2014. The Department accepted (July and September 2016) our observation in all the cases and raised demand of ₹ 42.58 lakh including leviable interest and penalty.

**2.3.4** As per Rule 28(8)(vi-a)(i) of the GVAT Rules, 2006 a works contractor shall not be allowed the benefit of paying tax at lump-sum rate of two *per cent*, if the goods used in the execution of the works contract are purchased in the course of inter-State trade or commerce. In case of contravention the dealer shall be liable to pay tax at the rate of 15 *per cent* under Section 7 from the date of such contravention.

In case of a dealer of office of ACCT Unit-6, Ahmedabad, the goods which were purchased in the course of interstate trade or commerce were used in the execution of the works contract. However, the AA levied tax on the lump-sum basis at the rate of two *per cent* instead of 15 *per cent* leviable under Section 7 of the Act. This resulted in short levy of tax to the extent of ₹ 30.27 lakh excluding interest and penalty.

We pointed out the cases in September 2015 and the reply of the Department has not been received (October 2016).

**2.3.5** Under Section 14D of the GVAT Act, a dealer who is engaged in the business of sale of eatables in any form served, delivered or given in packing from the place of business of dealer may be permitted to pay lump-sum tax at the rate of four *per cent* in lieu of the amount of tax leviable under this act in respect of sales of eatables. Further, under Section 41 of the GVAT Act, the Government *vide* Notification dated 23.07.2008, remitted the whole of the tax payable under Section 7 of the Act, excluding additional tax payable under sub-section (1A) thereof, on the sales of goods by an eligible tourism unit subject to the condition that the eligible unit shall not be entitled to the option for payment of lump sum tax under Section 14D in lieu of tax at the rate of 15 *per cent* payable under Section 7 of the Act.

In one case of ACCT Unit-94, Rajkot, the dealer holding permission for the remission of tax under Section 41 of the Act as a tourism unit up to 31.07.2008 was simultaneously granted by the Department the permission for payment of lump-sum tax under Section 14D of the Act w.e.f. 01.04.2008. During the remission period, the benefit of lump-sum tax was irregular and tax was required to be levied at the rate of 15 *per cent* instead of lump-sum rate of

4 per cent on sale value of ₹ 91.36 lakh upto 31.07.2008. This resulted in short levy of tax to the extent of ₹ 7.49 lakh excluding interest and penalty.

We pointed out the cases to the Department in January 2014. The Department accepted (August 2016) our observation and raised demand of ₹ 27.48 lakh including interest of ₹ 8.76 lakh and penalty of ₹ 11.23 lakh.

**2.3.6** Entry 18 of Schedule II of the GVAT Act pertaining to ‘chemicals’ which were taxable at the rate of five per cent was deleted w.e.f. 01.08.2009 vide the Gujarat Value Added Tax (Amendment) Act No. 12 of 2009. As a result w.e.f. 01-08-2009, chemicals other than those notified as ‘industrial inputs’ fall under residuary entry No. 87 of Schedule II and attract VAT at the rate of 15 per cent including additional tax at the rate of 2.5 per cent. Further, under Section 7 of the GVAT Act, CNG kits used in motor vehicles, fall under residuary entry No. 87 of Schedule II and attract VAT at the rate of 15 per cent including additional tax at the rate of 2.5 per cent.

In case of two dealers of two offices<sup>5</sup>, the AAs while assessing the cases levied tax at the rate of five per cent including additional tax at the rate of one per cent instead of correct rate of 15 per cent including additional tax of 2.5 per cent, on sale of Chemicals valued at ₹ 3.04 crore (w.e.f. 01.08.2009) in one case and on sale of CNG kits valued at ₹ 2.02 crore in another case. This resulted in short levy of VAT to the extent of ₹ 41.89 lakh, excluding interest and penalty, due to application of incorrect rate of tax.

We pointed out the cases to the Department in September 2013 and April 2014. The Department accepted (September 2016) our observation in both the cases and raised the demand of ₹ 1.46 crore including leviable interest and penalty.

We reported the matter to the Government in May 2016. The reply of the Government has not been received (October 2016).

## **2.4 Short levy of VAT due to incorrect determination of turnover**

Section 7(1) of the GVAT Act, 2003 provides for levy of tax on the turnover of sales of goods specified in Schedule II or Schedule III at the applicable rates. Further, under Section 2(24), sale price means the amount of valuable consideration paid or payable to a dealer or received or receivable by a dealer for any sale of goods made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962 and any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof.

During test check of the assessment records of eight offices we noticed<sup>6</sup> in assessments of nine dealers<sup>7</sup> that there was short levy of tax of ₹ 1.91 crore

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<sup>5</sup> ACCT Unit-5 and 18 Ahmedabad

<sup>6</sup> Between January 2013 and July 2015

<sup>7</sup> For the year 2007-08, 2008-09, 2009-10 and 2010-11; assessment finalised between September 2011 and March 2015

excluding interest and penalty due to incorrect determination of turnover as detailed below:

**2.4.1** Under Section 2(30) of the GVAT Act, tax is leviable on taxable turnover of sales in relation to works contracts on the amount of sales (deemed sale) remaining after deducting there from the charges towards labour, service and other like charges. Further, Rule 18AA of the GVAT Rules, 2006 stipulates that where the amount of charges towards labour, service and other like charges are not ascertainable or the accounts are not sufficiently clear or intelligible, a lump sum deduction at the rate of 30 *per cent* shall be admissible in case of job-work of embroidery and civil works contract.

We observed from the assessment records of three dealers of three offices<sup>8</sup> that in case of two dealers the deemed sale of the goods involved in the execution of the job-work/works-contract was incorrectly arrived at due to allowance of excess deductions of labour charges of ₹ 13.38 crore than admissible deductions of ₹ 5.26 crore from the total receipts of works contract of ₹ 17.53 crore. Further, in another case of job-work, tax was not levied on paints and POP valued at ₹ 1.38 crore which were used in servicing of cars. This incorrect determination of turnover resulted in short levy of tax to the extent of ₹ 56.42 lakh in these three cases. Besides interest and penalty was also leviable.

We pointed out the cases to the Department between December 2013 and July 2015. The Department accepted (September 2016) our observation in two cases and stated that demand of ₹ 81.10 lakh including interest and penalty has been raised in one case and in another one case amount of ₹ 21.55 lakh has been recovered. In remaining one case, the reply of the Department has not been received (October 2016).

**2.4.2** In case of three dealers of two offices<sup>9</sup>, the AAs had assessed the sales turnover less than the value of goods purchased/consumed. Further, there was no mention in assessment order or in certified accounts that the dealers had incurred any loss during the assessment period. This resulted in escapement of taxable turnover of ₹ 6.63 crore and consequent short levy of tax to the extent of ₹ 47.13 lakh excluding interest and penalty.

We pointed out the cases to the Department between January 2013 and January 2015. The Department accepted (September 2016) our observation in one case and stated that revision proceedings were under process. In respect of the other two cases, the reply of the Department has not been received (October 2016).

**2.4.3** Under Section 5A of the GVAT Act, the sale of goods to a unit carrying on its business in the processing area or in the demarcated area of Special Economic Zone (SEZ) shall be zero rated sale for the purpose of this Act. Provided that the sale of goods specified in Schedule III such as diesel oil, which was taxable at the rate of 21 *per cent*, shall not be zero rated sale.

<sup>8</sup> ACCT Unit-57, Ankleshwer; Unit-69, Surat and DCCT Corp-01 (Div.-1), Ahmedabad

<sup>9</sup> ACCT Unit-6, Ahmedabad and DCCT Corp-1, Vadodara

Further, the Government vide Notification dated 01.04.2008 specified that the sale of spare parts of vehicles, which were taxable at the rate of 15 per cent, shall not be zero rated sale to the SEZ Units.

We observed in case of two dealers of two offices<sup>10</sup> that the dealers sold the spare parts of vehicles worth ₹ 3.31 crore and diesel oil worth ₹ 0.38 crore to the units in SEZ area which was allowed by AAs as zero rated sale, though as per the above provisions, the sale of these goods to SEZ units was not zero rated sale. This resulted in short levy of VAT to the extent of ₹ 49.77 lakh excluding interest and penalty.

We pointed out the cases to the Department in June and July 2015. The reply of the Department has not been received (September 2016).

**2.4.4** Under Section 2(23) of the GVAT Act, sale means a sale of goods made within the State for cash or deferred payment or other valuable consideration and includes supply of goods by way of or as part of any service or in any other manner whatsoever.

We observed in case of one dealer assessed at DCCT, Division-1, Ahmedabad that the dealer imported the goods and supplied them to different purchasers as per their purchase orders. The AA in assessment irregularly deducted the amount of such supplies from the taxable turnover as sales in the course of import and no tax was levied. As the dealer had imported the goods and supplied them to different customers after custom clearances, the supply of goods fell under the sale and attracted VAT at the applicable rates. This irregular deduction of ₹ 3.40 crore resulted in non-levy of VAT to the extent of ₹ 37.79 lakh excluding interest and penalty.

After this being pointed out (January 2013), the Department accepted (September 2016) our observation and stated that revision proceedings had been initiated.

We reported the matter to the Government in May 2016. The reply of the Government has not been received (October 2016).

## **2.5 Incorrect allowance of Input Tax Credit**

As per Section 11 of the GVAT Act a registered dealer who has purchased the taxable goods shall be entitled to claim tax credit equal to the amount of tax collected from him by a registered dealer from whom he has purchased such goods or tax paid by him as purchase tax under Section 9 of the Act. The tax credit to be so claimed shall be subject to the provisions as provided under the Section.

During test check of the assessment records of 10 offices we noticed<sup>11</sup> in assessments<sup>12</sup> of 21 dealers that the Assessing Authorities (AAs) had allowed

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<sup>10</sup> ACCT Unit-11, Ahmedabad and DCCT-14, Bharuch

<sup>11</sup> Between May 2012 and July 2015

<sup>12</sup> For the year 2006-07, 2008-09, 2009-10 and 2010-11, assessments finalised between March 2011 and March 2015

excess tax credit of ₹ 1.51 crore excluding interest and penalty as detailed below:

**2.5.1** Under Section 11(3)(b) of the GVAT Act, the amount of tax credit in respect of a dealer shall be reduced by the amount of tax calculated at the rate of four *per cent*, on the taxable turnover of purchases within the State, of the taxable goods consigned or dispatched for branch transfer or to his agent outside the State or of the taxable goods which are used as raw materials in the manufacture, or in the packing of goods which are dispatched outside the State in the course of branch transfer or consignment or to his agent outside the State.

We observed, on scrutiny of assessment orders, in case of two dealers of two offices<sup>13</sup> that the AAs reduced the tax credit of ₹ 26.13 lakh instead of ₹ 47.40 lakh on the goods worth ₹ 11.85 crore which were consigned or dispatched for branch transfer or to his agent outside the State, due to incorrect arithmetical calculation mistakes. This resulted in excess allowance of tax credit to the extent of ₹ 21.27 lakh excluding interest and penalty.

The cases were pointed out to the Department in August 2014 and June 2015. The Department accepted (September 2016) our observation in one case and raised demand of ₹ 23.86 lakh including interest and penalty. The reply in another case has not been received (October 2016).

**2.5.2** Section 9(1) of the GVAT Act provides for levy of purchase tax on purchases of goods made from unregistered dealers (URD). The Government vide Notification No. GHN-14 dated 29.06.2010 specified reduction of tax credit at the rate of two *per cent* of the purchase turnover of goods as specified in the notification, when such goods are sold/used as raw material in the manufacture of goods which are sold in the course of inter-State trade or commerce w.e.f. 01.07.2010. Further, the Government vide Notification No. GHN-35 dated 07.09.2010 (effective from 01.10.2010) exempted Cotton from reduction in tax credit on account of inter-State sales. Thus, between the period 01.07.2010 and 30.09.2010, tax credit of purchase tax was required to be reduced on purchases of cotton which was sold in the course of inter-State trade or commerce.

We observed in cases of eight dealers assessed at ACCT-11, Ahmedabad that the dealers had purchased cotton worth ₹ 12.52 crore, between 01.07.2010 and 30.9.2010 from URDs and sold in the course of inter-State trade or commerce. However, purchase tax on such purchases was neither paid by the dealers nor assessed by the AAs during audit assessment. Tax credit of ₹ 25.03 lakh was required to be reduced at the rate of two *per cent* in the event of payment of purchase tax. This resulted in non-reduction of tax credit to the extent of ₹ 25.03 lakh, excluding interest and penalty, due to non-levy of purchase tax.

We pointed out the case to the Department in July 2015. The reply of the Department has not been received (October 2016).

<sup>13</sup> ACCT:Unit-06, Ahmedabad and DCCT:Range-14, Bharuch

**2.5.3** Rule 18(2) of the GVAT Rules, 2006, provides for adjustment of tax credit towards the payable tax under the GVAT Act and the CST Act and any amount of tax credit which remains after such adjustment, shall be carried forward to the subsequent year.

We observed, on scrutiny of assessment orders, in case of three dealers of two offices<sup>14</sup> that the AAs allowed tax credit of ₹ 37.12 lakh as brought forward from the previous year though the above amount of tax credit had already been refunded in the previous year. This resulted in excess allowance of tax credit to the extent of ₹ 37.12 lakh excluding interest and penalty.

After being pointed out to the Department in November 2013 and October 2014, the Department accepted (July and September 2016) our observations in all the three cases and stated that demand of ₹ 56.87 lakh has been raised in two cases and in remaining one case revision proceedings were under process.

**2.5.4** Section 11 of the GVAT Act, *inter alia*, provides that tax credit shall not be allowed for purchases of (i) goods used in the manufacture of tax free goods (ii) capital goods used in transfer of property in goods (whether as goods or in some other form) involved in execution of works contract (iii) second hand plant and machinery and (iv) vehicles of any type and high speed diesel (HSD) except when purchasing dealer is engaged in the business of sales of such vehicles or HSD.

In case of five dealers of three offices<sup>15</sup>, the AAs had irregularly allowed tax credit of ₹ 35.14 lakh on purchases of goods worth ₹ 6.02 crore such as capital goods used in the manufacture of tax free goods, second hand plant and machinery and capital goods and vehicles used in quarry work or execution of works contract. Further, in another case which was accepted as self-assessed, dealer had irregularly claimed tax credit of ₹ 6.32 lakh on purchase of HSD of ₹ 59.61 lakh which was used as fuel in manufacturing/ vehicles. This resulted in excess allowance of tax credit to the extent of ₹ 41.46 lakh in above five cases, excluding interest and penalty.

We pointed out the cases to the Department between December 2012 and September 2014. The Department accepted (September 2016) our observations in all the five cases and stated that after reassessment, demand of ₹ 1.37 crore, including interest and penalty, has been raised.

**2.5.5** Section 11(5)(a) of the GVAT Act stipulates that tax credit shall not be allowed for purchases made from any person other than a registered dealer under this Act.

In case of two dealers of two offices<sup>16</sup>, the dealers had irregularly claimed the tax credit of ₹ 10.79 lakh on goods worth ₹ 2.43 crore which were purchased from the dealers whose registration certificates were cancelled by the Department before such purchases. In respect of one dealer the AA in audit

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<sup>14</sup> ACCT:Unit-103, Bhuj and DCCT, Corp-1(Div-1), Ahmedabad

<sup>15</sup> ACCT:Unit-103, Bhuj;Unit-47, Godhara and DCCT:Range-6, Ahmedabad

<sup>16</sup> ACCT:Unit-17, Ahmedabad and DCCT:Range-07, Gandhinagar

assessment also allowed the tax credit while the other case was accepted as self assessed. This resulted in excess allowance of tax credit to the extent of ₹ 10.79 lakh excluding interest and penalty.

We pointed out the cases to the Department in December 2014 and February 2015. The Department accepted (September 2016) our observations in both the cases and stated that demand of ₹ 19.80 lakh including interest and penalty has been raised in one case. In another case, revision proceedings were under process.

**2.5.6** Section 12 of the GVAT Act read with Rule 16 of the GVAT Rules require that all the dealers shall furnish in Form-108 within the prescribed period a statement of such taxable goods, held in stock on 31 March, 2006 which are purchased during the period commencing on 1 April 2005 and ending on 31 March 2006 for which the dealer intends to claim tax credit under this Act.

In case of one dealer assessed at ACCT Unit-91, Rajkot, the AA in assessment allowed the tax credit of ₹ 15.33 lakh, though the dealer had not furnished the statement of taxable goods held on 31.03.2006 in Form-108. This resulted in irregular grant of tax credit to the extent of ₹ 15.33 lakh excluding interest and penalty.

We pointed out the case to the Department in May 2012. The Department accepted (July 2016) our observation and stated that demand of ₹ 29.24 lakh including interest and penalty has been raised.

We reported the matter to the Government in May 2016. The Government confirmed (July and September 2016) the reply of the Department in case of two dealers and in the remaining cases, their reply has not been received (October 2016).

## **2.6 Non-levy of Entry Tax on purchases of vehicles in the course of inter-State trade or commerce**

As per judgment dated 15.07.2011 of the Hon'ble Gujarat High Court in the case of *Reliance Industries Ltd. V/s State of Gujarat (SCA No. 11848 of 2005)* 'crawler cranes, loaders, mobile cranes, motor grader, road roller, fork lift, chain mounted drilling machine, pipe layer and bulldozer' are classified as motor vehicles. Section 3(1) of the Gujarat Tax on Entry of Specified Goods into Local Area Act 2001, provides for levy and collection on entry of motor vehicles into the local area, a tax on purchase value thereof at the rate of 15 *per cent*. Under Section 4(2) of the Act, the amount of tax leviable shall be reduced to the extent of the amount of tax paid under the Central Sales Tax Act, 1956 on the purchase of such vehicles in the course of inter-State trade or commerce.

Further, Section 11(5) of the GVAT Act, 2003 stipulates that the tax credit of entry tax shall not be admissible for purchases of vehicles of any type and its equipment except when purchasing dealer is engaged in the business of sales of such vehicles.

During test check of the assessment records of two offices<sup>17</sup> we noticed<sup>18</sup> in assessments of two dealers<sup>19</sup> that the dealers had effected inter-State purchases of motor vehicles viz. Hydraulic Excavator, Hydraulic Backhoe, Wheel Loader etc. worth ₹ 2.45 crore. These vehicles were used in the execution of works contract in one case and for self use in another case. Though, entry tax was leviable on above purchase of vehicles, neither the dealers paid entry tax at the time of purchase of such vehicles nor the AAs levied the entry tax at the time of audit assessment. This resulted in non-levy of entry tax to the extent of ₹ 31.38 lakh excluding leviable interest and penalty.

We pointed out the cases to the Department in April and July 2014. The Department accepted (August 2016) our observation in one case and stated that an amount of ₹ 24.81 lakh had been recovered. In the other case, the jurisdictional JCCT stated (September 2015) that demand of ₹ 18.77 lakh including interest of ₹ 9.61 lakh had been raised on reassessment.

We reported the matter to the Government in May 2016. The reply of the Government has not been received (October 2016).

## 2.7 Non/ Short levy of interest

During test check of the assessment records of four offices we noticed<sup>20</sup> in seven assessments<sup>21</sup> of six dealers that the Assessing Authorities (AAs) had calculated interest incorrectly on delayed payment of tax due to incorrect computation/ adoption of period of delay. The AAs had levied interest of ₹ 47.84 lakh, instead of correct interest of ₹ 143.32 lakh, resulting in short levy of interest of ₹ 95.48 lakh as detailed below:

**2.7.1** Under Section 30(5) of the Gujarat Value Added Tax (GVAT) Act, where a dealer does not pay the amount of tax within the time prescribed for its payment, then there shall be paid by such dealer for the period commencing on the date of expiry of the aforesaid prescribed time and ending on date of payment of the amount of tax, simple interest at the rate of 18 *per cent* per annum, on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

In case of two dealers in three cases of two offices<sup>22</sup>, the AAs levied interest of ₹ 29.64 lakh instead of leviable amount of ₹ 83.96 lakh on delayed payment of tax by the dealers. This resulted in non/short levy of interest to the extent of ₹ 54.32 lakh.

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<sup>17</sup> DCCT:13-Nadiad and 25-Gandhidham

<sup>18</sup> Between April and July 2014

<sup>19</sup> Pertaining to the assessment period 2008-09 where assessments were finalised in December 2012

<sup>20</sup> Between January 2014 and February 2015

<sup>21</sup> For the year 2007-08, 2008-09 and 2009-10, assessments finalised between March 2013 and March 2014

<sup>22</sup> ACCT: Unit-99, Jamnagar and DCCT: Enforcement Div-III Gandhinagar

We pointed out the cases to the Department in January 2014 and July 2014. The Department accepted (September 2016) our observation in all the cases and raised demand of ₹ 2.92 crore.

**2.7.2** Under Section 42(6) of the Act *ibid*, where the amount of tax assessed or reassessed for any period, exceeds the amount of tax already paid by the dealer for that period, the dealer shall pay simple interest at the rate of 18 per cent per annum on the amount of tax remaining unpaid for the period of default.

In case of two dealers of two offices<sup>23</sup>, the AAs had not levied any interest on delayed payment of tax though interest of ₹ 20.54 lakh was leviable due to non-payment of tax within the prescribed time period. This resulted in non levy of interest to the extent of ₹ 20.54 lakh.

We pointed out the cases to the Department in January 2014 and February 2015. The Department accepted (July 2016) our observation in one case and raised demand of ₹ 54.10 lakh. In another case, the Department did not accept (September 2016) our observation and stated that dealer had balance amount of ITC of ₹ 49.55 lakh at the end of the financial year 2009-10 which had been carried forward to the next financial year and hence interest was not leviable even though the tax was paid beyond the prescribed time period. The reply of the Department is not acceptable as the excess amount of tax credit of ₹ 49.55 lakh was adjusted against the tax liability for the period 2010-11 while the dealer had paid the tax, pertaining to period 2009-10, during the period 2011-12.

**2.7.3** Section 30(6) of the GVAT Act stipulates that where a dealer is liable to pay interest under Sub-section (5) or under Sub-section (7) of Section 42 and he makes payment of an amount which is less than the aggregate of the amount of tax, penalty and interest, the amount so paid shall be first applied towards the amount of interest, thereafter the balance, if any, towards the amount of penalty and thereafter the balance, if any, towards the amount of tax.

In case of two dealers assessed at DCCT Corporate-2, Ahmedabad, the dealers had paid tax beyond the prescribed time limit. In such cases payment so made was required to be applied first towards the interest for the period of late payment, thereafter the balance towards the tax, but during assessments the AAs had not applied the said provisions and calculated the interest of ₹ 18.20 lakh instead of leviable interest of ₹ 38.81 lakh. This resulted in short levy of interest of ₹ 20.61 lakh.

We pointed out the cases to the Department in January 2015. The Department accepted (September 2016) our observation in both the cases and raised demand of ₹ 40.74 lakh.

We reported the matter to the Government in May 2016. The reply of the Government has not been received (October 2016).

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<sup>23</sup> ACCT: Unit-99, Jamnagar and DCCT: Range-7, Gandhinagar

## 2.8 Non levy of penalty under VAT

During test check of assessment records of three offices we noticed<sup>24</sup> in assessments<sup>25</sup> of three dealers that the Assessing Authorities (AAs) had not levied penalty of ₹ 1.78 crore as detailed below:

**2.8.1** Section 34(12) of the GVAT Act provides for levy of penalty not exceeding one and half times of the difference between the tax paid with returns and the amount assessed or reassessed where the tax assessed or reassessed exceeds 25 per cent of the amount of tax already paid. Further, as per Section 9(2) of the CST Act, provisions of interest and penalty enumerated in the GVAT Act also apply to the assessment under CST Act.

In case of two dealers of two offices<sup>26</sup>, the dealers had paid tax of ₹ 2.24 crore with returns against the payable amount of ₹ 3.31 crore. The difference between the amount of tax paid with returns and the amount assessed was more than 25 per cent of the amount of tax already paid. As such, penalty was required to be levied at the rate of one and half times of such differential amount of tax, but the AA in assessment had not levied any penalty. This resulted in non-levy of penalty of ₹ 1.60 crore.

We pointed out the cases to the Department in February 2014 and May 2015. The Department accepted (July and September 2016) our observations in both the cases and raised demand of ₹ 49.78 lakh in one case.

**2.8.2** Under Section 31(4) of the GVAT Act, 2003 if any person collects any amount by way of tax in contravention of the provisions of the GVAT Act, 2003 he shall be liable to pay, in addition to any tax payable, a penalty equal to the amount so collected. Further, as per Section 9(2) of the CST Act, provisions of interest and penalty enumerated in the GVAT Act also apply to the assessment under CST Act.

In case of a dealer assessed at ACCT Unit-11, Ahmedabad, the dealer had collected and paid CST of ₹ 60.47 lakh against the leviable amount of tax of ₹ 43.10 lakh. As the dealer had collected excess amount by way of tax in contravention of the provisions of the Act, penalty equal to the excess amount so collected was required to be levied. However, the AA in assessment had not levied any penalty. This resulted in non levy of penalty of ₹ 17.38 lakh.

We pointed out the case to the Department in July 2015. The Department accepted (September 2016) our observation and raised demand of ₹ 17.38 lakh.

We reported the matter to the Government in May 2016. The reply of the Government has not been received (October 2016).

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<sup>24</sup> Between February 2014 and July 2015

<sup>25</sup> For the year 2008-09, 2009-10 and 2010-11, assessments finalised between March 2013 and March 2015

<sup>26</sup> ACCT: Unit-104, Gandhidham and DCCT:Range-24, Jamnagar

## 2.9 Irregular benefit of exemption from tax under Economic Development of Kutchh District

The State Government *vide* Notification No. GHN-43 dated 01.04.2006 continued the tax exemptions granted under the Gujarat Sales Tax law for the sales or purchases of goods made by the industrial units to whom the Eligibility Certificate was issued by the Industries Commissioner and the Exemption Certificate was issued by the Commissioner of Sales Tax for manufacture and sale of the goods specified in the eligibility certificates issued to them.

During test check of the assessment records of ACCT-104, Gandhidham, we noticed (May 2015) in assessment<sup>27</sup> of one dealer that the Eligibility Certificate for Sales Tax Exemption under Economic Development of Kutchh District was issued to the dealer for manufacture and sale of Submerged Arc Welded (Saw) Pipes, Spiral Pipes, Polytehylene Coating and all types of Coating. As such, the sale of these goods was eligible for exemption from tax, whereas, sale of the scrap emerging as ‘bye-product’ of these goods was not eligible for any exemption. Accordingly, the Assessing Authority levied Central Sales Tax of ₹ 2.75 lakh on inter-state sale of scrap against Form ‘C’. However, the AA in VAT assessment granted exemption of tax of ₹ 1.27 crore on sale of scrap of ₹ 31.79 crore. This resulted in irregular exemption from tax to the extent of ₹ 1.27 crore excluding interest and penalty.

We pointed out the case to the Department in May 2015. The Department accepted (September 2016) our observation and stated that revision proceedings were under process.

We reported the matter to the Government in May 2016. The reply of the Government has not been received (October 2016).

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<sup>27</sup> For the assessment period 2010-11, assessment was finalised in May 2013



## CHAPTER-III LAND REVENUE

### 3.1 Results of Audit

Test check of records in the offices of the Collectors and Mamlatdars (LR), Deputy Director of Deendayal Institute of Survey and Revenue Administration, Gandhinagar, Settlement Commissioner and Director of Land Records, Gandhinagar, Director of Land Use Board, Gandhinagar and Gujarat State Disaster Management Authority, Gandhinagar in the State during the year 2015-16 revealed underassessment of tax and other irregularities involving ₹ 32.80 crore in 186 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1.	Non/short levy of occupancy price/premium price	34	12.07
2.	Non/short recovery of Non Agricultural Assessment	59	1.16
3.	Non/short recovery of Conversion Tax	26	4.25
4.	Other irregularities	45	12.16
5.	Expenditure Audit	22	3.16
	<b>Total</b>	<b>186</b>	<b>32.80</b>

During the course of the year, the Department accepted under-assessment and other irregularities and recovered ₹ 1.00 crore in 20 cases, which were pointed out in audit during 2015-16 and earlier years.

A few illustrative audit observations involving ₹ 10.52 crore are mentioned in the succeeding paragraphs.

### 3.2 Non/ short levy of premium price

As per the Government of Gujarat, Revenue Department Resolutions<sup>1</sup> issued under Section 43 of the Gujarat Tenancy and Agricultural Lands Act, 1948 in case of conversion of land under new and restricted tenure to old tenure, premium at the prescribed rates is required to be recovered by the concerned Collector. The market value of the property is determined in accordance with the *jantri*<sup>2</sup> rates and subject to the conditions prescribed therein. The Government Resolution dated 03.12.2011 provides that in the case of conversion of land under new and restricted tenure to old tenure for residential/ industrial/ commercial purposes, where the market value of the property is not prescribed in the *jantri*, two/ three/ four times of the agricultural rate of the same survey number of the property should be considered for the purpose of levy of premium. The rates so arrived at should not be less than the rates provided in the previous *jantri* effective from 01.04.2008. As per GR dated 03.05.2011, the rate of premium was 25/40 *per cent* of the market value of the property for agricultural/ non agricultural purpose.

During the test check of records including the orders for change of tenure of land of three Collector offices<sup>3</sup> for the period 2012-13 to 2013-14, we noticed<sup>4</sup> that premium price of ₹ 47.27 lakh was short recovered in 8 cases as detailed below:

Sl. No.	Name of Collector/ Number of cases	Nature of observation	Non/short levy of premium price (₹ in lakh)
1.	<u>Ahmedabad</u> 5	<p><b>Conversion of land for residential/ industrial purposes:</b></p> <p>In five cases, rates of residential/ industrial lands had not been provided in the <i>jantri</i> and therefore, two/ three times of agricultural rate provided in the prevalent <i>jantri</i> (effective from 18.04.2011) had been adopted to arrive at market value of land for residential/ industrial use. However, the rates so adopted were lower than the rates provided in the previous <i>jantri</i> (effective from 01.04.2008). The Department had fixed the market value at ₹ 89.70 lakh instead of ₹ 132.32 lakh provided in the previous <i>jantri</i>. Thus, undervaluation of ₹ 42.62 lakh resulted in short levy of premium price of ₹ 17.05 lakh.</p>	17.05

<sup>1</sup> Dated 13 July 1983 read with the Resolution No NBJ-102006-S 71-J (Part 2) dated 04 July 2008

<sup>2</sup> Annual Statement of Rates issued by the Government showing the rates for the purpose of determination of value of immovable properties and levy of stamp duty.

<sup>3</sup> Ahmedabad, Jamnagar and Patan

<sup>4</sup> In October 2014 and January 2015

After this was pointed out the Collector, Ahmedabad accepted all the audit observations and stated that demand notices would be issued to recover the premium price. Further, report on recovery in these cases had not been received (October 2016).			
2.	<u>Patan</u> 1	<b>Conversion of land for commercial purpose:</b> In one cases, rate of commercial land had not been provided in the <i>jantri</i> and therefore, four times of agricultural rate provided in the prevalent <i>jantri</i> (effective from 18.04.2011) had been adopted to arrive at market value of land for commercial use. However, the rate so adopted was lower than the rate provided in the previous <i>jantri</i> (effective from 01.04.2008). The Department had fixed the market value at ₹ 6.07 lakh instead of ₹ 20.26 lakh provided in the previous <i>jantri</i> . This resulted in under valuation of land of ₹ 14.19 lakh involving short levy of premium price of ₹ 5.67 lakh.	5.67
After this was pointed out the Collector Patan accepted the audit observation and stated that demand notice had been served to recover the premium amount. Further, report on recovery had not been received (October 2016).			
3.	<u>Ahmedabad</u> 1	<b>Incorrect application of rates:</b> In one case, the Collector had incorrectly adopted <i>jantri</i> rate of ₹ 500 per sq. mtr. pertaining to Survey No. 101 instead of ₹ 1,030 per sq. mtr. pertaining to Survey Number 162. Thus, the value of the land was incorrectly fixed at ₹ 28.84 lakh instead of ₹ 59.40 lakh resulting in under valuation to the extent of ₹ 30.56 lakh. This resulted in short levy of premium price of ₹ 12.23 lakh.	12.23
The Department accepted the audit observation and stated that action would be taken to recover the differential amount. Further recovery report in this case had not been received (October 2016).			
4.	<u>Jamnagar</u> 1	<b>Incorrect application of rates:</b> In one case incorrect <i>jantri</i> rate had been adopted to arrive at the market value due to application of rate of a zone other than the zone in which the land was located. The Collector had adopted <i>jantri</i> rate of ₹ 140/130 per sq. mtr. pertaining to Survey No. 205/ 206 of value zone R/0/5/C instead of ₹ 350/300 per sq. mtr. of value zone R/0/29. Thus, the value of the land was incorrectly fixed at ₹ 35.25 lakh instead of ₹ 84.53 lakh resulting in under valuation to the extent of ₹ 49.28 lakh This resulted in short levy of premium price of ₹ 12.32 lakh.	12.32
After this was pointed out the Department stated that valuation was made as per the opinion of the Sub-Registrar and as such the rate was applied. However the fact remains that rate was available in the <i>jantri</i> and there was no need of seeking opinion of Sub-Registrar. Besides, the Sub-Registrar was not authorised under the Land Revenue Code to give his opinion in this case.			
		<b>Total</b>	<b>(8 Cases) ₹ 47.27 lakh</b>

We pointed out these cases to the Government in June 2016; their replies have not been received (October 2016).

### 3.3 Non levy of conversion tax

Section 67 A of the Gujarat Land Revenue Code, 1879 provides for the levy of conversion tax at prescribed rates on change in the mode of use of land from agricultural to non agricultural (NA) purpose or from one NA purpose to another in respect of land situated in a city, town or village.

During the test check of records of two Collector offices<sup>5</sup> for the period 2012-13 to 2013-14, we noticed<sup>6</sup> that the conversion tax of ₹ 7.33 crore was not levied in two cases as follows:

Sl. No.	Location/No. of cases	Nature of observation
	Non levy of conversion tax (₹ in lakh)	
1.	<u>Patan</u> <u>2 cases</u> 691.19	In two cases, Government lands admeasuring 1,02,00,000 sq. mtrs. and 13,19,790 sq. mtrs were allotted (December 2010 and September 2012) to the Gujarat Power Corporation Ltd. (GPCL) for the purpose of development of Solar Power Park and Gas Based Power Project respectively by the Revenue Department. Though advance possessions of the said lands were given to GPCL, the Revenue Authorities did not levy conversion tax at prescribed rates. This resulted in non-levy of conversion tax of ₹ 6.91 crore.
The Collector, Patan accepted the point and stated that conversion tax would be recovered.		
2.	<u>Jamnagar</u> <u>25 cases</u> 41.40	In 25 cases, Government lands admeasuring 6.90 lakh sq. mtrs. were given on lease for wind farm power project by the Revenue Department. But the Revenue Authorities did not levy conversion tax of ₹ 41.40 lakh.
After this was pointed out, the Department accepted (August 2016) the audit observations in all cases and also recovered ₹ 22.20 lakh in three cases.		
	<u>27 cases</u> ₹ 732.59 lakh	

We pointed out these cases to the Government in June 2016; their replies have not been received (October 2016)

### 3.4 Non-levy of service charge

As per GR dated 26.04.2011, the person/ company applying for the allotment of government land has to pay service charge at the rate of one *per cent* of the value of land applied for as per the prevailing *jantri*. The service charge so paid is non-refundable. Moreover, the application should be processed only if the applicant pays the service charge at the time of application itself. Further, Government *vide* GR dated 15.06.2011 clarified that service charge is also to be collected in advance from the State Government Company/ Corporations,

<sup>5</sup> Jamnagar and Patan

<sup>6</sup> in October and December 2014

Municipal Corporation, Municipalities and Departments of Government of India, who are applying for grant of Government land.

During the test check of records of two Collector offices<sup>7</sup> for the period 2012-13 and 2013-14, we noticed<sup>8</sup> that service charge of ₹ 1.24 crore was not recovered at the time of application for allotment of Government land in three cases as follows:

Sl. No.	Location/ No. of cases	Nature of observation
	Non-levy of service charge (₹ in lakh)	
1	<u>Bharuch</u> <u>2</u> 96.74	In two cases, valuation of Government land had been finalised (October 2013 and January 2014) by the District Level Valuation Committee (DLVC) for allotment of land to Gujarat Industrial Development Corporation (GIDC) and Gujarat Tourism Opportunity Ltd. for setting up of industry and hotel respectively. In both the cases, though the applicants had not paid the service charge at the time of application (March and July 2013) for allotment of land, the Collector had processed the applications. Thus, the Department did not adhere to the specific instructions issued by the Government <i>vide</i> above mentioned GRs. This resulted in non-recovery of service charge of ₹ 96.74 lakh on market value of ₹ 96.74 crore as per <i>jantri</i> .
The jurisdictional Collectors accepted the observation and stated that recovery would be effected.		
2	<u>Gandhinagar</u> <u>1</u> 27.40	In one case, Government land was allotted (January 2013) to Gandhinagar Urban Development Authority (GUDA) for sewage treatment plant and advance possession of the land had also been given. However, no service charge had been recovered in advance from the applicant by the Collector. This resulted in non-recovery of service charge of ₹ 27.40 lakh on market value of ₹ 27.40 crore as per <i>jantri</i> .
The Collector, Gandhinagar accepted (March 2016) the audit observation and stated that amount would be recovered.		
<b>Total</b>	<b><u>3 cases</u></b> <b>₹ 124.14 lakh</b>	

Further report on recovery is awaited in these cases (October 2016).

We pointed out these cases to the Government in June 2016; their replies have not been received (October 2016).

<sup>7</sup> Bharuch and Gandhinagar

<sup>8</sup> in April 2014 and February 2015

### 3.5 Short levy of stamp duty

As per Article 20 of the Gujarat Stamp Act, 1958, stamp duty on conveyance is leviable on the market value of the property or consideration stated in the document, whichever is higher. The market value of the Government land to private persons is fixed by DLVC/ SLVC depending upon the value of the land. The value so fixed remains valid for one year and in case the land is not allotted within one year, the value of the land is enhanced by 12 *per cent* annually.

During the test check of the records of the office of Collector, Surat for the period 2013-14, we noticed (March 2015) in one case that the Government land admeasuring 33.75 hectare was allotted (January 2014) by Collector to a firm for establishment of cement factory. The District Land Valuation Committee (DLVC) had fixed the price of land as ₹ 158.96 crore in July 2011. However the land was not allotted within one year by the Department. It was allotted in June 2013. The Department enhanced the value of the land by 12 *per cent* i.e. ₹ 19.08 crore for the levy of premium. Thus, the market value of the land was ₹ 178.04 crore. But, while levying stamp duty (in 2013), this enhanced amount was omitted and the stamp duty was levied on ₹ 158.96 crore only. This resulted in short levy of stamp duty of ₹ 93.47 lakh.

After we pointed this out, the Collector stated that reply would be furnished after scrutiny of records. No further reply was received (October 2016).

### 3.6 Non/ short levy of cost of acquisition

As per Section 50(1) of the Land Acquisition Act, 1894, where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company. Revenue Department vide Circular of September 1999 had revised the rates of cost of acquisition commonly termed as “establishment charges” by the Department on the basis of amount of compensation/ award.

During test the check of records of the Special Land Acquisition Officer, Gandhinagar, we noticed (October 2015) that in nine cases, the Special Land Acquisition Officer had acquired private land after payment of award of ₹ 5.42 crore and awarded (February 2005 to June 2011) the same to Western Railways, Border Security Force and Ahmedabad Urban Development Authority. Out of these, in seven cases, establishment charges were not levied at all and in remaining two cases, establishment charges were recovered at incorrect rates. This resulted in non/ short levy of establishment charges of ₹ 54.32 lakh.

After we pointed this out, the Special Land Acquisition Officer accepted the audit observation in all cases and stated that the establishment charges would be recovered under intimation to audit. No further reply has been received (October 2016).

## CHAPTER-IV TAXES ON VEHICLES

### 4.1 Results of Audit

Test check of records in the offices of Regional Transport/ Assistant Regional Transport Officers and the Commissioner of Transport, Gandhinagar in the State during the year 2015-16 revealed under-assessment of tax and other irregularities involving ₹ 28.01 crore in 124 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1.	Performance Audit of Administration of Motor Vehicles Tax	1	24.67
2.	Non/short levy of motor vehicles tax	20	2.23
3.	Other irregularities	103	1.11
	<b>Total</b>	<b>124</b>	<b>28.01</b>

During the course of the year, the Department accepted and recovered under-assessment and other irregularities of ₹ 3.42 crore in 41 cases, which were pointed out in audit during 2015-16 and earlier years.

A performance audit of “Administration of Motor Vehicles Tax” involving ₹ 24.67 crore is mentioned in the succeeding paragraph.

## 4.2 Performance Audit of “Administration of Motor Vehicles Tax”

### Highlights

All the modules of VAHAN and SARATHI were not implemented. Out of the five modules of VAHAN Software, only Vehicle Registration module was implemented and was in operation. In SARATHI Software, of the four modules only two modules viz., Learner Licence and Driving Licence modules were implemented and were in operation.

**(Paragraph 4.2.7.1)**

The check posts were not interlinked with National/ State Register of RTOs, check posts and the deficiencies pointed out in the earlier Audit Report persisted.

**(Paragraph 4.2.7.2)**

The Department did not know the number of the vehicles that were plying without valid fitness certificates. As a result, the fitness of the vehicles required for plying on road was not ensured, thus compromising road safety norms.

**(Paragraph 4.2.8)**

Operators of 3,267 transport and non-transport vehicles had neither paid tax nor filed non-use declarations for the periods between 2010-11 and 2014-15. This resulted in non-realisation of motor vehicles tax of ₹ 12.43 crore.

**(Paragraph 4.2.19)**

Periodical targets were not fixed by the Department for the recovery of arrears of tax related to RRC cases.

**(Paragraph 4.2.20.2)**

### 4.2.1 Introduction

Motor Vehicles Tax (MVT) is one of the major sources of tax revenue receipts<sup>1</sup> of the State. The levy and collection of tax on motor vehicles is governed by Gujarat Motor Vehicles Tax (GMVT) Act 1958, Gujarat Motor Vehicles (Taxation of Passengers) Act, 1958 and Rules made thereunder. Motor Vehicles tax in respect of non-transport vehicles and some specific transport vehicles<sup>2</sup> is realised in the form of lump sum tax as one time tax (OTT), whereas tax from other transport vehicles is realised on monthly/half-yearly/annual basis at the rates specified under GMVT Act. Section 3 of the Act empowers the State Government to fix the rate of tax by issue of notification from time to time. Section 12 of the Act provides for recovery of tax due, interest and penalty, in case of default, from the owner of the vehicle in the same manner, as arrears of land revenue under Gujarat Land Revenue Code, 1879.

The fees for registration, fitness certificate, permit, licence, appeal and fines for violations are levied and collected under the provisions of Motor Vehicles Act, 1988 (MV Act) and the Central Motor Vehicles Rules, 1989 (CMV

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<sup>1</sup> After Value Added Tax, Electricity Duty and Stamp Duty

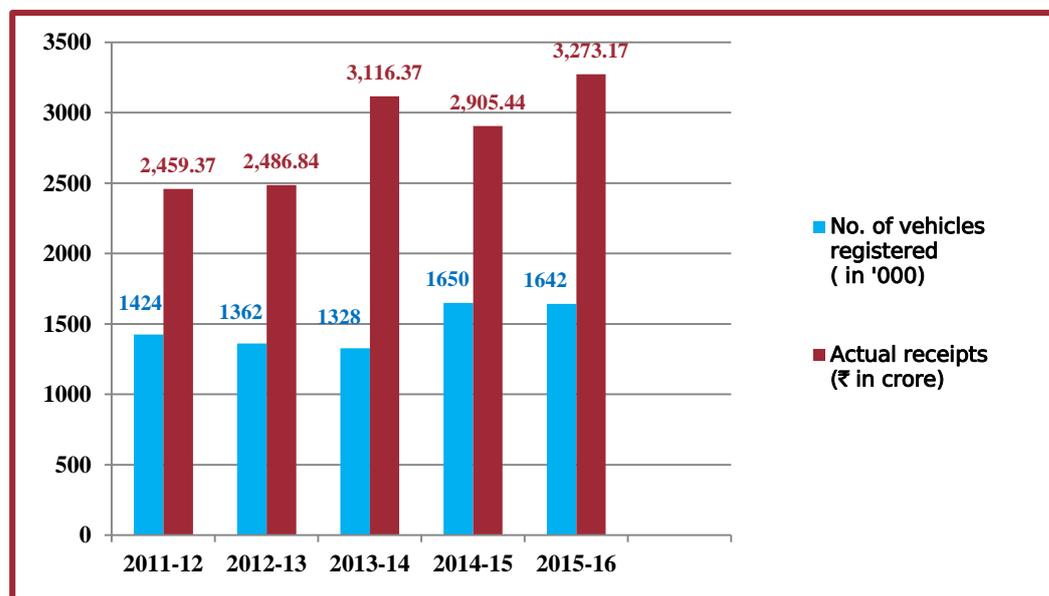
<sup>2</sup> Goods vehicles registered with Laden Weight upto 7500 Kg

Rules) framed thereunder. Section 40 of MV Act stipulates that a motor vehicle should be registered by the registering authority in whose jurisdiction the owner of the motor vehicle resides or where the motor vehicle is normally kept. Section 66 of the Act lays down that no motor vehicle shall be used as a transport vehicle without a permit issued by transport authorities to use the vehicle in a public place. The vehicle plying should also carry a valid certificate of fitness issued under Section 56 of the Act. The vehicle owner is required to maintain the vehicle in accordance with the requirements of this Act and the rules made thereunder.

The Government of India (GoI), to have a national registry of registered vehicles and driving licences issued and also for providing valuable data for the centre and security agencies, directed (2001) State Governments to implement the ‘Vahan’ and ‘Sarathi’ software systems developed by the National Informatics Centre (NIC). In Gujarat, the *Sarathi* system for driving licence and *Vahan* system for registration of vehicles was introduced from November 2006 and March, 2008, respectively.

#### 4.2.2 Trend of Revenue and registration of vehicles in the State

The details of revenue collected from taxes including motor vehicles tax, passenger tax, various fees and penalty and number of registered vehicles during 2010-11 to 2014-15 are given below:

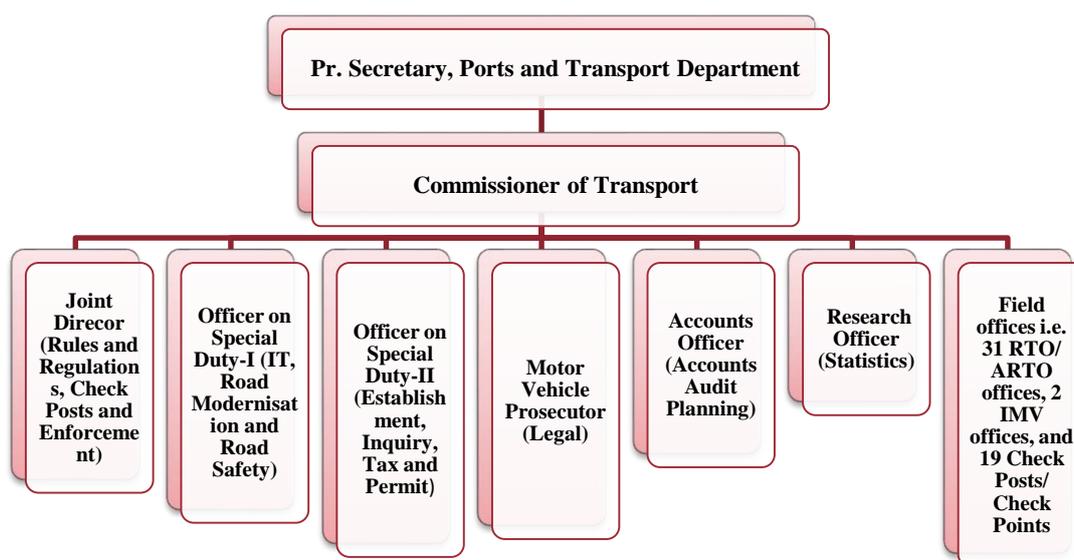


(Source: Finance Accounts of the State and Information furnished by the Department)

The receipts from taxes kept increasing for the period 2011-12 to 2015-16, except during the year 2014-15. The decrease during the year 2014-15 was mainly due to reduction in the rate of passenger tax from 17.5 per cent to 7 per cent.

### 4.2.3 Organisational set up

The Commissioner of Transport (CoT) heads the Gujarat Motor Vehicles Department (the Department) under the administrative control of the Principal Secretary to the Government of Gujarat (GoG) in the Ports and Transport Department. He is assisted by a Joint Director, two Officers on Special Duty (OSDs) one in-charge of Information Technology, Road Modernisation and Road Safety and other in-charge of Establishment, Enquiry, Tax and Permit, a Motor Vehicles Prosecutor (Legal), an Accounts Officer (Accounts Audit Planning) and a Research Officer (Statistics) in the Head office. There are 14 Regional Transport Offices (RTOs)<sup>3</sup>, 17 Assistant Regional Transport Offices (ARTOs)<sup>4</sup> and two Inspectors of Motor Vehicles Offices (MVIIs)<sup>5</sup>. There are 16 check-posts<sup>6</sup> (CP) and three check-points<sup>7</sup> working under 11 RTOs/ ARTO as follows:



### 4.2.4 Audit Objectives

We conducted Performance Audit (PA) with a view to ascertain the efficiency and effectiveness of administration of MVT by the Department with special emphasis on the following objectives:

- Whether procedures in place and instructions issued were adequate and in conformity with Acts/Rules to facilitate efficient functioning of the Department;

<sup>3</sup> Ahmedabad, Bhavnagar, Godhra, Himmatnagar, Jamnagar, Junagadh, Kutchh-Bhuj, Mehsana, Nadiad, Palanpur, Rajkot, Surat, Vadodara and Valsad

<sup>4</sup> Ahmedabad (East), Amreli, Anand, Bardoli, Bharuch, Botad, Dahod, Dang-Ahwa, Gandhinagar, Gir-Somnath, Mahisagar-Lunavada, Navsari, Patan, Porbandar, Rajpipla, Surendranagar and Vyara

<sup>5</sup> Gandhidham and Modasa

<sup>6</sup> Ambaji, Amirgadh, Bhilad, ChhotaUdepur, Dahod, Gudari, Jamnagar, Kaparda, Sagbara, Samkhiyali, Shamlaji, Songadh, Tharad, Thavar, Waghai and Zalod

<sup>7</sup> Adesar, Hazira and Surajbari

- Whether Acts, Rules, systems, procedures, instructions are followed by the Department; and
- Whether the internal control mechanism existed to prevent leakage of revenue and misuse of provisions of Act/Rules.

#### 4.2.5 Audit Criteria

The audit criteria are derived from the following Acts and also the Rules made thereunder which govern the process of system of registration of vehicles, issue of licence, fitness certificate, permit, assessment, levy and collection of motor vehicles tax/passenger tax etc.

- The Motor Vehicles (MV) Act, 1988
- The Central Motor Vehicles (CMV) Rules, 1989
- The Gujarat Motor Vehicles Tax (GMVT) Act, 1958
- The Gujarat Motor Vehicles(GMV)Rules, 1989
- The Gujarat Motor Vehicles (Taxation of Passengers) Act, 1958
- Guidelines/Manual/Instructions/Circulars/Orders issued by the Department.

#### 4.2.6 Audit Scope, Methodology and Acknowledgement

We conducted the PA “Administration of Motor Vehicles Tax” during August 2015 to March 2016 covering the period from 2010-11 to 2014-15.

We checked the records of the office of the CoT and selected RTO/ARTOs including check posts working under their jurisdiction. Out of 31 RTO/ARTOs and 18 Check-posts including check-points, we selected 11 RTO/ARTOs<sup>8</sup> including 14 Check-posts<sup>9</sup> working under respective RTO/ARTO, one additional Check-Post<sup>10</sup> being largest under an ARTO and also the office of CoT. For selection of sample, units were stratified into four strata based on the regions of the State and then a simple random sampling was done in each stratum. The sample size represents 35 per cent of RTO/ARTOs and 79 per cent of Check-posts involving 70 per cent of the total revenue.

An entry conference was held with CoT on 06 December 2015 wherein the objectives of the PA were explained. Thereafter, the exit conference was held on 22 July 2016 in which the findings of the PA were discussed. The replies received during the exit conference and at other points of time have been suitably incorporated in the relevant paragraphs.

<sup>8</sup> RTO: Ahmedabad, Himatnagar, Jamnagar, Kutch-Bhuj, Palanpur, Rajkot, Surat and Vadodara

ARTO: Bharuch, Dahod and Gandhinagar

<sup>9</sup> Check-post/check-point: Adesar, Ambaji, Amirgarh, ChhotaUdepur, Dahod, Gundari, Hazira, Jamnagar, Samkhiyali, Shamlaji, Surajbari, Tharad, Thavar and Zalod

<sup>10</sup> Bhilad

The Indian Audit and Accounts Department acknowledges the co-operation extended by the Department for providing necessary information and records required for the preparation of the Report.

## Audit findings

### System deficiencies

#### 4.2.7 Computerisation

##### 4.2.7.1 Implementation and functioning of VAHAN and SARATHI Software

The VAHAN Software was designed to capture all the information relating to motor vehicles from the Vehicle Registration files. The system sought to achieve various objectives which *inter alia* include creation of a National Register, using the central database of registered vehicles through creation of inter-connectivity amongst RTO/ARTOs in the State to prevent leakage of revenue and augment tax collection. The services of the VAHAN Software are under five modules *viz.*, Vehicle Registration, Permit, Tax, Fitness and Enforcement<sup>11</sup>.

Of these, one module (vehicle registration) was fully implemented, tax module was partially implemented, i.e. only for non-transport vehicles, fitness module was implemented on trial basis in ARTO, Gandhinagar while enforcement module, permit module were not implemented (October 2016).

The SARATHI Software was designed to feed all necessary information relating to issue of driving licences. The system sought to properly manage issue of Learner/ Driving Licence, maintain State/ National Registers of Driving Licences and provide citizen centric services. The services of the SARATHI Software are under four modules *viz.*, Learner Licence, Driving Licence, Conductor Licence and Driving School Licence.

Out of these four modules of SARATHI Software, only two modules *viz.*, Learner Licence and Driving Licence modules were implemented and the remaining two modules *viz.*, Conductor Licence and Driving School Licence were not implemented.

After this being pointed out, the Department stated (July 2016) that a new version of VAHAN called VAHAN-II is being implemented and with its implementation, all the modules would be made operational. While in respect of SARATHI, it was stated that a new system called SARTHI-IV is being implemented in ensuing months, conductors licence and driving school licence modules would also become operational.

**Legacy data:** We also observed that, in the 'Vehicle Registration module' of VAHAN software, the Department ported data of 64.71 lakh vehicles upto

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<sup>11</sup> Data related to the cases of violation of Motor Vehicles and Taxations Laws detected by the Department are stored for monitoring and follow up actions.

2 November 2015. Out of the ported data of 64.71 lakh vehicles, only data of 4.30 lakh vehicles (*seven per cent* of ported data) was activated by the Department. The activated entries related to the vehicles owners that had come forward themselves for any transaction in respect of their vehicles like payment of tax, transfer of ownership, hypothecation etc. at the concerned RTO/ ARTO. Thus, the report(s) drawn from VAHAN software was not giving complete information on lapsed registration/ permits/fitness certificates etc.

After this was pointed out, the Department stated (July 2016) that work of updation of legacy data has been entrusted to Gujarat Informatics Limited (GIL). In the VAHAN software in respect of legacy data, out of 13 fields which are mandatory 11 fields have been left blank, because the data in respect of these entries has become obsolete. The data is activated only when the vehicle owner appears for some transaction. Old data has been rejected in those cases, where data has already been updated.

However, the fact remains that non-porting of the legacy data had rendered the reports incomplete. This indicates that MIS system of the Department was weak and needed strengthening.

**Effective steps and targets for activation of the legacy data, completion of all modules of VAHAN and SARATHI to make them functional need to be fixed.**

#### **4.2.7.2 Persistence of deficiencies in the functioning of CPAS**

Section 113 of the MV Act prescribes for levy of penalty if a person drives any motor vehicle or trailer, the laden weight of which exceeds the gross vehicle weight specified in the certificate of registration. Check posts (CPs) have been set up on the State borders by the State Government to check if vehicles passing through these borders have paid all the road taxes, carry proper documents and conform to the loading and dimensioning norms. All interstate CPs have Inter-State Check Post Automation System (CPAS).

Mention was made in para no.4.2 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2006 about the deficiencies noticed in the CPAS. These findings included deficiencies in IT controls, absence of access from CPAS to central data of registered vehicles, validation checks, etc.

Though, CPAS was designed to remove inaccuracies in checking the weights of each vehicle, charging for excess laden weight correctly, recording of charges for offences but Audit found that inspectors still relied upon physical checking of vehicles passing through the check post and relevant records available with driver. The check posts were not interlinked with National/ State Register of RTOs, check posts and the deficiencies pointed out in the earlier Audit Report persisted.

Thus, due to lack of corrective measures, the deficiencies persisted in the CPAS system and correctness of the data could not be ascertained.

After this was pointed out, the Department stated (July 2016) that due to constraints such as decentralised VAHAN system and poor connectivity, real time verification of data was not possible. However, the project of interlinking of check posts with RTOs is going to be completed soon.

**It is recommended that the Government may fix a time frame within which the work of interlinking of check posts with RTOs would be completed.**

#### **4.2.8 System for renewal of Fitness Certificate of transport vehicles and re-registration of non-transport vehicles**

##### **Transport vehicles:**

Section 56 of the MV Act prohibits plying of vehicles on road without valid Fitness Certificate and also stipulates that vehicles without valid certificates of fitness shall not be deemed to be validly registered under the provisions of the Act. Further, Rule 62 and 81 of the CMV Rules provide that the owners of the transport vehicles shall produce their vehicles for inspection annually after completion of two years of registration and pay the prescribed fees for inspection and renewal of the Fitness Certificate.

As per the monthly statement submitted by taxation authorities to CoT, it was noticed that in 11 taxation authorities<sup>12</sup>, 1.40 lakh transport vehicles were registered during 2012-13. The fitness certificate of these vehicles was valid for two years. Thus, the fitness certificates of these vehicles were required to be renewed during 2014-15. There was neither any inbuilt mechanism in the 'VAHAN' software to give alerts regarding expiry of validity of Fitness Certificate during the receipt of periodical tax payments nor was it maintained manually. Thus, the Department was not in know of the vehicles that were plying without a valid fitness certificates. As a result, the fitness of the vehicles for plying on road was not ensured, exposing the risk of road safety. The fitness fees involved in the vehicles amounted to ₹ 5.12 crore.

##### **Non-transport vehicles:**

Section 41(7) of the MV Act provides that registration of non-transport vehicle is valid for a period of 15 years. After the expiry of this period, a vehicle could be re-registered for a further period of five years subject to the production of a fitness certificate. The fees payable at the time of registration are re-registration fees ₹ 200, fitness test fees ₹ 200 and certificate fees ₹ 100.

The registration details furnished to audit by seven<sup>13</sup> taxation authorities indicated that 2.74 lakh vehicles were registered during 1999-2000. The re-registration and fitness certificate of these vehicles were required to be watched in 2014-15. However, there was nothing on record to indicate the number of vehicle that were plying and needed re-registration/renewal of

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<sup>12</sup> Ahmedabad, Bharuch, Bhuj, Dahod, Gandhinagar, Himmatnagar, Jamnagar, Palanpur, Rajkot, Surat and Vadodara

<sup>13</sup> Ahmedabad, Bhuj, Gandhinagar, Jamnagar, Rajkot, Surat and Vadodara

fitness certificate. Information in respect of remaining four taxation authorities<sup>14</sup> was not produced to audit.

After this was pointed out, the Department stated (July 2016) in the exit conference that at present there is no system to monitor the re-registration and fitness certificates of the old vehicles. Now they have implemented enforcement module in ARTO Gandhinagar and have shifted to a new system VAHAN-II. In the new system there is provision for issue of demand notice in case of expiry of fitness certificates. The system would be implemented in other offices also as soon as possible. They had also requested NIC to create necessary MIS in this regard.

#### **4.2.9 System for renewal of authorisation of National Permit**

Under Rules 86 to 90 of Motor Vehicle Rules, 1989 (MV Rules) any goods vehicle intending to move on national level shall apply for a National Permit (NP) in a prescribed form to the jurisdictional Regional Transport Officer. The application of NP along with other supporting documents viz., Fitness Certificate, proof of payments of insurance, motor vehicles taxes, consolidated fees of ₹ 15,000/₹ 16,500 per annum (*w.e.f.*2.4.2012) for transport vehicles etc., is scrutinised initially by the Department. As per Section 81 of Motor Vehicle Act, 1988 (MV Act) a permit is valid for five years. However, as per Rule 87 (3) of MV Rules, validity of authorisation of the National Permit in Form 48 is for one year. An application for renewal of National Permit is required to be submitted prior to expiry of such permit. Under the scheme, a composite fees of ₹ 16,500 per annum along with application fees for authorization amounting to ₹ 1,000 is to be deposited in the Government account for authorization of NP.

The CoT in his Circular of April 1990 had also clarified that in case the NP holder does not obtain fresh authorisation after expiry of authorisation or applies for cancellation of NP, such permit may be cancelled after the date of expiry of authorisation.

Analysis of the data obtained from National Permit module<sup>15</sup> of 11 taxation authorities<sup>16</sup> for the period 2010-15, revealed that owners of 4,716 transport vehicles had neither renewed nor surrendered their NPs. There was nothing on records to indicate whether the vehicles owners had surrendered the national permits or had transferred the vehicles in other State. However, in absence of a mechanism to detect the cases of NPs due for renewal, the registering authority failed to serve notices to the defaulting vehicle owners for the renewal of permit. This may involve the amount of State Authorisation fees of ₹ 1.01 crore and consolidated fees of ₹ 16.59 crore.

After we pointed this out, Department stated (July 2016) that the database in respect of NPs is with Central Government and concerned RTOs/ARTOs

<sup>14</sup> Bharuch, Dahod, Himmatnagar and Palanpur

<sup>15</sup> Maintained by the Central Government and provided separate user-id, password for each RTO/ARTO

<sup>16</sup> Ahmedabad, Bharuch, Bhuj, Dahod, Gandhinagar, Himmatnagar, Jamnagar, Palanpur, Rajkot, Surat and Vadodara

stated (August and September 2015) that the Department was responsible to renew the permit only after the receipt of application for renewal of NPs.

Audit is of the view that all the information such as date of expiry of authorisation, tax paid and other details of vehicles with National Permit was available in VAHAN Software which is designed for keeping vehicles details such as registration certificates, permit and taxes etc. In spite of this, these cases were not detected by the Department. The Department also did not initiate any action to issue notices to these permit holders and cancel the permit as prescribed in the MV Rules.

Reply of the Department also indicates that there is no mechanism with RTOs to timely detect the cases of NPs due for renewal for taking appropriate action against the defaulting vehicle owners to safeguard the interest of Government.

**The Department may put in place a suitable mechanism for timely detection of the cases of NPs due for renewal and take appropriate action against the defaulting vehicle owners.**

#### **4.2.10 Reduction in rate of penalty on overloaded vehicles**

Section 113(3)(b) of the MV Act stipulates that no person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer, the laden weight of which exceeds the gross vehicle weight specified in the certificate of registration. Section 194(1) of the Act *ibid* stipulates levy of minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 *per tonne* of excess load.

During test check of memo books and other records of 10 taxation authorities<sup>17</sup> we noticed that 799 goods vehicles had carried excess load ranging between one *per cent* and 225 *per cent* beyond the registered laden weight (RLW) during the period from January 2014 to March 2015. But, the RTO/ARTOs had levied and recovered penalty from these vehicle owners as per the Notification dated 21 December 2013 of GoG which stipulated lesser rates of fine<sup>18</sup> for excess load in the vehicles and not as per the provisions of the MV Act *i.e.* levy of minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 *per tonne* of excess load. In exercise of power under Section 200 of MV Act regarding composition certain offences, GoG had fixed the lesser fine for overloading of vehicles.

After this was pointed out, the CoT did not agree with the Audit observation and stated (September 2016) that under Section 200 of the MV Act, the State Government was empowered to fix the rates of compounding fees. The Government has also authorised the Departmental officers to compound the offences and recover the compounding fees as per the provisions of Section 200 of the MV Act. The fact, however, remains that by reducing the rate of penalty, the Government instead of taking stringent measures against the

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<sup>17</sup> Ahmedabad, Bharuch, Bhilad CP, Bhuji, Dahod, Gandhinagar, Jamnagar, Palanpur, Rajkot and Vadodara

<sup>18</sup> **Excess load upto 2000 kg** –for every 500 kg and part thereof ₹ 300, **Excess load beyond 5000 kg**-for every 500 kg and part thereof ₹ 500

vehicles carrying excess weight is encouraging the overloading of vehicles by reducing the rates of penalty.

#### **4.2.11 Absence of provision for levy of MV tax on sleeper coach buses used as Stage Carriages**

The sleeper facility in GSRTC buses was introduced in 2009. Fifty buses with sleeper facility were being operated by GSRTC. However, no provision for levy of tax on sleeper coach buses was made by the Government.

In case of contract carriages<sup>19</sup> with berths operated by private bus operators, the Act provides for higher rates of periodical tax when compared to the rates of tax for seats. However, we noticed that no specific rates of GMV tax for such sleeper coach buses used as Stage Carriages had been fixed even after expiry of more than five years since introduction of sleeper buses. In absence of specific tax rates for sleeper coach buses, GSRTC had paid the MV tax treating berths as seats. Reasons for non-fixation of tax rates for sleeper coach buses were called for, but not made available to audit.

After this being pointed out, CoT stated (May 2016) that matter had been referred (May 2016) to the Government for necessary action.

#### **4.2.12 Verification of records relating to Motor Driving Schools**

As per provisions of Rule 27 of the CMV Rules, the holder of a driving school licence granted under Rule 24 of the Rules *ibid*, shall maintain register on annual basis showing the details of name of the students admitted in the school during the year and also furnish such information and returns to the licensing authority as prescribed by the Department from time to time.

During the test check of records of four taxation authorities<sup>20</sup> for the period 2010-2015, we noticed that in case of 591 motor driving schools, there was no system in place to call for any information/ returns by the authorities from the driving school licence holders for verification/assessment of work done by them. This indicated lack of internal controls and efforts for monitoring/inspection of driving schools.

After this was pointed out, the CoT agreed with the audit observation and stated (September 2016) that they had taken steps for renewal of licences and recovery of licence fees.

<sup>19</sup> It means a motor vehicle which carries passengers for hire or reward and is engaged under an expressed/implied contract, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit of such vehicle on a rate or sum fixed on a time basis (with/without reference route or distance); or point to point basis, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes – (i) a maxicab; and (ii) a motorcab.

<sup>20</sup> Ahmedabad, Bhuj, Surat and Vadodara

#### **4.2.13 Monitoring of the functioning of Pollution Testing Units**

As per CoT's Circular dated 20 June 2011, the licence holder of Pollution Testing Unit (PTU) authorised to issue pollution control certificate (PUC) for the motor vehicle should maintain yearly register showing the details of date, details of vehicles checked, emission levels, certificate issued etc. PTUs are also required to calibrate pollution measuring meter/ equipment as per the test procedure specified under Rule 116(3) of the CMV Rules. The licensing authority is authorised to monitor/inspect working of PTUs.

During the test check of records of nine taxation authorities<sup>21</sup> we noticed that 560 PTUs were operating as on 31 December 2014. We observed that no system was in place to call for the records maintained by the PTUs and inspecting the PTUs by Assistant MVIs to check the working of PTUs including maintenance of records and ensuring the calibration of measuring equipment by PTUs as per the stipulation made in this regard.

After this was pointed out, CoT stated (September 2016) that checking of PTUs was under progress. A system had also been put in place for monitoring the functioning of PTUs. However, the features of the system put in place were not produced to audit.

#### **Compliance deficiencies**

#### **4.2.14 Irregular grant of exemption to registered vehicles**

As per Section 13 of the GMVT Act, the State Government may, subject to the provisions of any rules made in that behalf, by notification in the Official Gazette, exempt either totally or partially any class of motor vehicles or any motor vehicles belonging to any class of persons, from the payment of tax. As per Ports and Transport Department's clarification letter dated 11 May 2011 and 23 January 2014 addressed to CoT, tax exemption shall not be granted to vehicles registered under 'G' series<sup>22</sup> in the name of State Government's Boards, Corporations etc.

During the test check of records of nine taxation authorities<sup>23</sup> for the period 2010-15, we noticed that in respect of 250 vehicles, the Department had granted exemption from payment of tax registered in the name of Boards/ *Nagarpalika/ Panchayat*. The grant of tax exemption by the Department was inconsistent with the instructions of the P&T Department. The tax involved in 105 cases amounted to ₹ 29.64 lakh excluding interest and penalty while in the remaining 145 cases, amount of tax could not be quantified as the cost of vehicle was not found in registration records.

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<sup>21</sup> Ahmedabad, Bharuch, Bhuj, Dahod, Himmatnagar, Jamnagar, Palanpur, Rajkot and Surat

<sup>22</sup> Department has reserved the G-series for registration of vehicles owned by State/ Central Government departments, Government Boards/ Corporations, Local Bodies, etc.

<sup>23</sup> Ahmedabad, Bharuch, Dahod, Gandhinagar, Himmatnagar, Jamnagar, Palanpur, Rajkot and Vadodara

After this was pointed out, the Principal Secretary accepted (July 2016) the audit observation in the exit conference and stated that the vehicle were not eligible for exemption from payment of tax.

#### 4.2.15 Irregular grant of exemption on trailers

Tractors and trailers are registered and taxed separately in Gujarat. In accordance with GoG Notification dated 30.3.2007, the tractors are liable to tax at the rate of 3.5 *per cent* or six *per cent* of sale price for agricultural and commercial purpose respectively. Trailers used for agriculture purpose are exempted from payment of tax while if used for commercial purposes are taxed at the rate of 6 *per cent*. Tractors if used for agricultural purposes are registered under Non-Transport category, while tractors used for commercial purposes and trailers irrespective of its purpose are registered under transport category.

We noticed that the Department had granted tax exemption to 7,343 trailers in 11 taxation authorities<sup>24</sup> for the period 2010-15. Registration numbers of these trailers had not been linked with the registration number of their respective tractors. In absence of this, it could not be ascertained whether these trailers were used for agricultural purposes only and exemption granted was correct.

After this was pointed out, the Department did not accept the audit observation and stated (September 2016) that at the time of registration of trailers, the Department had ascertained from the copies of village forms that the owners were agriculturist. Hence, the exemption granted was in order. The reply is not acceptable because in absence of cross-reference of registration number of tractors, it could not be ascertained whether the trailers would be used solely for agricultural purposes.

**Audit recommends that the Department may explore the possibility of cross-referencing of the registration numbers of tractors with those of trailers, to detect any misuse of exemptions granted.**

#### 4.2.16 Incorrect issue of clarification for waiver of pollution norms

As per Notification dated 28 May 2010 issued by Ministry of Road Transport and Highways, GoI and clarification dated 8 October 2010 issued by the CoT, the emission norms Bharat Stage-IV (BS-IV) grade fuel compliant<sup>25</sup> were required to be observed *w.e.f.* 01.04.2010 in respect of registration of four wheelers in Ahmedabad and Surat.

Scrutiny of the records revealed that Municipal Commissioner had intimated (October 2013) the Commissioner of Transport that Surat Bus Rapid Transit (BRT) corridor of 10 km. was completed and could not be operated due to non-availability of long AC buses complying with BS-IV. He had requested for

<sup>24</sup> Ahmedabad, Bharuch, Bhuj, Dahod, Gandhinagar, Himmatnagar, Jamnagar, Palanpur, Rajkot, Surat and Vadodara

<sup>25</sup> Bharat stage emission standards are emission standards instituted by GoI to regulate the output of air pollutants from internal combustion engine of motor vehicles

grant of permission for plying 20 BS-III buses. No permission was found to have been granted. Thereafter, a clarification was found to have been issued (November 2013) by the Joint Commissioner which read as “For registration of vehicles in Surat City, vehicles must be BS- IV compliant, but BS-III vehicles may also be registered in Surat City if the vehicle owner’s residential address is of outside city limits”. The clarification issued was not in line with the notification issued by the Ministry of Road Transport and Highways.

A test check of registration records/VAHAN database in two taxation authorities<sup>26</sup> for the period 2010-15 revealed that 26 buses of BRTS/AMTS<sup>27</sup> compliant to BS-III were got registered in Surat and Ahmedabad. The RTOs registered the buses on the ground that the owners of the vehicles were residing outside the city limits. This was in line with the clarification issued by the Joint Commissioner. Thus, it would be seen from the above that though the buses were not eligible for registration for plying in Surat and Ahmedabad, the incorrect clarification issued by the Joint Commissioner allowed the registering authorities to register these buses.

After this being pointed out, the Principal Secretary accepted the audit observation (July 2016) and stated that they would prevent their use within city limits.

#### 4.2.17 Functioning of Motor Vehicle Inspectors

As per the provisions of Rule 50(2) of the GMV Rules, the vehicle owner shall apply for issue of Fitness Certificate (FC) in Form CFA along with prescribed fees, Registration Certificate (RC), Insurance Certificate, proof of upto date payment of motor vehicles tax and Pollution Under Control (PUC) and produce the vehicle for inspection in a good condition. Motor Vehicle Inspector (MVI) inspecting a transport vehicle for grant/renewal of the FC shall fill form ‘MV Ins’ after verification of above mentioned documents given in a check list and obtain legible pencil impression of the chassis number of the vehicle so inspected on the slip (Inspection slip). On review of records for the month of March 2015, we observed the following deficiencies in the functioning of the MVIs of the below mentioned three RTOs:

Sl. No.	Name of the RTO	No. of cases	Nature of Audit observation
1.	Rajkot	6	In case of six transport vehicles, there were no entries regarding valid insurance cover and PUC in the Inspection slips.
2.	Surat	65	MVIs had not properly filled in and signed the inspection slips certifying the status of verification of fitness of such vehicles. Application for fitness of vehicles were not found on record along with supporting documents such as proof for upto date payment of tax and other necessary documents on record.
3.	Bhuj	40	MVIs had not properly filled in and signed the inspection slips certifying the status of verification of fitness of such vehicles.

<sup>26</sup> Ahmedabad and Surat

<sup>27</sup> Bus Rapid Transit System operated by M/s Prasanna Purple Mobility Solutions Pvt Ltd in Surat and M/s Chartered Speed Pvt. Ltd. in Ahmedabad

Thus, as seen from the above, documentary evidence in support of the vehicles, to have been checked, was not properly recorded. Records relating to issuance of fitness certificates, though called for, were not furnished by ARTO, Gandhinagar.

After this was pointed out in audit, the Department stated (September 2016) that henceforth, it would ensure that all the necessary documentary evidence is obtained and recorded properly before issuance of fitness certificates.

#### 4.2.18 Non maintenance/production of records required for change of ownership

During the test check of records of seven taxation authorities<sup>28</sup> for the period 2010-15, we noticed in 55 cases related to change of ownership of vehicles due to sale/purchase of vehicles or recording the status related to hypothecation of vehicles, the respective RTO/ARTO granted approval for making necessary changes in the registration certificates (RC) of the vehicle owners based on the applications submitted by them.

However, hard/ scanned copies of necessary supporting documents for the applications viz., address proof, identity proof, RC book, valid insurance, fitness/ permit, no due certificate (NDC) etc., were not found on record.

After this was pointed out in audit, the Department stated (September 2016) that henceforth, they would ensure that all the necessary documentary evidence are kept on record before grant of approval for change in ownership.

#### 4.2.19 Realisation of motor vehicles tax

The GMVT Act prescribes that contract carriage<sup>29</sup>, goods carriage vehicles and non-transport vehicles<sup>30</sup> are required to pay tax on monthly/half yearly/yearly basis respectively except for the period where the vehicles are not in use. In case of delay in payment, interest at the rate of one and half *per cent* per month and if the delay exceeds one month, a penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable.

We noticed (August 2015 to March 2016) that the operators of transport and non-transport vehicles had neither paid tax nor filed non-use declarations for the periods between 2010-11 and 2014-15 as detailed below:

Type of vehicles	No of RTOs/ARTOs involved	No of operators/owners involved	Non recovery of motor vehicle tax (₹ in crore)
Transport	11 <sup>31</sup>	2,462	11.39
Non-transport	10 <sup>32</sup>	805	1.04
		<b>3,267</b>	<b>12.43</b>

<sup>28</sup> Bharuch, Dahod, Himmatnagar, Jamnagar, Palanpur, Rajkot and Vadodara

<sup>29</sup> Maxicab, Motorcab etc.

<sup>30</sup> (cranes, compressors, rigs, excavators and loaders etc.)

<sup>31</sup> Ahmedabad, Bharuch, Bhuj, Dahod, Gandhinagar, Himmatnagar, Jamnagar, Palanpur, Rajkot, Surat and Vadodara

<sup>32</sup> Ahmedabad, Bharuch, Bhuj, Dahod, Himmatnagar, Jamnagar, Palanpur, Rajkot, Surat and Vadodara

This resulted in non-realisation of motor vehicles tax of ₹ 12.43 crore. Besides interest and penalty was also leviable. The Department had not taken action to recover the amount.

After this was pointed out, the Department accepted (September 2016) and recovered ₹ 2.69 crore in 463 cases of transport vehicles and ₹ 30.18 lakh in 277 cases of non-transport vehicles. It was also stated that in remaining cases of transport and non-transport vehicles the demand notices would be issued for recovery of MVT.

### **Recovery of Lumpsum Tax**

A test check of records of two taxation authorities<sup>33</sup> for the year 2014-15 revealed that lump sum tax of nine imported non-transport vehicles was incorrectly worked out as ₹ 130.56 lakh instead of ₹ 152.51 lakh. This resulted in short levy of lumpsum tax by ₹ 21.95 lakh.

After this was pointed out, the CoT stated (September 2016) that they had instructed concerned RTOs to re-assess the lumpsum tax in case of imported vehicles. Report of recovery had not received so far (October 2016).

## **4.2.20 Recovery of tax arrears**

Section 12 of GMVT Act provides that any tax due, penalty or interest not paid as provided by or under this Act shall, subject to the other provisions of this Act, be recoverable in the same manner as an arrear of land revenue. Further, Section 12B GMVT Act empowers taxation authorities to detain and keep in custody the vehicles of defaulters until dues are paid. The Department is also required to take all steps as it may consider necessary for proper maintenance until the tax dues and charges of custody of maintenance of vehicle is paid.

### **4.2.20.1 Non maintenance of Revenue Recovery Certificate Register**

We noticed that RRC Registers showing the case wise details of notices issued and pending action etc., were not properly maintained by nine RTO/ ARTOs<sup>34</sup>. The Mamlatdar of the Revenue Department are being deputed to various RTOs/ARTOs in the State for taking necessary action including auctioning of detained vehicles for the recovery of outstanding tax dues as arrears of land revenue under the provision of Gujarat Land Revenue Code, 1879. In these nine offices, no Mamlatdars were posted.

After this was pointed out, Principal Secretary stated (July 2016) in the exit conference that computerisation of RRC data is under progress and in VAHAN-II, there is provision for generation of demand notice to tax defaulters in case of transport vehicles.

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<sup>33</sup> Rajkot and Surat

<sup>34</sup> Ahmedabad, Bharuch, Bhuj, Dahod, Gandhinagar, Himmatnagar, Jamnagar, Palanpur and Vadodara

#### 4.2.20.2 Revenue Recovery Certificates (RRC)

The year wise details of arrears of tax relating to the period 2010-11 to 2014-15 of the Revenue Recovery Certificates (RRC) cases though called for (September 2015) were not furnished by the Department. The Department however furnished consolidated information as follows:

(₹ in crore)		
Period 1.4.2010 to 31.3.2015	Cases	Amount
Opening balance as on 1.4.2010	10,445	2,856.75
Addition during for the period	2,512	868.49
Disposal during the period	2,483	796.76
Closing balance	10,474	2,928.48

The above table indicates that the disposal of cases during 2010-15 was 23.77 *per cent* of opening balance of the cases. No periodical targets were fixed by the Department for the recovery of arrears of tax related to RRC cases.

#### 4.2.20.3 Disposal of seized vehicles

As per the information furnished by four RTO<sup>35</sup>s and one ARTO, Bhilad it was found that 54 vehicles were detained between September 2002 and January 2015.

Of these, six vehicles were in custody of the Department for more than 10 years, 14 vehicles were in custody for more than five years but less than 10 years and seven vehicles had been in the custody of the Department for a period ranging between one and five years. In respect of remaining 27 vehicles, the detention details were not found on record. These include 12 vehicles, where the respective RTOs had indicated in the information sent to the CoT that the chassis number and the engine number of the vehicles was not visible.

Thus, it would be seen from the above that the safe custody of the vehicles was not ensured and no efforts were made for disposal of the vehicles.

#### 4.2.21 Non recovery of penalty from the agencies

In the following works awarded to private agencies, the Department had not recovered the penalty as per terms of contract/ agreement for the delays in execution of the work by the agencies. No justification was on record for the non-recovery of penalty, further the Department had not furnished the information to Audit to work out the amount of penalty in certain cases as discussed below:

##### 4.2.21.1 Fitment of High Security Registration Plate

The Department entered into Concession Agreement (CA) with M/s FTA HSRP Solutions Private Limited (the Concessionaire) on 26 May 2012 with a validity period of ten years for affixation of High Security Registration

<sup>35</sup> Bhuj, Himmatnagar, Palanpur and Rajkot

Plate<sup>36</sup>) (HSRP) on vehicles. All vehicles registered on or after 16 November 2012 were required to be affixed with HSRP by the firm at the time of registration of vehicle and upto 30 November 2015 in case of old vehicles.

Paragraph 5.22 of the CA provided for recovery of penalty from the Concessionaire at ₹ 10,000 per day in the event of delay in starting affixation of HSRP plates at designated RTO/ARTO centres beyond the period of 50 days from the date of execution of CA i.e. 26 May 2012.

Scrutiny of records of CoT revealed that HSRP centres started their working at 28 RTO/ARTOs<sup>37</sup>. Though the work of affixation of HSRP started with a delay ranging between 140 days and 237 days, penalty of ₹ 5.59 crore was not recovered.

Paragraph 5.22 of the CA further stipulated that penalty<sup>38</sup> of ₹ 20 per plate per day would be recovered if the plate is not prepared and kept ready for affixation within four working days from the date of registration and payment of fees for vehicles.

We observed that 30,97,153 HSRPs were required to be affixed by the vendor as on 31 May 2015. However, the Concessionaire could fix only 25,25,049 HSRPs (81.53 *per cent*) on vehicles. Thus, 5,72,104 HSRPs (18.47 *per cent*) were not fixed as of 31 May 2015 for which penalty was not levied. The amount could not be quantified in audit due to absence of details relating to number of days delayed on each of these HSRPs.

After this was pointed out, the CoT agreed (September 2016) for recovery of penalty.

#### **4.2.21.2 Installation of Automated Driving Test Track system**

The Department decided to install Automated Driving Test Track System<sup>39</sup> (ADTTS) for conducting driving test for issuance of driving license. Accordingly, a contract for supply, installation, commissioning, operation and maintenance of 37 ADTTS for two and four wheelers at various RTOs/ARTOs on BOOT basis was awarded to M/s Silver Touch Technologies Limited (agency) on 28 June 2012, subject to the condition that the track should start functioning within six months (180 days) from the date of contract agreement (i.e. it should start functioning on or before 24.12.2012). Paragraph 8(a) of the contract stipulated for levy of penalty for the delays at the rate of one *per cent*

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<sup>36</sup> Ministry of Road Transport and Highways had in coordination with expert teams developed a systematic and effective device for identification of vehicles in order to curb the illegal sale/purchase and theft of vehicles in the country and to identify the vehicles used in crimes. This unique system of displaying the vehicles registration number is called High Security Registration Plate (HSRP)

<sup>37</sup> Ahmedabad, Ahwa, Amreli, Anand, Bardoli, Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhara, Himmatnagar, Jamnagar, Junagadh, Mehsana, Nadiad, Navsari, Palanpur, Patan, Porbandar, Rajkot, Rajpipla, Surat, Surendranagar, Vadodara, Valsad, Vastral (Ahmedabad) and Vyara

<sup>38</sup> subject to maximum of 50 *per cent* of the cost of the plates

<sup>39</sup> ADTTS is a fully computerized driving test track equipped with electronic sensors to measure skill of a driver and to record all movements by the driver.

of contract value for every week of delay, upto a maximum of 10 *per cent* of the contract value.

Scrutiny of records revealed that out of selected 11 RTO/ ARTOs, at ten RTO/ ARTOs<sup>40</sup>, ADTTS started functioning between April 2013 and October 2014 with a delay ranging from 101 days to 655 days. The department had not taken any action to impose penalty on the agency. In the absence of details relating to contract value, the amount of penalty recoverable from the agency could not be worked out by Audit.

After this was pointed out, the CoT did not agree with the audit observation and stated (September 2016) that the delay was due to dependence of various Government agencies with each other and the Agency was not at fault. The fact remains that despite provision of time limit in the contract agreement, the Agency had failed to complete the work within agreed time limit.

#### **4.2.22 Internal Controls**

We observed the following deficiencies in the internal control mechanism of the Department which *inter alia* include monitoring activities, maintenance of records and the functioning of Internal Audit Wing:

##### **4.2.22.1 Departmental Manual**

As an internal control measure, it is essential that departmental manual is prepared outlining the process required to be followed by different categories of staff in order to ensure proper functioning of various wings of the Department. The Department, however, does not have any departmental manual. In absence of manual, various checks and balances to be exercised by the Department for various business processes such as registration of vehicles, levy of taxes, etc., have not been mandated via manuals.

After we pointed this out, the CoT agreed (September 2016) to undertake the work of preparation of Departmental Manual.

##### **4.2.22.2 Internal Inspection**

The Circulars of General Administration Department of GoG issued (February 1965 and November 1971) provided that inspection of offices under the control of respective heads was required to be conducted by their Heads of Departments to ensure proper functioning of various offices under the Department. The targets were required to be fixed by their respective Heads of the Department.

The CoT had fixed a target of conducting inspection of 14 offices each year during 2010-11 and 2011-12, 16 offices in each year during 2012-13 and 2013-14, and 19 offices for 2014-15. We noticed that no internal inspection had been conducted during the period from 2010-11 to 2013-14. During 2014-

<sup>40</sup> Ahmedabad, Bharuch, Bhuj, Dahod, Gandhinagar, Himmatnagar, Palanpur, Rajkot, Surat and Vadodara

15, only nine<sup>41</sup> out of 19 offices (47 per cent) planned were inspected. Though the inspection of these offices were completed between October 2014 and January 2015, the Inspection Reports were not finalised by CoT and issued to concerned offices for taking appropriate action by them even after lapse of 15 months (March 2016).

After this being pointed out, CoT accepted the facts and stated (September 2016) that in future internal inspection would be done regularly. However, the reply was silent on non-issue of inspection reports.

#### 4.2.22.3 Internal Audit

The Internal Audit Wing (IAW) in the Department was constituted under the direct control of CoT. The Internal Audit is being conducted under the supervision of Accounts Officer of CoT with the objective of conducting internal audit of all subordinate offices and issuing instructions for taking proper corrective action on the irregularities detected during such examination. The scope of IAW includes checking of accounting records, reconciliation of cash/bank treasury transactions, physical verification of valuables, memos with receipts, cash book etc.

The details of Internal Audit (IA) such as number of units planned for audit, number of units audited and shortfall are shown as follows:

Period of Audit	No. of units available for IA	No. of units planned	No. of units audited	Shortfall in per cent	Reasons for shortfall if any
2010-11	40	40	17	57.50	Shortage of staff in the IAW. Against the sanctioned posts of 3 Auditors and 30 Sub-Auditors, one post of Auditor and 13 posts of Sub-Auditors remained vacant.
2011-12	40	34	4	88.23	
2012-13	40	30	2	93.33	
2013-14	40	36	7	80.55	
2014-15	40	38	11	71.05	

The details of number and money value involved in the paras and their clearance during last five years are shown below:

(Amount in ₹)

Period of Audit	Opening Balance		Addition during the period		Clearance during the period		Closing Balance	
	No. of para-Graphs	Amount	No. of para-graphs	Amount	No. of para-graphs	Amount	No. of para-graphs	Amount
2010-11	4	42,685	4	2,21,332	1	1,000	7	2,63,017
2011-12	7	2,63,017	5	33,032	0	0	12	2,96,049
2012-13	12	2,96,049	0	0	0	0	12	2,96,049
2013-14	12	2,96,049	5	37,450	0	0	17	3,33,499
2014-15	17	3,33,499	6	1,71,402	0	0	23	5,04,901

<sup>41</sup> RTOs/ARTOs of Ahmedabad, Ahmedabad (East), Bhavnagar, Gandhinagar, Junagadh, Jamnagar, Mehsana, Rajkot and Surat

Non-clearance of any paras during the period 2011-12 to 2014-15 indicated the lack of corrective actions by the subordinate offices of CoT against the errors/ irregularities pointed out by IAW related to their workings.

After this being pointed out, CoT agreed with audit observation and stated (September 2016) that in future, internal audit would be done regularly. The reply was silent on non-clearance of the paragraphs.

**The Department may consider strengthening of the internal controls, so that irregularities are noticed well in time for taking remedial action.**

#### **4.2.23 Conclusion**

In our audit, we noticed a number of system and compliance deficiencies in the administration of Motor Vehicle Tax which indicate that there is scope for further improvement in the system and also complying with the established procedures by the Department.

As regards the registration and renewal issues, there was absence of mechanism for ensuring timely renewal of Fitness Certificates and Permits including National Permits of transport vehicles. The same was noticed for checking the fitness and re-registration of non-transport vehicles. This system deficiency not only jeopardised the road safety but also results in non-realisation of revenue towards fees for registration, renewal, fitness, permits and penalty. Further, partial implementation of SARATHI and VAHAN softwares and the persistence of deficiencies in the functioning of CPAS affected the performance of the Department in the management of its activities.

In the assessment and recovery of tax arrears, for sleeper coach bus used as Stage Carriage, no rate was specified by the Government to levy GMV tax for the sleeper facility provided in the bus.

In the Internal Control, no system was in place to monitor the functioning of motor driving schools and pollution testing units. Absence of departmental manual and inadequate internal inspection and internal audit indicated the existence of weak internal control system of the Department.

Our test check of record of CoT and the selected units of the Department revealed non/short levy of MV tax and penalty from the agencies to whom works were awarded. Further, the MVIs while checking the prescribed documents for making changes in the registration certificates of vehicles had either not recorded the documents checked or had not placed on record the supporting documents.

#### **4.2.24 Recommendations**

We recommend that:

- Targets for activation of the legacy data, completion of all modules of VAHAN and SARATHI software systems need to be fixed to make them functional.
- The Government may consider fixing a time frame within which the works of interlinking of check posts with RTOs are completed.
- The Department may consider strengthening of the internal controls, so that irregularities are noticed well in time for taking remedial action.
- The Department may put in place a suitable mechanism for timely detection of cases of NPs due for renewal for taking appropriate action against the defaulting vehicle owners.

## CHAPTER-V STAMP DUTY AND REGISTRATION FEES

### 5.1 Tax Administration

The overall control on the levy and collection of stamp duty and registration fees rests with the Revenue Department. The Inspector General of Registration (IGR) and Superintendent of Stamps, Gandhinagar is the head of the Department. The IGR is assisted by the Sub-Registrar (at the district and *taluka* level) whereas the Superintendent of Stamps is assisted by the Deputy Collector (Stamp Duty Valuation Organisation) [DC (SDVO)] at the district level.

### 5.2 Results of Audit

Test check of records in the offices of Sub-Registrars, Deputy Collectors (Stamp Duty Valuation Organisation) and Additional Superintendent of Stamps, Gandhinagar in the State during the year 2015-16 revealed short realisation of stamp duty and registration fees and other irregularities involving ₹ 113.93 crore in 165 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1.	Performance Audit of “IT Audit of gARVI- System of registration of documents”	1	-
2.	Follow-up Audit of “Performance Audit of Levy and Collection of Stamp Duty and Registration Fees”	1	81.32
3.	Misclassification of documents	36	5.03
4.	Undervaluation of property	48	15.82
5.	Short levy of stamp duty and registration fees	15	4.52
6.	Other irregularities	64	7.24
	<b>Total</b>	<b>165</b>	<b>113.93</b>

During the course of the year, the Department accepted under-assessment and other irregularities and recovered ₹ 43.87 lakh in 34 cases, which were pointed out in audit during 2015-16 and earlier years.

A performance audit of “IT Audit of gARVI- System of registration of documents” and a few illustrative audit observations involving ₹ 83.40 crore are mentioned in the succeeding paragraphs.

## 5.3 IT Audit of gARVI- System of registration of documents

### 5.3.1 Introduction

The levy and collection of stamp duty and registration fees on specified documents is regulated in Gujarat under the Indian Stamp Act 1899, Registration Act 1908, Gujarat Stamp Act 1958, Gujarat Stamp Rules 1978 and the Gujarat Stamp (Determination of Market Value of Property) Rules (MVR) 1984. The Inspector General of Registration (IGR) under the Revenue Department (the Department), Government of Gujarat (GoG) is responsible for the overall control and administration of matters relating to stamp duty and registration fees.

The Department had implemented (August 2003) Registration of Documents (*ReD*) system which was designed by the National Informatics Centre (NIC) of India for registration of documents. In this system, database was stored in local servers. After implementation of the *eJamin*<sup>1</sup> project by the Revenue Department in 2010, the Department switched over to *gARVI* system (from October 2010 in a phased manner). *gARVI* system has been developed with the objective of computerisation of the entire process of registration at Sub-Registrar Offices (SROs). *gARVI* aimed at improving the services for the general public by speeding up the process of registration so that the registered document could be returned to the executants on the very same day.

The processes are as described below:

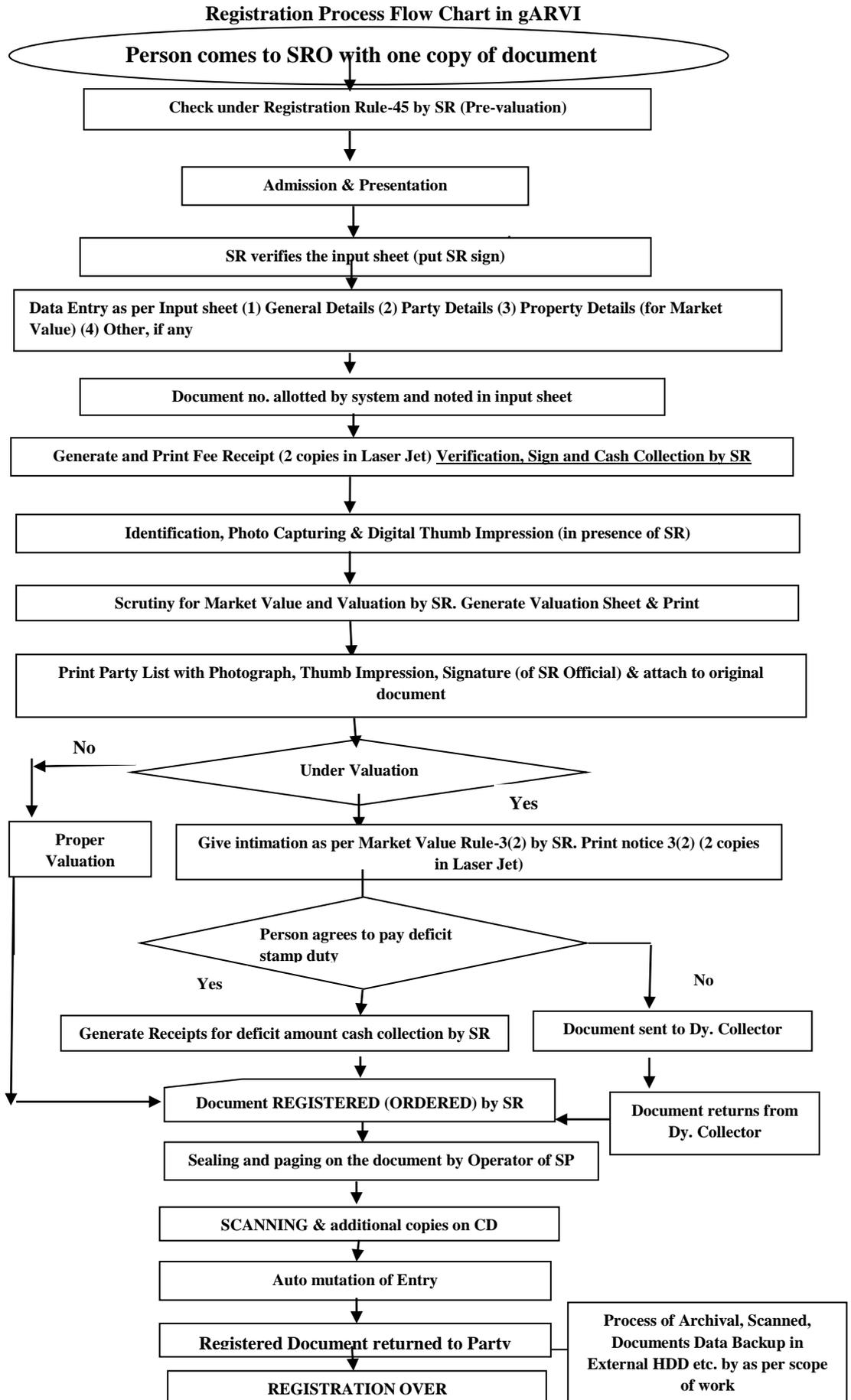
- Calculation of market value of property
- Calculation of stamp duty and registration fees
- Capturing photo and thumb impression of the parties involved
- Scanning the documents for storage
- Generation of various reports for use by the management, and
- Auto-mutation in land records in case of transfer of agricultural land

The chart on the next page shows various automated processes in *gARVI* system. As against the *ReD* system where data was stored locally in servers in SROs, *gARVI* is a web-based application wherein master data is maintained in a central server at the State Data Centre (SDC). The main data server performs various tasks, such as, data analysis, storage, data manipulation, archiving and other tasks using a client-server architecture. The registration of documents was done at 287 SROs in the State. All SROs, IGR office and the State Data Centre are connected through Gujarat State Wide Area Network (GSWAN)<sup>2</sup>.

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<sup>1</sup> Integrated land records (*e-Jamin*) management system under which all the land records and registration records were converted to centralized format and brought to central servers at State Data Center (SDC).

<sup>2</sup> It is an end-to-end internet protocol based network designed for the service convergence (voice, video and data) on a single backbone and is maintained by the Gujarat Informatics Limited (a Government of Gujarat undertaking).



*gARVI* system has also been integrated with “Land Records Management System” for effecting automatic mutations in record of rights (i.e. land records) in case of transfer of agricultural land.

The Department invited (September 2012) tenders and appointed five service providers for the establishment and running of Electronic Registration Centres at all SROs grouped in six zones<sup>3</sup>. The service providers were responsible for providing, installing and maintaining hardware, system software, data entry, scanning of documents and maintaining data backup as well as the required manpower. The service provider also had to take daily backup of scanned documents in the external hard drive.

### 5.3.2 Audit Objectives

We conducted the IT audit with a view to ascertain whether:

- the computerisation was in line with the intended objectives of the Department and the system covered all the intended functions;
- the information in the database was reliable;
- adequate controls were in place to ensure the efficiency and accuracy of data processing, its output and also for the safety of data in the system; and
- the Department monitored the compliance of the terms of service by the service providers in running the Electronic Registration Centres efficiently at each SRO and also taking backup of the data uploaded in the central server of the State Data Centre.

### 5.3.3 Scope of audit

We evaluated the IT application controls and the effectiveness of *gARVI* system in achieving the intended organisational objectives of the Department especially in switching over from the *ReD* system to *gARVI*. We also evaluated the system of registration of documents and monitoring the activities of the service providers for supply/installation/maintenance of the computer hardware/software for running the computerized system.

We had requested the Department to provide backup data from 2010 to 2015 for all SROs. However, the Department provided backup data for the period from 2013 to 2015 pertaining to 14 offices only. Accordingly, data pertaining to these 14<sup>4</sup> SROs was taken up for analysis.

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<sup>3</sup> Zone-1: Jamnagar, Kutch and Rajkot; Zone-2: Amreli, Bhavnagar, Junagadh and Porbandar; Zone-3: Ahmedabad, Gandhinagar and Surendranagar; Zone-4: Banaskantha, Mehsana, Patan and Sabarkantha; Zone-5: Anand, Dahod, Kheda(Nadiad), Pachmahal and Vadodara; Zone-6: Bharuch, Dang, Narmada, Navsari, Tapi, Valsad and Surat

<sup>4</sup> Ahmedabad-3 (Memnagar), Ahmedabad-13 (City), Ahmedabad-14 (Dascroi), Anand, Bharuch, Bhavnagar-2 (Chitra), Gandhinagar, Himatnagar, Jamnagar-2, Junagadh, Mehsana, Surat-3 (Navagam), Rajkot-2 (Kotharia) and Vadodara-4 (Gorva)

### **5.3.4 Audit methodology**

An entry conference was held with the officers of the Department and NIC on 6 June 2016 to explain the objectives and methodology to be adopted in the IT audit. The audit methodology consisted of checking the data available from *gARVI* system for data completeness, regularity and consistency by using Computer Aided Audit Tools (CAATs) such as Interactive Data Extraction and Analysis (IDEA). Audit applied both substantive and compliance tests to evaluate the extent of reliability of various controls in *gARVI* System.

The Draft Audit Report was forwarded to the Department and to the Government in August 2016. An Exit Conference was held on 10 October 2016, wherein major findings of the IT Audit were discussed with the Department. The replies received from the Department (August 2016) and during the Exit Conference have been appropriately commented upon in the relevant paragraphs of the report.

### **Audit findings**

The audit findings have been organized under four headings viz., System Development, Input Controls and Data Validation, Processing Controls and Monitoring and Disaster Recovery Plan.

### **5.3.5 System Development**

#### **5.3.5.1 Ownership of source code, modules and data**

There was no evidence available to verify whether the *gARVI* system was properly authorised, tested, accepted and documented. Changes/amendments to the system done post implementation were also not documented.

The Department stated (June and September 2016) that a need-based programme to fulfil the requirements of the office of IGR, NIC (which is a Government Agency) makes changes as directed by the Department as and when required. Hence, no such records were maintained. Further, the Department stated that the software application *gARVI* was developed in-house by NIC. Hence, the source code belonged to NIC, whereas the data belonged to the Department.

However, the fact remains that in the absence of proper documentation the Department had no means to monitor or control the system when required and was totally dependent upon NIC, Gandhinagar even after five years of implementation of *gARVI*.

#### **5.3.5.2 Change-over plan**

Before October 2010, all data backups including scanned copies of instruments were stored at local data servers at each SRO. After implementation of *gARVI* system, data backups were stored online in the Central Data Server. However, scanned copies of instruments were uploaded in the Central Data Server from 2015 only. Uploading of scanned copies of

the instruments registered during 2010 to 2014 was still pending even after completion of five years of switching over to a centralized database.

The Department stated (September 2016) that storage of scanned copies of documents registered since the year 2010 would require huge space in the State Data Centre. The Department was making efforts to get the required storage space.

### 5.3.5.3 Access to Deputy Collectors

Section 32A of the Gujarat Stamp Act, 1958 stipulated that if the officer registering the instrument had reasons to believe that the consideration set forth in the instrument presented for registration was not as per the market value of the property, he shall, before registering the document, refer the same to the Deputy Collector (Stamp Duty Valuation Organisation) (DC SDVO) for determination of the market value of the property. Section 33 of the Gujarat Stamp Act stipulated that every public officer including Sub Registrars before whom any instrument, chargeable with duty, was produced or came in the performance of his functions, shall if it appeared to him that such instrument is not duly stamped, impound the same.

Accordingly, SRs referred such instrument to the DC (SDVO) for determination of proper stamp duty/ proper classification of instrument.

Access to *gARVI* system had not been provided to the DC(SDVO) who had to solely rely upon the hard copies of documents forwarded by SROs for giving opinion/determining true market value/deciding proper classification of the instruments. Further, the additional/reduced stamp duty levied by DC (SDVO) was not reflected in the *gARVI* system. Illustrative cases are tabled below:

Sl. No.	Name of SR offices	Document number /Article and year	Deficit duty paid as per the system (amount in ₹)	Deficit duty paid as per DC(SDVO) orders but not reflected in system (amount in ₹)
1	Ahmedabad -14 (Dascroi)	228/20/2015	7,94,394	1,89,714
2	Ahmedabad-14 (Dascroi)	1530/20/2015	17,79,097	10,59,374
3	Ahmedabad-3 (Memnagar)	1845/20/2014	4,60,823	9,405
4	Ahmedabad-3 (Memnagar)	7487/20/2015	8,19,087	1,97,784

Thus, complete automation of all the processes was not achieved.

The Department accepted the audit observation and stated (September 2016) that the work of providing user-ids and passwords to the Deputy Collectors was under progress.

**The Department may integrate the process of valuation by DC (SDVO) in the *gARVI* system at the earliest.**

#### 5.3.5.4 Furnishing of data for the Income Tax Department

Section 285BA of the Income Tax Act, 1961 stipulated that the details of instruments of transfer of immovable properties with consideration of ₹ 30 lakh and above were required to be furnished to the Income Tax (IT) Department in the form of Annual Information Return (AIR).

Under “Reports” module in “gARVI” system, details of registered documents of immovable properties, where consideration was more than ₹ 30 lakh, was required to be sent to the IT Department annually. However, the report could capture the amount between ₹ 0 and ₹ 99,99,99,999 only and not beyond that. Therefore, the possibility of non-transfer of some data to Income Tax Department could not be ruled out where the consideration was above ₹ 99,99,99,999.

We observed that SROs sent these details individually in Compressed Disks (CDs) even though the system had a centralised server facility. Further, there was no option in the system to generate reports regarding status of submission of AIR by the respective SRs to the IT Department. Thus, IGR/Inspectors of Registration (IRs) could not monitor the SRO-wise status of submission of such annual return to the IT Department.

The Department stated (September 2016) that the software had now been modified to capture the details of registered documents of immovable properties where consideration was more than ₹ 30 lakh. The Department also stated that SROs were required to prepare separate AIRs because they had been allotted separate TANs. Thus, consolidated AIR generated from the system would not serve the purpose.

**The Department may incorporate an option in the system to enable monitoring of submission of such annual return by the SRs to the IT Department at the IGR level.**

#### 5.3.5.5 No provision for entry of documents containing distinct matters

Under Section 5 of the Gujarat Stamp Act, 1958, any instrument comprising several distinct matters or distinct transactions shall be chargeable with aggregate amount of duties with which separate instruments would be chargeable under the Act. For example, when an instrument of mortgage was executed by a borrower to obtain loan from any financial institution/bank and both movable properties and immovable properties were offered as security, aggregate stamp duty of deed of hypothecation under Article 6(1) (b) and under mortgage deed Article 36 (b) was leviable.

We observed that the gARVI system did not have provision for registration of documents comprising distinct matters covered under more than one article of Schedule I to the Gujarat Stamp Act and levy of separate stamp duty as provided under Section 5 of the Gujarat Stamp Act. In the absence of such provision, Department had to calculate and levy deficit duty manually in such cases.

The Department stated (September 2016) that necessary provisions in the software would be made.

#### 5.3.5.6 Levy of penalty

Rule 28 of the Gujarat Registration Rules, 1970 stipulated that fine was required to be levied, if there was delay of more than four months in presentation of the document for registration after the date of its execution.

We observed that no such provision was made in the gARVI system. Consequently the levy and collection of the fine was done manually.

The Department stated (September 2016) that auto-calculation of fine by the system would not serve the purpose because Registration/ Adjudication Authorities had been vested with discretionary powers to decide the quantum of fine based on the merits of each individual case under Section 25 and 34 of the Registration Act .

**The Department may modify the software to include a provision whereby fine modified under Section 25 and 34 could be entered by the registering authority. The database would then contain the actual fine imposed and the fine reduced by using discretionary powers for better transparency.**

#### 5.3.6 Input Controls and Data Validation

The objective of input control was to ensure that (i) the data received for processing is genuine, complete, accurate and properly authorised and (ii) data is entered accurately and without duplication. Data validation is a process of checking transaction data for any errors or omissions and ensuring the completeness and correctness of data. We observed various deficiencies in validation controls and data entry in “gARVI” system which may compromise the correctness and reliability of the data being fed into the system.

##### 5.3.6.1 Invalid Permanent Account Number (PAN)

Mention of PAN was mandatory in transactions above ₹ 5 lakh/₹ 10 lakh for both buyers and sellers of property. Permanent Account Number (PAN) is a 10 digit alpha-numeric number. First five digits contain alphabets only, next four digits numbers only and last character contains alphabet only. However, we observed that:

- The system accepted PANs in invalid formats. In 14 SROs<sup>5</sup>, out of 2,83,667 transactions involving buyers/ sellers where PANs were entered, 993 PANs were found to be invalid.

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<sup>5</sup> Ahmedabad-3 (Memnagar), Ahmedabad-13 (City), Ahmedabad -14 (Dascroi), Anand, Bharuch, Bhavnagar-2 (Chitra), Gandhinagar, Himatnagar, Jamnagar-2, Junagadh, Mehsana, Rajkot-2 (Kotharia), Surat-3 (Navagam) and Vadodara-4 (Gorva)

- In 18,904 cases, the system accepted property transactions by buyers and sellers above ₹ 30 lakh without capturing PANs as required in the Annual Information Return (AIR) to be furnished to the IT Department.

Lack of such data validation checks in the software resulted in incorrect data being fed in the system.

The Department stated (September 2016) that necessary controls in the software had been put in place.

#### **5.3.6.2 Controls to validate dates**

Documents were required to be presented before the SR for registration. After verification of the transactions details of the document and market value and ensuring payment of applicable stamp duty and registration fees, SR would proceed with the registration of the document and put his dated signature.

- In 12 cases registered during the period 2013-2015 pertaining to six SROs<sup>6</sup>, date of presentation of document was shown to be a date later than the date of signature of the SR (i.e. date of order).
- In 17 cases registered during the period 2013-2015 pertaining to four SROs<sup>7</sup>, date of execution by the executants was shown to be a date later than the date of presentation.

Thus, no checks to validate dates were present in the system.

The Department stated (September 2016) that necessary controls in the software had been put in place to validate dates.

#### **5.3.6.3 Validation checks against duplicate registration**

We found that a sale deed of a plot of land with a particular survey number could be registered innumerable times in the system. There was no in-built warning system developed to caution against such duplicate registration. Thus, there was risk of fraudulent multiple sales of the same property by a seller to different buyers.

The Department stated (September 2016) that necessary validation checks in the software would be put in place against duplicate registration.

#### **5.3.6.4 Validation checks for transfer of Government properties**

Section 22-A of the Registration Act, 1908 stipulates that the registering officer shall refuse to register any instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease, belonging to the State Government, or the local authority or any religious institution.

<sup>6</sup> Ahmedabad-13 (City), Ahmedabad -14 (Dascroi), Bhavnagar-2 (Chitra), Gandhinagar, Rajkot-2 (Kotharia) and Vadodara-4 (Gorva)

<sup>7</sup> Gandhinagar, Jamnagar-2, Mehsana and Surat-3 (Navagam)

We observed that master database of such restricted properties was neither created nor consolidated by NIC/IGR. In the absence of such a master database in the application system, alerts for transfer of such properties could not be generated from the system.

The Department stated (September 2016) that the system had provision to enter restricted property data in the database on the basis of written instructions of the competent authority. However, the same data would be updated in the system, if provided by the concerned authorities.

**There is a need to obtain such database from the concerned department and fed into the system.**

#### **5.3.6.5 Incorrect data entry**

Data Entry Operators (DEOs) of the service provider were responsible for entry of data in the system. However, the Department did not have an adequate mechanism to check/validate the data entered by the DEOs.

During data analysis of SRO-3, Surat (Navagam), it was observed that towards deposit of title deed (under Article 6) registered to secure a loan of ₹ 29.28 crore, as against the maximum duty leviable of ₹ 11.20 lakh, duty levied was entered as ₹ 112 lakh.

Even though the stamp duty of ₹ 112 lakh was not actually paid, excess duty entered got reflected in the reports generated by the *gARVI* system.

Further, in SRO-14, Ahmedabad (Daskroi), it was seen that in a document registered under Conveyance, the market value of the property was erroneously entered as ₹ 31,613.63 crore as against the consideration amount of ₹ 1.63 crore. Thus, the stamp duty leviable was worked out even higher than the actual the consideration on which stamp duty was actually payable. Hence, stamp duty was calculated as ₹ 1,549.06 crore by the system as against the correct amount of duty paid of ₹ 5.47 lakh.

During Exit Conference (October 2016), the Department accepted the fact that there was absence of cross-checking of data entered by SRs. The Department stated that designated officials would be entrusted with the work of checking data entry by selecting sample size for the purpose.

**The data may be cross verified by the Department. When errors are found, data may be corrected not only in manual records, but also in the database to maintain data integrity.**

#### **5.3.6.6 Correctness of duty on mortgage deeds**

Under Section 3 of the Gujarat Stamp Act 1958, every instrument mentioned in Schedule I shall be chargeable with duty at the prescribed rates. Further, additional duty at the rate of 40 *per cent* of the stamp duty paid was also leviable under Section 3(A).

As per Article 36B, in case of a mortgage deed, where possession of the property or any part of the property comprised in such deed was not given or not agreed to be given and as per Article 6 (1)(a), in case of an agreement relating to deposit of title deeds where loan or debt was repayable on demand or after three months from the date of the instrument, stamp duty was leviable as follows:

Loan Amount	With effect from 1.4.2006 to 14.5.2013 as per Amendment Act Gujarat 14 of 2006		With effect from 15.5.2013 as per Gujarat Act 15 of 2013	
	Rate of Duty	Maximum limit	Rate of Duty	Maximum limit
(i) Where loan amount does not exceed ₹ 10 crore	Twenty-five paise for every hundred rupees or part thereof	₹ one lakh	Twenty-five paise for every hundred rupees or part thereof	No maximum limit
(ii) Where loan amount exceed ₹ 10 crore	Fifty paise for every hundred rupees or part thereof	₹ three lakh	Fifty paise for every hundred rupees or part thereof.	Maximum ₹ eight lakh

During data analysis pertaining to 67,323 instruments of mortgage/ agreements relating to deposit of title deeds/ debentures trust deed, we noticed in 890 documents that as per data entries stamp duty leviable was of ₹ 6.98 crore. However, actual stamp duty paid was of ₹ 2.56 crore only. Thus, there was difference of ₹ 4.43 crore in the duty leviable as per system and duty actually paid.

We observed during test check that this difference was mainly on account of understatement/ overstatement of loan amounts due to mistakes in data entry. Further, we observed that there was no validation control to restrict the applicable duty, entered manually by the registering authority, to the maximum duty leviable. Details are as follows:

(₹ in crore)

No of SR offices	Total No. of documents of mortgage/ deposit of title deed	No. of documents where irregularity noticed	Stamp duty leviable as per entries	Stamp duty levied by system	Difference in duty (₹ in crore)	Criteria
12 <sup>8</sup>	7,646	239	0.37	0.22	0.15	Upto ₹ 10 crore as on 14.05.13
12 <sup>9</sup>	59,118	600	1.59	0.64	0.95	Upto ₹ 10 crore from 15.05.13
5 <sup>10</sup>	105	7	0.29	0.10	0.19	More than ₹ 10 crore

<sup>8</sup> Ahmedabad-3 (Memnagar), Anand, Bharuch, Bhavnagar-2 (Chitra), Gandhinagar, Himatnagar, Jamnagar-2, Junagadh, Mehsana, Rajkot-2 (Kotharia), Surat-3 (Navagam) and Vadodara-4 (Gorva)

<sup>9</sup> Ahmedabad-3 (Memnagar), Anand, Bharuch, Bhavnagar-2 (Chitra), Gandhinagar, Himatnagar, Jamnagar-2, Junagadh, Mehsana, Rajkot-2 (Kotharia), Surat-3 (Navagam) and Vadodara-4 (Gorva)

<sup>10</sup> Ahmedabad-3 (Memnagar), Anand, Bharuch, Gandhinagar and Mehsana

						as on 14.05.13
11 <sup>11</sup>	454	44	4.73	1.59	3.14	More than ₹ 10 crore from 15.05.13
<b>Total</b>	<b>67,323</b>	<b>890</b>	<b>6.98</b>	<b>2.55</b>	<b>4.43</b>	

The Department stated (September 2016) that detailed reply would be furnished after verification of facts.

### 5.3.6.7 Exemption of Registration Fees on instruments relating to transfer of immovable properties executed in favour of women

Under Section 78(2) of the Registration Act, 1908, registration fee shall be levied on conveyance, exchange of property, power of attorney (sale of immovable property), release for consideration, Instrument of Settlement (any case other than Religious or Charitable purpose), transfer of lease, any certified copy of decree of or order of court at *ad valorem* scale on the amount or value of consideration. Under Section 78(3) of the Registration Act, 1908, registration fee shall be levied on Gift at *ad valorem* scale on the amount or value of property. Under Section 78(4)(a), the rate of registration fees shall be one rupee for every rupees one hundred or part thereof on the amount or value of consideration. Further, as per Note 19 under Section 78(4), no fee shall be payable in respect of the instrument relating to transfer of immovable property executed in favour of any woman or women whereby the said woman or as the case may be, women only become the owner of the said property.

In case of documents of transfer of immovable properties in favour of woman/women, the system calculated registration fee as 'zero' as per the provisions of the Registration Act.

In 52,973 documents test checked by audit where 'zero' registration fee was levied, we found that in 51,229 documents buyers' gender was shown as 'male'. This indicated that necessary input controls were not present in the system.

We observed that during entry of the details of parties in the system, even when 'Male' or 'Office' was entered in the gender field, the system allowed the registration at 'zero' registration fee. Thus, no inbuilt mechanism was available in the system to ensure that when executants (buyers) were specified as 'women' and registration fee leviable was shown as 'zero', the system should not proceed with the registration process if buyers' gender was specified as 'man' or 'office'.

The Department stated (September 2016) that necessary controls in the software had been put in place.

<sup>11</sup> Ahmedabad-3 (Memnagar), Anand, Bharuch, Bhavnagar-2 (Chitra), Gandhinagar, Himatnagar, Jamnagar-2, Mehsana, Rajkot-2 (Kotharia), Surat-3 (Navagam) and Vadodara-4 (Gorva)

### 5.3.6.8 Field left blank in case of registration of gift deeds

Under Article 28 on documents of gift, stamp duty was leviable on market value of the property at the rate of 4.9 per cent.

We noticed in eight offices<sup>12</sup> that out of 2,267 cases, in respect of 124 documents, data regarding the market value was not entered in the system. The registration fees and stamp duty were however, levied manually.

In the absence of such market value, the correctness of stamp duty/registration fees levied could not be ascertained from the system.

Department stated (September 2016) that registration fees and stamp duty were calculated by SROs based on market value.

**A provision may be made in the system to calculate the registration fee and stamp duty based on the market value to avoid errors due to data entries.**

### 5.3.7 Processing Controls

#### 5.3.7.1 Facility to lock e-stamp certificates through integration with the website of SHCIL

Section 2(k) of the Gujarat Stamp Act stipulates that “impressed stamp” includes the certificate issued under e-stamping system. E-stamping was a secured electronic mode of paying for non-judicial stamps. The e-stamp certificate was designed with advanced security features which included Unique Identification Number (UIN), Optical Watermark, 2D Barcode and Microprint. In case a client did not want to use it, he could get a refund as per rules by the Collector / any other designated officer authorised by the Superintendent of Stamps and IGR.

Stock Holding Corporation of India Limited (SHCIL), being the Central Record Keeping Agency, was responsible for the overall application and maintenance of e-stamping in the State.

We observed that with the help of high resolution scanner and printer, the e-stamp certificates could be copied for use on multiple occasions. As a control measure against possible re-use of e-stamp certificate, the online system of e-stamping provided for locking of certificates by the SROs in the website of SHCIL by entering the corresponding document number in the website of SHCIL whenever the e-stamp certificate along with the instrument was presented before them for registration. Locking of certificate was also required to be checked at the time of processing of refund claims in order to ensure that it has not been used earlier.

A mention had been made in Para No. 5.6.26.2.1 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year

<sup>12</sup> Ahmedabad-3 (Memnagar), Bharuch, Gandhinagar, Himatnagar, Mehsana, Rajkot-2 (Kotharia), Surat-3 (Navagam) and Vadodara-4 (Gorva)

ended 31 March 2011, wherein non-observance of the procedure of locking e-stamping certificate by most of the SROs by entering Unique Identification Number (UIN) and the necessity of mandatory entry of UIN in the ReD system was brought to the notice of the Department. The Department had stated that all SROs had been instructed to lock the e-stamping certificates to avoid their multiple uses.

Examination of e-stamping system in “gARVI” revealed that there were instances where SROs did not lock the e-stamping certificates by entering UIN by accessing the website of SHCIL. Further, there was no field in gARVI system to enter UIN and automatic locking of the e-certificates. Thus, the possibility of fraud by using e-stamps on more than one occasion could not be ruled out.

During Exit Conference (October 2016), the Department agreed to integrate the gARVI system with the website “e-stamps” of the Stock Holding Corporation of India Ltd. to have a greater transparency in accounting of e-stamps and preventing possible instances of multiple uses of same e-stamp certificates, as early as possible. They also stated that the locking of e-stamp certificates would be made mandatory from November 2016 onwards.

**The e-stamp certificates were printed with QR codes<sup>13</sup> and details of e-stamps could be read from the QR code using a scanner. Department may utilise this feature to verify the correctness of the e-stamp instead of manually entering the registration number, date and time of the document containing the e-stamp. Automatic locking of e-stamp certificate should be implemented during the registration process.**

### **5.3.7.2 Calculation of stamp duty on instruments of transfer of immovable properties**

Under Article 17, 20, 26, 28, 45f, 49 and 57 of schedule I to the Gujarat Stamp Act 1958, stamp duty was leviable on certificates of sale, conveyance, exchange of property, gift, power of attorney (sale of immovable property), release for consideration and transfer of lease at the rate of 4.9 *per cent* on the market value or consideration, whichever was higher.

During the data analysis of 2,06,765 documents registered under the above articles, we noticed that in 4,275 documents, stamp duty was not levied at the prescribed rate of 4.9 *per cent as shown in the system*. Stamp duty involved in these transactions was ₹ 72.24 crore. The details are as follows:

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<sup>13</sup> A machine-readable code consisting of an array of black and white squares

Article No.	Description of the instrument	No. of SR offices	Total Documents	No. of documents in which difference in duty noticed	Difference in duty involved (₹ in crore)
17	Certificate of Sale	04 <sup>14</sup>	209	148	0.03
20	Conveyance	14 <sup>15</sup>	2,02,796	4,015	71.34
26	Exchange of Property	09 <sup>16</sup>	101	22	0.26
45f	Power of Attorney (Sale of Immovable property)	03 <sup>17</sup>	352	06	0.05
49	Release	11 <sup>18</sup>	3,282	83	0.50
57	Transfer of lease	01 <sup>19</sup>	25	01	0.06
	<b>Total</b>		<b>2,06,765</b>	<b>4,275</b>	<b>72.24</b>

During cross verification of 24 documents in audit, it was noticed that the reasons for short levy shown in the system were due to errors in data entry, reduction of duty by DC (SDVO) in exercise of powers vested in him under Section 32 A, adjustment of duty already used in Agreement for Sale (Agreement)/ Power of Attorney (PoA) executed previously on the same properties, etc. which were not reflected in the system.

**The Department may include a provision in the system for cross references of document numbers of Agreement/ PoA in case of adjustment of duty already paid on Agreement/ PoA previously executed.**

### 5.3.7.3 Incorrect generation of pending documents list

After completion of the process of registration, the SROs make an order in token of authorisation and the system would record the date of such authorisation. In other cases, SROs kept such documents as ‘pending’.

We noticed from the “pending documents for registration” list generated by the system that even though date of order was available in the database, 13 documents were still shown as pending.

The Department agreed (September 2016) to make necessary changes in the software.

<sup>14</sup> Ahmedabad-13 (City), Ahmedabad-14 (Dascroi), Bhavnagar-2 (Chitra) and Gandhinagar  
<sup>15</sup> Ahmedabad-3 (Memnagar), Ahmedabad-13 (City), Ahmedabad-14 (Dascroi), Anand, Bharuch, Bhavnagar-2 (Chitra), Gandhinagar, Himatnagar, Jamnagar-2, Junagadh, Mehsana, Rajkot-2 (Kotharia), Surat-3 (Navagam) and Vadodara-4 (Gorva)  
<sup>16</sup> Ahmedabad-3 (Memnagar), Ahmedabad-13 (City), Ahmedabad-14 (Dascroi), Anand, Jamnagar-2, Junagadh, Mehsana, Surat-3 (Navagam) and Vadodara-4 (Gorva)  
<sup>17</sup> Ahmedabad-13 (City), Ahmedabad-14 (Dascroi) and Gandhinagar  
<sup>18</sup> Ahmedabad-3 (Memnagar), Ahmedabad-13 (City), Anand, Bharuch, Bhavnagar-2 (Chitra), Gandhinagar, Jamnagar-2, Junagadh, Mehsana, Surat-3 (Navagam) and Vadodara-4 (Gorva)  
<sup>19</sup> Junagadh

### 5.3.8 Disaster recovery plan

#### 5.3.8.1 Database backup policy

No disaster recovery plan had been developed by the Department. Back-up data was stored at the Central Data Server, Gandhinagar. Further, the Department stated that data of scanned documents was stored in 3 CDs and was kept at SROs, Inspector of Registration (IR) at District levels and IGR office.

We observed that these backup CDs were kept in CD covers and were stored in cupboards instead of keeping them in weather/fire-proof and safer areas. There was no record available in IGR office indicating that the backup of scanned documents had ever been tested.

Department stated (September 2016) that they would ensure testing of data stored in CDs.

**Department may store the data in Hard Disk at the IGR office level and the same may be kept in weather/ fire proof and safer areas.**

### 5.3.9 Monitoring

We found that the Department was completely dependent on NIC for all activities relating to the operation of *gARVI*. The Department did not have adequate qualified officials to monitor the implementation of *gARVI* system.

The Department stated (September 2016) that they would recruit in-house IT officials as per the availability of the budget provision.

#### 5.3.10 Incomplete Database

The major sources of stamp duty are (a) stamp duty collected in cases of allotment/ lease of Government land, (b) stamp duty collected at the time of registration of documents, (c) stamp duty collected in cases of unregistered documents, (d) stamp duty collected in cases of purchases/ sales of shares, stocks, etc. Thus, the system captures database of stamp duty collected by the Department in only those cases where the instrument has been registered. Thus, we could not ascertain from the *gARVI* system whether the stamp duty captured by the system was as per the total stamp duty collection reflected in Government accounts.

The major source of registration fees is the fees collected at SROs during registration of documents. The system is expected to capture the database of registration fees realized by the Department. The following table shows the registration fees realized as per the Finance Accounts of the State and as per the reports generated by the *gARVI* system:

(₹ in crore)

Sl. No.	Year	Registration Fees realized as per the Finance Accounts	Registration Fees realized as per the reports generated by the system	Percentage of variation
1	2012-13	524.71	497.79	5.13
2	2013-14	594.66	568.89	4.33
3	2014-15	704.29	682.73	3.06

Thus, there has been variation in the figures of registration fees realized as per the Finance Accounts of the State and as per the reports generated by the gARVI system. Though the variation ranged between 3 and 5 *per cent* and was not significant, this indicates that there were discrepancies in the database of registration fees captured by the system.

### 5.3.11 Conclusion

The gARVI system has been developed with the objective of computerization of entire process of registration to make it simple and transparent. During IT audit, we observed that:

- There was absence of proper documentation and ownership of source code.
- User requirement specifications were not assessed. As a result, manual intervention continued in the process of registration of the documents such as non provision of access to gARVI system to the Deputy Collectors (SDVO) for determination of market value of properties, levy of penalty in case of delay in presentation of documents for registration, etc.
- There were inadequate input controls and validation checks in the system which compromised the correctness and reliability of data being fed in the system.
- gARVI was not integrated with the website of SHCIL to facilitate locking of E-Stamps as a result of which the possibility of fraud by using e-stamps on more than one occasion cannot be ruled out.

### 5.3.12 Recommendations

The Department may take necessary actions to:

- integrate the process of valuation by DC(SDVO);
- evolve a system for automatic locking of e-certificates during registration process;
- minimize manual interventions in the system; and
- strengthen input controls and validation checks to make the database complete, accurate and reliable.

## **5.4 Follow-up Audit of the Performance Audit of “Levy and collection of stamp duty and registration fees”**

### **5.4.1 Introduction**

Receipts from stamp duty in the State are regulated under the Indian Stamp Act, 1899 (IS Act)<sup>20</sup> and the Gujarat Stamp Act, 1958 (GS Act)<sup>21</sup> and Rules made thereunder. The registration of documents and related matters are regulated under the provisions of the Registration Act, 1908.

The audit findings of Performance Audit (PA) of ‘Levy and collection of stamp duty and registration fees’ were included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2011 (Revenue Receipts) Government of Gujarat (GoG). The Report was placed in the State Legislature on 30 March 2012. The PA findings highlight system and compliance deficiencies in the functioning of Stamp duty and Registration offices under the control of Revenue Department of GoG. In the PA, Audit had made eleven recommendations<sup>22</sup>. Out of these, cases relating to two recommendations<sup>23</sup> have lost their relevance with the passage of time, cases relating to one recommendation pertaining to levy of stamp duty on delivery orders of imported goods were pending in Supreme Court and two recommendations relating to the co-ordination between various departments have been discussed in the previous audit reports from time to time. Thus, out of all 11 recommendations, five recommendations have not been included in the scope of Audit for this Audit Report.

### **5.4.2 Scope and objectives of Follow-up audit**

The Follow-up audit of the above PA was taken up (August 2015 and December 2015) to assess the extent of implementation by the Department of the six specific audit recommendations. Relevant records/ information/ data made available by the Department were examined in audit to ascertain whether corrective measures were taken by the Department on the recommendations proposed by audit. The results thereof are discussed under the audit findings:

### **5.4.3 Status of actions on the audit recommendations**

The six recommendations, gist of their paragraphs mentioned in the PA and the response of the Department are discussed in the following paragraphs:

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<sup>20</sup> prescribes the rate of stamp duty in respect of bills of exchange, cheques, promissory notes, bill of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts specified in Entry No.91 of List I (Union List) in the Seventh Schedule to the Constitution.

<sup>21</sup> prescribes rate of stamp duty for documents/instruments (under Entry 63 of List II) other than those specified in Entry 91 of Union list.

<sup>22</sup> Two general recommendations and nine specific recommendations

<sup>23</sup> Paragraphs relating to Amnesty scheme of 2006 & 2007 and execution of conveyance deed in development agreement

**5.4.3.1 Recommendations that were accepted by the Government/Department are mentioned in the following table:**

Sl. No.	Paragraph number	Gist of paragraph	Recommendation
1.	5.6.13.1 and 5.6.13.2	Department did not have any mechanism to ascertain whether Companies incorporated in the State and issued shares have paid the requisite stamp duty on issue and allotment of shares.	The Government may consider setting up a system of co-ordination with Registrar of Companies (ROC) to collect data regarding registered companies raising fund and allotting and issuing shares so as to levy and collect proper stamp duty.
2.	5.6.13.3	Omission to include premium price in the value of shares for the purpose of calculation of stamp duty on Certificate or other document under Article 18 of Schedule I of GS Act resulted in short levy of Stamp Duty.	The Department may consider inserting an explanation in the Act in line with Maharashtra to the effect that stamp duty may be charged on the aggregate value i.e., face value plus premium of shares.
3.	5.6.14	Department neither has the machinery nor effective co-ordination with stock exchanges to collect data relating to volume of trading carried out and contract notes issued by each member/brokers/agents based in the State to levy and collect stamp duty from them.	The Government may consider setting up a system of co-ordination with stock exchanges to collect segment-wise turnover data of brokers issuing notes or memorandum to their principals in the State so as to plug leakage of revenue.
4.	5.6.16	No system was in place to collect information regarding the search, seizures or raid conducted by Income Tax Department in cases wherein undisclosed income on account of sale of immovable properties was involved which attracted higher stamp duty and registration fees.	The Government may devise a system for co-ordination with Income Tax Department to collect periodical data of cases of suppression of sale consideration wherein deficit stamp duty and registration fee is involved.
5.	5.6.23	Cases wherein orders/notices issued by Additional Superintendent of Stamps under Section 32 of GS Act for payment of deficit duty are not charged interest for delayed payment of duty under Section 46 of the GS Act.	The Department may consider either to get the rules amended or the orders of Addl. SS may be issued through concerned DCs, in order to invoke provisions of Section 32 of the Act.

**5.4.3.2 Recommendations for which no response was received from the Department**

Sl. No.	Paragraph number	Gist of paragraph	Recommendation
1.	5.6.7.1	No time limit has been prescribed by the Department for finalisation of valuation cases by DCs.	The Government may consider inserting a provision in the Act/Rules to make the decision of the Collector time bound.

#### 5.4.4 Audit findings in respect of accepted recommendations

The Follow up audit findings in respect of accepted recommendations are discussed below:

##### 5.4.4.1 Lack of co-ordination with Registrar of Companies

As per Article 31 & 18 of Schedule I of GS Act, 1958, stamp duty is leviable at the rate of 0.1 *per cent* from 1<sup>st</sup> April 2006 on the value of shares, scrips or stocks allotted or issued to the general public, promoters, institutional buyers etc., by any company or a proposed company incorporated in the State of Gujarat. Section 9(b) of the Gujarat Stamp Act, 1958, empowered the State Government to provide for the composition or consolidation of duties in the case of issues of bonds or marketable securities other than debentures by any incorporated company or other body corporate.

We had recommended in paragraphs 5.6.13.1 and 5.6.13.2 of the Report that the Department may co-ordinate with the Registrar of Companies (RoC), Gujarat to collect data of the registered companies raising capital either through Initial Public Offer<sup>24</sup>(IPO)) or through issues of shares (paragraph) so as to ensure proper levy and collection of consolidated stamp duty on the value of shares issued/ allotted by the companies. The recommendation was accepted by the Department.

During the follow-up audit, we observed that the Ministry of Corporate Affairs (MCA) had implemented (September 2009) an e-governance system called MCA 21 through which companies/firms registering with RoC can pay stamp duty under Article 7, 8, 12 and 35 of GS Act while filing Article of Association (AoA) for incorporating a company, Memorandum of Association (MoA) and Alteration of AoA/ MoA. As such, the consolidated stamp duty payable on issue of shares, scrips or stocks under Article 18 of the GS Act was not part of MCA 21 and is required to be paid in the office of the Addl. Superintendent of Stamps (Addl. SS) before issuance of shares/stocks etc.

- As per the information furnished to audit, the Department had made correspondence with the RoC to get the information of the companies/firms raising capital by way of IPO and also the information relating to the companies/firms amalgamated or merged by order of the High Court under Section 394 of the Companies Act, 1956 for the period starting from 2006-07 onwards. Further, the office had also requested to RoC in April 2016 to furnish the information regularly on monthly basis through the designated e-mail address of the Department. The RoC had furnished the details of name of the Companies and their address from the Prospectus filed in Form – GNL-2 for the period starting from 2012-13, which was being verified by the Department for further action. We noticed that the information called for and furnished by the RoC was only related to the IPO and

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<sup>24</sup> Initial Public Offer is the first time when stock of a private company is offered to the public.

amalgamation/merger of companies/firms but did not include the details of all the companies/firms registered in the State.

- In order to ascertain the correct levy and collection of stamp duty on the value of shares issued by the Companies, we verified the records available with the Department relating to the consolidated stamp duty paid by the Companies on the value of shares, scrips or stocks issued during the period from 2012-13 to 2014-15. The consolidated stamp duty levied and collected by the Department is given below:

Year	Number of Companies	Number of shares issued	Stamp duty paid (₹ in crore)
2012-13	218	370,93,52,573	6.80
2013-14	319	681,82,13,995	10.32
2014-15	378	934,99,41,238	13.20
<b>Total</b>	<b>915</b>	<b>1987,75,07,806</b>	<b>30.32</b>

We collected information from the RoC regarding the actual number of Companies registered in the State and issued shares during the above period and cross verified the information provided by RoC with that of the Department's record. We found that 14,140 companies were registered during the period from 2012-13 to 2014-15 and have issued 5,271.56 crore shares valuing ₹ 1,11,644.80 crore on which stamp duty of ₹ 111.64 crore was chargeable. However, as per the Department's records only 915 companies have paid the consolidated stamp duty of ₹ 30.32 crore during this period in the office of the Addl. SS on the issue of 1,987.75 crore shares.

The Department had not ascertained whether the remaining 13,225 companies had paid stamp duty of ₹ 81.32 crore on the issue and allotment of shares during the period from 2012-13 to 2014-15.

Further, the Department did not initiate any process to explore the possibility of information sharing or levy of stamp duty on issuance of shares through the MCA 21 system in co-ordination with MCA/ RoC.

Hence, the fact remains that mechanism developed in co-ordination with MCA/ RoC for collection of information and levy of consolidated stamp duty on issue of shares was not fool proof and may result in leakage of revenue. Thus, it still needed strengthening.

#### 5.4.4.2 Inclusion of premium price in the value of shares

We had mentioned in paragraph 5.6.13.3 of the PA that there was no clarity in the Act so as to ensure levy of stamp duty on the face value as well as the premium value of shares allotted and certificate issued by the Companies to its shareholders. The omission to include the amount of premium in the value of shares allotted by the Companies for the purpose of calculation of stamp duty led to short levy of stamp duty. We had recommended that the Department may consider inserting an explanation in the Act in line with Maharashtra to the effect that stamp duty may be charged on the aggregate value i.e., face value plus premium of shares. The Government, on the basis of our recommendation, inserted the explanation under Article 18 of Schedule I in the GS Act 1958 (*w.e.f.* 15.05.2013) for charging stamp duty on the aggregate

value including the value of premium of shares issued/ allotted by the Companies.

In audit, we verified the records of office of the Superintendent of Stamps, Gandhinagar for the period 2013-14 and 2014-15 finalised after the insertion of the explanation and found in the 18 test checked cases that premium had been included in the value of shares issued/ allotted for the purpose of levy of stamp duty.

#### **5.4.4.3 Levy and collection of stamp duty on the records of transaction of purchase and sale of shares, stocks etc.**

According to Article 5(c), Article 39(f) and Article 48A (b) and (c) of Schedule I of Gujarat Stamp Act, 1958, stamp duty is chargeable on each note of memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of any share, scrip, stock bond, debenture stock or other marketable security of a like nature exceeding in value ₹ 20 except Government securities.

We had observed vide paragraph 5.6.14 of the PA that the Department neither had the machinery nor effective co-ordination with Stock Exchanges to collect data regularly relating to the volume of trading carried out and contract notes issued by each member/ broker/ agent (firm) based in the State of Gujarat to levy and collect proper stamp duty from them. There was no data regarding total stamp duty chargeable, levied and outstanding on above type of instruments executed in the State. Further, no mechanism was put in place by the Department to check the correctness of the segment wise turnover figures furnished by the firms in their return by way of verification of annual accounts of the respective firms or by way of cross check with the data collected from stock exchanges for the purpose of levy of stamp duty.

We had recommended in the PA that the Government may consider setting up a system of co-ordination with stock exchanges to collect segment-wise turnover data of brokers issuing notes or memorandum to the principals in the State so as to plug leakage of revenue. The Department accepted the recommendation and had entrusted the work of collection of stamp duty on the records of transactions of purchase and sale of shares, stocks, etc., by the share/commodity brokers trading in the exchanges (BSE, NSE and Commodity Exchanges) through an agreement to BOI Shareholding Limited, Mumbai (the Agency) on 14 May 2016.

As per the agreement, the Agency has to collect stamp duty on the segment wise transactions executed by brokers either for their clients or in his own name or in the name of his own firm at their registered office or branch office of Gujarat after verifying the turnover data submitted by brokers with the data of the stock exchange. The Agency shall remit the amount of stamp duty collect in the State Government's prescribed account within the decided time frame. The scrutiny of records of collection of stamp duty at the office of the Superintendent of Stamps, Gandhinagar in respect of the above for the period from May 2014 to March 2015 revealed the following weaknesses in monitoring and implementation of the system:

- i. The records did not contain the monthly data/ detailed statement showing the segment wise turnover of all the members/brokers and the percentage at which the stamp duty was collected in case of delivery, non-delivery and forward contracts. Hence, audit could not ascertain whether the stamp duty collected by the Agency from the members was in accordance with the rate of stamp duty applicable in the State.
- ii. The Agency had along with the payment of stamp duty for each month, attached a list of members/ brokers who had not paid stamp duty on the trading of shares and stocks. We verified the Agency's statement with that of cheque register and the file containing notices issued for recovery of outstanding stamp duty to see whether stamp duty in respect of the members/brokers who had not paid stamp duty to the Agency, had been paid in the office at Gandhinagar. It was noticed that the Department had issued notices to the brokers in May 2015 based on the Agency's 'statement of unpaid stamp duty' for the month of February 2015. However, no exercise was done by the office with reference to Agency's statements for the period from May 2014 to January 2015 for issuance of notices. Thus, notices were not issued to the 82 defaulting members with reference to the statements furnished by the Agency for the months of May 2014 to January 2015, for which no reason was on the records furnished to audit.

After this was pointed out, the Addl. SS stated (October 2015) that till May 2014, the brokers were paying stamp duty in advance which was adjusted against their subsequent months payable stamp duty. After exhausting the advance paid, the brokers have started paying duty with the Agency. Further, as on September 2015, the brokers who have not paid stamp duty with the Agency had come down to less than ten in number.

However, the Department did not produce any records to prove that the 82 brokers to whom notices were not issued had paid stamp duty in advance and no amount was recoverable from these brokers.

#### **5.4.4.4 Inadequate co-ordination with Income Tax Department**

We had observed in paragraph 5.6.16 of the Audit Report that no system was evolved to collect information on the search, seizures/ raid conducted by Income Tax (IT) Department in cases where undisclosed income on account of sale of immovable properties was involved which attracted higher stamp duty and registration fees. We recommended that Government may devise a system for co-ordination with IT Department to collect periodical data of cases of suppression of sale consideration wherein deficit stamp duty and registration fees is involved.

As per the information furnished to audit, the Additional Superintendent of Stamps had been attending (since 2011) the meetings of the Regional Economic Intelligence Committee (REIC), an apex forum overseeing Government agencies responsible for economic intelligence and combating economic offenses in the respective States of India.

A list of 33 cases was referred to the Department by the REIC for scrutiny. We noticed that though notices were issued to the concerned parties, the office could not finalise any of these cases due to lack of evidence/records pertaining to tax evasion. The office had corresponded for production of records but the IT Department had not furnished the relevant information. The REIC had also asked (August 2014) the Department to give details of the wanting documents so that they could take up the matter with the IT Department. However, the Department did not give any details to REIC regarding the wanting documents. Thus, due to inadequate efforts of the Department, the recovery of deficit stamp duty and registration fees could not be affected in these cases.

#### **5.4.4.5 Non-levy of interest on delayed payment of stamp duty**

We had mentioned in paragraph 5.6.23 of the Audit Report those cases wherein orders/ notices issued by Additional Superintendent of Stamps (Addl. SS) under Section 32<sup>25</sup> of GS Act for payment of deficit duty were issued but interest for delayed payment of duty under Section 46 read with Rule 30A of Gujarat Stamp Rules was not charged. Due to this lacuna in the Act and Rules, the Government lost interest of ₹ 1.51 crore on delayed payment of stamp duty in five cases test-checked in audit. Accordingly, it was recommended that the Department may consider either to get the rules amended or the orders of Addl. SS may be issued through concerned Dy. Collectors in order to invoke Section 32 of the Act.

In reply to our recommendation the Department stated (February/August 2016) that presently wherever final orders are issued by Addl. SS for recovery of deficit stamp duty, a clause regarding chargeability of interest under Section 46 of the GS Act 1958 is included. Test check of final orders issued by Addl. SS in audit confirmed the action now being taken by Department as stated in their reply.

#### **5.4.5 Audit finding on the recommendation for which no response was received**

The Follow up of audit findings in respect of the recommendation for which no response was received is as follows:

#### **Delayed finalisation of valuation cases**

We had mentioned in paragraph 5.6.7.1 of the Audit Report that there was absence of timeframe for finalisation of valuation cases by Deputy Collector (DC), Stamp Duty Valuation Organisation under Section 32A of the GS Act.

Section 32A of the GS Act 1958 provides that if the officer registering the

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<sup>25</sup> In case of valuation of immoveable property, under Section 32 of the GS Act, 1958 Act, the Dy. Collectors (Stamp Duty Valuation Organisation) is empowered to issue orders for recovery of simple interest at the rate of fifteen per cent per annum from persons, who do not pay the deficit duty, penalty or other sums payable within ninety days from the date of receipt of the order. However, similar power is not available with Addl. SS while demanding for recovery of deficit stamp duty on the valuation of instruments like shares, stocks etc.

instrument has reason to believe that the consideration set forth in the document presented for registration was not in accordance with the market value of the property, he shall before registering the document; refer the same to DC for determination of the market value of the property<sup>26</sup>. Under Rule 4 of the Gujarat Stamp (Determination of Market Value of Property) Rules, 1984, the DC after examining the evidence shall issue a notice showing the basis on which true market value of property and proper duty payable thereon has been provisionally determined by him to the person liable to pay stamp duty in respect of such instrument. After considering the representation, if any, received from the person within 15 days from the date of the service of the notice, the DC shall finally pass an order determining the true market value and the proper duty payable on the instrument.

In the Audit Report, we had recommended that the Government may consider inserting a provision in the Act/Rules to make the decision of the DC time bound. However, no action has been taken on our recommendation.

During the audit, we have called for the information regarding notices issued, representations received, cases finalised and pending for finalisation under Section 32A by DCs during the period from 2010-11 to 2014-15. The Department did not furnish the information regarding the issuance of notices by DC and whether representations were received within 15 days of issuance of notices in all the cases. However, the Department furnished information regarding pendency of cases during the last five years which is given as follows:

Year	Opening balance	Number of documents received during the year	Number of documents finalised	Closing balance
2010-11	3,07,895	12,450	25,999	2,94,346
2011-12	2,94,346	20,180	19,934	2,94,592
2012-13	2,94,592	761	15,765	2,79,588
2013-14	2,79,588	908	27,216	2,53,280
2014-15	2,53,280	796	35,087	2,18,989

We found that the information furnished to audit did not include the number of cases pending with the DCs of three districts<sup>27</sup> as on March 2015 out of 35 districts in the State and as such did not represent the outstanding of the entire State.

Though, a system of monthly collection and consolidation of information regarding pendency of cases under Section 32A of GS Act was devised by the Department, but the information was not being received every month from all the DCs which results in availability of incomplete data. This also leads to improper monitoring of disposal of cases. Thus, the Department needs to improve the monitoring mechanism as well prescribe a timeframe for speedy disposal of cases and recovery of revenue in view of huge pendency of cases.

<sup>26</sup> As per the Gujarat Stamp (Determination of Market Value of Property) Rules, 1984

<sup>27</sup> Botad, Jamnagar and Navsari

The matter was reported to the Government in April 2016; their reply has not been received (September 2016).

#### **5.4.6 Conclusion and recommendation**

Follow up audit of the PA revealed certain areas of concern with regard to the implementation of recommendations of PA as given below:

- Of the five recommendations, the Government had taken appropriate action for charging stamp duty on the aggregate value (face value plus share premium) of shares and also for the recovery of interest on the deficit stamp duty paid respectively. Thus, two recommendations have been fully complied with.
- In respect of remaining three recommendations the structure/ process have been put in place for co-ordination with stock exchanges, with Income Tax authorities and with RoC for collection of information and levy of proper stamp duty but these require strengthening so that these are effective.

*Government may ensure compilation of monthly data of segment wise turnover of members/brokers and the rate of stamp duty collected in case of delivery and forward contracts through the Agency appointed in this regard. Further, Government may take prompt action for the recovery of stamp duty from the defaulting members/brokers based on the report furnished by the Agency.*

*Government may obtain the wanting documents from the IT Department to determine the cases involving stamp duty evasion for taking appropriate action.*

*Government may devise a mechanism in co-ordination with Ministry of Corporate Affairs/ RoC for information sharing so that the chance for leakage of stamp duty on issuance of shares are minimised.*

- *It is once again recommended that the Government may consider inserting a provision in the Act/ Rules to make the decision of the DC time bound.*

#### **5.5 Short levy of stamp duty due to undervaluation of properties**

Section 32 A of the Gujarat Stamp Act, 1958 provides that if the officer registering the instrument believes that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall refer the same to the Deputy Collector (Stamp Duty Valuation Organisation) for determination of the market value of the property. The market value of the property is to be determined as per the Gujarat Stamp (Determination of Market Value of the Property) Rules, 1984 and the orders issued thereunder.

During test check of the documents registered with the four Sub Registrar offices<sup>28</sup> during the year 2011 to 2014, we noticed<sup>29</sup> that the market value of the properties was determined incorrectly in 19 documents, which resulted in short levy of stamp duty of ₹ 0.92 crore as explained below:

(₹ in lakh)			
Sl. No.	Name of office	Number of documents Period of Registration of documents	Short levy of stamp duty
1.	Sub Registrar, Bharuch and Mangrol	<u>12</u> February 2012 and February 2013	20.13
<p><b>Nature of Observation:</b> As per recitals of the 12 conveyance deeds the Revenue Authorities had granted permission to non-agriculturists for purchase of new tenure agriculture lands admeasuring 3,53,738 sq. mtrs. for <i>bonafide</i> industrial use under Section 63/ 63AA of GTAL Act.</p> <p>However, while determining the market value of properties for levy of stamp duty, the Sub-Registrar adopted <i>jantri</i> rates of agricultural land instead of industrial land in five cases and adopted <i>jantri</i> rate of non-agricultural land for residential use instead of industrial use in the remaining seven cases. The stamp duty levied was ₹ 125.79 lakh instead of ₹ 145.92 lakh. This resulted in short levy of stamp duty.</p> <p>After this was pointed out in audit, the Department accepted (August 2016) and recovered ₹ 20.13 lakh in all the 12 cases.</p>			
2.	Sub Registrar, Mehsana	<u>1</u> March 2013	45.34
<p><b>Nature of Observation:</b> Recitals of the conveyance deed revealed that though commercial showroom in Himalaya Mall had been conveyed, valuation had been done by adoption of composite rates for office at the rate of ₹ 12,000 per sq. mtr. instead of ₹ 25,000 per sq. mtr. for commercial purpose. The stamp duty levied was ₹ 110.25 lakh instead of ₹ 155.59 lakh. This resulted in short levy of stamp duty.</p> <p>After this was pointed out in audit, the Department stated (August 2016) that they had issued notice in this case.</p>			
3.	Sub Registrar, Mehsana	<u>3</u> August 2012	5.40
<p><b>Nature of Observation:</b> Cross verification of the records between the Sub- Registrar office and Mamlatdar office revealed that lands admeasuring 55,139 sq. mtr. were registered as non-irrigated agriculture land. However, the records of the Mamladar revealed that the lands were irrigated land. The rate of irrigated land as per <i>jantri</i> was ₹ 1,268 per sq. mtr. instead of ₹ 1,068 per sq. mtr. mentioned in the deeds. The stamp duty levied was ₹ 28.86 lakh instead of ₹ 34.26 lakh. This resulted in short levy of stamp duty.</p> <p>After this was pointed out in audit, the Department stated (August 2016) that they had issued notices in three cases.</p>			
4.	Sub Registrar, Gandhinagar	<u>2</u> January 2014	7.52
<p><b>Nature of Observation:</b> In one case of power of attorney with possession, recitals revealed that though irrigated lands had been conveyed, it was treated as non-irrigated land. This</p>			

<sup>28</sup> SR- Bharuch, Gandhinagar, Mangrol and Mehsana

<sup>29</sup> between April 2014 and July 2015

<p>was evident from the previous sale deed executed in respect of this piece of land, but valuation had been done by adoption of <i>jantri</i> rates of non-irrigated land.</p> <ul style="list-style-type: none"> <li>In another case of conveyance deed, though the agricultural land had been converted into non-agricultural land by order of the competent authority, valuation had been done by adoption of <i>jantri</i> rates of agricultural land instead of <i>jantri</i> rates of non-agricultural land. The stamp duty levied was ₹ 21.40 lakh instead of ₹ 28.92 lakh.</li> </ul> <p>This resulted in short levy of stamp duty.</p> <p>After this was pointed out in audit, the Department stated (August 2016) that they had issued notices in two cases.</p>			
5.	Sub Registrar, Gandhinagar	<u>1</u> August 2013	13.19
<p><b>Nature of Observation:</b> In case of a conveyance deed, as per the map of TP-13 available with the Sub-Registrar office the survey numbers of the land conveyed fell under value zone TP/13/16 (with <i>jantri</i> rate of ₹ 3,430 per sq. mtr.), However, valuation had been done incorrectly by adopting <i>jantri</i> rates of another value zone R/13/9 i.e. ₹ 1,560 per sq. mtr. The stamp duty levied was ₹ 11.00 lakh instead of ₹ 24.19 lakh. This resulted in short levy of stamp duty.</p> <p>After this was pointed out in audit, the Department stated (August 2016) that they had issued order in this case. Details of recovery are awaited (October 2016).</p>			
<b>Total</b>		<b>19 cases</b>	<b>91.58</b>

## 5.6 Short levy of stamp duty and registration fees on document falling under several categories

Under Section 6 of the Gujarat Stamp Act, 1958, an instrument so framed as to come within two or more of the descriptions in Schedule I shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties. As per Section 2(r), "Power of Attorney" includes any instrument empowering a person to act for and in the name of the person executing it. Rate of stamp duty in case of Power of Attorney is ₹ 100 under Article 45. As per Article 49(b) of Schedule I to the Act, in case of any instrument of release, whereby a person renounces a claim upon another person or against any specified property, stamp duty is leviable as on a conveyance under Article 20. The registration fee is leviable on the amount of consideration mentioned in the document.

Test check of the records of the Sub Registrar office, Ahmedabad-VI for the year 2013, we noticed (August 2014) from the recitals of a document that a power of attorney had been executed by six co-owners of a leasehold immovable property in favour of remaining one co-owner. The power of attorney executed was irrevocable and the six co-owners had released their respective shares in favour of one remaining co-owner. The power of attorney holder had been authorized to transfer the property in his favour. Thus, the instrument can be classified as power of attorney as well as release deed. The instrument had been registered as power of attorney. But, it was required to be registered as release deed because release deed attracts higher rate of stamp duty. However, the SR failed to take cognizance of the recitals of the document and did not levy the stamp duty and registration fees chargeable

under Article 49(b). This resulted in short levy of stamp duty and registration fees of ₹ 51.13 lakh.

After we pointed this out, the Sub-Registrar did not agree with the audit observation and stated that as the power of attorney had been executed by sons in favour of their father, stamp duty had been correctly levied as per Article 49(a). The reply is not tenable as Article 49 (a) relates to ancestral property. But, in this case, the recitals revealed that the leasehold property was purchased by co-owners in December 2011. As such, the document should have been classified under 49 (b).

After this was pointed out in audit, the Department stated (August 2016) that they had issued notice in this case.

### **5.7 Non levy of stamp duty and registration fees on documents comprising distinct matters**

Under Section 5 of the Gujarat Stamp Act, 1958, any instrument comprising distinct matters or distinct transactions shall be chargeable with aggregate amount of duties with which separate instruments would be chargeable under the Act. As per Article 45 (f) of the Gujarat Stamp Act, in case of Power of Attorney (PoA) given for consideration and authorizing the attorney to sale any immovable property, stamp duty is leviable as in the case of a conveyance under Article 20.

During test check of the records of the Sub Registrar office, Vadodara-IV for the year 2013, we noticed (April 2015) that a conveyance deed had been executed among purchaser, seller (land owner) and confirming party (developer). Recitals of the conveyance deed revealed that (i) The seller had earlier executed an agreement to sale as well as development agreement and a power of attorney in favour of the confirming party, but copies of the development agreement and power of attorney were not available on file; (ii) Cost of entire land had already been paid/ agreed to be paid to the land owner by the confirming party at the time of execution of agreement to sale; (iii) The land owner had agreed to execute an irrevocable power of attorney in favour of the developer after receipt of entire sale consideration of the land at the time of execution of the agreement to sale which indicates that the possession of the land had been handed over to the developer; (iv). In the present sale deed, full consideration had been paid to the confirming party by the purchaser; (v) Property was being sold by the land owner and confirming party; and (vi) Developer shall be entitled to use and develop the FSI.

Thus, the present document contained two distinct matters viz (i) deemed conveyance deed between seller and confirming party and (ii) conveyance deed executed in favour of purchaser. The Sub Registrar had not levied stamp duty and registration fees on deemed conveyance executed between seller and confirming party nor had referred the document to the Dy. Collector (SDVO). This resulted in non-levy of stamp duty and registration fee of ₹ 38.33 lakh.

After this was pointed out in audit, the Department stated (August 2016) that they had issued notice in this case.

## 5.8 Short levy of stamp duty and registration fees

Section 32 A of the Gujarat Stamp Act, 1958 provides that if the officer registering the instrument believes that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall refer the same to the Deputy Collector (Stamp Duty Valuation Organisation) for determination of the market value of the property. The market value of the property is to be determined as per the Gujarat Stamp (Determination of Market Value of the Property) Rules, 1984 and the orders issued thereunder.

During test check of the documents registered with the three Sub Registrar offices<sup>30</sup> during the year 2010 to 2013, we noticed<sup>31</sup> that there was short levy of stamp duty and registration fees of ₹ 27.17 lakh in three documents due to incorrect calculation of average annual rent (in case of lease deed)/ non consideration of market value of immovable property (in case of partnership deed/ dissolution of partnership) as explained as follows:

(₹ in lakh)

Sl. No.	Name of office	Number of documents Period of Registration of documents	Short levy of stamp duty and/ or registration fees
1.	Sub Registrar, Palsana	<u>1</u> September 2011	12.39
<p>Article 30 of Schedule I to the Gujarat Stamp Act provides for levy of stamp duty on lease at the rate applicable to conveyance deed. For calculation of consideration for levy of stamp duty on lease deeds, average annual rent reserved depending on the period of lease, premium paid or money advanced, etc. are considered. As per revised registration fee table, registration fee on lease deed is leviable on <i>ad valorem</i> scale at the rate of one rupee for every one hundred rupees or part thereof on the amount or value of the consideration.</p> <p><b>Nature of Observation:</b> We observed in one lease deed that the average annual rent had been erroneously calculated for levy of stamp duty and registration fees. The stamp duty and registration fees levied were ₹ 49.09 lakh instead of ₹ 61.48 lakh. This resulted in short levy of stamp duty and registration fees.</p> <p>After this was pointed out in audit, the Department stated (August 2016) that they had issued notice in this case.</p>			
2.	Sub Registrar, Vadodara-III (Akota)	<u>1</u> February 2012	9.74
<p>As per Article 44(3)(a) of Schedule I to the Gujarat Stamp Act, 1958 where any immovable property is taken as his share on dissolution of partnership by a partner other than a partner who brought that property as a share or contribution to partnership, stamp duty is chargeable at the rate applicable on a conveyance. As per Article 44(3)(b), stamp duty payable on dissolution of partnership is ₹ 100.</p> <p><b>Nature of Observation:</b> Recitals of the dissolution of partnership deed revealed that previously at the time of formation of partnership firm, the partners had brought capital contributions in cash. Later, immovable property had been acquired in the name of partnership firm. Now, at the time of dissolution of partnership firm, one of the partners had taken the immovable property as his share or contribution. Therefore, stamp duty was</p>			

<sup>30</sup> SR-Gandhinagar, Palsana and Vadodara-III

<sup>31</sup> between December 2013 and February 2015

<p>required to be levied as per Article 44(3)(a) and not as per Article 44(3)(b). The stamp duty and registration fees levied were ₹ 1.22 lakh instead of ₹ 10.96 lakh. This resulted in short levy of stamp duty and registration fees.</p> <p>After this was pointed out in audit, the Department stated (August 2016) that they had issued notice in this case.</p>			
3.	Sub Registrar, Gandhinagar	1 April 2013	5.04
<p>As per revised registration fee table, registration fee on partnership deed is leviable on <i>ad valorem</i> scale at the rate of one rupee for every one hundred rupees or part thereof on the amount or value of property.</p> <p><b>Nature of Observation:</b> Recitals of the partnership deed revealed that at the time of formation of partnership firm, one of the partners had brought cash as well as immovable property as his capital contribution in the firm and remaining partners had brought only cash contributions in the firm. At the time of levy of registration fees, the total capital amount brought by all the partners was considered and the value of immovable property contributed by one of the partners was not taken into account. The registration fees levied was ₹ 1,000 instead of ₹ 5.05 lakh. This resulted in short levy of registration fees.</p> <p>After this was pointed out in audit, the Department stated (August 2016) that they had issued notice in this case.</p>			
	<b>Total</b>	<b>3 cases</b>	<b>27.17</b>



## CHAPTER-VI OTHER TAX AND NON-TAX RECEIPTS

### 6.1 Results of Audit

Test check of records in the offices of the Commissioner of Geology and Mining, Chief Electrical Inspector and Collector of Electricity Duty, Operation and Maintenance Divisions of Electricity Distribution Companies, Director of Petroleum and various departmental officers relating to Electricity Duty and Mining Receipts in the State during the year 2015-16 revealed under-assessment and other irregularities involving ₹ 27.12 crore in 53 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
	<b>Mining Receipts</b>		
1.	Non/short levy of dead rent/surface rent	14	1.09
2.	Non/short levy of royalty/interest	4	0.15
3.	Other irregularities	26	4.55
	<b>Total</b>	<b>44</b>	<b>5.79</b>
	<b>Electricity Duty</b>		
1.	Short levy of Electricity Duty and other irregularities	5	0.16
	<b>Director of Petroleum</b>		
1.	Non/ short levy of royalty/ dead rent/ stamp duty and registration fees	3	21.16
2.	Other irregularities	1	0.01
	<b>Total</b>	<b>4</b>	<b>21.17</b>
	<b>Grand Total</b>	<b>53</b>	<b>27.12</b>

During the course of the year, the Departments accepted and recovered under-assessment and other irregularities of ₹ 2.45 crore in 69 cases, which were pointed out in audit during 2015-16 and earlier years.

A few illustrative audit observations involving ₹ 58.83 crore are mentioned in the succeeding paragraphs.

## Energy and Petrochemicals Department

### 6.2 Non/ short levy of dead rent

Rule 13(2) of the Petroleum and Natural Gas Rules, 1959 stipulates for the payment of applicable fixed yearly dead rent<sup>1</sup> by a lessee to the Central or State Government as the case may be. Further, Rule 14 of the Rules *ibid*, stipulates for the payment of royalty by a lessee in respect of any mineral mined from the leased areas at the specified<sup>2</sup> rates. The lessee is, however, liable to pay either the dead rent or the royalty, whichever is higher in amount.

During test check of records of the Director of Petroleum (DoP), Gandhinagar for the period 2013-14 and 2014-15, we observed that out of total five leases granted to ONGC at five different sites, in respect of three sites, though the lessee did not extract any mineral, dead rent was not demanded. In respect of remaining two sites, though dead rent was higher than the royalty paid, differential dead rent was not demanded. This also includes one site<sup>3</sup> wherein ONGC has already started production (2014-15) though formal order for grant of lease has not been issued. Thus, there is a non levy of dead rent of ₹ 52.27 lakh excluding interest.

After we pointed this out, the DoP stated (February 2016) that dead rent of ₹ 22.29 lakh had been recovered from ONGC in respect of four sites. In respect of one site<sup>4</sup>, an issue regarding payment of royalty on pre-discount price was involved and the matter was *sub-judice*. Hence, the royalty was recovered on post-discount price, however, the issue of recovery of dead rent for this site would be taken up after finalisation of the case. In respect of remaining one site, recovery of dead rent will be taken up after issue of formal order for grant of lease by DoP.

### 6.3 Stamp duty and Registration fees on lease deeds

The State Government grants land on lease for the mining activity and the order granting mining lease stipulates for the execution of lease deed by the lessee in this regard. Section 17(d) of the Registration Act, 1908 requires that the deeds conveying leasehold rights on immovable property for any term exceeding one year should be registered compulsorily. Section 27 read with Article 30 of the Schedule I of the Gujarat Stamp Act, 1958 provides for the levy of stamp duty in case of lease of mines in which royalty or share of produce is received as rent or part of rent. Further, as per the Circular dated 4.9.1979 of the Superintendent of Stamps, Gujarat, in case of lease of mines, stamp duty will be levied on the aggregate of the annual dead rent, estimated annual royalty payable during first year, surface rent and security deposit.

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<sup>1</sup> The Petroleum and Natural Gas Rules, 1959 specify the rate of ₹ 100 per hectare or part thereof for the first 100 sq km and ₹ 200 per hectare for the part of more than 100 sq. Km.

<sup>2</sup> The Schedule to the Oilfields (Regulation and Development) Act 1948 specifies the rate of royalty.

<sup>3</sup> Varsoda Halisa Ext-1

<sup>4</sup> Varsoda Halisa

During test check of records of the Director of Petroleum (DoP), Gandhinagar for the period 2011-12 to 2014-15, we observed that in 27 cases, though the mining leases were renewed / granted to the four lessees<sup>5</sup>, the lease deeds had not been executed. The Department stated that execution of lease deeds had been pending due to certain queries raised by ONGC for considering both dead rent and royalty for calculation of stamp duty instead of considering either dead rent or royalty which was higher. Accordingly, the Department had made (July 2015) a reference to Revenue Department for issue of guidelines regarding calculation of stamp duty. The stamp duty and registration fee recoverable as per the circular issued by the Department amounted to ₹ 57.50 crore.

After we pointed this out, the DoP stated (August 2015) that comments of Revenue Department on this issue are still awaited (October 2016). Thus, it would be seen from the above that the case relating to the payment of stamp duty and registration fees has been pending for the last five years. The reference in this context made to the Government by the Department after a lapse of four years is pending since last one year.

The Government may consider expediting the decision for levy of stamp duty so that the amount in question is recovered.

## Industries and Mines Department

### 6.4 Non/ short levy of royalty

Section 9 of the Mines and Minerals (Development and Regulations) Act, 1957 and Rule 21 of the Gujarat Minor Mineral Concession Rules, 2010 read with Circular of July 2005 issued by the Industries and Mines Department stipulated the payment of quarterly royalty in advance at the prescribed rates in respect of any minor mineral removed or consumed from the leased area at the prescribed rates in respect of each lease. In case of delay in payment of royalty, interest<sup>6</sup> is also chargeable.

#### a) Short levy of royalty on sand

During test check of the Demand and Collection Registers of the office of the Assistant Geologist, Gandhinagar for the period 2009-10 to 2013-14, we noticed (July 2014) in nine cases that royalty amounting to ₹ 156.89 lakh was leviable on removal of ordinary sand, a minor mineral, from the leased area. However the lessees had paid advance royalty of ₹ 121.38 lakh only. No demand for the differential amount was raised by the Department. The Department failed to ensure recovery of royalty in advance. This resulted in short levy of royalty of ₹ 35.51 lakh.

<sup>5</sup> Oil and Natural Gas Corporation Ltd. (ONGC), GSPC and GAIL, GSPC, Joshi Technologies Limited

<sup>6</sup> simple interest at the rate of 18 *per cent* per annum

We pointed out these cases to the Department in July 2014. The Department accepted and recovered ₹ 21.44 lakh in six cases. Details of recovery in remaining cases are awaited (October 2016).

**b) Non/ short levy of royalty for manufacture of bricks**

Industries and Mines Department vide their Notification dated 1 January 1999 fixed lump sum rates of royalty for manufacture of bricks. The rates were further revised in January 2010 and June 2012.

During test check of returns and Demand and Collection Registers of two Assistant Geologists<sup>7</sup> for the period 2009-10 to 2013-14, we noticed (July 2014 and March 2015) that 86 brick manufacturers had neither paid royalty of ₹ 27.28 lakh in advance nor was it levied by the District Geologists. Besides adoption of incorrect rates in one case resulted in short levy of royalty of ₹ 0.77 lakh. This resulted in non/ short levy of royalty of ₹ 28.05 lakh.

We pointed out these cases to the Department in July 2014 and March 2015. The Department had accepted and recovered ₹ 9.85 lakh in 38 cases. Details of recovery in remaining cases are awaited (October 2016).

## **6.5 Non/ short levy of dead rent**

Rule 21 (4) of Gujarat Minor Mineral Concession Rules, 2010 stipulates that where the royalty paid during a year in respect of a minor mineral is less than the dead rent payable, only the difference between the two amounts shall be payable as dead rent. In case of delay in payment of dead rent, interest<sup>8</sup> is also chargeable. Rule 42 of Gujarat Minor Mineral Concession Rules, 2010 stipulates that the lease shall be liable to cancel if the lessee ceases to work the quarry for a continuous period of one year.

During test check of the Demand and Collection Registers of the offices of two Assistant Geologists<sup>9</sup> for the period 2009-10 to 2013-14, we noticed (September 2014 and October 2014) in 23 cases of minor minerals namely black trap, ordinary sand and lime stone that either the lease holders did not extract any minerals from the leased area or the royalty payable was less than dead rent payable. They were liable to pay dead rent or differential amount between dead rent and royalty paid. However, no demand for the same was raised by the Department. This resulted in non/ short levy of dead rent of ₹ 17.60 lakh. Interest was also chargeable for delayed payment. Besides, out of 23 cases, in 10 cases, the leases had remained idle for a period exceeding one year and therefore, leases were liable to be cancelled as per the provisions of Rule 42 of Gujarat Minor Mineral Concession Rules, 2010.

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<sup>7</sup> Ahmedabad and Gandhinagar

<sup>8</sup> Under Rule 72, simple interest at the rate of 18 *per cent* per annum

<sup>9</sup> Dahod and Rajkot

After this being pointed out, the Department accepted and recovered ₹ 8 lakh in 17 cases. Details of recovery in remaining cases are awaited (October 2016).



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