



**REPORT OF THE  
COMPTROLLER AND AUDITOR GENERAL  
OF INDIA**

**FOR THE YEAR ENDED 31 MARCH 2010**

**No.3**

**(REVENUE RECEIPTS)**

**GOVERNMENT OF ANDHRA PRADESH**



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

**This Report for the year ended 31 March 2010 has been prepared for submission to the Governor under Article 151(2) of the Constitution.**

**The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax/VAT, state excise, taxes on motor vehicles, stamp duty and registration fees, land revenue, entertainments tax and betting tax, other tax and non tax receipts of the State.**

**The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2009-10 as well as those which came to notice in earlier years but could not be included in previous years' Reports.**



## OVERVIEW

The Report contains 46 paragraphs involving ₹ 191.59 crore and a performance audit review on “Interest Receipts on loans sanctioned by the State Government” involving revenue implications of ₹ 976.82 crore, relating to non/short levy of tax, interest, penalty etc; and having total financial impact of ₹ 1,168.41 crore. Some of the significant audit findings are mentioned below:

### 1. General

- The total revenue receipts of the State Government for the year 2009-10 amounted to ₹ 64,678.35 crore against ₹ 62,858.45 crore for the previous year. 66 *per cent* of this was raised by the State through tax revenue (₹ 35,176.68 crore) and non-tax revenue (₹ 7,802.26 crore). The balance 34 *per cent* was received from the Government of India as State share of divisible Union taxes (₹ 12,141.71 crore) and grants-in-aid (₹ 9,557.70 crore).

(Paragraph 1.1)

- Test check of the records of sales tax/VAT, land revenue, taxes on vehicles, stamp duty and registration fee and other departmental offices conducted during the year 2009-10 revealed underassessments/short levy/loss of revenue etc., amounting to ₹ 1,748.98 crore in 2,849 cases.

(Paragraph 1.5.1)

### 2. Sales Tax/VAT

- In seven circles, 42 industrial units availed sales tax incentive and closed their business/stopped production before stipulated period. The incentive of ₹ 23.38 crore availed by these units though recoverable was not recovered by the Department.

(Paragraph 2.11.2)

- In four Large Tax Payers Units (LTUs) and 57 circles, VAT/tax on works contracts amounting to ₹ 15.25 crore was under declared/short levied.

(Paragraphs 2.12 & 2.17)

- Misclassification of sales as works contracts resulted in under declaration of VAT/short levy of tax of ₹ 8.94 crore in one LTU and 10 circles.

(Paragraph 2.13)

- In one LTU and 25 circles Central Sales Tax/ Penalty of ₹ 9.04 crore was either not levied or short levied on the turnovers relating to inter state sales, consignment sales and export sales covered by fake/invalid Forms or not covered by Forms.

**(Paragraph 2.14)**

- The Department allowed excess claim/Incorrect allowance of Input Tax Credit of ₹ 2.79 crore in two LTUs and 19 circles.

**(Paragraph 2.15)**

- Application of incorrect rate of tax resulted in under declaration of VAT/short levy of tax of ₹ 1.75 crore in 25 circles.

**(Paragraph 2.16)**

- Incorrect computation of turnover in case of one Public Sector Undertaking (APBCL) resulted in short levy of tax of ₹ 1.43 crore.

**(Paragraph 2.18)**

### **3. State Excise**

- Incorrect application of rates resulted in short levy of licence fee of ₹ 24 lakh.

**(Paragraph 3.6)**

### **4. Taxes on Vehicles**

- In the offices of one Joint Transport Commissioner (JTC), nine Deputy Transport Commissioners (DTCs) and 18 Regional Transport Officers (RTOs), quarterly tax of ₹ 3.50 crore and penalty of ₹ 7.00 crore were not levied.

**(Paragraph 4.8)**

- In one JTC, eight DTCs and 15 RTOs, non-renewal of fitness certificates resulted in non-realisation of fitness certificate fee of ₹ 6.94 crore.

**(Paragraph 4.9)**

- In one JTC, seven DTCs and seven RTOs, life tax of ₹ 80.65 lakh was short levied.

**(Paragraph 4.10)**

- In five DTCs and seven RTOs, green tax aggregating to ₹ 70.23 lakh was not levied and collected.

**(Paragraph 4.11)**

## 5. Stamp Duty and Registration Fees

- In one District Registry (DR) and two sub-registries (SRs), four documents involving several distinct matters were incorrectly stamped resulting in short levy of stamp duty and registration fees of ₹ 4.21 crore.

(Paragraph 5.8)

- Misclassification of 'development agreements-cum-GPA'/incorrect application of rate resulted in short levy of stamp duty of ₹ 0.79 crore.

(Paragraph 5.9)

## 6. Land Revenue

- In two offices, advance possession of Government land was allowed without finalising alienation proposals resulting in non-realisation of ₹ 3.20 crore.

(Paragraph 6.8)

- In three tahsil offices, adoption of lesser basic value of the land resulted in short collection of conversion fee of ₹ 82.93 lakh.

(Paragraph 6.9)

## 7. Non-Tax Receipts

A review of “**Interest Receipts on loans sanctioned by the State Government**” indicated the following deficiencies:

- Sanctioning of loans by Government without specifying the terms of repayment and interest resulted in non-realisation of interest of ₹ 76.29 crore.

(Paragraph 7.2.7.1)

- Due to lack of internal controls and monitoring, interest of ₹ 306.06 crore cannot be recovered from many units which were reeling under sickness.

{Paragraph 7.2.7.2 (i)}

- Lack of internal control and monitoring mechanism to record and watch the recovery of loans outstanding and interest due from the AP State Housing Corporation resulted in non-levy of interest of ₹ 586.98 crore.

{Paragraph 7.2.7.2 (ii)}

- Interest of ₹ 6.56 crore was not levied on unutilised loans, sanctioned to two State Corporations.

{Paragraph 7.2.7.3 (i & ii)}

- Provisions of the AP State Financial Code are not adequate enough to safeguard the interest receipts of the Government.

**(Paragraph 7.2.8)**

## **INDUSTRIES AND COMMERCE DEPARTMENT**

### **Mines and Minerals**

- In the office of Director of Mines and Geology (DMG) incorrect depiction of receipts resulted in short realisation of royalty of ₹ 24.55 crore and interest of ₹ 35.55 crore.

**(Paragraph 7.4)**

- In the office of DMG, adoption of incorrect rate of interest resulted in loss of revenue of ₹ 5.13 crore towards interest.

**(Paragraph 7.5)**

- In one office of Deputy Director of Mines and Geology and one Assistant Director of Mines and Geology, penalty aggregating to ₹ 1.68 crore was not levied on delayed payment of royalty.

**(Paragraph 7.6)**

- In the office of DMG, collection of licence fee at lesser rates resulted in short levy of licence fee of ₹ 1.35 crore.

**(Paragraph 7.7)**

## **REVENUE DEPARTMENT**

- In five tahsil offices, water tax amounting to ₹ 1.67 crore was either not levied or levied short.

**(Paragraph 7.10)**

- In four tahsil offices, remission of water tax amounting to ₹ 55.10 lakh was allowed without the Government sanction.

**(Paragraph 7.11)**

## CHAPTER I GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Andhra Pradesh during the year 2009-10, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
<b>I</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	19,207.41	23,926.20	28,794.05	33,358.29	35,176.68 <sup>1</sup>
	• Non-tax revenue	4,691.37	6,487.83	7,064.13	9,683.40	7,802.26
	<b>Total</b>	<b>23,898.78</b>	<b>30,414.03</b>	<b>35,858.18</b>	<b>43,041.69</b>	<b>42,978.94</b>
<b>II</b>	<b>Receipts from the Government of India</b>					
	• State's share of divisible Union taxes	6,950.86	8,866.00	11,183.64	11,801.50	12,141.71
	• Grants-in-aid	4,001.56	4,965.44	7,100.73	8,015.26	9,557.70
	<b>Total</b>	<b>10,952.42</b>	<b>13,831.44</b>	<b>18,284.37</b>	<b>19,816.76</b>	<b>21,699.41</b>
<b>III</b>	<b>Total receipts of the State (I + II)</b>	<b>34,851.20</b>	<b>44,245.47</b>	<b>54,142.55</b>	<b>62,858.45</b>	<b>64,678.35</b>
<b>IV</b>	<b>Percentage of I to III</b>	<b>69</b>	<b>69</b>	<b>66</b>	<b>68</b>	<b>66</b>

The above table indicates that during the year 2009-10, the revenue raised by the State Government was 66 *per cent* of the total revenue receipts (₹ 64,678.35 crore). The balance 34 *per cent* of the receipts during 2009-10 was from the Government of India.

<sup>1</sup> For details please see Statement No.11- Detailed accounts of revenue by minor heads in the Finance Accounts of Andhra Pradesh for the year 2009-10. Figures under the major heads '0020-Corporation tax, 0021-Taxes on income other than corporation tax, 0028-Other taxes on income and expenditure, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties, 0044-Service tax and 0045-Other taxes and duties on commodities and services - share of net proceeds assigned to states booked in the Finance Accounts under A-Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this table.

**1.1.2** The following table presents the details of tax revenue raised during the period from 2005-06 to 2009-10:

(₹ in crore)							
Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Sales tax	11,524.24	14,222.67	17,593.41	20,596.47	22,278.14	(+) 8.16
	Central sales tax	1,017.37	1,244.41	1,433.08	1,255.19	1,362.07	(+) 8.52
2.	State excise	2,684.57	3,436.63	4,040.69	5,752.61	5,848.59	(+) 1.67
3.	Stamp duty and registration fee	2,013.45	2,865.38	3,086.06	2,930.99	2,638.63	(-) 9.97
4.	Taxes and duties on electricity	151.96	151.05	195.36	218.54	159.25	(-) 27.13
5.	Taxes on vehicles	1,355.74	1,364.74	1,603.80	1,800.62	1,995.30	(+) 10.81
6.	Taxes on goods and passengers	50.35	41.25	80.29	15.88	10.28	(-) 35.26
7.	Other taxes on income and expenditure, tax on professions, trades, callings and employments	227.07	312.21	355.72	374.46	430.36	(+) 14.93
8.	Other taxes and duties on commodities and services	110.62	148.84	171.00	203.13	170.01	(-) 16.30
9.	Land revenue	68.75	113.50	144.39	130.35	221.56	(+) 69.97
10.	Taxes on immovable property other than agricultural land	3.29	25.52	90.25	80.05	62.49	(-) 21.94
<b>Total</b>		<b>19,207.41</b>	<b>23,926.20</b>	<b>28,794.05</b>	<b>33,358.29</b>	<b>35,176.68</b>	<b>(+) 5.45</b>

The following reasons for variation were reported by the concerned Departments:

- **Taxes and duties on electricity:** The decrease was due to non-receipt of electricity duty for the period December 2009 to March 2010 from Distribution Companies (DISCOMS).
- **Taxes on vehicles:** The increase was due to increase in number of transactions of registration and enforcement.
- **Other taxes on income and expenditure:** The increase was due to increased allocation of net proceeds assigned to states.



- **Land revenue:** The increase was due to increase in collection of land revenue/tax and sale proceeds of waste lands and redemption of land tax.

The other Departments did not inform (January 2011) the reasons for variation, despite being requested (April/June 2010).

**1.1.3** The following table presents the details of non-tax revenue raised during the period from 2005-06 to 2009-10:

							(₹ in crore)
Sl. No	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/decrease (-) in 2009-10 over 2008-09
1.	Interest receipts	2,039.52	2,231.17	3,525.34	3,487.40	4,851.52	(+) 39.12
2.	Other non-tax receipts	505.05	682.73	711.03	1,187.74	1126.82	(-) 5.13
3.	Forestry and wild life	137.93	87.11	90.92	93.22	103.11	(+) 10.61
4.	Non-ferrous mining and metallurgical industries (mines and minerals)	1,062.57	1,321.25	1,597.56	1,684.98	1,887.26	(+) 12.00
5.	Miscellaneous general services	703.47	1,865.90	778.64	2,944.06	(-) 617.71	(-) 120.98
6.	Power	22.26	22.11	25.13	15.77	26.12	(+) 65.63
7.	Major and medium irrigation	47.82	68.81	42.03	38.33	81.88	(+) 113.62
8.	Medical and public health	40.59	34.19	67.31	48.43	70.58	(+) 45.74
9.	Co-operation	12.45	23.61	39.14	20.09	37.51	(+) 86.71
10.	Public works	7.20	7.09	7.56	7.65	7.52	(-) 1.70
11.	Police	62.94	79.12	99.83	105.36	130.09	(+) 23.47
12.	Other administrative services	49.57	64.73	79.64	50.37	97.56	(+) 93.69
<b>Total</b>		<b>4,691.37</b>	<b>6,487.83</b>	<b>7,064.13</b>	<b>9,683.40</b>	<b>7802.26</b>	<b>(-) 19.43</b>

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

- **Interest receipts:** The increase was due to increase in lending and collection of interest from Departmental commercial undertakings.
- **Major and medium irrigation:** The increase was due to increased receipts from Godavari Delta System and other receipts.

- **Medical and public health:** The increase was due to increase in collection of receipts from employees State Insurance Scheme.
- **Co-operation:** The increase was due to increase in collection of receipts from Audit Fees and Other Receipts.
- **Police:** The increase was due to increase in receipts from providing Police to other Governments and Other parties.
- **Non-ferrous mining and metallurgical industries:** The increase was due to more receipts under Mineral Concession Fees, Rents, Royalties and other receipts.
- **Forestry and wild life:** The increase was due to realisation of revenue generated from sale of timber, bamboo and other plantations etc.
- **Other administrative services:** The increase was due to collection of more receipts under “Other Receipts”.

The other Departments did not inform (January 2011) the reasons for variations, despite being requested (April/June 2010).

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

Accountant General (AG) conducts test check of the transactions of Government Departments and communicates the audit observations through Inspection Reports (IRs). The Heads of offices report compliance to the observations in IRs within one month from the date of issue of IRs.

The paragraphs remained unsettled are expedited by the audit committees set up for the purpose. Serious audit observations converted as draft paragraphs proposed for inclusion in the Audit Report are communicated to the Department/Government. The Government is required to furnish the replies to such draft paragraphs within six weeks of their issue. Departmental explanatory notes to the paragraphs included in Audit Reports are required to be submitted within three months of an Audit Report being presented to the Legislature.

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

Accountant General (Audit) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with 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 a copy to the next higher authorities for taking prompt corrective action. The heads of offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs.

Serious financial irregularities are reported to the heads of Departments and the Government.

Inspection reports issued upto 31 December 2009 disclosed that 28,990 paragraphs involving ₹ 11,916.66 crore relating to 10,689 IRs remained outstanding at the end of 30 June 2010 as mentioned below along with corresponding figures for the preceding two years:

	June 2008	June 2009	June 2010
Number of outstanding IRs	10,556	10,292	10,689
Number of outstanding audit observations	27,008	27,382	28,990
Amount involved (₹ in crore)	8,884.17	10,221.24	11,916.66

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amounts involved are mentioned below:

(₹ in crore)					
Sl. No.	Department	Nature of receipt	No. of outstanding IRs	No. of outstanding audit observations	Money value involved
1.	Commercial taxes	VAT/ST/LT/ET	3,683	12,463	3,144.84
2.	Land revenue	Water Tax	3,739	8,318	1,609.70
3.	Stamps and registration	Stamp duty & Registration fees	1,871	4,951	522.81
4.	State excise	State Excise	352	733	111.41
5.	Transport	Taxes on vehicles	340	1,536	2,297.16
6.	Forest	Forest Receipts	136	187	98.95
7.	Co-operation	Audit Fee	29	37	42.24
8.	Mines and minerals	Mineral Receipts	227	346	1,689.88
9.	Civil supplies	Sale proceeds of food stocks	56	77	35.26
10.	Agriculture	Miscellaneous	183	252	-
11.	Sugarcane	Purchase tax	51	65	243.97
12.	Electricity Department	Electricity duty	12	15	1,232.41
13.	Municipal Administration and Urban Development	Royalty on water	2	2	83.18
14.	Finance and planning	Interest	4	4	474.81
15.	Irrigation and command area development	Road cess	4	4	330.04
<b>Total</b>			<b>10,689</b>	<b>28,990</b>	<b>11,916.66</b>

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 341 IRs

issued upto December 2009. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

**It is recommended that the Government should introduce a system for sending prompt and appropriate response to audit observations as well as taking action against those failing to send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.**

### **1.2.2 Departmental audit committee meetings**

The Government set up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2009-10 and the paragraphs settled are mentioned below:

(₹ in crore)				
Sl. No.	Head of revenue	No. of meetings held	No. of paras settled	Amount
1.	Commercial taxes	6	616	47.62
2.	Registration	1	111	1.05
<b>Total</b>		<b>7</b>	<b>727</b>	<b>48.67</b>

Thus, out of six principal Departments four Departments viz. state excise, land revenue, transport and mines failed to take advantage of the audit committee meetings set up.

**As the pendency of IRs and paragraphs are accumulating, the Government may instruct all the Departments to conduct more audit committee meetings to expedite clearance.**

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

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

During 2009-10, audit of 916 offices was conducted. Out of these, in 233 offices certain important records like 443 Sales Tax assessment files, DCB registers, Receipt books, Daily collection registers etc., were not produced to audit though the audit programme was intimated well in advance.

**There is a need for issuing suitable instructions by the Government to the heads of Departments concerned for production of all the relevant records for audit scrutiny.**

### 1.2.4 Response of the Departments to draft audit paragraphs

The draft paragraphs/reviews proposed for inclusion in the Audit Report are forwarded by the AG to the Principal Secretaries of the concerned Departments through demi-official letters. According to the instructions issued (September 1995) by the Government, all the Departments are required to furnish their remarks on the draft paragraphs/reviews within six weeks of their receipt. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

175 draft paragraphs clubbed into 47 paragraphs (including one review) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2010 were forwarded to the concerned Principal Secretaries to the Government and copies endorsed to the concerned heads of the Departments between March and July 2010. Of these, replies to 139 draft paragraphs have been received. The draft review was discussed with the Government in the exit conference held in November 2010. The replies to the audit observations given in the exit conference held in November 2010 and at other points of time have been appropriately reflected in the report.

### 1.2.5 Follow up on Audit Reports – Summary

As per the instructions issued by Finance and Planning Department in November 1993, the Departments of the Government are required to prepare and send to the Andhra Pradesh Legislative Assembly Secretariat, detailed explanations (Departmental notes) on the audit paragraphs within three months of an Audit Report being laid on the table of the Legislature.

A review of the position in this regard revealed that as of January 2011, 13 Departments had not furnished the Departmental notes in respect of 155 paragraphs included in the Audit Reports for the years 2000-01 to 2008-09 due between June 2002 and October 2010. The delays ranged from 3 months to over 8 years as mentioned in the following table:

Sl. No.	Department	Year of the Audit Report	Dates of presentation to the Legislature	Last date by which Departmental notes were due	No. of paragraphs for which the Departmental notes were due	Delay in months
1.	Commercial taxes	2007-08 & 2008-09	September 2009 & July 2010	November 2009 & October 2010	40	3 to 14
2.	State excise	2008-09	July 2010	October 2010	2	3
3.	Transport	2006-07 to 2008-09	March 2008 to July 2010	June 2008 to October 2010	22	3 to 31
4.	Co-operation	2000-01 & 2008-09	March 2002 & July 2010	June 2002 & October 2010	4	3 to 103
5.	Irrigation	2000-01 & 2006-07	March 2002 & March 2008	June 2002 & June 2008	4	31 to 103
6.	Land revenue	2001-02 to 2008-09	March 2003 to July 2010	June 2003 to October 2010	49	3 to 91
7.	Industries & Commerce	2002-03 to 2008-09	July 2004 to July 2010	October 2004 to October 2010	23	3 to 75
8.	Home	2006-07	March 2008	June 2008	1	31

Sl. No.	Department	Year of the Audit Report	Dates of presentation to the Legislature	Last date by which departmental notes were due	No. of paragraphs for which the departmental notes were due	Delay in months
9.	Energy	2001-02	March 2003	June 2003	1	91
10.	Municipal Administration and Urban Development	2002-03 & 2003-04	July 2004 & October 2005	October 2004 & January 2006	3	60 to 75
11.	Finance	2001-02	March 2003	June 2003	1	91
12.	Forest	2003-04, 2005-06, 2007-08 & 2008-09	October 2005, March 2007, September 2009 & July 2010	January 2006, June 2007, November 2009 & October 2010	4	3 to 60
13.	General administration	2005-06	March 2007	June 2007	1	43
	<b>Total</b>	<b>2000-01 to 2008-09</b>	<b>March 2002 to July 2010</b>	<b>June 2002 to October 2010</b>	<b>155</b>	<b>3 to 103</b>

This indicates that the executive failed to take prompt action on the important issues highlighted in the Audit Reports that involved large sums of unrealised revenue.

### 1.2.6 Compliance with the earlier Audit Reports

During the years 2004-05 to 2008-09, the Departments/Government accepted audit observations involving ₹ 854.75 crore out of which an amount of ₹ 17.04 crore was recovered till 31 October 2010 as mentioned below:

(₹ in crore)			
Year of Audit Report	Total money value	Accepted money value	Recovery made
2004-05	264.68	40.20	0.91
2005-06	189.69	49.60	4.45
2006-07	401.59	245.39	3.42
2007-08	443.46	177.31	4.42
2008-09	628.76	342.25	3.84
<b>Total</b>	<b>1,928.18</b>	<b>854.75</b>	<b>17.04</b>

The recovery in respect of accepted cases was very low (1.99 *per cent*) compared to the accepted money value. The Government may advise the concerned Departments to take necessary steps for speedy recovery.

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

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

### 1.3.1 Position of Inspection Reports

The summarised position of Inspection Reports issued during the last five years, paragraphs included in these reports and their status as on 31-03-2010 are tabulated in the following table:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2005-06	3264	9608	3038.94	194	1503	326.92	94	520	967.90	3364	10591	2397.96
2006-07	3364	10591	2397.96	213	1463	399.10	111	598	17.63	3466	11456	2779.43
2007-08	3466	11456	2779.43	206	1186	194.99	99	948	76.95	3573	11694	2897.47
2008-09	3573	11694	2897.47	199	1328	373.85	122	733	40.56	3650	12289	3230.76
2009-10	3650	12289	3230.76	215	1646	279.61	161	688	372.32	3704	13247	3138.05

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

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

#### 1.3.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned below.

(₹ in crore)

Year of AR	Number of paragraphs/reviews included	Money value of the paragraphs	Number of cases involved	Number of cases accepted	Money value of accepted cases	Amount recovered during the year	Cumulative position of recovery of accepted cases
2004-05	14	85.60	435	156	25.74	0.44	0.44
2005-06	16	52.22	394	338	38.72	2.26	2.70
2006-07	11	179.59	203	160	107.37	0.20	2.90
2007-08	20	128.36	363	120	80.15	0.91	3.81
2008-09	20	193.74	343	161	29.98	1.19	5.00
<b>Total</b>	<b>81</b>	<b>639.51</b>	<b>1738</b>	<b>935</b>	<b>281.96</b>	<b>5.00</b>	

Against the money value of ₹ 281.96 crore involved in the accepted cases a meagre amount of ₹ 5 crore only was collected. This indicated that the recovery during the five years period as against the money value in accepted cases is very poor. There is no mechanism in the Commercial Taxes Department to prioritise and monitor the recovery of amounts relating to accepted cases. As a result, the amounts which are likely to be recovered without much effort of the Department remained unrealised.

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

The draft performance reviews conducted by the AG are forwarded to the concerned Departments/Government for their information with a request to furnish their replies. Most of these reviews are also discussed in an exit

conference and the Department's/Government's views are included while finalising the review for the Audit Reports.

The following are the issues highlighted in the reviews on the Commercial Taxes Department that featured in the last 10 Audit Reports including the recommendations and action taken by the Department on the recommendations accepted by it as well as the Government:

Year of AR	Name of the Review	Number of recommendations	Details of recommendations accepted	Status
2008-09	Transition from APGST to APVAT Act	8	<ol style="list-style-type: none"> <li>1) Framing a provision for conducting of periodical survey for enforcing registration of dealers.</li> <li>2) Putting in place a mechanism for prompt identification of the ToT dealers who have crossed the threshold limit</li> <li>3) Issuing instructions for utilisation of all the modules in the VATIS.</li> <li>4) Putting in place a mechanism to ensure that the demand notices generated by VATIS are served.</li> <li>5) Putting in place a system for monitoring timely finalisation of assessments.</li> <li>6) Installing a mechanism for conducting effective internal audit.</li> <li>7) Incorporating a provision for cross verification of the records of dealers with other Departments.</li> <li>8) Issuing instructions for submitting documentary evidence for verification of in put tax claimed.</li> </ol>	Details of action taken are stated to be under preparation.



Year of AR	Name of the Review	Number of recommendations	Details of recommendations accepted	Status
2005-06	Integrated Check posts software (ICPS)	6	1) All the user Departments should be made to use the system. 2) All the ICPs and BCPs should be interconnected. 3) Distinct user identification should be provided to all the DEOs. 4) Proper input and validation controls should be ensured. 5) Data captured at check posts should be made available to all divisions/circles. 6) The system should be utilised for generating comprehensive MIS reports.	Action taken not furnished by the Department.
2004-05	Cross verification of 'C' and 'F' Forms	4	1) Records to be maintained to depict concessional sales made on the basis of 'C' forms and revenue forgone on account of 'F' forms transactions. 2) Norms may be prescribed for conducting periodical cross verification of inter-state sales/purchases/branch transfers etc. 3) At circle level, a data bank on the forms declared invalid, dealers declared fictitious or bogus, who stopped business or whose registrations were cancelled within the state and outside, for information of the assessing authority. 4) There is a need to have a web based access with other states for verification of declaration forms.	Action taken not furnished by the Department.
2002-03	Sales Tax incentives for Industrial Units	2	1) Ensure proper co-ordination between the Industries Department and Commercial Taxes Department for sanction and availment of incentives. 2) Put in place an appropriate control mechanism to ensure efficiency, effective enforcement of all the relevant conditions.	Action taken not furnished by the Department.

Though all the recommendations made in the reviews were accepted by the Department/Government, no tangible action was initiated to implement the recommendations already accepted.

## **1.4 Audit planning**

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in government revenues and tax administration i.e. budget speech, white paper on state finances, reports of the finance commission (state and central), recommendations of the taxation reforms committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years etc.

During the year 2009-10, the audit universe comprised of 2,120 auditable units, of which 915 units were planned and 916 units were audited during the year which is 43.20 *per cent* of the total auditable units.

Besides the compliance audit mentioned above, a performance review on 'Interest Receipts on loans sanctioned by the State Government' was also taken up to examine the efficacy of the tax administration of these receipts.

## **1.5 Results of audit**

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

Test check of the records of 916 units of commercial tax, stamp duty and registration fees, state excise, motor vehicles, land revenue and other Departmental offices conducted during the year 2009-10 revealed under assessments/short levy/loss of revenue aggregating to ₹ 1,748.98 crore in 2,849 cases. During the course of the year, the department concerned accepted under assessments and other deficiencies of ₹ 1,102.78 crore involved in 830 cases of which 149 cases involving ₹ 1,037.04 crore were pointed out in audit during 2009-10 and the rest in the earlier years. The Departments collected ₹ 5.73 crore in 163 cases during 2009-10.

### **1.5.2 This Report**

This report contains 46 paragraphs involving ₹ 191.59 crore (selected from the audit detections made during local audit referred to above and during earlier years which could not be included in earlier reports) and a performance review on "Interest Receipts on loans sanctioned by the State Government" involving revenue implication of ₹ 976.82 crore relating to short/non-levy of tax, duty, interest, penalty etc., involving total financial effect of ₹ 1,168.41 crore. The Departments/Government have accepted audit observations involving ₹ 1,046.51 crore out of which ₹ 4.25 crore has been recovered. The replies in the remaining cases have not been received (January 2011). These are discussed in the succeeding Chapters II to VII.

## 2.5 Arrears in assessment

**2.5.1** The details of assessments relating to Sales Tax, Motor spirit tax, Professions tax, Entry tax, Lease tax, Luxury tax, pending at the beginning of the year, additional cases that due for assessment during the year, cases disposed during the year and cases pending at the end of each year during 2005-06 to 2009-10 as furnished by the Commercial Taxes Department were as under:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year	Percentage of disposed to total assessment
2005-06	1,26,507	3,41,983	4,68,490	3,69,326	99,164	78.83
2006-07	99,164	27,077	1,26,241	97,768	28,473	77.45
2007-08	28,473	14,469	42,942	40,192	2,750	93.60
2008-09	2,750	17,052	19,802	17,042	2,760	86.06
2009-10	2,760	13,704	16,464	12,658	3,806	76.88

The above table indicates that the percentage of assessments completed to the total assessment ranged between 76.88 *per cent* and 93.60 *per cent*. Further, the percentage of completion of assessments to the total assessments in 2009-10 was 76.88, which was the lowest when compared to the previous four years. The Department, however, did not attribute any reasons for the decline (January 2011).

**2.5.2** There is no concept of assessment under the APVAT Act. But, as per paras 3.1(i) and 4.8.2 of the APVAT Manual of Commercial Taxes Department, all the VAT dealers should be audited in a period of two years and such audits should not exceed 12.5 *per cent* in a quarter. The progress of audits conducted during the years 2007-08 to 2009-10 as furnished by the Department is given in the following table:

Year	Total no. of dealers	No. of dealers to be audited	No. of dealers actually audited	Shortfall in audits	Percentage of shortfall
2007-08	2,38,088	1,19,044	17,225	1,01,819	85.53
2008-09	2,69,153	1,34,576	18,693	1,15,883	86.11
2009-10	1,98,640	99,320	22,254	77,066	77.59

The percentage of completion of audits to the total audits to be conducted during the above three years was consistently less than atleast 25 *per cent* of audits required to be done.

## 2.6 Cost of collection

The figures of gross collection of Commercial Taxes Department, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2007-08, 2008-09 and 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for the previous year is given below:

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Taxes/VAT on sales, trade etc.,	2007-08	19,026.49	175.73	0.92	0.82
	2008-09	21,851.66	190.79	0.87	0.83
	2009-10	23,640.21	215.88	0.91	0.88

The expenditure on collection of taxes was higher than the all India average consecutively for the last three years and the Government needs to look into this aspect.

## 2.7 Revenue impact

During the last five years, audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with a revenue implication of ₹ 1,199.69 crore in 6,634 cases. Of these, the Department/Government had accepted audit observations in 3,577 cases involving ₹ 347.14 crore and had since recovered ₹ 5.99 crore. The details are show in the following table:

(₹ in crore)

Year	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	2	3	4	5	6	7	8
2004-05	253	1,531	135.87	1,202	52.75	80	1.21
2005-06	212	1,577	210.16	910	48.01	568	2.33
2006-07	227	1,264	389.08	548	122.22	14	0.24
2007-08	209	980	196.63	141	80.26	43	1.02
2008-09	198	1,282	267.95	776	43.90	21	1.19
<b>Total</b>	<b>1,099</b>	<b>6,634</b>	<b>1,199.69</b>	<b>3,577</b>	<b>347.14</b>	<b>726</b>	<b>5.99</b>

The insignificant recovery of ₹ 5.99 crore as against the money value of ₹ 347.14 crore relating to the accepted cases during the period 2004-05 to 2008-09 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

## 2.8 Working of internal audit wing

Internal Audit in Commercial Taxes Department is organised at Division level under the control of Deputy Commissioner (CT). There are 25 Large Tax Payers Units (LTUs) and 193 circles in the State. Each LTU/circle, is audited by audit team consisting of officers from other LTUs/circles. The internal audit of a circle office is conducted by audit team and report is submitted within 15 days from the date of audit to the DC (CT) concerned. The DC (CT) will supervise the rectification work giving effect to the findings in such report of internal audit. The audit of circles is planned according to the

parameters, risk areas mentioned in the internal audit manual. Majority of the irregularities noticed in internal audit are related to filing of returns, and default in payment of tax and penalty etc.

We noticed in audit that in 105 cases involving ₹ 11.98 crore mentioned in the succeeding paragraphs though these cases were checked by the Departmental internal audit, they failed to detect the irregularities.

## 2.9 Results of audit

Test check of the records of 210 offices of the Commercial Taxes Department during 2009-10 relating to VAT, revealed underassessments of tax and other irregularities involving ₹ 279.61 crore in 1,646 cases, which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Short levy of tax under VAT/excess ITC	271	71.48
2	Short levy of tax under works contract	137	38.80
3	Incorrect grant of exemption	115	6.00
4	Short/non-levy of penalty/TOT	53	1.58
5	Application of incorrect rate of tax	29	0.62
6	Short levy due to excess set off	2	0.06
7	Other irregularities under VAT/other irregularities	1,039	161.07
<b>Total</b>		<b>1,646</b>	<b>279.61</b>

During the course of the year 2009-10, the Department accepted underassessments and other deficiencies of ₹ 72.46 crore in 647 cases, of which 90 cases involving ₹ 12.38 crore were pointed out in audit during the year 2009-10 and the rest in the earlier years. An amount of ₹ 2.83 crore were realised in 64 cases during the year 2009-10.

A few illustrative audit observations involving ₹ 68.57 crore are mentioned in the following paragraphs.

## **2.10 Audit observations**

*During scrutiny of the records in the offices of the Commercial Taxes Department relating to revenue received from VAT, APGST and CST we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to consider directing the Department to improve the internal control system including strengthening internal audit so that such omissions can be avoided, detected and corrected.*

## **2.11 Sales tax incentives for industrial units**

With a view to encourage growth of industries in the State, the Industries and Commerce Department of Government of Andhra Pradesh notified certain incentive schemes from time to time viz., Liberalised State Incentive Scheme (LSIS) (vide G.O.Ms.No.498, dated 16 October 1989), New Comprehensive Scheme of State Incentives (NCSSI) (vide G.O.Ms.No.117, dated 17 March 1993) and New Industrial Policy under Target-2000, providing, inter-alia, deferment of sales tax/sales tax exemption (holiday) to industrial units. These schemes provided for deferment of sales tax for 10 years and they have become due for payment in 1999 and 2002 onwards respectively. With the introduction of the APVAT Act, which came into effect from 1 April 2005, the incentive “sales tax holiday” being availed was converted as “deferment of sales tax”.

We scrutinised the performance of the schemes with a view to ascertain the effectiveness of the Department in recovering deferred sales tax under the respective schemes between May 2009 and March 2010. For this purpose we test checked three Large Tax Payers Units<sup>1</sup> (LTU) and 14<sup>2</sup> circles out of 25 LTUs and 193 circles of the Commercial Taxes Department selected based on revenue consideration and

risk perception. The results of the scrutiny revealed the following deficiencies.

**2.11.1** According to the conditions stipulated in the Government orders issued in 1989 and 1993 the period of Sales Tax deferment sanctioned under the schemes was for 10 years. The total amount of sales tax deferred would become payable without interest in as many annual instalments as the number of years for which the tax deferment was allowed and would commence

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<sup>1</sup> Hyderabad Rural, Kakinada and Vijayawada-II.

<sup>2</sup> Anantapur-II, Bhimavaram, Hyderabad (Nacharam, Keesara, Jeedimetla, IDA Gandhinagar, Hydernagar) Rajahmundry, Sangareddy, Siddipet, Tirupati-II, Vijayawada (Benz Circle), Visakhapatnam (Kurupam Market) and Vuyyurru.

immediately after the expiry of the deferment period. Further, belated payment attracts interest at the rate of 21.5 *per cent* per annum.

#### **2.11.1.1 Non-recovery of deferred sales tax**

We noticed in the test check of the records (December 2009) of IDA Gandhinagar Circle, that a unit was sanctioned sales tax deferment of ₹ 25.53 lakh under LSIS scheme to be availed during the period 24 September 1991 to 23 September 2001. Out of this limit, the unit had availed ₹ 20.67 lakh between 1991-92 and 1998-99, which was repayable from 23 September 2001 onwards. However, we noticed the unit had not paid the sales tax deferment amount availed by them, as prescribed. Further, we also ascertained that no demand had been raised by the Department till April 2010 to recover the deferred amount. This resulted in non-realisation of ₹ 20.67 lakh.

#### **2.11.1.2 Non-levy of interest on sales tax deferment paid belatedly**

We noticed in the test check of the records (June 2009) of Nacharam circle that in case of one industrial unit that stopped production in 2002, deferred sales tax of ₹ 5.87 lakh was repaid in 2005 with delay ranging from 36 to 39 months. However, interest of ₹ 4.03 lakh leviable on belated payment of deferred sales tax was not levied by the Department. This resulted in non-realisation of revenue of ₹ 4.03 lakh.

When we pointed out this case, the AA stated that whereabouts of the dealer was not known and hence enforcement of recovery of interest was not possible.

#### **2.11.2 Non-recovery of deferred sales tax from the units closed/stopped production**

According to the guidelines, if the units availing tax deferment/holiday go out of production for a period exceeding one year before the stipulated period for availment, the cumulative incentive availed shall be repaid to the Government account.

We noticed in the test check of the records (February and December 2009) of seven<sup>3</sup> circles that 42 units, which were sanctioned incentives between 1994-95 and

2001-02 closed their business/stopped production before the stipulated period. The cumulative incentive of ₹ 22 crore availed by these units had, however, not been repaid. Further, in LTU Kakinada in one case ₹ 4.59 lakh was realised against the entire availed incentive of ₹ 1.43 crore from the unit, which stopped production after availing the entire sanctioned incentive. This resulted in non-realisation of revenue of ₹ 23.38 crore.

The Government stated that in five cases notices were issued between October 2007 and September 2010, in five cases Form-V was issued between

<sup>3</sup> Anantapur-II, Hyderabad (IDA Gandhinagar, Jeedimetla, Keesara and Nacharam), Sangareddy and Tirupati-II.

September 2009 and June 2010 under the Revenue Recovery (RR) Act, in two cases an amount of ₹ 14.46 lakh out of ₹ 39.16 lakh was recovered. It was stated that in two cases the units were in continuous production and filed returns upto March 2007. The reply is not acceptable as the objection was about closure of these units from April 2007, much before the stipulated period. Reply in the remaining cases has not been received (January 2011).

### 2.11.3 Incorrect allowance of sales tax deferment

The sales tax deferment/holiday is to be availed by the units upto the amount sanctioned to the products mentioned in the Final Eligibility Certificate (FEC).

**2.11.3.1** We noticed in the test check of the records (June and December 2009) of four<sup>4</sup> circles that 10 units availed tax

deferment/ holiday of ₹ 38.41 lakh between 2000 and 2009 over and above the amount sanctioned in the FEC. The incorrect deferment was allowed due to non-watching of the incentive limits of FEC at the time of assessment or accepting the monthly VAT returns. Lack of internal system to watch the incentive limits resulted in excess availment of ₹ 38.41 lakh for which the Department had not initiated action to recover the same.

When these cases were pointed out, the Government replied that in one case an appeal preferred by the unit was pending before the Sales Tax Appellate Tribunal (STAT). Reply in the remaining cases has not been received (January 2011).

**2.11.3.2** We noticed in the test check of the records (May and June 2009) of two<sup>5</sup> circles in the case of two industrial units that sales tax deferment was sanctioned during the years 2004-05, 2005-06 and 2008-09 for spheroidal graphite iron castings, alloy steel castings and pet bottles, whereas deferment of ₹ 29.99 lakh was allowed to the products of cast iron/steel rough castings and mineral water. Failure to check returns filed by the dealer and to cross verify the name of products mentioned in FEC with those for which incentive was claimed by the units resulted in incorrect grant of sales tax deferment of ₹ 29.99 lakh.

**2.11.3.3** We noticed in the test check of the records (September 2008) of AC (LTU) Warangal that the assessee unit on expansion was sanctioned deferment of tax for the turnover over and above the base turnover<sup>6</sup> of ₹ 236.61 crore. The AA while finalising the assessment in March 2008 for the year 2004-05 incorrectly allowed sales tax deferment of ₹ 6.86 crore instead of ₹ 5.51 crore due to non-adherence to the base turnover limit specified in the FEC. This resulted in incorrect allowance of sales tax deferment of ₹ 1.35 crore.

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<sup>4</sup> Hyderabad (IDA Gandhinagar, Jeedimetla, Keesara and Nacharam).

<sup>5</sup> Hyderabad (Basheerbagh) and Vijayawada (Benz circle).

<sup>6</sup> Base turnover means best production achieved during the three years preceding the year of expansion or the maximum capacity expected to be achieved by the industry, whichever is higher.



After the case was pointed out, the AA stated (August 2009) that the assessment was revised and the excess allowance of the deferment of ₹ 1.35 crore was withdrawn.

As is evident from the preceding paragraphs, inadequate monitoring led to incorrect computation of sales tax deferment allowable and claimed.

#### 2.11.4 Non-obtaining of security of fixed assets under Deferment Scheme

According to the Government Orders issued between November 1995 and May 1996, the amount of sales tax deferred, treated as loan, shall be allowed against the security of the fixed assets of the unit availing deferment.

We noticed in the test check of the records (May and December 2009) of LTU Hyderabad Rural and eight<sup>7</sup> circles that 185 units<sup>7</sup> availed deferment

of ₹ 133.81 crore without providing any security of fixed assets as prescribed in the G.Os. Further, in the case of 115 units located in six<sup>8</sup> circles, necessary security was not obtained for the tax holiday converted as deferments consequent on introduction of the APVAT Act from April 2005 and the deferment availed by these units without providing any security amounted to ₹ 10.43 crore. Further, obtaining or otherwise of security deposit was not monitored by the Department. Thus, the assessing authorities failed to implement the conditions governing the sanction of deferments and consequently the deferment availed by these units remained unsecured.

The Government replied that in case of 60 units notices were issued between February 2009 and June 2010. It was further stated that in two units the agreements filed were under process and in two cases an amount of ₹ 22.66 lakh out of ₹ 93.17 lakh was recovered. Reply in remaining cases was not furnished.

#### 2.11.5 Short debit of sales tax deferment

According to Rule 67(4) of the APVAT Rules, the VAT dealer availing tax deferment has to file a declaration in Form 502 for every tax period duly debiting the deferment availed against the sanctioned amount. The Form VAT 502 should be filed along with the monthly return in Form VAT 200.

Test check of the records (September 2009) of Jeedimetla circle indicated that three assessee units furnished declarations for the tax deferment of ₹ 1.63 crore availed during 2000-01 to

2007-08, whereas the amount availed for the period was shown as ₹ 1.20 crore in the data entered in Debt Management Unit software. This resulted in short debit of tax deferment of ₹ 43 lakh in the Departmental accounts.

<sup>7</sup> Bhimavaram, Hyderabad (Keesara, Nacharam, Jeedimetla and IDA Gandhinagar), Tirupati-II, Vijayawada (Benz Circle) and Vuyyurru.

<sup>8</sup> Hyderabad (Jeedimetla, Nacharam and IDA Gandhinagar), Sangareddy, Tirupati-II and Vuyyurru.

When these cases were pointed out, the Government did not furnish the reply.

#### **2.11.6 Summary**

- The availment of incentive was to be taken as demand to DCB Register and on introduction of the APVAT Act, the procedure of maintaining DCB was dispensed with. The VATIS package being used by the department did not have any feature/module to take care of the details of demands and recovery becoming due.
- Inadequate mechanism to watch the closure of the units availing incentive before the stipulated period.
- Failure to monitor and obtain the security of fixed assets of the units rendered the incentive availed by these units unsecured.
- No internal control or system was evolved to check the procedures to be followed in respect of sanctions being availed and the commodities covered under them.

#### **2.12 Short payment of VAT on works contracts**

Under Section 4(7)(a) of the APVAT Act, 2005, every dealer shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under the Act subject to the deductions allowed under Rule 17(1)(e) of the APVAT Rules and the dealer is eligible to claim 90 *per cent* of the related input tax. The deductions such as administrative expenses, telephone charges, office rent etc., are not permissible under this Rule. If the accounts are not maintained to determine the correct value of goods at the time of incorporation, such dealer shall pay tax at the rate of 12.5 *per cent* on the total consideration subject to the deductions specified under Rule 17(1)(g) of the APVAT Rules and the dealer is not eligible to claim input tax credit also.

**2.12.1** We noticed in the test check of the records (between March 2008 and July 2009) of AC (LTU) Kadapa and five circles<sup>9</sup> that during the period from April 2005 to March 2009, six works contractors had not maintained the accounts to ascertain the correct value of goods at the time of incorporation of such goods in the works executed by them. Further, these dealers incorrectly declared VAT of ₹ 4.61 crore instead of ₹ 9.97 crore due to allowance of inadmissible deduction

of tax component, declaration of tax at lower rate of four *per cent* instead of 12.5 *per cent*. This resulted in under declaration of tax of ₹ 5.36 crore. Of these, two contractors claimed input tax of ₹ 2.25 crore though not admissible under the Rules. This resulted in overall short payment of VAT of

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<sup>9</sup> Hyderabad (Madhapur, Rajendranagar), Peddapalli, Vijayawada (Suryaopeta) and Visakhapatnam (Steel Plant).

₹ 7.61 crore. We noticed that respective AAs did not raise the demands for the short paid tax.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in three cases involving ₹ 12.37 lakh and stated that the assessments were revised in two cases, against which ₹ 0.28 lakh was collected in one case. In another case, revision show cause notice was issued to the dealer in February 2010. The replies in respect of the remaining three cases have not been received (January 2011).

**2.12.2** We noticed in the test check of the records (June 2009) of CTO Basheerbagh, that the assessee contractor opted to pay tax under composition for executing some works and not opted for some other works. We also noticed in case of non-composition works that though the works contractor claimed credit for tax collected at source by the contractees, the corresponding taxable turnover relating to such tax collected was not declared in his monthly returns. Besides, the dealer was claiming ITC on the above works. Incorrect declaration of output turnovers in the monthly returns resulted in under declaration of tax of ₹ 1.88 crore.

After we pointed out the case, the AA contended that the contractor had opted for composition for some works and in others he had not opted for composition and that he was claiming input tax credit for non-composition works. The reply is not acceptable, as the dealer was not declaring total turnover at all by claiming the credit for the tax collected at source.

We referred the matter to the Department in August 2009 and to the Government in June 2010; their reply has not been received (January 2011).

**2.12.3** We noticed in the test check of the records (between September 2008 and November 2009) of AC (LTU) Warangal and two<sup>10</sup> circles that during the period from April 2007 to March 2009, three contractors had incorrectly declared VAT of ₹ 0.95 crore instead of ₹ 1.21 crore by claiming ineligible deductions such as administrative expenses, telephone charges, office rent etc., from the taxable turnover which are not admissible under Rule 17(1)(e) of the Rules. This resulted in short payment of VAT of ₹ 26.71 lakh. The AAs did not raise the demands for the short paid tax.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in two cases involving ₹ 20.94 lakh and stated that in one case the assessment was revised and show cause notice has been issued in another case. The reply in respect of the remaining case has not been received (January 2011).

**2.12.4** We noticed in the test check of the records (between May 2008 and August 2009) of two<sup>11</sup> circles that during the period from April 2007 to March 2009, in two cases, where the contractors had not maintained accounts, the AAs while determining the taxable turnover under Rule 17(1)(g) had

<sup>10</sup> Hyderabad (Gandhinagar and Rajendranagar).

<sup>11</sup> Kurnool - I & III.

incorrectly allowed input tax credit of ₹ 20.42 lakh though it was not admissible. This resulted in short levy of VAT of ₹ 20.42 lakh.

After we pointed out the cases, the Government (December 2010) accepted the audit observation in one case involving ₹ 13.21 lakh and stated that the assessment had been revised. The reply in respect of the remaining case has not been received (January 2011).

**2.12.5** According to Section 4(7)(a) of the AP VAT Act read with Rule 17(1)(e) of the AP VAT Rules, the contractor/ VAT dealer shall arrive at the value of goods at the time of incorporation, tax rate wise, from out of the taxable turnover arrived, on pro-rata basis taking the ratio of value of goods liable to tax at different rates against the total value of purchases relating to such contract. As such, the taxable turnover shall not be determined by simply adding profit margin to the purchase value of goods.

**2.12.5.1** The High Court of Mumbai held<sup>12</sup> that taking out xerox copies on a xerox machine is a works contract. It was further held that in the case of photocopying since paper and ink are used in the works contract and the same are transferred as a property hence tax is leviable on such paper and ink under the works

contract.

We noticed in the test check of the records (between May and June 2009) of Basheerbagh circle that the assessee is works contractor in photocopying and paying taxes under Section 4(7)(a). Thus, he is liable to pay tax on the goods incorporated in the works at the tax rates applicable to those goods. The dealer during the period from April 2008 to March 2009 was reporting both four *per cent* and 12.5 *per cent* purchases of paper and ink toner respectively and claiming input tax credit at 90 *per cent*. However, he reported the entire output as taxable at four *per cent* instead of reporting the same under four *per cent* and 12.5 *per cent* rates applicable to the above goods in contravention of the Rules and declared VAT of ₹ 5.48 lakh instead of ₹ 11.98 lakh. This resulted in under declaration of tax of ₹ 6.50 lakh. We noticed that the respective AA did not raise the demand for the short paid tax.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that assessment had been revised and demand raised.

**2.12.5.2** We noticed in the test check of the records (between October and November 2009) of Gandhinagar circle that during the period from April 2006 to March 2007, in one case, the AA had audited records of a contractor and assessed the turnovers under Section 4(7)(a) read with Rule 17(1)(e). While arriving the taxable turnover relating to the value of the goods at the time of incorporation, the AA had incorrectly arrived the taxable turnover by adding profit to the purchase value of goods instead of determining the taxable turnover in the manner prescribed under Rule 17(1)(e) and thereby arrived at

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<sup>12</sup> Commissioner of Sales Tax Vs M/s. Hari & Co.. (2206) (148 STC P92).

tax of ₹ 4.76 lakh. After allowing the deduction of ₹ 1.10 crore from the total consideration of ₹ 8.02 crore, the taxable turnover worked out to ₹ 6.92 crore and tax leviable thereon was ₹ 33.87 lakh as against ₹ 4.76 lakh levied by the AA. This resulted in short levy of tax of ₹ 29.11 lakh.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that the assessment file was submitted to JC (CT) legal for taking up revision.

**2.12.6** According to Section 4(7)(b) and (c) of the APVAT Act, every dealer executing works contract may opt to pay tax by way of composition at the rate of four *per cent* on the total works contract receipt. However, when a dealer opts for composition of tax, no deduction is admissible and tax is payable on the total amount paid or payable to the dealer towards execution of works contract except amounts paid to the sub-contractor. Further, the dealer is not eligible to claim input tax credit.

**2.12.6.1** We noticed in the test check of the records (between May 2008 and June 2009) of three<sup>13</sup> circles that during the period from April 2005 to March 2009, three dealers under composition had incorrectly claimed input tax credit of ₹ 13.93 lakh though not eligible under the Rules. The AAs did not ensure the correctness of ITC

claimed by the dealers at the time of scrutiny of monthly returns. This resulted in under declaration of VAT of ₹ 13.93 lakh. We noticed that the respective AAs did not raise the demands for the short paid tax.

After we pointed out the cases, the Government (December 2010) accepted the audit observation in one case involving ₹ 4.36 lakh and stated that show cause notice was issued to the dealer. The replies in respect of the remaining two cases have not been received (January 2011).

**2.12.6.2** We noticed in the test check of the records (between August 2007 and September 2009) of 34<sup>14</sup> circles that during the period from April 2005 to March 2009, in 57 cases, the assessee opted for composition to pay tax at concessional rate of four *per cent*. However, they had incorrectly declared VAT of ₹ 4.39 crore instead of ₹ 6.16 crore due to adoption of lesser rate of tax. Besides, in five cases, the dealers under composition though paid tax at four *per cent*, but they incorrectly declared VAT of ₹ 21.55 lakh instead of ₹ 29.69 lakh. This resulted in under declaration of VAT of ₹ 1.85 crore. We noticed that the respective AAs did not raise the demands for the short paid tax.

<sup>13</sup> Hyderabad (Agapura, Khairatabad and Punjagutta).

<sup>14</sup> Ananthapur-I, Bhongir, Hindupur, Hyderabad (Agapura, Ashoknagar, Barkatpura, Basheerbagh, Begumpet, Hyderguda, Hydernagar, Malakpet, Punjagutta, Vengalraonagar and Vidyanagar), Kadapa, Karimnagar-II, Keesara, Kurnool-I, Madanapalli, Mahaboobabad, Medak (Medak and Sangareddy), Nandyal-II, Nellore, Ongole, Peddapalli, Piduguralla, Rajahmundry, Secunderabad (Bowenpally, Gandhinagar, Musheerabad and R.P.Road), Vijayawada (Benz circle) and Visakhapatnam (Dwarakanagar).

After we pointed out the cases, the Government (December 2010) accepted the audit observations in 26 cases involving ₹ 51.81 lakh and stated that the assessments were revised in 10 cases involving ₹ 18.35 lakh, out of which ₹ 5.02 lakh was collected in four cases and notices/show cause notices were issued to the dealers in 16 cases. The replies in respect of the remaining 31 cases have not been received (January 2011).

**2.12.6.3** We noticed in the test check of the records (between April and November 2009) of two<sup>15</sup> AC (LTUs) and three<sup>16</sup> circles that during the period from April 2008 to March 2009, in five cases, the works contractors under composition had incorrectly claimed exemption of a turnover of ₹ 15.33 crore relating to Central Excise Duty, Earth Work Charges, Labour Charges, Services Charges, Power etc., though these were not eligible for deduction from the turnover. This resulted in short payment of VAT of ₹ 65.34 lakh. We noticed that the respective AAs did not raise the demands for the short paid tax.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in two cases involving ₹ 47.64 lakh and stated that show cause notices were issued to the dealers. The Government contended that in one case the dealer engaged in works contracts under composition and also engaged in pure labour contracts. The purchase orders, labour charges bills and service tax returns were verified and found to be purely collections for finishing and completion of services. The reply is not acceptable since the dealer opted for composition to pay tax at four *per cent* irrespective of the turnover relating to material or labour and hence he is not eligible for any further deduction from his turnover. The replies in respect of the remaining two cases have not been received (January 2011).

### **2.13 Misclassification of sales as works contracts**

Elevators, lifts, air conditioners, stone chips, modular furniture and transmission towers are taxable at the rates prescribed in the APGST and the APVAT Acts.

The Supreme Court of India had held in the case of AP State Vs M/s Kone Elevators (I) Limited, Secunderabad that the contract for supply and installation of lifts and elevators constitute sale but not works contract since major component into the end product was the material consumed on producing the lift to be delivered and the skill and labour to be employed for converting the main component into the end product was only incidentally used.

**2.13.1** We noticed in the test check of the records (October 2007 and September 2009) of four circles<sup>17</sup> that during the period from April 2006 to March 2009, in nine cases, the turnover of ₹ 45.95 crore relating to sale of lifts, elevators, air conditioners and modular furniture was treated as works contract and

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<sup>15</sup> Charminar and Secunderabad.

<sup>16</sup> Hyderabad (Agapura), Nellore-III and Secunderabad (R.P. Road).

<sup>17</sup> Hyderabad (Agapura, Basheerbagh, Begumpet and Somajiguda).

declared tax of ₹ 1.15 crore, instead of ₹ 5.74 crore. This resulted in under declaration of tax of ₹ 4.59 crore.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in six cases involving ₹ 2.97 crore and stated that the assessments were revised in three cases involving ₹ 2.36 crore, out of which an amount of ₹ 2.34 lakh was collected in one case; revision was under process in one case and show cause notices were issued in two cases. The replies in respect of the remaining three cases have not been received (January 2011).

**2.13.2** We noticed in the test check of the records (between December 2008 and February 2009) of five circles<sup>18</sup> that the AAs while finalising the assessments in six cases between May 2007 and March 2008 for the year 2004-05 incorrectly treated the turnover of ₹ 30.72 crore relating to sale of air conditioning plants, lifts, stone chips and transmission towers, as works contract and levied tax of ₹ 1.86 crore instead of ₹ 3.62 crore. This resulted in short levy of tax of ₹ 1.76 crore.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in four cases involving ₹ 1.67 crore and stated that assessments were revised in two cases; revision show cause notice had been issued in one case and in another case the assessment file was submitted to AC(CT) legal for revision. The replies in respect of the remaining two cases have not been received (January 2011).

**2.13.3** The Supreme Court of India held in the case of *Mc Kenzies Ltd., Vs the State of Maharashtra* that 'construction of bus body building' on the chassis of motor vehicles supplied is a contract of sale. Bus bodybuilding is taxable at the rate of 12.5 *per cent* under V schedule to the APVAT Act, as the same is not included in other schedules.

We noticed in the test check of the records (August and September 2009) of AC (LTU) Nizamabad and CTO Jeedimetla that during the period from April 2007 to March 2009 four dealers had incorrectly

declared VAT of ₹ 1.32 crore instead of ₹ 3.78 crore by treating the sale contract relating to Bus Body building as works contract. This resulted in short payment of VAT of ₹ 2.46 crore. We noticed that the respective AAs did not raise the demands for the short paid tax.

After we pointed out the cases, the Government (December 2010) accepted the audit observation in one case involving ₹ 2.09 crore and stated that the assessment file was submitted to JC (CT) legal for taking up revision. The replies in respect of the remaining three cases have not been received (January 2011).

<sup>18</sup> Hyderabad (Srinagar colony and IDA Gandhinagar), Proddutur-II, Secunderabad (Mahankali Street and Tarnaka).

**2.13.4** Security document books are “Stationery articles” which fall under entry 225 of I schedule to the APGST Act and liable to tax at the rate of eight *per cent* at the point of first sale in the State. Sale of goods in the course of inter-state trade or commerce not supported by declarations are taxable under the CST Act at 10 *per cent*.

We noticed in the test check of the records (August 2008) of Jeedimetla circle that the assessee was a printer and engaged in the printing of security documents

like lottery tickets, railway tickets etc., in Andhra Pradesh and selling the same in the inter-state trade to the customers situated in others states. We also noticed that the AA while finalising the assessment in March 2008 for the year 2004-05, incorrectly treated the turnover of ₹ 4.45 crore relating to the inter-state sales of printed security documents as inter-state works contract (which was incorrect as the printing and purchases were done in Andhra Pradesh) and levied tax of ₹ 15.42 lakh instead of ₹ 28.74 lakh. This resulted in short levy of Central Sales Tax of ₹ 13.32 lakh.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that revision show cause notice had been issued to the dealer.



**2.14 Non/short levy of tax and penalty on inter-state sales**

The Central Sales Tax Act, 1956 provides that inter-state sales/ consignment transfers not supported by a declaration in Form 'C', 'D' & 'F' are taxable at twice the rate applicable to the sale or purchase of these goods inside the State in respect of the declared goods and in respect of the other goods at 10 *per cent* or at the rate applicable to the sale or purchase of such goods within the State whichever is higher.

As per Section 9(2A) of the CST Act read with Section 7-A (2) of the APGST Act, if any dealer produces false/fake declarations and claims exemption/ concessional rate of tax in support of these documents, he is liable to pay a penalty of three to five times of the tax due for such transaction.

Under section 6-A of the CST Act read with Rule 9A(2) of the CST (AP) Rules, each declaration in Form 'F' shall cover transactions effected during a period of one calendar month. According to Rule 10(b) read with Rule 12(1) of CST (R&T) Rules 1957, each declaration in Form 'C' and 'H' shall cover transactions of inter-state sales/ export sales, which takes place in a quarter of a financial year between the same two dealers. Therefore, a single declaration issued to cover transactions for more than one month in case of consignment transactions and for one quarter relating to inter-state sales and export sales are to be treated as invalid and the turnover has to be brought to tax treating it as inter-state sales not covered by proper declarations.

We noticed in the test check of the records (between October 2007 and November 2009) of AC (LTU) Kakinada and 25 circles that in 41 cases tax/penalty of ₹ 9.04 crore was either not levied or levied short on the turnovers relating to inter-state sales, consignment sales and export sales covered by fake/ invalid declarations/ not covered by declarations.

(₹ in crore)

Name of the circle/ assessment period	Nature of irregularity	Turnover involved	Non/short levy of tax and penalty	Remarks
Special Commodities circle, Hyderabad 2003-04	Consignment sales/branch transfer of goods in four cases supported by 'F' Forms were exempted from tax by the AA while finalising the assessments. Our cross verification of the Forms with the issuing State of Tamilnadu revealed that the Forms were not issued by the Commercial Taxes Department of Tamilnadu and thus they were fake. The AA failed to detect the fake Forms and levy tax and penalty on the turnover relating to false/fake declarations.	12.77	1.28/3.83	Reply from the Department/Government is awaited (January 2011).
AC (LTU) Kakinada and 13 <sup>19</sup> circles 2003-04 to 2007-08	Consignment sales/ branch transfer of goods were supported by 'F' Forms in 24 cases covering transactions of more than one month. Since one Form covering transactions of one month as prescribed was not submitted, the Forms were liable to be treated as invalid. But the AAs incorrectly exempted the turnover from levy of tax.	15.94	1.55	The Government (December 2010) accepted the audit observations in eight cases involving ₹ 72.54 lakh and stated that assessments were revised in six cases involving ₹ 49.46 lakh, out of which an amount of ₹ 6.82 lakh was collected in three cases; show cause notice was issued in one case and assessment file was submitted to DC(CT) Secunderabad in one case. The replies in respect of the remaining 16 cases have not been received (January 2011).
Siddipet 2005-06	Export sales of goods were supported by 'H' Forms covering transactions of more than one quarter and the same were liable to be treated as invalid. But the AA incorrectly exempted the turnover from levy of tax.	2.81	0.35	The Government stated in December 2010 that revision show cause notice was issued to the dealer.

<sup>19</sup> Ambajipeta, Guntur (Patnambazar), Hindupur, Hyderabad (Balanagar, Rajendranagar; Saroornagar, Somajiguda), Medak (Sangareddy), Peddapuram, Proddatur-II, Ramachandrapuram, Secunderabad (Tarnaka) and Warangal.

(₹ in crore)

Name of the circle/ assessment period	Nature of irregularity	Turnover involved	Non/short levy of tax and penalty	Remarks
8 <sup>20</sup> circles 2003-04 to 2005-06	Inter-State sales/branch transfer of goods were not supported by declarations in the prescribed 'C' and 'F' Forms in 10 cases. The AAs while finalising the assessments either levied tax at lower rate or omitted to levy tax.	84.78	1.81	The Government (December 2010) accepted the audit observations in three cases involving ₹ 9.58 lakh and stated that in two cases, revision show cause notices were issued to the dealers and in one case, the assessment file has been submitted to DC (CT) Secunderabad for revision. The replies in respect of the remaining seven cases have not been received (January 2011).
Benz circle, Vijayawada 2004-05	The AA while finalising the assessment in one case incorrectly levied tax on inter-state sale of pre-engineered building systems at the concessional rate of one <i>per cent</i> instead of four <i>per cent</i> though not applicable to the dealer.	3.31	0.10	The reply from Department /Government is awaited (January 2011).
Osmangunj 2005-06	The AA while finalising the assessment in one case incorrectly exempted the turnover of wire mesh supported by 'C' Form covering transactions of more than one quarter. Further, in one case, concessional rate of tax was allowed on the strength of 'C' Form covering transactions for the period (1 April 2005 to 15 September 2005) prior to the date of CST registration (23 September 2005) by the purchasing dealer. As the date of issue of Forms was stamped on them, the 'C' Forms were liable to be treated as invalid.	1.41	0.12	The reply from Department /Government is awaited (January 2011).
<b>Total</b>		<b>121.02</b>	<b>9.04</b>	

<sup>20</sup> Hyderabad (Agapura, Ashoknagar, Jeedimetla, Khairatabad, Lord Bazar and Somajiguda) Tanuku-I and Vanasthalipuram

## 2.15 Excess claim of input tax credit

Under the provisions of the APVAT Act, ITC should be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods made by that dealer during the tax period if such goods were used in the business of the VAT dealer. According to Section 13 of the APVAT Act, 2005 read with Rule 20(8) of the APVAT Rules 2005, where transactions involve sale of taxable goods as well as exempt transaction of taxable sales, the claim for eligible input tax credit (ITC) should be restricted as per the formula prescribed i.e.,  $A \times B/C$  where A is input tax for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

As per Section 55(2) of the Act, any VAT dealer who issues a false tax invoice or receives and uses a tax invoice, knowing it to be false, shall be liable to pay a penalty of 200 *per cent* of tax shown on the false invoice. Further, under the APVAT Rules, no ITC is eligible on goods used in construction of buildings and sheds for the purpose of the business and coal.

Further, under Section 20(3) of the Act, every return shall be subject to scrutiny to verify the correctness of calculation, application of correct rate of tax and input tax claimed therein and full payment of tax payable for such tax period. If any mistake is detected as a result of such scrutiny made, the authority prescribed shall issue a notice of demand in the prescribed form for any short payment of tax or for recovery of any excess input tax credit claimed.

**2.15.1** We noticed in the test check of the records (between April 2008 and February 2010) of two LTUs<sup>21</sup> and 18 circles<sup>22</sup> that between April 2005 and March 2009, in 34 cases, though the transactions involved both taxable sales and exempt transactions the input tax credit was not restricted as per the formula prescribed. This resulted in short payment of tax of ₹ 2.50 crore<sup>23</sup>.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in 13 cases involving ₹ 38.62 lakh and stated that the assessments were revised in eight cases involving ₹ 30.83 lakh, out of which an amount of ₹ 6.37 lakh was

collected / adjusted against the refund in five cases; show cause notices were issued in three cases and the assessment files were submitted to AC (LTU) Secunderabad in two cases. The replies in respect of the remaining 21 cases have not been received (January 2011).

<sup>21</sup> Nizamabad and Saroornagar.

<sup>22</sup> Adoni-I, Chilakaluripeta, Hindupur, Hyderabad (Basheerbagh, Hyderguda, Malakpet, Rajendranagar, Somajiguda and Vanasthalipuram), Jadcherla, Jagannaikpur, Kadapa-I, Medak, Secunderabad (Market Street, R.P Road and S.D. Road), Tanuku-I and Tirupati-II.

<sup>23</sup> ITC eligible: ₹ 29.37 crore; ITC claimed: ₹ 26.87 crore; Excess claim: ₹ 2.50 crore.

### 2.15.2 Incorrect allowance of input tax credit

According to Rule 23(6)(a) of the APVAT Rules, if any VAT dealer finds any omission or incorrect information in VAT 200, he shall submit an application in Form VAT 213 within a period of six months from the end of relevant tax period. As per Rule 23(6)(b) of the APVAT Rules, on receipt of Form VAT 213 in the case of over declaration of tax, Form VAT 308 shall be issued.

We noticed in the test check of the records (between April 2009 and February 2010) of AC LTU Saroornagar and CTO-II Nandyal circle that during the period 2006-07 and 2008-09, in two cases, dealers claimed ITC without submitting Form VAT 213 after

lapse of six months. In one case, the dealer claimed tax of ₹ 14.86 lakh on the purchases made during July 2006 in February 2007 even though the period of six months lapsed and in another case, the dealer claimed tax of ₹ 14.60 lakh relating to purchase of MS TMT bars, MS Angles etc., made during the months of March 2008 and April 2008 without filing Form VAT 213. This resulted in incorrect allowance of ITC of ₹ 29.46 lakh.

We referred the matter to the Department between February and May 2010 and to the Government between May and June 2010; their reply has not been received (January 2011).

### 2.16 Application of incorrect rate

VAT is leviable at the rates prescribed in schedules I to IV & VI to the APVAT Act. Commodities not specified in any of the schedules fall under schedule V and are liable to VAT at 12.5 *per cent* from 1 April 2005.

According to Section 20(3) every monthly return submitted by a dealer shall be subjected to scrutiny to verify the correctness of calculation, application of correct rate of tax and ITC claimed therein and full payment of tax payable for such tax period.

**2.16.1** We noticed in the test check of the records (August 2007 and November 2009) of 15 circles<sup>24</sup> that during the period from April 2005 to March 2009, 21 dealers declared VAT of ₹ 82.71 lakh instead of ₹ 1.86 crore on the turnover relating to flavours, paneer, sale of cement products, welded items, fire

fighting equipment, stone ballast etc., due to application of incorrect rate. This resulted in under declaration of VAT of ₹ 1.04 crore.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in 11 cases involving ₹ 54.22 lakh and stated that the assessments were revised in seven cases involving ₹ 16.18 lakh, of these

<sup>24</sup> East Godavari (Ramachandrapuram), Gadwal, Hyderabad (Agapura, Barkatpura, Fathenagar, Malakpet, Punjagutta, Rajendranagar, Vanasthalipuram), Kadapa-I, Kodad, Medak (Sangareddy), Peddapally, Secunderabad (Malkajgiri) and Vizianagaram West.

₹ 0.70 lakh was collected in two cases and notices/show cause notices were issued to the dealers in four cases. In one case, the Government replied that tax on sale of homeo hair oil was regulated in terms of Government order<sup>25</sup> dated 6 November 2006. The reply is not acceptable since the rate of tax on the commodity was made four *per cent* from 1 September 2006 through this Government order and the sales were related to the prior period i.e., April 2005 to August 2006. Hence tax is leviable at 12.5 *per cent* for the period prior to 1 September 2006. The replies in respect of the remaining nine cases have not been received (January 2011).

**2.16.2** Tax at the rates specified in schedules I to VI to the APGST Act, 1957, is leviable on the commodities included in these schedules. Commodities not specified in any of the schedules fall under VII schedule and are taxable at 12 *per cent* from 1 January 2000.

We noticed in the test check of the records (May 2008 and July 2009) of 11 circles<sup>26</sup> that the AAs while finalising the assessments in 13 cases between January 2006 and March 2009 for the years 2004-05, levied tax on air electrical control

transformers, medicines, aluminium foils, palm fatty acids, ACSR conductors, imitation jewellery etc., at rates lower than those specified in the Act resulting in short levy of tax of ₹ 71.01 lakh.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in seven cases involving ₹ 25.36 lakh and stated that assessments were revised in four cases; show cause notice has been issued in one case and assessment files were submitted to concerned DC (CT) for revision in two cases. The replies in respect of the remaining six cases have not been received (January 2011).

## **2.17 Non/short levy of tax on the works contracts**

Under Section 5F of the APGST Act, every dealer has to pay tax at the prescribed rate on his turnover of transfer of property either as goods or in some other form involved in the execution of works contract subject to exemptions and deductions provided for, under sub clauses (a) to (l) of Rule 6(2) of the APGST Rules.

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<sup>25</sup> G.O.Ms.No.1625 Rev Department Dated 6 November 2006.

<sup>26</sup> Hyderabad (Ferozguda, IDA Gandhi Nagar, Keesara, Musheerabad, Narayanaguda, Srinagar colony and Vanasthalipuram), Karimnagar-I, Secunderabad (S.D. Road and Tarnaka), Special Commodities.

### 2.17.1 Incorrect computation of turnover

In determining the turnover of a dealer, deductions specified under Rule 6(2) of the APGST Rules shall be allowed from the turnover of the dealer if accounts are maintained as required under the Rule 45(1-C) of the APGST Rules. Deductions on account of service tax, freight charges, printing charges, office expenses, salaries, depreciation, metal cutting charges, factory maintenance charges etc., are not admissible under the Rules. If detailed accounts are not maintained and the amounts specified under the Rule 6(2) are not ascertainable from the accounts of a dealer, the turnover of the dealer shall be determined after deducting the amount calculated at percentages prescribed under Rule 6(3) (ii). Where the execution of the works contract extends over a period of more than one year, the value of material at the time of incorporation in works contract during that year shall be taxable turnover under Rule 6(3)(i).

We noticed in the test check of the records (between April 2007 and July 2009) of 22 circles<sup>27</sup> that the AAs while finalising the assessments in 35 cases between June 2006 and March 2008 for the year 2004-05, incorrectly arrived at the taxable turnover of ₹ 45.61 crore instead of ₹ 72.86 crore. The short determination of taxable turnover of ₹ 27.25 crore

with a tax effect of ₹ 1.91 crore was due to allowance of inadmissible deductions on account of service tax, freight charges, printing charges, office expenses, salaries, depreciation, metal cutting charges, factory maintenance charges etc.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in 18 cases involving ₹ 1.32 crore and stated that assessments were revised in 12 cases involving ₹ 76.14 lakh, out of which ₹ 5.36 lakh was collected in three cases. Notices/show cause notices were issued in five cases and in one case, the assessment file was submitted to DC(CT) Punjagutta for revision. In one case, the Government contended that according to Section 2(S) sales tax collection was eligible for deduction. The reply is not acceptable as Section 5F is a separate charging Section and other provisions of the Act are not applicable to this Section. The replies in respect of the remaining 16 cases have not been received (January 2011).

<sup>27</sup> Adilabad, Ananthapur-II, Guntur (Brodipet), Hyderabad (Charminar, Hydernagar, Narayanaguda, Musheerabad, Sanathnagar, Somajiguda and Srinagar colony), Karimnagar-I, Medak (Sangareddy), Nizamabad-III, Prakasam (Markapur, Ongole), Secunderabad (Malkajgiri, M.G. Road, Tarnaka, Vidyanagar) Tadepalligudem, Tenali (Gandhi chowk) and Visakhapatnam (Dwarakanagar).

### 2.17.2 Incorrect grant of exemption on the inter-state purchases

Under the proviso to Section 5F of the APGST Act, tax shall be leviable on the turnover of goods either obtained or purchased from other states by the contractor and used in the execution of the works contracts.

We noticed in the test check of the records (between June and July 2009) of CTO-I Keesara that the assessing authority while finalising the assessment in one case in January 2008 for the year 2004-05,

incorrectly exempted turnover of ₹ 2.39 crore relating to the purchase of material from out side the state by the contractor and used in the execution of the works contract. This resulted in short levy of tax of ₹ 19.09 lakh.

We referred the matter to the Department in November 2009 and to the Government in June 2010; their reply has not been received (January 2011).

### 2.17.3 Short levy of tax under composition

The rate of tax payable on the works contracts under Section 5F of the APGST Act was eight *per cent* and under Section 5G of the Act, the tax could be compounded at the rate of four *per cent* with effect from 1 January 2000. However, when an assessee opts for composition of tax, no deduction is admissible and tax is payable on the total amount paid or payable to the assessee towards the execution of works contract excluding the payments made to registered sub-contractors.

**2.17.3.1** We noticed in the test check of the records (between October and November 2008) of Hydernagar circle that the works contractor opted for composition of tax under Section 5G for assessment of his turnover at the rate of four *per cent* in the assessment year

2004-05. However, the AA while finalising the assessment in March 2008 relating to the year 2004-05, incorrectly assessed the turnover of ₹ 9.75 crore under Section 5F instead of Section 5G, of the Act after allowing the deduction of ₹ 6.37 crore towards labour charges, machinery hire charges, value of locally purchased goods etc. This resulted in short levy of tax of ₹ 11.96 lakh.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that assessment was revised and demand raised.

**2.17.3.2** We noticed in the test check of the records (between December 2008 and January 2009) of Musheerabad circle that an assessee did not opt for composition of tax but the AA while finalising the assessment in December 2007 for the year 2004-05, incorrectly assessed the turnover under Section 5G of the Act instead of Section 5F read with Rule 6(3)(i). This resulted in short levy of tax of ₹ 6.24 lakh.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that assessment has been revised.



**2.18 Short levy of tax due to incorrect computation of turnover**

All liquors bottled and packed fall under entry 202 of I Schedule to the APGST Act, 1957, and taxable at the rate of 70 *per cent* at the point of first sale in the State.

According to the Government order No.234 dated 31 March 2001, tax on the amount of additional trade margin of 10 *per cent* charged by Andhra Pradesh Beverages Corporation Limited to pay a special privilege fee on the sale of IML Beer to the Government is exempted. For this purpose, sale value at cost will be arrived and 10 *per cent* of the amount arrived will be exempted.

We noticed in the test check of the records (between July and August 2008) of Agapura circle that the AA while finalising the assessment in one case, in February 2008 for the year 2004-05, incorrectly arrived the sale value at cost of ₹ 213.29 crore instead of ₹ 211.25 crore without deducting the discounts received on purchases. This resulted

in excess exemption of turnover of ₹ 2.04 crore relating to trade margin and consequential short levy of tax of ₹ 1.43 crore.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that the DC (CT) has passed the revision orders in November 2009.

**2.19 Short levy of VAT due to incorrect computation of turnover**

**2.19.1** Mosquito/cockroach repellants, rat killing cakes and treated chalk pieces are not specified in schedules I to IV and VI, hence, these are taxable at 12.5 *per cent* under V schedule to the APVAT Act.

We noticed in the test check of the records (November 2009) of AC(LTU) Secunderabad that during the period 2007-08 and 2008-09, in one case, the AA while

conducting the audit of dealer's records, noticed that the dealer declared tax on the above goods at four *per cent* instead of 12.5 *per cent*. However, verification of department audit records revealed that while computing the short levy of tax, the AA incorrectly arrived at the VAT payable as ₹ 38.16 lakh instead of ₹ 127.51 lakh relating to sale of mosquito/ cockroach repellents, rat-killing cakes, treated chalk pieces etc., due to incorrect computation of turnover. This resulted in short levy of tax of ₹ 89.35 lakh.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that assessment has been revised.

**2.19.2** 'All kinds of Machinery and parts thereof' falls under entry 83 of I schedule to the APGST Act, and are liable to tax at the rate of eight *per cent*.

We noticed in the test check of the records (between February and March 2009) of Sangareddy circle that the AA while finalising the

assessment in one case, in January 2008 for the year 2004-05, incorrectly computed the turnover of ₹ 19.60 crore instead of ₹ 20.67 crore relating to machinery parts. The AA did not consider the correct turnover of ₹ 20.67 crore depicted in the Profit and Loss Account. The short determination of taxable turnover of ₹ 1.07 crore resulted in short levy of tax of ₹ 8.64 lakh.

We referred the matter to the Department in October 2009 and to the Government in June 2010; their reply has not been received (January 2011).

## **2.20 Non-levy of turnover tax**

**2.20.1** According to Section 5A of the APGST Act, when total turnover of a dealer in a year exceeds ₹ 10 lakh, turnover tax at one *per cent* is leviable with effect from 1 August 1996 on second and subsequent sales of goods specified in the first, second, fifth and seventh schedules to the Act.

We noticed in the test check of the records (between June 2008 and January 2009) of four circles<sup>28</sup> indicated that the AAs while finalising the assessments in five cases between March 2007 and March 2008

for the year 2004-05, failed to levy turnover tax on a turnover of ₹ 14.01 crore relating to Machinery tools and Machinery spares, fire security equipment, imitation jewellery etc., though turnover in these cases exceeded ₹ 10 lakh. This resulted in non-levy of turnover tax of ₹ 14.01 lakh.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in four cases involving ₹ 13.37 lakh and stated that assessments were revised in three cases involving ₹ 12.30 lakh out of which an amount of ₹ 6.66 lakh was collected and in one case, revision show cause notice was issued to the dealer. The reply in respect of the remaining case has not been received (January 2011).

**2.20.2** According to Section 5A(1-A) of the APGST Act, every dealer shall in addition to tax payable shall pay each year a turnover tax on his turnover liable to tax at the rate of two *per cent* on the first sale turnover of lubricant oils.

We noticed in the test check of the records (between June 2008 and January 2009) of AC (LTU) Karimnagar and CTO Tarnaka that the AAs while finalising the assessments in two

cases in March 2008 for the year 2004-05, failed to levy turnover tax on the first sale turnover of ₹ 17.33 crore relating to lubricant oils. This resulted in non-levy of tax of ₹ 34.66 lakh.

After we pointed out the cases, the Government (December 2010) accepted the audit observation in one case involving ₹ 0.76 lakh and stated that assessment was revised and demand raised. The reply in respect of the remaining case has not been received (January 2011).

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<sup>28</sup> Hyderabad (Ferozguda, Malkajgiri, Ramagopalapet and Somajiguda)

## 2.21 Excess set-off against tax due

Under the provisions of the APGST Act, and notifications issued there under, set-off can be allowed against tax due on the sale of finished goods in which tax paid raw material was used in the manufacture of such finished goods, provided transactions at both ends take place within the State.

We noticed in the test check of the records (between October 2008 and August 2009) of five circles<sup>29</sup> that set-off of ₹ 63.60 lakh was allowed in March 2008 against the admissible set-off of ₹ 22.86 lakh

during the assessment year 2004-05 in six cases relating to purchase of gold, electrical goods, footwear and stock transfer of poultry feed to other States. This resulted in short levy of tax of ₹ 46.74 lakh.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in two cases involving ₹ 21.24 lakh and stated that assessments were revised in two cases against which an amount of ₹ 0.63 lakh was collected in one case. The replies in respect of the remaining four cases have not been received (January 2011).

## 2.22 Non-levy of penalty

**2.22.1** Under Section 53(3) of the APVAT Act, any dealer who has under declared tax and where it is established that fraud or willful neglect has been committed, he shall be liable to pay penalty equal to the tax under declared.

We noticed in the test check of the records (October 2009) of Mehidiapatnam circle that the records of two VAT dealers for the period from April 2005

to March 2008 were examined by the departmental officers and assessed the under declared tax of ₹ 19.27 lakh on unaccounted purchases. But the penalty of ₹ 19.27 lakh on the under declared tax amount was not levied.

After we pointed out the cases, in both the cases, the AA stated that the audit officer who had levied tax had not proposed penalty and the same would be proposed now.

We referred the matter to the Department in December 2009 and to the Government in June 2010; their reply has not been received (January 2011).

<sup>29</sup> Hyderabad (Somajiguda), Kurnool-I, Secunderabad (Ramagopalapet, R.P. Road) and Visakhapatnam (Dwarakanagar).

**2.22.2** Under Section 14(8)(a) of the APGST Act, 1957, the penalty leviable shall not be less than three times which may extend to five times the tax due in a case where the assessing authority is satisfied that the failure of the dealer to disclose the whole or part of the turnover or any other particulars correctly, or to submit the return before the prescribed date was willful.

We noticed in the test check of the records (between December 2008 and January 2009) of Musheerabad circle that the AA while finalising the assessment in one case in December 2007 for the year 2004-05, assessed the suppressed

turnover of ₹ 64.95 lakh and levied tax of ₹ 6.61 lakh. But a minimum penalty of ₹ 19.83 lakh being the three times the tax due was not levied, though the dealer did not disclose the correct turnovers in the returns.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that the levy of penalty is not feasible at this juncture as the same is barred by limitation. Not initiating of timely action by the Department resulted in loss of revenue.

## **2.23 Short payment of tax due to non-conversion of TOT dealers as VAT dealers**

Under the provisions of the APVAT Act, every dealer whose taxable turnover in the preceding three months exceeds ₹ 10 lakh or in the 12 preceding months exceeds ₹ 40 lakh upto 30 April 2009 shall be liable to be registered as VAT dealer. From 01.05.2009 every dealer whose taxable turnover in the 12 preceding months exceeds ₹ 40 lakh shall be registered as a VAT dealer. Any dealer who fails to apply for registration shall be liable to pay penalty of 25 per cent of the amount of tax due prior to the date of registration. Further, there shall be no eligibility for input tax credit for sales made prior to the date from which the VAT registration is effective.

We noticed in the test check of the records (between July 2008 and November 2008) of the two circles<sup>30</sup> that though the turnover of eight TOT dealers exceeded ₹ 10 lakh in preceding three months between October 2006 and April 2008, the AAs did not convert these dealers into VAT dealers. The dealers were liable to pay VAT of ₹ 21.92 lakh. But neither the dealers applied for registration

nor were they registered by the AAs. This resulted in short realisation of revenue of ₹ 21.92 lakh towards VAT. Besides penalty of ₹ 5.46 lakh was also leviable.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in four cases involving ₹ 14.19 lakh and stated that in one case, the assessment was revised and collected ₹ 60,486; show cause notices

<sup>30</sup> Hyderabad (Agapura) and Special Commodities circle.

were issued to the dealers in three cases. The replies in respect of the remaining four cases have not been received (January 2011).

## **2.24 Short levy of tax due to incorrect adoption of turnover/application of concessional rate**

Under section 5B of the APGST Act 1957, any sale of goods by a dealer to another for use by the latter as raw material, component part, sub-assembly part, intermediary part, consumables or packing materials of any other goods which he intends to manufacture inside the state, tax at four percent shall be paid subject to production of 'G' form issued by the purchaser who has to get himself registered as a manufacturer.

According to case law (M/s Bose Abraham Vs State of Kerala) held by Honourable Supreme Court of India, the item 'Crane' was classifiable as Motor Vehicle since it is liable to be registered under the Motor Vehicle Tax Act. Under entry 1 of first schedule to the APGST Act 'Motor Vehicles' are taxable at 12 *per cent* at the point of first sale in the state.

**2.24.1** We noticed in the test check of the records (between December 2008 and January 2009) of Srinagar colony circle that the AA while finalising the assessment in one case in March 2008 for the year 2004-05, incorrectly levied tax on a turnover of ₹ 8.28 crore against the sale turnover of ₹ 8.76 crore covered by 'G' Forms submitted by the assessee. This resulted in

escapement of turnover of ₹ 47.61 lakh. Besides, while computing the turnover, a turnover of ₹ 1.43 crore covered by a 'G' Form was not taken into account. This resulted in overall short levy of tax of ₹ 7.64 lakh on the escaped turnover of ₹ 1.91 crore.

We referred the matter to the Department in August 2009 and to the Government in June 2010; their reply has not been received (January 2011).

**2.24.2** We noticed in the test check of the records (January 2009) of AC (LTU), Saroornagar that the AA while finalising the assessment in one case, in March 2008 for the year 2004-05, incorrectly levied tax at concessional rate of four *per cent* on the first sale turnover of ₹ 2.05 crore of Hydraulic Mobile cranes on the strength of 'G' forms issued by the purchasing dealer even though the commodity does not fall under any of the categories of goods specified in section 5B of the Act rendering him ineligible for issue of 'G' Form for concessional rate. This resulted in short levy of tax of ₹ 18.46 lakh including turnover tax.

We referred the matter to the Department in June 2009 and to the Government in June 2010; their reply has not been received (January 2011).

## 2.25 Incorrect allowance of transitional relief

The APVAT Act and Rules 2005, provide relief on sales tax at the commencement of the Act provided such goods are for use in the business of the VAT dealer. According to the APVAT Rules, on the first day of the commencement of the Act, if a dealer has in stock any goods on which sales tax has been paid under the APGST Act, that dealer shall be entitled to claim credit of sales tax for such goods which were purchased from 1 April 2004 to 31 March 2005.

We noticed in the test check of the records (July 2009) of Agapura circle that during the period 2005-06, in one case, transitional relief claimed on goods like lifeboats, electronic gates, television sets etc., was allowed by AAs, though the dealer is not dealing in the business of goods for which transitional relief

was claimed. This has resulted in short realisation of tax of ₹ 13.16 lakh.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that the assessment file was submitted to JC (CT) for revision.

## 2.26 Under declaration of tax under Section 4(9)

**2.26.1** Under Section 4(9) of the APVAT Act, 2005, every VAT dealer running any restaurant, eating house, catering establishment, hotel, coffee shop, sweet shop or any establishment by whatever name called and any club, who supplies, by way of or as part of any services or in any other manner whatsoever of goods being food or any other article for human consumption or drink other than liquor shall pay tax at the rate of 12.5 *per cent* on 60 *per cent* of the taxable turnover, if the taxable turnover in a period of preceding twelve months exceeds ₹ 5 lakh or in the preceding three months exceeds ₹ 1.25 lakh.

We noticed in the test check of the records (between October 2007 and September 2009) of five circles<sup>31</sup> that in five cases, the dealers declared VAT on their turnover relating to sales made across the counter. However, they incorrectly declared 60 *per cent* of the turnover instead of 100 *per cent* though these sales do not fall under section 4(9). This resulted in short payment of VAT

of ₹ 9.63 lakh.

After we pointed out the cases, the Government (December 2010) accepted the audit observations in three cases involving ₹ 2.89 lakh and stated that assessments were revised in three cases, out of which an amount of ₹ 1.31 lakh was collected in two cases. The replies in respect of the remaining two cases have not been received (January 2011).

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<sup>31</sup> Hyderabad (Basheerbagh, Malakpet and Somajiguda), Kadapa-I and Kavali

**2.26.2** Under Rule 20(2)(f) of the APVAT Rules any goods purchased and accounted for in the business but utilised for the purpose of providing facilities to employees are not eligible for input tax credit.

We noticed in the test check of the records (July 2009) of Agapura circle that during the period 2008-09, in one case, a dealer corporation paid VAT on the amounts charged for supply of food in the restaurants/hotels but incorrectly claimed input tax credit on purchases of goods like uniforms to drivers, boats, cell phones etc., which were used for other than business activities. This resulted in under declared tax of ₹ 10.99 lakh. The AA did not raise the demand for short paid tax.

After we pointed out the case, the Government (December 2010) accepted the audit observation and stated that notice had been issued to the dealer.

## **2.27 Short levy of tax due to incorrect exemption of transit sales**

Under Section 6(2) of the CST Act, where a sale of any good in the course of inter-state trade or commerce has either occasioned the movement of such goods from one state to another or has been effected by a transfer of documents of title to such goods during their movement from one state to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer, shall be exempt from tax under this Act.

We noticed in the test check of the records (July 2009) of Marredpally circle that AA exempted the transit sales of machinery goods amounting to ₹ 66.87 lakh. As noticed from the monthly VAT returns, these goods were purchased in March 2006 whereas the transit sales of the goods were made between August 2005 February 2006. Thus, the sales were prior to the purchases in the month of March 2006, which is irregular. Hence the turnover is to be treated as sales within the State taxable at the rate of 12.5 *per cent*. Incorrect exemption of turnover resulted in short levy of tax of ₹ 8.36 lakh.

We referred the matter to the Department in November 2009 and to the Government in June 2010; their reply has not been received (January 2011).





### 3.4 Audit observations

*During scrutiny of the records in the offices of State Excise Department, we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of licence fee/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to consider directing the Departments to improve the internal control system including strengthening the internal audit so that such omissions can be avoided, detected and corrected.*

### 3.5 Non-levy of additional licence fee

As per Rule 10 of AP Excise (Grant of licence of selling by bar and conditions of licence) Rules, 2005, the enclosures for consumption of liquor, which are not contiguous, shall attract levy of an additional licence fee at 10 per cent for each such additional enclosure.

We noticed (February and September 2009) in test check of the records of ten<sup>1</sup> offices of Prohibition and Excise Superintendents (PES) that the concerned PES did not levy 10 per cent

additional licence fee of ₹ 1.52 crore for the years 2006-07 to 2008-09 on 54 non-contiguous enclosures<sup>2</sup>. This resulted in non-levy of additional licence fee of ₹ 1.52 crore.

After we pointed out the cases, the PESs, Amalapuram and Kakinada stated (August and September 2009) that the additional licence fee was applicable to the premises licensed by the local authority for establishing hotel restaurant. The reply is not acceptable as the enclosures for consumption of liquor in these cases are separated by sales counter, store room etc., which are enclosures for purposes other than the consumption of liquor. PES, Khammam and Warangal stated (March and August 2009) that the licences were granted after physical verification of the premises by the Deputy Commissioner of Prohibition and Excise. PES, Anantapur stated (March 2009) that the enclosures were not separated from one another by areas of different utilities. The replies are not acceptable as the enclosures for consumption of liquor were separated by enclosures utilised for purposes other than the consumption of liquor. As such, these were non-contiguous and attracted the levy of additional fee. All other PESs stated (between June and September 2009) that the matter would be examined.

<sup>1</sup> Amalapuram, Anantapur, Bhimavaram, Kakinada, Khammam, Nalgonda, Narasaraopet, Saroornagar, Tenali and Warangal.

<sup>2</sup> "Enclosure" is defined as an area of consumption of liquor, which is contiguous in utility for consumption. If one consumption enclosure is separated from another enclosure by non-contiguity and interposition of areas of different utilities other than consumption of liquor, it attracts additional licence fee.

We referred the matter to the Department between July and December 2009 and to the Government in June 2010; their reply has not been received (January 2011).

### **3.6 Short levy of licence fee**

As per Rule 10 of AP Distillery (Manufacture of Spirits) Rules, 2006 read with G.O.Ms.No.91 Revenue (Ex.III) Department dated 27.01.2007, annual licence fee is payable by a distillery at ₹ 4 lakh for the production capacity upto 20 lakh BLs and ₹ 1 lakh for every additional 10 lakh BLs or part thereof.

We noticed (December 2009) in test check of the records of Distillery Officer, Bodhan that a licensee<sup>3</sup> was permitted to manufacture 178.50 lakh BLs of spirit per annum during the period 1.04.2007 to

31.03.2010. Thus, the licensee is liable to pay ₹ 60.00 lakh<sup>4</sup>. However, the Commissioner of Prohibition and Excise had granted licence on payment of licence fee of ₹ 36.00 lakh instead of ₹ 60.00 lakh. This resulted in short levy of licence fee of ₹ 24.00 lakh.

After we pointed out the case, the Distillery Officer, Bodhan stated (December 2009) that the matter would be brought to the notice of the Commissioner of Prohibition and Excise.

We referred the matter to the Department in January 2010 and to the Government in July 2010; their reply has not been received (January 2011).

### **3.7 Non-levy of interest on belated payments of licence fee**

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

We noticed (between January and November 2009) in test check of the records of Commissioner of Prohibition and Excise

and two offices of PESS<sup>5</sup> that the instalments of licence fee for the years 2006-07 and 2008-09 were remitted beyond the due dates and interest of ₹ 5.61 lakh was not levied on the belated payments of instalments of licence fee.

After we pointed out the cases, the assessing authorities stated (between January and November 2009) that amount would be collected.

We referred the matter to the Department between July 2009 and January 2010 and to the Government in June 2010; their reply has not been received (January 2011).

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<sup>3</sup> M/s Nizam Deccan Sugars Limited.

<sup>4</sup> Upto 20 lakh BLs - 4,00,000; 158.50 lakh BLs - 16,00,000; licence fee 20,00,000 per annum; licence fee for 3 years = 60,00,000.

<sup>5</sup> Hyderabad and Secunderabad.

**The expenditure on collection of taxes on vehicles was higher than the all India average consecutively and the Government need to look into this aspect.**

#### **4.4 Revenue impact**

During the last five years, audit through its audit reports had pointed out non/short levy, non/short realisation, loss of revenue, with revenue implication of ₹ 1,531.88 crore in 862 cases. Of these, the Department/Government had accepted audit observations in 472 cases involving ₹ 168.69 crore and had since recovered ₹ 8.90 crore. The details are shown in the following table:

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	39	183	226.71	137	2.02	123	0.41
2005-06	39	164	452.67	111	2.65	102	0.60
2006-07	39	43	697.53	28	135.48	22	2.66
2007-08	39	230	74.16	128	13.92	90	3.43
2008-09	44	242	80.81	68	14.62	27	1.80
<b>Total</b>	<b>200</b>	<b>862</b>	<b>1,531.88</b>	<b>472</b>	<b>168.69</b>	<b>364</b>	<b>8.90</b>

Recovery of ₹ 8.90 crore only against the money value of ₹ 168.69 crore relating to accepted cases during the period 2004-05 to 2008-09 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

#### **4.5 Working of internal audit wing**

Internal audit provides a reasonable assurance of proper enforcement of laws, rules and departmental instructions, and this is a vital component of internal control frame work. There was no system of internal audit in the Department to ascertain the compliance of Rules/Government orders by the Department. In the absence of this proper and effective functioning of the transport offices could not be ensured. Though most of the functioning of the Department has been computerised, internal audit was not conducted to get an assurance on the working of the computerised system. When this was pointed out in Audit Report 2008-09, the Department assured that the internal audits would be conducted in future but no action had been taken even in 2009-10.

**The Government needs to introduce a mechanism for conducting effective internal audit by the Department to ensure the compliance of Rules/Government orders.**

#### 4.6 Results of audit

Test check of the records of 44 offices relating to Transport Department revealed under assessment of tax and other irregularities involving ₹ 69.18 crore in 277 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non-realisation of fee due to non-renewal of fitness certificate	41	40.80
2.	Non-levy of quarterly tax and penalty	43	16.78
3.	Non-implementation of card fee	1	4.08
4.	Non-collection of minimum bid amounts for special numbers	13	1.71
5.	Short levy of life tax	62	1.61
6.	Non-finalisation of action on VCR under Section 200	22	0.62
7.	Non-levy and collection of green tax	33	0.46
8.	Non-levy/collection of compounding fee	15	0.09
9.	Other irregularities	47	3.03
<b>Total</b>		<b>277</b>	<b>69.18</b>

During the course of the year 2009-10, the Department accepted underassessments and other deficiencies of ₹ 2.31 crore in 50 cases of which, 36 cases involving ₹ 1.87 crore were pointed out during the year 2009-10 and the rest in the earlier years. An amount of ₹ 2.31 crore was realised in 50 cases.

A few illustrative cases involving ₹ 39.79 crore are mentioned in the succeeding paragraphs.

#### 4.7 Audit observations

*During scrutiny of the records in the offices of the Transport Department relating to revenue received from quarterly tax, green tax, life tax etc., on the vehicles, we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system including strengthening the internal audit so that such omissions are detected and rectified.*

#### 4.8 Non-realisation of quarterly tax and penalty

Section 3 of the Andhra Pradesh Motor Vehicles Taxation (APMVT) Act, 1963 stipulates that every owner of a motor vehicle is liable to pay the tax at the rates specified by the Government from time to time. Section 4 of the APMVT Act specifies that the tax shall be paid in advance either quarterly, half yearly or annually within one month from the commencement of the quarter. Further, as per Section 6 of the Act, in case of failure to pay the tax within the stipulated time, penalty shall be imposed under the Act.

We noticed in test check of the records of the offices of Joint Transport Commissioner (JTC), Khairatabad, nine DTCs<sup>1</sup> and 18 RTOs<sup>2</sup> (between October 2008 and September 2009) that the quarterly tax of ₹ 3.50 crore for the years 2007-08 and 2008-09 was neither paid by the owners of 3,991 transport vehicles nor demanded by the Department. Besides, penalty of ₹ 7.00 crore though leviable was not

levied. This resulted in non-realisation of tax and penalty amounting to ₹ 10.50 crore.

After we pointed out the cases, the Department stated (October 2010) that tax of ₹ 41.84 lakh and ₹ 22.30 lakh towards penalty was collected in respect of 710 vehicles. It was further replied that the executive officers of the Department are checking the vehicles on road and seized the vehicles whenever the vehicles were plying without payment of tax. It was also stated that the Department was taking steps to collect the quarterly tax and penalty by way of issuing show cause notices and demand notices to the defaulters by the concerned licensing officers. Final reply in respect of the remaining vehicles has not been received.

<sup>1</sup> Adilabad, Chittoor, Eluru, Kurnool, Medak, Nizamabad, Ranga Reddy, Vijayawada and Visakhapatnam.

<sup>2</sup> Amalapuram, Anantapur, Bhimavaram, Gudivada, Hindupur, Hyderabad (West), Ibrahimpatnam, Khammam, Mahabubnagar, Mancherla, Medchal, Nandigama, Nalgonda, Narasaraopet, Proddatur, Rajahmundry, Ranga Reddy East and Tirupati.

We referred the matter to the Government in July 2010; their reply has not been received (January 2011).

#### **4.9 Non-renewal of fitness certificates**

As per Section 56 of the Motor Vehicle (MV) Act, 1988 a transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness issued by the prescribed authority. As per Rule 62 of the Central Motor Vehicle (CMV) Rules, 1989, the certificate of fitness in respect of the transport vehicles shall be renewed every year. Rule 81 of CMV Rules, prescribes the fee for conducting test of a vehicle for grant and renewal of the certificate of fitness. Plying of a vehicle without the fitness certificate is an offence and attracts a minimum compounding fee of ₹ 1,000.

We noticed in test check of the records of the JTC, Khairatabad, eight DTCs<sup>3</sup> and 15 RTOs<sup>4</sup> (between October 2008 and September 2009) that fitness certificates of 1,99,613 transport vehicles that completed two years of life during 2007-08 and 2008-09, were not renewed. This jeopardised public safety besides non-realisation of fitness certificate fee of

₹ 6.94 crore and a minimum compounding fee of ₹ 19.96 crore.

After we pointed out the cases, the Department stated (October 2010) that fitness certificate fee of ₹ 1.22 crore was collected relating to 43,514 vehicles. The reply was, however, silent about the collection of compounding fee. They further stated that whenever any vehicle is detected for plying without fitness certificate a case was booked against the vehicle and it would be seized. Final reply in respect of the remaining vehicles has not been received.

We referred the matter to the Government in July 2010; their reply has not been received (January 2011).

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<sup>3</sup> Adilabad, Chittoor, Eluru, Guntur, Kurnool, Ranga Reddy, Vijayawada and Visakhapatnam.

<sup>4</sup> Amalapuram, Anantapur, Bhimavaram, Gudivada, Hindupur, Hyderabad (West), Ibrahimpatnam, Khammam, Mancheri, Nandigama, Narasaraopet, Proddatur, Rajahmundry, Ranga Reddy (East) and Tirupati.

#### 4.10 Short levy of life tax

The Government of Andhra Pradesh amended section 3 (2) of APMVT Act vide Ordinance No. 1/2008 dated 2 January 2008 enhancing life tax from nine *per cent* to 12 *per cent* at the time of registration of non-transport vehicles owned by institutions, organisations, companies or societies and on second or more non-transport vehicles owned by the individuals. The enhanced tax has to be collected from the new vehicles sold and registered on or after 2.1.2008. Further, the TC issued a circular memo No.1/7831/S/2005 dated 4 January 2008 instructing all the registering authorities to collect the enhanced life tax.

**4.10.1** We noticed in test check of the records of the JTC, Khairatabad and six DTCs<sup>5</sup> and six RTOs<sup>6</sup> (November 2008 and September 2009) that life tax in respect of 634 second or more non-transport vehicles owned by individuals was collected at pre-revised rate, instead of enhanced rate resulting in short levy of life tax amounting to ₹ 62.57 lakh.

After we pointed out the above cases, the Department stated (October 2010) that an amount of ₹ 5.32 lakh was collected in respect of 72 vehicles and show cause notices were issued to the registered owners of 253 vehicles. Final reply in respect of remaining vehicles has not been received.

We referred the matter to the Government in July 2010; their reply has not been received (January 2011).

**4.10.2** We noticed in test check of the records of offices of two DTCs<sup>7</sup> and two RTOs<sup>8</sup> (January and September 2009) that life tax on 65 non-transport vehicles owned by companies, institutions, societies, organisations registered after 2.1.2008 was collected at pre-revised rate/lesser rates instead of enhanced rate. This resulted in short levy of life tax of ₹ 18.08 lakh.

After we pointed out the above cases, the Department stated (October 2010) that the differential life tax of ₹ 5.63 lakh was collected in respect of 19 vehicles and ₹ 2.92 lakh was not collectable from 14 vehicles since they were sold away. Final reply in respect of the remaining vehicles has not been received.

We referred the matter to the Government in March 2010; their reply has not been received (January 2011).

<sup>5</sup> Chittoor, Eluru, Guntur, Ranga Reddy, Vijayawada and Visakhapatnam.

<sup>6</sup> Amalapuram, Bhimavaram, Hyderabad (West), Khammam, Ranga Reddy (East) and Tirupati.

<sup>7</sup> Nizamabad and Ranga Reddy.

<sup>8</sup> Hindupur and Ranga Reddy (East).

#### 4.11 Non-levy of green tax

The Government ordered, vide G.O.Ms.No. 238, Transport, Roads & Buildings (TR.I) dated 23 November 2006, levy of a tax called the “green tax” on the transport vehicles and non-transport vehicles that have completed seven years and 15 years of age respectively from the date of registration. The rate of tax is ₹ 200 per annum for the transport vehicles. In respect of the non-transport vehicles, it is ₹ 250 for every five years in the case of motorcycles and other than motorcycles, it is ₹ 500 for every five years.

We noticed in test check of the records of the five DTCs<sup>9</sup> and seven RTOs<sup>10</sup> (between November 2008 and September 2009) that green tax aggregating to ₹ 70.23 lakh in respect of 7,331 transport vehicles and 18,759 non-transport vehicles that had completed seven years and 15 years of age respectively was not

levied and collected during the period from April 2007 to March 2009.

After we pointed out the above cases, the Department stated (October 2010) that green tax of ₹ 21.24 lakh in respect of 7,340 vehicles was collected. It was further replied in respect of 18,750 vehicles that green tax was being collected whenever the vehicle owners approach their office for any transaction. The reply is not acceptable as the green tax was not collected even after the owners of these vehicles already approached the offices for transactions during the period April 2007 to March 2009.

We referred the matter to the Government in July 2010; their reply has not been received (January 2011).

#### 4.12 Non-realisation of revenue due to non-cancellation and re-notification of special numbers

As per Rule 81(3) of the APMV Rules, 1989 the registering authority may reserve special numbers on payment of the prescribed fee by the owner of the vehicle. Further, as per Rule 81(6) of the APMV Rules, the reservation shall be cancelled if the vehicle is not produced within 15 days from the date of reserving and the number reserved shall be re-notified immediately.

We noticed in test check of the records of the JTC, Khairatabad, two DTCs<sup>11</sup> and three RTOs<sup>12</sup> (between September 2008 and September 2009) that in 1,040 cases, the reservation of the special numbers was not cancelled and the numbers re-notified

<sup>9</sup> Adilabad, Eluru, Medak, Nizamabad and Ranga Reddy.

<sup>10</sup> Anantapur, Hyderabad (West), Mahabubnagar, Mancherial, Nalgonda, Ranga Reddy (East) and Siddipet.

<sup>11</sup> Eluru and Visakhapatnam.

<sup>12</sup> Anantapur, Rajahmundry and Ranga Reddy (East).



though the registration of the vehicle was not done within 15 days from the date of reserving the number. This resulted in non-realisation of revenue of ₹ 63.36 lakh.

After we pointed out the above cases, the Department stated (October 2010) that an amount of ₹ 4.94 lakh had been collected in respect of 81 vehicles and the Departmental software is modified to cancel the reservation after lapse of 15 days from the date of reservation of the number. It was further replied that the Department was also taking steps to evolve a procedure for re-notification of the special numbers. Final reply in respect of the remaining vehicles has not been received.

We referred the matter to the Government between May and July 2010; their reply has not been received (January 2011).

#### **4.13 Non-levy/collection of compounding fee**

Under the provisions of the MV Act, the AA may compound certain offences punishable under the Act by collecting compounding fee in lieu of the penal action as prescribed by the Government. The Government vide G.O.Ms.No.332, Transport, Roads & Buildings (TR.I) Department dated 13 November 2008 prescribed minimum rates of compounding fee for various offences. The checking officers of the Transport Department prepare vehicle check reports (VCRs) on the motor vehicles checked by them and forward these to the regional transport officer for taking Departmental action against the defaulting permit holders/owners of the concerned vehicles. These reports are to be noted in the register of VCR to take necessary action to suspend/cancel the licence/permit or to levy the compounding fee.

We noticed in test check of the VCR registers for the years 2007-08 and 2008-09 of JTC, Khairatabad, four DTCs<sup>13</sup> and seven RTOs<sup>14</sup> (between October 2008 and September 2009) that 615 vehicles were involved in compoundable offences viz., carrying overload, excess passengers etc. In all these cases, neither was any penal action taken nor was compounding fee levied. This resulted in non-realisation of compounding fee of ₹ 24.60 lakh.

After we pointed out the above cases, the Department stated (October 2010) that compounding fee of ₹ 7.72 lakh was collected in respect of 204 vehicles. They further replied that efforts were being made by the district officers to realise the remaining amount.

We referred the matter to the Government in July 2010; their reply has not been received (January 2011).

<sup>13</sup> Adilabad, Kurnool, Ranga Reddy and Vijayawada.

<sup>14</sup> Anantapur, Ibrahimpatnam, Mancheri, Nalgonda, Nandigama, Rajahmundry and Ranga Reddy (East).



#### 5.4 Revenue impact

During the last five years audit had pointed out non/short levy, non/short realisation, loss of revenue, incorrect exemption etc., with revenue implication of ₹ 192.74 crore in 1,999 cases. Of these, the Department/Government had accepted audit observations in 402 cases involving ₹ 12.04 crore and had since recovered ₹ 1.34 crore. The details are shown in the following table:

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	310	294	27.13	71	2.39	23	0.28
2005-06	323	419	68.85	76	0.67	40	0.11
2006-07	302	329	28.33	68	1.33	44	0.25
2007-08	303	449	20.45	61	0.76	29	0.13
2008-09	294	508	47.98	126	6.89	39	0.57
<b>Total</b>	<b>1,532</b>	<b>1,999</b>	<b>192.74</b>	<b>402</b>	<b>12.04</b>	<b>175</b>	<b>1.34</b>

Recovery of ₹ 1.34 crore only against the money value of ₹ 12.04 crore relating to accepted cases during the period 2004-05 to 2008-09 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

#### 5.5 Results of audit

Test check of the records of 276 offices relating to District Registries and Sub Registries during the year 2009-10 revealed under assessment of duties and other irregularities involving ₹ 275.20 crore in 590 cases which fall under the following categories:

Sl. No.	Category	Amount	
		No. of cases	Amount
1.	Misclassification of documents	464	263.23
2.	Short levy of stamp duty and registration fees	50	10.49
3.	Undervaluation of properties	18	0.34
4.	Incorrect exemption of duties	16	0.27
5.	Other irregularities	42	0.87
<b>Total</b>		<b>590</b>	<b>275.20</b>

During the course of the year 2009-10, the Department accepted underassessments and other deficiencies of ₹ 6.45 crore in 63 cases of which, nine cases involving ₹ 4.87 crore were pointed out during the year 2009-10 and the rest in the earlier years. An amount of ₹ 26.94 lakh was realised in 30 cases.

A few illustrative cases involving ₹ 6.24 crore are mentioned in the succeeding paragraphs.

## **5.6 Audit observations**

*During scrutiny of the records in the offices of the District Registries (DRs) and Sub-Registries (SRs) relating to revenue received from stamp duty, transfer duty and registration fees, we noticed several cases of non-observance of the provision of the Acts/Rules resulting in non/short levy of duties and fees as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to consider directing the Department to improve the internal control system including strengthening the internal audit to ensure that such omissions are detected and rectified.*

## **5.7 Incorrect allowance of concessional rate of duties on Deposit of title deeds**

As per G.O.Ms.No.316, Revenue (Registration-I) Dept., dated 14 March 2006, the agreements relating to deposit of title deeds by Small Scale Industries are chargeable with a duty at 0.5 per cent of the amount secured subject to a maximum of ₹ 1,000. The Commissioner and Inspector General of Registration and Stamps, Hyderabad also clarified vide Proc.No. S1/11744/2005 dated 27 February 2008 that the above concession in stamp duty is admissible only when the entrepreneur/loanees produce a certificate from the concerned District Industries Centre to the effect that his/her industry is a Small Scale Industry and that the loan is being availed for the purpose of smooth running of the industry itself and not otherwise.

We noticed in test check of the records of nine SRs<sup>1</sup> in respect of 71 documents registered during 2006-07 to 2008-09 that the registering authorities allowed concessional rate of duty amounting to ₹ 24.46 lakh without production of the prescribed certificates from the District Industries Centres.

We referred the matter to the Department between February and March 2010 and to the Government in July 2010; their reply has not

been received (January 2011).

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<sup>1</sup> Bodhan, Farooqnagar, Huzurabad, Rajendranagar, S.R. Nagar, Suryapet, Tadepalligudem, Uppal and Warangal (Rural).

### 5.8 Short levy of stamp duty and registration fees on documents involving several distinct matters

According to Section 5 of the IS Act, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under the Act.

We noticed (January and July 2009) in test check of the records of DR, Ranga Reddy and two SRs<sup>2</sup> that four documents involving several distinct matters were registered between October 2007 and July

2008. Failure on the part of registering officers to read through the recitals of documents resulted in short levy of stamp duty and registration fees of ₹ 4.21 crore.

(₹ in crore)

Sl. No.	Name of the registering authority	Nature of observation	Market value of document	Duty leviable/ duty levied	Short levy
1.	DR, Ranga Reddy	A document styled as 'sale deed' contained two distinct matters viz., sale of property and partition. Though duties and registration fees were levied on the matter of sale, but these were not levied on the partition of property.	132.92	<u>5.43</u> 1.44	3.99
2.	SR, Kukatpally	Two documents styled as 'development agreement-cum-General Power of Attorney (GPA)' contained two distinct matters viz., one relating to development agreement-cum-GPA between the land owners and developer and the other relating to settlement of terrace rights by the developers to the third party. Though stamp duty was correctly levied on the development agreement-cum-GPA, it was not levied on the settlement of terrace rights.	22.90	<u>0.38</u> 0.23	0.15

<sup>2</sup> Kukatpally and Tandur

(₹ in crore)

Sl. No.	Name of the registering authority	Nature of observation	Market value of document	Duty leviable/ duty levied	Short levy
3.	SR, Tandur	A document styled as 'agreement of sale-cum-Irrevocable GPA' contained two distinct matters viz., release of rights in the property by the consenting parties in favour of the vendors and the vendors entering into agreement of sale-cum-GPA. Stamp duty and registration fees were not levied on the matter of release of rights over the property though it was levied on Agreement of sale-cum-Irrevocable GPA.	5.05	<u>0.08</u> 0.01	0.07
		<b>Total</b>			<b>4.21</b>

After we pointed out the cases, the Government accepted (December 2010) the audit observation in respect of SR, Kukatpally for ₹ 6.85 lakh as against ₹ 15.24 lakh. The Department accepted (May 2010) the audit observation in respect of DR, Ranga Reddy based on the report of a committee constituted for authoritative opinion regarding chargeability of the document. The Department also accepted (March 2010) the audit observation in respect of SR, Tandur. It was further stated that instructions were issued to collect the deficit amount. A report on recovery has not been received (January 2011).

## 5.9 Short levy of stamp duty

Stamp duty payable under Article 6 (B) of Schedule I A of the IS Act, is one *per cent* on the amount of sale consideration or market value of property or estimated market value for land and complete construction made or to be made in accordance with schedule of rates whichever is higher on documents of development agreement/ development agreement-cum-General power of attorney. However, the maximum stamp duty on development agreement is ₹ 20,000. The Government deleted the clause for maximum limit of ₹ 20,000 with effect from 1.4.2008 {G.O.Ms.No. 568 Revenue (Registration-I) Department dated 1 April 2008}.

**5.9.1** We noticed (September and October 2009) in test check of the records of the DR, Ranga Reddy (East) that a document styled as 'development agreement' was registered in June 2008 by the landowners in favour of the developer for assignment of development rights. Stamp duty of ₹ 46.98 lakh at one *per cent* on the market value of the property (₹ 46.98 crore) was

leviable. However, the registering officer levied stamp duty of ₹ 20,000 at the pre-revised rates. This resulted in short levy of stamp duty of ₹ 46.78 lakh.

After we pointed out the case, the Department accepted (June 2010) the audit observation and stated that instructions were issued to the District Registrar, Ranga Reddy (East) to collect the deficit amount. A report on recovery has not been received.

We referred the matter to the Government in May 2010; their reply has not been received (January 2011).

**5.9.2** We noticed (between September and October 2008) in test check of the records of SR, Vallabhnagar, Ranga Reddy district that two documents styled as “development agreements” were executed and registered in March 2008 by the land owners in favour of the developer for development i.e., for constructing residential apartments/flats. The landowners authorised the developer to enter into agreements of sale with prospective buyers of the flats. Hence, these documents were chargeable as development agreement-cum-GPA and were liable to stamp duty of one *per cent*<sup>3</sup> on the market value of land and proposed cost of construction. However, the registering officer levied stamp duty of ₹ 20,000 applicable to development agreement. Misclassification of 'development agreements-cum-GPA' as 'development agreements' resulted in short levy of stamp duty of ₹ 31.79 lakh.

After we pointed out the case, the Government/Department accepted (June and December 2010) the audit observation and stated that instructions were issued to the District Registrar, Ranga Reddy to collect the deficit amount. A report on recovery has not been received (January 2011).

## **5.10 Misclassification of deeds**

**5.10.1** As per Article 41 (B) of the Schedule IA to the IS Act, where immovable property contributed as share by a partner or partners remains with the firm at the time of outgoing in whatever manner by such partner or partners on reconstitution of such partnership, stamp duty is chargeable at five *per cent* on the market value of the immovable property remaining with the firm.

**5.10.1.1** We noticed (May 2009) in test check of records of SR, Ramachandrapuram, East Godavari district that a document styled “retirement -cum-release deed” was executed and registered in July 2008 by the retiring partners

releasing their rights, interest and claims in the firm’s properties. The registering officer levied stamp duty on the market value of ₹ 37.02 lakh being the share paid to the retiring partners instead of five *per cent* on the market value of immovable property of ₹ 3.33 crore remaining with the firm. This resulted in short levy of stamp duty and registration fees of ₹ 16.46 lakh.

After we pointed out the case, the Government accepted (December 2010) the audit observation and stated that instructions were issued to District Registrar, Kakinada to collect the deficit amount.

<sup>3</sup> G.O.Ms.No.1481 Revenue (Registration-I) Department dated 30 November 2007 with effect from 3 December 2007.

**5.10.1.2** We noticed (January 2009) in test check of the records of SR, Nidadavolu, West Godavari district that a document styled 'partition deed' registered in June 2009 contained recitals that one of the three partners retired from the partnership firm and the firm was reconstituted with the remaining two partners. On the retirement, the retiring partner was allotted ₹ 2.27 crore of immovable property as his share. The registering officer levied stamp duty of three *per cent* on market value of property (₹ 2.27 crore) of retiring partner instead of five *per cent* on market value of property (₹ 2.86 crore) remaining with the firm. Misclassification of 'reconstitution of partnership' as 'partition' resulted in short levy of stamp duty and registration fee of ₹ 8.91 lakh.

After we pointed out the case, Department stated (March 2010) that the property was held by the three members of a joint family as joint family property which was incidentally utilised for conducting business and through the subject document only partition of the joint family property was recorded and through separate 'Retirement deed', retirement of one partner was reduced to writing. The reply is not acceptable as recitals of the document reveal that one of the partners retired and the firm was reconstituted with the remaining two partners. Hence, the document is chargeable at five *per cent* on market value of property remaining with the firm.

We referred the matter to the Government in March 2010; their reply has not been received (January 2011).

**5.10.2** According to Article 47-A of Schedule I-A to the IS Act, instruments of sale are chargeable to stamp duty on the amount of value expressed in the instrument or the market value of property, whichever is higher. Besides, transfer duty under the provisions of various Acts of local bodies is also leviable. As per Explanation I under Section 2 (10) of the IS Act, an instrument whereby a co-owner of any property transfers his interest to another co-owner of the property and which is not an instrument of partition, shall, for the purposes of this clause, be deemed to be an instrument by which property is transferred *inter vivos*.

We noticed (between April and May 2009) in test check of the records of DR, Visakhapatnam that a document styled as "Sale agreement" was registered in May 2007 by the vendor transferring and assigning his rights in the company's shares and his representative interest in the property in favour of the purchaser for a consideration of ₹ 1.75 crore. The document contained recitals that after

execution of the document, the vendor ceased to have any rights and interest in the property. Thus, the document was chargeable as "conveyance on sale" with stamp duty and transfer duty of seven *per cent* and two *per cent* respectively on the market value of the property of ₹ 1.77 crore. However, the document was registered with stamp duty of ₹ 20,000 applicable to sale agreement. Misclassification of "conveyance on sale" as "sale agreement" resulted in short levy of duties and registration fee of ₹ 16.64 lakh.



After we pointed out the case, the Government accepted (December 2010) the audit observation and stated that instructions were issued to the District Registrar, Visakhapatnam to collect the deficit amount. A report on recovery has not been received (January 2011).

**5.10.3** As per the explanation below Article 49 (A) (a) Schedule 1-A to the IS Act, 'family' means father, mother, husband, wife, brother, sister, son, daughter and includes grandfather, grandmother, grandchild, adoptive father or mother, adopted son or daughter. Stamp duty is leviable at one *per cent* on the market value of the property on settlement deeds and ₹ 1000 when GPA is executed in favour of a member or members of a family. In any other case, stamp duty is leviable at six *per cent* and one *per cent* on the market value of the property on settlement deeds and GPA documents respectively.

**5.10.3.1** We noticed (January 2009) in test check of the records of SR, Shamshabad, Ranga Reddy district that a settlement deed was executed in March 2007 settling a property in favour of nephew/cousin. The registering officer levied stamp duty of one *per cent* applicable to settlement in favour of family member instead of six *per cent* applicable to settlement deed

executed in favour of other than family members even though 'nephew/cousin' is not included in the term 'family' for the purpose of this article. This resulted in short levy of stamp duty of ₹ 9.69 lakh.

After we pointed out the case (September 2009), the Department accepted (November 2009) the audit observation and stated that the District Registrar, Ranga Reddy was directed to collect the deficit amount of stamp duty.

We referred the matter to the Government in May 2010; their reply has not been received (January 2011).

**5.10.3.2** We noticed (January 2009) in test check of the records of SR, Shamshabad, Ranga Reddy district that a document styled as 'GPA' was registered in February 2008 wherein land owners appointed an individual other than a family member as attorney to deal with the property including sale of property. As the GPA was given to a person other than a family member, the deed is chargeable with stamp duty of one *per cent* on the market value of ₹ 6.23 crore of the property. However, the registering officer levied stamp duty of ₹ 1,000 resulting in short levy of stamp duty of ₹ 6.22 lakh.

After we pointed out the case, the Department accepted (March 2010) the audit observation and stated that instructions were issued to the District Registrar, Ranga Reddy to collect the deficit amount. A report on recovery has not been received (January 2011).

We referred the matter to the Government in March 2010; their reply has not been received (January 2011).

### 5.11 Undervaluation of properties

According to Article 47-A of Schedule 1-A to the IS Act, instruments of sale are chargeable to stamp duty on the amount or value expressed in the instrument or the market value of property, whichever is higher. Besides, transfer duty under the provisions of various Acts of local bodies is also leviable.

Under Article 49-A (a) of Schedule 1-A to IS Act, Gift settlements in favour of family members are chargeable to stamp duty at one *per cent* on the market value of properties.

We noticed (between November 2008 and January 2009) in test check of the records of two<sup>4</sup> SRs that six sale deeds and two gift settlement deeds were registered between May 2007 and January 2008 by adopting agricultural (also called acreage) rate. Our cross verification with the recitals of other sale

deeds of the same survey numbers executed earlier by the same vendors indicated that the property mentioned in the survey numbers was already converted for non-agricultural purposes between September 1999 and 11 January 2008 as indicated in the sale deeds registered between 2002 and 2008 (11.1.2008) and divided into house plots and were sold at house site rates. Therefore house site rate had to be adopted for the purpose of levy of duties. Incorrect adoption of market value resulted in undervaluation of properties and consequential short levy of duties and registration fees of ₹ 24.22 lakh.

After we pointed out the cases, the Government stated (December 2010) in respect of SR, Shamshabad that the survey number in which the property located was huge and even though some of the properties in survey number with small extent were registered at ₹ 1,700 per sq. yard, the other lands are remaining as mere lands without development. And in respect of SR, Champapet that sale deeds are entirely different transactions done under different circumstances and they cannot be linked to sale deeds registered earlier, adopting square yard rate. Market value is to be assessed for the properties in each document separately basing on the recitals of the particular document separately. The replies are not acceptable as the vendors had already divided the land owned by them into plots which was evident from the documents executed earlier by them between 2002 and 2008 (11.1.2008) whereas the transactions in question pertains to the documents registered between May 2007 and January 2008 (17.1.2008/25.1.2008) and thus the properties had already lost their 'agricultural status'. The fact that as some of the plots in the same survey number had been registered as "residential" the SR on registration should have referred the cases to the Collector for valuation.

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<sup>4</sup> Champapet and Shamshabad.

**5.12 Short levy of stamp duty on the document of GPA**

Under Article 42(g) of Schedule I-A to the IS Act, ‘power of attorney’ when given for construction on, development of, or sale or transfer (in any manner whatsoever) of, any immovable property is chargeable to stamp duty at one *per cent* on the market value of the property when the GPA is given in favour of other than family members.

We noticed (January 2009) in test check of the records of SR, Maheshwaram, Ranga Reddy that a document styled as “General Power of Attorney” registered in February 2008 contained recitals to the effect that the

attorney was given power for sale of properties. The document was chargeable with stamp duty of one *per cent* on market value of property. However, stamp duty was levied at lesser rate resulting in short levy of stamp duty and registration fees of ₹11.40 lakh.

After we pointed out the case, Department accepted (February 2010) the audit observation and stated that an amount of ₹ 8 lakh had been collected.

We referred the matter to the Government in May 2010; their reply has not been received (January 2011).

**5.13 Short levy of stamp duty on lease deeds**

As per Article 31(a)(vi)(a) of Schedule I-A to IS Act, where the lease is granted for a period exceeding 30 years, stamp duty at five *per cent* is leviable on the market value of the property or 10 times of the average annual rent whichever is higher. Further, under Article 31 (vi) (c) where the lease is granted for a fine or premium or for money advanced in addition to the rent reserved, stamp duty is leviable at five *per cent* on the market value of the property or the amount or value of such fine or premium or advance whichever is higher in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered.

We noticed (November and December 2008) in test check of the records of SR, Shamirpet, Ranga Reddy district that two lease deeds were registered between June and July 2007 by the lessor in favour of two lessees for 33 years with automatic renewal after 18 years. The lessees had paid a non-refundable premium of ₹ 1.91 crore. As the leases were granted for a term of 33 years for a premium in addition to rent reserved, stamp

duty is leviable at five *per cent* on the amount of such premium and market value of the property. However, registering officer levied stamp duty of five *per cent* on the amount of premium and 10 times average annual rent. This resulted in short levy of stamp duty of ₹ 5.76 lakh.

After we pointed out the case, the Government accepted (December 2010) the audit observation and stated that instructions were issued to the District Registrar, Ranga Reddy (East) to collect the deficit amount. A report on recovery has not been received (January 2011).

#### 6.4 Revenue impact

During the last five years, audit had pointed out non/short levy, incorrect grant of remission, loss of revenue with revenue implication of ₹ 923.66 crore in 627 cases. Of these, the Department/Government had accepted audit observations in 69 cases involving ₹ 77.52 crore and had since recovered ₹ 0.07 crore. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	364	304	41.10	3	0.01	3	0.01
2005-06	64	68	27.82	2	0.02	1	0.01
2006-07	187	110	13.29	2	0.06	3	0.01
2007-08	276	92	730.95	40	76.77	6	0.03
2008-09	180	53	110.50	22	0.66	2	0.01
<b>Total</b>	<b>1071</b>	<b>627</b>	<b>923.66</b>	<b>69</b>	<b>77.52</b>	<b>15</b>	<b>0.07</b>

The insignificant recovery of ₹ 0.07 crore as against the money value of ₹ 77.52 crore relating to accepted cases during the period 2004-05 to 2008-09 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

#### 6.5 Working of internal audit wing

Internal audit provides a reasonable assurance of proper enforcement of laws, rules and Departmental instructions, and this is a vital component of internal control frame work. There was no system of internal audit in the Department to ascertain the compliance of Rules/Government orders by the Department.

**The Government needs to introduce a mechanism for conducting effective internal audit by the Department to ensure the compliance of Rules/Government orders.**

#### 6.6 Results of audit

Test check of the records of 214 offices relating to land revenue receipts revealed under assessment of tax and other irregularities involving ₹ 11.22 crore in 43 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Alienation of government lands, non-recovery of market value	6	8.24
2.	Non/short levy of NALA	11	1.77
3.	Elimination of demand	6	0.55
4.	Non/short levy of road cess	17	0.31
5.	Other irregularities	3	0.35
	<b>Total</b>	<b>43</b>	<b>11.22</b>

During the course of the year 2009-10, the department accepted underassessments and other deficiencies of ₹ 46.22 lakh in 14 cases of which, three cases involving ₹ 16.94 lakh were pointed out during the year 2009-10 and the rest in the earlier years. An amount of ₹ 0.99 lakh was realised in one case.

A few illustrative cases involving ₹ 4.49 crore are mentioned in the succeeding paragraphs.

## 6.7 Audit observations

*During scrutiny of the records in the various offices of land revenue relating to revenue received from land revenue such as conversion fee, road cess etc., we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system so that such omissions can be avoided.*

## 6.8 Non-finalisation of alienation of land

According to the Board Standing Order (BSO), alienation of the Government land to a company, private individual or institution for any public purpose will normally be on the collection of its market value/occupancy price and subject to the terms and conditions prescribed in the BSO. The BSO permits handing over of the possession of the land in emergency cases pending formal approval of the alienation proposal. Neither any time limit nor any return has been prescribed for watching the finalisation of the proposals.

We noticed in test check of the records of offices of Chief Commissioner of Land Administration, Hyderabad and Tahsildar, Gara (June and October 2009) that advance possession of Government land admeasuring 107.96 acres valued at ₹ 3.20 crore was handed over to two<sup>3</sup> organisations between April 2006 and August 2007. The alienation proposals were not finalised even after three/four years of handing

over of possession of these lands. Thus, non-finalisation of alienation proposals resulted in non-realisation of revenue of ₹ 3.20 crore.

After we pointed out the above cases, the Tahsildar, Gara stated (June 2009) that alienation proposals would be sent to the Collector and market value collected. CCLA stated (October 2009) that the information called for would be furnished in due course.

We referred the matter to the Department between September 2009 and January 2011 and to the Government between June 2010 and January 2011; their reply has not been received (January 2011).

**The Government may consider fixing a time limit to finalise the alienation proposals for Government lands.**

<sup>3</sup> Agricultural Market Committee, Srikakulam and Andhra Pradesh Industrial Infrastructure Corporation.

## 6.9 Loss of revenue due to short collection of conversion fee

As per Section 3(1) of AP Agricultural land (conversion for non-agricultural purposes) Act, 2006 (Act), no agricultural land in the State shall be put to non-agricultural purpose, without prior permission of the competent authority. Section 4(1) of the Act, provides that every owner or occupier of agricultural land shall pay a conversion fee at the rate of 10 *per cent* of the basic value of the land converted for non-agricultural purposes. If the conversion fee so paid is found to be less than the fee prescribed, a notice shall be issued by the competent authority to the applicant within 30 days of the receipt of application intimating the deficit amount to him. In case no intimation is received by the applicant from the Department within 30 days about the deficit payment of the conversion fees, it shall be deemed that the amount paid is sufficient for the purpose. Further, under Section 6 (2) of the Act if any agricultural land has been put to non-agricultural purpose without obtaining the permission the competent authority shall impose a fine of 50 *per cent* over and above the conversion fee.

We noticed in the test check of the records of offices of three<sup>4</sup> tahsildars (between June and July 2009) that 10 applicants filed applications for the conversion of 119.38 acres of agricultural land for non-agricultural purpose. The Revenue Divisional Officer (RDO), Srikakulam issued orders converting the land and collected conversion fee by adopting the lesser basic value of the land. Further, the RDO, Palakonda adopted lesser basic value of the land while issuing notice to two other

applicants who had converted 135.35 acres of the agricultural land without obtaining the permission. This resulted in short collection of conversion fee of ₹ 56.61 lakh and penalty of ₹ 26.32 lakh. Further, the chances for realisation of ₹ 82.93 lakh collected short are remote as the limit of 30 days for demanding the deficit amount is already over.

After we pointed out the above cases, the Tahsildar, Ranasthalam stated (June 2009) that demand notices would be issued. Replies in the remaining cases are awaited.

We referred the matter to the Department in September 2009 and to the Government in June 2010; their reply has not been received (January 2011).

<sup>4</sup> Etcherla, Ranasthalam and Santhakavity.



### 6.10 Non/short levy of road cess

Under the AP Irrigation, Utilisation and Command Area Development Act, read with the notifications issued thereunder, road cess at the rate of ₹ 12.35 per hectare per annum is leviable for laying of roads and their upkeep in the command areas of Nagarjunasagar, Sriramsagar and Tungabhadra projects. The Commissioner of Land Revenue clarified in No.Z2/486/88 dated 28 August 1989 that the road cess is leviable on all *ayacutdars* irrespective of the formation of roads and supply of water in their command areas relating to the above projects.

We noticed in the test check of the *jamabandi*<sup>5</sup> records of 11 offices of the tahsildars<sup>6</sup> (between December 2008 and August 2009) that the road cess of ₹ 22.96 lakh was not levied on *ayacutdars*<sup>7</sup> in the command areas of the above projects in seven cases, while it was levied short by ₹ 6.61 lakh in four cases during the period 1 July 1997 to 30 June

2007 (*fasli*<sup>8</sup> years 1407 to 1416). This resulted in non/short levy of road cess of ₹ 29.57 lakh.

After we pointed out the above cases, the Tahsildar, Morthad stated (June 2009) that the matter would be examined and remaining tahsildars stated (between December 2008 and August 2009) that action would be taken to collect the road cess.

We referred the matter to the Department between April and December 2009 and to the Government in April 2010; their reply has not been received (January 2011).

### 6.11 Failure to detect short demand of tax

Article 8 of AP Financial Code Vol. I, stipulates that every departmental controlling officer should watch closely the progress of realisation of the revenues under his control and check the recoveries made against the demand.

We noticed in test check of the *jamabandi* records and DCB statements of the Tahsildar, Polaki, Srikakulam District (between June and July 2009) that while carrying forward the opening balance of demands for the *fasli* years 1413 and 1416

an amount of ₹ 11.79 lakh was omitted. Further, the demand of ₹ 36.43 lakh fixed by the *Jamabandi* officer for the *fasli* years 1412 to 1416 was incorrectly taken to DCB as ₹ 32.04 lakh resulting in short demand of tax of ₹ 4.39 lakh. These were neither detected by the Tahsildar nor by the *Jamabandi* officer. This resulted in short realisation of revenue of ₹ 16.18 lakh.

<sup>5</sup> *Jamabandi* means finalisation of village accounts and demand.

<sup>6</sup> Dachepally, Gurazala, Ipur, Julapally, Morthad, Mutharam, Nadendla, Proddatur, Rentachintala, Shayampet and Srirampur.

<sup>7</sup> Land owners in command areas of irrigation projects.

<sup>8</sup> *Fasli year* means period of 12 months from July to June.

After we pointed out the above case, the Department accepted (June 2010) the audit observation and stated that omitted demand had been included and fixed as arrear demand for *fasli* year 1417.

We referred the matter to the Government in June 2010; their reply has not been received (January 2011).

## CHAPTER VII NON-TAX RECEIPTS

### 7.1 Results of audit

Test check of the records of 117 offices of the following Departments during the year 2009-10 revealed under assessment of tax and other irregularities involving ₹ 1,094.89 crore in 157 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
<b>I</b>	<b>FINANCE DEPARTMENT</b>		
1.	Interest receipts on loans sanctioned by the State Government (A review)	1	976.82
<b>II</b>	<b>REVENUE AND TRANSPORT, ROADS AND BUILDINGS DEPARTMENTS</b>		
1.	Non-levy and collection of profession tax	54	30.37
<b>III</b>	<b>REVENUE DEPARTMENT (Commercial Taxes)</b>		
	<b>A. Entertainment tax and Betting tax</b>		
1.	Short collection of security deposit	4	0.06
2.	Non/short levy of entertainment tax	7	0.01
	<b>B. Land Revenue</b>		
1.	Non/short levy of water tax	9	1.85
2.	Incorrect grant of remission of water tax	12	1.50
3.	Non-levy of interest on arrears of land revenue	26	0.83
<b>IV</b>	<b>INDUSTRIES AND COMMERCE DEPARTMENT Mines and Minerals</b>		
1.	Short levy of royalty	11	68.83
2.	Non-levy of interest	6	3.74
3.	Non-levy of dead rent/seigniorage fee	10	2.07
4.	Short levy of annual licence fee	1	2.03
5.	Short recovery of seigniorage fee	4	1.60
6.	Other irregularities	11	3.36
<b>V</b>	<b>FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT</b>		
1.	Non-remittance of sale proceeds	1	1.82
<b>Total</b>		<b>157</b>	<b>1094.89</b>

During the course of the year 2009-10, the Department accepted underassessments and other deficiencies of ₹ 1,020.81 crore in 44 cases of which, eight cases involving ₹ 1,017.67 crore were pointed out during the year 2009-10 and the rest in the earlier years. An amount of ₹ 8.32 lakh was realised in nine cases.

A few illustrative cases involving ₹ 72.20 crore and a performance audit review on “**Interest Receipts on loans sanctioned by the State Government**” involving ₹ 976.82 crore are mentioned in the succeeding paragraphs.

## 7.2 INTEREST RECEIPTS ON LOANS SANCTIONED BY THE STATE GOVERNMENT

### Highlights

- Sanctioning of loans by Government without specifying the terms of repayment and interest resulted in non-realisation of interest of ₹ 76.29 crore.

(Paragraph 7.2.7.1)

- Due to lack of internal controls and monitoring, interest of ₹ 306.06 crore cannot be recovered from many units which were reeling under sickness.

(Paragraph 7.2.7.2 (i))

- Lack of internal control and monitoring mechanism to record and watch the recovery of loans outstanding and interest due from AP State Housing Corporation resulted in non-levy of interest of ₹ 586.98 crore.

(Paragraph 7.2.7.2 (ii))

- Interest of ₹ 6.56 crore was not levied on unutilised loans, sanctioned to two State Corporations.

{Paragraph 7.2.7.3 (i & ii)}

- Provisions of the AP State Financial Code are not adequate enough to safeguard the interest receipts of the Government.

(Paragraph 7.2.8)

### 7.2.1 Introduction

Interest Receipts constituted 36 *per cent* of the non-tax revenue of the State Government in 2008-09. This comprises interest recovered on loans and advances granted to various public sector undertakings, local bodies, Co-operative Societies etc., and individuals, including state government employees. Loans sanctioned carry different rates of interest and are required to be recovered within the stipulated periods along with interest. This review covers the loans sanctioned to organisations other than private individuals.

As per the system in place loanee organisations submit their proposals for grant of loans and advances to the concerned Head of the Department who process them with the concurrence of the budget wing and recommend the cases to the Finance Department for release of funds.

The Assistant Secretary to the Government, Finance Department is the Drawing and Disbursing Officer for all loans sanctioned by the Government to various companies/corporations/organisations. He is also in charge of the Debt

Monitoring Cell (DMC), which maintains the records related to sanction and recovery of loan amounts.

### 7.2.2 Audit Scope and Methodology

Audit scrutiny undertaken between October 2009 and March 2010 involved examination of records of Finance Department and loanee organisations in respect of the loans sanctioned between 2004-05 and 2008-09. The loans pertained to 24 units (covering 11 Departments<sup>1</sup> which sanctioned loans to 14 loanee organisations<sup>2</sup>) selected out of a total population of 64 Account Heads units through ‘stratified random sampling’ using IDEA package. Details are as under:

(₹ in crore)					
Total loan heads	Selected sample size	Total No. of organisations	Sample size	Total value of loans	Value of sample size
64	24 (37.5%)	40	14 (35%)	9404.39	5849.81 (62.17%)

### 7.2.3 Audit criteria

The audit objectives were bench marked against the following criteria.

- Provisions of Andhra Pradesh Financial Code.
- Instructions contained in the loan/sanction orders.

### 7.2.4 Acknowledgement

We acknowledge the assistance extended by Finance Department in providing the necessary instructions and records to Audit. An ‘Entry conference’ was held in December 2009 with the Special Chief Secretary to the Government, Finance Department and other Departmental officers in which the objectives of the review and audit methodology were explained. The review report was forwarded to the Finance Department in June 2010. The review was discussed in the Exit conference held in November 2010. The Special Chief Secretary to Government and Secretary to Government represented the Finance Department. The Finance Department accepted all the audit recommendations.

<sup>1</sup> Agriculture & Co-operation, Animal Husbandry Dairy Development & Fisheries, Education, Sports Art & Culture, Energy, Home Department, Housing, Industries & Commerce, Irrigation & Command Area Development, Medical & Public Health and Road Transport & Buildings.

<sup>2</sup> AP State Housing Corporation, AP Transo, AP State Dairy Development Corporation, AP State Industrial Infrastructure Corporation, AP Oil Federation, AP State Marketing Federation, AP State Seeds Development Corporation, A.P. State Road Transport Corporation, AP State Road Development Corporation, AP State Police Housing Corporation, AP State Medical & Health Housing Corporation, AP State Irrigation Development Corporation, Commissioner for Handlooms and Textiles and Sports Authority of Andhra Pradesh.

This bifurcation of functions between two authorities for sanctioning and releasing of loan amounts has led to various loopholes at various places resulting in leakage of revenue. These aspects have been elucidated in the following paragraphs.

#### 7.2.7.1 Sanction of loans without finalising terms of payment

Sanction orders issued by the concerned Departments were not being vetted by the DMC which is vested with the responsibility of watching the collection, repayments of principal and interest. Further, there was no standard proforma (as followed by Karnataka a neighbouring State) adherence to which is binding on the sanctioning authorities. Audit scrutiny revealed that in 38.64 *per cent* of loans sanctioned, there was no provision about chargeability of interest/penal interest in the sanction orders. Absence of a system to monitor fixation of interest, terms and conditions resulted in non-realisation of interest of ₹ 76.29 crore between 2003-04 and 2008-09 as detailed under:

Sl. No.	Sanctioning Authority	Loanee organisation	Disbursing authority	Period of interest	No. of loans	Remarks
1.	Youth Advancement Tourism and Culture (Sports)	Sports Authority of Andhra Pradesh (SAAP)	Assistant Secretary to Government (Finance & Planning) wing	2003-04 to 2004-05	7	Loan orders did not contain the terms and conditions such as rate of interest, period of repayment, moratorium if any and penal interest for default of repayment. <b>Neither the sanctioning authority nor the Finance Dept., which vetted and concurred with the loan proposals had ensured that the terms of repayment and interest provisions were incorporated in the sanction orders.</b> This resulted in non-realisation of loan amount of ₹ 149.88 crore and interest of ₹ 51.42 crore <sup>3</sup> for the period from 27.4.2003 to 31.3.2009.
2.	Health, Medical & Family Welfare Department	AP Health and Medical Housing Infrastructure Development Corporation	-do-	2005-06 to 2008-09	9	The loan orders did not contain terms and conditions such as repayment schedule, rate of interest etc., for grant of loan. Consequently, the demand for interest of ₹ 24.87 crore was neither worked out nor raised by the Government.

<sup>3</sup> Calculation based on the borrowing rate of interest fixed by the Government from time to time.

In reply, the Vice Chairman and Managing Director of SAAP in January 2010 stated that the loans sanctioned by the Government were interest free loans and no conditions regarding repayment of the principal and interest were stipulated in the relevant sanction orders. It was further stated that no demand was received from the Finance Department either in this regard. The reply of the SAAP thus supports our observation that absence of terms and conditions led to non-realisation of principal and interest amounting to ₹ 149.88 crore and ₹ 51.42 crore respectively. Further, if the loans were 'interest free' as is being contended now by the SAAP, the sanction orders should have clearly mentioned so.

The Finance Department had stated in November 2010 that a review is being taken up to sort out these issues and steps were being taken to recover the amount.

The AP Health Medical Housing Infrastructure Development Corporation in their reply stated that they did not avail any loan from the Government, but received grants for repayment of loans to HUDCO taken by the Government for construction of medical buildings. The Finance Department stated in November 2010 that the Government had sanctioned loans for creation of capital assets and the loans would be converted as capital asset soon after transfer of the same to Government. The reply is not acceptable as the funds sanctioned were booked under Loan Head of Account and as such the sanction orders should have clearly specified the modalities of repayment and interest liability. Further, the Government in Finance Department has not clarified the reasons for routing the repayment of loans taken by them from HUDCO, through the Corporation.

**For better management of repayment of loans and interest due thereon, the sanction orders should cover all the terms and conditions for repayment of principal and interest. This may be ensured by:**

- i) issuing a proforma for sanction of loans which covers the details like repayment schedule with dates, rate of interest, period of loan, penal interest etc; and**
- ii) release of loan amount by the disbursing authority only when all the terms and conditions regarding principal and interest are clearly laid down in the sanction order.**

#### **7.2.7.2 Lack of internal control and monitoring mechanism**

As per the Government order issued in February 1996<sup>4</sup>, in order to have better control and monitoring of Loans and Guarantees, the Assistant Secretary to the Government, Finance and Planning (Finance Wing-BG.II) Department shall for all loans sanctioned by the Government maintain a suitable loan and recovery ledger to watch the dues.

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<sup>4</sup> G.O.Ms.No.22, Finance & Planning (Finance wing BG-II) Department dated 01.02.1996.



With a view to ascertain whether all dues on account of interest and loan repayment are being watched by the Government Audit cross-checked the details recorded by the loanee organisations/corporations for the period 2004-05 to 2008-09 with the particulars recorded in the ledgers maintained by the DMC. Results of the scrutiny revealed the following:

- i) Out of the loans sanctioned which had clear terms and conditions, only 50 *per cent* were being repaid (principal and interest) as per the terms and conditions. In the remaining cases, interest was not being remitted to the Government account. Interest and penal interest dues amounting to ₹ 306.06 crore is leviable in respect of 27 loans as on March 2009. These organisations had also defaulted on the repayment schedule of principal amount to a tune of ₹ 1,356.23 crore as detailed in the following table:

(₹ in crore)

Sl. No.	Name of loanee organisation/corporation	Rate of interest	Period of loans	No. of loans	Amount	
					Principal	Interest
1	AP Dairy Development Co-operative (APDDC) Federation Ltd.	15 %	15.03.07 to 1.03.09	3	16.80	4.83
2	AP State Housing Corporation (APSHC)	Penal interest of one & half times of 10%	24.07.07 to 31.03.09	7	1301.67	261.70
3	AP OILFED	15%	02.09.03 to 31.03.09	3	2.99	2.50
4	AP State Irrigation Development Corporation (APSIDC)	15%	08.09.04 to 31.03.09	14	34.77	37.03
<b>Total</b>				<b>27</b>	<b>1356.23</b>	<b>306.06</b>

The Debt Monitoring Cell (DMC), however, did not have any record of these dues in their loan ledgers and therefore they were not aware of these outstanding dues already stated.

Thus, due to inadequate and unreliable loan and interest records, the reliability of their internal control and recovery mechanism stands compromised and is thus unreliable.

The Finance Department stated in November 2010 that loan was provided mainly towards VRS payments, promotions of dairy activities to APDDC and creation of capital assets to APSIDC and other purposes. It was further stated that the recovery of loan would be very difficult from these sick units.

- ii) The Government sanctioned a loan amounting to ₹ 1,312.37 crore to APSHC for the period from 1994-95 to 2000-01, for execution of various housing programmes and for repayment of loan/interest to financial institutions such as HUDCO, Banks etc. These sanction orders contained all terms and conditions such as rate of interest, repayment schedule of loans etc.

APSHC had made the following provision, as shown in the following table, under the head 'liabilities' in their annual accounts as interest dues on the loans sanctioned by the Government prior to 2004-05.

(₹ in crore)	
Year	Interest provided for
2004-05	173.33
2005-06	198.52
2006-07	215.13
<b>Total</b>	<b>586.98</b>

However, the Corporation did not remit the interest into the Government Account and the DMC also was ignorant about the dues and did not demand the same leading to default by the APSHC.

Thus, due to absence of a system to watch the dues, the interest of ₹ 586.98 crore was neither demanded by the Government nor paid by the Corporation till the end of March 2009. Further, the Government had also not prescribed any return from the loanee organisation regarding the details of repayment of instalments and interest thereon.

The Finance Department replied (November 2010) that the Corporation would be asked to remit the interest amount.

- iii) The Government had sanctioned loans to Andhra Pradesh Transmission Corporation (APTRANSCO) through a series of orders specifying the terms and conditions such as rate of interest, period of repayment, rate of instalments, etc., during the years 2004-05 and 2005-06. It was noticed from the ledger and annual accounts maintained by APTRANSCO that the loanee organisation had paid interest at lower rates than the rates specified in the sanction orders which resulted in short payment of interest of ₹ 53.19 lakh in respect of six loans as under:

(₹ in lakh)							
Sl. No.	G.O.Ms.No. & date	Amount outstanding	Rate of interest	Period	Interest to be paid	Interest paid	Short payment
1	G.O.Ms.No.122, Energy (Power. III) Department, dt.23.10.2003	893.46	12%	01.04.04 to 30.09.04	53.75	49.27	4.48
2	G.O.Ms.No.131, Energy (Power. III) Department, dt.22.11.2003	682.47	12%	01.04.04 to 30.09.04	41.06	37.64	3.42
3	G.O.Ms.No.137, Energy (Power. III) Department, dt.08.12.2003	2,500.00	12%	01.04.04 to 30.09.04	150.41	137.88	12.53
4	G.O.Ms.No.03, Energy (Power. III) Department, dt.03.11.2004	9.90	12%	01.04.04 to 30.09.04	0.60	0.55	0.05

(₹ in lakh)

Sl. No.	G.O.Ms.No. & date	Amount outstanding	Rate of interest	Period	Interest to be paid	Interest paid	Short payment
5	G.O.Ms.No.24, Energy (Power. III) Department, dt.03.02.2004	5,000.00	12%	01.04.04 to 30.09.04	300.82	276.75	24.07
6	G.O.Ms.No.9, Energy (Power. III) Department, dt.01.02.2005	910.89	11%	01.04.05 to 22.12.05	63.36	54.72	8.64
	<b>Total</b>	<b>9,996.72</b>			<b>610.00</b>	<b>556.81</b>	<b>53.19</b>

Thus absence of procedure to watch the dues and actual interest amount paid by the loanee, resulted in loss of interest of ₹ 53.19 lakh.

The observation was communicated to Government in March 2010 and the Finance Department stated in November 2010 that short levy of interest would be recovered from the power subsidy to be released to AP Transco.

**The Government may ensure proper maintenance of records to monitor recoveries and balances due from loanee organisations.**

#### 7.2.7.3 Non-levy of interest on unutilised loans

The Government sanctioned loans to two corporations, which remained unutilised and repaid subsequently but interest at prescribed rates leviable on the same was not levied. The details are as under:

- i) A loan of ₹ 598.83 lakh carrying interest at the rate of 15 *per cent* was sanctioned to M/s Andhra Pradesh State Irrigation Development Corporation (APSIDC) in three loan orders between 16.03.2003 and 18.03.2004 towards implementation of Voluntary Retirement Scheme (VRS) of their employees. The amount, however, remained unutilised and surrendered to the Government after a lapse of considerable time. No interest was levied for the period for which the amount remained unutilised with the Department. This resulted in non-levy of interest of ₹ 102.77 lakh as shown in the following table:

(₹ in lakh)

Sl. No.	G.O No. & Date	Amount of loan sanctioned	Rate of interest	Date of repayment	Period for which interest to be levied	Non-levy of interest
1	G.O.Ms.No.36, Public Enterprise-II Dept., dt.16.06.2003	12.75 (out of which ₹ 0.98 already paid)	15%	25.01.06	17.06.2003 to 24.01.2006	0.38
2	G.O.Ms.No.1, Public Enterprise-II Dept., dt.20.01.2004	583.76	15%	11.03.05	21.01.2004 to 10.03.2005	98.60
3	G.O.Ms.No.10, Public Enterprise-II Dept., dt.18.03.2004	11.08	15%	18.03.06	19.03.2004 to 17.03.2006	3.79
	<b>Total</b>	<b>598.83</b>				<b>102.77</b>

When the observation was communicated to the Government (March 2010), the Finance Department stated (November 2010) that the loan was sanctioned with indication that the first charge in the assets are vested with Government. It was further stated that even after disposing the assets, the loan could not be recovered due to various factors. The reply is not acceptable since the loan was sanctioned and disbursed without proper assessment of the requirement on part of the Corporation and the sanction order did not specify the terms of repayment/interest.

ii) The Government<sup>5</sup> accorded sanction of loan for ₹ 100 crore as interest free loan to M/s Andhra Pradesh Industrial Infrastructure Corporation (APIIC) (March 2005) towards compensation against acquisition of land for establishment of special economic zone between Rambilli and Atchutapuram Mandals of Visakhapatnam District, subject to the condition that the loan should be refunded to the Government within 25 days positively. The Government released (March 2005) the loan of ₹ 100 crore by crediting (March 2005) the same to the current account of APIIC.

The APIIC paid an amount of ₹ 30.27 crore to Duncan and Mc Neil Group (DMG) during 1998, which had to be paid by the Government. After adjusting this, the balance amount of ₹ 69.73 crore was to be refunded to the Government.

It was observed from the loan records of M/s APIIC that the balance amount of ₹ 69.73 crore was not repaid to the Government within the specified time period of 25 days but paid subsequently with a delay ranging between 17 days and 278 days as detailed below:

(₹ in crore)						
Date on which loan amount falls due	Amount payable	Amount paid	Date of payment	Period of delay	No. of days delayed	Amount of interest to be levied
30.05.2005	69.73	25.00	04.01.2006	30.05.2005 to 03.01.2006	278	5.05
	44.73	25.00	21.01.2006	04.01.2006 to 20.01.2006	17	0.20
	19.73	19.73	18.03.2006	21.01.2006 to 17.03.2006	55	0.28
<b>Total</b>		<b>69.73</b>				<b>5.53</b>

The terms and conditions in case of non-repayment of the loan amount within 25 days were not specified in the G.O. The APIIC would have been liable to pay interest on loan beyond 25 days from the date of sanction to the date of final repayment of the loan. The interest calculated at the borrowing rate of 9.50 per cent<sup>6</sup> per annum works out to ₹ 5.53 crore.

The Finance Department did not, however, demand and collect the penal interest leviable on APIIC. Thus, the Government had foregone an amount of ₹ 5.53 crore towards interest on loan given to APIIC.

<sup>5</sup> G.O.Ms.No.69, Industries and Commerce (INF) Department dated 05.03.2005.

<sup>6</sup> G.O.Ms.No.273 Finance (W&M) Department, dated 20.09.2006.

The observation was communicated to the Government in March 2010 and the Finance Department stated in November 2010 that the position would be reviewed with the Corporation and necessary steps initiated to recover the amount.

**Government may ensure specific provision in all sanction orders for levy of penal interest on over due instalments of principal and interest which may act as deterrent for delayed payment of dues.**

### 7.2.8 Inadequate provisions

Adequate provisions safeguard the financial interest of the State through appropriate terms and conditions and maintenance of records. A scrutiny of the provisions contained in the AP Financial Code (APFC) with regard to management of interest receipts reveal that they are inadequate to safeguard all the stages of revenue collection. Further, comparison of these provisions with those followed by Karnataka, a neighbouring state, indicates a need for supplementing APFC provisions. The details are as under:

Sl. No.	Key area	Risk associated with the key area	Provision in the	
			Karnataka Financial Code	Andhra Pradesh Financial Code
1	Existence of Terms and Conditions	1. Loanee postponing the repayment or not repaying it at all. 2. Variation between the estimates and actuals. 3. Failure to raise the demand for repayment and interest accrued thereon.	Provision regarding schedule for repayment of instalments and a proforma has been prescribed for sanction orders (Art.187).	No proforma was prescribed for sanction orders
2	Provision for Penal interest	1. No deterrence in case of default. 2. Unable to recover the penal interest incase of default.	Interest @ 4% per annum above the ordinary rate of interest applicable shall be leviable on over due instalment of principal and interest (Art.193).	Rate of penal interest not prescribed
3	Stipulation regarding Maintenance of Records	1. Lack of information regarding the dues on account of principal and interest. 2. Misappropriation of loan amount or purposes other than for which it was sanctioned. 3. Short payment of Principal/ interest/penal interest, if any. 4. Failure to raise demand for interest.	Each sanctioning authority is responsible for maintaining the detailed accounts of registers and to watch the receipt and dispatch the utilisation certificate { Art.187 (A) (ii to iv)}.	Not stipulated
4	Provision for reconciliation of balances with the books of Accountant General (AG)	1. Flaws in budgeting process. 2. Lack of clarity on financial position.	The Departmental authority will be solely responsible for reconciliation with the balances in books of the AG. (Art.199)	Not stipulated. However, a Government order was issued to this effect.

The Finance Department stated in November 2010 that a review is being undertaken separately on feasibility to incorporate the said provisions in APFC.

**In view of the above, it is recommended that the APFC provisions are revisited for a review and supplementing them suitably to safeguard the interest of the State.**

## **Internal Control**

### **7.2.9. Internal audit**

Government constituted (November 2003) state level Audit Committee and Internal Audit Wing at Secretariat level in Finance Department with one Joint Secretary/Deputy Secretary, three Deputy Directors/Asst. Directors from Treasuries/PAO(PW)/State Audit. The Internal Audit Wing at Secretariat comprises a section consisting of one Section Officer, two Assistant Section Officers (ASO), and four Data Processing Officers. A Chartered Accountant was also appointed by CGG<sup>7</sup> on tenure basis for strengthening the Internal Audit as a mechanism for monitoring and evaluation of internal controls. Secretary (FP) is the Head of Internal Audit Wing, Government ordered (July 2004) for renaming the Central Checking Cells functioning in District Treasuries as Internal Audit Cells.

Except the checking of pay fixation in the revised pay scales, 2005, the Internal Audit Wing of the Finance Department did not conduct the internal audit of either any wing within the Finance Department or any Directorate of the Finance Department. In the Directorates also Internal Audit Wings were not existing. In absence of internal audit, the reliability of the records maintained by the DMC stood jeopardized as already pointed out by audit in the preceding paragraphs.

The Finance Department stated in November 2010 that the internal audit would be strengthened to comply with the rules/Government orders.

### **7.2.10 Non-maintenance of loan figures**

Government issued orders<sup>8</sup> in June 1969 making mandatory for the Departmental officers to maintain a detailed account of loans and advances sanctioned by the Government irrespective of whether the Accountant General is maintaining the accounts of loans. The compilation of Departmental loan accounts as well as the reconciliation of the Departmental figures with those of the Accountant General in respect of the loans and advances sanctioned by the Government would be the responsibility of the Departmental officers.

In order to have better control and monitoring of loans, Government in February 1996 ordered<sup>9</sup> that the Assistant Secretary to Government (Finance wing) shall be the Drawing and Disbursing Officer for all loans sanctioned by

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<sup>7</sup> Centre for Good Governance.

<sup>8</sup> G.O.Ms.No.164, Finance & Planning (Finance wing BG-II) Department dt. June 1969.

<sup>9</sup> G.O.Ms.No.22 Finance & Planning (Finance wing BG-II) Department dt. 1.2.1996.

the Government to various companies/organisations. He should, therefore, maintain suitable loan and recovery ledger (DCB) for watching the loan amount as well as interest.

Audit, however, noticed in March 2010 that the Finance Department is only maintaining the loan ledgers in respect of loans sanctioned by the Government but not Demand Collection and Balance (DCB) register for watching the principal as well as interest accrued thereon. Due to not maintenance of DCB, the Government is not in a position to know the exact amount of principal and interest due from various corporations/organisations.

The Finance Department stated in November 2010 that an attempt would be made to build the records as ordered in the above Government orders.

As seen from the Finance Accounts for the year 2008-09, ₹ 18,513.25 crore (Principal – ₹ 13,891.11 crore and interest ₹ 4,622.13 crore) is outstanding at the end of March 2009 under various heads of accounts as detailed in the following table:

(₹ in lakh)		
Head of Account	Principal	Interest
6215- Loans for Water Supply and Sanitation	374.14	98.49
6216- Loans for Housing	8,093.81	1,035.44
6217- Loans for Urban Development	80.78	37.45
3220- Loans for Information and Publicity	45.10	10.08
3225- Loans for Welfare of SCs, STs and OBCs	857.44	2,031.22
6245- Loans for Relief on Account of Natural Calamities	27.01	18.29
6404- Loans for Dairy Development	50.73	10.77
6405- Loans for Fisheries	25.50	4.66
6801- Loans for Power Projects	3,641.77	1,056.05
6851- Loans for Village and Small Industries	82.25	21.42
6855- Loans for Fertilizer Industries	6.20	3.66
6858- Loans for Engineering Industries	146.90	175.92
6859- Loans for Telecommunications & Electronic Industries	0.03	0.07
6860- Loans for Consumer Industries	201.64	50.21
6875- Loans for Other Industries	223.31	63.03
6885- Other Loans for Industries and Minerals	34.16	4.74
7465- Loans for General Financial and Trading Institutions	0.35	0.63
<b>Total</b>	<b>13,891.11</b>	<b>4,622.13</b>

Non-maintenance of basic records such as broad sheets/DCB registers and non-reconciliation of loan amounts and interest accrued thereon with those of figures booked in the records of the Accountant General rendered internal control and monitoring mechanisms ineffective.

The Finance Department accepted (November 2010) that due to lack of co-operation of other Head of Departments and various other reasons, the reconciliation work was held up. It was further stated that the corporations concerned would be addressed afresh again in the matter to rectify the defects in ledgers.

**The Government may ensure proper maintenance of required records and enforce monthly reconciliation of figures with the Accountant General so as to ensure accurate depiction of amounts due on account of principal and interest thereon.**

### **Compliance deficiencies**

#### **7.2.11 Short adjustment of interest**

The Government in October 2005<sup>10</sup> sanctioned of ₹ 2 crore for advancing loan to M/s AP Dairy Development Co-operative Federation Ltd subject to the condition that the loan should be repaid/refunded to the Government Account by 31.03.2006.

The Government further sanctioned a loan of ₹ 13.28 crore (July 2007) to the Corporation. The loan amount of ₹ two crore and interest of ₹ 13.88 lakh accrued upto 31.03.2006 only was adjusted in July 2007<sup>11</sup> and the balance amount of loan was paid to the loanee organisation.

It was noticed that the accrued interest on the loan amount worked out to ₹ 53.41 lakh for the period from 15.10.2006 to 25.07.2007 calculated at the rate of 15 *per cent* per annum. This resulted in loss of interest due to short adjustment of interest of ₹ 39.54 lakh.

When the observation was communicated to Government in March 2010 and the Finance Department in November 2010 it was stated that the matter would be examined with APDDC for payment of balance amount of interest.

#### **7.2.12 Conclusion**

There was no system in place to ensure that loans were sanctioned with terms of repayment and interest provisions. Demand for repayment of principal and recovery of interest accrued thereon was not raised in a number of cases due to lack of monitoring/non-maintenance of proper records by Debt Monitoring Cell (DMC). Moreover, issue of defective sanctions resulted in loss of interest to the Government. The provisions of the APFC were inadequate and fraught with the risk of leakage of revenue if not revised immediately. Lack of internal control in the Department led to deficiencies like non-realisation of interest on loans.

#### **7.2.13 Recommendations**

The Government may consider implementation of the following recommendations to rectify the system and compliance issues:

- *streamline the budgeting process to make it more realistic;*

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<sup>10</sup> G.O.Ms.No.485, Animal Husbandry Dairy Development & Fisheries (Dairy-I) Department dated 08.10.2005.

<sup>11</sup> G.O.Rt.No.344, Animal Husbandry Dairy Development & Fisheries (Dairy-I) Department dated 25.07.2007.



- *review the provisions of APFC for identifying the inadequacies and supplementing the same to safeguard all the stages of interest levy and collection;*
- *in respect of the loans taken by the Government the repayment of principal and interest may be done directly to the lenders and not through the Government Corporations;*
- *ensure maintenance of records to monitor recoveries and balances due from loanees;*
- *make loan management better through*
  - i. issuing a proforma for sanction of loans, which covers the details like repayment schedule with dates, rate of interest, period of loan, penal interest etc.;*
  - ii. releasing loan amount only when all the terms and conditions regarding principal and interest are clearly laid down; and*
- *include a specific provision in all sanction orders for levy of penal interest in case of default.*

### **7.3 Other audit observations**

*During scrutiny of the records in the offices of Revenue, Transport, Roads and Buildings, Industries and Commerce, Energy and Food, Civil Supplies and Consumer Affairs Departments relating to revenue received from professions tax, royalty and cess, seigniorage fee, water tax we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to consider directing the Departments to improve the internal control system including strengthening the internal audit so that such omissions can be avoided, detected and corrected.*

## INDUSTRIES AND COMMERCE DEPARTMENT

### Mines and Minerals

#### 7.4 Short realisation of royalty due to incorrect depiction of receipts

Article 8 of Andhra Pradesh (AP) Financial Code Vol. I, stipulates that every Departmental controlling officer should watch closely the progress of realisation of the revenues under his control and check the recoveries made against the demand. Further, as per paragraph 16.9 of the manual of the Department of Mines and Geology, the Assistant Director of Mines and Geology (ADMG) has to enter the assessment finalised in a register called “Demand, Collection and Balance (DCB) Register” in the proforma given in Appendices 104 and 105. According to Rule 64-A of the Mineral Concession (MC) Rules, 1960 interest is payable at the rate of 24 *per cent* per annum for the royalty due to the Government.

We noticed (August 2009) in test check of the records of the office of the Director of Mines and Geology (DMG), Hyderabad that the Department had finalised the mineral revenue assessment of a company<sup>12</sup> for the year 2001-02 and raised demand of ₹ 335.09 crore. The company had paid ₹ 258.10 crore against the demand. But, while preparing the DCB statement, the collection of ₹ 258.10 crore was shown as ₹ 282.65 crore.

With the result the balance of royalty payable by the company was depicted in the accounts as ₹ 52.44 crore instead of ₹ 76.99 crore. This resulted in short realisation of royalty of ₹ 24.55 crore and interest of ₹ 35.35 crore for the years 2002-03 to 2007-08.

After we pointed out the case (July 2010), the Government accepted (October 2010) the audit observation and stated that the mineral revenue assessment was revised and correct demand raised against the company.

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<sup>12</sup> M/s Singareni Collieries Company (SCC) Limited.

**7.5 Loss of revenue due to adoption of incorrect rate of interest**

The Mines Department of the State Government is authorised to collect royalty, interest etc., on the major minerals. Levy of royalty or any charges including interest on major minerals is governed by the Union Act of Mines and Minerals (Regulation and Development) Act, 1957 and MC Rules. Any change to the provisions of the Act is to be empowered through Union legislation. The State Government has no jurisdiction to relax the rate of interest under the head 'charges' of the Act. Further, according to Rule 64-A of the MC Rules, interest is payable at the rate of 24 *per cent* per annum for the royalty due to the Government from the 60<sup>th</sup> day of the expiry of the date fixed by the Government for payment.

We noticed (August 2009) in test check of the records of the office of the DMG, Hyderabad that interest of ₹ 5.13 crore was levied and demanded on the royalty of ₹ 42.72 crore payable by M/s SCC Limited for the year 2007-08 at the rate of 12 *per cent* instead of 24 *per cent* per annum prescribed in the rules. The lesser

rate of 12 *per cent* was adopted as per a memo<sup>13</sup> issued by the State Government wherein it was ordered to charge interest at 12 *per cent* on belated payment of royalty payable by M/s SCC Limited. The State Government has no jurisdiction to reduce the rate prescribed under the head charges of the Act. Incorrect adoption of rate of interest has resulted in loss of revenue of ₹ 5.13 crore towards interest.

After we pointed out the case, the DDMG, Warangal stated (December 2009) that the assessment has been revised and forwarded to the DMG office for approval. Further report on action taken has not been received from the DMG, Hyderabad.

We referred the matter to the Department in October 2009 and to the Government in July 2010; their reply has not been received (January 2011).

<sup>13</sup> Memo No. 26894/M1(2)/01-1 of Industries and Commerce (MI) Department dated 1 July 2002.

## **7.6 Non-levy of penalty on delayed payment of royalty**

Under Petroleum and Natural Gas (PNG) Rules, 1959, no person shall prospect for petroleum except in pursuance of a petroleum exploration licence granted and no person shall mine petroleum except in pursuance of a petroleum mining lease granted. As per Rule 14 of PNG Rules, a Petroleum mining lease in respect of any land vested in a State Government, shall be granted by the State Government. The lessee shall pay royalty to the State Government in respect of the mineral oil mined, quarried, excavated or collected by him. The royalty shall be payable on monthly basis, as may be provided for in the lease and shall be paid by the last day of the month succeeding the period in respect of which it is payable. Further, according to Rule 23 (1) of PNG Rules, all royalties under these rules shall, if not paid within the time specified for such payment, be increased by a penal rate of 200 basis points over the prime lending rate of State Bank of India for the delayed period.

We noticed (January and February 2009) in test check of the records of DDMG, Kakinada and ADMG, Rajahmundry that the lessee M/s Oil and Natural Gas Corporation (ONGC) Limited had paid royalty on crude oil with delay ranging from one month to seven months. However, penalty was not levied for belated payment of royalty during the years 2004-05 to 2008-09. This resulted in non-levy of penalty of ₹ 1.68 crore.

After we pointed out the cases (May 2010), the Government accepted (October 2010) the audit observation and stated that the penalty was included in the mineral revenue assessments of the lessee for the years 2008-09 and 2009-10 and demand raised against the company.

## **7.7 Short levy of annual licence fee**

As per Rule 11(2) of PNG Rules, every licensee shall pay yearly in advance by way of licence fee in respect of his Petroleum exploration licence a sum calculated for each square kilometer or part thereof covered by the licence. Licence fee is ₹ 1,000 per square kilometer {vide GSR 295(E) dated 1 April 2003} for each subsequent year of renewal after fourth year of licence.

We noticed (August 2009) in test check of the records of DMG, Hyderabad that M/s ONGC Limited obtained petroleum exploration licence for Block IA and IB during 1991 and 1992 which were

subsequently being re-granted/renewed/extended without break. The licences of Block IA and IB were renewed for a period of four years from 28.12.2003 and 14.1.2004 respectively by collecting the licence fee at lesser rates instead of ₹ 1,000 per sq. kilometer. This resulted in short levy of annual licence fee of ₹ 1.35 crore.

After we pointed out the case (May 2010), the Government stated (October 2010) that M/s ONGC authorities accepted the audit observation and they referred the matter to the Ministry of Petroleum, New Delhi. The Government however promised to collect the amount soon after the company got clarification from the Ministry.

## 7.8 Short levy of royalty and cess

As per Section 9 of the Mines and Minerals (Regulation and Development) Act the holder of a mining lease shall pay royalty in respect of laterite removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rates specified.

**7.8.1** According to circular dated 8<sup>th</sup> July 2003 issued by the Government of Andhra Pradesh royalty is payable at 20 *per cent* of sale price on ad valorem basis on the quantity of laterite

consumed or despatched for use by the lessee for which lessee shall furnish the sale price while submitting the permit application to the Department.

We noticed (between January and March 2009) in test check of the records of three<sup>14</sup> offices of the ADMG that 12 lessees did not furnish the sale price of laterite while submitting the permit application for assessing the royalty payable. The Department also did not compute the royalty on ad valorem basis as prescribed by the Government. This resulted in short levy of royalty on laterite of ₹ 76.16 lakh.

After we pointed out the cases (July 2010), the Government accepted (October 2010) the audit observation and stated that the mineral revenue assessments of the lessees have been revised.

**7.8.2** The rates of royalty and cess to be levied on limestone, other than LD grade (limestone containing less than one and half *per cent* silica) are ₹ 45 per MT and ₹ 3 per MT respectively.

We noticed (February 2009) in test check of the records of office of the ADMG, Nandigama, Krishna District that during 2007-08 a company<sup>15</sup> produced

1,92,539 MTs of clinker<sup>16</sup>. Based on the clinker limestone factor<sup>17</sup>, 2,69,093 MTs of limestone was required to be consumed in production. The royalty was leviable on 2,67,104 MTs of limestone after deducting the opening balance of limestone at factory site. However, the royalty was levied on 1,97,711.30 MTs. This resulted in short levy of royalty and cess of ₹ 33.31 lakh.

<sup>14</sup> Nellore, Rajahmundry and Tandur.

<sup>15</sup> M/s Hemadri Cements Limited.

<sup>16</sup> Residue of burnt limestone.

<sup>17</sup> In the process of production of clinker 1.3976 MTs of limestone yield one MT of clinker (1,92,539 x 1.3976 = 2,69,093).

After we pointed out the case (March 2010), the Government accepted (October 2010) the audit observation and stated that the mineral revenue assessment of the company for the year 2007-08 was revised and short levied amount had been taken to demand collection and balance statement to watch the progress of the collection.

### **7.8.3 Non-levy of interest on arrears of royalty**

According to Rule 19 of the AP Minor Mineral Concession Rules, 1966, interest is to be levied at 24 *per cent* per annum for the royalty due to the Government from the 16<sup>th</sup> day of the expiry of the date fixed by the Government for payment of such royalty.

We noticed (July 2009) in test check of the records of office of ADMG, Hyderabad that in two cases, interest on royalty payable by the mining lease holders was either not levied or short

levied during the period 2006-07 and 2007-08 amounting to ₹ 22.82 lakh.

After we pointed out the case (July 2010), the Government accepted (October 2010) the audit observation and stated that the mineral revenue assessments were revised duly levying the interest on royalty.

**7.8.4** We noticed (March 2009) in test check of the records of ADMG, Yerraguntla that a lessee removed and despatched 16,08,000 MTs of limestone during the year 2007-08 and became liable for payment of royalty and cess of ₹ 7.72 crore. However, while making mineral revenue assessment, the Department adopted the quantity as 15,94,500 MTs instead of 16,08,000 MTs and levied royalty and cess of ₹ 7.65 crore. This resulted in short levy of royalty and cess of ₹ 6.48 lakh.

After we pointed out the case (July 2010), the Government accepted (October 2010) the audit observation and stated that the assessment was revised and demand raised against the lessee company after taking the same to DCB register.

### **7.9 Short recovery of seigniorage fee**

As per Rule 10 of AP Minor Mineral Concession Rules, seigniorage fee shall be charged on all minor minerals despatched or consumed from the land at the rates specified in the schedules to the rules. The Government vide G.O.Ms.No.217, Industries and Commerce Department dated 29 September 2004, revised the rates of seigniorage fee on minor minerals.

We noticed (October 2009) in test check of the records of the ADMG, Chittoor that seigniorage fee was collected at pre-revised rates in respect of the 'ballast' consumed in works executed during the period from December 2007 to

January 2009. This resulted in short recovery of seigniorage fee of ₹ 36.27 lakh.

After we pointed out the case, ADMG, Chittoor stated (October 2009) that the short recovery of seigniorage fee would be brought to the notice of the consuming Department.

We referred the matter to the Department in December 2009 and to the Government in May 2010; their reply has not been received (January 2011).

## REVENUE DEPARTMENT

### Water Tax

#### 7.10 Non/short levy of water tax

As per the Andhra Pradesh (AP) Water Tax Act, 1988 all lands receiving water for irrigation from a Government notified source of irrigation shall be subjected to water tax. For this purpose, all major and medium irrigation sources shall be regarded as category-I and all other sources, which are capable of supplying water for not less than four months in a year shall be regarded as category-II. Based on this categorisation water tax is levied according to the source of irrigation in the locality. As per the instructions issued by the CCLA, A.P, Hyderabad read with instructions issued in BSO, *jamabandi* is required to be conducted immediately after the close of the *fasli* year, so as to finalise the settled demand in respect of water tax, NALA (Non-Agricultural Land Assessment), road cess and other revenue including penalties. However, no return has been prescribed by the Department for watching the progress in completion of *jamabandi* by each mandal.

We noticed in the test check of the records of the offices of five tahsildars<sup>18</sup> (between December 2008 and July 2009) that water tax amounting to ₹ 1.67 crore was either not levied or levied short by the Tahsildars during the period 1 July 2000 to 30 June 2007 (*fasli*<sup>19</sup> years 1410 to 1416). We also noticed that the *Jamabandi*<sup>20</sup> of these fasli years was conducted in 2008-09 only inspite of the instructions to complete *Jamabandi* and fix demands immediately after the closure of the *fasli* year.

After we pointed out the above cases, the Tahsildar, Santabommali stated (June 2009) that the demand would be raised. Tahsildar, Renjal stated (July 2009) that action would be taken in consultation with the AP State Irrigation Development Corporation. Other tahsildars stated (between December 2008 and June 2009) that the matter would be examined. Further report has not been received.

<sup>18</sup> Kolluru, Mutharam, Nandipet, Renjal and Santabommali.

<sup>19</sup> *Fasli* year means period of 12 months from July to June.

<sup>20</sup> *Jamabandi* means finalisation of village accounts and demand.

We referred the matter to the Department between May and September 2009 and to the Government in June 2010; their reply has not been received (January 2011).

**The Government may consider incorporating a provision for raising of demands to avoid delay in levy and collection of water tax.**

#### **7.11 Incorrect grant of remission of water tax**

As per the provisions of AP Water Tax Act, water tax is leviable on all types of land receiving water from the Government sources. Further, as per integrated village accounts, only the Government is competent to remit water tax and the Collectors are required to obtain orders from the Government whenever such cases of remission arise. Remission granted by the Government has to be noted in Account 4-B of the village accounts.

We noticed in the test check of the *jamabandi* records (Account 4-B) of four offices of the tahsildars<sup>21</sup> (between February and September 2009) that the remission of water tax amounting to ₹ 55.10 lakh was granted by the

*jamabandi* officers for the years 1 July 2001 to 30 June 2004 (*fasli years* 1411 to 1413) without sanction of the Government. This was incorrect and resulted in short realisation of Government revenue to that extent.

After we pointed out the above cases, the Tahsildar, Gurajala stated (February 2009) that the remission was granted due to drought and non-release of Nagarjunasagar project water under intimation to the District Collector. The reply is not acceptable as the order for remission of water tax was neither issued by the Government nor obtained by the concerned District Collector. Other Tahsildars stated (between February and September 2009) that the matter would be examined.

We referred the matter to the Department between April and December 2009 and to the Government in April 2010; their reply has not been received (January 2011).

#### **7.12 Non-levy of interest**

As per Section 8 of AP Water Tax Act, water tax payable by a owner in respect of any land shall be deemed to be public revenue due upon the land, and the provisions of the AP Revenue Recovery (APRR) Act, 1864 shall apply. Further, under Section 7 of APRR Act, arrears of revenue shall bear interest at the rate of six *per cent* per annum.

We noticed in the test check of the records of the six<sup>22</sup> offices of the Tahsildars (between June and September 2009) that during the period from 1 July 2000 to 30 June 2007 i.e., *fasli years* 1410 to

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<sup>21</sup> Atchutapuram, Gurajala, Mandavalli and Rambilli.

<sup>22</sup> Allavaram, Burja, Katrenikona, Regidi Amadalavalasa, Santhakavity and Srikakulam mandal.



1416, arrears of land revenue towards water tax amounting to ₹ 2.82 crore was collected. However interest of ₹ 16.90 lakh was not levied and collected. This resulted in short realisation of Government revenue.

After we pointed out the above cases, the Tahsildar, Srikakulam in respect of four<sup>23</sup> offices stated (October 2009) that the interest on water tax is not justified without specific orders. The reply is not acceptable as interest is leviable under the provisions of the Act. Tahsildar, Katrenikona stated (September 2009) that interest would be collected. Reply in the remaining case has not been received

We referred the matter to the Department between September and December 2009 and to the Government in June 2010; their reply has not been received (January 2011).

**Hyderabad  
The**

**(Sadu Israel)  
Accountant General  
(Commercial & Receipt Audit)  
Andhra Pradesh**

**Countersigned**

**New Delhi  
The**

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

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<sup>23</sup> Burja, Regidi Amadalavalasa, Santhakavity and Srikakulam mandal.





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