



**The Report of  
the Comptroller and Auditor General of India**

**on**

**Revenue Sector**

**for the year ended 31 March 2016**

**Government of Himachal Pradesh**  
*Report No. 1 of the year 2017*



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## **PREFACE**

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

The Revenue Sector of the State Government is audited as per provisions of the Comptroller and Auditor General's (Duties, Power and Conditions of Service) Act, 1971.

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

The instances mentioned in this Report are those, which came to notice in the course of test audit done during the period 2015-16 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2015-16 have also been included, wherever necessary.

The audit has been conducted in conformity with the Regulations on Audit and Accounts, 2007 and Auditing Standards issued by the Comptroller and Auditor General of India.





# *OVERVIEW*



## OVERVIEW

This Report contains 27 paragraphs relating to non/short levy of VAT/CST, State excise, stamp duty and registration fee, passenger and goods tax and royalty with revenue implication of ₹279.28 crore.

### I. General

The total revenue receipts of the Government for the year 2015-16 was ₹23,440.48 crore as compared to ₹17,843.45 crore during the previous year. Out of this, 36 per cent was raised through tax revenue (₹6,695.81 crore) and non-tax revenue (₹1,837.15 crore). The balance 64 per cent was received from the Government of India as State's share of divisible Union taxes (₹3,611.17 crore) and Grants-in-Aid (₹11,296.35 crore). There was an increase in Revenue Receipts over the previous year by ₹5,597.03 crore.

**(Paragraph 1.1)**

Test check of the records of 217 units of Sales tax/Value Added Tax, State Excise, Taxes on Motor Vehicles, Taxes on Goods & Passengers and Forest Receipts conducted during the year 2015-16 brought out under-assessment/short levy/loss of revenue aggregating ₹585.95 crore in 1,206 cases. During the year, the Department concerned accepted under-assessment and other deficiencies of ₹182.20 crore in 664 cases, out of which an amount of ₹23.06 crore was realised in 533 cases of which ₹15.15 crore in 471 cases relate to findings of previous years and ₹7.91 crore in 62 cases for the findings of year 2015-16.

**(Paragraph 1.10)**

### II. Taxes/VAT on Sales and Trade

#### Transaction Audit

The Department of Taxes/VAT on Sales and Trade took no action to recover lease money from lessees of toll barriers amounting to ₹51.40 crore.

**(Paragraph 2.3)**

The Assessing Authority applied incorrect rate of tax of four to 11 per cent instead of applicable rates of five to 30 per cent while finalising assessment of nine dealers during the years 2005-06 to 2013-14 resulting in short realisation of tax amounting to ₹0.54 crore. In addition, interest of ₹0.41 crore was also leviable.

**(Paragraph 2.4)**

Acceptance of invalid, duplicate and defective statutory forms by Assessing Authorities and allowing concessional rate of tax on inter-state sales resulted in short levy of tax of ₹47.90 lakh in 15 cases. In addition, interest of ₹41.83 lakh was also leviable.

**(Paragraph 2.5)**

A dealer had paid entry tax of ₹3.40 crore as against tax payable of ₹6.91 crore resulting in short levy of tax of ₹3.51 crore.

**(Paragraph 2.6)**

The Assessing Authority during assessment of a dealer for the year 2008-09 excluded the sundry debtors from the Gross Turnover resulting in loss of revenue of ₹0.83 crore. Besides, interest was also leviable.

**(Paragraph 2.7)**

### **III. State Excise**

License fee amounting to ₹8.59 crore was short recovered from 29 licensees. In addition, interest of ₹1.03 crore was also leviable.

**(Paragraph 3.3)**

Additional fee of ₹5.34 crore for short lifting of 20,16,928 proof liters of liquor by licensee of 451 vends was not levied. In addition, a penalty of ₹0.54 crore was also leviable.

**(Paragraph 3.4)**

Interest amounting to ₹99.61 lakh on delayed payment of license fee of ₹76.39 crore was not demanded by the Department from the licensees of 109 vends resulting in short levy of interest to that extent.

**(Paragraph 3.5)**

License fee of ₹43.83 lakh was recoverable in respect of 252 vends due to non-accountal of unsold stock of preceding year.

**(Paragraph 3.6)**

Salaries of ₹34.77 lakh of excise establishment staff posted in a brewery, a distillery and two bottling plants were not recovered from the licensees for the year 2014-15.

**(Paragraph 3.7)**

License fee and excise duty amounting to ₹28.75 lakh from two licensees was short recovered, resulting in loss of revenue to that extent. Interest on belated payment of license fee/franchisee fee of ₹5.39 lakh was also recoverable.

**(Paragraph 3.8)**

The Excise and Taxation Department did not levy entertainment duty on cable operators thereby forgoing revenue of at least ₹0.55 crore.

**(Paragraph 3.10)**

#### **IV. Stamp Duty**

The State Government failed to ensure adherence and enforcement of statutory and regulatory provisions while leasing land to users for various purposes resulting in short or non-recovery of revenue totaling ₹101.80 crore. The ability of the Department to monitor and properly manage leases were also undermined by non-maintenance of a centralized data of land and allotments made on lease basis. Lease deeds were not executed/renewed within the specified period, lease money was not fixed/revised as per prescribed rates on the basis of prevailing market value of the land and the Department had not taken any action to resume the land in favour of Government or cancel the lease deeds.

**(Paragraph 4.3)**

Incorrect adoption of market rate for built up structure of ₹10.99 crore resulted in short realisation of Stamp Duty and Registration Fee of ₹0.79 crore.

**(Paragraph 4.4)**

Incorrect valuation on the basis of affidavits regarding distance of the land from road filed by purchasers resulted in short realisation of Stamp Duty and Registration Fee of ₹0.56 crore. In addition, penalty of ₹27.94 lakh was also leviable.

**(Paragraph 4.5)**

Application of incorrect rates of Stamp Duty in sale deeds resulted in short realisation of Stamp Duty of ₹31.87 lakh in 400 cases.

**(Paragraph 4.6)**

Non-adopting of prevailing market rates on lease deeds resulted in short recovery of Stamp Duty and Registration Fee of ₹10.64 lakh.

**(Paragraph 4.7)**

#### **V. Taxes on Vehicles, Goods and Passengers**

Poor maintenance of essential records coupled with inadequate enforcement and lack of co-ordination between Motor Vehicle Registering Authorities and the Excise and Taxation Department to ensure registration of all commercial vehicles under the Himachal Pradesh Passengers and Goods Tax Act resulted in non/short levy of revenue amounting to ₹84.90 crore.

**(Paragraph 5.3)**

Token tax ₹4.09 crore in respect of 11,018 vehicles for the years 2012-13 to 2014-15 was neither demanded by the Department nor paid by the vehicle owners.

**(Paragraph 5.4)**

The e-Governance societies collected receipt of ₹43.02 lakh on account of user charges of which ₹10.76 lakh was to be deposited in the Government account. However, only ₹1.79 lakh was deposited resulting in ₹8.97 lakh remaining outside Government account.

**(Paragraph 5.5)**

Special Road Tax was not recovered from Himachal Road Transport Corporation, private stage carriers and stage carriages of other States amounting to ₹1.53 crore.

**(Paragraph 5.6)**

## **VI. Forest Receipts**

Non-disposal of seized timber measuring 539.2254 cu.m lying in various depots of the Department for disposal resulted in blocking of revenue of ₹2.79 crore including value added tax of ₹33.70 lakh.

**(Paragraph 6.3)**

Short recovery of royalty of ₹8.30 crore due to application of incorrect rates of royalty by the Himachal Pradesh State Forest Development Corporation Limited.

**(Paragraph 6.4)**

Cost of ₹32.50 lakh of 536 trees having standing volume of 257.434 cu.m coming in the alignment of projects was not recovered from the user agencies by the Department.

**(Paragraph 6.5)**

Lease period of 36 timber lots handed over to Himachal Pradesh State Forest Development Corporation Limited for exploitation of timber were extended without demanding extension fee ₹17.20 lakh.

**(Paragraph 6.6)**

***CHAPTER-I***  
***GENERAL***





## CHAPTER-I GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Himachal Pradesh during the year 2015-16, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-Aids received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table-1.1** below.

**Table-1.1: Trend of revenue receipts**

(₹in crore)						
Sr. No.	Particular	2011-12	2012-13	2013-14	2014-15	2015-16
1.	<b>Revenue raised by the State Government</b>					
	Tax revenue	4,107.92	4,626.17	5,120.91	5,940.16	6,695.81
	Non-tax revenue	1,915.20	1,376.88	1,784.53	2,081.45	1,837.15
	<b>Total</b>	<b>6,023.12</b>	<b>6,003.05</b>	<b>6,905.44</b>	<b>8,021.61</b>	<b>8,532.96</b>
2.	<b>Receipts from the Government of India</b>					
	Share of net proceeds of divisible Union taxes and duties	1,998.37	2,282.02	2,491.53	2,644.17	3,611.17 <sup>1</sup>
	Grants-in-Aids	6,521.37	7,313.07	6,314.11	7,177.67	11,296.35
	<b>Total</b>	<b>8,519.74</b>	<b>9,595.09</b>	<b>8,805.64</b>	<b>9,821.84</b>	<b>14,907.52</b>
3.	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>14,542.86</b>	<b>15,598.14</b>	<b>15,711.08</b>	<b>17,843.45</b>	<b>23,440.48</b>
4.	<b>Percentage of 1 to 3</b>	<b>41</b>	<b>38</b>	<b>44</b>	<b>45</b>	<b>36</b>

During the year 2015-16, the revenue raised by the State Government (₹8,532.96 crore) was 36 *per cent* of the total revenue receipts. The balance 64 *per cent* of the receipts during 2015-16 was from the Government of India as share of net proceeds of divisible union taxes and Grants-in-aid.

**1.1.2** The details of the tax revenue raised during the period 2011-12 to 2015-16 are given in **Table-1.2**.

<sup>1</sup> For details, please see Statement No. 14-'Detailed statement of revenue and capital receipt by minor Heads' in the Finance Accounts of the Government of Himachal Pradesh for the year 2015-16. Figures under the Major Receipts Head 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 under sub Head 901-Share of net proceeds assigned to State booked under A-tax revenue have been excluded from the revenue raised by the State Government and included in the State's share of divisible Union taxes

**Table-1.2: Details of Tax Revenue raised**

Sr. No.	Head of revenue	(₹ in crore)										Percentage of increase (+) or decrease (-) in 2015-16	
		2011-12		2012-13		2013-14		2014-15		2015-16		Actual over BE	Actual over actual of 2014-15
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual		
1.	Taxes on sales and trade	2,444.27	2,476.78	3,161.57	2,728.22	3,232.90	3,141.10	3195.62	3660.57	3,937.01	3,992.99	1	9
2.	State excise	709.74	707.36	800.14	809.87	949.46	951.96	940.74	1,044.14	1,137.73	1,131.22	(-)0.57	8
3.	Motor vehicles tax	173.08	176.03	215.39	196.13	246.88	207.81	214.14	220.10	227.15	317.05	149	44
4.	Stamp Duty	142.76	155.09	159.05	172.61	201.22	187.50	209.11	190.58	215.40	205.52	(-)05	08
5.	Taxes and duties on electricity	190.00	185.47	217.03	262.63	248.77	191.36	262.01	332.82	308.45	551.06	79	66
6.	Land revenue	1.90	17.86	4.01	23.60	4.00	9.98	15.12	16.88	15.66	7.43	(-)53	(-) 56
7.	Others	378.08	389.33	500.23	433.11	489.76	431.20	386.56	475.07	499.39	490.54 <sup>2</sup>	(-)02	3
	<b>Total</b>	<b>4,039.83</b>	<b>4,107.92</b>	<b>5,057.42</b>	<b>4,626.17</b>	<b>5,372.99</b>	<b>5,120.91</b>	<b>5,223.30</b>	<b>5,940.16</b>	<b>6,340.79</b>	<b>6,695.81</b>	<b>6</b>	<b>13</b>

*Source: Finance accounts*

The tax revenue raised by the State Government during the last five years shows an increasing trend and it increased from ₹4,107.92 crore in 2011-12 to ₹6,695.81 crore in 2015-16. The respective Departments reported the following reasons for variation:

**Taxes on sales and trade:** The increase was due to better tax administration, increase of tax rates on petrol and diesel and increase in price index of goods and rates of entry tax on all industrial inputs.

**State Excise:** The increase was attributable to rise in the rates of license fee and excise duty per proof liter on country and Indian made foreign liquor and increase in annual license fee/renewal fee of all fixed fee licensees besides increase in the assessed fee on supply to bar-license holders, clubs and Armed Forces and increase in excise duties of different kind of liquors.

**Motor Vehicles Taxes:** The increase was due to payment of pending arrear of Special Road Tax from Himachal Road Transport Corporation, registration of more vehicles and more receipts from the vehicles coming from other States.

**Taxes and duties on electricity:** The increase was due to deposit of arrears of electricity duty of previous years during 2015-16 by the Himachal Pradesh State Electricity Board Ltd (HPSEBL)

The details of the non-tax revenue raised during the period 2011-12 to 2015-16 are indicated in **Table-1.3**.

<sup>2</sup> Figures under Major Receipts Heads-0042-Taxes on Goods and Passengers: ₹115.28 crore and 0045-Other Taxes and Duties on Commodities and Services: ₹375.26 crore

Table-1.3: Details of Non-tax revenue raised

(₹ in crore)													
Sr. No.	Head of revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in 2015-16	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual over BE	Actual over actual
1.	Power	1,400.00	1,145.70	1,243.00	637.15	1,470.25	696.29	605.00	1,121.51	650.00	923.68	42	(-) 18
2.	Interest receipts	48.41	115.09	125.56	69.90	176.44	118.61	69.96	100.93	70.93	93.84	32	(-) 7
3	Non ferrous, mining and metallurgical Industries	110.50	120.12	137.94	147.90	151.10	114.08	140.00	161.52	140.00	155.08	11	(-) 4
4.	Forestry and wild life	84.78	106.54	75.31	63.90	86.45	357.83	73.16	115.78	73.16	34.47	(-) 53	(-) 70
5.	Public works	30.14	41.63	38.89	39.72	42.59	34.75	43.44	34.13	45.97	43.00	(-) 6	26
6.	Other administrative services	17.92	26.23	33.39	45.71	35.09	25.95	35.79	35.57	36.74	32.81	(-) 11	(-) 8
7.	Police	18.42	15.39	21.03	20.63	29.57	34.65	38.16	39.83	47.78	48.53	2	22
8.	Medical and public health	6.90	8.66	7.13	11.21	8.59	5.04	11.86	3.35	8.67	5.72	(-) 34	71
9.	Co-operation	3.23	2.30	3.46	3.24	4.48	15.30	3.66	8.67	2.90	14.77	409	70
10.	Miscellaneous general services	0.82	40.01	1.87	8.94	1.99	5.65	2.12	3.41	2.18	19.37	788	468
11.	Major and medium irrigation	0.46	0.36	0.81	0.33	0.81	0.37	0.81	0.17	0.89	0.21	(-) 76	24
12.	Other Non-tax receipts	272.92	293.17	314.21	328.25	385.18	376.01	364.83	456.58	427.96	465.00	9	2
<b>Total</b>		<b>1,994.50</b>	<b>1,915.20</b>	<b>2,002.60</b>	<b>1,376.88</b>	<b>2,392.64</b>	<b>1,784.53</b>	<b>1,388.79</b>	<b>2,081.45</b>	<b>1,507.18</b>	<b>1,837.15</b>	<b>22</b>	<b>(-) 12</b>

Source: Finance accounts

The non-tax revenue raised by the State Government during 2015-16 was (-) 12 per cent less as compared to the previous year. It decreased from ₹1,915.20 crore in 2011-12 to ₹1,837.15 crore in 2015-16. The respective Departments reported the following reasons for variation:

<sup>3</sup> Figures under Other Non-Tax Receipts Head-0050-Dividends and Profits: ₹111.94 crore, 0051-Public Service Commission: ₹7.03 crore, 0056-Jail: ₹0.27 crore, 0057-Supplies and Disposals: ₹0.04 crore, 0058-Stationery and Printing: ₹8.32 crore, 0071-Contributions and Recoveries towards Pension and other: ₹5.71 crore, 0202-Education, Sports, Art and Culture: ₹206.37 crore, 0211-Family Welfare: ₹0.02 crore, 0215-Water Supply and Sanitation: ₹41.80 crore, 0216-Housing: ₹3.57 crore, 0217-Urban Development: ₹6.80 crore, 0220-Information and Publicity: ₹1.25 crore, 0230-Labour and Employment: ₹7.32 crore, 0235-Social Security and Welfare: ₹6.40 crore, 0250-Other Social Services: ₹0.09 crore, 0401-Crop Husbandry: ₹14.21 crore, 0403-Animal Husbandry: ₹0.94 crore, 0405-Fisheries: ₹3.98 crore, 0407-Plantation: ₹0.00 crore, 0408-Food Storage and Warehousing: ₹0.53 crore, 0435-Other Agricultural Programmes: ₹1.12 crore, 0506-Land Reforms: ₹0.27 crore, 0515-Other Rural Development Programmes: ₹3.78 crore, 0575-Other Social Areas Programmes: ₹0.33 crore, 0702-Minor Irrigation: ₹0.94 crore, 0851-Village and Small Industries: ₹11.03 crore, 0852-Industries: ₹4.65 crore, 1054-Roads and Bridges: ₹10.57 crore, 1055-Road Transport: ₹0.38 crore, 1425-Other Scientific Research: ₹0.00 crore, 1452-Tourism: ₹0.90 crore, 1456-Civil Supplies: ₹0.07 crore and 1475-Other General Economic Services: ₹5.04 crore

**Forestry and Wild Life:** The decrease was due to less receipt from the Himachal Pradesh State Forest Development Corporation Ltd. and other consumers/institutions on account of sale of timber and other forest produces besides decrease in sale of timber to other Department/Organisations and less receipts from other miscellaneous sources.

**Police:** The increase was due to payment of arrears by the Bhakra Beas Management Board (BBMB), Railways and other authorities for supply of Police guards and more receipts on account of payment of pending recoveries besides receipts of license fee under Arms Act and permits issued for plying vehicles on restricted roads in Shimla district by districts authorities.

**Medical and Public Health:** The increase was due to increase in revenue receipts by Director Health Services and deposit of revenue receipts by Director Health Safety Regulation since December 2015 and increased Receipts from manufacture of medicines.

**Co-operation:** The increase was due to amendments in Rules of determination of auditing fee and reimbursement of grants from the National Co-operative Development Corporation, New Delhi, for the execution of three Integrated Co-operative Development Projects and for operating the marketing activities of Himachal Pradesh State Co-operative Commerce and Consumers Association in the State.

The other Departments did not intimate the reasons for variation of receipts with that of previous year (November 2016).

## **1.2 Analysis of arrears of revenue**

The arrears of revenue as on 31 March 2016 on some principal Heads of revenue amounted to ₹3,421.16 crore of which ₹226.55 crore was outstanding for more than five years as detailed in the **Table-1.4** below.

**Table-1.4: Arrears of revenue**

(₹ in crore)				
Sr. No.	Head of revenue	Total Amount outstanding as on 31 March 2016	Amount outstanding for more than 5 years as on 31 March 2016	Replies of the Departments
1.	Taxes on Sales, Trade etc.	2,687.78	173.78	Arrears were accumulated from the year 1968-69. Demands for ₹2,345.76 crore had been certified as arrears of land revenue, ₹6.72 crore proposed to be written off, remaining ₹18.86 crore were recoverable from the Government Departments/undertakings, recoveries amounting to ₹38.63 crore were stayed by the High Court/ other judicial authorities and ₹277.81 crore recoverable from the dealers.
2.	Water supply, Sanitation and Minor Irrigation	254.79	0.0	From the total arrears, ₹246.36 crore for supply of water, pertaining to Municipal Corporation/Committees and Notified Area Committees, ₹6.49 crore and ₹0.43 crore to Non-Government Bodies and Government Departments respectively, ₹0.05 crore to housing and ₹1.46 crore to Minor Irrigation.
3.	Taxes and duties on electricity	355.75	0.0	Outstanding electricity duties from HPSEBL.
4.	Other Taxes and Duties on Commodities and Services	49.64	8.97	Arrears were accumulated from the year 1989-90. Demands for ₹29.86 crore had been certified for recovery as arrears of land revenue, ₹0.89 crore proposed for write off, ₹6.93 crore stayed by the High Court/ others judicial

				authorities and ₹11.96 crore recoverable from different hoteliers.
5.	State Excise	46.78	32.16	Arrears were accumulated from the year 1972-73. Demands for ₹18.26 crore had been certified for recovery as arrears of land revenue, ₹3.96 crore were stayed by the High Court/other judicial authorities, ₹0.45 crore were proposed to be written off and ₹24.11 crore was recoverable from the bidders/licensees.
6.	Taxes on Goods and Passengers	17.81	9.02	Demands for ₹8.56 crore had been certified for recovery as arrears of land revenue, ₹3.11 crore were proposed to be written off, remaining arrear of ₹1.36 crore recoverable from Government/Departments/undertakings and ₹4.78 crore recoverable from the owners of different vehicles.
7.	Village and Small Industries	7.27	1.73	Arrears were accumulated from the year 1989-90. Arrears pertain to premium of plots (Industrial areas) etc.
8.	Non-ferrous, Mining and Metallurgical Industries	0.86	0.58	Arrears were accumulated from the year 1970-71. Arrears pertain to mining offices and DDO (Headquarter) Geological Wing Directorate of industries on account of recovery of royalty/drilling charges etc.
9.	Industries	0.23	0.12	Arrears were accumulated from the year 1980-81. Arrears pertain to rent sheds (Industrial Estate), rent of Government accommodation/Receipt of sale of Mulberry plants etc.
10.	Public Works	0.25	0.19	Arrears were accumulated from the years 1963-64.
<b>Total</b>		<b>3,421.16</b>	<b>226.55</b>	

Source: Departmental figures

### 1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Excise Department in respect of sales tax, motor spirit tax, luxury tax and tax on works contracts is brought out in **Table-1.5** below.

**Table-1.5: Arrears in assessments**

Head of revenue	Opening balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed of during 2015-16	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Taxes on sales and trade	1,50,998	48,021	1,99,019	51,207	1,47,812	26
Luxury tax	3,482	2,017	5,499	2,086	3,413	38
Tax on works contracts	2,047	370	2,417	267	2,150	11
Motor spirit tax	33	18	51	24	27	47

Source: Departmental figures

The disposal of assessment cases was very low and ranged between 11 and 47 per cent.

### 1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table-1.6**.

**Table-1.6: Evasion of Tax**

Sr. No.	Head of revenue	Cases pending as on 31 March 2015	Cases detected during 2015-16	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalization as on 31 March 2016
					Number of cases	Amount (₹ in crore)	
1.	Taxes on Sales and Trade	84	9,188	9,272	9,189	28.81	83
2.	State Excise	43	3,889	3,932	3,899	2.71	33
3.	Passengers and Goods tax	0	10,384	10,384	10,368	4.67	16
4.	Other Taxes and Duties on Commodities and Services	22	5,426	5,448	5,439	2.32	9
<b>Total</b>		<b>149</b>	<b>28,887</b>	<b>29,036</b>	<b>28,895</b>	<b>38.51</b>	<b>141</b>

Source: Departmental figures

Out of total 29,036, the Department had completed the assessment in 28,895 cases and raised an additional demand of ₹38.51 crore.

### 1.5 Refund cases

The refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2015-16 is given in **Table-1.7** below.

**Table 1.7: Details of pendency of refund cases**

Sr. No.	Particulars	Sales tax/VAT		State Excise	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
1.	Claims outstanding at the beginning of the year	66	25.29	10	0.16
2.	Claims received during the year	181	35.48	62	2.29
3.	Refund made during the year	198	41.12	54	2.12
4.	Balance outstanding at the end of year	49	19.65	18	0.33

Source: Departmental figures

### 1.6 Response of the Government/Department towards audit

The Principal Accountant General (Audit), Himachal Pradesh (PAG), conducts periodical inspection of 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 copies to the next higher authorities for taking prompt corrective action. The Heads of the Offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within four weeks from the date of receipt of the IRs. Serious financial irregularities are reported to the Heads of the Department and the Government.

Out of IRs issued up to December 2015, 2,549 IRs remained outstanding at the end of June 2016 as depicted in **Table-1.8** below along with the corresponding figures for the preceding two years.

**Table-1.8: Details of pending Inspection Reports**

	June 2014	June 2015	June 2016
Number of IRs pending for settlement	2,952	2,509	2,549
Number of outstanding audit observations	8,009	7,150	7,512
Amount of revenue involved (₹ in crore)	1,322.75	1,099.13	1,512.30

The Department wise details of the IRs and audit observations outstanding as on 30 June 2016 and the amounts involved are in **Table-1.9** below.

**Table-1.9: Department-wise details of pending Inspection Reports**

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Excise	Taxes on Sales, Trade etc.	123	991	329.30
		Passenger & Goods Tax (PGT)	178	334	261.45
		Other Taxes & Duties on commodities and services (OTD)	105	129	7.30
		Entertainment & luxury tax etc.	48	84	0.89
		State Excise Duty	50	188	55.43
2.	Revenue	Land Revenue	236	475	197.97
3.	Transport	Taxes on motor vehicles	673	2,613	296.84
4.	Stamp and Registration	Stamp and Registration Fees	592	1,229	60.58
5.	Forest and environment	Forest Receipts	544	1,469	302.54
<b>Total</b>			<b>2,549</b>	<b>7,512</b>	<b>1,512.30</b>

During 2015-16, audit did not receive even the first reply in respect of 106 IRs out of 217 IRs from the Heads of the Offices within the stipulated time of four weeks. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the Heads of Offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs. Lack of executive action on audit observations weakens accountability and raises the risk of avoidable loss of revenue. The continuous increase in the number of pending audit paragraphs merits the attention of the Government to ensure effective mechanism to regularly monitor and review the compliance and settlement of audit observations.

### 1.6.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of the paragraphs included in the IRs. The details of audit committee meetings held during the year 2015-16 and the paragraphs settled are in **Table-1.10**.

**Table-1.10: Details of Departmental Audit Committee meetings**

Sr. No.	Department	Number of meetings held	Number of paragraphs settled	Amount (₹ in crore)
1.	Revenue Department	1	36	0.53
2.	State Excise Department	1	189	0.90
3.	Transport Department	1	27	1.27
4.	Forest Department	1	50	7.62
<b>Total</b>		<b>4</b>	<b>302</b>	<b>10.32</b>



Four Audit Committee Meetings in respect of Revenue, State Excise, Transport and Forest Departments held during 2015-16 resulted in settlement of 302 outstanding paragraphs involving ₹10.32 crore. It is recommended that Government should ensure holding of meetings of the Audit Committee at regular intervals in all the Departments.

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

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

Twenty seven draft paragraphs were sent to the Principal Secretaries/Secretaries of the respective Departments between April and August 2016. The Principal Secretaries/Secretaries of the Departments had not furnished replies to twenty six draft paragraphs and the same have been included in this Report without the response of the Government. However, the replies of the Department, wherever received, have been appropriately incorporated in the Report.

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

The Public Accounts Committee notified in December 2002 that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and action taken notes thereon should be submitted by the Government within three months of tabling the Report for consideration of the Committee. However, action taken notes on audit paragraphs of the Reports were delayed. A total of 132 paragraphs (including performance audits) included in the Reports of the Comptroller and Auditor General of India of the Government of Himachal Pradesh for the years ended 31 March 2011, 2012, 2013 and 2014 on the Revenue Sector were placed before the State Legislature Assembly between 6 April 2012 and 10 April 2015. Action taken notes from the concerned Departments on these paragraphs were received late with average delay of 13, seven, 11 and seven months of each of these Audit Reports, respectively. Action taken notes in respect of three paragraphs from Revenue Department had not been received (November 2016) for the Audit Report for the year ended 31 March 2014.

The PAC discussed 73 selected paragraphs pertaining to the Audit Reports for the years from 2006-07 to 2012-13. However, recommendations on discussed paragraphs in respect of Departments mentioned in **Table-1.11** below.

**Table-1.11: Details of paragraphs discussed in the PAC**

<b>Year</b>	<b>Name of the Departments</b>	<b>Recommendations awaited</b>
<b>2006-07</b>	Revenue, Transport and Co-operation	15
<b>2007-08</b>	Excise and Taxation and Transport	29
<b>2008-09</b>	Excise and Taxation	16
<b>2009-10</b>	Excise and Taxation	06
<b>2011-12 and 2012-13</b>	Forest	07
<b>Total</b>		<b>73</b>

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

To analyze the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years for one Department (Transport Department under major receipt Head of 0041-Motor Vehicle Tax) is evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 to 1.7.3 discuss the performance of the Transport Department in respect of Taxes on Motor Vehicle under Major Receipt Head '0041-Motor Vehicle Tax' and cases noticed in the course of local audit during the last 10 years upto 2015-16 and also the cases included in the Audit Reports for the years 2006-07 to 2014-15.

### 1.7.1 Position of Inspection Reports

The summarized position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2016 are tabulated in **Table-1.12** below.

**Table-1.12: Position of Inspection Reports**

Year	(₹ in crore)											
	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
2006-07	532	1,568	26.51	55	269	5.97	31	194	3.26	556	1,643	29.22
2007-08	556	1,643	29.22	54	326	9.45	22	163	10.24	588	1,806	28.43
2008-09	588	1,806	28.43	52	299	4.52	21	195	4.42	619	1,910	28.53
2009-10	619	1,910	28.53	62	203	66.51	54	140	54.47	627	1,973	40.57
2010-11	627	1,973	40.57	55	214	30.97	15	101	23.55	667	2,086	47.99
2011-12	667	2,086	47.99	53	252	23.32	29	131	8.06	691	2,207	63.25
2012-13	691	2,207	63.25	39	206	32.88	51	164	26.52	679	2,249	69.61
2013-14	679	2,249	69.61	39	208	123.06	74	180	10.68	644	2,277	181.99
2014-15	644	2,277	181.99	36	176	57.65	50	62	1.11	630	2,391	238.53
2015-16	630	2,391	238.53	44	227	59.81	01	05	1.50	673	2,613	296.84

Against 532 outstanding IRs with 1,568 paragraphs as on start of 2006-07, the number of outstanding IRs rose to 673 with 2,613 paragraphs at the end of 2015-16. This is indicative of the fact that adequate steps were not taken by the Department resulting in accumulation of outstanding paragraphs.

### 1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table-1.13** below.

**Table-1.13: Recovery of accepted cases**

(₹ in crore)						
Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as of 31 March 2016
2005-06	06	21.20	05	9.55	0.01	1.11
2006-07	05	2.89	05	2.89	0	0.13
2007-08	07	4.79	07	4.77	0.02	0.61
2008-09	08	5.67	06	4.93	0.40	2.83
2009-10	04	60.13	03	35.99	3.42	30.62
2010-11	07	19.85	05	18.09	0.22	15.94
2011-12	05	16.15	05	16.15	0.26	13.69
2012-13	04	16.73	04	16.70	0.12	14.51
2013-14	03	10.75	03	3.77	0.55	0.94
2014-15	07	40.81	05	20.14	2.30	3.70
<b>Total</b>	<b>56</b>	<b>198.97</b>	<b>48</b>	<b>132.98</b>	<b>7.30</b>	<b>84.08</b>

The progress of recovery even in accepted cases was very slow throughout during the last 10 years.

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

Draft performance audits conducted by the PAG/AG are forwarded to the concerned Department/Government with a request to furnish their replies. These performance audits are also discussed in an exit conference and the Department/Government's views are included while finalizing the performance audits for the Audit Reports. Two performance audits on the Transport Department under Receipt Head-'0041- Motor Vehicles Tax' conducted and featured in the Audit Reports for the years 2009-10 and 2010-11 as per details given in the **Table-1.14**.

**Table-1.14: Action taken on the recommendations accepted by the Department/Government**

Sr. No.	Year of Audit Report	Title of the performance audit	Number of recommendations made in PA	Remarks
1.	2009-10	Levy and Collection of Motor Vehicles Tax	Seven recommendations	All recommendations were accepted and admitted by the Department and stated that the efforts were being made for its implementation.
2.	2010-11	Computerization in the Transport Department	Four recommendations	

### 1.8 Internal Audit

The Departments have an Internal Audit Cell (IAC) under the charge of the Assistant Controller (F&A). This cell was to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee to ensure adherence to the provisions of the Acts and Rules as well as Departmental instructions issued from time to time.

During the year 2015-16, out of 31 units planned for audit, internal audit cell audited 13 units (42 per cent) as detailed in **Table-1.15** below.

**Table-1.15: Internal Audit**

Name of the Department	Total auditable unit	No. of units planned for audit	No. of units audited	Shortfall
Excise and Taxation	13	13	06	07
Transport	01-STA 56-RLAs 10-RTOs 03-RTO (flying squad)	18	07	11
<b>Total</b>	<b>83</b>	<b>31</b>	<b>13</b>	<b>18</b>

### **1.9 Audit planning**

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. An annual audit plan is prepared on the basis of risk analysis which *inter alia* include issues in government revenue and tax administration derived from the budget speech, the white paper on State finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee and statistical analysis of revenue earnings during the past five years, factors of the tax administration and audit coverage.

During the year 2015-16, there were 420 auditable units of which 217 units<sup>4</sup> planned and audited.

Besides, the compliance audit mentioned above, two thematic audits on 'Grant of Government Land on Lease and realisation of lease money' and 'Recovery of Passenger and Goods Tax in Excise and Taxation Department' was also conducted to examine the efficacy of the Departments concerned in realisation of revenue receipts.

### **1.10 Results of audit**

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

Test check of the records of 217 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, Goods & Passengers and Forest Receipts conducted during the year 2015-16 revealed under-assessment/short levy/loss of revenue aggregating ₹585.95 crore in 1,206 cases. During the year, the Departments concerned accepted under-assessment and other deficiencies of ₹182.20 crore in 664 cases out of which an amount of ₹23.06 crore was realised in 533 cases of which ₹15.15 crore in 471 cases relate to findings of previous years and ₹7.91 crore in 62 cases for the findings of year 2015-16.

### **1.11 Coverage of this Report**

This Report contains 27 draft paragraphs with revenue implication of ₹279.28 crore. The Departments/Government have accepted 21 audit observations involving ₹106.43 crore of which ₹8.58 crore had been recovered in 18 cases.

<sup>4</sup> These units included 25 units of Luxury tax, Entertainment tax and Multi Purpose Barriers.



***CHAPTER-II***  
***TAXES/VAT ON SALES AND TRADE***



## **CHAPTER-II**

### **TAXES/VAT ON SALES AND TRADE**

#### **2.1 Tax administration**

Sales Tax/Value Added Tax is administered at the Government level by the Principal Secretary (Excise and Taxation). The Excise & Taxation Commissioner (ETC) is the Head of the Excise and Taxation Department and he is assisted by two Additional ETCs, one Joint ETC, six Deputy ETCs, 12 Assistant ETCs and 69 Excise & Taxation Officers (ETOs). In addition, there are Excise and Taxation Inspectors and other allied staff for administering the relevant Tax laws and rules.

#### **2.2 Results of Audit**

During 2015-16, test check of records of 15 units relating to VAT/Sales tax assessments and other records revealed under-assessment of tax and other irregularities involving ₹140.82 crore in 381 cases which fall under the following categories as given in **Table-2.1** below.

**Table-2.1: Results of Audit**

			<b>₹ in crore</b>	
<b>Sr. No.</b>	<b>Categories</b>	<b>Number of cases</b>	<b>Amount</b>	
1.	Under-assessment of tax	20	2.23	
2.	Acceptance of defective statutory C&F forms	36	1.79	
3.	Evasion of tax due to suppression of sales/ purchases	34	8.45	
4.	Irregular/incorrect/excess allowance of ITC	141	8.26	
5.	Application of incorrect rate of tax	27	1.01	
6.	Other irregularities	123	119.08	
<b>Total</b>		<b>381</b>	<b>140.82</b>	

During the year 2015-16, the Department accepted under-assessment and other deficiencies of ₹82.13 crore in 123 cases out of which an amount of ₹13.19 crore was realised in 101 cases of which ₹8.65 crore in 93 cases relate to earlier years and ₹4.54 crore in eight cases relate to the year 2015-16.

Significant cases involving ₹56.76 crore are discussed in the following paragraphs.



### 2.3 Non recovery of the lease money from the lessees

*The Department took no action to recover lease money from lessees of toll barriers amounting to ₹51.40 crore.*

The Himachal Pradesh Tolls Act, 1975, provides for levy and payment of toll on every mechanical vehicle specified in Schedule I to the Act for the use of road infrastructure. Section 3A of the Act stipulates that the State Government may lease to any person the right to collect toll by auction or tender or combination of both or any other mode on such terms and conditions as the Commissioner may determine subject to approval of the State Government.

Under clause 2.3.13 of the lease agreement, the highest bidder of any toll unit shall deposit by way of security an amount equal to 20 *per cent* of the bid amount in the following manner:

- I. 5 *per cent* as bid money or the amount directed to be deposited by the presiding officer as cash down payment at the time of bidding, whichever is higher at the fall of hammer;
- II. 10 *per cent* of bid money within 10 days of the auction or 31<sup>st</sup> March whichever is earlier; and
- III. 5 *per cent* of the bid money/annual lease money within 10 days of the auction or 31<sup>st</sup> March whichever is earlier, in the shape of a revenue deposit or unconditional bank guarantee or FDR as may be directed by the Assistant Excise and Taxation Commissioner (AETC) of the District concerned.

Under clause 2.3.17, the remaining amount i.e. 85 *per cent* of lease money shall be paid by the lessee in 10 equal instalments in case the lease is for a financial year or in such number of instalments as the Excise and Taxation Commissioner may fix. As per clause 2.3.19 in the event of failure to pay an instalment or part thereof by the due date, the lessee shall pay interest on the unpaid amount at the rate of 15 *per cent* per annum for the period of delay up to one month from the date of default and at the rate of 20 *per cent* per annum till the default continues. If the lessee fails to deposit the instalment or instalments plus interest, the Additional/Deputy Excise and Taxation Commissioner will unless he compounds the delay by imposing penalty as provided in terms and conditions, suspend or cancel the lease and the AETC shall initiate recovery proceedings of lease money due including interest and penalty as an arrear of land revenue.

Scrutiny of the records relating to 55 toll barriers under six AETCs revealed that the Department was yet to recover lease money of ₹51.40 crore as per details given in **Table-2.2**.

Table 2.2: District wise details of "Non recovery of the lease money from the lessees"

Sr. No	Name of the District	Period	Amount (₹ in crore)
1.	Solan	2009-10	2.34
		2011-12 to 2012-13	1.90
		2013-14 to 2014-15	9.10
2.	Baddi	2011-12 to 2012-13	5.25
		2013-14 to 2014-15	12.59
3.	Una	2002-03 to 2010-2011	1.48
		2012-13	0.92
4.	Bilaspur	2012-13 to 2015-16	7.16
5.	Nahan	2011-12 to 2014-15	9.94
6.	Nurpur	2010-11 to 2012-13	0.72
<b>Total</b>			<b>₹51.40</b>

Audit observed that the Department not only failed to recover the lease money as per the time schedule prescribed in the Act but even did not maintain the status of recoverable amount on different accounts i.e. interest, penalty, amounts recoverable in respect of other toll barriers, amount recoverable on account of State Excise etc. were clubbed together. As a result, the status of exact recoverable amount from different lessees on different accounts in respect of each toll barriers/group of toll barriers allotted was not ascertainable. Even though the recovery of amount was got approved as arrears of land revenue since long, no concrete action had been initiated either at Departmental level or at the District level to enforce the recovery particularly when the same lessees were having lease rights at other barriers/undertaking other activities with the Department from time to time. This had resulted in accumulation of arrears of lease money amounting to ₹51.40 crore.

On being pointed out, the Department stated (November 2016) that ₹4.42 crore. had been recovered on account of arrears of license fee by AETC Solan and action were being taken to recover the balance amount under the Land Revenue Act.

The matter was reported to the Government in August 2016; its reply was awaited (November 2016).

#### 2.4 Application of incorrect rate of tax

*The Assessing Authority applied incorrect rate of tax of four to 11 per cent instead of applicable rates of five to 30 per cent while finalising assessment of nine dealers during the years 2005-06 to 2013-14 resulting in short realisation of tax amounting to ₹0.54 crore. In addition, interest of ₹0.41 crore was also leviable.*

Schedule A of Section 6 of the HPVAT Act, 2005 provides that tax is leviable on sales made by a dealer. Further, Section 19 of the Act *ibid* provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month and at the rate of one and a half *per cent* per month thereafter till the default continues.

Scrutiny of records of five AETCs<sup>1</sup> between July 2015 and June 2016 revealed that nine dealers had made intra and inter-state sales amounting to ₹6.54 crore during the years 2005-06 to 2013-14 which was taxable at different rates<sup>2</sup>. The Assessing Authorities (AAs) while finalising the assessments between April 2014 and March 2015 had levied lower rates of four to 11 *per cent* instead of applicable higher rates. Application of incorrect rates resulted in short realisation of tax of ₹0.54 crore<sup>3</sup>. In addition, interest of ₹41.17 lakh was also leviable.

The Department intimated in October 2016 that an additional demand of ₹7.45 lakh had been recovered in two cases and the remaining cases were under process.

The matter was reported to the Government in July 2016; its reply was awaited (November 2016).

## **2.5 Acceptance of invalid, duplicate and defective statutory forms**

*Acceptance of invalid, duplicate and defective statutory forms by Assessing Authorities and allowing concessional rate of tax on inter-state sales resulted in short levy of tax of ₹47.90 lakh in 15 cases. In addition, interest of ₹41.83 lakh was also leviable.*

Form 'C' is issued by a purchasing dealer in two copies marked as 'Original' and 'duplicate'. The copy marked 'original' is enclosed by the selling dealer with his return and the copy marked 'duplicate' is retained by selling dealer in his records. As per Section 12(7) of CST Rules, 1957, the original copy should be used for claiming concessional rate of tax.

Scrutiny of the records of six AETCs (between July 2015 and June 2016) revealed that while finalising the assessments of 15 dealers between April 2014 and March 2015 for the tax periods 2006-07 to 2012-13, the AAs irregularly allowed concessional rate of tax on inter-state sales valued at ₹10.82 crore on Forms 'C' which were either duplicate/incorrectly addressed as detailed in **Appendix-I**. These forms were liable to be rejected at the time of assessments of dealers. Thus, allowance of concession on invalid, duplicate and defective statutory forms resulted in short levy of tax of ₹47.90 lakh. In addition, interest of ₹41.83 lakh was also leviable.

The Department intimated in October 2016 that an additional demand of ₹5.55 lakh was created in two cases out of which ₹4.95 lakh recovered and the action in remaining cases were under process.

The matter was reported to the Government in July 2016; its reply was awaited (November 2016).

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<sup>1</sup> AETCs Baddi, Nahan, Shimla, Solan and Una

<sup>2</sup> Different rates: 5, 12.50, 13.75, 16, 18 and 30 *per cent* (rate of tax 30 *per cent* was applicable upto 20.06.2005 on lime stone)

<sup>3</sup> AETCs Baddi (one dealer: ₹18.89 lakh), Nahan (three dealers: ₹6.79 lakh), Shimla (one dealer: ₹1.67 lakh), Solan (three dealers: ₹14.87 lakh) and Una (one dealer: ₹11.84 lakh)

## 2.6 Loss of revenue due to non-payment of entry tax

*A dealer had paid entry tax of ₹3.40 crore as against tax payable of ₹6.91 crore resulting in short levy of tax of ₹3.51 crore.*

Section 3(1) of the Himachal Pradesh Tax in Entry of Goods into Local Area Act, 2010 (TEGLA), provides for levy and collection of tax at the rate of one to five *per cent* on entry of the goods in the State. As per Section 12 of TEGLA Act, certain provisions of VAT Act such as filing of returns, levy of penalty, burden of proof and payment of interest are also applicable to TEGLA. Further, Section 13 provides that the authorities empowered under the VAT Act, 2005 shall assess and collect payment of entry tax including interest and penalty.

Scrutiny of the records (March 2016) of Assistant Excise and Taxation Commissioner (AETC) Shimla revealed that AA at the time of finalisation of assessment under HPVAT Act, 2005 did not finalise the assessment for entry tax under TEGLA for the year 2012-13. The assessee had paid entry tax of ₹3.40 crore on purchases of ₹67.58 crore. However, as per details extracted from Himachal Pradesh Tax Administration System (HIMTAS) Software (VAT XXVI-A), total purchases worked out to ₹138.24 crore on which the dealer was liable to pay entry tax of ₹6.91 crore. Thus, not assessing the case under TEGLA for entry tax resulted in short realisation of entry tax of ₹3.51 crore for the year 2012-13. In addition, penalty equal to twice the amount of tax was also leviable.

The matter was reported to the Government in July 2016; its reply was awaited (November 2016).

## 2.7 Incorrect determination of Gross Turnover

*The Assessing Authority during assessment of a dealer for the year 2008-09 excluded the sundry debtors from the Gross Turnover resulting in loss of revenue of ₹0.83 crore. Besides, interest was also leviable.*

Under Section 2 (v) (zd) of the HPVAT Act, 2005 turnover means the aggregate amount of sales, purchases or any part of sales and purchases made by any dealer and includes any sum charged on account of freight, storage, demurrage, insurance and for anything done by the dealer in respect of the goods at the time of or before delivery thereof. Further, under Section 19(1) of the Act *ibid* if any dealer fails to pay the amount of tax due from him, the interest is leviable at the prescribed rates till the default continues.

Scrutiny of assessment records of AETC, Shimla between January and March 2016 revealed that AA had finalised the assessment of a dealer in March 2015 for the assessment year 2008-09 on gross turnover (GTO) of ₹92.36 crore by reducing sundry debtors amounting to ₹6.65 crore which was not permissible for deduction. This short assessment of GTO of ₹6.65 crore resulted in short levy of tax of ₹83.12 lakh<sup>4</sup>. In addition, interest was also leviable on short payment of tax upto 31 March 2016.

<sup>4</sup> 12.5 per cent on ₹6.65 crore

The Department intimated (October 2016) that this amount was not actually received by the dealer and there was only promise of purchase. It occurred due to the fact that the company was following an incorrect method of accounting and now they have dispensed with this accounting method. The reply is not tenable as booking of Sundry Debtors in the accounts was made only on the basis of sales made.

The matter was reported to the Government in April 2016; its reply was awaited (November 2016).

***CHAPTER-III***  
***STATE EXCISE***



## **CHAPTER-III**

### **STATE EXCISE**

#### **3.1 Tax administration**

The Principal Secretary (Excise and Taxation) is the administrative Head at Government level. The Department is headed by the Excise and Taxation Commissioner (ETC). The Department has three Zones<sup>1</sup>, which are headed by the Additional ETC (South Zone), Deputy ETCs of North Zone and Central Zone. Besides, 22 Excise and Taxation Inspectors under the control of the Assistant Excise and Taxation Commissioners (AETCs) of the respective districts are deputed to oversee and regulate levy/collection of excise duties and allied levies.

#### **3.2 Results of audit**

In 2015-16, test check of the records of nine units out of 12 units relating to State excise duty revealed non/short realisation of excise duty/license fee/interest/penalty and other irregularities involving ₹23.17 crore in 73 cases as given in **Table-3.1** below.

*Table-3.1: Results of audit*

			(₹ in crore)
Sr. No.	Categories	Number of cases	Amount
1.	Non/short realisation of excise duty	04	0.27
2.	Non/short recovery of license fee/interest/penalty etc.	36	15.69
3.	Other irregularities	33	7.21
<b>Total</b>		<b>73</b>	<b>23.17</b>

During the year 2015-16, the Department accepted under-assessment and other deficiencies of ₹18.66 crore in 58 cases, out of which an amount of ₹3.76 crore was realised in 54 cases of which ₹1.95 crore in 32 cases pertain to earlier years and ₹1.81 crore in 22 cases for the year 2015-16.

Significant cases involving ₹16.68 crore are discussed in the following paragraphs.

#### **3.3 Short recovery of license fee on opening of vends**

*License fee amounting to ₹8.59 crore was short recovered from 29 licensees. In addition, interest of ₹1.03 crore was also leviable.*

As per Para 4.3 of Excise Announcement (EA) 2014-15, a licensee is required to pay annual license fee fixed on the basis of monthly MGQ. Para 4.4 (a) provides that the annual license fee of a particular vend shall be pre-determined based on the MGQ of Country Liquor (CL) and Indian Made Foreign Spirit (IMFS) fixed for each vend for the whole of year on prescribed rates of license fee. The license fee shall be divided into 12 monthly instalments and the licensee shall deposit it into the Government treasury by the last day of each month. The last instalment for the month of March shall be paid in full by 15<sup>th</sup> of March before obtaining the excise pass for issue of liquor. Para 4.5 (a) further provides that if the licensee

<sup>1</sup> South Zone (Shimla, Solan, Sirmour, Kinnaur and Spiti area), North Zone (Chamba, Kangra and Una) and Central Zone (Bilaspur, Hamirpur, Kullu, Lahaul area and Mandi)



fails to deposit the license fee, interest is leviable at prescribed rates. As per Para 4.5 (c), the AETC in-charge of the District or any other officer authorised would ordinarily seal vend on 1<sup>st</sup> day of the following month or 16<sup>th</sup> March as the case may be.

Test check of records of seven Assistant Excise & Taxation Commissioners (AETCs)<sup>2</sup> revealed that the Department could recover only ₹34.32 crore against the recoverable license fee of ₹42.91 crore for the year 2014-15 from licensees of 29 vends resulting in short recovery of license fee of ₹8.59 crore. Interest of ₹1.03 crore accrued on unpaid amount of license fee was also leviable.

The Department intimated in September 2016 that an amount of ₹1.75 crore<sup>3</sup> had been recovered by five AETCs from licensees of 12 vends and efforts were being made to recover the balance amount.

The matter was reported to the Government between August 2015 and February 2016; its reply was awaited (November 2016).

### **3.4 Non-levy of additional fee and penalty on short lifting of Minimum Guaranteed Quota**

*Additional fee of ₹5.34 crore for short lifting of 20,16,928 proof liters of liquor by licensee of 451 vends was not levied. In addition, a penalty of ₹0.54 crore was also leviable.*

Para 4.3 of the EA 2014-15 stipulates that each licensee shall be required to lift MGQ both of CL and IMFS as fixed for each vend failing which he shall be liable to pay license fee fixed on the basis of the MGQ. In addition, the licensee shall also be liable to pay additional fee of ₹10 per proof litre (Pl) on CL and ₹56 per pl on IMFS on the un-lifted quota which falls short of 100 *per cent* of the MGQ. The licensee shall also be liable to pay penalty of ₹7 per pl on CL and ₹14 per pl on IMFS on the un-lifted quota of the liquor which falls short of the benchmark of 80 *per cent* of the MGQ. The AETC or Excise and Taxation Officer (ETO) in-charge of the District shall review the position of lifting of MGQ on quarterly basis and ensure recovery of the additional license fee as well as the amount of penalty on un-lifted MGQ.

Audit test checked the records of seven AETCs<sup>4</sup> and noticed that licensees of 451 vends had lifted 89,08,339 pl of liquor against the fixed monthly MGQ of 1,09,25,254 pl which was short of 20,16,923 pl<sup>5</sup> (CL: 1295242 pl and IMFS:

<sup>2</sup> Baddi: one licensee: ₹6.55 lakh, Kullu: two licensees: ₹43.14 lakh, Mandi: three licensees: ₹31.88 lakh, Nahan: two licensees: ₹0.53 crore, Shimla: 10 licensees: ₹0.83 crore, Solan: three licensees: ₹1.66 crore and Una: eight licensees: ₹4.75 crore

<sup>3</sup> AETCs Kullu: two vends, ₹4.00 lakh, Nahan: two vends, ₹35.81 lakh, Shimla: three vends, ₹11.96 lakh, Solan: four vends, ₹0.83 crore and Una: one vend, ₹40.00 lakh.

<sup>4</sup> Baddi: 26 vends: ₹49.16 lakh, Chamba: 72 vends: ₹0.66 crore, Mandi: 123 vends: ₹0.55 crore, Nahan: 26 vends: ₹49.98 lakh, Shimla: 86 vends: ₹0.68 crore, Solan: 53 vends: ₹1.39 crore and Una: 65 vends: ₹1.59 crore (Including penalty)

<u>Liquor quota</u>	<u>CL</u>	<u>IMFL</u>	<u>Total</u>
MGQ monthly fixed	5842982	5082270	10925252
MGQ lifted	4547740	4360589	8908329
MGQ short lifted	1295242	721681	2016923

721681 pl) of the MGQ during 2014-15. However, additional fee of ₹5.34 crore was payable by these licensees but was not demanded by the concerned AETCs. Audit further noticed that out of licensees of 451 vends, 140 licensees had also not lifted 5,58,734.162 pl which falls short of the benchmark of 80 per cent of the MGQ for which penalty of ₹0.54 crore at the prescribed rates was required to be levied but the same was not levied/demanded by the concerned AETCs. The AETCs or ETO in-charge of the Districts did not review the position of lifting of MGQ by each vend on quarterly basis resulting in loss of revenue of ₹5.34 crore. In addition, a penalty of ₹0.54 crore was also leviable.

On this being pointed out, the Department intimated in September 2016 that out of ₹5.34 crore, an amount of ₹3.78 lakh<sup>6</sup> had been recovered by five AETCs from licensees of 20 vends and efforts were being made to recover the balance amount.

The matter was reported to the Government between September 2015 and February 2016; its reply was awaited (November 2016).

### 3.5 Non-levy of interest on delayed payment of license fee

*Interest amounting to ₹99.61 lakh on delayed payment of license fee of ₹76.39 crore was not demanded by the Department from the licensees of 109 vends resulting in short levy of interest to that extent.*

Para 4.4 (d) of the EA 2014-15 stipulates that if a licensee is unable to lift the MGQ within a month, he shall be required to pay the full instalment of license fee for that month by the last day of the month and fee for the month of March shall be paid in full by 15<sup>th</sup> of March. Para 4.5 (a) further provides that if the licensee fails to pay the amount of license fee on due dates, interest at the rate of 10 per cent per annum up to one month and 18 per cent per annum thereafter shall be leviable.

Test check of records of six AETCs<sup>7</sup> between July 2015 and February 2016 revealed that licensees of 109 vends had deposited license fee of ₹76.39 crore after due date between April 2014 and November 2015 with delay ranging from two to 406 days. They were therefore liable to pay interest of ₹99.61 lakh on belated payment of license fee. However, the concerned AETCs did not raise the demand for the same. This resulted in non-recovery of interest amounting to ₹99.61 lakh<sup>8</sup>.

On this being pointed out, the Department intimated (September 2016) that out of ₹99.61 lakh an amount of ₹31.38 lakh<sup>9</sup> had been recovered by six AETCs and efforts were being made to recover the balance amount of interest.

The matter was reported to the Government between September 2015 and February 2016; its reply was awaited (November 2016).

<sup>6</sup> AETCs Baddi: one vend, ₹0.15 lakh, Chamba: 15 vends, ₹2.60 lakh, Sirmour: one vend, ₹0.24 lakh, Solan: two vends, ₹0.66 lakh and Una: one vend, ₹0.13 lakh.

<sup>7</sup> AETCs Baddi, Kullu, Mandi, Nahan, Shimla and Solan

<sup>8</sup> AETCs Baddi: three Vends: ₹11.20 lakh, Kullu: 23 Vends: ₹3.91 lakh, Mandi: 16 Vends: ₹19.18 lakh, Nahan: 29 Vends: ₹21.57 lakh, Shimla: 23 Vends: ₹17.24 lakh and Solan: 15 Vends: ₹26.51 lakh

<sup>9</sup> AETCs Baddi: ₹11.20 lakh, Kullu: ₹3.91 lakh Mandi: ₹0.12 lakh, Sirmour: ₹1.95 lakh, Shimla: ₹13.75 lakh and Solan: ₹0.45 lakh

### 3.6 Non-recovery of license fee on unsold stock of liquor

*License fee of ₹43.83 lakh was recoverable in respect of 252 vends due to non-accountal of unsold stock of preceding year.*

Para 3.19 of the EA 2014-15 stipulates that in case of renewal of license of a vend, the unsold stock of liquor upto 3 per cent of the MGQ of the preceding year i.e. 2013-14 in the vend, shall not be accounted towards the MGQ for the year 2014-15 and the licensee shall have to take this unsold stock on payment of license fee at the rate of 50 per cent as prescribed for the year 2014-15.

Test check of records of five AETCs<sup>10</sup> brought out that licensees of 252 vends had not accounted for the unsold stock of 43,916.07 pl of liquor (CL: 11,836.99 and IMFS: 32,079.08 pl) of preceding year 2013-14. The license fee of ₹43.83 lakh at the rate of 50 per cent of applicable license fee for the year 2014-15 was payable on this unsold stock by the licensees. The license fee was neither demanded by the Department nor deposited by the licensees. This resulted in non-recovery of license fee of ₹43.83 lakh<sup>11</sup>.

On this being pointed out, the Department intimated (August 2016) that out of ₹43.83 lakh an amount of ₹9.61 lakh had been recovered from four licensees by four AETCs<sup>12</sup> and efforts were being made to recover the balance amount.

The matter was reported to the Government between September 2015 and February 2016; its reply was awaited (November 2016).

### 3.7 Non/short recovery of salaries of excise establishment posted at distillery/brewery/bottling plants

*Salaries of ₹34.77 lakh of excise establishment staff posted in a brewery, a distillery and two bottling plants were not recovered from the licensees for the year 2014-15.*

Rules 9.13 and 9.16 of the Punjab Distillery Rules (PDR), 1932 as applicable in Himachal Pradesh, stipulate that the licensee shall agree to the posting of a Government Excise Establishment to his distillery for the purpose of ensuring due observance of the Rules and for watch and ward for which the licensee have to pay the salaries to that staff.

Cross check of records of a brewery, a distillery and two bottling plants with that of three AETCs revealed that salaries amounting to ₹36.62 lakh of the excise establishment staff posted to the distillery/brewery/bottling plants were required to be paid by the licensees for the year 2014-15. However, an amount of only ₹1.85 lakh was paid despite the fact that the AETCs, being the Drawing and Disbursing Officers, were aware of these postings. The AETCs did not take any

<sup>10</sup> AETCs Baddi, Mandi, Nahan, Solan and Una

<sup>11</sup> AETCs Baddi: 39 vends: ₹7.30 lakh, Mandi: 56 vends: ₹6.07 lakh, Nahan: 41 vends: ₹6.64 lakh, Solan: 43 vends: ₹11.26 lakh and Una: 73 vends: ₹12.56 lakh

<sup>12</sup> AETCs Baddi: One licensee: ₹6.30 lakh, Nahan: One licensee: ₹0.23 lakh, Solan: One licensee: ₹1.57 lakh and Una: One licensee: ₹1.51 lakh

action to raise the demand and collect the dues, thus, depriving the Government of ₹34.77 lakh<sup>13</sup>.

On this being pointed out, the Department intimated (August 2016) that out of ₹34.77 lakh an amount of ₹26.98 lakh had been recovered from four licensees by three AETCs<sup>14</sup> and efforts were being made to recover the balance amount.

The matter was reported to the Government between January and February 2016; its reply was awaited (November 2016).

### **3.8 Short recovery of license fee and interest on bottling of Country liquor**

***License fee and excise duty amounting to ₹28.75 lakh from two licensees was short recovered, resulting in loss of revenue to that extent. Interest on belated payment of license fee/franchisee fee of ₹5.39 lakh was also recoverable.***

Rule 9.5 of the PDR, 1932 read with Para 5.1(29) (iii) of the EA 2014-15 provides that license fee at the rate of ₹0.80 per unit of 750 mls of CL shall be payable in case of bottling of CL by the distillery licensees. Rule 9.5 (8) of PDR, further, provides that if the licensee fails to pay the fee or part thereof on due dates, interest at the rate of 12 *per cent* upto one month and if default in the payment of fee exceed one month the interest at the rate of 18 *per cent* per annum from the initial date of default in payment shall be payable on CL/franchisee fees (on IMFS) till the default continued. Further, Para 5.2 (1) of EA 2014-15 provides that the State Excise duty on CL shall be leviable at the rate of ₹10 per PLs. Audit observed the following:

(a) Audit test checked the payment register of two distilleries under jurisdiction of two AETCs<sup>15</sup> engaged in manufacturing of CL and noticed that the license fee for bottling of 25,17,688 unit of 750 mls of CL for the period 2014-15 aggregating to ₹20.14 lakh that was neither deposited by the distilleries' licensees nor demanded by AETCs. Audit, further, noticed that one licensee<sup>16</sup> had paid State excise duty of ₹3.81 crore on sale of 38,99,418.107 pl of CL as against the payable amount of ₹3.90 crore resulting in short recovery of state excise duty of ₹8.61 lakh. This resulted in non-recovery of ₹28.75 lakh (₹20.14 lakh + ₹8.61 lakh) to the State exchequer.

(b) Test check of the payment register of seven AETCs revealed that in two AETCs<sup>17</sup> license and franchisee fees of ₹1.11 crore for the year 2014-15 was payable between 07 January 2014 and 07 April 2015 but were deposited between 24 March 2014 and 02 December 2015 by four licensees. The delay ranged between three and 340 days on which interest of ₹5.39 lakh<sup>18</sup> was leviable but the same was not levied/recovered by the Department.

<sup>13</sup> AETCs Mandi: ₹8.47 lakh, Nahan : ₹5.11 lakh and ₹6.86 lakh and Una: ₹14.33 lakh

<sup>14</sup> AETCs Mandi: one licensee: ₹2.80 lakh, Nahan: two licensees: ₹9.86 lakh and Una: one licensee: ₹14.32 lakh

<sup>15</sup> AETCs Mandi: one licensee: ₹18.30 lakh and Una: one licensee: ₹1.84 lakh

<sup>16</sup> AETC Una: ₹8.61 lakh

<sup>17</sup> AETCs Bilaspur and Nahan

<sup>18</sup> AETCs Mandi: One licensee: ₹2.16 lakh and Nahan: Three licensees: ₹3.23 lakh

On this being pointed out, the Department intimated in (August 2016) that out of ₹34.14 lakh, an amount of ₹10.89 lakh had been recovered by two AETCs<sup>19</sup> and efforts were being made to recover the balance amount.

The matter was reported to the Government between January and February 2016; its reply was awaited (November 2016).

### **3.9 Non-recovery of fixed fee for not opening of L-13 vend**

*The Department had not recovered fixed fee of ₹6.90 lakh from two licensees for not opening three vends in the allotted Districts.*

Para 6.10 of the EA for the year 2014-15 stipulates that CL suppliers were required to open an L-13 vend (wholesale vends) in each of District allotted to them on payment of license fees of ₹2.30 lakh per vend. It, further, provides that those CL suppliers who have opened L-13 vends during 2013-14 in those Districts which were not allotted to them during the year 2013-14 shall have to compulsorily open these L-13 vends during the year 2014-15 also as those concerned Districts have further been made as 'allotted' Districts for the year 2014-15.

Audit test checked the records of L-13 vends of AETCs, Mandi and Nahan and found that a CL supplier of Nahan had not opened L-13 vend in two Districts out of five Districts allotted for the year 2014-15. Another licensee of Mandi who had opened L-13 vend in Barmoh (Una District) was not allotted for the year 2013-14 and as such was compulsorily required to open L-13 vend during 2014-15 but failed to do so. Therefore, fixed fee of ₹6.90 lakh was recoverable from these two licensees for not opening of three vends. This was neither demanded by the Department nor deposited by the suppliers which resulted in non-recovery of fixed fee of ₹6.90 lakh.

On this being pointed out, the AETC, Nahan intimated (February 2016) that notice had been issued to the concerned Excise and Taxation Inspectors to recover the amount from the licensees whereas AETC, Mandi stated that efforts would be made to recover fixed fee from the concerned licensees.

The matter was reported to the Government between January and February 2016; its reply was awaited (November 2016).

### **3.10 Non-realisation of Entertainment Duty**

*The Excise and Taxation Department did not levy entertainment duty on cable operators thereby forgoing revenue of at least ₹0.55 crore.*

The Cable TV Network (Regulation) Act, 1995, provides for mandatory registration of cable operators with the registering authority namely Head Postmaster of a Head post office of the area within whose territorial jurisdiction the office of the concerned cable operator is situated. Section 3 of the HP Entertainment Act, 1968, provides for levy of entertainment duty at rates to be specified by the Government that shall be collected by the proprietor and rendered to the Government. The Himachal Pradesh Entertainment Duty (Amendment) Act

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<sup>19</sup> AETCs Mandi: One licensee: ₹7.66 lakh and Nahan: Three licensees: ₹3.23 lakh

1999 brought in “cable television” and “television exhibition” as defined therein within the ambit of the HP Entertainment Act. Television exhibition includes an exhibition with the aid of any type of antenna with a cable network attached to it.

Test check of the records of three AETCs<sup>20</sup> and information obtained from District Public Relation Officers (DPROs) revealed that there were 83 cable operators registered in these three Districts. However, none of the cable operators were paying any entertainment duty on the entertainment services rendered to their subscribers though they were charging a fee from their customers for the entertainment supplied. Audit observed that no action was taken by the State Government to determine the methodology or rates of duty to be levied or levy any entertainment duty from them.

The Excise and Taxation Department vide notification of May 2012 had stipulated that duty on all kinds of entertainments shall be levied at the rate of 10 per cent of the payment for admission with immediate effect. Levy of even 10 per cent on the rates charged by the cable operators from their subscribers would result in accrual of revenue of ₹55.41 lakh from the cable operators as given in **Table-2.3** below.

**Table: 2.3: Details of Cable Operators for which Entertainment Duty was not realized**

Name of District	Total no. of cable operators	Cable Operators registered with Chief Post master	No. of Cable Connections	Rate per connection (in ₹)	Period of Entertainment duty payable	No. of months	Amount realised from cable connections (Col. 4*5*7)	Entertainment duty @ 10 per cent (₹in lakh)
1	2	3	4	5	6	7	8	9
Chamba	26	2	430	200	May 2012 to March 2015	35	30.10	3.01
		1	40	150		35	2.10	0.21
Nahan (Sirmour)	28	4	6,350	200	May 2012 to March 2015	35	444.50	44.45
Solan	29	10	1,814	200	Feb 2014 to Feb 2016	11 to 25	77.40	7.74
<b>Total</b>	<b>83</b>	<b>17</b>	<b>8,634</b>				<b>554.10</b>	<b>55.41</b>

The Department intimated (October 2016) that notices had been issued to the 17 cable operators by three AETCs to deposit the amount of entertainment tax and Circle Excise and Taxation Inspector were directed to recover the same.

The matter was reported to the Government in March 2016; its reply was awaited (November 2016).

<sup>20</sup> AETCs Chamba, Nahan and Solan



***CHAPTER-IV***  
***STAMP DUTY***





## CHAPTER-IV STAMP DUTY

### 4.1 Tax administration

Receipts from Stamp Duty and Registration Fee are regulated under the Indian Stamp Act 1899, (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Himachal Pradesh and are administered at the Government level by the Principal Secretary (Revenue). The Inspector General of Registration (IGR) is the Head of the Revenue Department who is empowered with the task of superintendence and administration of registration work. He is assisted by 12 Deputy Commissioners and 117 *Tehsildars/Naib-Tehsildars* acting as the Registrars and Sub-Registrars (SRs) respectively.

### 4.2 Results of audit

In 2015-16, test check of records of 77 units of the Revenue Department brought out irregular exemption on housing loan, non/short levy of stamp duty and registration fee, non-execution/renewal of lease deeds, non/short recovery of lease money and other irregularities amounting to ₹218.02 crore in 322 cases as categorized in **Table-4.1** below.

**Table-4.1: Results of Audit**

(₹in crore)			
Sr. No.	Categories	Number of cases	Amount
<b>Receipt Head-0029-Land Revenue</b>			
1.	Non-execution/renewal of lease deeds	29	198.12
2.	Non/ short recovery of lease money	69	16.32
<b>Receipt Head-0030-Stamp and Registration</b>			
1.	Incorrect determination of market value of property and irregular exemption on housing loan	69	3.00
2.	Non / short levy of Stamp Duty and Registration Fee	55	0.46
3.	Other irregularities	100	0.12
<b>Total</b>		<b>322</b>	<b>218.02</b>

During the year 2015-16, the Department had accepted under-assessments and other deficiencies with revenue implication of ₹61.83 crore in 139 cases, out of which an amount of ₹1.43 crore was realised in 94 cases of which ₹36.57 lakh in 73 cases relates to earlier years and ₹1.06 crore in 21 cases relates to the year 2015-16.

Significant cases involving ₹103.58 crore are discussed in the following paragraphs.

### 4.3 Grant of Government land on lease and realisation of lease money

*The State Government failed to ensure adherence and enforcement of statutory and regulatory provisions while leasing land to users for various purposes resulting in short or non-recovery of revenue totaling ₹101.80 crore. The ability of the Department to monitor and properly manage leases were also undermined by non-maintenance of a centralized data of land and allotments made on lease basis. Lease deeds were not executed/renewed within the specified period, lease money was not fixed/revised as per prescribed rates on the basis of prevailing market value of the land and the Department had not taken any action to resume the land in favour of Government or cancel the lease deeds.*

#### 4.3.1 Introduction

The Himachal Pradesh Government has framed Lease Rules known as Himachal Pradesh Lease Rules (HPLRs), 1993 as amended in 2011, 2012 and 2013. As per Rule 3 (1) of HPLRs, land may be granted on lease to eligible institutions and persons mentioned in Rule 6 with the sanction of the competent authority. Rule 8(1) provides that the lease amount shall be charged from the eligible institutions and persons per annum as per the applicable rates. A brief on procedure/system regarding 'Grant of Government land on lease and realisation of lease money' is given in the **Appendix-II**.

An audit of 'Grant of Government land on lease and realisation of lease money' covering the period from 2012-13 to 2014-15 was conducted between July 2015 and December 2015 through test check of the records maintained in the offices of the eight District Collectors (DCs) Offices<sup>1</sup> out of 12 DCs. The audit findings are brought out below.

#### 4.3.2 Non-maintenance of centralized database of leased land

As per Rule 9 of HPLRs, a list of Government land excluding land acquired for public purposes, *Nazul* Land<sup>2</sup> and encamping grounds in each District shall be maintained by the Collector and he shall send a report of the same to the State Government every year in the prescribed proforma/register. The State Government shall determine from time to time as to which of the land specified in Rule 10 (1) shall be available for leasing out. An online lease register District wise and Tehsil wise of the leased land shall also be maintained by the Collector in the prescribed format.

Test check of records of eight DCs revealed that the year-wise centralized data of lease deeds was not maintained in four DC offices. In other four Districts,<sup>3</sup> the lease registers were incomplete and did not indicate the date of grant of lease, date of agreement and terms and conditions, name of *mohal*, total land leased out and date of renewal. In the absence of these details, audit could not ascertain the number of leases granted and lease amount realised there against.

<sup>1</sup> Chamba, Kangra, Kullu, Hamirpur, Mandi, Shimla, Solan and Una

<sup>2</sup> The land situated beyond two miles of the Municipal limits, which has escheated to the State Government and has not already been appropriated by the State Government for any purpose.

<sup>3</sup> Chamba, Kangra, Kullu and Shimla

On this being pointed out, the Government intimated (September 2016) that necessary directions had been issued to all the concerned field offices (DCs) to maintain centralized data of all Government land leases with full description/details.

### **4.3.3 Transfer of government land without execution of lease deeds**

Scrutiny of records revealed that government land was granted in seven Districts<sup>4</sup> (November 1999 to December 2014) on lease basis for establishing HEPs, schools, boards and trusts for periods ranging from 15 to 99 years. However, no lease deed was executed before handing over of possession of land nor had lease money of ₹160.64 crore been recovered upto 31 March 2016 though activities had commenced on the leased land.

On this being pointed out, the Department intimated (September 2016) that an amount of ₹0.67 crore out of ₹58.21 crore had been recovered in Kullu and Shimla and efforts were being made to recover the balance amount. The replies for recovery of ₹12.02 crore from the remaining units were awaited (November 2016).

### **4.3.4 Non-renewal of lease deeds**

Rule 25 of HPLRs provides that on the expiry of the lease, the Government may resume the whole of the land or any portion of it. Failing such resumption, the lessee may be entitled to a renewal of the lease for such term and on such conditions as to the amount of land revenue and rent or lease money and other charges to be paid by him as the competent authority may determine.

Scrutiny of records in three Districts<sup>5</sup> revealed that sanctions for granting of Government land measuring 84-61-48 *hectare* on lease basis was accorded in favour of twelve lessees for periods ranging from five to 30 years for establishment of handicraft centre (March 1978), storage and sale of petroleum products (1996) and mining and crushing activities (between 2007-08 and 2012-13). The lease deeds expired between May 2008 and April 2014. However, neither was the lease deeds renewed nor was the land taken back by the Government. This resulted in non-realisation of lease amount of ₹14.25 crore.

On this being pointed out, the Department intimated (September 2016) that an amount of ₹26.55 lakh had been recovered by DC Kullu and efforts were being made to recover the balance amount. The replies from the remaining units were awaited (November 2016).

### **4.3.5 Short fixation of lease money**

Rule 8 (1) of HPLR provides that lease money is to be realised at the rate of five or eight or 18 *per cent* of the prevalent market value of land leased or double the average market value of five years whichever is less in case of individuals, private companies and educational institutions respectively. Further, lease money shall be revised after the period as specified in the lease agreement on the latest highest market value of land leased or double the average market value of five years

<sup>4</sup> Chamba, Kangra, Kullu, Hamirpur, Mandi, Shimla and Solan

<sup>5</sup> Kullu, Kangra and Shimla

whichever is less. Further, the lease amount of fresh or renewal of existing lease shall be charged at the rate of 10 *per cent* of the current circle rate per annum. Rule 17(3) of HPLRs provides that if the lessee commits any breach of any of the conditions of the lease deed at any time, his lease shall be terminated by the competent authority.

Audit observed cases of short fixation or non-revision of lease charges amounting to ₹12.24 crore as brought out below.

(a) Audit scrutiny of lease records of five Districts<sup>6</sup> revealed that sanction for lease of Government land measuring 16-60-81 *hectare* was accorded in favour of 13 lessees. These lease deeds were executed between January 1987 and October 2014 for period ranging from 20 to 99 years. The market value of the land on the basis of prevailing market rates was ₹13.55 crore and the lease charges amounted to ₹3.31 crore at the prescribed rates. The Department, however, fixed the lease charges on the basis of rates lower than prevailing markets rates and realised lease money of ₹21 lakh. This resulted in short realization of lease money of ₹3.10 crore.

(b) Scrutiny of lease records of eight Districts<sup>7</sup> revealed that Government land measuring 31-19-17 *hectare* was granted on lease in favour of twenty eight lessees for the period ranging from 10 to 99 years. These lease deeds were executed between January 1984 and September 2009. The leases were due for renewal between 1993-94 and 2014-15 at an interval of 5/10 years. The market value of land on the prevailing market rates worked out to be ₹26.99 crore on which lease charges of ₹9.26 crore was payable for the period 1993-94 to 2014-15 i.e. when the lease was due for revision as per lease agreement. Out of this, the lessees in four cases paid lease money of ₹11.74 lakh while the remaining lessees did not pay lease money. The Department neither took action to realize the revised lease money nor terminated their leases. This resulted in non-recovery of lease money of ₹9.14 crore.

On being pointed out, the DC, Mandi intimated (August 2016) that an amount of ₹1.96 lakh had been recovered from the lessees and DCs, Kullu and Shimla intimated (June 2016) that notices had been issued to the concerned field offices to recover the lease amount from the defaulters. The remaining DCs had not furnished any reply.

#### **4.3.6 Non/short realisation of lease money on lump-sum basis**

Rule 8(2) of the HPLR provides that the competent authority may charge the prevalent market value or double the average market value of five years whichever is less in lump sum and charge ₹1/- as token lease money per month for the period for which the land is granted on lease.

**4.3.6.1** Audit scrutiny of the records of five DCs<sup>8</sup> revealed that sanction for grant of Government land of 36-51-07 *hectare* on lease basis was accorded during April 1980 and December 2010 in favour of five lessees for period ranging from 40 to 99 years on lump sum basis. The Department recovered token lease money at the rate of ₹1/- per month from the lessees but did not recover lump sum lease money resulting in non-recovery of lease money of ₹4.78 crore.

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<sup>6</sup> Chamba, Hamirpur, Kangra, Kullu and Shimla

<sup>7</sup> Chamba, Hamirpur, Kangra, Kullu, Mandi, Shimla, Solan and Una

<sup>8</sup> Chamba, Kangra, Hamirpur, Solan and Una

**4.3.6.2** Audit scrutiny of records of four DCs<sup>9</sup> revealed that Government land leased measuring 09-48-07 *hectare* (between January 1994 and March 2001) in favour of five lessees for period ranging from 30 to 99 years on lump-sum basis. The Department had worked out and recovered the lump-sum amount of ₹28.67 lakh instead of ₹58.29 lakh resulting in loss of revenue of ₹29.62 lakh.

#### **4.3.7 Conclusion**

Receipts from lease of government land are an important source of revenue of the State Government. However, the Government failed to ensure adherence and enforcement of the statutory and regulatory provisions while leasing land to users for various purposes resulting in short or non-recovery of revenue totaling ₹101.80 crore. The ability of the Department to monitor and properly manage leases were also undermined by non-maintenance of a centralized data of land and allotments made on lease basis.

The Government intimated (September 2016) that necessary directions had been issued to all the concerned DCs/HoD for taking necessary action.

#### **4.4 Short recovery of Stamp Duty and Registration Fee on built up structure**

*Incorrect adoption of market rate for built up structure of ₹10.99 crore resulted in short realisation of Stamp Duty and Registration Fee of ₹0.79 crore.*

Rule 4 (c) of the Himachal Pradesh Stamp (Prevention of Under-valuation of Instruments) Amendment Rules, 1992, as amended vide notification dated 26 June 2013, stipulates that certain factors shall be taken into consideration for fixing the rates of valuation of residential/non-residential buildings such as (i) classification of the buildings into *Pucca, Semi Pucca and Kutcha*, (ii) area in which buildings are located, (iii) latest plinth area rates notified by the Himachal Pradesh Public Works Department, (iv) premium for annual increase and (v) land area occupied by the structure. The Deputy Commissioners of the Districts shall finalise the rates for calculating stamp duty and registration fee for any transaction. The registering officer is also required to verify the consideration amount shown in the sale deeds with reference to the rates fixed by the DC for the purpose. The Stamp Duty and Registration Fee will be charged as per the Revenue Department's notifications dated 12 January 2012 and 27 January 2014.

Test check of records of 20 Sub-Registrars (SRs)<sup>10</sup> brought out that 171 documents of sale deeds were registered between July 2013 and December 2014 for a consideration of ₹10.20 crore on the basis of valuations of properties prepared by private architects which was not based on the present market/notification rates of built up structures. The actual value of property including value of built up

<sup>9</sup> Hamirpur, Shimla, Solan and Una

<sup>10</sup> Baddi: 42 cases: ₹14.71 lakh, Baijnath: three cases: ₹0.40 lakh, Bangana: nine cases: ₹1.32 lakh, Bharari: six cases: ₹2.50 lakh, Chachyot: one case: ₹2.10 lakh, Chamba: 13 cases: ₹11.11 lakh, Dalhousie: six cases: ₹2.71 lakh, Dehra: eight cases: ₹1.82 lakh, Dharamshala: three cases: ₹2.85 lakh, Dhira: four cases: ₹1.10 lakh, Galore: nine cases: ₹1.23 lakh, Kasba Kotla: four cases: ₹0.84 lakh, Kumarsain: two cases: ₹1.02 lakh, Kasauli: four cases: ₹1.99 lakh, Manali: 10 cases: ₹7.22 lakh, Mandi: 14 cases: ₹5.01 lakh, Nadaun: six cases: ₹2.14 lakh, Paonta Sahib: 20 cases: ₹15.74 lakh, Salooni: three cases: ₹0.56 lakh and Shimla (U): four cases: ₹2.65 lakh

structure (₹10.99 crore) worked out to ₹21.19 crore on the basis of market rates fixed by the DCs in June 2013. While registering these sale deeds, the SRs did not verify the consideration amount with reference to the rates fixed by the DC for the built up structure resulting in short recovery of Stamp Duty and Registration Fee of ₹0.79 crore. Further, these rates which were required to be revised w.e.f. 1<sup>st</sup> April 2014 were not revised till March 2015.

On this being pointed out, the Department intimated between January and September 2016 that out of ₹0.79 crore, an amount of ₹9.86 lakh had been recovered by the seven SRs<sup>11</sup>. The remaining SRs stated that cases would be reviewed.

The matter was reported to the Government between September 2015 and April 2016; its reply was awaited (November 2016).

#### **4.5 Short determination of market value of properties**

***Incorrect valuation on the basis of affidavits regarding distance of the land from road filed by purchasers resulted in short realisation of Stamp Duty and Registration Fee of ₹0.56 crore. In addition, penalty of ₹27.94 lakh was also leviable.***

The valuation of land for the purpose of registration of sale deeds, both in the case of rural and urban areas, is made on the basis of classification of land and in accordance with the Himachal Pradesh Land Record Manual 1992. A notification issued in January 2012 categorized classification of land in rural areas for valuation purpose is into three categories viz. (i) property in which any point of the concerned *Khasra Number* (Kh. No.) or part thereof abuts any road, (ii) property not falling in (i) above in which any point of the concerned Kh. No. or part thereof is up to a distance of 50 metres from the road, and (iii) property not falling in (i) above in which no point of the concerned Kh No. or part thereof is within 50 metres from such road. In case of land falling in urban areas, the limit of 25 metres is applicable as against 50 metres in rural areas. The roads are categorised as National Highway (NH), State Highway (SH) and Other Road (OR). The purchaser will be required to file affidavit stating the distance of the relevant land or holding from a State Highway (SH) and National Highway (NH) or Other Road (OR) which will be the basis for the rate to be used for Stamp Duty calculation. If the affidavit of purchaser found false, penalty of upto 50 *per cent* of the applicable Stamp Duty/Registration Fee may be levied and recovered.

Audit scrutiny of the records of nine SRs<sup>12</sup> revealed that 55 documents were registered between 2013 and 2014 for a consideration amount of ₹8.89 crore on the basis of affidavits filed by the purchasers regarding the distance of the properties from different categories of roads. The land was classified by measuring incorrect distance of land or holding from NH and SH or OR. The SRs while registering these sale deeds did not verify the actual distance of land or holding from the roads but relied on the affidavits filed by the purchasers which had incorrect particulars. This resulted in adopting valuation of ₹8.89 crore as against the actual valuation of ₹16.95 crore based on the actual distance in each

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<sup>11</sup> SRs Bangana: ₹0.86 lakh, Bharari: ₹0.94 lakh, Chamba: ₹3.63 lakh, Dalhousie: ₹2.19 lakh, Galore: ₹1.02 lakh, Mandi: ₹0.83 lakh and Salooni: ₹0.39 lakh

<sup>12</sup> SRs Dehra, Dharamshala, Jawali, Nurpur, Paonta Sahib, Rajgarh, Shahpur, Theog and Thural

case and short realization of Stamp Duty and Registration Fee of ₹0.56 crore<sup>13</sup>. In addition, the penalty of ₹27.94 lakh at the rate 50 per cent of Stamp Duty/Registration Fee was also leviable.

On this being pointed out between July 2015 and January 2016, the Department intimated (September 2016) that out of ₹3.07 lakh, an amount of ₹0.16 lakh had been recovered by the SR Jawali and notices had been issued to recover the balance amount. The replies from remaining SRs were awaited.

The matter was reported to the Government between September 2015 and March 2016; its reply was awaited (November 2016).

#### **4.6 Short recovery of Stamp Duty due to application of incorrect rates**

*Application of incorrect rates of Stamp Duty in sale deeds resulted in short realisation of Stamp Duty of ₹31.87 lakh in 400 cases.*

The Revenue Department vide notification dated 27 January 2014 revised the rates of Stamp Duty from five to six per cent where such instruments were registered in favour of other persons under Articles 23, 33 and 40 of Schedule I-A of the Indian Stamp Act, 1899.

Test check of records of 10 SRs<sup>14</sup> brought out that 400 documents were registered between 27 January 2014 and 23 February 2014 for a consideration amount of ₹31.86 crore. The SRs levied Stamp Duty of ₹1.59 crore on the basis of old rates instead of ₹1.91 crore required to be levied on the revised rates notified in January 2014. This resulted in short realisation of Stamp Duty of ₹31.87 lakh.

On this being pointed out, the Department intimated (February 2016) that out of ₹6.85 lakh an amount of ₹0.19 lakh had been recovered by SR, Nurpur and notices had been issued to recover the balance amount. Whereas SR, Baddi had intimated (November 2015) that under recovery of Stamp Duty was made owing to defect in software and as such the entire cases registered after January 2014 be reviewed and under recoveries of Stamp Duty be affected. The remaining nine SRs stated that cases would be reviewed.

The matter was reported to the Government between September 2015 and April 2016; its reply was awaited (November 2016).

<sup>13</sup> SRs Dehra: two cases ₹3.10 lakh, Dharamshala: 10 cases: ₹16.14 lakh, Jawali: five cases: ₹3.07 lakh, Nurpur: four cases: ₹5.30 lakh, Paonta Sahib: two cases: ₹1.89 lakh, Rajgarh: five cases: ₹14.90 lakh, Shahpur: two cases: ₹0.19 lakh, Theog: eight cases: ₹9.56 lakh and Thural: 17 cases: ₹1.74 lakh

<sup>14</sup> Amb: 59 cases: ₹6.38 lakh, Baddi: 34 cases: ₹6.96 lakh, Baijnath: 20 cases: ₹1.41 lakh, Dehra: 25 cases: ₹1.34 lakh, Manali: 11 cases: ₹1.17 lakh, Nadaun: 42 cases: ₹1.01 lakh, Nurpur: 97 cases: ₹6.85 lakh, Paonta Sahib: 76 cases: ₹5.46 lakh, Srinaina Devi: 17 cases: ₹0.89 lakh and Touni Devi: 19 cases: ₹0.40 lakh



#### 4.7 Short realisation of Stamp Duty and Registration Fee on lease deed

*Non-adopting of prevailing market rates on lease deeds resulted in short recovery of Stamp Duty and Registration Fee of ₹10.64 lakh.*

The Revenue Department vide notification dated 12 January 2012 prescribed the rates of Stamp duty of five *percent* and Registration Fee of two *per cent* of the market value of the property or consideration amount whichever is higher.

Audit scrutiny of the records of three SRs<sup>15</sup> revealed that in seven cases, land was leased out between 08 February 2013 and 21 February 2014 for period ranging from five to 99 years. SRs levied stamp duty and registration of ₹2.70 lakh on the consideration amount of ₹186.80 lakh instead of ₹13.34 lakh on market value of ₹6.77 crore. This resulted in short realisation of Stamp Duty and Registration Fee of ₹10.64 lakh.

On being pointed out (between July 2015 and September 2015), the Department intimated (August 2016) that an amount of ₹0.47 lakh had been recovered by the SR, Mandi and efforts were being made to recover the balance amount. The remaining SRs intimated that cases would be reviewed.

The matter was reported to the Government in September 2015; its reply was awaited (November 2016).

<sup>15</sup> SR Anni: one case: ₹0.42 lakh, Dharamshala: two cases: ₹6.74 lakh and Mandi: four cases: ₹3.48 lakh

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



## **CHAPTER-V**

### **TAXES ON VEHICLES, GOODS AND PASSENGERS**

#### **5.1 Tax administration**

Principal Secretary (Transport) is the administrative head at the Government level. The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and rules made thereunder and are under the administrative control of the Director Transport. The receipts from the goods and passengers tax are regulated under the provisions of the Himachal Pradesh Passengers and Goods Taxation Act, 1955, which are administered by the Excise and Taxation Commissioner of the State.

#### **5.2 Results of audit**

During 2015-16, test check of the records of 56 units relating to token tax, special road tax, registration fee, permit fee, driving license fee, conductor license fee, penalties and composite fee under the National Permit Scheme brought out under-assessment of tax and other irregularities involving ₹160.13 crore in 322 cases which are categorized in **Table-5.1** below.

**Table 5.1: Results of Audit**

			(₹ in crore)
Sr. No.	Categories	Number of Cases	Amount
<b>1.</b>	<b>Non/short realisation of</b>		
	• Token tax and composite fee	138	3.95
	• Special Road Tax	37	55.36
	• Passenger and goods tax	34	7.95
<b>2.</b>	<b>Evasion of</b>		
	• Token tax	22	1.02
	• Passenger and goods tax	27	9.26
<b>3.</b>	<b>Other irregularities</b>		
	• Vehicles tax	30	0.93
	• Passenger and goods tax	34	81.66
	<b>Total</b>	<b>322</b>	<b>160.13</b>

During the year 2015-16, the Department accepted under-assessments and other deficiencies of ₹16.83 crore in 323 cases out of which an amount of ₹4.38 crore was realised in 270 cases. Of this, ₹3.88 crore in 259 cases pertained to earlier years and ₹0.50 crore in 11 cases for the year 2015-16.

Significant cases involving ₹90.61 crore are discussed in the following paragraphs.

### 5.3 Recovery of Passenger and Goods Tax in Excise and Taxation Department

*Poor maintenance of essential records coupled with inadequate enforcement and lack of co-ordination between Motor Vehicle Registering Authorities and the Excise and Taxation Department to ensure registration of all commercial vehicles under the HPPGT Act resulted in non/short levy of revenue amounting to ₹84.90 crore.*

#### Introduction

Levy and collection of receipts from Passenger and Goods Tax (PGT) is regulated under the Himachal Pradesh Passengers and Goods Taxation (HPPGT) Act, 1955, as amended from time to time and the Himachal Pradesh Passengers and Goods (HPPGT) Rules, 1957. PGT leviable on the commercial vehicles (Vehicle) is paid in advance either quarterly or annually in accordance with Rule 9 of HPPGT Rules at rates prescribed by the Government from time to time. As per Rule 9 (8) of the HPPGT Rules, passenger tax in respect of taxis having seating capacity up to twelve is paid in lump sum according to their seating capacity and for capacity above twelve seats, the passenger tax is assessed and paid according to a prescribed formula<sup>1</sup>. Goods tax is paid according to the loading capacity of the vehicle. Further, Section 3-B of the HPPGT provides that Additional Goods Tax (AGT) shall be levied, charged and paid to the State Government, on the transportation of the goods specified in column (2) of the Schedule-II at prescribed rates for every slab of two hundred and fifty kilometers or part thereof covered or being covered by road within the State.

An audit on 'Recovery of Passenger and Goods Tax in Excise and Taxation Department' for the period 2012-13 to 2014-15 was conducted between December 2015 and March 2016 in eight Assistant Excise and Taxation Commissioners (AETCs)<sup>2</sup> to assess the effectiveness of the Department in realisation of revenue. The audit findings are brought out in the succeeding paragraphs.

#### 5.3.1 Non-maintenance of records

Effective and timely levy and collection of revenue is largely dependent on accurate and up-to-date maintenance of records that would enable timely monitoring and recovery. Audit noticed that data and records required to be maintained by various Departmental authorities at different levels were not maintained and this undermined their ability to effectively pursue the arrears as well as provided no assurance as to the efficacy of the revenue collection efforts as detailed below:

(i) **Non-maintenance of centralized data:** A centralised data of total number of vehicles registered with the AETCs in the State is to be maintained at the Commissioner Excise and Taxation (Head of Department) level showing the number of passenger, goods, educational institution and contract carriages registered under the HPPGT Act for effective control and checks for levy, charge

<sup>1</sup> Number of seats x number of scheduled kilometers x average occupancy that is (33) per cent x rate of passenger tax x fare per kilometers

<sup>2</sup> AETCs Baddi, Bilaspur, Hamirpur, Kullu, Shimla, Sirmour, Solan and Una

and collection of the taxes and other dues. Audit noticed that centralized data of vehicles registered and year-wise/District wise revenue due and revenue realised in respect of vehicles was neither maintained at Headquarters level nor at the unit level. Absence of this data indicated absence of internal control mechanism to ensure realization of revenue to its full potential.

(ii) **Non-maintenance of Demand and Collection Registers:** Rules 19 (A) and (B) of the HPPGT Rules provides that the Excise and Taxation office of each District should maintain a daily collection register and Demand and Collection Register (DCR) in which the particulars of every challan received as proof of payment of tax made by the owners of motor vehicles shall be recorded. Audit noticed that AETCs, Baddi, Shimla and Una (ETO Amb) Hamirpur (ETO Nadaun) had not maintained the DCR under IT application during the audit period. Further, these AETCs did not maintain DCRs on manual basis in respect of vehicles registered between 2012-13 and 2014-15. In the absence of DCRs, the status of tax payment in respect of 15,295 vehicles<sup>3</sup> registered during this period could not be verified in audit.

(iii) **Incomplete Demand and Collection Registers:** Audit scrutiny of records of two AETCs<sup>4</sup> revealed that 75 contract carriages owned by hotels/private firms were registered under HPPGT Act between 2008-09 and 2011-12. The tax paid by these contract carriages was not appearing in the Demand and Collection Register/daily collection register. The vehicles owners did not file any returns as required under Rule 17-A of HPPGT Rules. However, the AAs did not take any action to get the returns filed and finalise the assessment of vehicle owners for the period 2012-13 to 2014-15 nor to detain these vehicles to realise the passenger tax.

(iv) **Non-filing of monthly returns:** Scrutiny of records of AETC, Shimla revealed that 23 contract carriages of Himachal Pradesh Tourism Development Corporation remitted PGT of ₹1.15 crore on self-declaration basis during the period April 2012 to March 2015. However, these vehicles were not registered under HPPGT Act and as such were not furnishing monthly returns under Rule 17-A of the Rules *ibid*. The AETC did not take any action to get these vehicles registered, filing of periodical returns and finalise their assessment under Rule 21. Thus, accuracy of payment of PGT of ₹1.15 crore could not be verified in audit.

(v) **Non-submission of details of tax recovery by Inspectorate Staff:** The Inspectorate staff of six AETCs<sup>5</sup> detected 7,350 cases of non-payment of PGT from whom ₹3.34 crore was realised. Audit noticed that only consolidated statements i.e. number of detections made and revenue realised were submitted and no vehicle wise detail was furnished to their respective AETCs for updation in DCRs. As such, tax status of 7,350 vehicles was not updated.

(vi) **Non-submission of returns by in-charge of check posts/barriers:** As per Rule 19 (2, 3 and 4) of HPPGT Rules, a person in-charge of the vehicle may make the payment of tax in cash at the office of the AA of the District concerned

<sup>3</sup> AETCs Baddi: 7,450, Shimla: 5,865, ETO Nadaun (Hamirpur): 425 and ETO Amb (Una): 1,555

<sup>4</sup> Baddi and Kullu

<sup>5</sup> Bilaspur: 1,264 cases, Hamirpur: 297 cases, Shimla: 3,008 cases, Sirmour: 679 cases, Solan: 1,630 cases and Una: 472 cases

or the prescribed authority or the office-in-charge of the check-post/barrier and a statement in Form PGT-22 before the seventh of the following month is required to be sent to the AA of the District who issued the certificate of registration. Audit observed that in-charges of barriers/check-posts had not sent any return of PGT deposited by the vehicle owners during audit period to the AETCs with whom the vehicles were registered. These AETCs also did not take up the matter with the respective in-charges of the barriers/check-posts to furnish such returns regularly. In the absence of non-furnishing of returns, the status of PGT payments by vehicle owners at the barriers was not posted in their individual accounts.

(vii) **Non-furnishing of returns:** Rule-9-D (4) of HPPGT Rules provides that the authorized<sup>6</sup> person shall furnish every month a return in Form PGT-25 to the AETC or ETO in-charge of the District within five days after the close of the month to which the collection pertain along with treasury challan in form PGT-9 and shall produce the certificate in form PGT-21-A and on the production of the same no tax shall be payable under Section 3-B of the Act. Test check of the records of AETCs, Sirmour and Una showed that out of 296 notified firms, 190 firms<sup>7</sup> had not furnished the prescribed monthly returns. The AETCs had neither issued any notices for submission of returns to these firms nor finalized their assessments under Rule 9-E. Thus, possibility of evasion of AGT by these firms could not be ruled out in audit.

### **5.3.2 Non-realisation of Passenger and Goods Tax due to non-registration of vehicles with Excise and Taxation Department**

Under Section 3 of the HPPGT Act and the Rules made thereunder, owners of stage/contract carriages and goods carriers are required to register their vehicles with the concerned excise and taxation offices and pay PGT at the prescribed rates. Section 8 of the Act provides that no vehicle owners shall ply his vehicle in the State unless he is in possession of a valid certificate of registration issued by the AETC. Section 9-B(5) of the Act *ibid* further provides that if the vehicle owners fail to apply for registration, penalty not exceeding five times the amount of tax so assessed, subject to a minimum of ₹500, is also leviable.

Vehicle registration is handled by the Regional Transport Offices (RTOs) and Registering and Licensing Authorities (RLAs) and collection of passenger and goods tax is handled by AETCs. Cross check of the registration records of 26 RLAs and seven RTOs with those of concerned AETCs revealed that out of 32,956 vehicles registered with RLAs/RTOs during 2012-13 to 2014-15, 12,098 vehicles liable to pay fixed PGT were not registered with the concerned AETCs. Lack of co-ordination between AETCs and concerned RLAs/RTOs resulted in non-realisation of PGT of ₹8.11 crore<sup>8</sup> for these 12,098 vehicles. In addition, a minimum penalty of ₹0.60 crore was also leviable for non-registration as per details given in **Table-5.2** below.

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<sup>6</sup> A person authorised to collect tax under section 4-A of HPPGT Act.

<sup>7</sup> Sirmour: 109 firms and Una: 81 firms

<sup>8</sup> AETCs Baddi: ₹1.89 crore, Bilaspur: ₹0.84 crore, Hamirpur: ₹40.25 lakh, Kullu: ₹41.55 lakh, Shimla: ₹2.06 crore, Sirmour: ₹0.61 crore, Solan: ₹1.03 crore and Una: ₹0.87 crore

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Table- 5.2: Details of vehicles not registered with Excise and Taxation Department

(₹ in crore)							
Sr. No.	Nature of vehicle	No. of vehicles registered under MVT Act	No. of vehicles not registered with Excise & Taxation Department	Amount recoverable			
				Passenger tax	Goods tax	Total amount recoverable	Minimum penalty @ ₹500/-per vehicle
1.	Passenger Vehicles (Maxi Cabs/Taxi)	7,030	2,003	1.23	--	1.23	0.10
2.	Passenger Vehicles (Educational Institution Buses)	477	209	0.23	--	0.23	0.01
3.	Goods vehicles (HGV/MGV/LGV/ Tractors)	25,449	9,886	--	6.65	6.65	0.49
<b>Total</b>		<b>32,956</b>	<b>12,098</b>	<b>₹1.46</b>	<b>₹6.65</b>	<b>₹8.11</b>	<b>₹0.60</b>

On being pointed out, the Department intimated (October 2016) that AETC Kullu had recovered an amount of ₹2.92 lakh out of ₹49.14 lakh from the owners of 44 vehicles and had issued directions to ETOs/Inspectors to recover the remaining amount of tax. The AETCs Hamirpur and Shimla stated that efforts would be made to bring the vehicles under HPPGT Act whereas the remaining AETCs did not furnish any reply (November 2016).

### 5.3.3 Non-realization of Passenger and Goods Tax

Under Section 3 of the HPPGT Act, owners of vehicles are required to pay PGT on all fares and freight at the prescribed rates either quarterly or annually. Rule 9 (7) (ii) (c) (i & ii) of the HPPGT Rules provides that vehicle owners shall inform the Assessing Authorities (AAs) concerned as soon as the vehicles goes out of use for exemption from payment of tax for that period. Section 12 of the Act *ibid* further provides that any arrears or penalty imposed under this Act shall be recoverable as an arrear of land revenue.

Test check of records of 15,442 vehicles from the DCR maintained by eight AETCs revealed that PGT in respect of 4,642 vehicles<sup>9</sup> amounting to ₹5.46 crore for the period from 2012-13 to 2014-15 was not paid by the vehicle owners. The vehicle owners had also not sought exemption from tax for non-use of the vehicles during this period. However, neither did the AAs issue demand notices to the vehicle owners to deposit the PGT nor were these cases referred to the Collector for recovery of PGT as arrears of land revenue (ALR). This resulted in non-realisation of PGT of ₹5.46 crore<sup>10</sup> as per the details given in **Table- 5.3** below:

<sup>9</sup> Baddi: 313 vehicles, Bilaspur: 950 vehicles, Hamirpur: 1,161 vehicles, Kullu: 420 vehicles, Shimla: 481 vehicles, Sirmour: 449 vehicles, Solan: 621 vehicles and Una: 247 vehicles

<sup>10</sup> Baddi: ₹42.57 lakh, Bilaspur: ₹1.56 crore, Hamirpur: ₹0.63 crore, Kullu: ₹34.79 lakh, Shimla: ₹0.57 crore, Sirmour : ₹0.64 crore, Solan: ₹0.97 crore and Una: ₹32.34 lakh



**Table- 5.3: Details of vehicles for which Passenger and Goods Tax was not realized**

(₹in crore)				
Sr. No.	Category of vehicles	Total No. of vehicles test checked	No. of vehicles not paying PGT	Amount of tax due
1.	Passenger Vehicles (Maxi Cabs/Taxi)	5,775	1,269	1.06
2.	Passenger Vehicles (Educational Institution Buses)	846	150	0.26
3.	Goods vehicles (HGV/MGV/LGV/Tractors)	8,821	3,223	4.14
<b>Total</b>		<b>15,442</b>	<b>4,642</b>	<b>₹5.46</b>

On being pointed out, the Department intimated (October 2016) that out of ₹45.37 lakh an amount of ₹6.30 lakh had been recovered from the owners of 103 vehicles by AETC Kullu and efforts were being made to recover the remaining amount of tax. The AETCs Hamirpur and Shimla stated that notices were being issued to the defaulters and efforts would be made to recover the tax due. The remaining five AETCs did not furnish any reply.

#### **5.3.4 Non-monitoring of recovery of PGT**

Audit scrutiny of DCR maintained by AETCs Baddi and Solan revealed that out of 2,806 test checked passenger and goods vehicles registered with the Excise and Taxation Department between 2005 to 2010, the owners of 891 vehicles liable to pay PGT on fixed rates annually did not pay any PGT since their registration. The Department had not issued demand notices to the vehicle owners for payment of PGT. Failure to monitor the payment of PGT from 891 vehicles resulted in non-realisation of PGT amounting to ₹1.40 crore<sup>11</sup>. Further, the Department had neither taken any action to impound these vehicles nor referred the names of defaulters to Collector for recovery under ALR.

#### **5.3.5 Additional Goods Tax**

Section 3-B of the HPPGT Act, stipulates that Additional Goods tax (AGT) is to be levied, charged and paid to the State Government on the transport of goods specified in column (2) of the Schedule-II of HPPGT Act at the rates prescribed for each item. The payment of AGT shall be made by the person-in-charge or the driver of the vehicle. Rule 9-D of HPPGT Rules, further provides that a person selling or causing, or authorizing to cause dispatch for transport of goods specified in Schedule-II to the Act and duly authorised by the State Government by notification shall be duly registered by the AETC or ETO in-charge of the District under the HP General Sales Tax Act, 1968, and HP Value Added Tax Act, 2005, in the concerned district office. The authorised person shall collect AGT and deposit it into the Government treasury. Further, Rule 9-E provides that the concerned AA shall scrutinise every return filed under Section 4-A of the Act by the person authorised to collect tax under the Act, after the close of each month and the AA shall assess every case on half-yearly basis. Audit noticed short/non-recovery of AGT of ₹69.92 crore as detailed below.

(a) Audit scrutiny of records collected from Mining Officers (MOs) Solan and Bilaspur showed that three cement companies authorised for collection of AGT were using limestone and shale as raw material for manufacturing of

<sup>11</sup> Baddi: ₹17.31 lakh and Solan: ₹1.23 crore

cement and clinker. These cement companies transported 1,89,48,993 MT of lime-stone and 24,59,606 MT of shale from mining areas to their cement plants during audit period on which AGT of ₹68.04 crore was leviable.

These firms were submitting AGT returns regularly since their authorisation but had not deposited the AGT under the HPPGT Act. The AETCs had neither scrutinised the monthly returns nor finalised their assessments on half-yearly basis resulting in failure to detect non-payment of AGT. This resulted in loss of revenue of ₹68.04 crore due to non-recovery of AGT.

(b) Scrutiny of the information collected from MO, Sirmour, showed that 16 lessees were granted leases in mining area Sataun and Kamraho for extraction of limestone for the years 2012-13 and 2013-14. These lessees had extracted 11,20,768 MT limestone on which AGT of ₹3.92 crore was due to be recovered. These lessees had not been notified by the Government to collect the AGT under Rule 9-D and were depositing the AGT at Multipurpose Barrier (MPB), Rajban which was the only barrier for these mining areas. However, the MPB, Rajban, showed AGT realisation of ₹2.11 crore during the same period. This resulted in short recovery of AGT of ₹1.81 crore from the lessees.

(c) Test check of the records of AETC, Bilaspur, revealed that a firm paid AGT on 77,068.14 MT of shale purchased from the contractor during 2014-15. However, the records of MO, Bilaspur showed the actual shale extraction of 1,74,166 MT. Thus, the firm made short payment of AGT of ₹6.80 lakh on 97,097.66 MT of shale. In addition, penalty of ₹13.60 lakh was also leviable for non-payment of AGT. The Department had not taken any measures to verify the quantity of shale actually extracted from Industries Department to whom the contractor was paying the royalty on extraction of shale and detect the evasion of AGT.

### 5.3.6 Conclusion

Thus, poor maintenance of essential records coupled with inadequate enforcement and lack of co-ordination between Motor Vehicle Registering Authorities and the Excise and Taxation Department to ensure registration of all commercial vehicles under the HPPGT Act resulted in non/short levy of revenue amounting to ₹84.90 crore.

### 5.4 Non-realisation of Token Tax

***Token tax ₹4.09 crore in respect of 11,018 vehicles for the years 2012-13 to 2014-15 was neither demanded by the Department nor paid by the vehicle owners.***

Under the Himachal Pradesh Motor Vehicles Taxation (HPMVT) Act, 1972 and rules made thereunder, token tax by vehicle owners is payable in advance quarterly or annually in the prescribed manner. As per Transport Department's notification dated 15 March 2012, different rates of tax is prescribed for different types of vehicles. As per Rule 4-A of HPMVT Rules, 1974, if an owner of motor vehicle fails to pay the tax due within the prescribed period, the taxation authority after giving him an opportunity of being heard, shall direct him to pay in addition to tax a penalty at the rate of 25 per cent per annum of the tax due.

Test check of the Token Tax Registers and data maintained in 'VAHAN' software of 28 Registering and Licensing Authorities (RLAs)<sup>12</sup> and nine Regional Transport Offices (RTOs)<sup>13</sup> revealed that out of 21,894 test checked vehicles, token tax amounting to ₹4.09 crore in respect of 11,018 vehicles for the years 2012-13 to 2014-15 was not deposited by the vehicle owners. No initiative had been taken by the taxation authorities to recover the tax from the defaulters. This resulted in non-recovery of token tax of ₹4.09 crore as detailed in **Table-5.4** below.

**Table - 5.4: Details of vehicles not paid the token tax**

Sr. No.	Category of vehicle	Name of RLAs/RTOs	Period	No. of vehicle not paid tax/ Total test checked vehicles	Amount recoverable (₹in crore)
1.	Private Stage Carriages -Buses/ Mini Buses/Maxi Cabs/Taxi (Passenger Vehicles)	RLAs-Bajjnath, Churah, Dharamshala, Dalhousie, Ghumarwin, Hamirpur, Jaisinghpur, Jawali, Kullu, Paonta Sahib, Sundernagar, Solan, Shimla (U) and Una and	2012-13 to 2014-15	508/1,625	0.97
		RTOs- Bilaspur, Kangra Kullu, Nahan, Solan and Una		1,814/3,324	0.74
<b>Total A</b>		<b>2,322/4,949</b>		<b>1.71</b>	
2.	Heavy Goods Vehicle / Medium Goods Vehicles / Light Goods Vehicles/Tractors (C) (Goods vehicles)	RLAs-Anni, Bajjnath, Bharmour, Chamba, Chowari, Churah, Dharamshala, Dalhousie, Ghumarwin, Jaisinghpur, Jogindernagar, Jawali, Karsog, Kaza, Kullu, Nadaun, Nahan, Nalagarh, Nichar, Nurpur, Paonta Sahib, Pooh, Shimla (U), Solan, Sundernagar, Theog and Una		7,180/14,220	1.75
		RTOs-Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Nahan, Solan and Una		1,188/2,015	0.27
3.	Construction Vehicles (Goods vehicles)	RLAs-Kullu, Paonta Sahib, Theog and Una RTOs- Bilaspur, Chamba, Kullu and Solan	328/710	0.36	
<b>Total B</b>				<b>8,696/16,945</b>	<b>2.38</b>
<b>Total A + B</b>				<b>11,018/21,894</b>	<b>₹4.09</b>

On this being pointed out, the Department intimated (August 2016) that an amount of token tax of ₹23.93 lakh in 242 vehicles had been recovered by the six RLAs and one RTO<sup>14</sup> and efforts were being made to recover the balance amount. The remaining taxation authorities intimated (January 2016) that notices would be issued to the defaulters to deposit the tax.

The matter was reported to the Government between June 2015 and April 2016; their replies were still awaited (November 2016).

<sup>12</sup> RLA: Anni, Bajjnath, Bharmour, Chamba, Chowari, Churah, Dharamshala, Dalhousie, Ghumarwin, Hamirpur, Jaisinghpur, Jogindernagar, Jawali, Karsog, Kaza, Kullu, Nadaun, Nahan, Nalagarh, Nichar, Nurpur, Paonta Sahib, Pooh, Shimla (Urban), Solan, Sundernagar, Theog and Una

<sup>13</sup> RTOs- Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Nahan, Solan and Una

<sup>14</sup> RLAs Ghumarwin: 142 vehicles: ₹10.60 lakh, Kullu: one vehicle: ₹11,000, Nahan: six vehicles: ₹12,500, Nalagarh: 26 vehicles: ₹90,000, Nichar: 17 vehicles: ₹35,875, Paonta Sahib: 38 vehicles: ₹11.46 lakh and RTO Kangra: 12 vehicles: ₹37,670

### 5.5 Short deposit of user charges

*The e-Governance societies collected receipt of ₹43.02 lakh on account of user charges of which ₹10.76 lakh was to be deposited in the Government account. However, only ₹1.79 lakh was deposited resulting in ₹8.97 lakh remaining outside Government account.*

The Government of Himachal Pradesh vide Notification dated 3 September 2005 accorded approval to the formation of e-Governance Societies, one at the level of Directorate of Transport and one each at the District level, for computerisation of all transport related activities in the offices of the RTOs and RLAs. These e-Governance Societies have been functioning since September 2005 under the chairmanship of the Deputy Commissioner (DC) of the respective District. The societies collect user charges as approved by the Government and 25 per cent of these charges is to be deposited in the Government account.

Audit test checked the service charges collection registers of RTO, Bilaspur and two RLAs<sup>15</sup> between August 2015 and March 2016 and noticed that e-Governance Societies collected ₹43.02 lakh as user charges during 2012-13 to 2014-15. However, only ₹1.79 lakh was deposited into Government account instead of ₹10.76 lakh viz. 25 per cent of the user charges resulting ₹8.97 lakh<sup>16</sup> remaining outside government account.

On being pointed out, the Department intimated (August 2016) that out of ₹8.97 lakh, an amount of ₹2.77 lakh had been deposited by RLA, Hamirpur and reply from the RLA, Rampur and RTO, Bilaspur had not been received.

The matter was reported to the Government between September 2015 and April 2016; their replies were still awaited (November 2016).

### 5.6 Non/short recovery of Special Road Tax

*Special Road Tax was not recovered from Himachal Road Transport Corporation, private stage carriers and stage carriages of other States amounting to ₹1.53 crore.*

Under Section 3-A of HPMVT Act, 1972, State Government shall levy a monthly Special Road Tax (SRT) on all transport vehicles used or kept for use in State. This will be payable in advance by 15<sup>th</sup> of every month at the prescribed rates<sup>17</sup>. As per Transport Department notification dated 26 July 2006 which came into force with retrospective effect from 31 July 2002, if a vehicle owner fails to pay the SRT due within the prescribed period, the taxation authority shall direct the owner to pay penalty at the rate of 25 per cent per annum of the tax due. Further, section 14 (2) of the Act provides for exemption from SRT if the registered owner intimates in writing to the taxation authority that the motor vehicle would not be used in any public place for a particular period and deposits the certificate of registration (RC) of such motor vehicle along with route permit.

<sup>15</sup> RLAs Hamirpur and Rampur

<sup>16</sup> RTO: Bilaspur: ₹4.60 lakh, RLAs: Hamirpur: ₹2.77 lakh and Rampur: ₹1.60 lakh

<sup>17</sup> The rates of SRT are based on the classification of routes on which vehicles are plying such as National Highways, State Highways, Rural Roads and Local buses/mini buses operating within a radius of 30 kilometers. The rates of SRT for the above routes are as ₹6.04, ₹5.03 and ₹4.03 per seat per kilometer respectively effective from 1<sup>st</sup> April 2005

### **5.6.1 Short assessment of SRT leviable on Himachal Road Transport Corporation**

(a) Test check of records of three RTOs revealed that permits for 15 routes issued/renewed by the RTOs to stage carriages of HRTC for the period 2013-14 and 2014-15 were not accounted for assessment of SRT. There was nothing on the record to indicate that RCs/route permits were surrendered with the concerned RTOs for exemption from the payment of SRT. The RTOs failed to detect this omission during the scrutiny of SRT assessment statements furnished by HRTC. Thus, SRT of ₹32.93 lakh<sup>18</sup> escaped assessment.

(b) Test check of records of route permits and SRT assessment statements furnished by the HRTC units of two RTOs<sup>19</sup> for the period 2013-14 and 2014-15 revealed that SRT was not calculated as per the route or the distance covered as per the route permits in 11 cases and SRT assessment statements were accepted as correct. This resulted in short assessment of SRT of ₹19.40 lakh<sup>20</sup>.

### **5.6.2 Private Stage Carriages**

Audit scrutiny of SRT registers of six RTOs<sup>21</sup> showed that SRT amounting to ₹1.18 crore was recoverable from the owners of private stage carriages (PSCs) in 93 cases pertaining to the period 2013-14 and 2014-15. But the Department could recover only ₹0.50 crore and the balance amount of SRT ₹0.68 crore was lying unrecovered as on March 2016. There was nothing on records to indicate that any initiative had been taken by the taxation authorities to recover the balance SRT. This resulted in non-recovery of SRT of ₹0.68 crore. In addition, a minimum penalty of ₹17.00 lakh at the prescribed rate was also recoverable.

The matter was reported to the Government and the Department between September 2015 and April 2016; their replies were still awaited (November 2016).

### **5.6.3 Short realisation of SRT from the stage carriages of other States**

As per sub-section 4 of Section 3A of the HPMVT (Amendment) Act, 1999 if a transport vehicle registered in a State other than the State of Himachal Pradesh, enters and is used on any public road, or is kept for use in the State, SRT shall become chargeable on such entry in the prescribed manner. The SRT shall also be applicable and charged in respect of stage carriages of other States on the entire distance covered in Himachal Pradesh on the basis of route permits issued by the State Transport Authority (STA) of other States, duly countersigned by the RTOs of Himachal Pradesh under whose jurisdiction the vehicle is plied.

<sup>18</sup> RTOs-Mandi: five routes: ₹9.87 lakh, Shimla: five routes: ₹14.70 lakh and Solan: five routes: ₹8.36 lakh

<sup>19</sup> Shimla and Solan

<sup>20</sup> HRTC Shimla: ₹6.89 lakh and Solan: ₹12.51 lakh

<sup>21</sup> Kullu: three cases: ₹3.10 lakh, Mandi: six cases: ₹1.68 lakh, Nahan (Sirmour): 20 cases: ₹9.71 lakh, Shimla: 27 cases: ₹22.12 lakh, Solan: 17 cases: ₹25.28 lakh and Una: 20 cases: ₹6.12 lakh

Audit scrutiny of the records of route permits countersigned by the RTOs and SRT registers maintained in the two RTOs<sup>22</sup> for the period 2014-15 revealed that assessments of SRT in 22 cases was not made correctly as per the distance covered by the other State carriages<sup>23</sup> plying on different routes of Himachal Pradesh. This resulted in short levy of SRT of ₹32.51 lakh by the stage carriages of other States as per details given in the **Appendix-III**.

The matter was reported to the Department and the Government between October and December 2015; their replies were still awaited (November 2016).

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<sup>22</sup> RTOs-Mandi: seven cases: ₹6.57 lakh and Solan: 15 cases: ₹25.94 lakh

<sup>23</sup> Haryana Roadways: four permits, Punjab Roadways: three permit and Chandigarh Transport Undertaking: 15 permits

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***CHAPTER-VI***  
***FOREST RECIEPTS***





## **CHAPTER-VI**

### **FOREST RECEIPTS**

#### **6.1 Tax administration**

The Principal Chief Conservator of Forests (PCCF) heads the Forest Department under the administrative control of the Additional Chief Secretary (Forests) who is assisted by eight Conservators of Forests (CFs) in 37 territorial divisions. Each CF controls the exploitation and regeneration of forest activities carried out by Divisional Forest Officers (DFOs) under their control. Each DFO is in-charge of assigned forest related activities in his territorial division.

#### **6.2 Results of audit**

During 2015-16, test check of the records of 35 units relating to forest receipts brought out non/short recovery of royalty, non-levy of interest/extension fee, blocking/loss of revenue due to seized timber and other irregularities involving ₹43.81 crore in 108 cases which are categorized as in **Table-6.1** below.

**Table-6.1: Results of Audit**

(₹ in crore)			
Sr. No.	Categories	Number of cases	Amount
1.	Non/Short recovery of royalty	27	15.71
2.	Non-levy of interest/extension fee	18	1.06
3.	Blockade/Loss of revenue due to seized timber	18	3.16
4.	Other irregularities	45	23.88
<b>Total</b>		<b>108</b>	<b>43.81</b>

During the course of the year, the Department accepted under-assessment and other deficiencies of ₹2.75 crore in 21 cases which were pointed out in earlier years out of which an amount of ₹30.14 lakh was realised in 14 cases pertaining to earlier years.

Significant cases involving ₹11.65 crore are discussed in the following paragraphs.

#### **6.3 Blocking of revenue due to non-disposal of seized timber**

***Non-disposal of seized timber measuring 539.2254 cu.m lying in various depots of the Department for disposal resulted in blocking of revenue of ₹2.79 crore including VAT of ₹33.70 lakh.***

Section 52 of the Indian Forest Act, provides for seizure of property liable to confiscation. As per Departmental instructions of April 1951, either the seized timber or forest produce should be kept in the *spurdagi* (safe custody) of a *sapurdar*<sup>1</sup> or with the concerned field staff after it is accounted for in Form-17.

<sup>1</sup> A lambardar or any reliable person of a place

The timber/forest produce so accounted for is to be disposed of after the offence has either been compounded or decided by court. The Principal Chief Conservator of Forests (PCCF) instructed (April 1999) all Conservators of Forests (CFs) that where the *spurdagi* of forest produce is taken for unduly long period, the concerned investigating officer should be asked to obtain orders of the competent court for auctioning the seized property within 15 days to minimise expenditure on watch and ward and deterioration/pilferage of such produce.

Audit scrutiny of timber forms of 12 forest divisions between April 2015 and March 2016 revealed that in 40 forest ranges, the Department had seized (between 2011-12 and 2014-15) timber measuring 539.2254 cu.m valued at ₹2.79 crore<sup>2</sup> including VAT of ₹33.70 lakh. The seized timber was lying in various depots of the Department without any record to indicate whether the concerned DFOs/investigating officers had taken any steps or obtained the orders of Court to dispose of the seized timber. The non-disposal of seized timber not only resulted in blocking of revenue to that extent but also incurring of expenditure on watch and ward and further deterioration of timber.

The Forest Department did not streamline the procedure for disposal of seized timber despite being pointed out in last four Audit Reports highlighting non-disposal of seized timber valuing ₹6.94 crore<sup>3</sup>.

On this being pointed out, the DFO, Nachan stated (December 2015) that out of ₹47.24 lakh, an amount of ₹2.21 lakh had been realised and remitted into the Government treasury. The DFOs Mandi and Theog stated that efforts were being made to dispose of the seized timber. The remaining DFOs had not furnished any reply.

The matter was reported to the Department and the Government between June 2015 and April 2016; the replies were awaited (November 2016).

#### **6.4 Short recovery of royalty due to application of incorrect rates**

***Short recovery of royalty of ₹8.30 crore due to application of incorrect rates of royalty by the Himachal Pradesh State Forest Development Corporation Limited.***

In May 2011, the Pricing Committee observed that the road network had reached every corner of the State and parameters of expensive and remote localities and special hill tracts could no longer be applied to timber extraction. Hence, it decided that royalty rates for each species should be payable at the same rates throughout the State.

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<sup>2</sup> Anni: vol: 45.888 cu.m ₹17.70 lakh, Bilaspur: vol: 41.4436 cu.m ₹13.60 lakh, Dehra: vol: 14.2993 cu.m ₹3.83 lakh, Kinnaur: vol: 40.7840 cu.m ₹25.10 lakh, Karsog: vol: 61.241 cu.m ₹29.33 lakh, Mandi: vol: 75.084 cu.m ₹40.85 lakh, Nachan at Gohar: vol: 91.097 cu.m ₹53.74 lakh, Renukaji: vol: 40.922 cu.m ₹19.37 lakh, Seraj: vol: 12.435 cu.m ₹7.59 lakh, Shimla: vol: 4.715 cu.m ₹2.20 lakh, Solan: vol: 1.1095 cu.m ₹0.71 lakh and Theog: vol: 110.207 cu.m ₹64.74 lakh

<sup>3</sup> Audit Reports: 2011-12: ₹2.27 crore, 2012-13: ₹1.42 crore, 2013-14: ₹0.78 crore and 2014-15: ₹2.47 crore

Audit noticed that in three divisions<sup>4</sup>, 68 lots of timber having standing volume 57,488.75 cu.m of *Deodars, Kail, Chil, Rai/Fir* and Broad Leaves species were handed over to the HP State Forest Development Corporation (HPSFDCL) for exploitation during the years 2011-12 to 2014-15. HPSFDCL worked out and paid royalty of ₹5.98 crore to the Forest Department as per rates applicable to special hill tracts of expensive and remote localities as against ₹14.28 crore payable on the basis of single rate of ad-valorem basis. Thus, application of incorrect royalty rates by the HPSFDCL resulted in short recovery of royalty of ₹8.30 crore.

The matter was forwarded to the Department and the Government between June 2015 and April 2016; the replies were awaited (November 2016).

### 6.5 Non/short realization of cost of trees

*Cost of ₹32.50 lakh of 536 trees having standing volume of 257.434 cu.m coming in the alignment of projects was not recovered from the user agencies by the Department.*

As per the Departmental instructions of September 1991, the cost of trees standing on forest land diverted/transferred for non-forestry purposes is to be recovered at the prevailing market rate from the agencies to whom the land is to be transferred before handing over the area to them. Audit observed the following:

(a) Test check of the records of DFO Kinnaur revealed that the approval for diversion of 4.8951 *hectares* of forest land was granted in August 2012 in favour of an agency for construction of 20 MW Raora-II SHEP project. A total of 165 trees of different species having standing volume of 77.71 cu.m valued at ₹20.43 lakh in the alignment of the project. This cost was to be recovered from the agency. There was nothing on record to indicate that any claim was raised to agency. This resulted in non-realisation of revenue of ₹20.43 lakh. In addition, VAT of ₹2.81 lakh was leviable.

(b) Test check of records of DFO Shimla brought out that approval for diversion of 2.9680 *hectare* forest land was granted in November 2010, September 2011 and May 2012 in favour of various agencies<sup>5</sup> for construction of office building/car parking/road. A total of 371 trees of different species having standing volume of 179.724 cu.m valued at ₹50.70 lakh were in the alignment of the projects. The Department however recovered only ₹41.44 lakh resulting in short realisation of revenue of ₹9.26 lakh including VAT of ₹1.12 lakh.

<sup>4</sup> Anni: 35 lots: 25,084.86 cu.m ₹2.25 crore, Chopal: 27 lots:28,087.71 cu.m ₹5.44 crore and Kinnaur: six lots: 4,316.189 cu.m ₹0.61 crore

<sup>5</sup> IPH Department, for construction of ENC Building, Shimla, Municipal Corporation Shimla for construction of Car Parking near MC Toilet, Chotta Shimla and HPPWD for construction of Ever Sunny-Golcha-Bhont road, Shimla.

The matter was reported to the Department and the Government between June 2015 and February 2016; the replies were awaited (November 2016).

### **6.6 Non-levy of extension fee**

***Lease period of 36 timber lots handed over to HPSFDCL for exploitation of timber were extended without demanding extension fee ₹17.20 lakh.***

As per clause 3 of the standard lease deed agreement with HPSFDCL for exploitation of timber/trees, the Corporation shall have no right on trees as are left standing in the leased forest, felled trees and any scattered/stacked timber un-removed from leased forest after the expiry of the lease period. Further, as per decision of the Pricing Committee of September 2007, extension fee at the rate of 0.2 per cent per month of the total royalty whether paid or unpaid shall be levied for the extension of the working period beyond the lease period.

Test check of records of two forest divisions revealed that 36 timber lots were handed over to HPSFDCL for exploitation during the lease period ending between May 2008 and March 2015. The exploitation work of these lots could not be completed within the lease period. The HPSFDCL, sought extension in working period of the salvage lots which was accorded by the concerned DFOs. However, extension fee of ₹17.20 lakh<sup>6</sup> was neither demanded by the Department nor paid by HPSFDCL.

On this being pointed out, DFO, Theog intimated (September 2015) that extension fee bill amounting to ₹10.18 lakh had been raised with DM, HPSFDCL while DFO, Seraj stated that extension fee would be recovered after reconciliation.

The matter was reported to the Government between June and September 2015; its reply was awaited (November 2016).

### **6.7 Illicit felling of trees**

***Failure of forest authorities to promptly detect and report illicit felling of trees resulted in non-seizure of 91 trees with standing volume of 22.90 cu.m and consequent loss of ₹6.66 lakh including VAT of ₹0.80 lakh.***

As per standing instructions of the State Government relating to disposal of forest offences in Himachal Pradesh Forest Department, the beat forest guard is to file a damage report in the event of illicit felling of trees and the Range Officer (RO) would investigate the case and forward it to the DFO for assessment of compensation or sanction of prosecution. Further, as per instructions of the PCCF of July 2004, the Block Officer/RO are required to inspect the forests from time to time and take effective steps against illicit felling and report the matter to the higher authorities for taking action. The cases are also to be registered with the police.

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<sup>6</sup> DFO Seraj at Banjar: 8 lots: ₹5.76 lakh and Theog: 28 lots: ₹11.44 lakh

Audit noticed (December 2015) from the 'Register of offence cases' at DFO, Churah that 91 trees of various species with standing volume of 22.90 cu.m were illicitly felled and taken away by the offenders. However, neither was any Damage Report issued nor any FIR registered with the police in any of these forest offence cases. These cases of illicit felling could not also be detected by the field functionaries immediately after offence was committed. Failure to timely detect and report the offences resulted in non-seizure of 22.90 cu.m of standing volume of timber and resultant loss of ₹6.66 lakh including VAT of ₹0.80 lakh.

The matter was reported to the Government in January 2016; its reply was awaited (November 2016).

**Shimla**  
**The**

**(R. M. Johri)**  
**Principal Accountant General (Audit)**  
**Himachal Pradesh**

**Countersigned**

**New Delhi**  
**The**

**(Shashi Kant Sharma)**  
**Comptroller and Auditor General of India**



# *APPENDICES*





**Appendix-I**

**Reference-Para 2.5 Acceptance of invalid, duplicate and defective statutory forms**

Name of Unit	Year of assessment / Date of assessment	Gross Turnover of assesses	Differential amount of tax leviable on turnover of invalid form-'C'	Interest leviable under Section 19 (i) of HP VAT Act	Total	Reasons for rejection of the forms
AETC Baddi	2010 21.05.14	3982581967	341340	310619	651959	Three forms were duplicate portion of form-'C'.
	2010-11 24.03.15	3554272009	89223	81193	170416	Three forms were wrong addressed.
	2010-11 19.11.14	1469293577	345080	314023	659103	Three forms were duplicate portions.
<b>Total</b>	<b>3 cases</b>	<b>9006147553</b>	<b>775643</b>	<b>705835</b>	<b>1481478</b>	<b>9 forms</b>
AETC Nahan	2009-10 16.01.15	50266868	540365	516049	1056414	Three forms were wrong addressed.
	2006-07 26.03.15	14076449	385760	576711	962472	Nine forms were duplicate portion.
	2012-13 09.04.14	609713859	335935	139413	475348	Four forms were duplicate portion.
	2010-11 11.03.15	31853605	136069	105453	241522	One form was duplicate copy.
<b>Total</b>	<b>4 cases</b>	<b>705910781</b>	<b>1398129</b>	<b>1337626</b>	<b>2735756</b>	<b>17 forms</b>
AETC Nurpur	2010-11 28.08.14	182619688	667864	587721	1255585	One form was duplicate and Five forms were Counterfoils copies.
	2011-12 29.11.14	219299558	718266	502786	1221052	Two forms were duplicate portions.
	2011-12 29.11.14	114368275	61765	43236	105001	One form was duplicate portion.
	2011-12 15.07.14	18261319	16519	11564	28083	Four forms were duplicate portions.
<b>Total</b>	<b>4 cases</b>	<b>534548840</b>	<b>1464414</b>	<b>1145307</b>	<b>2609721</b>	<b>13 Forms</b>
AETC Shimla	2011-12 30.10.14	494191183	39065	26760	65825	Three forms were Photocopy portions.
<b>Total</b>	<b>1 case</b>	<b>494191183</b>	<b>39065</b>	<b>26760</b>	<b>65825</b>	<b>3 Forms</b>
AETC Solan	2012-13 16.04.14	592940915	390964	215030	605994	Four forms were wrong addressed.
	2009-10 31.12.14	359644498	433402	472408	905810	One form was duplicate portion.
<b>Total</b>	<b>2 cases</b>	<b>952585413</b>	<b>824366</b>	<b>687438</b>	<b>1511804</b>	<b>5 forms</b>
AETC Una	2008-09 28.10.14	14830495	25127	28519	53646	The five forms were wrong addressed
	2009-10 20.11.14	30305138	262914	251083	513997	The five forms were wrong addressed
<b>Total</b>	<b>2 cases</b>	<b>45135633</b>	<b>288041</b>	<b>279602</b>	<b>567643</b>	<b>10 forms</b>
<b>Grand Total</b>	<b>16 cases</b>	<b>11738519404</b>	<b>4789659</b> <b>₹47.90 lakh</b>	<b>4182568</b> <b>₹41.83 lakh</b>	<b>8972227</b> <b>₹89.72 lakh</b>	<b>57 forms</b>

Appendix-II

Reference-Para 4.3.1 Procedure for 'Grant of Government Land on Lease and realisation of lease money'

<b>Maintenance of list of Government Land</b>	As per Rule 9 of HPLRs, 1993 provides that a list of Government land excluding land acquired for public purposes, <i>Nazul</i> Land and encamping grounds in each District shall be maintained by the Collector and he shall send a report of the same to the State Government every year in the prescribed proforma/register.
<b>Eligible person/institutions</b>	Rule 6 of HPLRs, 1993 provides that Government land shall be leased out to the eligible persons/institutions out of (i) Government lands owned by the State Government outside the reserved and demarcated protected forest and outside such other areas as may be notified from time to time by the State Government in this behalf and (ii) lease may be granted to any person out of lands vested in the State Government under Section 3 of the of the Himachal Pradesh Village Common Lands Vesting and Utilization Act 1974 and Section 11 of the Himachal Pradesh Ceiling on land Holding Act 1972, in the interest of the development of the State on certain terms and conditions, if the State Government is satisfied that there are sufficient reasons to do so.
<b>Purposes for which Government land can be granted on lease</b>	Rule 4 of HPLRs, 1993 provides that Government land can be granted on lease for establishment of petrol pumps; Educational Institutions and their expansion; Ex-serviceman, widows of freedom fighters, IRDP persons; society registered under Societies Registration Act, 1860 for literary, scientific and charitable purposes for development of state in the public interest.
<b>Sanction of Land to be granted on lease</b>	Rule 7 of HPLRs, 1993 provides that the lease shall be granted by the State Government for a period as it may deem fit. Provided that grant the lease of land in any case shall not be exceeding 99 years.
<b>Assessment and levy of lease money</b>	Rule 8 (1) of HPLRs, 1993 provides that lease amount for (fresh or renewal of existing lease) shall be charged from the eligible institutions/persons as the case may be per annum in the manner of 5/8/18 per cent of the highest market price of the leased out land or double the five years average market price of the land whichever is less.
<b>Grant of Government Land on lump sum basis</b>	Rule 8 (2) of HPLRs, 1993 provides that the competent authority may charge the latest highest market value or double the five years average market price of the land whichever is less of the demised land in lump sum basis and charge ₹1/- as token lease money per month for the period for which the land is granted on lease.
<b>Terms of lease</b>	Rule 15 of HPLRs, 1993 provides that in the absence of special orders fixing the term for any case or class of cases, the term of lease applied for under Rule 9 shall be fixed with reference to the purpose to which the land is to be applied, the time and capital required to bring it under cultivations and other like consideration.
<b>Execution of lease and giving of possession of land</b>	Rule 18 of HPLRs, 1993 and Rule 13 of 2013 provides that when a lease is sanctioned, the Collector shall execute and cause to execute a lease in Form-B within a period of six months from the date of sanction of lease by competent authority. Possession of the land shall not be given to the applicant until the lease deeds has been registered.
<b>Rates and cesses</b>	Rule 19 of HPLRs, 1993 provides that a lessee, shall, in every case covenant with Government to pay all rates and cesses chargeable on the land and also all charges (other than penalties) at any time liable under chapter-VIII of the Himachal Pradesh Land Revenue Act, 1954, in respect of the land leased to him.
<b>Cancelation of the lease</b>	Rule 20 of HPLRs, 1993 and Rule 15 of 2013 provides that if the applicant has fails to take possession of land within six months of the execution of lease, or if at any time he fails to comply with any conditions of the lease, the Collector may cancel the lease and report the fact to the competent authority.
<b>Procedures on expiry of lease</b>	Rule 25 of HPLRs, 1993 and 18 of 2013 provides that (i) On the expiry of the lease, the Government may resume the whole of the land, or any portion of it. (ii) Failing such resumption, the lessee may be entitled to a renewal of the lease for such term and on such condition as to the amount of land revenue and rent or lease money and other charges to be paid by him as the competent authority may determine.

## Appendix-III

## Reference - Para 5.6.3 Short realisation of SRT from the stage carriages of other States

Name of RTOs	Name of Route	Mileage covered in single trip in Kilometer	SRT required to be assessed Per month (in ₹)	SRT actually assessed by the RTO Per month (in ₹)	Amount of SRT assessed short (in ₹)	Total amount of SRT recoverable for the period 2013-14 and 2014-15
Mandi	CHD-Manali = 6 ST Delhi-Manali=2 ST	NH=236x8=1888 Sitting Capacity=52+2 Total Trip=8	240089	229916	10173	244152
	Ambala - Kullu =2ST	NH= 194x2= 388 Sitting Capacity=52+2 Total Trip=8	49340	48213	1127	27048
	Y/Nagar-Manali=2ST	NH=236x2=472 Sitting Capacity=52+2 Total Trip=8	60022	57988	2034	48816
	CHD-Manali=4RT Anantpur-N/Devi=2RT CHD-Guru Ka Lahore=2RT	NH=236x8=1888 RR=42 Sitting Capacity=52+2 Total Trip=8	242766	228705	14061	337464
<b>Total</b>	<b>7 Routes</b>		<b>592217</b>	<b>564822</b>	<b>27395</b>	<b>657480</b>
Solan	CHD-Shimla = 9RT	NH= 70x18=1260 RR=16x18=288	178596			
	CHD-Baddi= 4 RT	Sitting Capacity=52+2 Total Trip=18	8647			
	CHD=Nalagarh=2RT	NH=17x4=68				
<b>Total</b>	<b>15 Routes</b>		<b>187233</b>	<b>79170</b>	<b>108063</b>	<b>2593512</b>
<b>G. Total</b>	<b>22 Routes</b>		<b>779450</b> <b>₹7.79 lakh</b>	<b>643992</b> <b>₹6.44 lakh</b>	<b>135458</b> <b>₹1.35 lakh</b>	<b>3250992</b> <b>₹32.51 lakh</b>



# ***GLOSSARY***



## GLOSSARY OF ABBREVIATIONS

Abbreviation	Full form of the abbreviation
AAs	Assessing Authorities
ACF	Assistant Conservators of Forest
AD	Additional demand
AETCs	Assistant Excise and Taxation Commissioners
AGT	Additional Goods Tax
ALR	Arrear of Land Revenue
BBMB	Bhakra Beas Management Board
BBN	Baddi, Barotiwala and Nalagarh
BDO	Block Development Officer
BEs	Budget Estimates
BWH	Bonded Ware House
CA	Compensatory Afforestation
CAMPA	Compensatory Afforestation Fund Management and Planning Authority
CEI	Chief Electrical Inspector
CF	Conservator of Forest
CL	Country Liquor
CS	Country Spirit
CST	Central Sales Tax
CZ	Central Zone
DC	Deputy Commissioner
DCR	Demand and Collection Register
DDO	Drawing and Disbursing Officer
DETC	Deputy Excise and Taxation Commissioner
DFOs	Divisional Forest Officers
DM	Divisional Manager
DPROs	District Public Relation Officers
DR	Damage Report
EA	Excise Announcement
EC	Empowered Committee
ED	Electricity Duty
ENA	Extra Neutral Alcohol
ETC	Excise and Taxation Commissioner
ETI	Excise and Taxation Inspector
ETOs	Excise and Taxation Officers
FCA	Forest Conservation Act
FS	Flying Squad
GOI	Government of India
GST	General Sales Tax
GTO	Gross Turn Over
HEPs	Hydro Electric Projects
HoD	Head of the Department
HP	Himachal Pradesh
HPLR	Himachal Pradesh Land Revenue/Himachal Pradesh Lease Rules
HPGST	Himachal Pradesh General Sales Tax
HPVAT	Himachal Pradesh Value Added Tax
HPID	Himachal Pradesh Infrastructure Development
HPMVR	Himachal Pradesh Motor Vehicle Rules
HPMVT	Himachal Pradesh Motor Vehicles Taxation
HPPGT	Himachal Pradesh Passengers and Goods Taxation
HPPGTR	Himachal Pradesh Passengers and Goods Tax Rules
HPPWD	Himachal Pradesh Public Works Department



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HPSEBL	Himachal Pradesh State Electricity Board Ltd.
HPSFDCL	Himachal Pradesh State Forest Development Corporation Ltd.
HPTDC	Himachal Pradesh Tourism Development Corporation
HRTC	Himachal Road Transport Corporation
IAC	Internal Audit Cell
IAW	Internal Audit Wing
ICDP	Integrated Co-operative Development Projects
IDEA	Interactive Data Extraction and Analysis
IFA	Indian Forest Act
IGR	Inspector General of Registration
IMFL	Indian Made Foreign Liquor
IMFS	Indian Made Foreign Spirit
IR Act	Indian Registration Act
IRs	Inspection Reports
IS Act	Indian Stamp Act
ISS	Inter State Sales
IT	Information & Technology
ITC	Input Tax Credit
MGQ	Minimum Guaranteed Quota
MIS	Management Information System
MO	Mining Officer
MPP & Power	Multi Purpose Projects and Power
MT	Metric Tonne
MVT	Motor Vehicles Tax
NH	National Highway
NIC	National Informatics Centre
NPV	Net Present Value
NZ	North Zone
OR	Other Road
OTD	Other Taxes and Duties
PAG	Principal Accountant General
PAC	Public Accounts Committee
PC	Pricing Committee
PCCF	Principal Chief Conservator of Forest
PDR	Punjab Distillery Rules
PGT	Passenger and Goods Tax
PLs	Proof Liters
PSCs	Private Stage Carriages
RC	Registration Certificate
RR	Rural Road
RF	Registration Fee
RLAs	Registering and Licensing Authorities
RO	Range Officer
RS	Rectified Spirit
RTOs	Regional Transport Officers
SD	Stamp Duty
SDCs	Sub-Divisional Collectors
SFC	State Financial Corporation
SH	State Highway
SO	Section Officer
SRs	Sub Registrars
SRT	Special Road Tax
STA	State Transport Authority
SZ	South Zone

TCS	Tax Collection at Source
TDN	Tax Demand Notice
TEGLA	Tax in Entry of Goods into Local Area
TIN	Tax Identification Number
TTO	Taxable Turn Over
VAT	Value Added Tax

