

## **PREFACE**

This Report for the year ended 31 March 2006 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2005-06 as well as those noticed in earlier years but could not be covered in previous years' reports.

## OVERVIEW

This Report contains 39 paragraphs including three reviews relating to non/short levy of taxes, duties, interest and penalty involving Rs.441.53 crore. Some of the major findings are mentioned below:-

### I. General

**1.1** The total revenue receipts of the Government of Gujarat in 2005-06 were Rs.25,066.87 crore as against Rs.20,264.95 crore during 2004-05. The revenue raised by the State from tax receipts during 2005-06 was Rs.15,698.11 crore and from non tax receipts was Rs.3,353.37 crore. State's share of divisible Union taxes and grants in aid from Government of India were Rs.3,372.43 crore and Rs.2,642.96 crore respectively. The main source of tax revenue during 2005-06 was sales tax (Rs.10561.34 crore) and taxes and duties on electricity (Rs.1,899.68 crore). The main receipts under non-tax revenue were from non ferrous mining and metallurgical industries (Rs.1,880.18 crore).

The aggregate of the amount received by the State Government on account of the State's share of Union taxes and grants in aid increased by 43 *per cent* from Rs. 4,216.75 crore in 2004-05 to Rs.6,015.39 crore in 2005-06. The amounts received from the Government of India to the total revenue receipts of the State increased from 21 to 24 *per cent* in 2005-06 as compared to 2004-05. Tax receipts of the State increased marginally (21 *per cent*) to Rs.15,698.11 crore in 2005-06 compared to Rs. 12,957.70 crore in 2004-05.

*(Paragraph 1.1)*

During the year 2005-06, 7,07,451 assessment cases were disposed of under various Acts, under the administrative control of Finance Department. Cases pending finalisation under various heads ranged between 34 and 100 *per cent* of total cases as on 31 March 2006.

*(Paragraph 1.7)*

A test check of the records in the offices of sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty and other departmental offices conducted during 2005-06 revealed under assessment, short levy and loss of revenue of Rs.351.73 crore in 1,062 cases. During the year, the concerned departments accepted under assessments etc. of Rs.10.16 crore in 686 cases and recovered Rs.3.11 crore in 487 cases pointed out during 2005-06 and earlier years.

*(Paragraph 1.11)*

## **II. Sales Tax**

A review on **Assessments and collection of tax** revealed the following:

As on 31 March 2005 sales tax arrears of Rs.12,744 crore were pending recovery, out of which, Rs.2,950.72 crore pertained to the period between 1959-60 and 1999-2000.

*(Paragraph 2.2.10)*

Incorrect grant of benefit under the scheme “*Vechan vera samadhan yojna*” to six dealers resulted in short realisation of Rs.43.50 lakh on account of interest and penalty, while under “*Gokul gram yojna*”, contribution including interest of Rs.1.13 crore was not recovered from 12 dealers.

*(Paragraph 2.2.11, 2.2.12)*

The internal controls of the department needed strengthening. Internal inspection and internal audit conducted by the department were found insufficient. Some important registers/returns submitted by AAs to controlling officers were found incomplete.

Out of 35 units, verification of amounts of challans noted in Register six with treasury records was completed only in six units, it was completed partially in 20 whereas the same was not done by nine units indicating therein that revenue realisation reported during assessments was not confirmed with the treasury receipts.

*(Paragraph 2.2.14, 2.2.15)*

Under the Sales Tax Incentive Schemes, benefit of exemption of Rs.293.11 crore was granted to 92 dealers contrary to the provisions of the schemes.

*(Paragraph 2.3)*

Application of incorrect rate of tax resulted in short levy of tax of Rs.36.34 lakh from eight dealers.

*(Paragraph 2.4)*

Set off of Rs.8.76 crore was granted to 104 dealers in violation of the provisions of the GST Rules.

*(Paragraph 2.6)*

Irregular allowance of deduction from turnover and application of concessional rate resulted in short levy of central sales tax of Rs.91.16 lakh from 15 dealers.

*(Paragraph 2.7)*

## **III. Land Revenue**

Failure to initiate action as per codal provisions resulted in non/short recovery of non-agricultural assessment of Rs.1.13 crore.

*(Paragraph 3.2)*

Correction of records of rights without registered deeds resulted in loss of revenue of Rs.62.70 lakh.

*(Paragraph 3.3)*

Conversion tax of Rs.45.07 lakh was levied short in 108 cases due to non-levy of tax and application of incorrect rates.

*(Paragraph 3.4)*

#### **IV. Taxes on Vehicles**

Demand notices for recovery of motor vehicle tax of Rs.17.16 crore were not issued to operators of 697 omnibuses and 479 vehicles used for transport of goods.

*(Paragraph 4.3)*

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

Acceptance of time barred cases in appeal by CCRA resulted in loss of revenue of Rs.5.59 lakh and non realisation of stamp duty of Rs.10.44 crore.

*(Paragraph 5.2)*

Stamp duty and registration fees of Rs.26.90 crore were short levied due to misclassification of 363 documents.

*(Paragraph 5.3)*

Stamp duty and registration fees of Rs.10.71 crore were short levied on 88 documents comprising distinct matters

*(Paragraph 5.4)*

#### **VI. Other Tax Receipts**

A review on “**Levy and collection of electricity duty and fees**” revealed the following:

Despite express direction of the Government, duty was levied at incorrect rate resulting in short levy of duty of Rs. 14.65 crore.

*(Paragraph 6.2.7)*

Interest of Rs.2.29 crore was not levied on belated payment of duty.

*(Paragraph 6.2.9)*

Duty was levied at reduced rate treating non-manufacturing activity as manufacturing activity resulting in short levy of duty of Rs.6.68 crore.

***(Paragraph 6.2.14)***

Though Government lowered rate of duty w.e.f. 1 April 2005, this rate was applied for electricity consumed prior to this period resulting in short levy of duty of Rs.1.42 crore.

***(Paragraph 6.2.15)***

Incorrect exemption from payment of duty of Rs. 8.02 crore was granted to Board/Club considering them as government offices.

***(Paragraph 6.2.17)***

Out of 166 new industrial units situated in Ahmedabad, granted exemption, during 2001-02 to 2004-05, department took more than one year for finalization in 39 to 50 *per cent* cases. In 21 cases, exemption was granted after the period of exemption was over.

***(Paragraph 6.2.21)***

Non levy of entertainments tax from the company operating ropeway at Saputara worked out to Rs.4.10 crore

***(Paragraph 6.3)***

## **VII. Non Tax Receipts**

Failure to raise demand resulted in non/short levy of royalty, dead rent, and interest to the extent of Rs. 10.09 crore.

***(Paragraph 7.2)***

## CHAPTER-I

### GENERAL

#### 1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by the Government of Gujarat during the year 2005-06, the State's share of divisible Union Taxes and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

	2001-02	2002-03	2003-04	2004-05	2005-06	
<b>I</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	10,134.18	9,520.66	11,173.43	12,957.70	15,698.11
	• Non tax revenue	3,760.94	3,995.58	3,271.96	3,090.50	3,353.37
	<b>Total</b>	<b>13,895.12</b>	<b>13,516.24</b>	<b>14,445.39</b>	<b>16,048.20</b>	<b>19,051.48</b>
<b>II</b>	<b>Receipts from Government of India</b>					
	• State's share of divisible Union taxes	600.68	1,363.22	1,965.48	2,219.30	3,372.43
	• Grants in aid	1,490.26	2,995.88	1,836.65	1,997.45	2,642.96
	<b>Total</b>	<b>2,090.94</b>	<b>4,359.10</b>	<b>3,802.13</b>	<b>4,216.75</b>	<b>6,015.39</b>
<b>III</b>	<b>Total receipts of the State</b>	<b>15,986.06</b>	<b>17,875.34</b>	<b>18,247.52</b>	<b>20,264.95<sup>#</sup></b>	<b>25,066.87</b>
<b>IV</b>	<b>Percentage of I to III</b>	<b>87</b>	<b>76</b>	<b>79</b>	<b>79</b>	<b>76</b>

<sup>#</sup> For details, please see statement No.11 Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Gujarat. Figures under the Heads "0020-Corporation tax, 0021-Taxes on income other than corporation tax, 0028-Other taxes on income and expenditure, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties, 0044-Service tax, 0045-Other taxes and duties on Commodities and services", share of net proceeds assigned to States booked in the Finance Accounts under A-'Tax revenue', have been excluded from revenue raised by the State and included in State's share of divisible union taxes in this statement.

**1.1.2** The details of tax revenue raised during the year 2005-06 along with the figures for the preceding four years are given below:

**(Rupees in crore)**

Sl. No.	Heads of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) or decrease (-) in 2005-06 over 2004-05
1	Sales tax	4,841.69	5,095.00	5,772.58	6,702.03	8,646.13	29
	Central sales tax	1,015.71	1,157.13	1,397.00	1,606.59	1,915.21	19.21
2	State excise	47.31	47.11	46.25	47.09	48.06	2.06
3	Stamp duty and registration fees	539.41	649.88	824.67	962.80	1,153.16	19.77
4	Taxes and duties on electricity	1,656.52	1,383.84	1,592.19	1,829.07	1,899.68	3.86
5	Taxes on vehicles	676.63	808.11	936.39	1,060.93	1,153.97	8.77
6	Taxes on goods and passengers	99.11	11.09	171.79	160.11	156.30	(-) 2.38
7	Other taxes on income and expenditure – tax on professions, trades, calling and employment	93.31	95.64	99.41	132.91	119.32	(-) 10.22
8	Other taxes and duties on commodities and services	1,077.54	177.67	206.36	221.29	226.05	2.15
9	Land revenue	86.95	95.19	126.79	234.88	380.23	61.88
	<b>Total</b>	<b>10,134.18</b>	<b>9,520.66</b>	<b>11,173.43</b>	<b>12,957.70</b>	<b>15,698.11</b>	<b>21.15</b>

- Reasons for increase in receipts during 2005-06 as compared to those of 2004-05, as intimated by the Land revenue department was as under:-

The increase in revenue was due to increase in the rate of non agriculture assessments, increase in the area for non agricultural purpose, adoption of special mode of recovery to collect the arrears.

- The reasons for variation in respect of other tax receipts, though called for in (October 2006), have not been received (February 2007).

**1.1.3** The details of major non tax revenue raised during the year 2005-06 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) or decrease (-) in 2005-06 over 2004-05
1	Interest receipts	1,594.30	1,684.88	897.12	469.72	130.91	(-) 72.13
2	Dairy development	0.35	0.20	0.34	0.45	0.45	-
3	Other non tax receipts	453.52	358.16	390.79	474.58	607.86	28.08
4	Forestry and wild life	28.34	32.49	49.85	42.39	42.76	0.87
5	Non ferrous mining and metallurgical industries	734.58	1,072.83	1,342.34	1422.42	1,880.18	32.18
6	Miscellaneous general services (including lottery receipts)	666.90	453.76	159.92	174.26	217.57	24.85
7	Power	0.01	5.10	77.08	52.13	21.26	(-) 59.22
8	Major and medium irrigation	132.09	267.23	202.78	207.09	248.62	20.05
9	Medical and public health	47.26	39.02	41.60	48.87	53.83	10.15
10	Co operation	12.84	14.68	14.28	14.94	16.55	10.78
11	Public works	13.49	11.72	18.53	30.92	26.99	(-) 12.71
12	Police	38.91	36.03	41.43	48.85	71.28	45.92
13	Other administrative services	38.35	19.48	35.90	103.88	35.11	(-) 66.20
	<b>Total</b>	<b>3,760.94</b>	<b>3,995.58</b>	<b>3,271.96</b>	<b>3,090.50</b>	<b>3,353.37</b>	<b>8.51</b>

- Reasons for increase in receipts during 2005-06 as compared to those of 2004-05, as intimated by Police department was as under:-

The increase in revenue was due to concerted action initiated against the defaulters in payments towards cost of police guards including railways pertaining to previous years and more recovery on account of levying penalty on implementation of wearing helmets.

- The reasons for variation in respect of other non tax receipts, though called for in (October 2006), have not been received (February 2007).

## 1.2 Variations between budget estimates and actuals

The variations between budget estimates and actuals of revenue receipts for the year 2005-06 in respect of the principal heads of tax and non tax revenue are given below:

(Rupees in crore)

Sl. No.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or short fall (-)	Percentage of variation
<b>Tax revenue</b>					
1	Sales tax	9,000.00	10,561.34	1,561.34	17.35
2	Taxes and duties on electricity	1,800.00	1,899.68	99.68	5.54
3	Stamp duty and registration fees	1,100.00	1,153.16	53.16	4.83
4	Taxes on vehicles	1,300.00	1,153.97	(-) 146.03	(-) 11.23
5	Taxes on goods and passengers	189.49	156.30	(-) 33.19	(-) 17.52
6	Land revenue	134.42	380.23	245.81	182.87
7	State excise	54.69	48.06	(-) 6.63	(-) 12.12
8	Other taxes on income and expenditure	150.00	119.32	(-) 30.68	(-) 20.45
<b>Non tax revenue</b>					
9	Non ferrous mining and metallurgical industries	1,500.00	1,880.18	380.18	25.35
10	Interest receipts	552.50	130.91	(-) 421.59	(-) 76.31
11	Major & medium irrigation	400.00	248.62	(-) 151.38	(-) 37.85
12	Medical & public health	45.00	53.83	8.83	19.62
13	Forestry and wild life	60.00	42.76	(-) 17.24	(-) 28.73
14	Education, sports, arts & culture	64.20	64.81	0.61	0.95
15	Police	97.20	71.28	(-) 25.92	(-) 26.67
16	Public works	35.00	26.99	(-) 8.01	(-) 22.89
17	Miscellaneous general services	150.00	217.57	67.57	45.05

Reasons for variation as reported by Police department are as under:

The decrease was due to shortfall in recovery of police cost from other State Governments which was expected while preparing budget estimates.

The reasons for variation in respect of other receipts, though called for in October 2006, have not been received (February 2007).

### 1.3 Analysis of collection

Break-up of total collection at pre-assessment stage and after regular assessment of sales tax, motor spirit tax, profession tax, entry tax and luxury tax for the year 2005-06 and the corresponding figures for the preceding two years as furnished by the department is as follows:

(Rupees in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Amount refunded	Net collection	Percent -age of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales tax	2003-04	5,707.84	235.98	69.89	5,873.93	97
	2004-05	6,612.92	270.47	50.41	6,832.98	97
	2005-06	7,969.63	418.77	110.21	8,278.19	96
Motor spirit tax	2003-04	1,295.65	-	-	1,295.65	100
	2004-05	1,475.64	-	-	1,475.64	100
	2005-06	2,283.15	-	-	2,283.15	100
Profession tax	2003-04	99.41	-	-	99.41	100
	2004-05	132.91	-	-	132.91	100
	2005-06	119.32	-	-	119.32	100
Entry tax	2003-04	2.74	-	-	2.74	100
	2004-05	52.61	-	-	52.61	100
	2005-06	2.67	-	-	2.67	100
Luxury tax	2003-04	34.33	-	-	34.33	100
	2004-05	32.99	-	-	32.99	100
	2005-06	0	-	-	0	100

The table above shows that percentage of collection of revenue at pre-assessment stage ranged between 96 and 97 *per cent* under sales tax during the years 2003-04 to 2005-06.

### 1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2003-04, 2004-05 and 2005-06 along with the relevant all India average percentage of expenditure on collection to gross collection for 2004-05 was as follows:-

(Rupees in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of cost of collection for the year 2004-05
Sales tax	2003-04	7,169.58	65.89	0.92	0.95
	2004-05	8,308.62	65.18	0.78	
	2005-06	10,561.34	75.15	0.70	
Taxes on vehicles and taxes on goods and passengers	2003-04	1,108.18	25.70	2.32	2.74
	2004-05	1,221.04	24.53	2.00	
	2005-06	1,310.27	24.81	1.87	
Stamp duty and registration fees	2003-04	824.67	31.51	3.82	3.44
	2004-05	962.80	24.96	2.59	
	2005-06	1,153.16	24.40	2.11	
State excise	2003-04	46.25	4.64	10.03	3.34
	2004-05	47.09	4.59	9.75	
	2005-06	48.06	5.17	10.75	

### 1.5 Collection of sales tax per assessee

(Rupees in crore)

Year	No. of assessees	Sales tax revenue	Revenue/assessee
2001-02	3,77,977	5,857.40	0.0155
2002-03	2,99,881	6,252.12	0.0208
2003-04	3,19,774	7,169.58	0.0224
2004-05	2,42,753	8,308.62	0.0342
2005-06	3,55,818	10,561.34	0.0297

### 1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2006 in respect of some principal heads of revenue amounted to Rs.10,584.30 crore of which Rs.1,825.94 crore was outstanding for more than 5 years as detailed in the following table:

(Rupees in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than 5 years as on 31 March 2006	Remarks
1	Sales tax	10,129.68	1,409.01	<ul style="list-style-type: none"> <li>• Demand covered by recovery certificate Rs.305.03 crore.</li> <li>• Recovery of Rs.1,749.82 crore was stayed by High Court and other judicial authorities.</li> </ul>

				<ul style="list-style-type: none"> <li>• Recovery of Rs.123.16 crore has been held up due to dealers being insolvent.</li> <li>• An amount of Rs.740.84 crore unlikely to be recovered and hence proposed to be written off.</li> <li>• Rs.7,210.83 crore are at different stages of recovery.</li> </ul>
2	Electricity duty	447.15	415.93	<ul style="list-style-type: none"> <li>• Arrears of Rs.13.92 crore to be recovered from Baroda Municipal Corporation are pending with Government.</li> <li>• Cases are pending in BIFR, Delhi. Hence outstanding amount of Rs.3.07 crore could not be recovered.</li> <li>• An amount of Rs.0.92 crore to be recovered under land revenue code. Accordingly Collector has initiated action to recover the said amount.</li> <li>• An amount of Rs.367.50 crore is pending with High Court of Gujarat.</li> <li>• An amount of Rs.61.74 crore is to be recovered from GIPCL who has been ordered to make payment of the outstanding amount by 29 March 2006. Position of recovery has not been informed (October 2006).</li> </ul>
3	Entertainments tax	7.44	0.97	Recovery of Rs.1.40 crore was stayed by High Court and other judicial authorities. Stage at which Rs.6.04 crore was outstanding was not known.
4	State excise	0.03	0.03	It is pending in the High Court.
	<b>Total</b>	<b>10,584.30</b>	<b>1,825.94</b>	

### 1.7 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2005-06, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 2005-06 as furnished by the Sales Tax Department in respect of sales tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts are as follows:

Name of tax	Opening balance as on 1 April 2005	New cases due for assessment during 2005-06	Total assessments due during 2005-06	Cases disposed of during 2005-06	Balance as on 31 March 2006	Percentage of column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales tax	5,87,599	3,74,406	9,62,005	6,37,188	3,24,817	34
Motor spirit tax	2,663	1,161	3,824	719	3,105	81
Profession tax	3,40,480	82,983	4,23,463	69,187	3,54,276	84
Purchase tax on sugarcane	41	12	53	12	41	77
Entry tax	9	2	11	7	4	36
Lease tax	25	0	25	0	25	100
Luxury tax	22	10	32	16	16	50
Tax on works contracts	504	243	747	322	425	57
<b>Total</b>	<b>9,31,343</b>	<b>4,58,817</b>	<b>13,90,160</b>	<b>7,07,451</b>	<b>6,82,709</b>	<b>49</b>

It would be seen from the above that percentage of cases pending finalisation in Sales Tax Department under various heads ranged between 34 and 100 per cent as on 31 March 2006.

### 1.8 Evasion of tax

Details of evasion of tax detected by the Sales Tax and Energy and Petro Chemicals Departments, cases finalised and the demands for additional tax raised as reported by the departments is given below:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2005	Cases detected during 2005-06	Total	No. of cases in which assessments/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2006
					No. of cases	Amount of demand (Rupees in crore)	
1	Sales tax	1,000	331	1,331	302	660.69	1,029
2	Electricity duty	6	-	6	6	-	-

### 1.9 Write off and waiver of revenue

During the year 2005-06, no demands relating to sales tax, state excise and electricity duty were written off by the departments as irrecoverable.

### 1.10 Refunds

Number of refund cases pending at the beginning of the year 2005-06, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2005-06, as reported by the departments are given below:

Sl. No.	Category	Sales tax		(Rupees in crore) State excise	
		No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year 2005-06	3,740	88.41	Nil	Nil
2	Claims received during the year	4,724	58.24	1	1.44
3	Refunds made during the year	4,717	110.21	1	1.44
4	Balance outstanding at the end of the year	3,747	36.44	Nil	Nil

### 1.11 Results of audit

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax receipts, forest receipts and other non tax receipts conducted during the year 2005-06 revealed under-assessment/short levy/loss of revenue amounting to Rs.351.73 crore in 1,062 cases. During the course of the year, the departments accepted under-assessment of Rs.10.16 crore in 686 cases and recovered Rs.3.11 crore in 487 cases pointed out in 2005-06 and earlier years. No replies have been received in respect of the remaining cases.

This report contains 39 paragraphs including three reviews relating to non/short levy of taxes, duties, interest and penalties etc., involving Rs.441.53 crore. The departments/Government accepted audit observations involving Rs.427.76 crore of which Rs.21.94 crore had been recovered.

### 1.12 Failure of senior officials to enforce accountability and protect interest of Government

Principal Accountant General (Commercial and Receipt Audit) PAG(C&RA), Gujarat, arranges to conduct periodical inspection of the Government departments concerned with tax revenue of the State to test check transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). When important irregularities etc., detected during inspection are not settled on the spot, these IRs are issued to the heads of offices inspected with a copy to the next higher authority. The heads of offices and respective next higher authorities are required to ensure compliance with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the PAG. Serious irregularities are also brought to the notice of the heads of the departments by the office of the PAG(C&RA) through draft paragraphs. A half yearly report of the pending IRs and audit observations is sent to the Secretary of the concerned Department to facilitate monitoring of the audit observations in the pending IRs.

The number of IRs and audit observations relating to revenue receipts issued upto 31 December 2005 and pending settlement by the departments as on 30 June 2006 along with corresponding figures for the preceding two years is given below:

Particulars	As at the end of		
	June 2004	June 2005	June 2006
Number of outstanding inspection reports	3,908	3,152	3,769
Number of outstanding audit observations	9,988	8,139	9,145
Amount of revenue involved (Rupees in crore)	2,351.17	2,375.52	3,127.96

IRs issued upto December 2005 pertaining to the offices of sales tax, profession tax, forest, land revenue, motor vehicles tax, stamp duty and registration fees, entertainment tax and luxury tax disclosed that 9,145 observations relating to 3,769 IRs remained outstanding at the end of June 2006. Of these, 1,256 IRs containing 3,385 observations had not been settled for more than seven years. Even the initial replies which were required to be received from the heads of offices within one month from the date of issue were not received in respect of 202 IRs issued during the year 2005-06. As a result, serious irregularities commented upon in these IRs had not been settled as of June 2006.

Departmentwise break up of IRs and audit observations pending as on 30 June 2006 is detailed in the Annexure-I.

### 1.13 Departmental audit committee meetings

In order to expedite the settlement of outstanding audit observations contained in the IRs, departmental audit committees are constituted in all the departments of Government. These committees are chaired by secretaries of the concerned administrative departments and attended by the concerned officers of the State Government and officers of the PAG(C&RA), Ahmedabad/ Accountant General (Civil Audit), Rajkot.

In order to expedite clearance of the outstanding audit observations, it is necessary that the audit committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. The information regarding number of audit committee meetings held, IRs and paras settled during the year 2005-06 is as follows:

Sl. No.	Name of the Department	No. of audit committee meetings held	No. of IRs/Paras settled		Money Value of paras settled
			IRs	Paras	
1	Sales tax	8	87	500	337.71
2	Entertainments tax	-	-	-	-
3	Land revenue	2	1	42	10.84
4	Stamp duty and registration fees	1	2	6	0.79
5	Motor vehicle tax	1	1	27	339.66
6	Geology and Mining	1	1	33	1,209.96

No meetings were convened by the departments of Energy and Petro Chemicals, Information and Broadcasting, State Excise and Forest. This indicates that the above departments have not taken initiative in using the machinery created for settling the outstanding audit observations.

#### 1.14 Response of the departments to draft audit paragraphs

According to the handbook of instructions for speedy settlement of draft paragraphs issued by the Finance Department on 12 March 1992, results of verification of facts contained in the draft paragraphs are required to be communicated to the Accountant General (AG) within six weeks from the date of their receipt. In exceptional cases where it is not possible to furnish final reply to the draft paragraph within the above time limit, an interim reply should be given to the AG.

59 draft paragraphs (clubbed into 39 paragraphs) proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006 (Revenue Receipts) were forwarded to the Secretaries of the respective departments between February and April 2006 through demi official letters. The secretaries of the respective departments sent replies to 58 draft paragraphs. These paragraphs have been included in this report after incorporating the response of the secretaries of the departments.

#### 1.15 Follow up on Audit Reports-summarised position

As per instructions issued by the Finance Department on 12 March 1992, administrative departments are required to submit explanatory notes on paragraphs and reviews included in the Audit Reports (ARs) within three months of presentation of the ARs to the legislature, without waiting for any notice or call from the Public Accounts Committee, duly indicating the action taken or proposed to be taken.

The ARs for the years 2002-03, 2003-04 and 2004-05 were presented to the State legislature on 21 February 2005, 13 September 2005 and 6<sup>th</sup> March 2006 respectively. Certain departments as detailed below had not submitted explanatory notes for the number of paragraphs shown as of August 2006.

Name of the Department	2002-03	2003-04	2004-05	Total
<b>Finance</b> (Sales tax)	17	14	18	49
<b>Revenue</b> (Stamp duty)	07	09	06	22
(Land revenue)	06	06	06	18
<b>Home</b> (Transport)	07	03	05	15
<b>Information, Broadcasting and Tourism</b> (Entertainments tax & Luxury tax)	09	04	03	16
<b>Industries, Mines &amp; Energy and Petrochemicals</b> (Electricity duty & Mining receipts)	01	01	01	03
<b>Total</b>	<b>47</b>	<b>37</b>	<b>39</b>	<b>123</b>

### **1.16 Recovery of revenue of accepted cases**

During the years between 2000-01 and 2004-05 the department/Government accepted audit observations involving Rs.4,342.92 crore of which an amount of Rs.30.60 crore was recovered till 31 March 2006 as detailed below:

<b>Year of Audit Report</b>	<b>Total money value</b>	<b>Accepted money value</b>	<b>(Rupees in crore)</b>
			<b>Recovery made</b>
2000-01	1,665.06	130.52	5.75
2001-02	676.23	29.51	0.52
2002-03	677.60	141.24	3.66
2003-04	1,076.89	151.93	13.71
2004-05	247.14	131.34	6.96
<b>Total</b>	<b>4,342.92</b>	<b>584.54</b>	<b>30.60</b>

## CHAPTER – II

### SALES TAX

#### 2.1 Results of audit

Test check of records in various sales tax offices conducted during the year 2005-06 revealed under assessment of Rs.224.78 crore in 393 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Incorrect rate of tax and mistake in computation	34	3.46
2	Incorrect grant of set-off	84	7.38
3	Incorrect concession/exemption	42	153.90
4	Non/short levy of interest and penalty	146	5.71
5	Other irregularities	86	51.97
6	Review on “Assessments and Collection of Tax”	1	2.36
	<b>Total</b>	<b>393</b>	<b>224.78</b>

During the year 2005-06, the department has accepted under assessment of Rs.7.75 crore in 315 cases and recovered Rs.0.70 crore in 116 cases, of which 17 cases involving Rs.0.22 crore were pointed out during the current year and rest in earlier years.

A few illustrative cases involving important audit observations and review on **Assessment and Collection of Tax** involving Rs.311.89 crore are discussed in the following paragraphs.

## 2.2 Review: Assessments and Collection of Tax

### Highlights

As on 31 March 2005 sales tax arrears of Rs.12,744 crore were pending recovery, out of which, Rs.2,950.72 crore pertained to the period between 1959-60 and 1999-2000.

*(Paragraph 2.2.10)*

Incorrect grant of benefit under the scheme “*Vechan vera samadhan yojna*” to six dealers resulted in short realisation of Rs.43.50 lakh on account of interest and penalty, while under “*Gokul gram yojna*”, contribution including interest of Rs.1.13 crore was not recovered from 12 dealers.

*(Paragraph 2.2.11, 2.2.12)*

The internal controls of the department needed strengthening. Internal inspection and internal audit conducted by the department were found insufficient. Some important registers/returns submitted by AAs to controlling officers were found incomplete.

Out of 35 units, verification of amounts of challans noted in Register six with treasury records was completed only in six units, it was completed partially in 20 whereas the same was not done by nine units indicating therein that revenue realisation reported during assessments was not confirmed with the treasury receipts.

*(Paragraph 2.2.14, 2.2.15)*

### 2.2.1 Recommendations

A perusal of the review would reveal that there was enough scope for strengthening internal controls of the department to ensure that assessments were accounted for and finalised in accordance with the relevant provisions of the GST Act. Government may consider following recommendations:

- A system may be developed to monitor that assessments finalised by AAs are in accordance with the conditions laid down in the circulars issued under the GST Act. Assessment cases that require detailed scrutiny may not be finalised as simple assessments.
- Records need to be maintained properly so that information regarding number of assessments finalised/number of dealers etc. is correctly available with the department. It would be essential for proper planning including fixation of targets for finalisation of assessments.
- The internal audit wing of the department needed strengthening. A long term plan should be chalked out to inspect planned units and thrust may also be laid on internal inspection.

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### 2.2.2 Introduction

Under the Gujarat Sales Tax Act, 1969 (GST Act) and Rules made thereunder, registered dealers are required to maintain accounts and submit periodical returns to the respective sales tax units alongwith challans for proof of payment of tax. The Act provides for simple assessments under Section 41(2) and deemed assessments under Section 41(AA). The Act also provides for levy of interest and penalty in case of non/short payment of tax.

In case of inter-state trade or commerce, Central Sales Tax Act, 1956 (CST Act) is applicable and the provisions of GST Act relating to furnishing of returns, payment of tax, assessment and recovery of tax apply *mutatis mutandis* to the dealers under CST Act.

### 2.2.3 Organisational set-up

The Additional Chief Secretary, Finance Department is overall controlling officer of Sales Tax Department at Government level. The Commissioner of Sales Tax (Commissioner) is the head of the Sales Tax Department, assisted by an Additional Commissioner (Administration, Audit and Appeal) and a Special Commissioner (Enforcement and Legal). The department is geographically divided into seven divisions, each headed by a Joint Commissioner (JC). These divisions are divided into 25 circles each headed by a Deputy Commissioner (DC) which are further divided into 103 units, each headed by one Assistant Commissioner (AC), assisted by Sales Tax Officer(s) (STO) and Sales Tax Inspectors (STI).

DC at circle level, and AC, STO and STI at unit level are the assessing officers (AAs). The collection of tax is entirely controlled by the unit offices.

### 2.2.4 Scope of audit

Test check of records maintained by the Commissioner, four out of seven divisions, nine out of 25 circles and 35 out of 103 units for the period 2002-03<sup>#</sup> to 2004-05 was carried out between April 2005 and March 2006. The selection of units was based on maximum revenue earning in each division so as to represent the entire State.

### 2.2.5 Audit objectives

The review was conducted with a view to:

- evaluate the adequacy, reliability and effectiveness of the system for proper assessment and collection of Government revenue;
- ascertain whether statutory provisions of the Acts, rules made thereunder and instructions issued from time to time were being followed and adhered to; and

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<sup>#</sup> The department was geographically reorganised with effect from 01.11.2002, hence, the review was conducted for the period from 2002-03 to 2004-05.

- review the efficacy of internal control to ascertain that sufficient internal controls existed in the department to prevent leakage of revenue.

### 2.2.6 Achievement of target fixed for finalisation of assessments

A comparison of targets fixed for finalisation of number of assessments and its achievement for the period between 2002-03 and 2004-05 as furnished by the department was as under:

**(Figures in number)**

Year	Assessing officer	Target per month for each officer	Number of officers in the cadre Sanctioned strength Men-in position	Total target fixed based on sanctioned strength Men-in position	Achievement	Shortfall	Percentage of shortfall with reference to men-in position
2002-03*	DC	6	44 44	1,320 1,320	1,076	244 244	18.48
	AC	18	91 64	8,190 5,760	11,224		
	STO	120	341 177	2,04,600 1,06,200	86,088	1,18,512 20,112	18.94
	STI	90	790 686	3,55,500 3,08,700	3,06,526	48,974 2,174	0.70
	<b>Total</b>		<b>1,266</b> <b>971</b>	<b>5,69,610</b> <b>4,21,980</b>	<b>4,04,914</b>	<b>1,64,696</b> <b>17,066</b>	<b>4.04</b> **
2003-04	DC	6	44 44	3,168 3,168	1,236	1,932 1,932	60.98
	AC	18	91 54	19,656 11,664	13,516	6,140	
	STO	120	341 168	4,91,040 2,41,920	51,834	4,39,206 1,90,086	78.57
	STI	90	790 764	8,53,200 8,25,120	2,21,255	6,31,945 6,03,865	0.73
	<b>Total</b>		<b>1,266</b> <b>1,030</b>	<b>13,67,064</b> <b>10,81,872</b>	<b>2,87,841</b>	<b>10,79,223</b> <b>7,94,031</b>	<b>73.39</b>
2004-05	DC	6	44 40	3,168 2,880	1,293	1,875 1,587	55.10
	AC	18	91 109	19,656 23,544	10,855	8,801 12,689	53.89
	STO	120	341 113	4,91,040 1,62,720	57,479	4,33,561 1,05,241	64.68
	STI	90	790 521	8,53,200 5,62,680	1,13,215	7,39,985 4,49,465	79.88
	<b>Total</b>		<b>1,266</b> <b>783</b>	<b>13,67,064</b> <b>7,51,824</b>	<b>1,82,842</b>	<b>11,84,222</b> <b>5,68,982</b>	<b>75.68</b>

\* The Department was geographically reorganised with effect from 01.11.2002, hence, figures of 2002-03 are for the period between November 2002 and March 2003 only.

\*\* During 2002-03 a scheme for deemed assessment under Section 41(AA) was introduced, hence, the assessments finalised during the year were more.

As could be seen from above, the shortfall in achievement of target when compared with men-in-position ranged between 73.39 *per cent* in 2003-04 and 75.68 *per cent* in 2004-05. The department fixed target for assessment on sanctioned strength and not on men-in-position, and there was a big gap between sanctioned strength and men-in-position. Basis of fixation of target was not made available to audit, hence, its adequacy could not be ascertained.

### 2.2.6.1 Status of assessments

The number of assessments pending finalisation increased from three lakh as on 31 March 2002 to six lakh as on 31 March 2005. The yearwise information on number of dealers and status of assessments for the period 2002-03 to 2004-05, as furnished by the department were as below:

**(Figures in number)**

Particulars	2002-03	2003-04	2004-05
Number of dealers	2,99,881	3,19,774	2,42,753
Opening balance of assessment	13,17,590	6,67,999	5,11,356
New cases due for assessment (including remand cases)	4,37,999	1,31,509	3,18,996
Total assessments due	17,55,589	7,99,508	8,30,352
Assessments finalised	10,87,590	2,88,152	2,42,753
Balance at the end of the year	6,67,999	5,11,356	5,87,599

The above information revealed that:

- The number of assessments finalized differed from the achievement of various assessing officers.
- There was a reduction of 77,021 dealers in 2004-05, *i.e.* by 24 *per cent*, as compared to the number of dealers in 2003-04 which was very huge. Reasons for such reduction were not available on record.
- Compared to 2002-03, there was an increase of 19,893 dealers in 2003-04, however, new cases due for assessment added during the period had decreased by 3,06,490.

After this was pointed out, the department reconciled the information in June 2006 and revised the figures of new cases due for assessment during 2003-04 as 3,04,286 and the number of dealers during 2004-05 as 3,38,953.

The department did not furnish any reason for difference in information furnished and corrective action taken for plugging the loophole.

### 2.2.7 Rush of finalisation of assessments in the month of March

The details regarding total number of assessments finalised during 2002-03 to 2004-05 and assessments finalised during the month of March of each year by nine circles and 35 units covered under the test check were as below:

Sl. No.	Particulars	2002-03	2003-04	2004-05
<b>1</b>	<b>Total assessments finalised during the financial year</b>			
	• Number of assessments	1,09,556	76,552	61,882
	• Average number of assessments per month	9,130	6,379	5,157
<b>2</b>	<b>Assessments finalised during March</b>	14,241	9,976	12,481
<b>3</b>	<b>Assessments finalised during April to February of financial year</b>			
	• Number of assessments	95,315	66,576	49,401
	• Average number of assessments per month	8,665	6,052	4,491

It was noticed that during 2002-03 to 2004-05, assessments finalised in the month of March ranged between 9,976 and 14,241 as against the average of 5,157 to 9,130 for the whole year. This rush may result in errors and omissions.

### 2.2.8 Finalisation of simple assessments

Under Section 41(2) of GST Act, if the return filed by the dealer is correct and complete, assessment order is passed without inviting the dealer to produce further records, and is known as simple assessment. The department issued public circulars in July 2002, August 2003 and June 2005 prescribing various conditions for assessments under this section for the assessment period 2001-02, 2002-03 and 2003-04, respectively. Further, the department by issue of a public circular in October 2002 prescribed that conditions of public circular of July 2002 shall apply to all assessments up to 2001-02.

**2.2.8.1** During test check of records of 68 assessments in 33 units it was noticed that 58 dealers did not fulfil conditions prescribed in public circulars to merit finalisation as simple assessments. These were scrutiny cases. However, AAs incorrectly treated these as simple assessments as detailed below:

Sl. No.	Number of units	Nature of irregularity
1.	12 <sup>♥</sup>	As per public circulars issued from time to time, if tax dues of an assessment exceeded Rs.25,000, it could not be treated as simple assessment.  However while finalising 35 assessments between October 2002 and March 2005 of 34 dealers, tax payable in each assessment was found to be more than the prescribed limit. It ranged between Rs.25,620 and Rs.9.45 lakh. As such these were liable for scrutiny assessment; however, these were incorrectly finalised as simple assessments by the concerned AAs.

<sup>♥</sup> Unit-14 and 21 Ahmedabad, Ankleshwar, Unit-1 and 2 Bhavnagar, Gandhidham, Gandhinagar, Jamnagar, Kadi, Unit-4 Rajkot, Unit-6 Vadodara and Veraval

	<b>Remarks:</b> The department stated in June 2006 that action for <i> suo motu </i> revision (SMR) would be initiated for these assessments.
2.	5 <sup>^</sup> The public circulars envisaged that assessment of dealers availing benefit of sales tax exemption or deferment schemes should not be finalised as simple assessment.  However 11 assessments of six dealers availing exemption/deferment under GST Act were incorrectly assessed between October 2002 and March 2005 as simple assessment instead of scrutiny assessments.
	<b>Remarks:</b> The department stated in June 2006 that SMR has been initiated in all these assessments.
3.	8 <sup>Σ</sup> As per public circulars an assessment involving a refund of more than Rs.5,000 was to be treated as scrutiny case.  In 10 cases of eight dealers assessed between November 2002 and March 2005, refund allowed in each case exceeded Rs.5,000. In each case it ranged between Rs.5,343 and Rs.7.06 lakh. However AAs incorrectly finalised these assessments as simple assessments instead of scrutiny assessments.
	<b>Remarks:</b> The department stated in June 2006 that SMR has been initiated in all these assessments.
4.	6 <sup>∇</sup> As per the public circulars an assessment involving set off of more than Rs.25,000 was to be treated as a scrutiny assessment.  However it was noticed that set off allowed in nine cases of seven dealers between October 2002 and February 2004 exceeded Rs.25,000 in each case. It ranged between Rs.0.44 lakh and Rs.5.31 lakh. However while finalising these assessments, AAs incorrectly assessed these as simple assessments instead of scrutiny assessments which was incorrect.
	<b>Remarks:</b> The department stated in June 2006 that SMR has been initiated in all these assessments.
5.	2 <sup>*</sup> As per public circulars a dealer having a turnover of more than Rs.10 lakh was to be treated as a scrutiny case.

<sup>^</sup> Bharuch, Unit-2 Bhavnagar, Gandhidham, Kadi and Veraval

<sup>Σ</sup> Unit-9 and 21 Ahmedabad, Gandhinagar, Unit-2 and 4 Rajkot, Unit-6 Vadodara, Unit-1 Vapi and Veraval

<sup>∇</sup> Unit-5, 9 and 21 Ahmedabad, Gandhinagar, Kadi and Unit-1 Vapi

<sup>\*</sup> Unit-22 and 23 Ahmedabad

		However it was noticed in three cases turnover of three dealers exceeded Rs.10 lakh. It ranged between Rs.12.86 lakh and Rs.52.10 lakh in each case. However while finalising these assessments between October 2002 and March 2005 for 2002-03, AAs incorrectly assessed these cases as simple assessments instead of scrutiny assessments.
	<b>Remarks:</b>	The department stated in June 2006 that these assessments were finalised under scrutiny assessment and through oversight they were shown as finalised under simple assessment. The reply was not tenable as assessment orders of these cases clearly indicated that they were finalised under simple assessment.

**2.2.8.2** According to clause C(iii) below Rule 44 of the GST Rules, 1970 (GST Rules), set off under the Rule shall not be granted unless a vendor who sold the goods to the claimant dealer credited into Government treasury, the amount of tax on his sales for which set off is claimed.

Six assessments for the period between 1988-89 and 2002-03 of five dealers were finalised by five units\* as simple assessments between October 2002 and February 2004 in which the set off of Rs.19.07 lakh was allowed though there was nothing on records to prove that the vendor had paid the tax in Government treasury. As such, correctness of the assessments could not be ascertained.

The department accepted the audit observation in March 2006 and stated that SMR proceedings have been initiated in these cases.

**2.2.8.3** During test check of records it was noticed that two units# finalised 13 assessments of three dealers affected by flood of July 2001 under simple assessment, though no public circular was issued by the department. Of these, 10 assessments for the period from 1990-91 to 1999-2000 finalised in February 2003 by unit 15, Ahmedabad pertained to a single dealer. Finalisation of these assessments under simple assessment without public circulars was incorrect.

After this was pointed out the department stated in June 2006 that the assessing authority was directed to look into the related records of one dealer covering 10 assessments. However, reasons for finalisation of these assessments without instructions were not furnished (October 2006).

**2.2.8.4** Three assessments for the period between 1995-96 and 2001-02 of three dealers were finalised incorrectly by three units\*\* during the period between March 2003 and October 2004 under simple assessment. This resulted in short levy of Rs.23.09 lakh, due to non levy of tax on sales of

\* Unit-5 Ahmedabad, Gandhinagar, Kadi, Unit-1 Vadodara and Unit-1 Vapi

# Unit-9 and 15 Ahmedabad

\*\* Unit-8 Ahmedabad, Bhuj and Unit-2 Surat

*batasa* (sugar candy) worth Rs.1.41 crore in one assessment and non levy of turnover tax in two assessments.

After this was pointed out, the department issued in July 2005 a rectification order in one case for Rs.4.04 lakh and further stated in June 2006 that instructions for SMR have been issued in remaining two cases. Particulars of recovery have not been received (October 2006).

**2.2.8.5** In one simple assessment for the period from January 1999 to December 1999 finalised in March 2005 by unit-6 Vadodara, the total payment of Rs.29.99 lakh against CST and Rs.6.74 lakh against GST was accepted, of which Rs.26.55 lakh (Rs.19.87 lakh in CST and Rs.6.68 lakh in GST) pertained to another dealer having separate registration number. This resulted in short realisation of tax of Rs.26.55 lakh.

After this was pointed out the department stated in June 2006 that instructions have been issued to initiate SMR proceedings in the case. Particulars of recovery have not been received (October 2006).

### **2.2.9 Finalisation of deemed assessments**

Under Section 41(AA) of GST Act as amended with effect from 1 April 2002, a dealer whose tax liability does not exceed Rs.5 lakh is deemed to be assessed for the period up to 1999-2000, provided he had timely furnished the returns along with tax, and had paid five *per cent* of tax liability for each specified period by 30 September 2002. The deemed assessment shall not apply to a dealer who has availed tax exemption or deferment incentive.

During test check of records, it was noticed that the following assessments finalised under deemed assessments violated the provisions of the Act as detailed below:

**2.2.9.1** Four assessments for the period 1998-99 and 1999-2000 of three dealers were irregularly finalised by two units<sup>♥</sup> between October 2002 and December 2002 though the dealers had paid five *per cent* of the tax in October 2002, *i.e.* after the prescribed date. One assessment for the period 1999-2000 finalised by Valsad unit was irregular, as the dealer was availing deferment incentive scheme.

After this was pointed out, the department accepted the audit observation in June 2006 on payment made after due date and stated that necessary action would be taken in this regard. Reply in remaining observations has not been received (October 2006).

**2.2.9.2** Under Section 15B of GST Act, where a dealer purchases any taxable goods other than declared goods and uses it as raw material, processing material or as consumable stores in the manufacture of taxable goods, purchase tax at prescribed rate is leviable. Purchase tax so levied is admissible

<sup>♥</sup> Gandhinagar and Unit-2 Surat

as set off under Rule 42E of GST Rules, provided the goods manufactured are sold by the dealer in the State of Gujarat.

During test check of records, it was noticed in the assessment of three dealers for the period between 1996-97 and 1999-2000 finalised during September and October 2002 by three units\*\* that the dealers transferred/consigned the manufactured goods either to their branches out side the State or sold through commission agents. However, levy of purchase tax and disallowance of set off thereon was not considered proportionately. This resulted in non levy of purchase tax of Rs.30.11 lakh including interest and penalty, which would have been avoided if the returns submitted by the dealers were scrutinised timely.

### 2.2.10 Collection of tax

As on 31 March 2005 sales tax arrears of Rs.12,744.53 crore were pending recovery, out of which Rs.2,950.72 crore pertained to the period between 1959-60 and 1999-2000. The stages at which these are pending recovery are detailed below:

(Rupees in crore)		
Sl.No.	Particulars	Amount
<b>A) Stay against recovery</b>		
1.	Stay granted by department appellate authorities	270.69
2.	Tribunal/High Court/Supreme Court	4,725.21
<b>Sub Total(A)</b>		<b>4,995.90</b>
<b>B) Non recoverable dues</b>		
1.	Closure of business	384.31
2.	Insolvency, liquidation and writ petition	107.30
3.	BIFR/Sick Textile units	317.55
4.	Untraceable dealers/bogus purchase/paupers	318.14
5.	Impossible recovery awaiting department formalities	70.20
6.	Non recovery certificates	789.33
7.	Enforcement/pending recovery prior to 1981	226.41
8.	Forest co-operative societies	7.17
<b>Sub Total(B)</b>		<b>2,220.41</b>
<b>C) Accrued but not due</b>		
1.	Deferment incentive schemes	1,545.22
2.	Dues deferred by Government	11.11
3.	Within grace period	205.81
<b>Sub Total(C)</b>		<b>1,762.14</b>
<b>D) Others</b>		
1.	Exparte assessments/non production of forms	467.63
2.	Oil companies	1,130.45
3.	Government department/State Transport/Municipality	26.01
4.	Liquid recovery	2,033.18
5.	Unspecified/other recovery	108.81
<b>Sub Total(D)</b>		<b>3,766.08</b>
<b>Grand Total</b>		<b>12,744.53</b>

\*\* Kadi, Kalol and Mehsana

The department had not furnished information regarding action taken for early recovery of above dues (October 2006).

The agewise status of pending recovery as at the end of March 2005 was as follows:

<b>(Rupees in crore)</b>		
<b>Sl.No.</b>	<b>Recovery pertaining to the period</b>	<b>Amount</b>
1.	Upto 1979-80	1.45
2.	1980-81 to 1984-85	4.80
3.	1985-86 to 1989-90	69.34
4.	1990-91 to 1994-95	177.61
5.	1995-96 to 1999-2000	2,697.52
6.	2000-01 to 2004-05	9,793.81
	<b>Total</b>	<b>12,744.53</b>

The agewise analysis of pending recovery revealed that an amount of Rs.2,950.72 crore pertained to the period between 1959-60 and 1999-00. The department may analyse the outstanding recoveries and initiate efforts to reduce the arrears.

#### **2.2.11 Vechan vera samadhan yojna – 2005**

Under Section 47(4B) of GST Act, the dues paid by a dealer were to be first applied towards interest, then towards penalty and balance towards tax. Government introduced a scheme in March 2005 called '*Vechan vera samadhan yojna - 2005*' for remission of interest and penalty involved in assessments finalised upto 28 February 2005, provided the dealers had paid the tax involved in such assessments. According to condition no.4 of the Government order, the remission under the scheme was available only on those cases where the payment of tax was made during the currency of the scheme, *i.e.* March 2005, and if the amount was paid before or after the said period the benefit under the scheme could not be extended. The scheme was also applicable to those cases which were pending before or decided by appellate authorities.

During test check of records of three units<sup>^</sup>, it was noticed that while finalising assessments/appeal orders between July 1997 and January 2005 of six dealers' demand of tax of Rs.70.92 lakh, interest of Rs.45.52 lakh and penalty of Rs.12.66 lakh was raised. The dealers paid Rs.14.68 lakh against the assessed dues before March 2005 which was to be applied towards interest. The dealers thereafter opted for *Vechan vera samadhan yojna - 2005* and paid Rs.53.82 lakh in March 2005. Although the dealers failed to pay entire amount of tax of Rs.70.92 lakh within the currency of scheme (March 2005) the AA incorrectly extended the benefit of scheme and allowed remission of Rs.43.50 lakh on account of interest and penalty. After this was pointed out the department stated in June 2006 that recovery proceedings would be undertaken where irregularities were noticed.

<sup>^</sup> Kalol, Unit-1 and 2 Vadodara

### **2.2.12 Gokul gram yojna (GGY)**

According to Government Resolution (GR) of 20 April 1998 of the Industries and Mines Department, an industrial unit with project costing more than Rs.10 crore and availing sales tax incentive under New Incentive Policy of 1995-2000 scheme shall have to contribute two *per cent* of sales tax in case of exemption and three *per cent* of sales tax in case of deferment availed during the year for GGY by 30 June of subsequent financial year. In case of failure to contribute the amount on due date, the assessing officer was to suspend the incentive with effect from 1 July. Such suspension could be cancelled if the dealer paid interest at the rate of two *per cent* per month on the contribution amount for the period of delay.

#### **2.2.12.1 Delay in recovery of GGY contribution**

During test check of records of one circle and three units<sup>\*</sup>, it was noticed that six dealers had made the GGY contribution of Rs.4.28 crore for the period between 2001-02 and 2004-05 with a delay which ranged between two days and 353 days. However, the assessing officer did not suspend the incentive. The dealers were liable to pay interest of Rs.18.80 lakh for the delay in contribution.

After this was pointed out, the department recovered interest of Rs.13.80 lakh between July and August 2006 from four dealers. Reply in remaining cases has not been received (October 2006).

#### **2.2.12.2 Non/short recovery of GGY contribution**

During the course of audit of two units<sup>♥</sup>, it was noticed that five dealers were required to pay Rs.2.60 crore towards GGY contribution for the period between 1997-98 and 2004-05. However, the dealers paid only Rs.2.09 crore between May 2003 and September 2005. Another dealer of Jamkhambhalia did not pay contribution of Rs.6 lakh at all for the period from January 2005 to March 2005. The AAs neither took any step to recover the contribution nor suspended the incentive granted to the dealers. This resulted in short recovery of Government revenue of Rs.57 lakh. Besides, interest of Rs.37 lakh was also leviable.

After this was pointed out, the department accepted the audit observation in June 2006. Report on further action taken has not been received (October 2006).

### **2.2.13 Internal Inspection**

The internal inspection of various offices of the department *viz.*, divisions, circles, units, check-posts, enforcement, appeal and audit offices are conducted by the internal inspection wing headed by DC (Inspection). The offices, which are not inspected during the year by DC (Inspection) are to be

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\* Circle - Gandhidham and Units - Bharuch, Kalol and 2 Vapi

♥ Unit-6 Vadodara and Bharuch

inspected by the next higher controlling offices, thereby confirming internal inspection of all offices of the department in each year.

**2.2.13.1** After completion of inspection of an office by DC (Inspection), the wing issues an inspection report to the inspected office for its compliance. The Commissioner or an officer appointed by him *viz.*, Additional Commissioner or Special Commissioner or JC holds the spot hearing on the inspection report and compliance made thereon, by visiting the inspected office. The observations in inspection report thereafter are pursued or settled based on his orders.

Against the annual inspection target of 15 offices fixed by the Commissioner, the internal inspection wing had planned and covered 12, 18 and 15 offices during 2002-03, 2003-04 and 2004-05, respectively. Review of records maintained by internal inspection wing revealed that 3,060 observations were outstanding at the end of March 2005. Of these 2,583 observations of 35 offices pertaining to the inspection reports issued between September 2001 and December 2004, were outstanding as spot hearing by higher officer had not taken place. Delay in completion of spot hearing and compliance to the observations would result in delay in taking remedial action.

**2.2.13.2** During 2002-03, 2003-04 and 2004-05, the offices available for inspection by authorities other than DC (Inspection) were 72, 128 and 99, respectively. Against this the controlling officers planned to inspect 43, 89 and 45 offices. However, they covered 29, 39 and 54 offices only, resulting in an incomplete internal inspection circle. To overcome deficiency in covering planned units and to give the required thrust in internal inspection, the wing should chalk out appropriate long term plan.

The department stated in March 2006 that due to administrative reasons, the targets for inspection could not be achieved which would be completed in forthcoming year. The department added in June 2006 that out of 3,060 outstanding observations at the end of March 2005, 1,801 objections have been complied with.

#### **2.2.14 Internal audit**

The internal audit wing of the department is headed by JC (Audit), looking after pre and post audit of assessment records. Department issued instructions on 7 March 2003 envisaging conditions/manner in which audit should be conducted. It stipulated that 150 cases of each division should be audited per month. The information on number of assessments finalised between 2002-03 and 2004-05 vis-à-vis target fixed for audit and achievement as furnished by the department was as under:

Period	Assessments finalised	Target fixed for internal audit	Percentage of target fixed to total assessments	Achievement	Percentage of achievement to target fixed
2002-03	10,87,590*	10,500	0.97	4,602	43.83
2003-04	2,88,152	12,600	4.37	11,637	92.36
2004-05	2,42,753	12,600	5.19	14,743	117.00

\* During 2002-03 a scheme for deemed assessment under Section 41(AA) was introduced, hence, the assessments finalised during the year were more.

It could be seen from above table that the target fixed for audit ranged between 0.97 per cent and 5.19 per cent of assessments finalised during the period 2002-03 to 2004-05.

### **2.2.15 Management information system**

The department, vide circular dated 17 March 1997 prescribed various registers to be maintained by the unit offices. Of these, Registers bearing no.6, 11 and 14 were important from the view point of assessments and collection of tax. Test check of these registers and monthly diaries revealed following deficiencies:

#### **2.2.15.1 Register no.6**

The details of challans as and when received from the dealers by the units are noted in Register no.6 on day-to-day basis. The details of challans noted in the register were to be verified with the treasury schedules by the units, for confirming the authenticity of tax payment. This is known as verification with treasury schedule (VTS) activity.

Of the selected 35 units, six units had completed VTS up to March 2005, 20 units had completed partly whereas the same was not done by nine units. This shows that the revenue realisation reported during assessments was not confirmed with the treasury receipts.

After this was pointed out, the department stated in June 2006 that VTS work was lying incomplete on account of technical error<sup>\*</sup>, and has been restarted.

#### **2.2.15.2 Register no.11**

Dealerwise information on status of assessment is noted in Register no.11, *i.e.* 'P register'. On completion of assessment year, the assessing authority should enter alphabet 'P' against the period of pending assessment of each dealer and on completion of assessment the entry is to be closed by putting date of assessment and signature of assessing authority.

Out of 35 units test checked it was noticed in 21 units that the Register no.11 was incomplete or not updated by the assessing authorities. The name of dealers, address, information on pending and completed assessments *etc.*, was not shown in the register. The register was neither closed nor submitted periodically to the controlling officers.

After this was pointed out in August 2005, the department did not give any reply (October 2006).

#### **2.2.15.3 Register no.14**

The dues required to be collected on completion of assessments are noted in Register no.14 maintained by the units for watching recovery of the same from the dealers. As per existing system the entries in Register no.14 were to be

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<sup>\*</sup> The details of technical error were not defined/clarified by the department.

closed only when the amount was fully recovered with additional interest for delayed payment, if any, or based on judicial/quasi-judicial orders for revising the recovery or on remanding the assessment.

Cross verification of demand raised in assessments finalised by DCs and inter transfer of demand to AAs revealed that in 10 units<sup>▼</sup>, details of recovery of Rs.12.03 crore relating to 100 entries of 58 dealers were not made in the register hence not pursued for recovery. In seven units<sup>\*</sup> 24 entries of 13 dealers for Rs.2.06 crore were struck off from the register without assigning any reasons though the amount was not fully recovered. In unit-6 Ahmedabad, demand raised after assessments of nine dealers, amounting to Rs.28.01 lakh was not entered in register no.14, which was corrected after being pointed out by audit. In two units<sup>\*</sup> demand related to two assessments of two dealers was entered short by Rs.12.71 lakh in register no.14, which was corrected after being pointed out by audit. In unit-2 Vapi, interest for delay in payment of assessed dues amounting to Rs.0.94 lakh against one dealer was not levied, however, entry was closed in register no.14. After this was pointed out, the AAs issued notices for recovery.

The department stated in June 2006 that the entries were made after pointed out by audit and recovery proceedings have been initiated. Further, in July 2006 the department issued a circular prescribing procedure to be followed henceforth in assessments finalised by DC.

**2.2.15.4** In unit-6 Ahmedabad, one assessment for the period from April 2003 to September 2003 finalised in April 2004 resulted in demand of Rs.3.86 crore under GST Act. The details in Register no.14 revealed that the demand notice was issued on 5 April 2004, however, recovery of Rs.54.10 lakh was shown as effected between 21 February 2003 and 5 April 2004, *i.e.* prior to the date of issue of demand notice.

After this was pointed out the department stated in June 2006 that the dealer had made part payment on account of return scrutiny. The reply is untenable as the tax paid was from February 2003 whereas the assessment period was from April 2003. Further, the assessment dues should have been arrived only after considering the tax paid up to the date of assessment.

#### **2.2.16 Deficiencies noticed in monthly diaries**

The monthly diaries on all activities undertaken by the units are submitted by AAs to the controlling officer in the form of statements, which in turn is consolidated by EDP Cell for the use by the Commissioner at the time of monthly meeting held with JCs and DCs. Also DC (Inspection) reviews the monthly diaries received from the seven JCs and intimates the remarks thereon to them after approval from the Commissioner.

<sup>▼</sup> Unit-5 and 8 Ahmedabad, Bharuch, Unit-1Bhavnagar, Gandhidham, Unit-4 Rajkot, Valsad, Unit-1 and 2 Vapi and Veraval,

<sup>\*</sup> Unit-8 Ahmedabad, Ankleshwar, Bharuch, Gandhidham, Unit-1 Junagadh, Unit-1 Vapi and Veraval

<sup>\*</sup> Unit-4 Rajkot and Unit-2 Vapi

The monthly diaries of seven divisions for the month of February 2005 were checked in audit and following deficiencies were noticed.

**2.2.16.1** Opening balance of live dealers as on 1 February 2005 was 3,33,862 in Statement 2A whereas it was 3,33,867 in Statement 3A.

**2.2.16.2** The Closing balance of live dealers as on 28 February 2005 was 3,35,581 in Statement 2A whereas it was 3,31,728 in Statement 3A. Further, as per centralized data kept by the EDP cell, the number of live dealers at the end of February 2005 was 3,46,882.

**2.2.16.3** The opening balance of outstanding enforcement recovery as on 1 February 2005 was Rs.4,854.21 lakh in Statement 6A whereas it was Rs.3,730.61 lakh in Statement 7B.

**2.2.16.4** The closing balance of outstanding enforcement recovery as on 28 February 2005 was Rs.4,858.49 lakh in Statement 6A whereas it was Rs.3,730.20 lakh in Statement 7B.

The difference in information furnished reveals that the information submitted was incorrect and the same was not correlated with the centralised data maintained by EDP cell. Further, test check revealed that uniformity in statements was not maintained by the divisions and information from units was not correctly depicted in the diaries.

After this was pointed out the DC (Inspection) issued instructions in May 2005, directing all divisional officers to take due care while preparing the monthly diary.

### **2.2.17 Acknowledgement**

An entry conference was held with the Commissioner of Sales Tax in September 2005. The objectives of the review were discussed. He assured that full co-operation would be given to audit. The findings of the review were sent to the department and Government in April 2006 with the request to discuss the points in audit review committee meeting to be held in June 2006. The meeting of audit review committee was held in June 2006. Representatives of the department headed by Commissioner attended the meeting. The views of Government have been taken into consideration while drafting the review. Reply from Government has not been received (October 2006).

### **2.3 Incorrect grant of benefits under sales tax incentive schemes**

**2.3.1** Under the sales tax incentive scheme 1986-90, 1990-95 and 1995-2000, eligible units are allowed to purchase raw material, processing material, consumable stores and packing material against declaration on payment of tax at the rate of 0.25 *per cent* and the balance tax on purchases is calculated at the prescribed rates and adjusted against the ceiling limit of exemption. Similarly, tax saved on sale of manufactured goods is also adjusted against the ceiling limit of exemption. In the event of breach of the recitals of the declaration, purchase tax saved is to be recovered under Section 50 of the GST Act with

interest and penalty. Supreme Court of India, held\* that natural gas used as fuel is not consumables as the word “consumables” has to be read with the words raw material, component parts, sub assembly parts, intermediate parts appearing in the statute and could include only such goods which get consumed in the final product. By applying the ratio of the judgement, light diesel oil (LDO), furnace oil (FO), natural gas (NG), liquified petroleum gas (LPG) and naphtha used as fuel can not be considered as raw material, processing material or consumable stores in the manufacture of glazed tiles, steel alloys, paper and paper products and ceramic tiles *etc.*

The Commissioner issued a circular in February 2001 envisaging that the ratio of the Supreme Court judgement cannot be applied to the provisions of the GST Act. This view was challenged by audit which was subsequently confirmed by the Gujarat Sales Tax Tribunal<sup>▲</sup> in a case decided in 2004. The Commissioner *abinitio* withdrew the circular of February 2001 and issued revised instructions in September 2005 clarifying that the ratio of the judgement of the Supreme Court is applicable to the provisions of the GST Act.

During test check of records of 18\* offices it was noticed in the assessment of 44 dealers for the period between 1995-96 and 2003-04 that furnace oil, lignite, kerosene, natural gas, liquified petroleum gas, naphtha and light diesel oil valued at Rs.893.87 crore purchased against declarations were used as fuel. The assessing authorities (AAs) while finalising the assessments between January 2002 and March 2005 adjusted tax saved of Rs.151.80 crore against the tax exemption limit incorrectly treating the goods as consumable stores. This resulted in incorrect grant of benefit of Rs.280.41 crore including interest of Rs.65.21 crore and penalty of Rs.63.39 crore.

After this was pointed out between January and December 2005, the department accepted between December 2005 and June 2006 audit observations for the entire amount of Rs.280.41 crore and issued instructions for reassessing the cases. Further action taken has not been received (October 2006).

**2.3.2** During test check of records of four<sup>#</sup> offices it was noticed that while finalising assessments of seven dealers between February 2002 and March 2005 for the period between 1993-94 and 2001-02 the AAs applied incorrect rate of tax. Of these, in five cases on purchase of goods of Rs.5.71 crore purchase tax of Rs.10.40 lakh was adjusted short, while in two cases on sale of manufactured goods of Rs.93.79 lakh, sales tax of Rs.5.21 lakh was adjusted short.

After this was pointed out between March and September 2005, the department accepted between September 2005 and June 2006 audit

\* M/s. Coastal Chemicals Ltd. Vs. State of Andhra Pradesh (117-STC-12) dt.14.10.99

▲ Pandesara Ind. Ltd. Vs. State of Gujarat SA No. 682 decided on 28.09.04.

\* DCST: Range-14 Bharuch, Gandhinagar, Range-8 Mehsana, Range-22, 23 Rajkot, Range-17 Surat and Range-12 Vadodara.

ACST: Range-3, 11 Ahmedabad, Range-24 Gandhinagar, Himatnagar, Jamkhabalia, Range-24 Jamnagar, Range-5 Rajkot and Range-1 Surendranagar.

STO: Unit-6 Ahmedabad, Unit-5 Rajkot and Unit-5 Surat.

# STO: Gondal, Range 3 Jamnagar, Range 5 Rajkot, and Range 11 Surat

observations for the entire amount of Rs.15.61 lakh and recovered Rs.12.67 lakh in case of four dealers. Particulars of recovery in the remaining cases have not been received (October 2006).

**2.3.3** Under sales tax incentive schemes, in case of exemption certificate holders tax saved on purchases and sales by such units along with additional tax (AT) is required to be adjusted against the ceiling limit of exemption. Adjustment of AT against deferment is not authorised under the resolution issued for the deferment scheme but is required to be recovered in cash.

During test check of records of nine<sup>#</sup> offices it was noticed that AAs while finalising the assessments between April 2000 and March 2005 of 25 dealers holding exemption certificate did not adjust AT of Rs.40 lakh against the ceiling limit. In case of two dealers holding deferment certificate, AT of Rs.7.24 crore was incorrectly adjusted against ceiling limit though required to be recovered in cash. This resulted in short realisation of AT of Rs.10.94 crore including interest of Rs.3.30 crore.

After this was pointed out between January and December 2005, the department accepted between November 2005 and June 2006 audit observations involving an amount of Rs.10.90 crore in case of 26 dealers and recovered Rs.28.63 lakh in case of 19 dealers. Particulars of recovery and reply in the remaining case have not been received (October 2006).

**2.3.4** Under the sales tax incentive schemes, sale of manufactured goods is exempt from payment of tax. Accordingly, deduction from turnover against certificates<sup>♦</sup> under the provisions of the Act shall not be allowed. Tax computed at the rates prescribed in the schedules is adjusted against the ceiling limit fixed by the competent authority.

During test check of records of five<sup>\*</sup> offices it was noticed that five dealers made sales valued at Rs.3.53 crore against certificates for the period 1994-95 to 2002-03. AAs incorrectly assessed the dealers between March 2001 and December 2004 at reduced rate of tax and adjusted it accordingly. This resulted in short adjustment of tax of Rs.11.96 lakh.

After this was pointed out between January and September 2005, the department accepted audit observations involving Rs.11.62 lakh of four dealers in May 2006 and recovered Rs.4.66 lakh from two dealers. Particulars of recovery and reply in the remaining case have not been received (October 2006).

**2.3.5** Under sales tax incentive schemes, the eligible unit shall start payment of tax as soon as aggregate of taxes on the sales or purchase effected by it equals the amount specified in the certificate of exemption or the time limit mentioned in the certificate of exemption, whichever is earlier.

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<sup>#</sup> ACST: Petro-1 Ahmedabad, Range-3 and 4 Ahmedabad, Range-24 Gandhinagar and Range-5 Rajkot.

STO: Gondal, Himatnagar, Unit-5 Rajkot and Unit-11 Surat

<sup>♦</sup> Certificate in form 17 B, 19 and 20

<sup>\*</sup> STO: Unit-6 Ahmedabad, Morbi, Unit-11 Surat and Viramgam

ACST: Range 5 Rajkot

During test check of records of four<sup>#</sup> offices it was noticed in the assessment of four dealers for the period between 1999-2000 and 2002-03 that the dealers availed of excess exemption as against the sanctioned limit. However, while finalising the assessments between September 2003 and March 2005, the AAs failed to detect the mistake. This resulted in excess availment of tax of Rs.29.39 lakh including interest of Rs.4.39 lakh and penalty of Rs.3.45 lakh as detailed below:

(Rupees in lakh)					
Sl. No.	Name of office	Assessment Year Date of Assessment	Exemption admissible	Exemption availed	Excess exemption carried forward
1	ACST, Range-2, Nadiad	2001-02 28-02-05	37.06	45.69	8.63
2	STO, Viramgam	2000-01 31-03-05	25.43	34.61	9.18
3	STO, Gandhidham	2002-03 29-09-03	49.19	51.78	2.59
4	ACST, Range-11, Surat	1999-00 27-02-04	48.34	49.49	1.15
	<b>Total</b>		<b>160.02</b>	<b>181.57</b>	<b>21.55</b>

After this was pointed out between March and December 2005, the department accepted audit observations between August 2005 and June 2006 for the entire amount of Rs.29.39 lakh and adjusted an amount of Rs.2.59 lakh in case of one dealer. Particulars of recovery in the remaining cases have not been received (October 2006).

**2.3.6** Under the sales tax incentive schemes, goods manufactured by an eligible unit are to be sold within the state of Gujarat. In the event of transfer of manufactured goods by an eligible unit to its branch or to the place of business of its agent outside the State, aggregate amount computed at the rate of four *per cent* or the rate of tax applicable to the goods under the GST Act, whichever is lower, of the sale price of the goods so transferred is to be adjusted against the tax exemption limit admissible.

During test check of records of three<sup>⊕</sup> offices it was noticed between December 2004 and May 2005 that three dealers consigned/transferred manufactured goods worth Rs.6.86 crore to their branches outside the State during 1999-2000 to 2001-02. However, AAs while finalising the assessments between November 2003 and February 2005 did not adjust two/four *per cent* of the sale price of the goods so transferred against the ceiling limit. This resulted in short adjustment of tax of Rs.20.18 lakh.

<sup>#</sup> ACST: Range-2 Nadiad and Range-11 Surat.

STO: Gandhidham and Viramgam.

<sup>⊕</sup> ACST: Range-3 Ahmedabad, Range-25 Gandhidham and Range-2 Nadiad.

After this was pointed out between January and June 2005, the department accepted in April 2006 audit observations for the entire amount of Rs.20.18 lakh and adjusted Rs.11.28 lakh in case of two dealers. Particulars of recovery in remaining case have not been received (October 2006).

**2.3.7** Under sales tax incentive schemes, eligible unit shall remain in production continuously during the period of eligibility mentioned in the eligibility certificate. If the eligible unit contravenes any of the conditions of this entry or any of the conditions of Government resolution of Industries and Mines Department under which eligibility certificate has been granted to it, the exemption under this entry shall cease to operate. The entire amount of tax that would have been payable on sales and purchases effected by the eligible unit but for the exemption given under this entry, shall be paid by the eligible unit into Government treasury within a period of 60 days from the date of contravention. In case of failure the said amount shall be recovered from the eligible unit as arrears of land revenue.

During test check of records of sales tax officer (STO), Unit-12, Surat, it was noticed for the period 1999-2000 finalised in March 2004 that a dealer was granted exemption for the period August 1995 to August 2001 for Rs.29.51 lakh. The dealer availed exemption benefit of Rs.7.94 lakh during August 1995 to March 1998. Thereafter dealer stopped production and failed to file sales tax returns from April 1999 onwards. The dealer was liable to repay the exemption already availed of. However the AA failed to raise demand of Rs.7.94 lakh. This resulted in underassessment of tax of Rs.16.76 lakh including interest of Rs.8.82 lakh.

After this was pointed out in January 2005, the department accepted audit observation in June 2006 for the entire amount of Rs.16.76 lakh. Particulars of recovery have not been received (October 2006).

**2.3.8** Under section 58 of GST Act a dealer is required to maintain correct and complete books of accounts. Further, condition No.5 of entry 69 of the notification issued under section 49 (2) of the Act provides that the eligible unit shall file return and pay the tax within the prescribed time. According to condition No.11 of entry 69, if an eligible unit contravenes any provisions of the Act, certificate of exemption issued to the unit by the competent authority shall be liable, to be suspended for a period not exceeding six months and purchases and sales by the eligible unit shall cease to be exempt under this entry.

During test check of records of STO, Himatnagar, it was noticed that a dealer holding sales tax exemption certificate was raided by flying squad unit of the department on 28 August 2001 and it was found that the dealer was underbilling his sales. The escapement of turnover on account of under billing was estimated at 20 *per cent*. The AA recovered an amount of Rs.1.85 lakh under GST Act and Rs.1.09 lakh under CST Act. Though the dealer contravened provision of Section 58 of the Act by not maintaining proper and correct books of accounts, no action was taken against the dealer to suspend the exemption certificate in terms of condition 11 of entry 69. This resulted in incorrect extension of exemption benefit of Rs.70.56 lakh and short levy of tax

of Rs.2 lakh under CST Act on underbilling of inter state sales. Total under assessment of tax worked out to Rs.72.56 lakh.

After this was pointed out in March 2005, the department accepted the audit observation and made a proposal for SMR under Section 67 of the Act. Final report is awaited (October 2006).

**2.3.9** Under section 56(1) of the GST Act, tax should not be collected by any person on goods on which no tax is payable and amount if collected would be forfeited.

During test check of records of assistant commissioner (AC) unit-11, Ahmedabad, it was noticed that two dealers collected tax of Rs.9.21 lakh while availing sales tax exemption during 1999-2000 and 2000-01. However, AA while finalising the assessments between November 2003 and February 2005 failed to forfeit the tax so collected by the dealers resulting in short realisation of Government revenue to that extent.

After this was pointed out in July 2005, the department accepted audit observation in March 2006 for the entire amount and stated that instructions for SMR revision of assessment are issued.

After this was pointed out to Government in January 2006, the Government accepted audit observations in 87 cases (October 2006).

#### **2.4 Application of incorrect rate of tax**

Under the GST Act, sales tax is leviable at the rates as indicated in schedules to the Act. The goods not covered under any of the specified entries in the schedules are taxed at the general rate.

During test check of records of six<sup>#</sup> offices it was noticed in the assessment of eight dealers for the period between 1995-96 and 2002-03 finalised between April 2003 and March 2005 that sales turnover of Rs.5.35 crore of various goods were taxed at incorrect rates. This resulted in short levy of tax of Rs.36.34 lakh including interest of Rs.6.78 lakh and penalty of Rs.11.51 lakh.

After this was pointed out between February and December 2005, the department accepted between August 2005 and May 2006 audit observations for the entire amount of Rs.36.34 lakh. Particulars of recovery have not been received (October 2006).

This was pointed out to Government in January 2006, Government accepted audit observations in six cases.

#### **2.5 Non/short levy of tax due to incorrect classification of goods**

Under the GST Act, tax is leviable at the rates as indicated in the schedules to the Act, depending upon the classification of goods. However, where the

<sup>#</sup> ACST: 11, 15 Ahmedabad, 25 Gandhidham, Surendranagar and Vadodara.  
STO: Morbi

goods are not covered under any specific entry of the schedule, general rate of tax is applicable.

During test check of records of six<sup>□</sup> offices, it was noticed that six dealers either did not pay tax/at lesser rates due to incorrect classification of goods valued at Rs.25.77 crore during 1999-2000 and 2003-04. AAs while finalising assessments between March 2004 and February 2005 failed to detect the mistake resulting in short realisation of tax of Rs.2.53 crore including interest of Rs.34.65 lakh and penalty of Rs.96.90 lakh. A few instances are given below:

(Rupees in lakh)

Sl. No.	No. of dealers Office	Name of commodity	Value of goods	Rate of tax leviable/ levied	Short levy including interest penalty
1	1 Unit 14 Ahmedabad	Sugar candy was treated as sugar	1407	<u>6.6 &amp; 6</u> Nil	175.30
2	1 Unit 1 Surendranagar	Zinc scrap was treated as zinc hydroxide	782	<u>6</u> 4	52.46
3	1 Unit 15 Surat	Sale of plant and machinery treated as used in execution of works contract	357	<u>8.8</u> 4.4	21.95

After this was pointed out between March and December 2005, the department accepted between August 2005 and June 2006 audit observations involving an amount of Rs.2.51 crore in case of five dealers and recovered an amount of Rs.1.17 lakh in case of two dealers. Particulars of recovery and replies in the remaining cases have not been received (October 2006).

After this was pointed out to Government in January 2006, Government accepted audit observations in all cases.

## 2.6 Irregular/excess grant of set off

**2.6.1** According to clause C(iii) below Rule 44 of the GST Rules, 1970 no set off under the Rule *ibid* shall be granted where the vendor who has sold the goods to the claimant dealer has not credited in Government treasury, the amount of tax on his sales for which set off is claimed. Second proviso below

□ ACST: Range-9 & 14 Ahmedabad, Range-1 Surendranagar and Range-15 Surat  
STO: Unit-1 Vapi and Viramgam.

section 47(4) of the GST Act, provides that subject to such conditions as the State Government or the Commissioner may by general or special order specify, where a dealer to whom incentives by way of deferment of sales tax or purchase tax or both have been granted by virtue of an eligibility certificate granted by the Commissioner of Industries and where a loan liability equal to the amount of any such tax payable by such dealer has been raised by Gujarat Industrial Investment Corporation Limited (GIIC) or Gujarat State Finance Corporation (GSFC), then such tax shall be deemed, in public interest, to have been paid. Commissioner issued in September 1993 a circular specifying that set off may be granted in respect of purchases made from dealers holding sales tax deferment certificate under sales tax incentive schemes on production of a declaration appended to the circular stating that they hold sales tax deferment certificate issued by the department.

During test check of records of deputy commissioner (DC), Range-17, Surat it was noticed in March 2005 in the assessment of a dealer for the period 2001-02 finalised in April 2003 that set off of Rs.19 lakh was allowed on purchase of goods from dealers holding deferment certificate on production of a simple declaration that they hold certificate of deferment issued by the department as specified in the circular issued (September 1993) by the Commissioner of Sales Tax. As this declaration did not contain the condition of availment of loan facility from GIIC or GSFC by the dealers, the circular instruction was not in conformity with the provisions of the Act/Rule. Accordingly, grant of set off without satisfying the condition of deeming provision was not in consonance with the provision of the Rule.

After this was pointed out in April 2005, the department contested that, the deferment holder is a normal dealer like other registered dealers and even furnishing of declaration is not necessary.

The reply is not acceptable for the reasons that, Rule 44(C) (iii) with section 47 clearly envisages that, for granting set off under rule 44 proof of payment of tax by the vendor is mandatory and in the case of deferment holder, the tax would be deemed to have been paid by him only if a loan liability equal to tax payable by such dealer has been raised by GIIC or GSFC. In this case, department has failed to produce the proof regarding raising of loan.

**2.6.2** According to clause C (iii) below Rule 44 of the GST Rules, no set off shall be granted where the vendor who has sold the goods to the claimant dealer has not credited in Government treasury, the amount of tax on his sales for which set off is claimed. The department has also issued instructions in June 2004 to verify the fact of proof of payment of tax before grant of set off.

During test check of records of 21\* offices, it was noticed in the assessment of 47 dealers for the periods between 1995-96 and 2002-03 that set off was allowed without obtaining any proof of tax having been paid by them. The AAs while finalising the assessment between May 2003 and March 2005

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\* ACST: Range- 8, 9, 14, 18, 20, 22, 23 Ahmedabad, Range-25 Gandhidham, Range-2 Nadiad, Patan, Range-5, 10 Surat, and Range-6 Vadodara  
STO: Unit-1, 5, 6 and 15 Ahmedabad, Morvi, Unit-12 Surat, Unit-2 Vapi and Veraval.

failed to detect the mistake. This resulted in incorrect grant of set off of Rs.6.52 crore including interest of Rs.1.71 crore and penalty of Rs.1.10 crore.

After this was pointed out between January and December 2005, the department accepted audit observation in May 2006 in all cases and stated action was being taken to reassess one case involving Rs.10.68 lakh. Particulars of recovery and reply in the remaining cases have not been received (October 2006).

**2.6.3** Under Rule 42 of the GST Rules, a dealer who has paid tax on the purchase of goods (other than prohibited goods) to be used as raw or processing materials or consumable stores in the manufacture of taxable goods, is allowed set off at the rate applicable to the respective goods from the tax payable on the sale of manufactured goods subject to fulfillment of general conditions prescribed in Rule 47.

During test check of records of 27\*\* offices, it was noticed in the assessment of 48 dealers for the assessment period between 1996-97 and 2002-03 finalised between May 2003 and March 2005 that excess set off of Rs.1.73 crore including interest of Rs.40.13 lakh and penalty of Rs.14.38 lakh was allowed as detailed below:

**(Rupees in crore)**

Sl. No.	Number of dealers	Excess set-off allowed	Nature of irregularity
1	34	1.52	Set off was incorrectly allowed on LDO/kerosene used as fuel and not as consumable stores.
2	6	0.10	Transformer switching cells, calcite etc. are prohibited goods, not eligible for set off under Rule 42 but were incorrectly allowed.
3	8	0.11	Set off under Rule 42 was required to be allowed after deducting two <i>per cent</i> of purchase price of goods considered for grant of set off. This was not done on the purchases of craft paper, wheel plates, gear box, auto parts etc.
<b>Total</b>	<b>48</b>	<b>1.73</b>	

After this was pointed out between January and December 2005, the department accepted between December 2005 and June 2006 audit observations involving Rs.1.71 crore in case of 46 dealers and recovered an

\*\* DCST: Range-1 Ahmedabad, Gandhinagar, Range-8 Mehsana, Range 22, Rajkot, Range-10 Vadodara and Circle 12 Vadodara.

ACST: Range 3, 9, 11, 14, 15, 21, 22, 23 Ahmedabad, Range-1 Anand, Bhavnagar, Range 24 - Gandhinagar, Kadi, Range-2 Nadiad, Range-3 Rajkot, Range-6, 11 Surat and Range-6 Vadodara.

STO: Gondal, Morbi, Unit-2 Vapi and Unit-4 Vadodara.

amount of Rs.0.35 lakh in case of one dealer. Particulars of recovery and replies in the remaining two cases have not been received (October 2006).

**2.6.4** Under section 15B of the GST Act, where a dealer purchases any taxable goods other than declared goods and uses them as raw material, processing material or as consumable stores in the manufacture of taxable goods, purchase tax at prescribed rate is leviable in addition to any tax leviable under any other section of the Act. Purchase tax so levied is admissible as set off under Rule 42E of the GST Rules, provided the goods manufactured are sold by the dealer in the State of Gujarat. High Court of Gujarat\* held that the dealer is liable to pay purchase tax under section 15B of the Act on the purchase of raw materials on their use in the manufacture of goods which are generally taxable goods under the Act though they may be exempted from payment of sales tax pursuant to the notification under section 49(2) of the Act.

During test check of records of six# offices, it was noticed in the assessment of six dealers for the period between 1997-98 and 2001-02 finalised between May 2002 and March 2005 that though the dealers transferred the manufactured goods either to their branches or consigned out side the State, set off was not disallowed proportionately. This resulted in excess grant of set off of Rs.15.78 lakh including interest of Rs.1.55 lakh and penalty of Rs.0.93 lakh.

After this was pointed out between January and December 2005, the department accepted between May and June 2006 audit observations involving an amount of Rs.1.93 lakh in case of three dealers and recovered an amount of Rs.0.37 lakh in case of one dealer. Particulars of recovery and replies in remaining cases have not been received (October 2006).

**2.6.5** During test check of records of AC, Unit-21, Ahmedabad, it was noticed in June 2005 that a dealer purchased raw material valued at Rs.1.36 crore during 2000-01 from a sales tax exemption holder. The dealer made consignment sales valued at Rs.88 lakh out of goods manufactured from the above raw materials. Non-inclusion of above purchase for computation of purchase tax under section 15 B resulted in short levy of purchase tax and consequent excess grant of set off of Rs.8.65 lakh including interest of Rs.2.24 lakh and penalty of Rs.2.40 lakh.

After this was pointed out in July 2005, the department accepted the audit observation in May 2006 for the entire amount of Rs.8.65 lakh. Particulars of recovery have not been received (October 2006).

**2.6.6** Under Rule 44B of GST Rules, set off shall be admissible in respect of purchases of goods which are subsequently sold by the dealer under a lease agreement and, where the vendor who has sold the goods to the claimant

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\* M/s.Madhu Silica (85 STC 258) dated February 28,1991

# ACST: Range-3, 21 Ahmedabad, Range-6, 11 Surat and Range-5 Rajkot.  
STO: Unit-11, Surat.

dealer has credited in Government treasury, the amount of tax on his sales for which set off is claimed.

During test check of records of AC unit-5 Ahmedabad, it was noticed in assessment of a dealer for the period 1999-2000 finalised in January 2003 that set off of Rs.3.94 lakh under Rule 44B was allowed without obtaining any proof of tax having been paid by the vendor and proof for subsequent sale of leased goods under any agreement. This resulted in undue benefit of Rs.6.60 lakh to the dealer including interest of Rs.1.87 lakh and penalty of Rs.0.79 lakh.

After this was pointed in July 2005, the department stated in March 2006 that notice has been issued for reassessment. Further progress made has not been received (October 2006).

After this was pointed out to Government in January 2006, Government accepted audit observations in 102 cases (October 2006).

## **2.7 Short levy of central sales tax**

**2.7.1** Under CST Act, tax is leviable at the rate of four *per cent* on inter-state sale of goods made against declaration in form 'C'. In case of goods other than declared goods, where the sale is not supported by form 'C', tax is leviable at the rate of 10 *per cent* or at the rate applicable on such goods inside the State, whichever is higher. In respect of declared goods where the sale is not supported by form 'C', tax is leviable at twice the rate applicable.

During test check of records of five<sup>⊕</sup> offices, it was noticed in the assessment of nine dealers for the period 1999-2000 and 2002-03 that sales valued at Rs.22.48 crore were not supported by form 'C'. However, AAs while finalising the assessments between March 2003 and March 2005 levied concessional rate of tax between four and eight *per cent* instead of the prescribed rate. This resulted in short levy of tax of Rs.66.34 lakh including interest of Rs.3.30 lakh and penalty of Rs.11.46 lakh.

After this was pointed between March and December 2005, the department accepted between May 2005 and May 2006 audit observations involving an amount of Rs.64.85 lakh in case of eight dealers and recovered an amount of Rs.30.69 lakh in case of two dealers. Particulars of recovery in six cases and reply in remaining case have not been received (October 2006).

**2.7.2** During test check of records of AC, Gandhinagar, it was noticed in the assessment of two dealers for the period 2004-05 that sales of declared goods valued Rs.2.08 crore were not supported by form 'C'. The dealers were liable to pay tax at twice the rate of tax. However, AA while finalising the assessment in December 2004 levied tax at the rate of four or two *per cent*. This resulted in short levy of tax of Rs.9.70 lakh including interest of Rs.0.76 lakh and penalty of Rs.2.28 lakh.

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<sup>⊕</sup> DCST: Petro-1 Ahmedabad.

ACST: Range-11 and 21 Ahmedabad, Range-24 Gandhinagar and Range-24 Jamnagar.

After this was pointed out between September and December 2005 the department accepted between November 2005 and May 2006 audit observation for the entire amount and recovered an amount of Rs.1.07 lakh in one case. Particulars of recovery in other case are awaited (October 2006).

**2.7.3** Under Section 5(2) of the CST Act, sale or purchase of goods shall be deemed to take place in the course of import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of documents of title to the goods before the goods have crossed the customs frontiers of India.

During test check of the records of AC, Range-20 Ahmedabad it was noticed in April 2005 in assessments of a dealer for the period between 1995-96 and 1996-97 finalised in June and July 2003 that deduction was allowed as high sea sales under section 5(2). However, it was seen from the profit and loss accounts that the dealer paid customs duty and thereafter sold the goods locally. Hence the deduction allowed was not in order. This resulted in short levy of tax of Rs.5.28 lakh including interest of Rs.1.57 lakh and penalty of Rs.1.54 lakh.

After this was pointed out in June 2005, the department accepted audit observation involving the entire amount of Rs.5.28 lakh. Particulars of recovery have not been received (October 2006).

**2.7.4** Under Rule 12(10) of the CST (Registration and Turnover) Rules, 1957, in support of a claim for export, the dealer has to furnish to the prescribed authority, a certificate in form 'H', duly filled in all details viz., agreement, order number and date relating to such export, particulars of goods, means through which the goods have been exported along with its receipt number and date and signed by the exporter with evidence of export of such goods.

During test check of records of two\* offices, it was noticed in the assessment of two dealers for the period 1998-99 and 2000-2001 finalised between August 2004 and March 2005 that one dealer claimed and was allowed deemed export of CI<sup>#</sup> casting valued at Rs.26.70 lakh against form 'H'. However, copies of bill of lading attached with form 'H' showed that export was of building hardware; parts of brass, aluminum, SS<sup>⊕</sup> parts, paper and CR<sup>⊗</sup> parts and not CI casting. In case of another dealer deduction was allowed for export of goods against form 'H'. However, bill of lading attached with form 'H' disclosed that dealer was other than the one who had issued the form. This resulted in short levy of tax of Rs.6.18 lakh including interest of Rs.2.05 lakh and penalty of Rs.1.04 lakh.

After this was pointed out between September and December 2005 the department accepted in May and June 2006 audit observation for the entire

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\* ACST: Range-15 Ahmedabad and Gandhidham.

# Cast Iron

⊕ stainless steel

⊗ cold rolled

amount of Rs.6.18 lakh. Particulars of recovery have not been received (October 2006).

**2.7.5** Under CST Act, if a purchasing dealer effects any subsequent sales during movement of goods, no tax is payable, provided the dealer claiming exemption produces a declaration in form E-I or E-II secured from his selling dealer and declaration in form C or D from his purchaser.

During test check of records of STO, Himatnagar, it was noticed in the assessment of a dealer for the period 2000-01 that the AA while finalising the assessment in July 2003 allowed deduction of inter state sale of goods valued Rs.76.57 lakh and exempted from payment of tax though the dealer had not furnished the prescribed E1 and C forms. This resulted in short levy of tax of Rs.3.66 lakh.

After this was pointed out in March 2005, the department accepted audit observation in June 2006 for the entire amount. Particulars of recovery have not been received (October 2006).

Above omissions resulted in short levy of central sales tax aggregating Rs.91.16 lakh.

After this was pointed out to Government in January 2006, Government accepted audit observations in 15 cases (October 2006).

## 2.8 Non/short levy of purchase tax

**2.8.1** Under Section 13 of the GST Act, a registered dealer, on production of certificate in form 19, can purchase goods (other than prohibited goods) without payment of tax for use in the manufacture of taxable goods for sale within the State. In the event of breach of condition of declaration, the dealer is liable to pay purchase tax under section 16 at the prescribed rates. Under section 15A of the GST Act, on purchases made against form 19, purchase tax at the rate of 2.4 *per cent* is leviable at the time of filing the return.

During test check of records of seven offices, it was noticed in the assessment of nine dealers for the period 1995-96 and 2002-03 finalised between January 2004 and March 2005 that dealers purchased materials against form 19 and used for a purpose contrary to the conditions of form 19. For the breach of condition, purchase tax though leviable was not levied by the AAs resulting in non levy of purchase tax of Rs.85.79 lakh as detailed below:

Sl. No.	Name of office No. of dealers	Assessment year	Date of assessment	Nature of observation
1	Unit 5 Ahmedabad Unit 1 Surat 2	<u>2001-02</u> 2000-01	<u>06.01.04</u> 30.06.04	Material purchased against form 19 was resold instead of using it in manufacture of taxable goods. For this breach, purchase tax of Rs.12.07 lakh was leviable.

2	Unit 2 Jamnagar <u>Unit 2 Nadiad</u> 3	<u>1999-2000</u> 1996-97 to 2002-03	<u>15.03.05</u> 27.10.04 to 04.03.05	Material purchased on form 19 was used in the manufacture of tax free goods and was liable to PT of Rs.3.48 lakh.
3	Unit 17 Surat Unit 3 and 21 <u>Ahmedabad</u> 3	<u>2002-03</u> 2001-02 to 2002-03	<u>30.10.04</u> <u>19.01.04</u> 04.10.04	LDO purchased was used as fuel though it was not consumables. For this breach, PT of Rs.67.86 lakh was leviable.
4	STO, <u>Viramgam</u> 1	1995-96 1996-97	17.01.04 21.02.04	Purchase tax of Rs. 2.38 lakh at 2.4 <i>per cent</i> under section 15A on purchase of paper and gum against form 19 was not levied

After this was pointed out between January 2005 and December 2005, the department accepted between January and May 2006 audit observations involving an amount of Rs.69.76 lakh in case of five dealers and recovered an amount of Rs.2.38 lakh in case of one dealer. Particulars of recovery and replies in the remaining cases have not been received (October 2006).

**2.8.2** Under section 49(2) of the GST Act, a registered dealer on production of certificate in Form 34 can purchase resins and granules of low density poly ethylene (LDPE), high density poly ethylene (HDPE), linear low density poly ethylene (LLDPE) and poly venyle chloride (PVC) on payment of tax at the rate of three *per cent* for use in the manufacture of taxable goods for sale within the State. In the event of breach of condition of declarations, the dealer is liable to pay purchase tax under section 50 at the prescribed rates.

During test check of records of AC, Range-2 Nadiad it was noticed in the assessment of a dealer for the period between 1995-96 and 1996-97 that he purchased resins and granules of LDPE, HDPE, LLDPE and PVC against form 34. Contrary to the conditions of form 34, the material was used in the manufacture of tax free goods. For breach of conditions, purchase tax of Rs.11.73 lakh was leviable. However the AA while finalising the assessments in September 2004 and October 2004 failed to detect the mistake resulting in short realisation of Government revenue to the extent of Rs.11.73 lakh.

After this was pointed out between January 2005 and December 2005, the department accepted audit observations in March 2006 for the entire amount of Rs.11.73 lakh. Particulars of recovery have not been received (October 2006).

After this was pointed out to Government in February 2006, Government accepted audit observations in eight cases.

### 2.9 Non/short levy of tax on works contract

Under section 55A of the GST Act read with rule 33A of GST Rules a dealer engaged in works contract may opt to pay in lieu of tax, a lump sum amount

by way of composition, at the rate fixed by Government from time to time on the total value of the contract. Such an option is required to be exercised within 30 days from the date of beginning of the works contract.

During test check of the records of two<sup>#</sup> offices, it was noticed between May and June 2005 in the assessment of two dealers for the period 2000-01 and 2001-02 finalised in December 2002 and March 2005 that though the applications for composition of tax were not made within the prescribed time the dealers were assessed to composite tax. This resulted in short levy of tax of Rs.59.29 lakh including interest of Rs.10.19 lakh and penalty of Rs.17.01 lakh.

After this was pointed out between June and July 2005, the department accepted in June 2006 audit observations for the entire amount of Rs.59.29 lakh. Particulars of recovery have not been received (October 2006).

After this was pointed out to Government in February 2006, Government accepted audit observation in six cases.

### **2.10 Non/short levy of turnover tax**

Under section 10A of the GST Act, where the turnover of sales of a dealer, liable to pay tax, first exceeds Rs.50 lakh, the dealer is liable to pay turnover tax at prescribed rate on the turnover of sales of goods other than declared goods after allowing permissible deduction under the Act. From April 1993, sales made against various declarations\* and sales exempted from tax under section 49 were excluded from permissible deductions making such sales liable to turnover tax. While working out the liability and applicability of rate of turnover tax, the taxable sales turnover in aggregate of all the branches of the dealer within the State is to be considered.

During test check of records of nine\* offices, it was noticed in the assessment of 19 dealers for the periods between 1993-94 and 1996-97 finalised between January 2003 and March 2005 that sales valued at Rs.46.82 crore were made against various declarations. The AA did not levy turnover tax of Rs.18.10 lakh in case of five dealers and short levied turnover tax of Rs.24.08 lakh in case of 14 dealers. This resulted in short realisation of turnover tax of Rs.42.18 lakh including interest of Rs.7.39 lakh and penalty of Rs.6.57 lakh.

After this was pointed out between March and December 2005, the department accepted, between October 2005 and June 2006, audit observations involving an amount of Rs.31.47 lakh in case of 10 dealers and recovered Rs.5.53 lakh from five dealers. Particulars of recovery and replies in the remaining cases have not been received (October 2006).

After this was pointed out to Government in February 2006, Government accepted audit observation in 19 cases.

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<sup>#</sup> ACST: Range-16 Ahmedabad and Range-21 Ahmedabad

<sup>\*</sup> Form 1, 20, 26 or 40

<sup>\*</sup> ACST: Range-11 & 15 Ahmedabad, Range-10 Surat and Vyara.  
STO: Gondal, Gandhidham, Unit-1 and 11 Surat and Viramgam.

### 2.11 Incorrect allowance of deduction

Under section 13B of the GST Act, sales made on form 19 are allowed without payment of tax subject to fulfilment of prescribed conditions. Sale of prohibited goods against declaration in form 19 is not permissible.

During test check of records of two<sup>#</sup> offices, it was noticed between December 2004 and June 2005, in the assessment of two dealers for the period 1999-2000 and 2000-01 finalised between October 2003 and January 2005 that deduction was allowed on sales turnover of Rs.1.81 crore of PVC resin and ice cream cone lids effected against form 19 which were prohibited goods. Incorrect allowance of deduction resulted in under assessment of tax of Rs.17.28 lakh including interest of Rs.4.60 lakh and penalty of Rs.4.52 lakh.

After this was pointed out between January and July 2005, the department accepted in May 2006 audit observation involving Rs.1.01 lakh in case of one dealer. While in another case Commissioner stated that matter would be referred to Legal Department for its opinion and side by side recovery proceeding would be started by passing an SMR order. Particulars of recovery have not been received (October 2006).

After this was pointed out to Government in February 2006, Government accepted audit observation in both cases.

### 2.12 Non/short levy of penalty

Under section 45(6) of the GST Act, where the amount of tax assessed or reassessed exceeds the amount of tax paid with the returns by a dealer by more than 25 *per cent*, a penalty not exceeding one and one half times of difference shall be levied. Further the Commissioner vide public circular dated 3 June 1992 laid down slab rates for levy of penalty. By virtue of section 9(2) of the CST Act, the above provisions apply to assessments finalised under the CST Act as well.

During test check of records of 17<sup>\*</sup> offices, it was noticed between December 2004 and December 2005 in the assessment of 22 dealers for the assessment periods between 1995-96 and 2002-03 that though the difference between tax assessed and tax paid exceeded by 25 *per cent* of the amount of tax paid, the AA while finalising the assessments between June 2001 and March 2005 did not levy penalty in terms of Commissioner's circular of June 1992. This resulted in non/short levy of penalty of Rs.1.46 crore.

After this was pointed out between January and December 2005, the department accepted between November 2005 and June 2006 audit observations involving an amount of Rs.1.32 crore in case of 16 dealers and

<sup>#</sup> ACST: Range-21 Ahmedabad

STO: Unit-6 Ahmedabad

<sup>\*</sup> DCST: Petro-I, Ahmedabad, Range-25 Gandhidham, Range-21 Junagadh, Range-23 Rajkot and Circle-12 Vadodara.

ACST: Range-1, 6, 9, 15 Ahmedabad, Gandhinagar, Range-2 Nadiad, Range-5 Rajkot, Range-5 and 6 Surat and Range-1 Vadodara.

STO: Unit-11 Ahmedabad and Unit-1 Surat

recovered an amount of Rs.0.46 lakh in case of one dealer. Particulars of recovery and replies in remaining cases have not been received (October 2006).

After this was pointed out to Government in February 2006, Government accepted audit observation in 18 cases.

### **2.13 Non/short levy of interest**

Under the GST Act, if a dealer does not pay the amount of tax within the prescribed period, simple interest at the rate of 24 *per cent* per annum for the period upto 31 August 2001 and at 18 *per cent* per annum thereafter is leviable on the amount of tax remaining unpaid for the period of default. By virtue of section 9(2) the above provisions apply to assessments under the CST Act as well.

During test check of records of seven<sup>⊕</sup> offices, it was noticed between January and September 2005 in assessment of seven dealers for the period between 1995-96 and 2002-03 finalised between July 2003 and March 2005 that interest amounting to Rs.11.77 lakh was either not levied or levied short on the amount of unpaid tax.

After this was pointed out between March and September 2005, the department accepted in March and May 2006 audit observations for the entire amount and recovered an amount of Rs.0.56 lakh in case of one dealer. Particulars of recovery in the remaining cases have not been received (October 2006).

After this was pointed out to Government in February 2006, Government accepted audit observation in six cases.

### **2.14 Interest on refund**

**2.14.1** Under Section 54 (1) of the GST Act where refund of any amount becomes due to the dealer by virtue of an order of assessment under section 41, he is entitled to receive in addition to the said amount, simple interest at the rate of 14 *per cent* per annum up to August 2001 and at the rate of nine *per cent* per annum thereafter on the said amount from the date immediately following the date of closure of the accounting year to which the said amount relates to the date of order of assessment.

During test check of records of two<sup>#</sup> offices, it was noticed between July and October 2005 in the assessment of two dealers for the period between 1995-96 and 1999-00 finalised between November 2001 and August 2004 that excess interest on refund was granted in case of one dealer and in the other case the

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<sup>⊕</sup> DCST: 12 Vadodara and 21 Junagadh  
ACST: 15 Ahmedabad, 24 Gandhinagar and 2 Nadiad  
STO: Unit-1 Surat and Viramgam  
<sup>#</sup> DCST: Gandhidham  
ACST: Gandhinagar

dealer was granted interest on refund before adjustment of tax due under the CST Act. This resulted in excess grant of interest of Rs.7.67 lakh.

After this was pointed out between September and December 2005, the department accepted in November 2005 and May 2006 audit observation for the entire amount and recovered an amount of Rs.0.33 lakh in case of one dealer. Particulars of recovery in other case have not been received (October 2006).

**2.14.2** Under section 54 of GST Act interest is payable on delayed payment of refund. The Act provides a minimum period of 35 days from the date of order for payment of refund in case of assessments and 90 days in the case of judicial decisions, during which interest is not payable.

During test check of records of three\* offices, it was noticed in seven assessments of five dealers for the periods 1997-98 and 2001-02 finalised between August 2002 and September 2004 that refund payment was delayed by 69 days to 314 days, on which an interest of Rs.5.31 lakh was borne by the exchequer.

After this was pointed out in July 2005, the department stated in March 2006 that necessary instructions for payment of refund within time limit were being issued. However, copy of instructions issued was not received (October 2006).

After this was pointed out to Government in February 2006, Government accepted audit observation in two cases.

### **2.15 Incorrect adjustment of tax**

Section 47 of GST Act read with rule 31 provides the manner in which the tax due from a dealer according to returns filed by him is required to be paid/credited in treasury. As per existing system, the credit of tax paid by a dealer for a particular year should be adjusted in assessment of the same period only.

During test check of records of DC, Petro-I, it was noticed that a dealer had made payment of Rs.4.50 crore for the period 1997-98 and 1998-99 as *ad hoc* payment against CST. However, the assessing officer had allowed credit of Rs.4.50 crore in the assessment for the period 1999-2000, finalised in June 2003, which was irregular. Audit could not confirm whether credit of Rs.4.50 crore was allowed in the assessments for the period 1997-98 and 1998-99, as relevant documents were not produced.

After this was pointed out in July 2005, the department stated in March 2006 that necessary instructions have been issued to the AA to initiate revision in the case. Further reply has not been received.

This was brought to notice of Government in February 2006. The reply is awaited (October 2006).

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\* DCST: Circle 2 Ahmedabad and circle-Valsad  
STO: Unit-1 Junagadh

## CHAPTER-III

### LAND REVENUE

#### 3.1 Results of audit

Test check of assessment records in the offices of the Collectors, district development officers, taluka development officers, District Inspectors of Land Records and City Survey Superintendents conducted during the year 2005-06 disclosed non/short recovery and loss of revenue amounting to Rs.3.86 crore in 120 cases. These cases broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non/short recovery of occupancy price/ premium price/interest	02	0.10
2	Non raising of demand for non agricultural assessment, non/short recovery of NAA, non/short levy of NAA due to levy at pre revised rates	17	0.26
3	Non recovery of conversion tax	30	1.75
4	Other irregularities	71	1.75
	<b>Total</b>	<b>120</b>	<b>3.86</b>

During the year 2005-06, department accepted and recovered under assessment of Rs.84.73 lakh in 52 cases pertaining to earlier years. A few illustrative cases involving important audit observations involving Rs.2.31 crore are given in the following paragraphs.

### 3.2 Non/short recovery of non agricultural assessment

Under the Bombay Land Revenue Code, 1879 (BLR Code) as applicable to Gujarat and the Gujarat Land Revenue Rules, 1972 (GLR Rules), non agricultural assessment (NAA) is leviable on land used for non agricultural purposes at the rates prescribed in notifications issued by Government from time to time. Government in its notification of August 2003 revised the rates of NAA and classified areas in three categories i.e. A, B & C for levy of NAA. The code provides for issue of demand notice by village officer (*talati*) for non payment of land revenue.

During test check of records of District Development Officer (DDO), Rajkot and eight taluka development officers (TDOs), it was noticed between September 2004 and March 2005 that in 95 cases, land measuring 68.52 lakh sq.mtrs. was used for non agricultural purposes by housing societies, semi Government bodies, industrial units, individuals etc. However, concerned *talatis* either did not levy NAA or levied it at incorrect rates. This resulted in non/short recovery of NAA of Rs.1.13 crore as detailed below:

Sl. No.	Number of taluka No. of cases	Period Area of land (sq.mtr. in lakh)	Nature of irregularity
1	5 <sup>#</sup> 61	2003-04 20.16	The department levied NAA of Rs.2.30 lakh at pre revised rates instead of Rs.33.33 lakh resulting in short levy of NAA of Rs.31.03 lakh.
2	1 <sup>⊕</sup> 22	2003-04 5.43	NAA of Rs.1.70 lakh was neither levied nor demanded.
3	2 <sup>⊗</sup> 11	2000-01 to 2003-04 25.87	NAA of Rs.60.41 lakh was not levied from Sardar Sarovar Narmada Nigam Ltd. and Sardar Sarovar Punarvasan Agency on land allotted to them between November 1991 and October 2003 for non agricultural purpose.
4	1 <sup>∇</sup> 1	2000-01 to 2003-04 17.06	NAA of Rs.20.01 lakh was not levied on land allotted <sup>Σ</sup> to the Gujarat State Petroleum Corporation Limited for laying pipeline for transportation of natural gas.

After this was pointed out between April and July 2005, the department accepted audit observation involving Rs.87.60 lakh in 93 cases and recovered

<sup>#</sup> Dascroi, Kheda, Rajkot, Veraval and Viramgam

<sup>⊕</sup> Bhuj

<sup>⊗</sup> Sanand and Viramgam

<sup>∇</sup> Bharuch

<sup>Σ</sup> between November 1991 and June 20020

Rs.26.66 lakh in 45 cases. Particulars of recovery and reply in remaining cases have not been received.

This was brought to notice of Government in January 2006; Government confirmed reply of the department (October 2006).

### **3.3 Loss of revenue due to correction of records of rights without registration of documents**

Under the BLR Code, *talati* of a village is authorised to correct village records changing ownership, creation of right or title over the property on receipt of intimation in writing from any person within three months of acquiring a property, right or title. The entries made by the *talatis* are required to be certified by circle inspector and deputy *mamlatdars*. Government issued instruction in 1966 to certify the mutation entry only after the document was registered under Indian Registration Act, 1908.

During test check of records of Collector (Non Agricultural(NA)), Palanpur, Collector (Land Revenue(LR)), Navsari and 11\* TDOs, it was noticed between October 2004 and November 2005 that entries regarding rights of properties, valued at Rs.64.91 crore in 76 cases, were carried out by the *talatis* between 2002-03 and 2004-05 in the village records of rights. Such entries of transfers/charges were made in favour of persons, financial institutions, banks etc., on the basis of intimations received from them. These were attested by concerned circle inspectors/deputy *mamlatdars*. In addition, these documents were not registered under the Registration Act. This resulted in non recovery of stamp duty and registration fees amounting to Rs.62.70 lakh.

After this was pointed out between February and December 2005, the department accepted audit observation and stated that the Inspector General of Registration has instructed all Collectors and TDOs to send a copy of unregistered documents to the respective Deputy Collectors (Valuation of Property) for further action.

This was brought to notice of Government in January 2006; Government confirmed reply of the department (October 2006).

### **3.4 Non/short levy of conversion tax**

Under the BLR Code, as applicable to Gujarat, conversion tax is leviable on change in mode of use of land from agricultural to non agricultural purposes or from one non agricultural purpose to another in respect of land situated in a city, town or village. Different rates of conversion tax are prescribed for residential/charitable and industrial/other purposes, depending upon the population of the city/town/notified area/village. The rates of conversion tax

\* Amod, Anand, Choryasi, Deesa, Gandhidham, Idar, Nadiad, Olpad, Palanpur, Sidhpur and Viramgam

were revised with effect from 1 April 2003. The conversion tax shall be paid in advance by a challan in Government treasury.

During test check of records of three<sup>#</sup> Collectors (LR), three<sup>\*</sup> DDOs and 15<sup>@</sup> TDOs, it was noticed between October 2004 and October 2005 that in 108 cases relating to the period 2002-03 to 2004-05, conversion tax for change in mode of use, though leviable, was either not levied or levied at incorrect rate on 9.30 lakh sq.mtrs. of land. Failure on the part of the departmental officials to follow the codal provisions resulted in non/short levy of conversion tax of Rs.45.07 lakh.

After this was pointed out between January and December 2005, the department accepted audit observations involving an amount of Rs.39.76 lakh in 102 cases and recovered Rs.28.37 lakh in 79 cases. Particulars of recovery and reply in remaining cases have not been received.

This was brought to notice of Government in January 2006; Government confirmed reply of the department (October 2006).

### **3.5 Short levy of penalty**

Under the provisions of BLR Code and GLR Rules, agricultural land cannot be used for non agricultural purposes without prior permission of the Collector. In case of unauthorised non agricultural use, penalty not exceeding 40 times the amount of NAA is leviable. In August 1980, Government prescribed rates for levy of penalty for different types of unauthorised use of land.

During test check of records of two<sup>\*</sup> Collectors (LR), Mamlatdar (NA) Vadodara and five<sup>^</sup> TDOs, it was noticed between September 2004 and November 2005 that during the period 2003-04 and 2004-05, in 17 cases penalty was not levied at rates prescribed by Government. This resulted in short levy of penalty of Rs.10.40 lakh.

After this was pointed out between December 2004 and December 2005, the department accepted audit observations in all the cases and recovered an amount of Rs.8.84 lakh in 14 cases. Particulars of recovery in remaining cases have not been received.

This was brought to notice of Government in January 2006; Government confirmed reply of the department (October 2006).

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<sup>#</sup> Anand, Mehsana and Rajkot

<sup>\*</sup> Dahod, Mehsana and Palanpur

<sup>@</sup> Ankleshwar, Danta, Dhandhuka, Gandevi, Idar, Jambusar, Junagadh, Kheda, Mahuva (Surat), Matar, Olpad, Padra, Palsana, Rajkot and Viramgam

<sup>\*</sup> Bharuch and Kheda

<sup>^</sup> Dascroi, Dholka, Kamrej, Mandvi(Kutch) and Padra

## CHAPTER-IV

### TAXES ON VEHICLES

#### 4.1 Results of audit

Test check of records in the offices of Commissioner of Transport, Regional Transport and Assistant Regional Transport Officers in the State, conducted during the year 2005-06 disclosed under assessments, etc., amounting to Rs.10.98 crore in 86 cases. These cases broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non/short levy of motor vehicle tax	50	10.39
2	Other irregularities	35	0.59
3	Review on “ <b>Inter State Check Post Automation System</b> ”	1	-
	<b>Total</b>	<b>86</b>	<b>10.98</b>

During the year 2005-06, department accepted and recovered under assessment of Rs.62.63 lakh in 260 cases pertaining to earlier years.

A few illustrative cases involving important audit observations and review on **Inter State Check Post Automation System** in Motor Vehicles department involving Rs.17.80 crore are discussed in the following paragraphs.

## **4.2 Review: Inter state Check Post Automation System in Motor Vehicle Department.**

### **Highlights**

The department did not have any stated IT strategy. Implementation of CPAS also lacked a well defined ownership.

*(Paragraph 4.2.7)*

Non existence of well defined access controls resulted in unauthorised changes in system which could lead to embezzlement of Government revenue.

*(Paragraph 4.2.8.2)*

Total lack of input control and data validations resulted in invalid dates, invalid registration numbers and absurd weight getting fed in the system, making the data unreliable.

*(Paragraph 4.2.12)*

The system had faulty process which resulted in either non recovery or recovery of penalty at incorrect rate for excess laden weight in respect of 1.33 lakh vehicles, with an estimated loss of revenue of Rs.9.94 crore.

*(Paragraph 4.2.13)*

There was no segregation of duty, the cashier responsible for collecting the tax was also responsible for its accounting and remittance.

*(Paragraph 4.2.14)*

Many manual records like the memo books and cash receipt books were missing.

*(Paragraph 4.2.15)*

The centralised data bank was never maintained.

*(Paragraph 4.2.18)*

Many discrepancies were noticed between the CPAS data and cash book data.

*(Paragraph 4.2.19)*

### **4.2.1 Recommendations**

Following recommendations are proposed to improve the system.

- The department must have an IT strategy.
- The system should have proper controls to ensure reliability and integrity of data.

- Discrepancies in revenue collection must be got investigated to rule out possibility of fraud.

#### 4.2.2 Introduction

Government of Gujarat in April 1999 introduced inter state check post automation system (CPAS) in 10 out of 14 inter state check posts at a cost of Rs.18.98 crore.

The system was introduced with objective of removing hardships faced by the transporters at check posts, increasing revenue through check posts by more than two fold, removing cash transactions thereby arresting the possibility of malpractices by the check post staff and ensuring 100 *per cent* checking of vehicles crossing the check posts.

CPAS, as envisaged initially, was an integrated system and the system design covered all the activities of the check posts viz.

- checking of weight of each vehicle and charging for excess laden weight
- recording of charges for offences like over dimensioned vehicles, etc
- checking the status of national permits, fitness certificate, non use certificates, wanted vehicles etc by retrieving vehicle status data from the central data base
- issuing penalty collection, receipt and accounting of cash collection on account of various penalties; and
- recording entry and exit of each vehicle using video cameras.

#### 4.2.3 Highlights of CPAS

Data relating to a vehicle crossing the check post was to be entered in CPAS. As soon as a vehicle having weight of over 1000 kg was to mount the weigh bridge for more than eight seconds, the system was activated by recording an 18 character string, which included the date and time of recording the transaction. The vehicle registration number was captured by the camera through the Licence Plate Recognition System (LPR) and fed into CPAS. As a data validation check, if the first two characters of the vehicle registration number did not match the two digit codes given in a list (e.g. GJ for Gujarat.), the system was to reject the entry by stating “Invalid Registration number”. The valid registration number was then to be checked with the central pool of data to be kept at the Central Monitoring Center (CMC) at Ahmedabad, and other details relating to the vehicle obtained electronically. These details included the permissible weight for that type of vehicle, registration details and previous offence. If the vehicle had a registration number outside the state of Gujarat and entered Gujarat for the first time, CPAS was to capture related details from documents like RC book etc., and feed them to the centralized database at CMC, thus creating a database of vehicles from outside the state as well. Weight of vehicle recorded by the weighbridge was to be fed to the system. Penalty was to be charged on excess laden weight of vehicles by comparing the permissible weight with the actual weight. Thus, the system

provided for minimal human intervention in recording the sensitive data like the registration number, permissible and actual weight ensuring complete data accuracy and authentication. Data was to be entered manually for other penalties, based on details obtained from the centralised data and physical inspection of the vehicle and other documents. The amount and type of penalties were to be recorded on a memo, against which penalty was to be paid and a receipt generated through CPAS. CPAS was to be used not only for recording details of penalty, related accounting functions. Other data, to be entered manually, related to name of the inspector, memo book challan no., fitness and emission certificate, revalidation details etc.

The system also envisaged other physical controls like locking the gate, in case of a system failure, allowing a vehicle to pass only after ensuring that penalty has been paid etc. CPAS provided for data validation checks as well. It was envisaged as an integrated system continuously interacting with the centralized data base, retrieving information for vehicles whose details were available there and feeding details of vehicles passing first time through Gujarat into it.

#### **4.2.4 Organisational set-up**

The Motor Vehicles Department functions under the control of Secretary (Transport Wing), Ports & Transport Department, assisted by Commissioner of Transport (CoT) and a Joint Director. The Regional Transport Officers (RTOs), Assistant Regional Transport Officers (ARTOs) and Inspectors exercise all the powers and perform the duties of collecting taxes/ penalties and regulate inter state traffic as per the provisions of the Bombay Motor Vehicle Tax Act, 1958. The CPAS was implemented through Design Solutions Ltd. (DSL) from 1 Aug 2000 to 30 April 2002 and M/s Chashmita Engineer Pvt. Ltd. (CEPL) thereafter. The implementation of CPAS was supervised by the COT.

#### **4.2.5 Scope of audit**

Records/data maintained in the office of the Commissioner of Transport, Gandhinagar, inter-state check post of Shamlaji and the Central Monitoring Centre (CMC) of the computerised check posts at Ahmedabad for the period 2001-02 to 2004-2005 were test checked using Standard Audit Analysis Software viz. Structured Query Language (SQL) and Interactive Data Extraction and Analysis (IDEA) package. Audit applied both substantive and compliance tests to evaluate the extent of reliability of various controls.

The Department provided CPAS data for all the check posts for the period from 5 March 2001 to 27 July 2005 (94.08 lakh records). One year data was obtained (April 2004 to March 2005) from Shamlaji Check Post from the computerized cash book accounting system (4.44 lakh records).

A review of the CPAS pertaining to awarding of contract for the turn key project, purchase of computer etc. was included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (Civil) Government of Gujarat.

#### **4.2.6 Audit Objectives**

The review was conducted with a view to:

- examine implementation of CPAS with respect to collection of various penalties, fines etc.
- examine and evaluate the controls provided in CPAS, for safeguarding the data and the programme, for their availability and effectiveness,
- analyse the available data from CPAS and other related sources to look for inconsistencies and resultant loss of revenue and lack of confidence in CPAS, and
- evaluate the audit trails as existing in CPAS.

#### **4.2.7 Weaknesses in implementation of CPAS**

There was no evidence of any feasibility study done by the department before implementing the system.

- Apart from deciding to implement CPAS with its stated objectives, an IT strategy was not framed by the department.
- There was no administrative set up for implementation of IT related plans, except that one officer was made in-charge of CPAS implementation who resigned and left the department in September 2005.
- Involvement of the top management in implementation of CPAS was not found and it lacked a well defined ownership.
- Implementation was left unsupervised resulting in weakening of controls
- Implementation only covered checking of vehicles with excess laden weight. Provisions for recording other penalties were not implemented.
- A parallel system, completely isolated from CPAS, for cash accounting was developed and implemented without any authorization..
- The centralised data bank at CMC was never maintained.
- No stated disaster recovery plan existed in the department.

#### **4.2.8 IT Controls in CPAS**

IT controls in a computerized system are the physical and programmed methods, policies and procedures that ensure the protection of the entity's assets, the accuracy and reliability of its records and the operational adherence to the management standards.

#### **Access Controls**

##### **4.2.8.1 Physical Access Controls**

No physical access controls existed and unauthorized persons could also enter the area where computers were kept for recording the transactions.

#### **4.2.8.2 Logical Access Controls**

CPAS maintained a list of clerks and other persons, who were authorized to use the system for data input and data processing. Separate passwords were to be assigned to each user and log details were to be generated on the usage by each user. Scrutiny revealed that though the user table listed 70 users, the password table had just one entry. Thus all users could access the system with the same user name and password.

#### **4.2.9 Unauthorised changes to programmes during implementation of CPAS**

Generally acceptable IT standards require that all changes in the programme should be well documented and should be carried out after they have been properly authorized.

However, no system was in place to document changes/modifications made in the programme. No approvals of the Government were ever obtained for any changes/ modification. Original CPAS design provided for various data validation and input, process and output controls. These controls were never put in operation. No log books were available documenting any changes to which CPAS was subjected to. How and at what stage these changes were implemented remains unexplained.

#### **4.2.10 Non generation of log files**

Log files are used to record the actions of users and provide the system administrator with a form of accountability. Audit did not find any logs generated. Thus, to say as to who logged in at what time and for what purpose was not possible.

#### **4.2.11 No data or programme security**

Data input in the past could be changed anytime by any user as no systematic data protection was available. As manual records like memo books and cash receipts were missing, reliability of the data captured in CPAS as well as in the cash book system could not be certified. No system was in place to take periodic backup of CPAS data.

#### **4.2.12 Input Controls and data validation**

CPAS was designed to capture sensitive input like the vehicle registration number and the permissible as well as actual weight without any human intervention. However, it was observed that none of the data capture systems were functional and also no data validation checks were present. Data entry in CPAS was being done by staff of service provider.

The cameras at Shamlaji were functional, but the Licence Plate Recognition (LPR) system, the software for capturing and recording the vehicle registrations number in CPAS, was not functioning. LPR has not been implemented at any of the check posts. Registration numbers were entered manually.

Audit could not get evidence whether any feasibility study was done of LPR system. Moreover, no instructions were ever issued to license issuing authorities about standardising the number plates which was a prime requirement of the LPR system. Uniformity could not be ensured in the number plates of the vehicles registered in other states. Therefore, how this system would have ever worked efficiently is doubtful. Seen in this light, the installation of video cameras in each lane in all the check posts for the LPR system was a non-starter *ab initio* and was never used in any of the check posts. As the automotive validation checks were never implemented, any number could be entered and was acceptable to the system.

The centralised data bank was not available; CPAS was unable to collect vehicle related details and as such the permissible weight was fed manually. The weigh bridge was being used to record the weight of the vehicles, but lack of data validation checks and unauthorized changes in the programme resulted in absurd actual weights getting recorded in the system.

CPAS was being used only to record penalty for vehicles with excess laden weight. We analysed 94.08 lakh records downloaded from CPAS. These records were entered in CPAS between 5 March 2001, i.e. the date it was implemented and 27 July 2005, the date we downloaded the data for various analysis. Of these, 23.90 lakh records related to the Shamlaji check post. Results of analysis are given below.

#### **4.2.12.1 Invalid Transaction dates**

CPAS started its trial run from November 1999 and data was made available up to 27 July 2005. A valid transaction date should fall within this period. However there were 1435 vehicle entries with invalid transaction like 22 May 2022, 3 January 1980, 19 September 1993, 11 July 1994, 26 September 2006. Penalty in these cases amounted to Rs. 6.81 lakhs. There was no way to ascertain whether this amount was ever collected. Correctness of data recorded in other entries was also doubtful.

#### **4.2.12.2 Invalid registration numbers of vehicles**

CPAS was designed to validate data entry of vehicle registration numbers as per different RTO registration numbering conventions. Any entry of invalid vehicle registration numbers was to be rejected.

Analysis of CPAS data revealed that in 3.04 lakh cases, CPAS accepted invalid registration number (viz XXXX, YYYYY, \*\*\*\*\*H, 00000000, 00000000H3, etc.) and processed them for calculation of penalty. The total amount of penalty in these cases worked out to Rs.9.31 crore.

There was no way to ascertain whether this amount of Rs.9.31 crore was ever collected. Correctness of other vehicle registration numbers was also doubtful, as CPAS accepted even invalid registration numbers.

#### **4.2.12.3 Absurd actual weights**

Commercial vehicles have laden weight in the range of 5000 kg (Light Commercial Vehicles (LCVs)) to 49000 kg (Heavy Commercial Vehicles

(HCVs)). The range for the entry of permissible weight of vehicle field was set as 5010 to 49000 kgs. The system was designed to get activated, whenever it registered a minimum weight of 1000 kg.

Analysis of CPAS data revealed that in 1.57 lakh records the actual weight recorded by the weighbridge was lower than 5000 kg and in 9 cases it was recorded below 1000 kg. The minimum weight recorded was 20 kg. (two cases).

In 7474 records, actual weight recorded was more than 60,000 kg. Of these 239 vehicles recorded actual weight more than 90000 kgs. Sample of 20 vehicles registered in Gujarat was checked for their registered laden weight with vehicle registration records maintained in RTO Offices. It was observed that these vehicles had registered laden weight in the range of 49000 kgs only as detailed in Annexure – II.

In one instance (Vehicle No GJ09V11422) the permissible weight was recorded as 16,200 kg., and the actual weight was recorded as 183690 kg. However, no penalty was charged. On checking of the registration of vehicle records in the RTO Office it was found that no vehicle had been in existence with such registration number.

Thus the data relating to actual weight was unreliable and it cannot be said whether it was recorded through the weighbridge or entered manually.

#### **4.2.12.4 Non standard permissible weight**

Calculation of penalty for excess weight was based on actual weight recorded by the weigh bridge and allowable permissible weight *i.e.* the registered laden weight of the vehicle.

Analysis of CPAS data revealed that the permissible weight of vehicle with the same registration number varied widely within the same check post at different time and also for from check post to check post leading to wide differences in the penalty calculation. 2,19,899 such vehicles (36,03,855 instances) were noticed where the standard permissible weight was different at different times. The range of variation was from 50 kgs to 43990 kgs.

Considering the minimum of these permissible weights was the correct weight, the revenue lost amounted to Rs.690.73 crore. However, taking the most frequently occurring value of permissible weight as the correct value, revenue loss was estimated at Rs. 33.13 crores. Taking the average value of permissible weight of each vehicle which had passed through these check post during the above stated period, revenue loss was estimated at Rs. 63.50 crores.

A sample of 140 vehicles which were registered in Gujarat were checked for the registered laden weight in the Registration Book Registers maintained at RTO Offices. In these 140 vehicles which had entered various check post on 377 instances there were difference between the registered laden weight and the permissible weight entered in the CPAS system in 122 instances. The variation was as high as 28,420 kgs. Thus the basic validation of the permissible weight on which the calculation of penalty was based was not being implemented leading to leakage of revenue.

### 4.2.13 Processing Controls

As per the technical manual, penalty was leviable as under:

- Excess weight upto 2000 kg - Rs. 75 for every slab of 500 kg
- Excess weight above 2000 kg - Rs. 300 plus Rs. 125 for every slab of 500 kg.

Analysis of CPAS data revealed that in 1.60 lakh cases penalty was calculated incorrectly for excess laden weight. In 1.33 lakh cases, penalty was either not calculated or calculated less than what was recoverable as penalty. The revenue loss on this count worked out to Rs.9.94 crore for all the check posts. In remaining 26,953 cases where the penalty for excess laden weight was over calculated by Rs. 2.92 crores. Of these in 13,229 cases where the actual weight recorded was less than the permissible weight, penalty totalling to Rs. 1.77 crores was charged. Thus the penalty calculation mode had been tampered with.

### Manual controls

#### 4.2.14 No segregation of duties

Segregation of duties is a fundamental control requirement as it reduces the risk of error and fraud. At Shamlaji check post, audit observed that the cashier responsible for collecting the cash was also responsible for its accounting and remitting into treasury.

#### 4.2.15 Missing memo books and cash receipts book

In Shamlaji check post audit could not conduct any test check to ascertain whether a cash receipt existed for each memo issued as the records were missing and were not made available by the department, despite repeated specific requests.

#### 4.2.16 Other physical controls

Non implementation of certain physical controls of CPAS and unauthorised validation of the system allowed vehicles to pass with or without payment of penalty with discretion solely in the hands of the check post staff. Effectiveness of CPAS suffered further with weakening of other manual controls as discussed below.

In the event of a system failure, the barrier was supposed to automatically get locked. This provision had been disabled at Shamlaji check post. The vehicles could also pass through the side lane which had no barriers, cameras, weigh bridges etc.

Even if a vehicle excess laden weight mounted the weigh bridge and excess laden weight penalty got fed into CPAS, it could actually pass through without paying any penalty at all. This was because there was no link between CPAS and the cash accounting system. No cross check was possible for such escapes.

The RTO inspector responsible for preparing the memo for various penalties, could record any amount as penalty as all data, which was supposed to be recorded through the computerized system, was being recorded manually and all controls had been rendered ineffective.

#### **4.2.17 No inter linking of various check posts**

When a vehicle passing through Gujarat state which had already paid penalty at a check post, enters another check post within the Gujarat State, the penalty payment chalan is just shown to the RTO Inspector and the vehicle is allowed to pass without payment of penalty for the second time. However, the amount of penalty is again calculated at the second check post and stored in CPAS. The fact cannot be verified in the system as the check posts are not interlinked. This totally cuts off the audit trail as whether a vehicle did not pay penalty because it had already paid the same at (previous) check post or the vehicle otherwise escaped without payment of penalty could not be ascertained.

#### **4.2.18 Non maintenance of the centralized data bank**

The centralised data bank was to provide a decision support system for the department. However, the data bank was never maintained as discussed below

##### **4.2.18.1 Details of RC book not entered**

Details of RC Books of vehicles registered in Gujarat were to be entered in the centralized data bank and linked with CPAS. Our analysis of CPAS data revealed that the RC Book table in CPAS contained no records. As a result, input of the vehicle in CPAS at the check post could not be queried and displayed on the screen, causing multiple entries getting recorded for permissible weight. It also could not be checked whether the vehicle had paid all taxes duly.

##### **4.2.18.2 History of other state vehicles not maintained**

History of other state vehicles which had entered the State through any check post was not maintained. This resulted in variation in the permissible weight of vehicles which passed through various check posts.

##### **4.2.18.3 Details of National Permit not linked with CPAS**

Details of national permits issued from Gujarat State, and information regarding non use commercial carriage report was not integrated with CPAS. Separate CD with the data was sent quarterly to various check posts. The data was queried not in the weighbridge lane computer but at check post office which was far off from the lane. Thus only random check of few selected cases were carried out by the RTO inspectors at the check post leaving scope for several vehicles to escape the check.

##### **4.2.18.4 No list of wanted vehicles**

List of wanted vehicles, which were involved in various offences were circulated by manual circulars. CPAS had envisaged this to be integrated with

the system. The system did not flash the message that the vehicle which entered the check post lane is a wanted vehicle and thus such wanted vehicles could pass undetected.

#### **4.2.19 Cash accounting at check posts**

CPAS had been designed to record and account for penalty including cash accounting. However, a separate package, “computerised cash book accounting” was got developed and implemented from April 2004. This computerised cash book accounting system ran independently of CPAS and recorded only cash transactions through a manually prepared memo. One year data from this system (April 2004 to March 2005) was downloaded and comparisons were made with CPAS data for Shamlaji check post for the same period where the following were noticed.

##### **4.2.19.1 Difference in penalty amount between CPAS and the cash book**

CPAS recorded 4,18,215 vehicles charged with Rs.35.99 crore as penalty for excess laden weight during April 2004 to March 2005 at Shamlaji check post. However, the cash book data for the same period indicated that only 2,93,726 vehicles paid a total of Rs.35.18 crore as penalty for excess laden weight.

##### **4.2.19.2 Invalid vehicle registration numbers in cash book data**

Of the 4.44 lakh records in cash book data, 2,483 records had invalid vehicle registration numbers (viz, 1353392018, 11KA01AB8455, 1030985EN0402147 etc.). As the cash book system printed the cash receipt, which was to be shown at the exit as a proof of payment of penalty, it is not understood how a vehicle could pass the check post by showing a cash receipt on which an invalid number was printed.

##### **4.2.19.3 Cross checking CPAS data with cash book data**

Vehicle registration numbers were picked one by one from CPAS data and were searched in the cash book data to verify whether vehicles recorded in CPAS for penalty for excess laden weight, did actually pay the correct amount.

15,799 vehicles charged with penalty for excess laden weight of Rs.54.54 lakh (CPAS data) did not pay any penalty for excess laden weight at the check post as zero amount has been shown in the cash book data. These vehicles had paid other penalties amounting to Rs. 1.44 crore, which, however, was not recorded in CPAS data.

45,320 vehicles charged with penalty for excess laden weight (CPAS data) paid lower amount, the difference amounting to Rs.1.35 crore. Cash book data for penalty for excess laden weight against these vehicle registration numbers totals Rs. 4,66,87,650, whereas as per CPAS data Rs.6,01,91,550 was payable.

#### **4.2.19.4 Invalid cash receipt numbers**

The cash receipt numbers were to be generated by the cash book system. Analysis of cash book data revealed six records with invalid cash receipts number. It was not understood as to how the cash book system could generate invalid receipt numbers and how such receipts with invalid numbers were accepted at the check post.

#### **4.2.19.5 Missing cash receipt numbers**

The cash receipt numbers are system generated sequential numbers which are printed at the time of generation of receipt on receipt of cash. An analysis of the cash book files revealed that cash receipt sequence between 8000000 and 8410050, 1176 cash receipt numbers were missing leading to the conclusion that the data file has been manipulated at a later time by deletion of these records. This is indicative of inadequate security on data files.

#### **4.2.19.6 No provision to enter memo number in the cash book data**

Memo is an important document as it contains vehicle details and amount of penalty. Payment of penalty is made against the memo only and the memo serves as the input document for entering data in the cash book system. The memo book number is alpha-numeric, where as in the cash book the field for capturing the memo book number is a numeric field. Initial letters of the memo book were never captured and to check as to against how many memos penalty had not been paid was not possible.

It was also observed that in 59, 588 records in the cash book data, no entries were made against the memo number field.

#### **4.2.19.7 Invalid memo number in the cash book data**

The memo books receipt and issue register which were maintained manually was cross checked on random basis and the following was observed.

The cash book has 4,44,527 entries pertaining to the year 2004-05. Of these 59,588 entries in cash book had no memo numbers entered and penalties had been collected without issue of memo. During the year 2004-05 memo books containing 3,44,750 memos were issued to various inspectors. It could not be explained how against 3,44,750 memos, penalties could be collected from 3,84,939 vehicles.

Also on one to one matching of the cash book memo entries with the memo issue register it was found that 9,918 memo entries of cash book were not found in the memo issue register and 3,880 entries of the memo issue register were not found in the cash book. It was thus observed that there was no effective system of control over the use of memo books.

After this was pointed out in March 2006, the department replied in November 2006 that a proposal from Tata Consultancy Service is under active consideration for development of an integrated system incorporating all the

observations made by audit. On implementation of the new software, RTOs/ARTOs of concerned check post shall be given responsibilities for effective operation of the system and shall be completely monitored by the COT.

#### 4.3 Non levy of motor vehicles tax

Under the Bombay Motor Vehicles Tax (BMVT Act) Act, 1958 and Rules made thereunder, tax is levied and collected in advance on all motor vehicles used or kept for use in the State. No tax is payable for the period of non use for which declaration is duly accepted by the taxation authority<sup>#</sup>. According to section 18(1) of BMVT Act and instructions issued from time to time, penalty at the rate of two *per cent* per month or part thereof, subject to maximum of 25 *per cent* of tax, is chargeable in cases of delay in payment of tax exceeding one month. Further, section 8A of the Act provides that interest at the rate of two *per cent* per month or part thereof is leviable on the tax remaining unpaid.

During test check of records of 20<sup>\*</sup> taxation authorities, it was noticed between August 2004 and September 2005 that operators of 697 omnibuses, who kept their vehicles for use exclusively as contract carriage and 479 vehicles used for transport of goods had neither paid tax nor filed non use declarations for various periods between 2000-01 and 2004-05. Failure of the department in issuing demand notices and not taking recovery action prescribed under the Act resulted in non levy of motor vehicles tax (MVT) of Rs.17.16 crore including interest and penalty.

After this was pointed out between January and December 2005, the department accepted audit observations of Rs.16.92 crore and recovered Rs.1.04 crore in 227 cases. Particulars of recovery in remaining cases have not been received.

This was brought to notice of Government in January 2006; reply has not been received (October 2006).

#### 4.4 Non/short levy of lumpsum tax

Under the BMVT Act, the State Government prescribed rates of one time tax (lumpsum tax (LST)), leviable on all non transport vehicles where unladen weight does not exceed 2,250 kgs. LST is leviable on the cost of vehicle in respect of non transport vehicles. From September 2001, LST was also leviable on transport vehicles used for carriage of goods or materials where registered laden weight does not exceed 3,000 kgs. In respect of such vehicles registered prior to September 2001, LST was recoverable according to the age of the vehicle in 12 equal monthly instalments. BMVT Act provides for levy of interest and penalty for non payment of tax in time.

<sup>#</sup> Regional Transport Officer (RTO), Assistant Regional Transport Officer (ARTO).

<sup>\*</sup> Ahmedabad, Amreli, Bardoli, Bharuch, Bhavnagar, Bhuj, Gandhinagar, Godhra, Himatnagar, Jamnagar, Junagadh, Nadiad, Navsari, Palanpur, Rajkot, Rajpipla, Surat, Surendranagar, Vadodara and Valsad.

During test check of records of seven<sup>#</sup> taxation authorities for the period 2003-04 and 2004-05, it was noticed between September 2004 and August 2005 that LST in respect of 59 non transport vehicles was levied short due to incorrect calculation of cost of vehicles. Further, tax in respect of 364 transport vehicles used for carriage of goods registered prior to September 2001 was not recovered which resulted in non/short levy of LST of Rs.51.46 lakh including interest and penalty.

After this was pointed out between January and October 2005, the department accepted audit observations in all cases and recovered Rs.5.02 lakh in 55 cases. Particulars of recovery in remaining cases have not been received.

This was brought to notice of Government in January 2006; reply has not been received (October 2006).

#### **4.5 Non levy of service charges**

Under section 12 of the BMVT Act, any tax of motor vehicles due and not paid by the defaulters within the date specified in the demand notice, shall be recoverable as arrears of land revenue. The *mamlatdar* (recovery) deputed to Motor Vehicle Department is required to recover the dues of MVT in respect of which revenue recovery certificate (RRC) had been issued by taxation authority as arrears of land revenue. Further, under Rule 117-C of the Gujarat Land Revenue Rules, 1972 five *per cent* service charge would be recoverable from the defaulters over and above the arrears of MVT recovered as arrears of land revenue.

During test check of records of four<sup>\*</sup> taxation authorities, it was noticed between August and September 2005 that *mamlatdars* (recovery) had recovered MVT of Rs.2.50 crore in 1,704 cases during the period 2001-02 to 2004-05 as arrears of land revenue from the defaulters. However, service charges were neither demanded nor recovered from the defaulters. This resulted in non levy of service charges amounting to Rs.12.50 lakh.

After this was pointed out between October and December 2005, the department accepted the audit observation and stated that service charge was not recovered due to ignorance of the provision and issued instructions to all taxation authorities/*mamlatdars* (recovery) for strict implementation of the provision of recovery of service charge.

This was brought to notice of Government in January 2006; reply has not been received (October 2006).

#### **4.6 Recovery of arrears of motor vehicles tax**

Under the BMVT Act, if MVT is not paid by the defaulter within 15 days from the date of issue of the demand notice, taxation authority is required to issue RRC to recover tax as arrears of land revenue through *mamlatdars*

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<sup>#</sup> Ahmedabad, Bharuch, Himatnagar, Jamnagar, Rajkot, Surendranagar and Vadodara

<sup>\*</sup> Himatnagar, Palanpur, Rajkot and Surat

(recovery). Under the provisions, *mamlatdars* (recovery) can take action to recover the dues by distraint and sale of movable and immovable property of defaulters or can arrest and send the defaulters to prison.

During test check of records of 16\* taxation authorities, it was noticed that in 10# offices, 8,554 RRC cases involving an amount of Rs.20.40 crore were pending for recovery with *mamlatdars* (recovery) and further action of detention/seizure/sale of movable/immovable property was not taken. In two<sup>∇</sup> offices outstanding amount in 614 RRC cases was not available and in two<sup>⊗</sup> offices no details such as number of RRCs pending and amount involved were available at all. In RTO, Rajkot it was noticed that nine vehicles were seized in February/March 2000 for the recovery of outstanding dues of Rs.16.02 lakh and RRC was sent in December 2000 to *mamlatdar* (recovery). The upset price of Rs.11.70 lakh of these vehicles was fixed by RTO in August 2003. However, the *mamlatdar* (recovery) had not taken any action for auction of these vehicles as there was no time frame prescribed for auction after seizure of vehicles. This resulted in deterioration of vehicles and probable reduction in realisation of dues.

After this was pointed out in November 2005, the department replied that subordinate officers have been instructed in June 2005 to take effective steps to recover the dues. Further progress was awaited.

This was brought to notice of Government in April 2006; reply has not been received (October 2006).

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\* Ahmedabad, Amreli, Bhavnagar, Bhuj, Gandhinagar, Godhra, Himatnagar, Jamnagar, Junagadh, Nadiad, Navsari, Palanpur, Patan, Rajkot, Surat and Vadodara

# Ahmedabad, Bhavnagar, Bhuj, Godhra, Himatnagar, Jamnagar, Nadiad, Palanpur, Rajkot and Vadodara

∇ Amreli and Junagadh

⊗ Patan and Surat

## CHAPTER – VI

### OTHER TAX RECEIPTS

#### 6.1 Results of audit

Test check of records in various departmental offices relating to the following receipts conducted during the year 2005-06 disclosed under assessments amounting to Rs.49.47 crore in 177 cases as detailed below:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Entertainments tax	127	1.31
2	Luxury tax	23	0.82
3	Electricity duty	26	5.21
4	Review: <b>Levy and collection of electricity duty and fees</b>	1	42.13
	<b>Total</b>	<b>177</b>	<b>49.47</b>

During the year 2005-06, department accepted and recovered under assessment amounting to Rs.23.15 lakh in four cases pertaining to 2005-06 and Rs.49.68 lakh in 46 cases pertaining to earlier years.

After issue of draft review, the department in two cases recovered entire amount of Rs.2.62 crore.

A few illustrative cases involving important audit observations and review on **Levy and Collection of Electricity Duty and Fees** involving Rs.46.93 crore are given in the following paragraphs.

## **6.2 Review: Levy and Collection of Electricity Duty and Fees**

### **Highlights**

Despite express direction of Government, duty was levied at incorrect rate resulting in short levy of duty of Rs.14.65 crore.

*(Paragraph 6.2.7)*

Interest of Rs.2.29 crore was not levied on belated payment of duty

*(Paragraph 6.2.9)*

Duty was levied at reduced rate treating non manufacturing activity as manufacturing activity resulting in short levy of duty of Rs.6.68 crore.

*(Paragraph 6.2.14)*

Though Government lowered rate of duty w.e.f. 1 April 2005, this rate was applied for electricity consumed prior to this period resulting in short levy of duty of Rs.1.42 crore.

*(Paragraph 6.2.15)*

Incorrect exemption from payment of duty of Rs.8.02 crore was granted to Board/ Club considering them as government offices.

*(Paragraph 6.2.17)*

Out of 166 new industrial units situated in Ahmedabad, granted exemption, during 2001-02 to 2004-05, department took more than one year for finalisation in 39 to 50 *per cent* cases. In 21 cases exemption was granted after the period of exemption was over.

*(Paragraph 6.2.21)*

### **Recommendations**

**6.2.1** Following recommendations are proposed to improve the system. Government may consider to

- create an internal audit wing independent of the Collector (ED) which would ensure timely implementation of all Government's decisions and proper scrutiny of returns filed by licensees and check all cases of changes/exemptions;
- carry out mandatory periodical inspections of installations to ensure safety of general public as well as realisation of inspection fee;

- conduct periodical detailed checking of billing centers and self generation units to ensure proper recovery of duty. There should be strong deterrents in place to discourage incidents of levy of duty at incorrect rate, exemptions to boards/clubs, incorrect refund of duty etc. in the first place itself; and
- fix a reasonable time limit within which a new industrial unit willing to avail benefit of exemption must submit to the Collector (ED) all relevant details. Similarly, there should be a time limit within which the Collector (ED) should decide such cases.

## Introduction

**6.2.2** The levy and collection of electricity duty (duty) and fees by State Government on consumption of electrical energy by consumers is governed by the Bombay Electricity Duty Act, (BED Act) 1958 as applicable and modified in Gujarat, and the Rules made thereunder. Under the BED Act, every licensee shall collect duty on the units of energy sold for consumption from consumers through electric power supply bills and pay it to State Government by the prescribed dates. Further, every person other than licensee who consumes energy generated by him is also liable to pay duty. Fees for testing and inspection of installations connected to supply system of supplier are levied under the Indian Electricity Act, 1910 (IE Act) and the Indian Electricity Rules, 1956 (IE Rules) at the prescribed rates.

In Gujarat, a major portion of duty is levied and paid to the State Government by three licensees viz. the Gujarat Electricity Board (GEB), the Ahmedabad Electricity Company Limited (AEC) and the Surat Electricity Company Limited (SEC).

Office of the Chief Electrical Inspector and office of the Collector of Electricity Duty (Collector (ED)) are two independent offices headed by a single officer. The Collector (ED) is entrusted the work related to grant of exemption from payment of electricity duty to new industrial units and self generating units. He also issues certificates to consumers regarding chargeability of duty at reduced rate, deferment and refund of duty and also monitors collection and payment of duty by licensees and self generating units. Under the Act, he is the authority for adjudication of disputes. The Chief Electrical Inspector is entrusted the work of checking of extra high voltage installations and overall supervision of work of assistant electrical inspectors and electrical inspectors.

## Scope of audit

Audit conducted test check of records of Collector (ED), Gandhinagar, three\* out of seven offices of the Electrical Inspector, 10\* out of 17 offices of the

\* Ahmedabad, Mehsana and Rajkot

\* Ahmedabad-II, Bharuch, Himmatnagar, Jamnagar, Junagadh, Mehsana, Surat, Surendranagar, Vadodara and Valsad.

assistant electrical inspector, 36<sup>♦</sup> out of 76 billing centres of State Electricity Board and both the billing centres of two private companies. The units were selected on the basis of revenue collection of the licensee. Audit was conducted for the period from 2000-01 to 2004-05 between April and December 2005.

### Audit objectives

6.2.3 A review of records was conducted with a view to:

- assess the effectiveness of levy and collection of electricity duty;
- assess the adequacy of system of issue of licences and inspection of electrical installations and collection of fees;
- assess the procedure of refund/adjustment of duty;
- assess effectiveness of procedure of monitoring exemption of duty.

### Organisational set up

6.2.4 The overall control on levy and collection of duty and fees rests with the Principal Secretary, Energy and Petrochemicals Department. Chief Electrical Inspector and Collector (ED) Gandhinagar is the head of the department. He is assisted by Deputy Chief Electrical Inspector, assessment officer and administrative officer at headquarters and by seven electrical inspectors and 17 assistant electrical inspectors at district level for conducting inspection of electrical installations. At field level, duty inspectors are responsible for ensuring correctness of levy and collection of duty at billing centres of licensees. These duty inspectors have also been assigned the work of checking of readings in meters of self generating units of electricity and collection of duty thereof.

### Trend of revenue

6.2.5 The budget estimates and actual realisation of taxes and duties on electricity during last five years ending March 2005 were as under:

(Rupees in crore)

Year	Budget estimates	Actual realisation	Variation increase (+) decrease (-)	Percentage of variation
2000-01	1700.00	1520.99	(-) 179.01	(-) 10.53
2001-02	1711.00	1656.52	(-) 54.48	(-) 3.18
2002-03	1735.43	1383.84	(-) 351.59	(-) 20.26
2003-04	1590.53	1592.18	(+) 1.65	Negligible
2004-05	1646.05	1829.07	(+) 183.02	(+) 11.12

♦ Ankleshwar(2), Bavla, Bharuch(2), Dhrangadhra, Gandhinagar, Himatnagar(3), Jamnagar(2), Junagadh(2), Kadi, Kalol, Khambhalia, Mehsana, Morbi, Navsari(2), Rajkot(3), Sabarmati, Surat(3), Surendranagar, Vadodara(3), Valsad, Vapi(2), Veraval

The variation between budget estimates and actuals for the year 2000-01 was due to reduction in rate of duty during 2000-01. The variation between budget estimates and actuals for the year 2002-03 was mainly due to abolition of tax on sale of electricity under the GTSE Act with effect from 1 April 2002 and reduction in rate of duty applicable for commercial purposes and for unspecified category of consumers. For the year 2004-05 actual realisation was more than budget estimates mainly due to enhancement of rate of duty for self generation by 100 *per cent* and in consumption of electricity by various consumers.

### Position of arrears

**6.2.6** The position of arrears of revenue at the end of five years ended 31 March 2006 as furnished by the department was as under:

**(Rupees in crore)**

Year	Opening balance as on 1 April	Addition during the year	Recoveries i.e. clearance during the year	Amount outstanding at the close of the year i.e. 31 March
2001-02	13.92	-	-	13.92
2002-03	13.92	-	-	13.92
2003-04	13.92	370.23	-	384.15
2004-05	384.15	77.71	40.00	421.86
2005-06	421.86	82.68	26.87	477.67

Analysis of the amount outstanding as on 31 March 2006 was as under:

- Recovery of Rs.367.50 crore was pending with High Court of Gujarat.
- Recovery of Rs.3.07 crore was pending with BIFR.
- Recovery of Rs.75.66 crore was pending in appeal with Government.
- Recovery of Rs.0.92 crore was pending action under land revenue code.
- Recovery of Rs.30.52 crore on account of tax on sale of electricity was pending for reasons which were not made available to audit.

### Short levy of duty due to application of incorrect rate

**6.2.7** As per the BED Act in case of consumption of electricity generated by self, duty is leviable at rates prescribed in Schedule II to the BED Act, whereas electricity consumed from other generating entities attracts duty at rates prescribed in Schedule I to the BED Act. The schedule II rate upto July 2004 was 40 paise per unit while schedule I rate was 20 *per cent* of consumption charges. Thereafter schedule II rate was revised at 80 paise per unit. As per sub section 2 of section 3, duty on electricity generated jointly by industrial undertaking for their own use was exempted for 10 years from the date of production of electricity.

During test check of records of Collector (ED), Gandhinagar, it was noticed in April 2005 that Gujarat Industries Power Company Ltd. (GIPCL), as licensee, was cogenerating electricity for its own use and four other participating companies. As per provisions of the Act, these companies were granted exemption in March 1993 for 10 years from 6 February 1992 to 5 February 2002 subject to certain terms and conditions. On completion of exemption period, GIPCL was to collect duty from all participating companies along with its own share of duty and pay the same to Government.

There was change in equity participation and composition of ownership in the company due to which Collector (ED) after getting approval from Government and Legal Department cancelled exemption vide order dated 27 November 2001 effective from 5 June 2000. All participating units were ordered to pay duty as per schedule I rate. GIPCL on behalf of all participating companies filed a review petition on January 2002 before Government which is still pending.

After completion of exemption period, the companies were required to pay duty of Rs.40.83 crore as per rates prescribed in schedule I for the period from February 2002 to June 2004. However the companies paid Rs.26.18 crore during this period at the rate of schedule II. This resulted in short levy of duty of Rs.14.65 crore. The department did not make any effort to recover duty at the rates prescribed in schedule I. This resulted in short realisation of Government revenue to that extent.

After this was pointed out, the department accepted audit observation in May 2005 and recovered Rs.95.22 lakh from one company in March 2006 and stated in May 2006 that recovery proceedings in respect of another company have been initiated.

#### **Non payment of duty collected by licensee**

**6.2.8** Under Sections 3 and 8 of the BED Act, every licensee shall levy and collect duty from consumers of electricity and pay to Government. Duty so collected but not paid within 40 days after the expiry of calendar month shall be deemed to be in arrears and interest at the rate of 24 *per cent* per annum upto 31 March 2002 and 18 *per cent* per annum thereafter shall be payable on such arrears.

During test check of records of Collector (ED) for the year 2004-05, it was noticed that during five months of July, August, October 2004, January, and February 2005, the AEC Ltd. did not pay to Government an amount of Rs. 3.20 crore collected from consumers. AEC Ltd. retained this amount and stated in its monthly return filed with the Collector (ED) that outstanding electricity charges recoverable from *nagarpalikas* had been made good by this amount. The retention of the amount was incorrect and resulted in non recovery of Rs.3.43 crore including interest of Rs.23.23 lakh due upto 31 March 2005. The department had made no efforts to recover the amount.

After this was pointed out, the department accepted audit observation in May 2005 and recovered Rs.3.20 crore. Regarding interest, the department has

stated that the licensee has applied for waiver and the same was under consideration of Government.

#### **Short levy of interest on belated payment of duty**

**6.2.9** Under Rule 3 of the BED (Gujarat) Rules 1986 (the Rules) and explanation given thereunder, the licensee shall pay the duty within 40 days after the expiry of the calendar month for which duty is levied. Government may by special order extend the period of payment upto 15 days subject to the condition that 80 *per cent* of payment on the basis of duty paid in the previous month shall be made within the prescribed period of 40 days. As per Government order dated 23 November 1987, SEC was permitted to extend the period of payment subject to above condition.

During test check of records of Collector (ED), it was noticed that the SEC had not paid 80 *per cent* of the duty collected in respect of previous calendar month within the prescribed time limit of 40 days in 57 months spread over a period of five years between 2000-01 and 2004-05. Hence the licensee was not eligible for the benefit of conditional grace period of 15 days for payment of balance amount of duty for these months and was liable to pay interest on delayed payment. For the delay in payment of duty, interest of Rs.2.29 crore was leviable for the period from 2000-01 to 2004-05. This also reflected that the returns filed by the licensee were not properly scrutinised and monitored.

After this was pointed out, Government stated in May 2006 that Collector (ED) had issued notice to SEC to make payment of Rs.2.29 crore.

#### **Short levy of electricity duty due to typing error**

**6.2.10** Schedule-I of the BED Act prescribes rate of duty chargeable to different category of consumers. Part-II of the schedule authorises Collector (ED) to adjudicate cases on any disputes on applicability of rates.

During test check of records of Collector (ED), it was noticed that an industrial consumer was consuming electricity at high tension voltage. Major portion of electricity was consumed for motive power and a very small portion of electricity was consumed towards office lighting. The licensee was charging duty at correct rate of 20 *per cent* on motive power consumption and at higher rate of 40 *per cent* on office lighting. Aggrieved by levy of duty at higher rate on office lighting, the consumer applied to the Collector (ED) to determine correct rate of duty chargeable on office lighting. The appeal was decided and the applicable rate of duty for office lighting was reduced to 20 *per cent* of consumption charges. While communicating the same to the licensee it was typed as 10 *per cent*. On the basis of this letter the licensee charged duty at the rate of 10 *per cent* on entire consumption of electricity. This resulted in short levy of electricity duty of Rs.25.13 lakh for the period from May 2003 to March 2005.

After this was pointed out, the department accepted audit observation and issued corrigendum to the original order in May 2005. Government in May

2006 intimated recovery of Rs.14.50 lakh. Particulars of recovery of remaining amount have not been received (October 2006).

### Loss of revenue due to non inspection

#### Electrical installations

**6.2.11** As per Rule 46 of the IE Rules, where an installation is connected to supply system of supplier, every such installation shall be periodically inspected and tested at an interval not exceeding five years either by an inspector or by the supplier as may be directed by the State Government. Fees at prescribed rates depending upon the connection load at the supply system are to be recovered. There is no monetary penal provision or levy of interest on late/non payment of inspection fees.

During test check of records of Chief Electrical Inspector, it was noticed that out of 56.37 lakh electrical installations required to be inspected, only 9.06 lakh installations were inspected by the department during the period from 2000-01 to 2004-05 leaving a shortfall of 47.31 lakh installations as detailed below :

Year	Inspection due	Inspection done	Inspection not done	Percent- age of non inspection	Inspection to be carried as per GAD norms based on staff (120/month/inspector) (staff strength)
2000-01	10,69,340	2,04,580	8,64,760	81	1,52,640 (106)
2001-02	11,02,405	1,91,858	9,10,550	82	1,42,560 (99)
2002-03	11,43,553	1,72,730	9,70,823	85	1,42,560 (99)
2003-04	11,80,936	1,68,694	10,12,242	86	1,42,560 (99)
2004-05	11,41,147	1,68,426	9,72,721	85	1,20,960(84)
<b>Total</b>	<b>56,37,384</b>	<b>9,06,288</b>	<b>47,31,096</b>		

It can be seen from the above that though the department had achieved target of inspection based on staff strength, 81 to 86 *per cent* of the installations remained uninspected.

Failure to inspect installations not only jeopardized public safety but also resulted in non realisation of inspection fees of Rs.23.66 crore worked out at the lowest rate of Rs.50 applicable to low voltage installations.

After this was pointed out, the department stated in May 2006 that shortage of manpower was the main reason for this shortfall. However, they would explore the possibility of outsourcing such inspections.

#### Non realisation of inspection fee

**6.2.12** According to the provisions of IE Rules, and notifications issued thereunder, inspectors are required to inspect all high tension, medium voltage installations and all low voltage electrical installations in factory premises and in all public places of amusement including cinema theatres *etc.* once in a

year. Inspection fee at prescribed rates is required to be recovered in advance or at the time of inspection carried out by departmental officers.

During test check of records of eight<sup>¥</sup> offices of the assistant electrical inspector, it was noticed between April 2004 and November 2005 that though inspections of electrical installations were carried out by the inspectors, inspection fee of Rs.28.59 lakh for the period 2001-02 to 2004-05 was not recovered in 655 cases.

After this was pointed out, the department accepted audit observations and issued notices for recovery of the fees involving Rs.27.61 lakh in 646 cases and recovered Rs.16.21 lakh in 376 cases. In nine cases, reply has not been received (October 2006).

### Billing centres

**6.2.13** Major portion of duty is levied and collected at billing centres of licensees. Licensees after collecting duty from consumers are required to deposit the same into Government account within the prescribed time limit of 40 days. Duty inspectors posted in field have been assigned the task of ensuring accuracy in levy and collection of duty in these billing centres. Along with these, duty inspectors have to perform other multifarious duties *viz.*, checking of sites in case of exemption/rate reduction applications, confirming meter readings at self generating units and ensuring payment of duty at correct rate and all other work assigned by the Collector (ED). For this purpose 14 posts of duty inspectors have been created.

### Short levy of duty due to application of incorrect rate on consumers engaged in activities other than industrial purpose

**6.2.14** Section 2(bb) of the BED Act defines “industrial undertaking” as an undertaking engaged predominantly in the manufacture or production of goods. Rate of duty on consumption of electricity for manufacturing activities was 20 *per cent* and for non manufacturing activities was 60 *per cent* upto 31 March 2002. The rate of 60 *per cent* was reduced to 45 *per cent* from 1 April 2002.

During test check of records of 10<sup>♥</sup> billing centres of GEB, it was noticed that in respect of 21 consumers, though electricity was consumed for non manufacturing activities and duty leviable was Rs.11.47 crore, duty levied was Rs.4.79 crore at the rate applicable to manufacturing activities. Application of incorrect rate of duty resulted in short levy of electricity duty of Rs.6.68 crore for the period between 2000-01 and 2004-05.

After this was pointed out, the department accepted audit observation for Rs.3.19 crore in respect of nine consumers and recovered Rs.2.52 crore from eight consumers. In one case department could not make recovery as it was pending in a court of law while in another case department did not accept audit

<sup>¥</sup> Ahmedabad-II, Bharuch, Jamnagar, Mehsana, Rajkot, Surat, Vadodara and Valsad.

<sup>♥</sup> Ankleshwar(2), Bavla, Bharuch, Khambhalia, Jamnagar(2) and Vadodara (3)

observation and stated that water from pumping stations was used for manufacturing activities as such industrial rate was applied. The reply was not acceptable as pumping of water is not a manufacturing activity.

**Short levy of duty due to incorrect application of reduced rate prior to the period of eligibility**

**6.2.15** Government reduced rate of duty from 20 *per cent* to 15 *per cent* for high tension industrial consumers and from 45 *per cent* to 35 *per cent* for residual category consumers from 1 April 2005.

During test check of the records of 21<sup>^</sup> billing centres of GEB it was noticed in case of 1,922 high tension consumers that though reduced rate of duty was effective from 1 April 2005, same was levied for the electricity consumed between 20 March and 31 March 2005. This resulted in short levy of duty of Rs.1.42 crore.

After this was pointed out, the department accepted audit observation in all cases and recovered Rs.96.80 lakh from 1,362 consumers. Particulars of recovery of balance of Rs.45.20 lakh have not been received (October 2006).

**Incorrect refund of duty**

**6.2.16** As per the provisions of Rule 12 of the rules, only Collector (ED) can grant refund of duty for the period prior to 12 months from the date of application for refund.

During test check of records of GEB (O & M), Vadodara it was noticed that the licensee refunded Rs.1.08 crore for 55 months in October 2004 being the duty paid by one consumer for the period from March 1999 to September 2003 on the basis of application made by the consumer in March 2004. As the refund was to be granted by the Collector(ED) and that too for a maximum period of previous 12 months prior to the date of application, the refund of Rs.1.08 crore granted by the licensee was not in order. Further, had the consumer approached the Collector (ED) for refund, he would have got refund of Rs.18.27 lakh only for 12 months being the payment made for April 2003 and onwards.

After this was pointed out, the Collector (ED) in April 2006 directed the licensee to recover duty. Particulars of recovery have not been received (October 2006).

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<sup>^</sup> Ankleshwar, Bharuch, Dabhoi, Himatnagar, Jamnagar(2), Kadi, Kalol, Khambhalia, Morbi, Rajkot(3), Surat(3) and Vadodara(5)

**Effectiveness of monitoring of exemption of duty**

**Non levy of duty due to incorrect grant of exemption**

**6.2.17** As per sub section 2 of section 3 of the BED Act and rules made thereunder, duty is not leviable on units of electricity consumed by Government of Gujarat, municipal corporation, municipality, local board, notified area, committee or Panchayat. The Gujarat Water Supply and Sewerage Board (GWSSB) does not fall under any of the above categories and is liable to pay duty on its connections.

**6.2.17.1** During test check of the records of five\* divisions of GEB, it was noticed that duty was not levied and collected from 13 high tension connections of GWSSB. This resulted in non levy of duty of Rs.7.71 crore for the period between April 2000 and March 2005.

After this was pointed out, the department stated in May 2006 that GWSSB was pumping out water from tube well and supplying drinking water to nagarpalikas/panchayats and hence it is exempted under section 3(2)(ia) of the Act. Reply is not acceptable as section 3(2)(ia) does not cover GWSSB within the meaning of local bodies, panchayats etc.

**6.2.17.2** During test check of records of GEB (O&M) City Division-II, Rajkot it was noticed that Government of Gujarat constructed an auditorium and released HT connection in April 1998 and exemption from payment of duty was granted to the auditorium. This auditorium was run by the State Government till December 1998 and handed over to a club in January 1999 for its operation, maintenance, letting and overall management. As per condition no.5 of the agreement, the club was liable to pay taxes, electricity bills etc. As the auditorium was handed over to a private party, it could no longer be said that electricity was consumed by the Government of Gujarat and hence the club was not eligible for exemption and liable to pay duty at prescribed rate. However, the club continued to avail the benefit of exemption. This resulted in non levy of duty of Rs.31.03 lakh for the period from 2000-01 to 2004-05.

After this was pointed out, the department directed the licensee in October 2005 to recover duty as pointed out by audit. Government further stated in May 2006 that the matter was referred to Youth and Cultural Department and recovery particulars will be intimated after final decision.

**Non levy of duty due to incorrect exemption**

**6.2.18** Under Section 13 of the BED Act, electricity consumed or sold to Government of India and electricity consumed in construction, maintenance and operation of Railways is exempted from payment of duty. As per Rule 10 of the rules, where meter for indicating consumption of electrical energy for different purposes is not provided, the levy of duty should be reckoned as if electricity is consumed for the single purpose for which higher rate of duty is

\* Bharuch, Himmatngar, Khambhalia, Morbi and Rajkot

leviable and duty shall be charged for entire electricity consumed for combined purpose.

During test check of the records of GEB (O&M) Valsad it was noticed that duty was not levied and collected for residential/commercial consumption of electricity from two connections of Railways (Valsad) treating them as part of exemption. No separate meters or sub meters were installed to identify consumption of electricity for non government use. In the absence of this, duty was leviable on entire consumption of electricity. This resulted in non levy of duty of Rs. 1.24 crore for the period between April 2000 and March 2005.

After this was pointed out, the department accepted audit observation in May 2006 and stated that recovery proceedings have been initiated through licensee. Particulars of recovery have not been received (October 2006).

#### **Non levy of duty after expiry of exemption period**

**6.2.19** Under the BED Act and the Rules made thereunder, a consumer is entitled for exemption for the period mentioned in the exemption certificate. Immediately on completion of said period, he is liable to pay duty at prescribed rates. Duty inspectors posted at field level have been specifically instructed by the Collector (ED) to keep a close watch on these matters.

**6.2.19.1** During test check of records of five<sup>♥</sup> divisions of GEB it was noticed that in five cases, exemption from payment of duty was continued for one to four months between October 2001 and March 2005 even after expiry of the exemption period. This resulted in non levy of duty of Rs. 9.29 lakh.

After this was pointed out, the department accepted audit observation in all cases and recovered Rs.2.49 lakh in two cases in April 2006. Particulars of recovery in remaining cases have not been received (October 2006).

**6.2.19.2** At GEB (O&M) Rural Division, Surat, it was noticed that a new consumer (without exemption certificate) of a factory who purchased the unit from a consumer having exemption certificate was given exemption from April 2004 to August 2004. This resulted in non levy of duty of Rs. 7.02 lakh.

After this was pointed out, the department stated in April 2006 that the licensee issued supplementary bill in February/March 2006 and payment was awaited.

Government stated in May 2006 that exemption certificate issued in favour of original company was applicable as only name has been changed. Reply was not acceptable as original unit was sold to new one. As per conditions of the certificate under rule 11(2) of the rules, sale of unit should be brought to the notice of the Collector. Further it was not a simple change of name but a change in ownership of factory.

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<sup>♥</sup> Ankleshwar, Bharuch, Khabhalia, Jamnagar and Surat(Rural)

### Internal Control

**6.2.20** Internal control in a department provides assurance for prompt and efficient service and adequate safeguards against evasion of taxes and duties. It is meant to promote enforcement of compliance of Acts, Rules and departmental instructions to detect and prevent irregularities. It also helps in creation of reliable financial and management information system. It is, therefore, the responsibility of the department to ensure that a proper internal control mechanism is instituted, reviewed and updated from time to time to make it effective.

### Operational control

**6.2.21** Operational control system is instituted for reviewing efficient and effective functioning of the department.

During test check of records of Collector (ED) Gandhinagar, it was noticed that during 2001-02 to 2004-05, 166 new industrial units situated at Ahmedabad were granted exemption from payment of duty for a maximum period of five years. A chart showing receipt and finalisation of such cases is shown below:

Year	Total no. of cases finalised	Time taken in finalisation of application			
		0 to 1 year	1 to 2 years	2 to 3 years	More than 3 years
2001-02	48	24	12	6	6
2002-03	25	14	8	1	2
2003-04	45	23	16	1	5
2004-05	48	29	10	2	7
<b>Total</b>	<b>166</b>	<b>90</b>	<b>46</b>	<b>10</b>	<b>20</b>

It would be seen from the table that more than one year was taken in finalisation of application in 39 to 50 *per cent* of cases. In 21 cases exemption was granted after the completion of eligible period of exemption resulting in refund of duty already paid for the period of exemption. As the rationale behind giving exemption is to help a new industrial unit in initial years of its establishment, such delays defeated the very purpose of exemption. As no time limit has been fixed for finalisation of application, inordinate delay resulted in failure of operational control.

### Internal audit

**6.2.22** There was no separate internal audit mechanism for the field offices. In absence of such mechanism existing administrative staff was doing internal audit. Chief Electrical Inspector fixed target for inspection by his office in respect of six field offices per annum during the period of review. There was no basis for fixing this target. As against the target of six offices per year prescribed for inspection, no inspection was carried out during 2002-03,

whereas three and four offices were inspected during 2003-04 and 2004-05 respectively. Objections were of administrative nature like non maintenance of certain registers viz., stamp register, grant register, appellate register etc., purchase of certain office items beyond monetary limit, non posting of inspection fees recovered and non closing of casual leave register. Compliances to these reports by field offices were watched periodically and settled.

### **Conclusion**

**6.2.23** Audit noticed non implementation of Government orders, retention of duty collected from consumers by licensee, exemption to ineligible units and levy of duty at incorrect rates resulting in short realisation of duty. The department could not arrange checking of all electrical installations. There was no effective system of monitoring and no internal audit wing has been created in the department.

Department needs to create an internal audit wing. Licensees should be made accountable regarding levy of duty at correct rates. A time limit for finalisation of exemption cases should be fixed. Department should carry out mandatory inspections to ensure safety of general public as well as realisation of inspection fee.

### **Acknowledgement**

**6.2.24** The findings of the review were sent to the department and Government in April 2006 with the request to discuss the points in Audit Review Committee. The meeting of Audit Review Committee was held in May 2006. It was attended by representatives of Government headed by Principal Secretary Energy and Petrochemicals Department while department was represented by Chief Electrical Inspector. Almost all audit observations were accepted by Government and in some cases full recovery was made. The views of Government have been taken into consideration while drafting the review.

## **ENTERTAINMENTS TAX**

### **6.3 Non levy of entertainments tax**

Under the Gujarat Entertainments Tax (GET) Act, 1977 and the Rules made thereunder, entertainment includes any exhibition, performance, amusement, game or sport to which persons are admitted on payment. Every proprietor is required to pay tax and submit monthly returns by 15<sup>th</sup> of succeeding month. In case of delay in payment of tax, simple interest at the rate of 24 *per cent* per annum is leviable on unpaid amount of tax for the period of delay.

“Ropeway” as clarified by Government in April 1992 and August 2001 falls within the definition of entertainment if it is used for the purpose of entertainment. The Department of Information and Broadcasting vide resolution dated 4 February 1991 as part of the tourism policy exempted units

engaged in entertainment activities and set up between 1 January 1991 and 31 December 1996, from payment of entertainments tax subject to fulfilment of certain conditions.

Chimney Hotel and Ropeway Pvt. Ltd. set up a ropeway in April 1994 at Saputara in Dangs district which attracted entertainments tax. However it was noticed during test check of records of Collector, Dangs in March 2005 that no tax was recovered from April 1994 to January 2006 as the company claimed that no entertainments tax is payable as the ropeway set up was being used for transportation purpose and not as entertainment. Simultaneously the company claimed (September 1991) exemption from payment of entertainments tax under the tourism policy. The committee after deliberations granted entertainments tax exemption of Rs.3.46 lakh in May 2001. After protracted correspondence at Government level to finalise the issue, Government on 28 November 2005 clarified that as ropeway at Saputara was not being used for going to religious place, it attracted entertainments tax and instructed to recover the tax. However, no demand for entertainments tax was raised (March 2006). Entertainments tax including interest to be collected for above period worked out to Rs.4.10 crore<sup>#</sup>.

The matter was referred to Government in March 2005. Government in November 2005 instructed the Collector to raise the demand and collect the entertainments tax as ropeway at Saputara was not being used for going to religious place and it attracted entertainments tax. However, report on raising of demand and recovery made has not been received (October 2006).

#### 6.4 Non recovery of entertainments tax from cable operators

Under the GET Act, tax is leviable for exhibition of programmes with the aid of antenna or cable television. As per GET (Exhibition by means of cable television and antenna) Rules, 1993, each operator has to register with the department and file quarterly return in advance accompanied by copies of challan for payment of tax. Assessment of return filed has to be made by the department before commencement of the succeeding quarter and demands for non/short payment of tax are to be raised against the defaulters. For non payment of tax within the prescribed time, the Act provides for levy of interest at the rate of 24 *per cent* per annum.

During test check of records of five\* collectors and three<sup>∇</sup> *mamlatdar* offices, it was noticed between January 2004 and September 2005 that in 209 out of 1,935 cases, entertainments tax of Rs.24.12 lakh was not paid during 2003-04 to 2004-05. No demands were raised. No system to watch receipt of returns and issue notices was being followed. Failure to follow the prescribed procedure resulted in non/short recovery of Rs.27.09 lakh including interest<sup>▲</sup>.

<sup>#</sup> Non levy of entertainments tax including interest for the period 2000-01 to 2005-06 works out to Rs.44.12 lakh (Rs.25.16 lakh tax and Rs.18.96 lakh interest).

\* Ahmedabad, Bhuj, Navsari, Rajkot and Vadodara

<sup>∇</sup> Dholka, Godhra and Surat.

<sup>▲</sup> Interest has been calculated upto 31 March of audit period

After this was pointed out between February and October 2005, the department accepted audit observations in all cases and recovered an amount of Rs.6.59 lakh in 72 cases. Particulars of recovery in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

#### **6.5 Non recovery of service charge irregularly availed**

Under the GET Act and the Rules made thereunder, entertainments tax shall be paid by the proprietor of a cinema house weekly within 14 days of the end of the week. Government vide notification dated 9 February 2004 granted exemption from payment of entertainments tax to the extent of Rs.3 and Rs.2 per ticket to the proprietors of air conditioned/air cooled cinema and non air conditioned/non air cooled cinema house respectively subject to condition that the tax has been paid in time and in the manner prescribed in Rule. Department further clarified in circular dated 20 February 2004 that the proprietor of cinema house not paying tax within prescribed time limit was not eligible for exemption. This exemption is not admissible to multiplex cinemas. Further the exemption of Re.1 per ticket which multiplex cinemas were availing was also discontinued with effect from 9 February 2004.

During test check of records of three<sup>s</sup> collectors and four<sup>w</sup> *mamlatdars*, it was noticed between October 2004 and October 2005 that 20 cinema houses were allowed to avail benefit of exemption, popularly known as service charge, though they had not paid tax within the prescribed time limit during 2003-04 and 2004-05. Further three multiplex cinemas though not eligible were also granted this exemption. Incorrect allowance of exemption resulted in irregular availment of service charge of Rs.20.64 lakh.

After this was pointed out between December 2004 and November 2005, the department accepted audit observations in 21 cases involving an amount of Rs.15.62 lakh and recovered an amount of Rs.5.21 lakh in 11 cases. Particulars of recovery and replies in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

#### **6.6 Non/short levy of entertainments tax and interest**

Under the GET Act and the Rules made thereunder, if payment of tax is delayed, simple interest at the rate of 24 *per cent* per annum is chargeable on the unpaid amount of tax for the period of delay.

During test check of records of two<sup>#</sup> collectors and *mamlatdar*, Patan, it was noticed between February and October 2005 that two cinema houses either did not pay or paid short the tax and two cinema houses paid the tax late with

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<sup>s</sup> Ahmedabad, Bhuj and Surat

<sup>w</sup> Halol, Kalol (PMs), Padra and Patan

<sup>#</sup> Bhuj and Vadodara

delays ranging from four to 231 days during 2003-04 and 2004-05. In case of other three cinema houses at Bhuj, tax was levied at incorrect rate. Failure on the part of the department to raise demands for tax and/or interest resulted in non/short levy of tax of Rs.13 lakh, including interest\*.

After this was pointed out between June and November 2005, the department accepted audit observations in four cases involving an amount of Rs.10 lakh and recovered an amount of Rs.6.36 lakh in two cases. Particulars of recovery and reply in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

## LUXURY TAX

### 6.7 Non/short levy of luxury tax/ interest

Under the Gujarat Taxes on Luxuries (Hotels and Lodging Houses) Act, 1977 and the Rules made thereunder, tax is leviable on full tariff of a room as declared by the proprietors of hotels irrespective of whether the room was let out free or at concessional rates. Where any proprietor fails to pay the amount of tax due within time and in the manner provided in the Act, he shall be liable to pay simple interest at the rate of two *per cent* per month or part thereof for the period for which tax remained unpaid.

During test check of records of two<sup>#</sup> Collectors (Luxury Tax), it was noticed between June and July 2005 that luxury tax including interest was not paid by four hotel owners during the period 2004-05 while in 13 cases interest was either not levied or levied short. This resulted in non/short levy of luxury tax and interest of Rs.8.95 lakh.

After this was pointed out in September 2005, the department accepted audit observations in six cases involving an amount of Rs.6.43 lakh and recovered an amount of Rs.4.26 lakh in four cases. Particulars of recovery and replies in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

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\* Interest calculated upto 31 March of audit period

# Ahmedabad and Vadodara.

## CHAPTER – VII

### NON TAX RECEIPTS

#### 7.1 Results of audit

Test check of records in the offices of the geologists and assistant geologists and Mining Department and Public Works Department in the State conducted during the year 2005-06 disclosed non/short recovery of receipts amounting to Rs.4.52 crore in 78 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non/short levy of royalty/interest	18	1.66
2	Non levy of interest on belated payment of royalty/ dead rent	07	1.15
3	Non/short levy of dead rent/surface rent	15	0.48
4	Procedural irregularities, defects/miscellaneous, other irregularities	38	1.23
	<b>Total</b>	<b>78</b>	<b>4.52</b>

During the year 2005-06, the department accepted and recovered an amount of Rs.19.77 lakh in nine cases pertaining to earlier years.

A few illustrative cases involving important audit observations involving Rs.13.33 crore are given in the following paragraphs.

#### Mining Receipts

#### 7.2 Non/short levy of royalty and dead rent

Under the Mines and Minerals (Regulation and Development) Act (MMDR Act), 1957, the Mineral Concession Rules (MC Rules), 1960 and the Gujarat Minor Mineral Rules (GMM Rules), 1966, a lessee is liable to pay in respect of each lease for major/minor mineral, dead rent or royalty, whichever is higher, at the prescribed rates. Procedure prescribed by the department in December 2000 required the lessee to pay royalty in advance. Default in payment attracts simple interest at the rate of 24 per cent per annum.

During test check of records of offices of 14\* geologists/assistant geologists, it was noticed between January and November 2005 that in 240 cases, the lease holders of lignite, limestone, black trap etc. removed the mineral but did not pay royalty/dead rent of Rs.8.37 crore for the period between 2001-02 and 2004-05. Removal of mineral without payment of royalty was in contravention of the provisions of the Act. The lessees were also liable to pay interest of Rs.1.72 crore. However the department neither raised demand of royalty for the mineral removed nor did it levy interest. This resulted in non/short levy of Government revenue of Rs.10.09 crore.

After this was pointed out between April and December 2005, the department accepted audit observations for Rs.10.09 crore and recovered Rs.7 crore in 66 cases. Particulars of recovery in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

\* Ahmedabad, Bharuch, Bhuj, Godhra, Himatnagar, Junagadh, Mehsana, Nadiad, Palanpur, Porbandar, Rajkot, Surat, Surendranagar and Vadodara.

### 7.3 Non levy of interest

The MC Rules and the GMM Rules provide that interest at the rate of 24 *per cent* per annum is to be charged on the unpaid amount for the period of delay. Royalty alongwith interest if not paid by the lessee, can be recovered as arrears of land revenue.

During test check of records of the offices of four<sup>#</sup> geologists/assistant geologists, it was noticed between January and November 2005 that in 15 cases royalty was paid after a delay ranging between three and 554 days. However, interest on belated payment of royalty was neither demanded nor paid during the years 2003-04 and 2004-05. Failure of departmental officials to raise demand of interest on delayed payment of royalty resulted in non levy of interest of Rs.3.05 crore.

After this was pointed out between April and December 2005, the department accepted audit observations in all cases and recovered Rs.1.22 crore in nine cases. Particulars of recovery in remaining cases have not been received.

This was brought to notice of Government in February 2006; reply has not been received (October 2006).

### Receipts of Public Works Department

#### 7.4 Short realisation of rent receipts due to non adherence to Government instructions

As per clause 40 of Government resolution dated 1 October 1998 of Roads and Building (R&B) Department, in the case of non residential buildings allotted to the institutions, schools, dispensaries, libraries and private parties, the Superintending Engineer incharge should increase the rent upto 200 *per cent* every five years in a phased manner i.e. 50 *per cent* in the first year and 37.50 *per cent* per year in the remaining four years.

During test check of rent records of three<sup>Y</sup> R&B divisions, it was noticed during August and September 2005 that 59 Government building premises were occupied by private parties. Of these in 49 cases, allotments were made between 1948 and 1955. The rent fixed at the time of allotment was, however, not enhanced at all. Non revision of rent resulted in short realisation of rent of Rs.19.03 lakh for the period from April 2000 to March 2005.

This was brought to notice of Government in April 2006; reply has not been received (October 2006).

#### 7.5 Non observance of procedure in crediting to Government account

As per para 15.4.1 of Central Public Works Accounts Code, deposits which have become due but remained unclaimed for three complete accounting years lapse to Government as revenue receipts.

During test check of records of 13<sup>Σ</sup> divisions it was noticed between August 2005 and January 2006 that an amount of Rs.34.22 crore was lying under

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<sup>#</sup> Amreli, Bhuj, Junagadh and Vadodara

<sup>Y</sup> City R&B Ahmedabad, City R&B Rajkot and City R&B Vadodara

<sup>Σ</sup> R&B Dn. Anand, Bhuj, Bhavnagar, Godhra, Himatnagar, Junagadh, Rajkot (Dist.), Surendranagar, Dn.-II Surat, Vadodara (City), Vadodara (Dist.), Valsad and N.H.Division Godhra.

deposits unclaimed for more than three years as on 31 March 2005. Division offices neither adhered to codal provisions nor followed Government instructions to get the deposits lapsed to revenue account after ascertaining the facts of the cases.

This was brought to notice of Government in April 2006. Government accepted audit observation in July 2006 and stated that in respect of three divisions an amount of Rs.15.12 lakh has been transferred to Government revenue account as lapsed deposits. Particulars in respect of remaining amount have not been received (October 2006).

**Ahmedabad**

**The:**

**(Niranjan Pant)**

**Principal Accountant General**

**(Commercial and Receipt Audit) Gujarat**

**Countersigned**

**New Delhi**

**The :**

**(Vijayendra N. Kaul)**

**Comptroller and Auditor General of India**