

PREFACE

This Report for the year ended 31 March 2007 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.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2006-07 as well as those noticed in earlier years but could not be covered in the previous years' reports.

OVERVIEW

This Report contains 29 paragraphs relating to non/short levy of tax, penalty, interest etc., involving Rs. 94.53 crore. Some of the major findings are mentioned below:

I. General

1.1 The total revenue receipts of the Government of Gujarat in 2006-07 were Rs. 31,002.22 crore as against Rs. 25,066.87 crore during 2005-06. The revenue raised by the State from tax receipts during 2006-07 was Rs. 18,464.63 crore and from non-tax receipts was Rs. 4,948.78 crore. State's share of divisible Union taxes and grants-in-aid from the Government of India were Rs. 4,425.95 crore and Rs. 3,162.86 crore respectively. Thus the revenue raised by the State Government was 76 *per cent* of the total revenue receipts. The main source of tax revenue during 2006-07 was sales tax (Rs. 10,886.21 crore) and taxes and duties on electricity (Rs. 2,087.77 crore). The main receipt under non-tax revenue was from non-ferrous mining and metallurgical industries (Rs. 2,173.76 crore).

(Paragraph 1.1)

The arrears of revenue aggregating Rs. 8,877.81 crore remained unrealised under some principal heads of revenue at the end of 2006-07. The arrears were mainly in respect of taxes on sales tax, electricity duty, entertainments tax and state excise.

(Paragraph 1.5)

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 2006-07 revealed underassessment, short levy and loss of revenue of Rs. 589.36 crore in 1,248 cases. During the year, the concerned departments accepted underassessments of Rs. 6.91 crore in 152 cases and recovered Rs. 2.32 crore in 81 cases pointed out during 2006-07 and the earlier years.

(Paragraph 1.9)

II. Sales Tax

Concession of Rs. 110.71 crore was allowed to 248 dealers without obtaining the required declarations/certificates as required under the Central Sales Tax Act, 1956.

(Paragraph 2.2.1)

Penalty of Rs. 15.98 crore was not levied on short payment of sales tax.

(Paragraph 2.3)

Application of incorrect rate of tax resulted in short levy of tax of Rs. 2.04 crore from the dealers.

(Paragraph 2.4)

III. Land Revenue

Non-insertion of condition in the Government land allotment orders by the collectors regarding levy of conversion tax and non-agricultural assessment resulted in non-realisation of Government revenue of Rs. 20.11 crore.

(Paragraph 3.2)

Correction of records of rights without registered deeds resulted in loss of revenue of Rs. 1.08 crore.

(Paragraph 3.3)

IV. Taxes on Vehicles

Recovery actions were not initiated for recovery of motor vehicles tax amounting to Rs. 8.68 crore from defaulters i.e. 538 contract carriages and 844 vehicles used for transport of goods.

(Paragraph 4.2)

V. Stamp Duty and Registration Fees and Other Tax Revenue

Short recovery of stamp duty of Rs. 3.07 crore due to acceptance of appeal applications barred by limitation of time.

(Paragraph 5.2)

Short levy of stamp duty of Rs. 1.79 crore on documents comprising distinct matters.

(Paragraph 5.4)

Short levy of stamp duty and registration fees of Rs. 1.71 crore due to misclassification of documents.

(Paragraph 5.5)

VI. Non-Tax Receipts

Failure to raise demand resulted in short levy of royalty, dead rent, etc. of Rs. 3.34 crore.

(Paragraph 6.2)

Police cost of Rs. 41.94 crore not recovered from other State Governments, Railways, local bodies, private bodies and other commercial institutions.

(Paragraph 6.3)

Short recovery of police charges of Rs. 23.57 crore from Railways and Commercial institutions on account of incorrect application of rates.

(Paragraph 6.4)

CHAPTER - I

GENERAL

1.1 Trend of revenue receipts

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

(Rupees in crore)

		2002-03	2003-04	2004-05	2005-06	2006-07
I	Revenue raised by the State Government					
	• Tax revenue	9,520.66	11,173.43	12,957.70	15,698.11	18,464.63
	• Non-tax revenue	3,995.58	3,271.96	3,090.50	3,353.37	4,948.78
	Total	13,516.24	14,445.39	16,048.20	19,051.48	23,413.41
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	1,363.22	1,965.48	2,219.30	3,372.43	4,425.95
	• Grants-in-aid	2,995.88	1,836.65	1,997.45	2,642.96	3,162.86
	Total	4,359.10	3,802.13	4,216.75	6,015.39	7,588.81
III	Total receipts of the State (I+II)	17,875.34	18,247.52	20,264.95¹	25,066.87	31,002.22
IV	Percentage of I to III	76	79	79	76	76

The above table indicates that during 2006-07, the revenue raised by the State Government was 76 per cent of the total revenue receipts (Rs. 31,002.22 crore). The balance 24 per cent of receipts during 2006-07 was from the Government of India.

¹ For details, please see statement No. 11: Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Gujarat for 2006-07. 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 the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of tax revenue raised by the State during the period from 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Heads of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1.	Sales tax	5,095.00	5,772.58	6,702.03	8,646.13	10,886.21	(+) 25.91
	Central sales tax	1,157.13	1,397.00	1,606.59	1,915.21	1,931.25	(+) 0.84
2.	State excise	47.11	46.25	47.09	48.06	41.94	(-) 12.73
3.	Stamp duty and registration fees	649.88	824.67	962.80	1,153.16	1,425.03	(+) 23.58
4.	Taxes and duties on electricity	1,383.84	1,592.19	1,829.07	1,899.68	2,087.77	(+) 9.90
5.	Taxes on vehicles	808.11	936.39	1,060.93	1,153.97	1,191.15	(+) 3.22
6.	Taxes on goods and passengers	11.09	171.79	160.11	156.30	5.96	(-) 96.19
7.	Other taxes on income and expenditure	95.64	99.41	132.91	119.32	131.07	(+) 9.85
8.	Other taxes and duties on commodities and services	177.67	206.36	221.29	226.05	265.54	(+) 17.47
9.	Land revenue	95.19	126.79	234.88	380.23	498.71	(+) 31.16
Total		9,520.66	11,173.43	12,957.70	15,698.11	18,464.63	(+) 17.62

The reasons for variations in receipts during 2006-07 from those of 2005-06 as reported by the departments are mentioned below:

Sales tax: The increase was due to the introduction of VAT from 1 April 2006. The prices of petroleum were raised on four occasions. This coupled with lower sale of private companies enjoying exemption resulted in significant growth of 48 *per cent* in revenue from the petroleum sector.

Stamp duty and registration fees: The increase (24 *per cent*) was due to increase in the number of documents registered during the year..

Land revenue: The increase was mainly due to more receipts under land revenue/tax receipts from management of ex-zamindari estates and receipts on account of survey and settlement operations.

Taxes on goods and passengers: The decrease was mainly due to non-receipt of passenger tax from the fleet owner i.e. Gujarat State Road Transport Corporation.

The other departments did not inform (November 2007) the reasons for variation despite being requested (July 2007).

1.1.3 The following table presents the details of non-tax revenue raised by the State during the period from 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Heads of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1.	Interest receipts	1,684.88	897.12	469.72	130.91	283.07	(+) 116.23
2.	Dairy development	0.20	0.34	0.45	0.45	0.48	(+) 6.66
3.	Other non-tax receipts	358.16	390.79	474.58	607.86	914.20	(+) 50.40
4.	Forestry and wild life	32.49	49.85	42.39	42.76	36.91	(-) 13.68
5.	Non-ferrous mining and metallurgical industries	1,072.83	1,342.34	1422.42	1,880.18	2,173.76	(+) 15.61
6.	Miscellaneous general services (including lottery receipts)	453.76	159.92	174.26	217.57	968.96	(+) 345.33
7.	Power	5.10	77.08	52.13	21.26	0.06	(-) 99.72
8.	Major and medium irrigation	267.23	202.78	207.09	248.62	330.61	(+) 32.98
9.	Medical and public health	39.02	41.60	48.87	53.83	66.68	(+) 23.87
10.	Co-operation	14.68	14.28	14.94	16.55	16.18	(-) 2.24
11.	Public works	11.72	18.53	30.92	26.99	30.64	(+) 13.52
12.	Police	36.03	41.43	48.85	71.28	90.66	(+) 27.19
13.	Other administrative services	19.48	35.90	103.88	35.11	36.57	(+) 4.16
Total		3,995.58	3,271.96	3,090.50	3,353.37	4,948.78	(+) 47.58

The reasons for variations in receipts during 2006-07 from those of 2005-06 as reported by the departments are mentioned below:

Interest receipts: The increase in the collection of interest was from the interest income on investments of cash balances that had been classified under debts and deposit account head earlier and was taken as interest income in this year.

Non-ferrous mining and metallurgical industries: The increase was due to receipt of more royalty on account of petroleum and gas.

Miscellaneous general services: The increase was due to receipt of Rs. 846 crore, debt relief given by the Department of Expenditure, Ministry of Finance, Government of India.

Major and medium irrigation: The increase was due to more receipts from Machhundari Irrigation, Hathmati Reservoir Project and Ukai Project on account of water charges.

Forestry and wild life: There was decrease in revenue from 'sale of timber and other forest produce'.

The other concerned departments did not inform (November 2007) the reasons for variation despite being requested (July 2007).

1.2 Variations between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2006-07 in respect of the principal heads of tax and non-tax revenue are as mentioned below:

(Rupees in crore)					
Sl. No.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or short fall (-)	Percentage of variation
Tax revenue					
1.	Sales tax	10,900.00	12,817.46	(+) 1,917.46	(+) 17.59
2.	Taxes and duties on electricity	2,000.00	2,087.77	(+) 87.77	(+) 4.39
3.	Stamp duty and registration fees	1,200.00	1,425.03	(+) 225.03	(+) 18.75
4.	Taxes on vehicles	1,200.00	1,191.15	(-) 8.85	(-) 0.74
5.	Taxes on goods and passengers	208.43	5.96	(-) 202.47	(-) 97.14
6.	Land revenue	250.00	498.71	(+) 248.71	(+) 99.48
7.	State excise	58.52	41.94	(-) 16.58	(-) 28.33
8.	Other taxes on income and expenditure	160.50	131.07	(-) 29.43	(-) 18.34
Non-tax revenue					
9.	Non-ferrous mining and metallurgical industries	1,745.00	2,173.76	(+) 428.76	(+) 24.57
10.	Interest receipts	169.95	283.07	(+) 113.12	(+) 66.56
11.	Major and medium irrigation	300.00	330.61	(+) 30.61	(+) 10.20

12.	Medical and public health	55.00	66.68	(+)11.68	(+) 21.24
13.	Forestry and wild life	60.00	36.91	(-) 23.09	(-) 38.48
14.	Education, sports, arts and culture	68.50	66.39	(-) 2.11	(-) 3.08
15.	Police	98.50	90.66	(-) 7.84	(-) 7.96
16.	Public works	45.00	30.64	(-) 14.36	(-) 31.91
17.	Miscellaneous general services	155.00	968.96	(+) 813.96	(+) 525.14

The reasons for the variations between budget estimates and actual receipts as reported by the concerned departments are mentioned below:

Sales tax: Introduction of VAT from 1 April 2006 coupled with the increase in the prices of petroleum products resulted in increase in collection over the estimates.

Stamp duty and registration fees: The increase was due to the increase in the numbers of documents registered.

Land revenue: The increase was mainly due to more receipts under land revenue/tax receipts from management of ex-zamindari estates and receipts on account of survey and settlement operation.

Taxes on goods and passengers: The decrease was mainly due to non-receipt of payment of passenger tax from the fleet owner i.e. Gujarat State Road Transport Corporation.

Interest receipts: The income on investments of cash balances that had been classified under debts and deposit account head earlier, was taken in the interest income this year.

Non-ferrous mining and metallurgical industries: The increase was due to receipt of more royalty on account of petroleum and gas.

Miscellaneous general services: The increase was due to receipt of Rs. 846 crore, debt relief given by Department of Expenditure, Ministry of Finance, Government of India.

Major and medium irrigation: The increase was due to more receipts from Machhundari Irrigation, Hathmati Reservoir Project and Ukai Project on account of water charges.

Forestry and wild life: There was decrease in revenue from 'sale of timber and other forest produce'.

The other concerned departments did not inform (November 2007) the reasons for variation, despite being requested (July 2007).

1.3 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 2004-05, 2005-06 and 2006-07 along with the relevant all India average percentage of expenditure on collection to gross collection for 2005-06 are mentioned below:

(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 2006-07
Sales tax	2004-05	8,308.62	65.11	0.78	0.91
	2005-06	10,561.34	74.83	0.71	
	2006-07	12,817.46	83.03	0.65	
Taxes on vehicles and taxes on goods and passengers	2004-05	1,221.04	24.49	2.0	2.67
	2005-06	1,310.27	31.90	2.44	
	2006-07	1,197.11	26.15	2.18	
Stamp duty and registration fees	2004-05	962.80	21.35	2.22	2.87
	2005-06	1,153.16	22.67	1.97	
	2006-07	1,425.03	25.02	1.76	
State excise	2004-05	47.09	4.53	9.62	3.40
	2005-06	48.06	5.09	10.59	
	2006-07	41.94	5.06	12.06	

Thus, the percentage of expenditure on collection under state excise was considerably higher than the all India average and the Government needs to look into this aspect.

1.4 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of sales tax, motor spirit tax, profession tax, entry tax and luxury tax for the year 2006-07 and the corresponding figures for the preceding two years as furnished by the departments are mentioned below:

(Rupees in crore)

Heads of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(6)	(7)	(8)
Sales tax	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
	2006-07	12463.47	397.57	630.76	12,230.28	102
Motor spirit tax	2004-05	1,475.64	-	-	1,475.64	100
	2005-06	2,282.67	-	-	2,282.67	100
	2006-07	587.18	-	-	587.18	100
Profession tax	2004-05	132.91	-	-	132.91	100
	2005-06	119.32	-	-	119.32	100
	2006-07	131.07	-	-	131.07	100

Entry tax	2004-05	52.61	-	-	52.61	100
	2005-06	2.67	-	-	2.67	100
	2006-07	112.06	-	-	112.06	100
Luxury tax	2004-05	32.99	-	-	32.99	100
	2005-06	-	-	-	-	100
	2006-07	-	-	-	-	-

Thus, the percentage of collection of revenue at pre-assessment stage ranged between 96 and 102 *per cent* under sales tax during the years 2004-05 to 2006-07 and was 100 *per cent* under the remaining heads of revenue.

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2007 in respect of some major principal heads of revenue amounted to Rs. 8,877.81 crore of which Rs. 2,544.63 crore was outstanding for more than five years as mentioned below:

(Rupees in crore)				
Sl. No.	Head of revenue	Amount outstanding as on 31 March 2007	Amount outstanding for more than 5 years as on 31 March 2007	Remarks
1.	Sales tax	8,352.53	2,025.82	Out of Rs. 8,352 crore, demand of Rs. 616.75 crore was covered by recovery certificate cases. Recovery of Rs. 3,662.42 crore was stayed by High Court and other judicial authorities. Recovery of Rs. 151.48 crore was held up due to dealers being insolvent. Rs. 708.97 crore was unlikely to be recovered and hence proposed to be written off and Rs. 3,212.91 crore was under various stages of recovery.
2.	Electricity duty	517.81	517.81	Out of Rs. 517.81 crore, recovery of Rs. 13.92 crore from Baroda Municipal Corporation are pending with Government. Rs. 3.11 crore could not be recovered as the cases are pending in BIFR, Delhi. Rs. 79 lakh are to be recovered under land revenue code. Recovery of Rs. 3.49 crore is pending with High Court of Gujarat. Rs. 445.52 crore is pending at various stages with the Government. Rs. 50.98 crore is to be recovered from GIPCL.
3.	Entertainments tax	7.44	0.97	Recovery of Rs. 1.4 crore was stayed by the High Court and other judicial authorities. Stage at which Rs. 6.04 crore was outstanding was not intimated.
4.	State excise	0.03	0.03	Pending in the High Court.
Total		8,877.81	2,544.63	

1.6 Arrears in assessments

The details of assessment cases pending at the beginning of the year 2006-07, cases becoming due for assessment during the year, cases disposed during the year and number of cases pending at the end of the year 2006-07 alongwith the figures for the preceding four years as furnished by the Sales Tax Department² are mentioned below :

(Rupees in crore)

Year	Opening balance as on 1 April	Additions during the year	Total (2+3)	Clearance during the year	Closing balance at the end of the year(4-5)	Percentage of column 6 to 4
1	2	3	4	5	6	7
2002-03	20,39,024	4,97,241	25,36,265	11,61,028	13,75,237	54
2003-04	13,75,237	1,77,285	15,52,522	7,16,847	8,35,675	54
2004-05	8,35,675	3,86,757	12,22,432	2,91,089	9,31,343	76
2005-06	9,31,343	4,58,817	13,90,160	7,07,451	6,82,709	49
2006-07	6,82,709	4,24,113	11,06,822	3,78,420	7,28,402	66

Thus, the percentage of closing balance at the end of each year during 2002-03 to 2006-07 to total cases becoming due for assessment ranged between 49 and 66 per cent.

1.7 Evasion of tax

The details of cases of evasion of tax detected by the Sales Tax, Motor Vehicle and Stamp Duty and Registration Fees departments, cases finalised and the demands for additional tax raised as reported by the departments are mentioned below:

Sl. No.	Heads of revenue	Cases pending as on 1 April 2006	Cases detected during 2006-07	Total	No. of cases in which assessments/ investigations completed and additional demand including penalty etc., raised		No. of cases pending on 31 March 2007
					No. of cases	Amount (Rupees in crore)	
1.	Sales tax	1,029	343	1,372	511	160.68	861
2.	Motor vehicle tax	70,131	27,524	97,655	25,334	2,215.15	72,321
3.	Stamp duty and registration fees	1,43,670	28,010	1,71,680	44,561	4,995	1,27,119

1.8 Refunds

The number of refund cases pending at the beginning of the year 2006-07, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2006-07, as reported by the Sales Tax Department are mentioned below:

² In respect of sales tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts

Sl. No.	Particulars	(Rupees in crore)	
		Sales tax	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year 2006-07	3,747	36.44
2.	Claims received during the year	1,593	874.81
3.	Refunds made during the year	1,299	713.00
4.	Balance outstanding at the end of the year	4,041	198.25

1.9 Results of audit

Test check of the 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 2006-07 revealed underassessment/short levy/loss of revenue amounting to Rs. 589.36 crore in 1,248 cases. During the year, the departments accepted underassessment of Rs. 6.91 crore in 152 cases and recovered Rs. 2.32 crore in 81 cases pointed out in 2006-07 and earlier years.

This report contains 29 paragraphs relating to non/ short/levy of taxes, duties, interest and penalties and other audit observations involving Rs. 94.53 crore. The departments/Governments accepted audit observations involving Rs. 23.84 crore of which Rs. 1.74 crore had been recovered. No replies have been received in respect of the remaining cases.

1.10 Failure to enforce accountability and protect interest of the Government

Principal Accountant General (Commercial and Receipt Audit) PAG (C&RA), Gujarat, arranges to conduct periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). When important irregularities 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 inspection reports 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 2006 and pending settlement by the departments as on 30 June 2007 along with the corresponding figures for the preceding two years is mentioned below:

Particulars	As at the end of		
	June 2005	June 2006	June 2007
Number of outstanding IRs	3,152	3,769	3,548
Number of outstanding audit observations	8,139	9,145	9,493
Amount of revenue involved (Rupees in crore)	2,375.52	3,127.96	3,447.39

IRs issued upto December 2006 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 9,493 observations relating to 3,548 IRs remained outstanding at the end of June 2007. Of these, 1,340 IRs containing 3,732 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 217 IRs issued during the year 2006-07. As a result, serious irregularities commented upon in these IRs had not been settled as of June 2007.

The department wise break up of IRs and audit observations pending as on 30 June 2007 is detailed in the Annexure-I.

1.11 Departmental audit committee meetings

In order to expedite the settlement of the outstanding audit observations contained in the IRs, the departmental audit committees are constituted in all the departments of Government. These committees are chaired by the 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 the 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 paragraphs settled during the year 2006-07 is mentioned below:

(Rupees in lakh)

Sl. No.	Name of the department	No. of audit committee meetings held	No. of IRs/paragraphs settled		Money value of paragraphs settled
			IRs	Paragraphs	
1.	Sales tax	3	2	54	27.23
2.	Entertainments tax	1	12	27	131.44
3.	Land revenue	1	6	10	0.92
4.	Stamp duty and registration fees	1	1	6	3.15
5.	Motor vehicle tax	-	-	-	-
6.	Geology and mining	-	-	-	-
7.	Luxury tax	1	3	31	27.01

1.12 Response of the departments to draft audit paragraphs

According to the hand book 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.

46 draft paragraphs proposed (clubbed into 29 paragraphs) for inclusion in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2007 (Revenue Receipts) were forwarded to the secretaries of the respective departments between February and April 2007 through demi-official letters. The secretaries of the respective departments sent replies to 14 draft paragraphs. These paragraphs have been included in this report after incorporating the response of the secretaries of the departments.

1.13 Follow-up on Audit Reports - summarised position

As per the instructions issued by the Finance Department on 12 March 1992, the administrative departments are required to submit explanatory notes on the 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 2003-04 and 2004-05 were presented to the State Legislature on 13 September 2005 and 6 March 2006 respectively and the AR for the year 2005-06 has not been presented. Stamp duty and registration department submitted nine explanatory notes for the year 2003-04 and six for 2004-05 .

1.14 Recovery of revenue relating to accepted cases

During the years between 2000-01 and 2005-06 the department/Government accepted audit observations involving Rs. 4,784.45 crore of which Rs. 52.54 crore had been recovered till 31 March 2007 as mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
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
2005-06	441.53	427.76	21.94
Total	4,784.45	1,012.30	52.54

CHAPTER – II

SALES TAX

2.1 Results of audit

Test check of the records of sales tax offices during the year 2006-07 disclosed underassessment of Rs. 461.40 crore in 536 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of interest and penalty	248	345.27
2.	Irregular concession/exemption	73	48.08
3.	Incorrect rate of tax and mistake in computation	38	36.89
4.	Irregular grant of set-off	92	18.90
5.	Other irregularities	85	12.26
Total		536	461.40

During the year 2006-07, the department has accepted underassessment of Rs. 6.17 crore in 125 cases and recovered Rs. 1.58 crore in 54 cases.

After the issue of the draft paragraphs, the department recovered Rs. 1.32 crore during 2006-07.

A few illustrative cases involving important audit observations involving Rs. 27.86 crore are discussed in the following paragraphs:

2.2 Non/short levy of central sales tax

Under the Central Sales Tax 1956 (CST Act), tax leviable on inter-state sale of goods shall be at the rate of 10 *per cent* or at the rate applicable for the sale or purchase of such goods inside the State whichever is higher. In the case of declared goods, tax is to be calculated at twice the rate applicable to the sale of such goods inside the State. However, in case of inter-state sale supported by declaration in form C, tax leviable shall be at the rate of four *per cent* or the rate applicable to the sale or purchase of such goods inside the State whichever is lower.

2.2.1 The Commissioner issued a circular (February 2006) for saral assessment without ensuring collection of declaration forms from the dealers. This resulted in the assessments being carried without the collection of required declaration under the CST Act and probable loss of revenue on account of such concessions. Test check of 248 dealers in 19² offices revealed that inter-state sales amounting to Rs. 1,272.63 crore were granted concessions without required declaration involving tax implication of Rs. 110.71 crore.

The matter was referred to the department and the Government in February 2007; their reply has not been received (November 2007).

2.2.2 Test check of the assessment records of 13 dealers for the period 2001-02 to 2004-05 in nine³ offices assessed during 2004 to 2006 revealed that the AOs allowed the concessions without submission of declarations resulting in short levy of tax of Rs. 2.57 crore including interest of Rs. 47.52 lakh and penalty of Rs. 77.21 lakh.

The department and the Government accepted (April 2007) the audit observations involving Rs. 10.39 lakh in the cases of five dealers and recovered Rs. 54,000 in case of one dealer. A report on recovery and reply in the remaining cases have not been received (November 2007).

2.2.3 It has been judicially held⁴ that PP/HDPE⁵ fabrics will be classified as plastic instead of textile material for the purpose of levy of central excise duty. Assessment manual of Sales Tax Department provides that if any entry in the schedule to the Act is linked with the Central Excise Act, any amendment made in the Central Excise Act shall have the effect on the entry under the Sales Tax Act as well. The earlier determination order passed by the Commissioner on the subject was not withdrawn/revised in view of the judicial pronouncement. Therefore, the assessments continued treating the HDPE fabrics as textile material (an exempted goods) though tax was leviable at the rate of eight *per cent* treating it as 'plastic'.

² ACST: 7 Ahmedabad, 2 Surendranagar, 2 Anand, Unja, 1 Nadiad, Patan, 13 Ahmedabad, Gondal, 1 Ahmedabad, Amreli, 19 Ahmedabad, 3 Surat, 3 Vadodara, 7 Vadodara, 1 Rajkot
DCCT: Corporate cell 1 Ahmedabad, 17 Ahmedabad, 6 Ahmedabad
STO: Dahod

³ ACST: Billimora, 1 Ahmedabad, Vijapur, 3 Vadodara and 7 Vadodara,
DCST: 3 Ahmedabad, 14 Bharuch, 11 Vadodara and Petro 1, Ahmedabad

⁴ Raj Packwell case (January 2000)

⁵ Poly propylene/High density poly ethylene

Test check of the records of 10⁶ offices revealed that in the assessment of 14 dealers for the periods 2000-01 and 2004-05 assessed during 2004 to 2006, the AOs allowed the HDPE fabrics as exempted item resulting in non-realisation of revenue of Rs. 1.54 crore.

The matter was referred to the department and the Government in March 2007; their reply has not been received (November 2007).

2.3 Short levy of penalty

Section 45(6) of the Act prescribes levy of penalty if the tax deposited by the dealer along with the returns is less than the assessed tax by more than 25 *per cent*. The penalty leviable shall not exceed one and one half times of the difference. Further, the Commissioner prescribed (3 June 1992) different slab rates for different percentages of default.

Test check of the records of 15⁷ offices revealed that in the assessment of 24 dealers for the period from 1998-99 to 2003-04 assessed during March 2003 to March 2006 the AOs did not levy penalty of Rs. 15.98 crore.

The department and the Government accepted (April 2007) the audit observations involving Rs. 6.01 crore in case of 12 dealers and recovered Rs. 1.58 lakh from three dealers. A report on recovery and reply in the remaining cases have not been received (November 2007).

2.4 Application of incorrect rate of tax

The schedules attached to the GST Act prescribe the rates of tax applicable to different category of goods. Any good not mentioned in the entries contained in the schedules I and II to the Act is chargeable to tax as a residuary entry.

Test check of the records of three⁸ offices revealed that the AOs while finalising the assessment of four dealers, for the period between 1996-97 and 2001-02 during 2005-06, levied tax at incorrect rates on the sales of Rs. 53.43 crore of plant and machinery, alcohol, urea and aluminum casting. This resulted a short levy of tax of Rs. 2.04 crore including interest of Rs. 71.32 lakh and penalty of Rs. 41.54 lakh.

The department and the Government accepted (April 2007) the audit observations involving Rs. 1.12 crore in cases of two dealers. A report on recovery and reply in the remaining cases have not been received (November 2007).

2.5 Short levy of interest

The GST Act provides for charging of interest at the rate of 18 *per cent* if the payment of sales tax is delayed beyond the prescribed period. The Gujarat

⁶ DCST: 1 Ahmedabad, 23 Rajkot, 17 Surat.

ACST: 1, 6 and 17 Ahmedabad, Godhra, 1 Rajkot, 7 Vadodara and 2 Vapi

⁷ DCST: 3 and 6 Ahmedabad, 14 Bharuch, 21 Junagadh, 23 Rajkot and 10 Vadodara
ACST: 6 and 19 Ahmedabad, Modasa, Morbi, 3 Surat, 3 Vadodara, 7 Vadodara and 2 Vapi
DC corporate cell-1, Ahmedabad

⁸ Ahmedabad, Godhra and Vadodara

Motor Spirit Cess Act, 2001 prescribes for levy of interest at the rate of 24 *per cent* for the period of delay in payment of cess.

Test check of the records of eight⁹ offices revealed non/short levy of interest of Rs. 1.89 crore for belated payment of tax in the assessment of 15 dealers for the period 1999-2000 to 2003-04 assessed during 2004 to 2006.

The department and the Government accepted (April 2007) the audit observations involving Rs. 23.13 lakh in cases of six dealers. A report on recovery and reply in the remaining cases have not been received (November 2007).

2.6 Incorrect grant of benefits under sales tax incentive schemes

Under the sales tax incentive scheme 1990-95 and 1995-2000, eligible industrial units were allowed to purchase raw material, processing material, consumable stores and packing material against declaration on payment of purchase tax at the rate of 0.25 *per cent* only and the remaining tax applicable was to be charged against the incentive granted by the Government. Similarly, tax leviable on the sale of manufactured goods specified in the eligibility certificate was also permitted for adjustment. Section 50 further provides that in the event of breach of conditions of declaration, purchase tax so adjusted shall be recovered with interest and penalty.

2.6.1 Test check of the records of four¹⁰ offices revealed short adjustment of Rs. 1.12 crore against exemption limit of six dealers for the period 2000-01 and 2003-04 assessed during 2004-05 due to application of incorrect rates.

In another case at unit 6, Ahmedabad, the assessing officer (AO) allowed in November 2006 tax adjustment of Rs. 24.47 lakh to a dealer on the items not mentioned in the eligibility certificate for the period of 2000-01. The irregular adjustment resulted in short levy of Rs. 52.36 lakh including interest of Rs. 13.21 lakh and penalty of Rs. 14.68 lakh.

The department and the Government accepted (April and May 2007) audit observations of Rs. 8.18 lakh in case of four dealers. Report on recovery and reply in respect of three dealers have not been received (November 2007.)

2.6.2 Under sales tax incentive schemes, upto 2 March 2001, the additional tax (AT) on purchase and sales tax was to be paid in cash by the dealers holding exemption certificate. Adjustment of AT was not permissible against the deferred tax credit. Interest and penalty are also leviable under the GST Act.

Test check of the assessment records of 11 dealers in six¹¹ offices for the period 2000-01 and 2002-03 assessed during 2004-05 revealed that in case of six dealers Rs. 4.37 lakh required to be recovered in cash was incorrectly adjusted against the exemption limit. Tax of Rs. 5.90 lakh was levied short in

⁹ DCST: 2 Ahmedabad and 14 Bharuch
ACST: 6 and 19 Ahmedabad and Dhangadhra, Flying squad, Ahmedabad
DCST: Petro 1 Ahmedabad, Corporate Cell-1, Ahmedabad

¹⁰ ACST: 2 Vapi and 7 Vadodara
DCST: Vapi
STO: Idar

¹¹ ACCT: 6 Ahmedabad, 1 Bhavnagar, Dhangadhra, Veraval, 7 Vadodara and 2 Vapi

case of four dealers and adjustment of Rs. 56,000 was wrongly allowed against deferred tax credit. Besides, interest and penalty of Rs. 11.31 lakh was also leviable for the lapse.

The department and the Government accepted (April 2007) audit observations and recovered Rs. 1.98 lakh from four dealers. A report on recovery in the remaining cases has not been received (November 2007).

2.6.3 Sales tax incentive schemes issued under the GST Act stipulate that a beneficiary unit should remain in production during the currency of its eligibility period mentioned in the exemption/deferment certificate. If the unit failed to continue its production during the prescribed period, it was required to refund the entire amount of incentives availed by it within a period of 60 days of such default. Interest and penalty are also leviable under the Act. In case of non-payment, the dues can be recovered as arrears of land revenue.

2.6.3.1 Test check of the records of ACST-I, Nadiad, revealed that a dealer after availing of exemption of Rs. 9.31 lakh during 1996-97 and 1997-98 discontinued production from April 1999 during the currency of the eligibility period. The amount of exemption availed by the dealer was required to be recovered from him. However, the ACST-I, Nadiad did not initiate any action for cancellation of the exemption certificate and recovery of the dues. This resulted in non-realisation of tax of Rs. 9.31 lakh. Besides interest and penalty was also leviable.

2.6.3.2 Test check of the records of ACST, Dhrangadhra, revealed that a dealer holding sales tax deferment certificate discontinued production of its unit in 2002-03. The certificate of deferment was cancelled by the department. The ACST Dhrangadhra, while finalising the assessment for the period 2000-01 & 2001-02 in 2005-06 omitted to levy interest and penalty of Rs. 26.60 lakh resulting in non-realisation of revenue to that extent.

The above cases were reported to the department in August 2006 and the Government in January 2007. The department and the Government accepted the audit observation (April 2007) in one case of Nadiad. A report on recovery and reply in the remaining case has not been received (November 2007).

2.6.4 The incentive schemes provide that a unit eligible for exemption should make the sales within the state of Gujarat. In the event of transfer of the manufactured goods to its branch or on consignment outside the State, aggregate amount computed at the rate of four *per cent* or the rate of sales tax applicable to the goods, whichever is lower, on the goods so transferred is to be adjusted against the tax incentive limit.

During test check of the records of DCST-14, Bharuch, audit observed that two dealers transferred manufactured goods valued as Rs. 1.99 crore to the branches outside the State during 2001-02. The DCST did not levy and adjust the tax of Rs. 7.46 lakh against the tax incentive limit in the assessment completed in 2005-06.

The department and the Government accepted the audit observations (April 2007). A report on recovery has not been received (November 2007).

2.7 Incorrect computation of set off

Rule 44 of the GST Rules prescribed that an AO may reduce the amount set off by invoking section 47(4), if he is satisfied that the average price of similar goods sold by the manufacturers or importers differs by more than 10 *per cent*.

Test check of the records of the ACST-20, Ahmedabad revealed that two dealers engaged in the resale of lignite sold it at a price lower by 15 *per cent* than the purchase price during 2001-02 and 2002-03. The AOs incorrectly allowed set off of Rs. 68.38 lakh while finalising the assessments in July 2004 and December 2004. This resulted in non-realisation of revenue of Rs. 68.38 lakh.

After the cases were pointed out in March 2007, the department accepted (November 2007) the audit observations and initiated action for recovery.

2.8 Short levy of tax due to computation error

Test check of the records of two¹² offices revealed that the AOs made mistakes in computation of tax and penalty in the assessment of two dealers for the period 1991-92 and 2000-01 assessed during 2005-06. This resulted in short levy of tax of Rs. 8.05 lakh in one case and penalty of Rs. 17.36 lakh in another case.

The department and the Government accepted (April 2007) the audit observations involving Rs. 17.36 lakh in one case. A report on recovery and reply in the other case has not been received (November 2007).

2.9 Non-levy of tax due to incorrect classification of goods

As per entry 86 of schedule I, sugar is exempted from the levy of sales tax provided additional excise duty is levied on it under the Central Excise Tariff Act. *Saakar*, *batasha* are classified as sweets instead of sugar and do not attract additional excise duty. Hence, sales of these items are chargeable to sales tax at the rate of six *per cent*.

Test check of the records of two¹³ offices revealed that the AOs while finalising, in 2004-05, the assessment of two dealers for the period 2002-03 exempted sales of *saakar* and *batasha* valued as Rs. 1.56 crore from the levy of sales tax treating it as sugar - a tax free item. This resulted in non-levy of tax of Rs. 21.48 lakh including interest of Rs. 2.52 lakh and penalty of Rs. 8.74 lakh.

The department and the Government accepted (April 2007) the audit observations. A report on recovery has not been received (November 2007).

2.10 Non-levy of purchase tax

Under Section 15B of the GST Act, where a dealer purchases goods and uses them as raw material, processing material or as consumable stores in the manufacture of taxable goods, purchase tax at the prescribed rate is leviable. Purchase tax so levied is admissible as set off provided the goods manufactured are sold by the dealer in the State of Gujarat. The High Court of

¹² Jt. Commissioner, Flying Squad, Ahmedabad and DCCT, Petro-2, Ahmedabad

¹³ ACCT: 1 Rajkot and 2 Surat

Gujarat¹⁴ held that a dealer is liable to pay purchase tax even on the goods purchased from exemption certificate holders (under incentive scheme) as such items are taxable otherwise.

Test check of the records of eight¹⁵ offices revealed that nine dealers purchased raw materials valued as Rs. 8.41 crore during 1995-96 and 2002-03 from sales tax exemption certificate holders. The raw material valued as Rs. 3.15 crore was used in the manufacture of goods for consignment sales outside the state of Gujarat. This consumption of raw material was not charged to purchase tax in the assessments made during December 2005 to October 2006. This resulted in short levy of purchase tax of Rs. 14.25 lakh including interest of Rs. 4.24 lakh and penalty of Rs. 1.98 lakh.

The department accepted (April 2007) the audit observation in case of four dealers involving Rs. 9.56 lakh. A report on recovery and reply in the remaining cases have not been received (November 2007).

The matter was referred to the Government (February 2007); their reply has not been received (November 2007).

2.11 Irregular/excess grant of set off

The GST rules prescribe that a dealer may claim set off of purchase tax paid on the purchases of the raw material, processing material and consumable stores if it is used in the manufacture of taxable goods.

Test check of the records of four¹⁶ offices revealed that excess set off of Rs. 10.45 lakh including interest of Rs. 3.34 lakh and penalty of Rs. 29,000 was allowed in the assessment of five dealers for the period 1997-98 to 2001-02 assessed during 2004-05 as mentioned below:

(Rupees in lakh)			
Sl. No.	Nature of irregularity	Dealers (Number)	Excess set off
1.	Set off was to be disallowed proportionately on raw material used in the manufacture of stainless steel valve components as it did not fall under the same entry of the raw material, as provided in the rules.	1	1.33
2.	Excess set off of Rs. 3.59 lakh on aluminum chloride was allowed due to incorrect purchase value and Rs. 2.29 lakh due to application of incorrect rate of tax on purchase of diesel engines.	2	5.88
3.	Set off was allowed at higher rate of 13.2 per cent instead of applicable rate of 4.4 per cent on purchase of poly propylene granules.	1	1.65
4.	Set off was allowed on non-admissible item i.e. CI castings.	1	1.59
Total		5	10.45

¹⁴ M/s. Madhu Silica (85 STC 258) dated 28 February 1991

¹⁵ DCST-11 Vadodara, ACST- Gondal, 1 Jamnagar, II Rajkot, 9 Surat, 2 Vapi, 3 and 7 Vadodara

¹⁶ ACST: 19 Ahmedabad, Gondal, 2 Junagadh and 2 Vadodara

The department and the Government accepted (April 2007) the audit observations involving Rs. 6.58 lakh in cases of three dealers and recovered Rs. 3.59 lakh from one dealer. A report on recovery and reply in the remaining cases have not been received (November 2007).

2.12 Short levy of interest on purchase tax

Section 18(2) of the Gujarat Purchase Tax on Sugarcane Act, 1989 provides levy of interest at the rate of two *per cent* per month if the dealer fails to pay the amount of tax as per the return within one month to which the return relates.

Test check of the records of ACST, Veraval revealed that in the assessment of a dealer for the period October 1995 to September 1996 finalised in March 2005, instead of interest of Rs. 14.60 lakh leviable for belated payment of tax, the AO levied Rs. 5.21 lakh only which was paid by the dealer. This resulted in short levy of interest of Rs. 9.39 lakh.

The department and the Government accepted (April 2001) the audit observation. A report on recovery has been received (November 2007).

2.13 Non/short levy of turnover tax

The GST Act provides for levy of turnover tax if the total turnover of sales of a dealer exceeds Rs. 50 lakh in a particular year. It includes the sales made by all the branches of the dealer in the State and the tax will be payable on the aggregate turnover.

Test check of the records of seven¹⁷ offices revealed that in the assessment of seven dealers for the periods between 1993-94 and 1996-97 assessed in November 2001 and March 2006, turnover tax amounting to Rs. 6.69 lakh on the turnover of sales of Rs. 25.02 crore was not/short levied. Besides, interest of Rs. 1.09 lakh and penalty of Rs. 49,000 were also leviable.

The department and the Government accepted (April 2007) the audit observations involving Rs. 8.04 lakh in cases of six dealers and recovered Rs. 1.32 lakh from three dealers. A report on recovery and reply in the remaining case has not been received (November 2007).

¹⁷ DCST: 18 Valsad
ACST: 13 Ahmedabad, Ankleshwar, Bharuch, Billimora, Gondal and 2 Vapi

CHAPTER – III

LAND REVENUE

3.1 Results of audit

Test check of the assessment records in the offices of District Collectors, District Development Officers (DDO) and Taluka Development Officers (TDO) conducted during 2006-07 disclosed short recoveries amounting to Rs. 32.33 crore in 160 cases. These cases fall under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short recovery of conversion tax	37	23.82
2.	Non/short recovery of NAA	33	3.38
3.	Non/short recovery of occupancy price/ premium price/interest	6	0.51
4.	Other irregularities	84	4.62
Total		160	32.33

During the year 2006-07, the department accepted and recovered underassessment of Rs. 19.45 lakh in 20 cases.

A few illustrative cases involving Rs. 22.11 crore are mentioned in the following paragraphs:

3.2 Non-levy of conversion tax and non-agricultural assessment on allotment of unoccupied Government land for non-agriculture purpose

Section 67A of the Land Revenue Code, 1879 provides that if any land situated in agricultural zone is converted for non-agricultural purposes, conversion tax shall be paid at the rate specified by the Government. Under Section 45 of the Code, non-agricultural assessment (NAA) is payable at the prescribed rate on all non-agricultural lands unless specifically exempted from payment. The Government instructed the Collectors (May 1996) to insert conditions in their allotment letters that the allottee would obtain permission for non-agricultural use from the competent authority and pay the conversion tax and NAA.

Test audit of the allotment orders issued between January 2002 and June 2006 in five²⁹ districts revealed that in 76 cases the collectors issued allotment orders to 37 companies, corporations, institutions, special economic zone (SEZ) and individuals involving 3.19 crore sq mtrs of Government land, without inserting the prescribed condition and without levy of conversion tax of Rs. 19.64 crore. In 42 of these cases checked by audit, NAA of Rs. 47.40 lakh was not levied.

After the cases were pointed out, the Collectors of Bhavnagar and Rajkot stated (November 2006) that they would issue revised orders in 10 and 11 cases respectively. The Collector, Jamnagar (28 cases) stated (December 2006) that there was no provision in the Code to levy conversion tax on the Government land, which is a stand contrary to the cited Government instructions of May 1996. In the remaining 27 cases replies have not been received (October 2007).

The matter was reported to the Government (June 2007); their reply has not been received.

3.3 Loss of revenue due to acceptance of unregistered documents for correction of records of rights and finalisation of NAA

Section 33 of the Bombay Stamp Act, 1958, as adapted by the Government of Gujarat, casts duty on the public officers to impound documents coming in their possession not duly stamped. Further, the Government also issued instruction in December 1979 that mutation entries be certified only on the basis of registered documents.

Test check of the records of three³⁰ Collectors (LR), seven³¹ DDOs, three³² Mamlatdar offices, three³³ TDOs and Dy. Collector (NA) Ahmedabad revealed that creation of charge worth Rs. 14 crore in 15 cases was recorded in the village records of rights in favour of financial institutions and banks during 2002-03 to 2004-05 based on unregistered documents. Further, in 23 cases, the concerned officers while according permission for use of land for non-agricultural purposes, did not impound the unregistered irrevocable powers of attorney of properties valued as Rs. 9.28 crore produced by the parties before

²⁹ Bhavnagar, Bhuj, Jamnagar, Rajkot and Surat

³⁰ Gandhinagar, Vadodara and Valsad

³¹ Bhavnagar, Gandhinagar, Himatnagar, Mehsana, Navsari, Rajkot and Vadodara

³² Bavala, Mehsana and Vadodara

³³ Kadi, Mansa and Visnagar

them. This resulted in non-realisation of stamp duty and registration fees amounting to Rs. 1.08 crore.

The above lapses were brought to the notice of the department (June 2006) and of the Government (January 2007); their replies have not been received (October 2007).

3.4 Non/short levy of conversion tax

Conversion tax at the prescribed rates is payable for conversion of use of land from agricultural to non-agricultural purpose. Different rates of conversion tax are prescribed for residential/charitable and other purposes. The conversion tax shall be paid in advance.

Test check of the records of two³⁴ Collectors (LR), two³⁵ DDOs, nine³⁶ TDOs and City Mamlatdar (LR) Vadodara revealed that in 37 cases relating to the period 2002-03 to 2005-06, conversion tax of Rs. 57.08 lakh was either not levied or levied at incorrect rate on conversion of 8.55 lakh sq mtrs land.

After the cases were pointed out in June 2007, the department accepted audit observations for Rs. 5.42 lakh in 20 cases and recovered Rs. 2.40 lakh in 16 cases. Report of recoveries in four accepted cases and replies in the remaining 17 cases have not been received.

This was brought to notice of the Government (January 2007); their reply has not been received (October 2007).

3.5 Non/short recovery of non-agricultural assessment

NAA is leviable on land used for non-agricultural purposes at the rates prescribed by the Government. The rates of NAA were revised from August 2003 under two categories of use i.e. residential/charitable and others. The charitable purpose was explained as the use of land to run dispensary without profit motive, *gaushala*, *panjrapole* and *ashram* for old age persons.

Test check of the records of the Collector (LR) Jamnagar, two DDOs, five TDOs and City Mamlatdar (LR) Vadodara revealed that in 17 cases, land measuring 16.58 lakh sq mtrs was used for non-agricultural purposes during the period 2001-02 to 2004-05 by semi-government bodies, industrial units and individuals. However, the concerned officers either did not levy NAA or levied it at incorrect rates resulting in short recovery of Rs. 23.06 lakh as mentioned below:

³⁴ Godhra and Navsari

³⁵ Gandhinagar and Vadodara

³⁶ Borsad, Kalol(NG), Lunawada, Mansa, Petlad, Prantij, Savarkundala, Vansada and Visnagar

Sl. No.	Taluka	Period	Land Area (lakh sq mtr) No. of cases	Amount (Rupees in lakh)	Nature of irregularity
1.	Anand, Borsad, Gandhinagar, Kalol (NG) and Petlad	2002-03 to 2004-05	<u>11.95</u> 6	17.27	NAA was not levied on land allotted to two companies for laying pipe line for transportation of natural gas.
2.	Vadodara	2003-04 to 2004-05	<u>1.61</u> 1	2.83	Gujrat Electricity Board used the land for commercial purpose. However, NAA was levied at the rate applicable to residential use.
3.	Gandhinagar and Vadodara	2003-04 to 2004-05	<u>2.93</u> 6	2.19	NAA on land used for educational purpose by charitable trusts was charged at the rate applicable to charitable purpose.
4.	Jamnagar	2002-03 to 2004-05	<u>1.70</u> 4	0.77	NAA is to be levied from the date of use of the land for non-agricultural purpose and not from the date of permission. Contrary to that, in four cases of land, the NAA was levied from the date of permission only.

The above lapses were brought to the notice of the department (June 2006) and the Government (January 2007); their replies have not been received (October 2007).

3.6 Non-levy of occupancy price

The Government decided (August 2001) to grant unoccupied government land not exceeding 1,000 sq mtrs to Gujarat Telecom Circle at the concessional rate of Rs. 25 per sq mtrs for setting up a telephone exchange. This concession is applicable to the land situated in villages with population less than 10,000 as per the 1991 census and allotted with effect from 15 January 2000.

Test check of the records of the Collector, Vadodara disclosed that in 43 cases the demand for occupancy price of Rs. 6.37 lakh in respect of 1,07,061 sq mtrs of land allotted to the Telecom Circle, Vadodara in March 2000 was not raised. This resulted in non-realisation of the Government dues of Rs. 6.37 lakh.

After the cases were pointed out, the Collector raised the demand in March 2006. Particulars of recovery have not been received.

The matter was reported to the Government (June 2007); their reply has not been received (October 2007).

3.7 Short levy of penalty

The Land Revenue Code prescribes that agricultural land cannot be used for non-agricultural purposes without the prior permission of the Collector. In case of contravention of the provisions, penalty is leviable upto 40 times of the applicable NAA.

Test check of the records of the DDO Vadodara in one case revealed that agricultural land measuring 1.07 lakh sq mtrs situated at village Piparia was used unauthorisedly for educational purpose. While regularising the use of land in January 2005, penalty was levied at the rate applicable to charitable purpose instead of educational purpose resulting in short levy of Rs. 6.42 lakh.

The above facts were brought to the notice of the department in June 2005 and of the Government in January 2007; their replies have not been received (October 2007).

CHAPTER – IV

TAXES ON VEHICLES

4.1 Results of audit

Test check of the records of the office of Commissioner of Transport and regional transport offices (RTOs) conducted during the year 2006-07 disclosed short levy of Rs. 13.22 crore in 146 cases. These cases broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Short levy of motor vehicles tax	63	9.77
2.	Other irregularities	83	3.45
Total		146	13.22

During the year 2006-07, the department accepted and recovered underassessment of Rs. 52.11 lakh in two cases.

A few illustrative cases involving Rs. 8.95 crore are mentioned in the following paragraphs:

4.2 Non-levy of motor vehicle tax

The Bombay Motor Vehicles Tax Act, 1958 (BMVT Act) (as adapted by the State of Gujarat) prescribes that contract carriage and goods carriage vehicles shall pay assessed tax on monthly and half yearly basis respectively except for the period the vehicles are not in use. In case of delay in payment, interest at the rate of two *per cent* per month and if the delay exceeds one month, a penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable.

Test check of the records of 19³⁷ RTOs revealed that the owners of 538 contract carriages (omnibuses) and 844 vehicles used for transport of goods had neither paid the tax nor filed non-use declarations for various periods during 2001-02 to 2005-06. The amount of unpaid tax was Rs. 6.83 crore. Interest of Rs. 96 lakh and penalty of Rs. 89 lakh was also chargeable.

After the cases were pointed out, the department accepted audit observations in 1,288 cases involving Rs. 8.27 crore and recovered Rs. 66.77 lakh in 326 cases. Recoveries and replies in the remaining cases have not been received.

This was brought to notice of the Government (January 2007); their reply has not been received (October 2007).

4.3 Non-levy of service charges

Rule 117 C of the Gujarat Land Revenue Rules, 1972 provides for recovery of service charge at the rate of five *per cent* of the amount recovered as arrears of land revenue.

Test check of the records of nine³⁸ RTOs revealed that Mamlatdar (Recovery) had realised tax arrears of Rs. 5.39 crore in 2,385 cases during the period 2001-02 to 2005-06 as arrears of land revenue from the defaulters. The concerned officer did not levy service charge resulting in loss of revenue of Rs. 26.97 lakh.

After the cases were pointed out, the department accepted the audit observations in 59 cases and recovered Rs. 36,000. Reply in the remaining cases has not been received (October 2007).

This was brought to notice of the Government (January 2007); their reply has not been received (October 2007).

³⁷ Ahmedabad, Amreli, Anand, Bardoli, Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhra, Himatnagar, Jamnagar, Junagadh, Nadiad, Navsari, Surat, Surendranagar, Vadodara and Valsad.

³⁸ Ahmedabad, Bardoli, Bharuch, Bhuj, Himatnagar, Nadiad, Surat, Vadodara and Valsad.

CHAPTER - V

STAMP DUTY AND REGISTRATION FEES & OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records in the field offices of the Inspector General of Registration in the State and other various departmental offices during 2006-07 disclosed short realisation of stamp duty and registration fees amounting to Rs. 55.45 crore in 327 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
A. STAMP DUTY & REGISTRATION FEES			
1.	Misclassification of documents	79	40.11
2.	Irregular acceptance of time barred cases resulting in postponement of realisation of duty	11	0.74
3.	Incorrect grant of exemption	6	0.45
4.	Underassessment of stamp duty on instrument of mortgage deeds	13	0.43
5.	Undervaluation of property	13	0.16
6.	Other irregularities	107	8.34
	Total	229	50.23
B. OTHER TAX RECEIPTS			
1.	Electricity duty	15	4.59
2.	Entertainments tax	69	0.53
3.	Luxury tax	14	0.10
	Total	98	5.22
	Grand total	327	55.45

During the year 2006-07, the concerned department accepted and recovered Rs. 2.83 lakh in five cases.

A few illustrative cases involving Rs. 8.66 crore are mentioned in the following paragraphs:

5.2 Short recovery of stamp duty due to acceptance of appeal applications barred by limitation of time

Under section 32-B of the Bombay Stamp Act (BS Act), 1958, as applicable to Gujarat, any person aggrieved by an order passed under Section 31 or 32-A, determining the market value, may file an appeal application with the Chief Controlling Revenue Authority (CCRA) through the Collector within the period prescribed from the date of the order. Section 53 (1)(a) of the BS Act further provides that CCRA shall not entertain an appeal application presented after the period of 60 days (upto 10 June 2004) or 90 days (from 11 June 2004) from the date of order of the Collector.

Test check of the records of 11³⁹ Deputy Collectors (VOP^s) between November 2005 and August 2006 revealed that the aggrieved parties had filed 220 appeals between October 2001 and March 2006 against the market value determined by the Collectors. Appeal applications were submitted after the expiry of the prescribed period. Deputy Collectors accepted the time barred applications and referred these to the CCRA during April 2004 to March 2006. All the cases are yet (August 2007) to be finally decided by the CCRA. Acceptance of time barred applications by the Deputy Collectors (VOP) contrary to the provisions of the Act resulted in short recovery of stamp duty of Rs. 3.07 crore.

After the cases were pointed out by audit, the Deputy Collectors in 169 cases stated that the CCRA had the powers to condone delay, and hence the applications were accepted. The reply is not tenable as the BS Act does not authorise the CCRA to condone delay for any reason.

The matter was reported to the Government (May 2007); their reply has not been received.

5.3 Non-levy of stamp duty and registration fees on allotment of unoccupied Government land

Section 3aa of the BS Act, provides for levy of stamp duty on transfer of Government land to its allottees with effect from 1 April 2002. It further stipulated that the collectors of the districts would ensure the recovery of the stamp duty from the allottees before handing over the possession of the land.

Test check of the records in four districts⁴⁰ revealed that Government land was transferred to 78 allottees during 2004-05 and 2005-06. Neither did the allottees make any payment on account of stamp duty nor did the collectors ask for the same. This resulted in non-realisation of stamp duty of Rs. 1.83 crore.

After the cases were pointed in January 2007, the Collectors of Rajkot and Jamnagar accepted the audit observation in 35 cases and stated that they would recover the dues. The replies in the remaining 43 cases from Bhuj and Surat have not been received (October 2007).

³⁹ Ahmedabad I and II, Bharuch, Gandhinagar, Himatnagar, Nadiad, Navsari, Palanpur, Rajkot-I and II and Vadodara II

^s Valuation of property

⁴⁰ Bhuj, Jamnagar, Rajkot and Surat

The matter was reported to the Government (June 2007); their reply has not been received (October 2007).

5.4 Short levy of stamp duty and registration fees on documents comprising distinct matters

Under Section 5 of the BS Act, any instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the duties for each such separate instrument chargeable under the Act.

Test check of the records of eight⁴¹ sub registrars (SRs) revealed that 18 documents comprising several distinct matters of immovable properties valued as Rs. 25.85 crore were charged stamp duty and registration fees for only one matter/transaction. This resulted in short levy of stamp duty and registration fees of Rs. 1.79 crore. A few cases are mentioned below:

- Recitals of two documents registered in Kadi for immovable properties valued as Rs. 4.51 crore revealed that the properties were sold by the official liquidators to the purchaser. The money received was credited to the bank to whom the seller owed money. As such the documents contained two distinct matters, one relating to the sale and the other relating to composition⁴². Though stamp duty and registration fees were paid on composition, stamp duty and registration fees on conveyance were not levied. This resulted in short levy of stamp duty and registration fees of Rs. 57.28 lakh.
- Recitals of two documents registered in Ahmedabad for Rs. 5.21 crore revealed that the properties sold by the vendors to the vendees were already transferred by the vendors to third parties (confirming parties) on payment of full consideration to the vendors and acquired full rights over the properties. Though stamp duty and registration fees were paid on the conveyance between vendors and vendees, stamp duty and registration fees between vendors and confirming parties were not levied which resulted in short levy of Rs. 51.61 lakh.
- Recitals of four documents registered in Ahmedabad for Rs. 5.01 crore revealed that the documents styled as agreements to sell without possession also contained transfer of properties to the developers which are deemed to be conveyance. As such, the documents contained two distinct matters, one relating to the agreement to sell and the other relating to conveyance. However, stamp duty and registration fees were levied on the agreement to sell but was not levied on conveyance. This resulted in short levy of stamp duty and registration fees of Rs. 49.64 lakh.
- Recitals of eight documents registered in Ahmedabad, Rajkot and Vadodara for Rs. 10.10 crore revealed that the properties sold by the vendees had already been handed over to the developers by the vendors for development of properties through development agreements. As such, these documents contained two distinct matters, one relating to the development agreement between vendors and the developers and other relating to conveyance between vendors and vendees. Though stamp duty

⁴¹ Ahmedabad III, IV, V & VI, Kadi, Rajkot-I, Surat-I and Vadodara II

⁴² Composition occurred as a result of execution of documents by the debtor to the creditor

and registration fees on conveyance between vendors and vendees were levied, stamp duty and registration fees on development agreement between vendors and developers were not levied. This resulted in short levy of stamp duty and registration fees of Rs. 10.10 lakh.

- Recitals of a document registered in Rajkot for Rs. 69.78 lakh revealed that a local body (vendor) sold shops to the purchaser and stamp duty and registration fees were levied. It was, however, noticed from the recitals that the local body had already handed over the piece of land to a third party and had given power to construct and to sell shops on land owned by the vendor and received consideration thereof. As such, the document contained two distinct matters, one relating to conveyance between the vendor and the purchaser and the other relating to conveyance between the vendor and the third party. Though stamp duty and registration fees were paid on conveyance between vendor and purchaser, stamp duty and registration fees on conveyance between vendor and the third party were not levied. That resulted in short levy of stamp duty and registration fees of Rs. 6.91 lakh.

The above facts were brought to the notice of the department between January and August 2006 and the Government in May 2007; their reply has not been received (October 2007).

5.5 Short levy of stamp duty and registration fees due to misclassification of deeds

Under Section 3 of the BS Act, every instrument mentioned in the Schedule I shall be chargeable with duty at the prescribed rates. For the purpose of levy of stamp duty, an instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

Test check of the records of nine⁴³ SR offices revealed that 54 documents registered between 2004 and 2005 were classified on the basis of their titles and stamp duty and registration fees were levied accordingly. Scrutiny of the recitals of these documents revealed that these were misclassified. This resulted in short levy of stamp duty and registration fees of Rs. 1.71 crore as mentioned below:

(Rupees in lakh)

No. of offices	Nature of observation	Period of registration	Consideration/ amount of loan	Duty <u>leviable</u> levied	Short levy
5 ⁴⁴	Six documents titled as "development agreement" contained the recital of transfer of interest in the properties i.e. conveyance. The duty was paid at the rate of one <i>per cent</i> applicable to the development agreement instead of 8.4 <i>per cent</i> chargeable on conveyance.	2005	1,443.20	<u>142.67</u> 14.62	128.05

⁴³ Ahmedabad I, II, III, IV & VI, Anand, Bhavnagar I, Rajkot I and Vadodara II

⁴⁴ Ahmedabad II, III, IV & VI and Vadodara II

3 ⁴⁵	Nine documents titled as "agreement to sell" contained the recitals of conveyance. The duty was levied at the rate of Rs. 50 per document instead of 8.4/11.2 <i>per cent</i> on the consideration or market value whichever was higher.	2004 and 2005	268.24	<u>26.83</u> 0.01	26.82
5 ⁴⁶	Recitals of 39 documents titled as equitable mortgage contained the terms of simple mortgage. This resulted in short levy of duty.	2004 and 2005	1,588.80	<u>23.63</u> 7.47	16.16
Total					171.03

The above facts were brought to the notice of the department between January and August 2006 and Government in May 2007; their replies have not been received (October 2007).

5.6 Non-levy of service charges

Rule 117C of the Gujarat Land Revenue Rules, 1972, provides for the levy of service charges at the rate of five *per cent* on the recovery made as arrears of land revenue.

Test check of the records of eight⁴⁷ Dy. Collectors (VOP) revealed that Rs. 30.62 crore in 27,849 cases was recovered during the period 2001-02 to 2005-06 as arrears of land revenue from the defaulters. However, service charges of Rs. 15.31 lakh were not collected from them. This resulted in short realisation of the Government dues.

This was brought to notice of the department between June and October 2006 and Government in March 2007; their replies have not been received (October 2007).

ENTERTAINMENTS TAX

5.7 Non-recovery of entertainments tax from cable operators

The Gujarat Entertainments Tax Act, 1977 and rules made thereunder provide for levy of tax on exhibition of programme with the aid of antenna or cable television. The rules also provide for registration of each operator and to pay tax in advance on quarterly basis. In case of delay in payment of tax, interest at the rate of 24 *per cent* per annum is leviable.

Test check of the records of three⁴⁸ Collectors and two⁴⁹ Mamlatdar offices revealed that during 2004-05 and 2005-06, 31 cable operators did not pay tax

⁴⁵ Ahmedabad-VI, Bhavnagar-I and Rajkot-I

⁴⁶ Ahmedabad I, II, IV & VI and Anand

⁴⁷ Bharuch, Gandhinagar, Himatnagar, Junagadh, Nadiad, Navsari, Surat and Palanpur

⁴⁸ Jamnagar, Palanpur and Rajkot

⁴⁹ Dholka, and Choryasi

with returns and 35 cable operators paid tax short aggregating Rs. 9.44 lakh on which interest⁵⁰ of Rs. 1.32 lakh was leviable. The officers concerned did not initiate action to recover the tax.

After the cases were pointed out, the department accepted the audit observation in 15 cases involving Rs. 1.63 lakh. Reply in the remaining cases have not been received (October 2007).

This was brought to notice of the Government (January 2007); their reply has not been received (October 2007).

⁵⁰ Interest has been calculated upto 31 March of the audit period

CHAPTER – VI

NON-TAX RECEIPTS

6.1 Results of audit

Test check of the assessment records in the offices of Commissioner of Geology and Mining and field offices and the office of Director General of Police and subordinate offices during 2006-07 disclosed short recoveries amounting to Rs. 26.91[§] crore in 79 cases. These cases fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Police receipts	3	23.57
2.	Mining receipts	76	3.34
Total		79	26.91

A few illustrative cases involving Rs.26.91 crore are mentioned in the following paragraphs:

[§] Accepted and recovered figures from concerned department is nil.

MINING RECEIPTS

6.2 Short levy of royalty, dead rent and surface rent

The Mines and Minerals (Regulation and Development) Act, 1957 and rules made thereunder provide that a lease holder is liable to pay royalty or dead rent whichever is higher. Further, surface rent for surface area used in the operation is also payable by him. If the dues are not paid by the prescribed period, interest at the rate of 24 *per cent* per annum is leviable.

Test check of the records of 20⁵⁰ offices of Geologists revealed that 39 lease holders of major minerals and 300 lease holders of minor minerals did not pay royalty, dead rent and surface rent of Rs. 3.34 crore including interest of Rs. 90.02 lakh for the period 2002-03 to 2005-06.

After the cases were pointed out (June 2006), the department accepted the audit observations in 271 cases involving Rs. 2.18 crore and recovered Rs. 95.61 lakh in 59 cases. Report on recovery of the balance amount and reply in the remaining cases has not been received (October 2007).

The matter was reported to the Government (January 2007); their reply has not been received (October 2007).

POLICE RECEIPTS

6.3 Non-recovery of police charges

Para 528 (Part III) of the Gujarat Police Manual, 1975 as amended in October 1999 stipulates that police charges should be collected in advance at double the rates of pay and allowances from banks, public sector undertakings, and private institutions. Further, section 48(2) of the Bombay Police Act, 1951, as adapted by the State of Gujarat, lays down that cost of additional police force deployed at any place of amusement or entertainment should be borne by the concerned party/organisation. The Home Department clarified (April 2007) that charges for the deployment of police for cricket matches had to be recovered in advance at twice the rate of pay and allowances. In case of police personnel deployed in other states, borrowing states should deposit Rs. 50 lakh per quarter which should be adjusted against the final audited figures.

Test check of the records in the offices of the Director General Police (DGP), four⁵¹ Commissioners of Police (CsP) and five⁵² Superintendents of Police (SsP) disclosed that police force was deployed for various periods between April 2001 and March 2006 even though the concerned departments did not make the payments in advance. The dues recoverable from various organisations are mentioned below:

⁵⁰ Ahmedabad, Amreli, Bharuch, Bhavnagar, Bhuj, Gandhinagar Godhra, Himatnagar, Jamnagar, Junagadh, Mehsana, Nadiad, Navsari, Palanpur, Porbandar, Rajkot, Surat, Surendranagar, Vadodara and Valsad.

⁵¹ Ahmedabad, Rajkot, Surat and Vadodara

⁵² Ahmedabad, Bharuch, Gandhinagar, Rajkot and Western Railways, Vadodara

Sl. No.	Organisations	No. of offices/ units	Amount (Rupees in crore)	Reasons
1.	Government department	5	3.01	Failure to recover cost of police in advance
2.	Other State Governments	9	9.94	-do-
3.	Local bodies	7	2.54	-do-
4.	Private bodies	9	1.26	-do-
5.	Commercial institutions	32	7.54	-do-
6.	Railways	1	17.65	Due to non-settlement of disputes (2001-02 to 2002-03) and non-obtaining of audit certificate (2003-04 to 2005-06).
Total		63	41.94	

This was brought to the notice of the department during July 2006 to April 2007 and to the Government in July 2007; their reply has not been received.

6.4 Short recovery of police charges

For the purpose of calculating police charges, pay, dearness allowance, leave salary and pension contribution are to be considered. These charges are to be recovered at double the rates from banks, public sector undertakings, and private institutions.

Audit examination of the records at the offices of four⁵³ CsP and five⁵⁴ SsP revealed that police charges were recovered at incorrect rates from 100 units. This resulted in short recovery of police charges amounting to Rs. 23.57 crore for the period from April 2001 to March 2006 as mentioned below:

Sl. No.	Organisations	No. of units	Amount (Rupees in crore)	Reason
1.	Commercial institutions	99	18.96	Police charge was recovered at single rate instead of the double the rate.
2.	Railways	1	4.61	Pension contribution was not included in the police charges.
Total		100	23.57	

⁵³ Ahmedabad, Rajkot, Surat and Vadodara

⁵⁴ Bharuch, Gandhinagar, Rajkot, Surat and Western Railways, Vadodara

After the cases were pointed out, the department during July 2006 to April 2007 accepted the audit observations involving Rs. 2.69 crore in respect of 23 organisations. Reply in the remaining cases has not been received (October 2007).

The matter was reported to Government (July 2007); their reply has not been received (October 2007).

**Ahmedabad,
The**

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