



Report of the
Comptroller and Auditor General
of India

for the year ended 31 March 2007

(Revenue Receipts)

Government of Madhya Pradesh



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**AUDIT REPORT (REVENUE RECEIPTS)
FOR THE YEAR ENDED 31 MARCH 2007:
GOVERNMENT OF MADHYA PRADESH**

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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 commercial tax, state excise duty, taxes on vehicles, land revenue, other tax receipts, forest receipts, mining receipts and other non-tax receipts of the State.

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

OVERVIEW

This report contains 41 paragraphs, including three reviews relating to non/short levy of tax, interest, penalty etc., involving Rs. 318.57 crore. Some of the major findings are mentioned below:

I. General

- The total revenue receipts of the State Government for the year amounted to Rs. 25,694.28 crore against Rs. 20,596.79 crore for the previous year. Fifty one *per cent* of this was raised by the State through tax revenue (Rs. 10,473.13 crore) and non-tax revenue (Rs. 2,658.46 crore). The balance 49 *per cent* was received from the Government of India as State share of divisible union taxes (Rs. 8,088.54 crore) and grants-in-aid (Rs. 4,474.15 crore).

(Paragraph 1.1)

- Test check of the records of sales tax, land revenue, state excise, motor vehicles tax, stamps and registration fee, 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. 958.30 crore in 1,28,644 cases.

(Paragraph 1.8)

II. Commercial tax

Non-cancellation of eligibility certificates resulted in non-realisation of commercial tax of Rs. 6.77 crore from closed units.

(Paragraph 2.2)

Incorrect deduction of tax paid sales resulted in short levy of tax of Rs. 1.17 crore and penalty of Rs. 2.92 crore.

(Paragraph 2.3)

Incorrect grant of exemption resulted in short levy of tax of Rs. 3.75 crore.

(Paragraph 2.4)

Application of incorrect rate of tax resulted in short levy of tax of Rs. 2.61 crore.

(Paragraph 2.5)

Inadmissible deferment of purchase tax resulted in short realisation of revenue of Rs. 1.49 crore.

(Paragraph 2.6)

Non/short levy of entry tax resulted in non-realisation of revenue of Rs. 69.66 lakh.

(Paragraph 2.7)

III. State Excise

A review of **Collection of excise receipts on liquor** revealed the following:

- Failure of the department to prescribe maintenance of records and periodical returns to higher authorities for keeping a watch over receipt of verification reports resulted in non-realisation of excise duty of Rs. 10.93 crore.

(Paragraph 3.2.8)

- Non-prescription of a time limit for sending the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC resulted in non-levy of penalty of Rs. 4.29 crore.

(Paragraph 3.2.9)

- Lack of monitoring of wastages during transit of liquor led to non-levy of excise duty of Rs. 74.19 lakh.

(Paragraph 3.2.11)

- Lack of provision for recovery in the conditions of sale and inaction by the department led to loss of Rs. 3.31 crore.

(Paragraph 3.2.14)

- Irregular grant of licence and failure to take action for default in payment of licence fee resulted in non-realisation of Rs. 2.37 crore.

(Paragraph 3.2.17)

- Inaction to recover the loss in resale of retail shops of liquor resulted in non-realisation of revenue of Rs. 1.05 crore.

(Paragraph 3.2.18)

- Incorrect application of rates of licence fee on 55 licences of hotel/restaurant bar resulted in short levy of Rs. 71.43 lakh.

(Paragraph 3.2.19)

IV. Taxes on Vehicles

An information technology review of **Computerisation Project in Transport Department** revealed the following:

- The Transport Department failed to achieve the objective of issuing smart cards due to non-updation of data stored in them and non-utilisation of hand held terminals that are necessary to read data. The smart cards also lacked the requisite security features.

(Paragraph 4.2.6)

- Lack of application checks in the software had resulted in the objective of checking evasion of revenue remaining unachieved.

(Paragraph 4.2.7)

- Lack of application controls resulted in non-detection of the use of fake insurance cover notes and duplicate registration, chassis and engine numbers. The objective of checking the use of forged and fake documents remained unachieved.

(Paragraph 4.2.8)

- Lack of essential controls had resulted in significant amount of incorrect, duplicate and missing data rendering the computer database unreliable and incomplete in many cases.

(Paragraph 4.2.10.2)

- The State Government failed to safeguard its interests at the stage of entering into the contract with the vendor.

(Paragraph 4.2.13)

- Vehicle tax of Rs. 3.34 crore and penalty of Rs. 1.71 crore was not levied on 1,171 vehicles which resulted in non-realisation of revenue of Rs. 5.05 crore.

(Paragraph 4.3)

V. Other Tax Receipts Stamp duty and registration fee

Non-reimbursement of stamp duty and registration fee on 341 deeds resulted in non-realisation of revenue of Rs. 1.29 crore.

(Paragraph 5.2)

Misclassification and incorrect application of rates in six instruments resulted in short realisation of revenue of Rs. 71.57 lakh.

(Paragraph 5.3)

Land revenue

Non-levy of process expenses of Rs. 42.91 lakh on principal amount of Rs. 14.30 crore against RRCs issued resulted in non-realisation of revenue of Rs. 42.91 lakh.

(Paragraph 5.9)

VI. Mining Receipts

Non-renewal of four leases resulted in non-realisation of stamp duty and registration fee of Rs. 7.29 crore.

(Paragraph 6.2)

Inaction of the department to recover the rural infrastructure and road development tax from holders of mining lease resulted in non-realisation of revenue of Rs. 3.18 crore.

(Paragraph 6.3)

VII. Other Non-Tax Receipts Finance Department

A review of **Interest receipts** revealed the following:

- Failure of the Finance Department to monitor maintenance of the records and ensure regular submission of returns by the loan disbursing departments resulted in lack of complete information regarding the position of overdue principal and interest.

(Paragraph 7.2.6)

- Lack of monitoring on the part of the Finance Department to ensure that the loans were disbursed by the administrative departments only after specifying the terms and conditions resulted in sanction of loans aggregating Rs. 678.66 crore to various loanees during the period 2001-02 to 2005-06 without prescribing the terms and conditions for repayment of loan and interest/penal interest thereon. This led to loss of interest and penal interest of Rs. 263.81 crore.

(Paragraph 7.2.7)

- Failure of the administrative departments to maintain the relevant records required to watch the recovery of principal and interest thereon and lack of a system in the Finance Department to monitor the disbursement and recovery of loans by these departments resulted in non-assessment/raising of demand for interest and penal interest of Rs. 114.95 crore.

(Paragraph 7.2.8)

- Delay in disbursement of loans resulted in the loss of interest of Rs. 96 lakh.

(Paragraph 7.2.9)

Electricity Duty and Safety

Failure to conduct inspections of electric installations resulted in loss of inspection fee of Rs. 92.93 lakh.

(Paragraph 7.4)

Forest receipts

The Government was deprived of revenue of Rs. 36.50 crore due to non-recovery of lease rent from MPSFDC.

(Paragraph 7.5)

CHAPTER 1 : GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Madhya Pradesh during the year 2006-07, 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)

Sl. No.	Particulars	2002-03	2003-04	2004-05	2005-06	2006-07
I.	Revenue raised by the State Government					
	• Tax revenue	6,164.55	6,788.86	7,772.97	9,114.70	10,473.13
	• Non-tax revenue	1,635.48	1,479.82	4,461.86	2,208.20	2,658.46
	Total	7,800.03	8,268.68	12,234.83	11,322.90	13,131.59
II.	Receipt from the Government of India					
	• State's share of divisible Union taxes	3,728.73	4,247.14	5,076.68	6,341.35	8,088.54 ¹
	• Grants-in-aid	1,861.64	1,773.14	2,431.74	2,932.54	4,474.15
	Total	5,590.37	6,020.28	7,508.42	9,273.89	12,562.69
III.	Total receipts of the State	13,390.40	14,288.96	19,743.25	20,596.79	25,694.28
IV.	Percentage of I to III	58	58	62	55	51

The above table indicates that during the year 2006-07, the revenue raised by the State Government was 51 *per cent* of the total revenue receipts (Rs. 25,694.28 crore) against 55 *per cent* in the preceding year. The balance 49 *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 Madhya Pradesh for the year 2006-07. Figures under the head "0021 Taxes on income other than corporation tax – 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 during the period from 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage increase (+)/ decrease (-) in 2006-07 over 2005-06
1.	<ul style="list-style-type: none"> ● Sales tax ● Central Sales Tax 	2,906.20	3,293.26	3,912.01	4,508.42	5,261.41	(+) 16.70
2.	State excise	890.32	1,085.89	1,192.36	1370.38	1,546.68	(+) 12.86
3.	Stamp duty and registration fees	535.05	614.49	788.71	1,009.48	1,251.10	(+) 23.94
4.	Taxes and duties on electricity	801.26	697.06	707.18	842.27	714.55	(-) 15.16
5.	Taxes on vehicles	428.64	454.92	488.65	556.02	634.30	(+) 14.08
6.	Taxes on goods and passengers	351.20	390.99	468.07	578.58	744.60	(+) 28.69
7.	Other taxes on income and expenditure - tax on professions, trades, callings and employments	187.44	188.90	150.21	153.08	163.81	(+) 7.01
8.	Other taxes and duties on commodities and services	20.08	15.32	14.28	14.15	19.55	(+) 38.16
9.	Land revenue	40.44	43.63	46.80	77.16	132.21	(+) 71.35
10.	Hotel receipts	3.92	4.40	4.75	5.37	4.92	(-) 8.38
11.	Taxes on immovable property other than agricultural land	-	-	(-) .05	(-) 0.21	0.00	
Total		6,164.55	6,788.86	7,772.97	9,114.70	10,473.13	

The concerned departments did not inform (January 2008) the reasons for variations despite being requested (November 2007).

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

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage increase (+) decrease (-) in 2006-07 over 2005-06
1.	Interest receipts	32.05	19.22	25.90	527.20	132.73	(-) 74.82
2.	Other non-tax receipts	249.32	144.57	157.48	151.94	159.29	(+) 4.84
3.	Forestry and wildlife	497.30	496.75	559.11	490.40	536.50	(+) 9.40
4.	Non-ferrous mining and metallurgical industries	590.69	646.71	733.72	815.31	923.91	(+) 13.32
5.	Miscellaneous general services (including lottery receipts)	120.94	22.92	79.61	21.30	736.58	(+) 3,358.12
6.	Power	0.24	0.12	2,749.49	0.08	0.01	(-) 87.50
7.	Major and medium irrigation	24.64	37.80	37.92	29.57	29.82	(+) 0.85
8.	Medical and public health	20.36	10.98	16.76	11.73	20.88	(+) 78.01
9.	Co-operation	14.45	15.60	17.92	14.23	18.54	(+) 30.29
10.	Public works	8.57	9.09	9.94	53.08	16.39	(-) 69.12
11.	Police	39.23	24.99	23.23	26.16	24.26	(-) 7.26
12.	Other administrative services	37.69	51.07	50.78	67.20	59.55	(-) 11.38
Total		1,635.48	1,479.82	4,461.86	2,208.20	2,658.46	

The concerned departments did not inform (January 2008) the reasons for variations despite being requested (November 2007).

1.2 Variations between the 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 mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Budget estimates	Actuals	Variation excess (+) or shortfall (-)	Percentage increase (+)/ decrease (-) over budget estimates
A. Tax revenue					
1.	Sales tax	5,357.00	5,261.41	(-) 95.59	(-) 1.78
2.	State excise	1,430.00	1,546.68	(+) 116.68	(+) 8.16
3.	Stamp duty and registration fees	1,000.00	1,251.10	(+) 251.10	(+) 25.11
4.	Taxes and duties on electricity	763.36	714.55	(-) 48.81	(-) 6.39
5.	Land revenue	84.21	132.21	(+) 48.00	(+) 57.00
B. Non-tax revenue					
1.	Forestry and wildlife	450.00	536.50	(+) 86.50	(+) 19.22
2.	Non-ferrous mining and metallurgical industries	1,100.00	923.91	(-) 176.09	(-) 16.01
3.	Co-operation	16.43	18.54	(+) 2.11	(+) 12.84

The reasons for variations of actuals over budget estimates during 2006-07 as intimated by the respective departments are given below:

Stamp duty and registration fee

The increase of 25.11 per cent was due to registration of more documents and increase in market value of immovable properties during the year 2006-07.

Land revenue

The increase of 57 per cent of actual over budget estimate was due to extensive efforts for recovery by organising camps in villages regularly.

The reasons for variation in respect of other departments though called for (November 2007) have not been received (January 2008).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of expenditure to gross collection during the years 2004-05, 2005-06 and 2006-07 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2005-06 are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2005-06
1.	Sales tax	2004-05	3,912.01	45.06	1.15	0.91
		2005-06	4,508.42	50.41	1.12	
		2006-07	5,261.41	48.20	0.92	
2.	Taxes on vehicles and taxes on goods and passengers	2004-05	956.72	11.87	1.24	2.67
		2005-06	1,134.60	19.35	3.47	
		2006-07	1,378.90	26.29	1.91	
3.	State excise	2004-05	1,192.36	230.92	19.37	3.40
		2005-06	1,370.38	289.53	21.13	
		2006-07	1,546.68	303.79	19.64	
4.	Stamp duty and registration fee	2004-05	788.71	75.28	9.54	2.87
		2005-06	1,009.48	94.79 ²	9.39	
		2006-07	1,251.10	119.01	9.51	

Thus, the percentage of expenditure on the collection of state excise and stamp duty and registration fee was considerably higher than the all India average and needs to be looked into by the Government.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2007 in respect of some principal heads of revenue amounted to Rs. 903.45 crore of which Rs. 191.22 crore (excluding Transport Department and Commercial Tax Department) 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
1.	Taxes on vehicles	34.95	Not furnished
2.	State excise	58.28	51.25
3.	Taxes & duties on electricity	26.67	11.07
4.	Sales tax	584.25	Not furnished
5.	Non-ferrous mining and metallurgical industries	113.25	113.25
6.	Co-operation	8.87	5.31
7.	Stamp duty and registration fee	77.18	10.34
Total		903.45	191.22

² Figures revised by the department.

The position of arrears of revenue at the end of 2006-07 in respect of other departments, was not furnished (January 2008) by the Government despite being requested (November 2007). Also, the stages at which arrears were pending for collection were also not furnished by the departments (January 2008).

1.5 Arrears in assessment

The details of assessments relating to sales tax, profession tax, entry tax, luxury tax, tax on works contracts pending at the beginning of the year, additional cases becoming due for the assessment during the year, cases disposed during the year and pending cases at the end of each year during 2005-06 and 2006-07 as furnished by the Commercial Tax Department are mentioned below:

Name of tax		Opening balance	New cases due for assessment during the year	Total assessment due	Cases disposed during the year	Balance at the end of the year	Percentage of column 5 to 4
1.		2.	3.	4.	5.	6.	7.
Commercial Tax Department							
Sales tax	2005-06	2,80,710	3,56,948	6,37,658	3,76,866	2,60,792	59.10
	2006-07	2,60,792	4,02,291	6,63,083	2,99,596	3,63,487	45.18
Profession tax	2005-06	1,16,477	75,403	1,91,880	79,956	1,11,924	41.67
	2006-07	1,11,924	1,10,091	2,22,015	1,06,502	1,15,513	47.97
Entry tax	2005-06	1,59,557	1,87,572	3,47,129	2,05,971	1,41,158	59.34
	2006-07	1,41,158	2,40,983	3,82,141	1,97,047	1,85,094	51.56
Luxury tax	2005-06	469	931	1,400	810	590	57.86
	2006-07	590	819	1,409	711	698	50.46
Tax on works contracts	2005-06	3,207	1,726	4,933	3,212	1,721	65.11
	2006-07	1,721	5,487	7,208	3,707	3,501	51.43
Total	2005-06³	5,60,420	6,22,580	11,83,000	6,66,815	5,16,185	56.37
	2006-07	5,16,185	7,59,671	12,75,856	6,07,563	6,68,293	47.62

Thus, except for profession tax, there was a fall in the percentage of cases assessed in 2006-07 under all other categories with reference to the corresponding figures for the preceding year.

1.6 Evasion of tax

The details of evasion as reported by the Sales Tax, State Excise and Stamp Duty and Registration Fee departments, are mentioned below:

³ The reason for change in figures of 2005-06 is due to finalisation of provisional figures furnished earlier by the Commercial Tax Department.

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2006	Cases detected during 2006-07	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of pending cases as on 31 March 2007
					No. of cases	Amount of demand (Rs. in crore)	
1.	Sales tax	278	139	417	134	15.31	283
2.	State excise	330	46	376	372	0.09	4
3.	Stamp duty and registration fee	6,246	9,929	16,175	8,990	14.27	7,185

Thus, there was increase in the number of pending cases under sales tax and stamp duty and registration fee. The increase was particularly sharp in the case of the latter.

1.7 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 end of the year 2006-07 as reported by the departments are mentioned below :

(Rupees in crore)

Sl. No.	Category	State excise		Sales tax		Stamp duty & registration fee	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	336	3.46	1,486 ⁴	158.27	290	0.25
2.	Claims received during the year	22	0.27	8,112	757.98	368	0.56
3.	Refunds made during the year	337	2.43	7,995	676.80	319	0.47
4.	Balance outstanding at the end of the year	21	1.30	1,603	239.45	339	0.34

Information on refund cases relating to works contract was not furnished despite request.

1.8 Results of audit

Test check of the records of sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fee, 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. 958.30 crore in 1,28,644 cases. During the year, the departments accepted underassessment and other losses of Rs. 772.28 crore in 1,31,768 cases pointed out in 2006-07 and earlier years.

⁴ The reason for change in figure of opening balance is due to finalisation of provisional figures of 2005-06 furnished earlier by the Commercial Tax Department.

This Report contains 41 paragraphs including three reviews involving Rs.318.57crore. The departments/Government accepted audit observations involving Rs. 288.61 crore out of which Rs. 1.93 crore had been recovered. In respect of observations not accepted by the department, the reasons for non-acceptance have been included in the related paragraph. Replies from the Government have not, however, been received.

1.9 Failure to enforce accountability and protect interest of the Government

Accountant General (Works & Receipt Audit) Madhya Pradesh conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounting and other records as prescribed in the rules and procedures. These inspections are followed up with inspection reports (IRs) incorporating irregularities detected during inspection and not settled on the spot. These are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of offices/Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report compliance through initial reply to the Accountant General within six weeks from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the department and Government.

IRs issued upto December 2006, pertaining to various offices of commercial tax, land revenue, registration and other departments disclosed that 19,401 paragraphs relating to 6,257 IRs have remained outstanding since 1980-81 to the end of December 2006.

The position was brought to the notice of the Principal Secretaries/Secretaries to the Government in October 2007. However, no reply has been received.

The huge pendency of IRs due to non-receipt of replies indicates that the heads of the offices/departments failed to initiate action to rectify the defects, omission and irregularities pointed out in the IRs. To ensure that action to recover the revenue due does not become time barred, it is recommended that the Government should take suitable steps to ensure that prompt and appropriate responses are given to the audit observations, action is initiated against officials/officers failing to send replies to IRs/paragraphs as per the prescribed time schedule and take action to recover loss/outstanding demands in a time bound manner.

1.10 Response of the departments to the draft audit paragraphs

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

Draft paragraphs included in this Report were sent to the Principal Secretaries/ Secretaries of the concerned departments. Of these, the Land Revenue and Forest departments did not send any reply. The paragraphs pertaining to these departments have been included in this Report without the response of the departments. Audit Review Committee meetings were organised on 13 and 14 August 2007 to discuss the audit findings included in the reviews. Principal Secretary Transport Department and Secretary Finance attended the meeting held on 13 August 2007 and Principal Secretary, Commercial Tax attended the meeting held on 14 August 2007.

1.11 Follow-up on Audit Reports

The Report of the Comptroller & Auditor General of India for the year ended 31 March 2006 (Revenue Receipts) was laid on the table of *Vidhan Sabha* on 29 March 2007. Reports upto the year 2004-05 have been discussed by the Public Accounts Committee (PAC) and Report for year 2005-06 has also been partly discussed. The recommendations of the PAC have been received for Audit Reports pertaining to different years.

Action taken reports (ATN) on the PAC recommendations upto 1992-93 have been received. In respect of Audit Report for 1993-94 and thereafter, ATNs have not been received from the concerned departments although instruction dated November 1994 issued by the State Legislature Affairs Department stipulates that these should be issued within six months from the date of receipt of recommendation by PAC.

1.12 Compliance with the earlier Audit Reports

During the years between 2001-02 and 2005-06 the department/Government accepted audit observations involving Rs. 369.25 crore of which only Rs. 3.80 crore has been recovered till 31 March 2007 as mentioned below:

(Rupees in crore)

Year of the Audit Report	Total money value of the Report	Accepted money value	Amount recovered
2001-02	221.22	56.21	0.65
2002-03	295.70	240.98	0.16
2003-04	125.53	26.26	0.29
2004-05	41.96	13.24	0.28
2005-06	85.85	32.56	2.42
Total	770.26	369.25	3.80

CHAPTER II : COMMERCIAL TAX

2.1 Results of audit

Test check of the assessment cases and other records relating to the Commercial Tax Department during the year 2006-07 revealed underassessment, non/short levy of tax and penalty, application of incorrect rate of tax etc., involving Rs. 66.37 crore in 623 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
1.	Non/short levy of tax	184	26.33
2.	Incorrect grant of exemption/deduction/ set off	95	6.28
3.	Application of incorrect rate of tax	91	4.53
4.	Incorrect determination of taxable turnover	40	2.45
5.	Other irregularities	213	26.78
Total		623	66.37

During the year 2006-07, the department accepted underassessment of tax of Rs. 15.33 crore in 149 cases. All these cases pertained to 2006-07. Rs. 95.10 lakh had been recovered in seven cases during the year.

A few illustrative cases involving Rs. 21.20 crore are mentioned in the following paragraphs.

2.2 Non-recovery of commercial tax from closed units

As per the tax exemption scheme of 1994 issued under the Madhya Pradesh *Vanijyik Kar Adhiniyam* (*Adhiniyam*), a new industrial unit holding eligibility certificate (EC) shall keep the unit running during the period of eligibility and also for a further period of five years from the date of expiry of the eligibility, failing which the EC shall be cancelled by the DLC/SLC⁵ empowered to issue the EC. The amount of tax deferred/exemption availed of by the unit shall also be recovered.

Test check of the records of four offices⁶ between April 2006 and January 2007 revealed that two industrial units were allowed deferment of tax of Rs. 4.70 crore and three units were allowed exemption from payment of tax of Rs. 2.07 crore under the 1994 scheme. Of these, four units closed their business during the period of eligibility while one unit closed its business within five years after the expiry of the period of the eligibility. The assessing authorities (AAs) did not take any action to refer the matter to the DLC/SLC for cancellation of EC and recover the amount.

After the cases were pointed out, the Government stated in November 2007 that in two cases action for recovery was in progress. In three cases it was stated that EC cannot be cancelled with retrospective effect. The reply is not tenable as cancellation of EC with retrospective effect is permissible under the provisions of the exemption notification for which action has not been taken.

2.3 Incorrect deduction of tax paid sales

The *Adhiniyam*, Rules and notifications issued thereunder provide deduction of tax paid goods on which tax has been paid within the State to determine the taxable turnover. Where the dealer has furnished false particulars of his sales or purchases in his returns, the Commissioner shall impose a penalty not less than three times the tax payable. Under the *Adhiniyam*, packing material shall be liable to tax at the rate applicable to the goods packed in them.

Test check of the records of four offices between October 2005 and December 2006 revealed that the AAs allowed incorrect deduction of tax paid goods/packing material to five dealers assessed for the period 2000-01 to 2002-03 between July 2003 and January 2006. This resulted in short levy of tax of Rs. 1.17 crore and penalty of Rs. 2.92 crore as mentioned below:

Sl. No.	Name of the unit	Assessment year and month of assessment	Nature of observation
1.	RAC Indore RAC Morena	2002-03 January 2006 2002-03 September 2005	The AAs while finalising the assessments allowed deduction of tax paid sales of Rs. 23.50 crore and Rs. 86.42 lakh treating the transaction of iron & steel and vegetable oil as intra state purchase from registered dealers. Verification of the transactions, however, revealed that the dealers

⁵ DLC - District level committee.
SLC - State level committee.

⁶ Regional Assistant Commissioner (RAC): Bhopal, Khandwa and Khargone.
Commercial Tax Officer (CTO): Indore.

			from whom the intra state purchases were made were not in existence. Thus, the deduction of tax paid goods allowed was incorrect which resulted in short levy of tax of Rs. 97.46 lakh with a minimum penalty of Rs. 2.92 crore.
After the cases were pointed out in December 2006, the Government accepted the audit observation in November 2007. However, further action taken has not been reported.			
2.	RAC Indore	2002-03 January 2006	A dealer sold tax paid packing material valued as Rs. 30.37 lakh with taxable medicines. The AA, however, allowed deduction of tax paid packing material which was not correct. This resulted in short levy of tax of Rs. 2.56 lakh.
The Government stated in November 2007 that the deduction allowed was correct in view of the MP High Court ⁷ decision of 1997 which stipulated that deduction of tax paid packing material used for packing of other goods was admissible. The reply is not tenable as the Supreme Court ⁸ has held in 1999 that even if packing material used for packing of other goods has been subjected to tax it shall be liable to tax at the rate applicable to the goods packed in them.			
3.	RAC Chhindwara	2001-02 December 2004	A cement dealer of Chhindwara submitted in his accounts incorrect taxable turnover of Rs. 1.16 crore instead of his actual turnover of Rs. 1.36 crore. Thus, the turnover was underassessed by Rs. 20.25 lakh resulting in short levy of tax of Rs. 2.79 lakh.
The Commissioner, Commercial Tax intimated in June 2007 that a demand for Rs. 2.79 lakh had been raised.			
4.	CTO Shajapur	2000-01 2001-02 September 2003 December 2003 March 2004	Intra state sale of cement of Rs. 99.70 lakh which was purchased after 1 November 2000 ⁹ from a company of Chhattisgarh State was liable to tax but the AA allowed the deduction of tax paid goods incorrectly treating it as the purchase from local registered dealers. This resulted in short levy of tax of Rs. 13.76 lakh at 13.8 per cent.
The Government stated in November 2007 that the cases had been reassessed under section 28 (1) in January 2007 and demand of Rs. 13.69 lakh had been raised.			

2.4 Incorrect grant of exemption

2.4.1 As per the exemption notification dated 6 June 1995 issued under the *Adhiniyam*, a dealer holding EC shall be eligible for exemption to the extent of maximum cumulative quantum of the tax specified therein.

Test check of the records of the RAC, Gwalior in March 2007 revealed that a dealer holding EC was eligible for exemption from tax of Rs. 60.33 lakh, whereas the AA while

⁷ Raymond Cement Works V/s STO (1997) 30-VKN-219 (MP)

⁸ Supreme Court's decision in the case of M/s Premier Breweries V/s. State of Kerala (1999-32-VKN-317).

⁹ Date of bifurcation of Madhya Pradesh.

finalising the assessment in July 2005 for the period 2002-03 allowed exemption of tax to the extent of Rs. 3.90 crore from the date of eligibility. This resulted in grant of exemption in excess of the eligibility with tax effect of Rs. 3.29 crore.

2.4.2 As per the exemption notification dated 6 October 1994 issued under Madhya Pradesh General Sales Tax (MPGST) Act, a dealer holding EC for exemption from tax in respect of expanded capacity shall be liable to pay tax on the turnover of 100 *per cent* of its original capacity.

Test check of the records of the RAC, Gwalior in September 2006 revealed that during the year 2002-03 a dealer holding EC for exemption from payment of tax in respect of turnover pertaining to expanded capacity was entitled for exemption for sales valued as Rs. 13.20 crore under the expanded capacity. The AA while finalising the assessment in December 2005 allowed exemption on sales valued as Rs. 25.36 crore out of total turnover of Rs. 44.75 crore. This resulted in incorrect grant of exemption on sales valued as Rs. 12.16 crore with a tax effect of Rs. 46.12 lakh.

After the cases were pointed out (September 2006), the Government accepted the audit observations in November 2007. However, a report on further action taken has not been received (January 2008).

2.5 Application of incorrect rate of tax

The *Adhiniyam* read with the Central Sales Tax Act (CST Act), 1956 and notifications issued thereunder specify the rates of commercial tax leviable on sale of different commodities.

Test check of the records of nine RAC¹⁰ and four CTO¹¹ between May 2005 and March 2007 revealed that tax on the sales turnover of Rs. 49.02 crore in 19 cases assessed between April 2003 and January 2006 for the period April 1999 to March 2003 was levied at incorrect rates. This resulted in short levy of tax amounting to Rs. 2.61 crore. A few instances are mentioned below:

(Rupees in crore)

Sl. No.	Name of unit and No. of cases	Period and Month of assessment	Name of Commodity	Turn over	Rate of tax applied (<i>per cent</i>)	Rate of tax applicable (<i>per cent</i>)	Short levy of tax
1.	RAC Bhopal, 1	2002-03 November 2005	LAB ¹²	28.10	4.6	9.2	1.29
2.	RAC Jabalpur, 3	2001-02 & 2002-03 January 2005 & January	Tower	9.84 0.71	4 8	13.8 13.8	0.97

¹⁰ RAC - Bhopal, Chhindwara, Gwalior (2), Indore (3), Jabalpur & Satna.

¹¹ CTO - Bhopal (2), Gwalior and Indore.

¹² Linear Alkyl Benzene.

		2006					
3.	RAC Gwalior, 1	2002-03 July 2005	Mustard oil cake	2.18	1.15	4.6	0.08
4.	CTO 13 Indore, 1	2002-03, November 2005	Photo copier machine & parts	1.02	9.2	13.8	0.05
5.	RAC Indore, 1	2002-03, January 2006	Industrial solvent	0.35	4.6	13.8	0.03

After the cases were pointed out (March 2007), the Government accepted the audit observations and stated in November 2007 that the department had reassessed the cases of three dealers and raised demands totalling Rs.9.53 lakh out of which Rs. 8.45 lakh was adjusted against the quantum of exemption of tax. In the remaining cases it was stated that action would be taken.

2.6 Inadmissible deferment of purchase tax

As per 1986 Deferment Scheme, if a new industrial unit eligible for exemption from payment of tax (i.e. sales tax and purchase tax) under the exemption notification dated 19 February 1991, avails of the facility of deferment in lieu of the exemption, it shall be eligible for deferment of only that amount of tax which is payable by it in respect of the sales of goods manufactured by it.

Test check of the records of the RAC Gwalior in March 2007 revealed that a dealer holding EC for the deferment of tax, purchased raw material valued as Rs. 32.32 crore on which purchase tax was payable. The AA while finalising the assessment for the period 2002-03 in January 2006 levied purchase tax of Rs. 1.49 crore but allowed its deferment, which was not admissible. This resulted in short realisation of tax.

After the case was pointed out (March 2007), the Government replied in November 2007 that deferment allowed was correct in view of the provisions of the notification dated 19 February 1991. The reply is not tenable as the dealer was not entitled to deferment of purchase tax under the deferment scheme.

2.7 Non/short levy of entry tax

Under the Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhinyam*, 1976 and Rules and notification issued thereunder, entry tax (ET) is leviable on the goods entering into a local area for consumption, use or sale therein at the specified rates. As per notification dated 14 December 2001 billets (a category of iron & steel) if used in the manufacture of steel rods is exempt from ET, but shall be liable to ET if utilised in the manufacture of wire rods.

Test check of the records of five RAC¹³ and one CTO¹⁴ between December 2005 and December 2006 revealed that in case of six dealers assessed between December 2004 and January 2006 for the period 2001-02 and 2002-03, ET amounting to Rs. 69.66 lakh was not levied/short levied on cosmetics, iron

¹³ RAC: Guna, Indore (2), Jabalpur and Morena.

¹⁴ CTO: Bhopal.

and steel, staple/viscose fibre, diesel oil, cement etc. valued as Rs. 21.11 crore on their entry into the local area.

After the cases were pointed out (December 2006), the Government accepted (November 2007) the audit observations in five cases involving Rs. 55 lakh and stated that in three cases demands totalling Rs. 9.25 lakh had been raised after reassessment. Report on action taken in two cases has not been received. In one case it was stated that since iron and steel (billets) were used in the manufacture of steel rods, it was exempt from ET under the notification dated 14 December 2001. The reply is not tenable. As the billets were utilised in the manufacture of wire rods, exemption allowed was not correct.

2.8 Non-levy of tax

2.8.1 A new unit holding EC under exemption scheme of 1994 is liable to tax in respect of the sale of manufactured goods which is adjustable against the quantum of exemption of tax as specified in the EC.

Test check of the records of RAC, Morena revealed that a dealer assessed in January 2006 holding EC under the 1994 scheme manufactured and sold goods valued as Rs. 11.32 crore but the AA while finalising the assessment did not levy tax thereon amounting to Rs. 45.29 lakh. This resulted in incorrect grant of tax benefit to that extent.

After the case was pointed out in March 2007, RAC Morena reassessed the case in June 2007 and raised a demand of Rs. 45.29 lakh which was adjusted against the quantum of exemption of tax.

2.8.2 The *Adhiniyam*, Rules and notification issued thereunder, provide levy of tax on purchase value of raw material, incidental goods and packing material when purchased without payment of tax and used or consumed in the manufacture of finished goods. If goods so purchased or the finished goods manufactured from such goods are transferred out of the state, purchase tax is leviable.

Test check of the records of two RAC at Indore and Gwalior and one CTO at Indore between November 2006 and March 2007 revealed that three dealers holding ECs for exemption under 1994 scheme assessed between November 2005 and January 2006 for the period 2002-03, purchased raw material valued as Rs. 4.12 crore on declarations without payment of tax for use in the manufacture of other goods. The AAs while finalising the assessment did not levy purchase tax. This resulted in non-levy of purchase tax of Rs. 18.96 lakh.

After the cases were pointed out (March 2007), the Government accepted the audit observations in November 2007 and stated that additional demands totalling Rs. 8.14 lakh had been raised and adjusted against the quantum of exemption in two cases. Further, report on action taken in the remaining case has not been received (January 2008).

2.9 Non-levy of interest

Under Section 26 (4) (a) of the *Adhiniyam*, if a dealer liable to file return fails without sufficient cause to pay the amount of tax as per the return, he shall be liable to pay interest in respect of the tax payable by him.

Test check of the records of the RAC, Guna in October 2006 revealed that a dealer assessed in January 2006 for the period 2002-03 did not pay tax aggregating Rs. 1.15 crore on the taxable turnover as shown in the returns filed for the relevant period in anticipation of issue of EC by the Department of Industries for exemption from payment of tax. The dealer who had solvent extraction plant was not eligible for exemption after 22 August 1998¹⁵ and was liable to pay interest on the amount of tax payable by him. But the

¹⁵

Notification No. A-3-96-95-ST-V(54)/(55) dated 22.8.1998.

AA while finalising the assessment, exempted the dealer from the payment of interest. This resulted in non-levy of interest of Rs. 63.19 lakh.

After the case was pointed out (October 2006), the Government stated in November 2007 that the liability to pay interest did not arise as the amount of tax payable according to returns was nil. The reply is not tenable because the sales of goods shown in the returns were liable to tax and hence interest was leviable under the *Adhiniyam*.

2.10 Non-levy of tax on sales incorrectly treated as tax free

Under the *Adhiniyam* read with the CST Act, Rules and notifications issued thereunder, commercial tax is leviable on the sale of goods except those specified in schedule I of the *Adhiniyam* or exempted by the Government by issue of notification.

Test check of the records of three RAC at Gwalior and Indore and two CTOs at Indore between September 2006 and January 2007 revealed that in case of five dealers assessed between October 2005 and January 2006 for the period 2002-03, HDPE/PP¹⁶ fabrics valued as Rs. 3.34 crore, though taxable under the *Adhiniyam*, were incorrectly treated as tax free goods. This resulted in short levy of tax of Rs. 16.41 lakh.

After the cases were pointed out (January 2007), the Government stated in November 2007 that the benefit of exemption was allowed on the basis of the notification dated 24 August 2000. The reply is not tenable as the said notification exempts all type of cloth only and not HDPE/PP fabrics which is taxable under entry no. 28 of part V of schedule II of the *Adhiniyam*.

2.11 Non-payment/levy of surcharge

Under section 10A of the *Adhiniyam* and notification issued thereunder, surcharge is leviable on the amount of tax at the rate of 15 *per cent*. Under the *Adhiniyam*, any registered dealer who carries on wholly or partly the business of supplying goods in the course of execution of works contract entered into by him, may be permitted to pay in lieu of tax payable by him under the Act a lumpsum at such rate as may be prescribed.

2.11.1 Test check of the records of three RAC at Gwalior, Morena and Sendhwa between March 2005 and March 2007 revealed that five works contract dealers assessed for the period 1999-2000 to 2002-2003 between January 2002 and January 2006, paid Rs. 78.04 lakh in lieu of tax at the prescribed lumpsum rate. However, they did not pay surcharge at 15 *per cent*, resulting in non-realisation of surcharge of Rs. 11.71 lakh.

After the cases were pointed out (March 2007), the Government stated in November 2007 that the prescribed lumpsum rate was inclusive of surcharge. The reply is not tenable since surcharge is payable in addition to the tax paid.

2.11.2 Test check of the records of the regional office Morena in May 2003 and April 2004 revealed that in two cases of two dealers assessed for the period 2000-01 in November and December 2003, surcharge at 15 *per cent* on tax amount of Rs. 25.11 lakh payable on the sale of tractors was not levied. This resulted in non-levy of surcharge of Rs. 3.77 lakh.

After the case was pointed out (April 2004) the AA accepted the audit observation and raised the demand in May 2005.

The cases were forwarded to the department in May 2007 and to the Government in November 2007; their reply has not been received (January 2008).

2.12 Non/short levy of value added tax

¹⁶ HDPE - High density poly ethylene.
PP - Poly Propylene.

Under section 9-B of the *Adhiniyam*, value added tax (VAT) is leviable at the prescribed rates on the added value of resale of goods specified in Part II to VI of schedule II of the *Adhiniyam*.

Test check of the records of two RAC at Dewas and Indore between October 2004 and September 2006 revealed that in case of two dealers assessed for the period 1999-2000 and 2002-03 in December 2002 and December 2005, VAT amounting to Rs. 10.90 lakh was not/short levied on added value of Rs.1.29 crore on the resale of goods.

After the cases were pointed out the Government accepted the audit observation in November 2007 and stated that in one case demand of Rs. 2.81 lakh had been raised. Further, action taken in the other case has not been reported (January 2008).

2.13 Short levy of tax due to allowing incorrect deduction

Section 2(w)(v) of the *Adhiniyam* prescribes a formula¹⁷ to arrive at the amount of taxable turnover. It also provides that deduction on the basis of the formula shall not be made if the amount by way of tax collected by the registered dealer had been otherwise deducted from the aggregate of sale prices or not included in the sale price.

Test check of the records of two RAC at Indore and Morena and one CTO at Gwalior in November 2006 and February 2007 revealed that in four cases of three dealers assessed for the period 2001-02 and 2002-03 between January 2005 and January 2007, deduction of tax of Rs. 9.39 lakh was allowed in accordance with the prescribed formula. Since the dealers were holding EC for exemption from tax and had not collected tax, the deduction allowed was not correct. This resulted in short levy of tax of Rs. 9.39 lakh.

After the cases were pointed out (February 2007), the Government accepted the audit observations in November 2007 and stated that in case of one dealer demand of Rs. 1.25 lakh had been raised. Report on the action taken in the other cases has not been received (January 2008).



¹⁷
$$\frac{\text{Rate of tax} \times \text{aggregate of sale prices}}{100 + \text{rate of tax}}$$

CHAPTER III : STATE EXCISE

3.1 Results of audit

Test check of the records of State excise conducted during 2006-07 revealed

non-assessment, underassessment, loss of revenue and non-levy of penalty amounting to Rs. 109.24 crore in 4,183 cases, which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
1.	Collection of excise receipts on liquor (A review)	01	31.08
2.	Non-realisation of licence fee from excise shops	239	11.48
3.	Loss in re-auction/bidding of excise shops	207	5.57
4.	Non-levy of penalty on non-maintenance of minimum stock of country/rectified spirit	221	4.18
5.	Non-levy of penalty for breach of licence conditions	234	1.11
6.	Non-levy/recovery of duty on excess wastages	359	0.73
7.	Others	2,922	55.09
Total		4,183	109.24

During the year 2006-07, the department accepted underassessment of tax of Rs. 91.13 crore in 4,285 cases, of which, 2,793 cases involving Rs. 30.50 crore

were pointed out during 2006-07 and the rest in the earlier years. An amount of

Rs. 11.35 crore has been recovered in 1,311 cases.

After issue of draft paragraphs, the department recovered Rs. 9.31 lakh in 138 cases.

A review of "**Collection of Excise Receipts on Liquor**" involving Rs. 4.57 crore is mentioned in the following paragraphs.

3.2 Collection of Excise Receipts on Liquor

Highlights

- Failure of the department to prescribe maintenance of records and periodical returns to higher authorities for keeping a watch over receipt of verification reports resulted in non-realisation of excise duty of Rs. 10.93 crore.
(Paragraph 3.2.8)
- Non-prescription of a time limit for sending the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC resulted in non-levy of penalty of Rs. 4.29 crore.
(Paragraph 3.2.9)
- Lack of monitoring of wastages during transit of liquor led to non-levy of excise duty of Rs. 74.19 lakh.
(Paragraph 3.2.11)
- Lack of provision for recovery in the conditions of sale and inaction by the department led to loss of Rs. 3.31 crore.
(Paragraph 3.2.14)
- Irregular grant of licence and failure to take action for default in payment of licence fee resulted in non-realisation of Rs. 2.37 crore.
(Paragraph 3.2.17)
- Inaction to recover the loss in resale of retail shops of liquor resulted in non-realisation of revenue of Rs. 1.05 crore.
(Paragraph 3.2.18)
- Incorrect application of rates of licence fee on 55 licences of hotel/restaurant bar resulted in short levy of Rs. 71.43 lakh.
(Paragraph 3.2.19)

3.2.1 Introduction

“Liquor” means intoxicating liquor, and includes spirits of wine, spirit, wine, *tari*, beer, all liquids consisting of or containing alcohol, and any substance which the State Government may by notification declare to be liquor. Country and foreign liquor are manufactured from alcohol produced in the distilleries through the process of blending¹/reduction, compounding¹ and flavouring¹⁸ or colouring or both. Beer is manufactured from malt, grain, sugar and hops etc. in breweries. The manufacture, distribution and sale of liquor is controlled by the Excise Commissioner under the provisions of Madhya Pradesh Excise Act, 1915 (Act) through annual licences

granted by him. Licences are renewable annually on the payment of the prescribed fee under the provisions of the Act and the Rules made thereunder. Levy and collection of various kinds of duties and fees on production, possession, sale, export, import and transport of liquor in the State is governed under the Act and Rules made thereunder. These are the main sources of revenue of the Excise Department.

Audit reviewed the functioning of the Excise Department regarding the collection of excise receipts on liquor. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

3.2.2 Organisational set up

¹⁸ Process of removing waste material from liquor and mixing with harmonious combinations.

The State Excise Department is working under the Commercial Tax Department of the Government of Madhya Pradesh. The Excise Commissioner (EC) is the head of the department and is assisted by Additional Excise Commissioner (Addl. EC), Deputy Excise Commissioners (DEC), Assistant Excise Commissioners (AEC) and District Excise Officers (DEO), both at the headquarters at Gwalior and in the districts. In the district, the Collector heads the excise administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is responsible for realisation of the excise revenue.

The working of distilleries and bottling plants (foreign liquor) and breweries is monitored by the DEOs with the assistance of the ADEOs and sub inspectors posted there.

3.2.3 Scope and methodology of audit

The records for five years from 2002-03 to 2006-07 of the office of the Excise Commissioner, 16¹⁹ out of 48 district excise offices, 19 out of 22 bottling plants, all the distilleries (10) and five breweries were test checked between June 2006 and June 2007.

3.2.4 Audit objectives

The review was conducted with a view to ascertain whether:

- fee and duties leviable on manufacture, possession and sale of spirit/liquor were realised as per the Act and Rules framed thereunder;
- internal control mechanism of the department was effective and sufficient controls were in place to safeguard collection of excise receipts on liquor.

3.2.5 Acknowledgement

The audit findings as a result of the test check of the records were reported to the Government/department in June 2007. These were discussed in the meeting of the Audit Review committee (ARC) held in August 2007. The department was represented by the EC while the Principal Secretary, Commercial Tax Department represented the Government. The Government accepted most of the audit observations and their replies have been incorporated in the review.

3.2.6 Trend of revenue

The revenue earned for the last five years ending 31 March 2007 is mentioned below:

(Rupees in crore)

Year	Target	Achievement	Variation (+) increase/(-) decrease	Percentage of variation
2002-03	890	890.32	(+) 0.32	(+) 0.04
2003-04	1,070	1,085.89	(+) 15.89	(+) 1.49
2004-05	1,185	1,192.36	(+) 7.36	(+) 0.62
2005-06	1,300	1,370.38	(+) 70.38	(+) 5.41
2006-07	1,450	1,536.31	(+) 86.31	(+) 5.95

3.2.7 Position of arrears of excise revenue

The position of uncollected revenue is monitored at the EC's level through monthly returns submitted by the DEOs. Revenue of Rs. 60.22 crore pertaining to the period from 1971-72 to 2006-07 was outstanding as on 31 March 2007.

(Rupees in crore)

¹⁹ Bhopal, Chhatarpur, Datia, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Khargone, Morena, Mandsaur, Rajgarh, Ratlam, Raisen, Satna and Ujjain.

Sl. No.	Particulars	Amount
1.	Cases forwarded to the Government for write off	8.73
2.	Write off cases pending with EC	5.71
3.	Cases pending for decision before various courts	2.10
4.	Cases pending in the district excise offices	43.68
Total		60.22²⁰

The Government stated in August 2007 that the arrears were likely to be written off as the defaulters were not traceable.

Audit findings

System deficiencies

3.2.8 Non-realisation of excise duty on unacknowledged export of liquor

The Act and Rules made thereunder provide that if an exporter exports foreign liquor/beer and country liquor within India without payment of duty, he shall obtain a verification report from the officer in charge of the importing unit and furnish it to the authority who issued the permit within 21 days/one month of the expiry of the permit. If the exporter fails to do so, duty leviable on the liquor exported shall be recovered from him in addition to any other penalty leviable under the Rules. To be able to monitor the receipt of the verification reports, it is essential that records containing details such as the due date of receipt of verification report, quantity of liquor exported, date of actual receipt of verification report etc. are maintained in the manufacturing units. **No such records or periodical returns to the higher authorities for keeping a watch over receipt of verification reports have, however, been prescribed in the rules.**

Test check of the records of eight DEOs²¹ between July 2006 and April 2007 revealed that seven licensees exported 6,48,523.65 proof litre of foreign liquor, 99,642 bulk litre of beer and 45,000 proof litre of country liquor on 202 permits between May 2003 and March 2007. The verification reports were not received in these cases even after a lapse of one to 36 months from the date of expiry of the permits. No action to recover the duty was taken by the department. Failure of the department to monitor the receipt of verification reports, therefore, resulted in non-realisation of excise duty of Rs. 10.93 crore.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for levy of duty/penalty would be taken.

The Government may consider prescribing the maintenance of appropriate records for monitoring the receipt of verification reports and may also consider prescribing a periodical return to be submitted to the EC for effective control and monitoring of such cases.

3.2.9 Non-monitoring of minimum stock of spirit at distilleries

Madhya Pradesh Distillery Rules (MPDR) require licensee to maintain prescribed minimum stock of spirit at the distillery. Penalty not exceeding Rs. 5 per proof litre is leviable on the quantity found short of the minimum prescribed stock by the EC. This penalty shall be payable by the licensee irrespective of the fact whether any loss

²⁰ Details like opening balance, addition and recovery during the year alongwith number of cases were not furnished by the department.

²¹ Bhopal, Dhar, Gwalior, Jabalpur, Khargone, Morena, Raisen and Ujjain.

has actually been caused to the Government. The distillery officer is required to forward the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC for levy of penalty. **No time limit for sending these cases to the EC has been prescribed in the rules. Further, no periodical return has also been prescribed for submission to the EC for effective monitoring of such cases.**

Test check of the records of five DEOs²² revealed that six distillers did not maintain the prescribed minimum stock of spirit on 1,115 occasions between September 2004 and February 2007. DEOs (Distillery) did not initiate any action to submit these cases to the EC for levy of penalty of Rs. 4.29 crore on 85.81 lakh proof litre spirit found short. Failure of the department to monitor minimum stock of spirit at the distilleries, therefore, resulted in non-levy of penalty of Rs. 4.29 crore.

After the cases were pointed out, the EC accepted (September 2007) the audit observation and stated that action for levy of penalty would be taken after calling for information from the concerned distillers.

The Government may consider prescribing a time limit for sending the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC for levy of penalty and may also consider prescribing a periodical return to be submitted by the DEO to the EC for effective monitoring.

3.2.10 Non-recovery of duty on the quantity of foreign liquor transported

The Act provides that no intoxicant shall be transported from any distillery, brewery, warehouse or any other place of storage unless the duty is paid or bond is executed for the payment of duty. In cases where an intoxicant is transported without paying the duty, the licensee is required to obtain the verification report from the destination and furnish it to the excise authority that issued the transport permit. **No time limit for submission of verification reports regarding transport of liquor has been prescribed in the rules. Further, relevant records and periodical returns to the EC for keeping a watch over receipt of verification reports have also not been prescribed.**

Test check of the records of five excise offices²³ revealed that 2,10,299.51 proof litre of foreign liquor and 4,36,020 bulk litre of beer involving excise duty of Rs. 4.06 crore were transported from bottling units/breweries to foreign liquor warehouses and military canteens between September 2002 and February 2007 without payment of duty or execution of bond. Further, verification report of these consignments had also not been received from foreign liquor warehouses/military

canteens even after a lapse of 1 to 49 months. In the absence of verification reports, it cannot be ascertained whether the duty of Rs. 4.06 crore was actually levied and recovered on the transported foreign liquor/beer.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and assured that appropriate action for levy of duty/penalty would be taken.

The Government may consider prescribing the maintenance of appropriate records and returns for effective monitoring of verification reports in such cases of transport of foreign liquor. It may also prescribe a time limit for the submission of verification reports to the EC regarding transport of liquor.

3.2.11 Inadmissible wastages of liquor

²² Chhatarpur, Dhar, Gwalior, Khargone and Raisen.

²³ Bhopal, Gwalior, Jabalpur, Morena and Ujjain.

The Rules framed under the Act provide that in case of wastage of bottled liquor beyond permissible limit during transport and export, the duty at the prescribed rates shall be recovered from the licensees. Further, to keep a watch over wastages during export and transport of bottled liquor, it is essential that records containing the details of the amount of liquor transported/ exported, amount of liquor that reached the destination, amount of wastage and recovery on inadmissible wastages etc. are maintained by the excise officers. **Audit noticed that no such record or periodical return for monitoring by the EC or time limit for effecting recovery on the inadmissible wastages have been prescribed in the rules.**

Test check of the records of six DEOs²⁴ revealed that duty of Rs. 74.19 lakh was recoverable in 1,838 cases on wastages beyond permissible limit during transport and export of bottled liquor between November 2002 and March 2007 but it was not levied and recovered by the excise officers. This resulted in non-realisation of excise duty of Rs. 74.19 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for the levy of duty would be taken. AEC Bhopal recovered duty of Rs. 6.66 lakh in July 2007.

The Government may consider prescribing the maintenance of appropriate records for effective monitoring of wastages during transport and export of liquor. Time limit for effecting recovery of excise duty on inadmissible wastages and periodical return for monitoring at the EC level may also be prescribed.

3.2.12 Inadmissible wastages of spirit

The Rules framed under the Act provide that in case of wastage of spirit beyond permissible limit during transport/export in tankers, storage and manufacture of liquor, penalty at the prescribed rate shall be leviable. Though the department has prescribed a system for monitoring of wastages of spirit during transport, storage and manufacture of liquor, **no time limit for sending the cases of inadmissible wastages to the competent authority²⁵ for levy of penalty has been prescribed. Further, in case of export of spirit, maintenance of relevant records for watching wastages, sending of periodical return to the EC, and the time limit for submission of cases of wastages for levy of penalty, have not been prescribed in the rules.** As a result, in a large number of cases levy of penalty was pending.

3.2.12.1 In six DEOs²⁶, penalty of Rs. 9.35 lakh that was leviable in 581 cases of wastages of spirit beyond the permissible limit during transport, export, storage and reduction operations between November 2002 and March 2007, was not levied and recovered. Failure of the department to monitor the wastages during transport/export, storage and reduction, therefore, led to non-levy of Rs. 9.35 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for the levy of penalty would be taken.

The Government may consider prescribing a time limit for submission of cases of inadmissible wastages for levy of penalty to the competent authority. They may also

²⁴ Bhopal, Chhatarpur, Dhar, Gwalior, Morena and Raisen.

²⁵ For wastages during transit, the competent authority is the DEC and in other cases, the competent authority is the EC.

²⁶ Bhopal, Chhatarpur, Dhar, Gwalior, Jabalpur and Khargone.

prescribe maintenance of appropriate records and submission of periodical returns for effective monitoring of wastages during export of spirit.

3.2.12.2 In cases of transport, storage and manufacture of liquor, the rules provide for allowance on wastages **but do not provide for any allowance for wastages of rectified spirit (RS) during re-distillation for manufacturing extra neutral alcohol (ENA).**

Test check of the records of Rajgarh and Raisen distilleries revealed that 218.42 lakh proof litres of RS in 576 cases was redistilled to produce ENA between March 2003 and February 2007 and wastage of 1.16 lakh proof litres of RS was allowed. This was not admissible and resulted in loss of excise duty of Rs. 1.22 crore.

After the cases were pointed out, the Government stated (August 2007) that the wastages of RS during the manufacture of ENA were allowed under Rule 6 (2) of MPDR. The reply is not tenable as Rule 6 (2) read with Rule 4, is related to wastages

during re-distillation of spirits that are below standard or unfit for human consumption. The above mentioned cases on the other hand were those where re-distillation of RS was carried out for making ENA. These were not the cases of re-distillation of RS unfit for human consumption or below standard.

3.2.13 Non-realisation of excise duty due to non-disposal of foreign liquor

MP Foreign Liquor Rules provide that on expiry, non-renewal and cancellation of licence or labels, the licensee shall place the entire stock of liquor under the control of the DEO. However, he can be permitted to dispose of such stock to any other licensee within 30 days of such expiry or cancellation failing which the EC may ask any other eligible licensee of the state to purchase such stock or may give necessary directions for the disposal of the stock. **No periodical return for submission to the EC has been prescribed in the rules for effective control and monitoring of levy of excise duty in such cases.**

Test check of the records of DEOs at Chhatarpur and Ujjain revealed that 23,722.5 proof litre of foreign liquor and 16,500.25 bulk litre of beer involving excise duty of Rs. 41.26 lakh was not disposed even after 23 to 36 months of the expiry of the licences/labels. No efforts were made by the department to dispose the stock. Failure of the department to monitor the disposal of foreign liquor stock resulted in non-realisation of revenue of Rs. 41.26 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and stated that action to dispose the stock was in progress.

The Government may consider prescribing the submission of periodical returns for effective control and monitoring of disposal of foreign liquor stock by the EC.

3.2.14 Absence of provision for recovery of losses suffered during resale of shops under the lottery system

The Government introduced lottery system for the sale of liquor shops from the year 2004-05. However, the shops which could not be sold under the lottery system were to be sold through the tendering process. The conditions of the sale of the liquor shops through tendering process during 2004-05 and 2005-06 provide that if any highest bidder takes back his offer, fails to pay basic licence fee/security deposit in time or breaches any condition of sale, the shop shall be resold. In case of any loss suffered by the Government due to resale, such loss shall be recoverable from the defaulter. **The conditions of sale notified by the Government under the lottery system do not provide for recovery of loss suffered by the Government during resale of shops.**

Test check of the records of six DEOs²⁷ revealed that 19 and 10 applicants were declared successful under the lottery system for allotment of 21 and 20 liquor shops at the annual value of Rs. 18.62 crore and Rs. 11.27 crore for the year 2004-05 and 2005-06, respectively. The successful applicants failed to deposit the basic licence fee and security deposit within the prescribed dates and the shops had to be resold. In the process of resale of the shops, the Government suffered revenue loss of Rs. 2.29 crore and Rs. 1.02 crore during the years 2004-05 and 2005-06 respectively, after taking into account the forfeiture of deposit and income derived from the departmental running of the shops. No action could be taken to recover the loss sustained during 2004-05 as the conditions of sale did not provide for recovery of such loss from the defaulters under the lottery system. For the loss sustained during 2005-06, though undertakings from the applicants in respect of recovery of loss during resale of shops had been obtained by the excise officers, yet no action was taken by them to recover it from the defaulters.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and stated that the action against erring officers had been initiated.

The Government may consider providing for recovery of loss suffered due to resale of liquor shops from the defaulters under the lottery system.

3.2.15 Delay in remittances

As per Madhya Pradesh Treasury Code (MPTC) Volume-I, the money received on behalf of the Government shall be remitted into treasury in full without undue delay.

The State Excise Department has entered into an arrangement with the Punjab National Bank (PNB) in which the PNB collects the daily sale proceeds from the retail licensees on behalf of the department and remits to the treasury every fortnight. This arrangement, however, is not in conformity with the MPTC which provides for re Test check of the records of the EC office, Gwalior revealed that Rs. 916.89 crore was collected by the PNB on account of sale of liquor from seven warehouses²⁸ during the period from November 2002 to March 2007. It was noticed that there was undue delay in remittance of these funds into the treasury in 126 out of 127 cases. The accumulated collections of the fortnight were being remitted to the treasury with delays ranging from four to 40 days. This was not only contrary to the Treasury Code but also deprived the Government of interest of Rs.1.56 crore²⁹ on the delayed deposit of amount of funds by the PNB.

After the cases were pointed out, the Government stated (August 2007) that the procedure of fortnightly remittance was followed as per the orders of the MP Finance Department (MPFD) to prevent fake and forged treasury challans. The reply of the Government is not tenable as the system for reconciliation of departmental challans with the treasury receipts already exists for watching fraudulent challans. Moreover, the MPTC did not allow the PNB to accumulate the daily sale proceeds and remit to the treasury every fortnight. MPTC provides for immediate remittance of the money in the treasury.

3.2.16 Internal audit

The internal audit wing of a department is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the department to assure itself that the prescribed systems are functioning reasonably well.

²⁷ Datia, Gwalior, Hoshangabad, Indore, Jabalpur and Raisen.

²⁸ Bhopal, Gwalior, Indore, Jabalpur, Rewa, Sagar and Ujjain.

²⁹ Calculated at the minimum interest rate of 5.6 per cent on which the Government borrowed loans from the market during the period from 2002-03 to 2006-07.

An internal audit wing was established in the EC's office in the year 1978. As per its roster, audit of 48 units was to be conducted each year during the period from 2002-03 to 2006-07. Scrutiny of the records revealed the following position:

Year	Number of units audited	Shortfall with reference to roster	Percentage of shortfall
2002-03	41	07	14.58
2003-04	28	20	41.67
2004-05	21	27	56.25
2005-06	14	34	70.83
2006-07	23	25	52.08

Thus, the internal audit wing fell short of the targets fixed by the department. In addition, the details about the number of objections raised by the internal audit, money value involved, amount recovered etc. were not available with the internal audit wing. Records relating to follow up action on audit observations were not prescribed. As a result, internal audit function of the department was rendered ineffective.

The audit observation was accepted by the Government. It assured that the audit roster would be followed in future. As regards non-maintenance of records, EC stated in October 2007 that the records were now being maintained from the year 2007-08 at the instance of audit.

Compliance deficiencies

3.2.17 Irregular grant of licence/non-recovery of licence fee

The Act and the conditions of sale of retail shops provide that the successful applicant/tenderer shall pay the prescribed basic licence fee and security deposit before the issue of licence. If he does not deposit/deposits it partly, within the prescribed period, the deposits made by him shall be forfeited and the shop resold. The annual licence fee³⁰ is payable by the licensees in 24 equal fortnightly instalments in the prescribed manner. In case of default, the licence granting authority is empowered to cancel or suspend the licence. Where a licence is cancelled, the collector may take charge of the management of such shops or resell the shops at the risk and cost of the ex-licensees. The loss, if any, sustained in this process will be recovered as excise revenue from the defaulter.

Test check of the records of four DEOs³¹ revealed that 46 liquor shop licences were granted for one year or part thereof during 2004-05 and 2005-06 for an aggregate annual licence fee of Rs. 9.35 crore. The licences for retail liquor shops were granted to 17 successful applicants despite their failure to deposit the requisite security deposit and basic licence fee within the prescribed period. Instead of granting the licences, the shops should have been resold by forfeiting the partial/insufficient amount of security deposit and basic licence fee of Rs. 24.04 lakh that had been deposited by the successful applicants.

Further, all these 46 licensees defaulted in making payment of the fortnightly instalment of the licence fee but no action for cancellation of the licences was taken in 19 cases. The licences of 26 shops were cancelled after the lapse of one to four months from the date of default and the shops were resold/operated by

³⁰ Annual licence fee is equal to the value of the shop minus basic licence fee.

³¹ Datia, Hoshangabad, Jabalpur and Raisen.

the department. The management of remaining one shop was undertaken after a lapse of six months from the date of default without cancellation of the licence. As a result, the department suffered a revenue loss of Rs. 2.37 crore which was recoverable from the defaulters. The department did not take any action to recover it resulting in non-realisation. It was also noticed in DEO, Raisen that bank guarantee of Rs. 3.25 lakh obtained against the security deposit of one country liquor shop could not be encashed due to failure of the department to submit the claim in time before the bank.

After the cases were pointed out, the Government/EC stated (August and September 2007) that necessary action for recovery was in progress and action against the erring DEOs was also being taken. Further report in the matter has not been received (January 2008).

3.2.18 Loss due to resale of liquor shops

The conditions of sale of liquor shops through tendering process during 2005-06 and 2006-07 provide that if any highest bidder withdraws his offer, fails to pay the basic licence fee/security deposit in time or breaches any condition of sale, the shop will be resold. In case of any loss suffered by the Government due to resale, such loss will be recoverable from the defaulter.

Test check of the records of four DEOs³² revealed that the successful bidders failed to pay the prescribed amount of basic licence fee and security deposit in respect of one and 14 liquor shops for the year 2005-06 and 2006-07, respectively. As a result, the shops had to be resold. The Government suffered a loss of Rs. 1.05 crore due to resale after taking into account the forfeiture of security and earnest money deposits (EMD). No action was taken by the department for recovery of this amount from the defaulters resulting in non-realisation of revenue of Rs. 1.05 crore. It was further seen that the AEC, Bhopal had failed to forfeit the EMD of Rs. 2.49 lakh in respect of one shop.

After these cases were pointed out, the Government accepted (August 2007) the audit observation and stated that the action against erring officers had been initiated.

3.2.19 Short levy of licence fee due to incorrect application of rates

The Government instructions of January 2005 read with the notification issued in April 2005 provided for issue of licences to restaurants and hotel bars on payment of licence fee at the prescribed rates. Slab rates of licence fee were prescribed on the basis of the population of the city in which the bars were situated. The departmental instructions in February 2005 provided for full levy of licence fee even if the licence was granted for a part of the year. The notification in April 2005 also provided for concessional rates in respect of the hotels of Madhya Pradesh *Paryatan* Nigam (MPPN) for the year 2005-06.

Test check of the records of the EC office and seven DEOs³³ revealed that 47 licences were granted during 2004-05 to 2006-07 to hotel bars of private individuals for Rs. 1.90 crore as against the leviable amount of Rs. 2.48 crore. This was due to applications of lower slab rates of licence fee on account of treating the population of Jabalpur city below 10 lakh and by proportionately reducing the licence fee in cases where licence was granted for a part of the year. Further, eight licences were granted to hotels/restaurant bars of MPPN for the year 2006-07 at a concessional licence fee of Rs. 14 lakh as against the leviable normal fee of Rs. 27.80 lakh. Concessional rates were extended

³² Bhopal, Hoshangabad, Indore and Jabalpur.

³³ Bhopal, Chhatarpur, Gwalior, Hoshangabad, Jabalpur, Raisen and Ujjain.

to the MPPN for the year 2006-07 on the basis of the Government

directions but no notification was issued under the Act. Short levy of licence fee on 55 licences granted to hotel/ restaurant bars resulted in short realisation of revenue of Rs. 71.43 lakh.

After the cases were pointed out, the Government accepted (August 2007) short levy of licence fee in respect of 47 cases of Jabalpur. The EC replied in September 2007 that licence fee of Rs. 15.60 lakh had been recovered in 13 cases. In rest of the cases, recovery could not be effected due to stay order obtained by the licensees in July 2007. Regarding short levy of licence fee on licences granted to MPPN hotel/restaurant bars, the Government stated (August 2007) that the notification for extending concessional rates to MPPN during the year 2006-07 had been issued in August 2007 with retrospective effect. The reply is not tenable as section 27 of the Act empowers the Government to increase/reduce the licence fee with retrospective effect but not from the date earlier than the commencement of the financial year. Therefore, the cases pertaining to the year 2006-07 are beyond the purview of the notification of August 2007.

3.2.20 Non/short levy of transport/import fee

Madhya Pradesh Foreign Liquor Rules (MPFLR) provide for levy of transport/import fee on foreign liquor, rectified spirit (RS) and ENA transported/imported to bottling unit of foreign liquor at the rates prescribed from time to time.

Test check of the records of the AEC office Bhopal revealed that 2.62 lakh bulk litre ENA was transported from the distilleries to the bottling units of foreign liquor in April 2006. The licensees paid transport fee of only Rs. 550 as against leviable fee of Rs. 6.55 lakh. In Dhar and Gwalior, 2.76 lakh bulk litre ENA was imported by the licensees between April and August 2006. The licensees paid import fee of Rs. 6.72 lakh as against the leviable import fee of Rs. 13.50 lakh. In Chhatarpur, import fee of Rs. 2.02 lakh was not levied and recovered on 28,790 beer bottles brought from Uttar Pradesh in January 2007. Non/short levy of transport/import fees resulted in non/short realisation of revenue of Rs. 15.34 lakh.

After the cases were pointed out, Rs. 13.32 lakh was recovered by the excise authorities in Bhopal, Dhar and Gwalior between July 2006 and June 2007. As regards non-levy of import fee of Rs. 2.02 lakh on beer bottles, the EC contended that these beer bottles had been exported by the licensees during 2004-05 but brought back into the State in January 2007 as they were six months old and had expired. The reply is not tenable as the rules do not provide for non-levy of import fee in such cases.

3.2.21 Irregular manufacture and bottling of foreign liquor

MPFLR provides that special bottling licence (FL-9 A licence) for bottling of foreign liquor of such labels or brands already being manufactured outside Madhya Pradesh can only be granted to those licensees who have the licence (FL-9 licence) for bottling and manufacture of foreign liquor in MP. In other words, FL-9 licence is essential for bottling of foreign liquor under FL-9A licence.

Test check of the records of the bottling unit of Khargone in June 2007 revealed that two companies³⁴ got special bottling licence (FL-9A licence) on sub lease from another licensee after obtaining permission from the EC. These companies manufactured foreign liquor under FL-9A licence without having FL-9 licence on which licence fee of Rs. 5 lakh was chargeable during 2006-07. The manufacture of foreign liquor was, therefore, not only irregular but also deprived the Government of licence fee of Rs. 10 lakh.

After these cases were pointed out, the Government stated in August 2007 that the notices for recovery of licence fee had been issued.

3.2.22 Conclusion

Audit noticed that the systems instituted by the Excise Department for collection of excise receipts on liquor were deficient. Monitoring of key areas such as verification reports on exported liquor, maintenance of minimum stock of spirit in distilleries, wastages during export, transport, storage and manufacture of liquor, etc. was non-existent. Internal audit, an important component of the internal control mechanism, was also rendered ineffective due to lack of follow up on audit observations. Additionally, the department failed to follow the provisions of the Act/rules and instructions issued by the Government in many areas like grant of licences for manufacture and sale of liquor, collection of licence fee, collection of fee on transport and import of liquor/spirit etc. resulting in significant amount of non/short realisation of excise receipts on liquor.

3.2.23 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:

- prescribing the maintenance of appropriate records for monitoring of receipt of verification reports and a periodical return to be submitted to the EC for effective control and monitoring of such cases;
- prescribing the maintenance of appropriate records and returns for effective monitoring of verification reports in such cases of transport of foreign liquor. It may also prescribe a time limit for the submission of verification reports to the EC regarding transport of liquor;
- prescribing the maintenance of appropriate records for effective monitoring of wastages during transport and export of liquor. Time limit for effecting recovery of excise duty on inadmissible wastages and periodical return for monitoring at the EC level may also be prescribed;
- prescribing a time limit for submission of cases of inadmissible wastages for levy of penalty to the competent authority. It may also prescribe maintenance of appropriate records and submission of periodical returns for effective monitoring of wastages during export of spirit;
- prescribing the submission of periodical returns for effective control and monitoring of disposal of foreign liquor stock by the EC; and

³⁴ Diageo India Private Limited, Bombay.
Diageo Radico Distilleries Private Limited, New Delhi.

- providing for recovery of loss suffered due to resale of liquor shops from the defaulters under the lottery system.



CHAPTER III : STATE EXCISE

3.1 Results of audit

Test check of the records of State excise conducted during 2006-07 revealed

non-assessment, underassessment, loss of revenue and non-levy of penalty amounting to Rs. 109.24 crore in 4,183 cases, which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
1.	Collection of excise receipts on liquor (A review)	01	31.08
2.	Non-realisation of licence fee from excise shops	239	11.48
3.	Loss in re-auction/bidding of excise shops	207	5.57
4.	Non-levy of penalty on non-maintenance of minimum stock of country/rectified spirit	221	4.18
5.	Non-levy of penalty for breach of licence conditions	234	1.11
6.	Non-levy/recovery of duty on excess wastages	359	0.73
7.	Others	2,922	55.09
Total		4,183	109.24

During the year 2006-07, the department accepted underassessment of tax of Rs. 91.13 crore in 4,285 cases, of which, 2,793 cases involving Rs. 30.50 crore

were pointed out during 2006-07 and the rest in the earlier years. An amount of

Rs. 11.35 crore has been recovered in 1,311 cases.

After issue of draft paragraphs, the department recovered Rs. 9.31 lakh in 138 cases.

A review of "**Collection of Excise Receipts on Liquor**" involving Rs. 4.57 crore is mentioned in the following paragraphs.

3.2 Collection of Excise Receipts on Liquor

Highlights

- Failure of the department to prescribe maintenance of records and periodical returns to higher authorities for keeping a watch over receipt of verification reports resulted in non-realisation of excise duty of Rs. 10.93 crore.
(Paragraph 3.2.8)
- Non-prescription of a time limit for sending the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC resulted in non-levy of penalty of Rs. 4.29 crore.
(Paragraph 3.2.9)
- Lack of monitoring of wastages during transit of liquor led to non-levy of excise duty of Rs. 74.19 lakh.
(Paragraph 3.2.11)
- Lack of provision for recovery in the conditions of sale and inaction by the department led to loss of Rs. 3.31 crore.
(Paragraph 3.2.14)
- Irregular grant of licence and failure to take action for default in payment of licence fee resulted in non-realisation of Rs. 2.37 crore.
(Paragraph 3.2.17)
- Inaction to recover the loss in resale of retail shops of liquor resulted in non-realisation of revenue of Rs. 1.05 crore.
(Paragraph 3.2.18)
- Incorrect application of rates of licence fee on 55 licences of hotel/restaurant bar resulted in short levy of Rs. 71.43 lakh.
(Paragraph 3.2.19)

3.2.1 Introduction

“Liquor” means intoxicating liquor, and includes spirits of wine, spirit, wine, *tari*, beer, all liquids consisting of or containing alcohol, and any substance which the State Government may by notification declare to be liquor. Country and foreign liquor are manufactured from alcohol produced in the distilleries through the process of blending¹/reduction, compounding¹ and flavouring³⁵ or colouring or both. Beer is manufactured from malt, grain, sugar and hops etc. in breweries. The manufacture, distribution and sale of liquor is controlled by the Excise Commissioner under the provisions of Madhya Pradesh Excise Act, 1915 (Act) through annual licences

granted by him. Licences are renewable annually on the payment of the prescribed fee under the provisions of the Act and the Rules made thereunder. Levy and collection of various kinds of duties and fees on production, possession, sale, export, import and transport of liquor in the State is governed under the Act and Rules made thereunder. These are the main sources of revenue of the Excise Department.

Audit reviewed the functioning of the Excise Department regarding the collection of excise receipts on liquor. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

3.2.2 Organisational set up

³⁵ Process of removing waste material from liquor and mixing with harmonious combinations.

The State Excise Department is working under the Commercial Tax Department of the Government of Madhya Pradesh. The Excise Commissioner (EC) is the head of the department and is assisted by Additional Excise Commissioner (Addl. EC), Deputy Excise Commissioners (DEC), Assistant Excise Commissioners (AEC) and District Excise Officers (DEO), both at the headquarters at Gwalior and in the districts. In the district, the Collector heads the excise administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is responsible for realisation of the excise revenue.

The working of distilleries and bottling plants (foreign liquor) and breweries is monitored by the DEOs with the assistance of the ADEOs and sub inspectors posted there.

3.2.3 Scope and methodology of audit

The records for five years from 2002-03 to 2006-07 of the office of the Excise Commissioner, 16³⁶ out of 48 district excise offices, 19 out of 22 bottling plants, all the distilleries (10) and five breweries were test checked between June 2006 and June 2007.

3.2.4 Audit objectives

The review was conducted with a view to ascertain whether:

- fee and duties leviable on manufacture, possession and sale of spirit/liquor were realised as per the Act and Rules framed thereunder;
- internal control mechanism of the department was effective and sufficient controls were in place to safeguard collection of excise receipts on liquor.

3.2.5 Acknowledgement

The audit findings as a result of the test check of the records were reported to the Government/department in June 2007. These were discussed in the meeting of the Audit Review committee (ARC) held in August 2007. The department was represented by the EC while the Principal Secretary, Commercial Tax Department represented the Government. The Government accepted most of the audit observations and their replies have been incorporated in the review.

3.2.6 Trend of revenue

The revenue earned for the last five years ending 31 March 2007 is mentioned below:

(Rupees in crore)

Year	Target	Achievement	Variation (+) increase/(-) decrease	Percentage of variation
2002-03	890	890.32	(+) 0.32	(+) 0.04
2003-04	1,070	1,085.89	(+) 15.89	(+) 1.49
2004-05	1,185	1,192.36	(+) 7.36	(+) 0.62
2005-06	1,300	1,370.38	(+) 70.38	(+) 5.41
2006-07	1,450	1,536.31	(+) 86.31	(+) 5.95

3.2.7 Position of arrears of excise revenue

The position of uncollected revenue is monitored at the EC's level through monthly returns submitted by the DEOs. Revenue of Rs. 60.22 crore pertaining to the period from 1971-72 to 2006-07 was outstanding as on 31 March 2007.

(Rupees in crore)

³⁶ Bhopal, Chhatarpur, Datia, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Khargone, Morena, Mandsaur, Rajgarh, Ratlam, Raisen, Satna and Ujjain.

Sl. No.	Particulars	Amount
1.	Cases forwarded to the Government for write off	8.73
2.	Write off cases pending with EC	5.71
3.	Cases pending for decision before various courts	2.10
4.	Cases pending in the district excise offices	43.68
Total		60.22³⁷

The Government stated in August 2007 that the arrears were likely to be written off as the defaulters were not traceable.

Audit findings

System deficiencies

3.2.8 Non-realisation of excise duty on unacknowledged export of liquor

The Act and Rules made thereunder provide that if an exporter exports foreign liquor/beer and country liquor within India without payment of duty, he shall obtain a verification report from the officer in charge of the importing unit and furnish it to the authority who issued the permit within 21 days/one month of the expiry of the permit. If the exporter fails to do so, duty leviable on the liquor exported shall be recovered from him in addition to any other penalty leviable under the Rules. To be able to monitor the receipt of the verification reports, it is essential that records containing details such as the due date of receipt of verification report, quantity of liquor exported, date of actual receipt of verification report etc. are maintained in the manufacturing units. **No such records or periodical returns to the higher authorities for keeping a watch over receipt of verification reports have, however, been prescribed in the rules.**

Test check of the records of eight DEOs³⁸ between July 2006 and April 2007 revealed that seven licensees exported 6,48,523.65 proof litre of foreign liquor, 99,642 bulk litre of beer and 45,000 proof litre of country liquor on 202 permits between May 2003 and March 2007. The verification reports were not received in these cases even after a lapse of one to 36 months from the date of expiry of the permits. No action to recover the duty was taken by the department. Failure of the department to monitor the receipt of verification reports, therefore, resulted in non-realisation of excise duty of Rs. 10.93 crore.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for levy of duty/penalty would be taken.

The Government may consider prescribing the maintenance of appropriate records for monitoring the receipt of verification reports and may also consider prescribing a periodical return to be submitted to the EC for effective control and monitoring of such cases.

3.2.9 Non-monitoring of minimum stock of spirit at distilleries

Madhya Pradesh Distillery Rules (MPDR) require licensee to maintain prescribed minimum stock of spirit at the distillery. Penalty not exceeding Rs. 5 per proof litre is leviable on the quantity found short of the minimum prescribed stock by the EC. This penalty shall be payable by the licensee irrespective of the fact whether any loss

³⁷ Details like opening balance, addition and recovery during the year alongwith number of cases were not furnished by the department.

³⁸ Bhopal, Dhar, Gwalior, Jabalpur, Khargone, Morena, Raisen and Ujjain.

has actually been caused to the Government. The distillery officer is required to forward the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC for levy of penalty. **No time limit for sending these cases to the EC has been prescribed in the rules. Further, no periodical return has also been prescribed for submission to the EC for effective monitoring of such cases.**

Test check of the records of five DEOs³⁹ revealed that six distillers did not maintain the prescribed minimum stock of spirit on 1,115 occasions between September 2004 and February 2007. DEOs (Distillery) did not initiate any action to submit these cases to the EC for levy of penalty of Rs. 4.29 crore on 85.81 lakh proof litre spirit found short. Failure of the department to monitor minimum stock of spirit at the distilleries, therefore, resulted in non-levy of penalty of Rs. 4.29 crore.

After the cases were pointed out, the EC accepted (September 2007) the audit observation and stated that action for levy of penalty would be taken after calling for information from the concerned distillers.

The Government may consider prescribing a time limit for sending the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC for levy of penalty and may also consider prescribing a periodical return to be submitted by the DEO to the EC for effective monitoring.

3.2.10 Non-recovery of duty on the quantity of foreign liquor transported

The Act provides that no intoxicant shall be transported from any distillery, brewery, warehouse or any other place of storage unless the duty is paid or bond is executed for the payment of duty. In cases where an intoxicant is transported without paying the duty, the licensee is required to obtain the verification report from the destination and furnish it to the excise authority that issued the transport permit. **No time limit for submission of verification reports regarding transport of liquor has been prescribed in the rules. Further, relevant records and periodical returns to the EC for keeping a watch over receipt of verification reports have also not been prescribed.**

Test check of the records of five excise offices⁴⁰ revealed that 2,10,299.51 proof litre of foreign liquor and 4,36,020 bulk litre of beer involving excise duty of Rs. 4.06 crore were transported from bottling units/breweries to foreign liquor warehouses and military canteens between September 2002 and February 2007 without payment of duty or execution of bond. Further, verification report of these consignments had also not been received from foreign liquor warehouses/military

canteens even after a lapse of 1 to 49 months. In the absence of verification reports, it cannot be ascertained whether the duty of Rs. 4.06 crore was actually levied and recovered on the transported foreign liquor/beer.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and assured that appropriate action for levy of duty/penalty would be taken.

The Government may consider prescribing the maintenance of appropriate records and returns for effective monitoring of verification reports in such cases of transport of foreign liquor. It may also prescribe a time limit for the submission of verification reports to the EC regarding transport of liquor.

3.2.11 Inadmissible wastages of liquor

³⁹ Chhatarpur, Dhar, Gwalior, Khargone and Raisen.

⁴⁰ Bhopal, Gwalior, Jabalpur, Morena and Ujjain.

The Rules framed under the Act provide that in case of wastage of bottled liquor beyond permissible limit during transport and export, the duty at the prescribed rates shall be recovered from the licensees. Further, to keep a watch over wastages during export and transport of bottled liquor, it is essential that records containing the details of the amount of liquor transported/ exported, amount of liquor that reached the destination, amount of wastage and recovery on inadmissible wastages etc. are maintained by the excise officers. **Audit noticed that no such record or periodical return for monitoring by the EC or time limit for effecting recovery on the inadmissible wastages have been prescribed in the rules.**

Test check of the records of six DEOs⁴¹ revealed that duty of Rs. 74.19 lakh was recoverable in 1,838 cases on wastages beyond permissible limit during transport and export of bottled liquor between November 2002 and March 2007 but it was not levied and recovered by the excise officers. This resulted in non-realisation of excise duty of Rs. 74.19 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for the levy of duty would be taken. AEC Bhopal recovered duty of Rs. 6.66 lakh in July 2007.

The Government may consider prescribing the maintenance of appropriate records for effective monitoring of wastages during transport and export of liquor. Time limit for effecting recovery of excise duty on inadmissible wastages and periodical return for monitoring at the EC level may also be prescribed.

3.2.12 Inadmissible wastages of spirit

The Rules framed under the Act provide that in case of wastage of spirit beyond permissible limit during transport/export in tankers, storage and manufacture of liquor, penalty at the prescribed rate shall be leviable. Though the department has prescribed a system for monitoring of wastages of spirit during transport, storage and manufacture of liquor, **no time limit for sending the cases of inadmissible wastages to the competent authority⁴² for levy of penalty has been prescribed. Further, in case of export of spirit, maintenance of relevant records for watching wastages, sending of periodical return to the EC, and the time limit for submission of cases of wastages for levy of penalty, have not been prescribed in the rules.** As a result, in a large number of cases levy of penalty was pending.

3.2.12.1 In six DEOs⁴³, penalty of Rs. 9.35 lakh that was leviable in 581 cases of wastages of spirit beyond the permissible limit during transport, export, storage and reduction operations between November 2002 and March 2007, was not levied and recovered. Failure of the department to monitor the wastages during transport/export, storage and reduction, therefore, led to non-levy of Rs. 9.35 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for the levy of penalty would be taken.

The Government may consider prescribing a time limit for submission of cases of inadmissible wastages for levy of penalty to the competent authority. They may also

⁴¹ Bhopal, Chhatarpur, Dhar, Gwalior, Morena and Raisen.

⁴² For wastages during transit, the competent authority is the DEC and in other cases, the competent authority is the EC.

⁴³ Bhopal, Chhatarpur, Dhar, Gwalior, Jabalpur and Khargone.

prescribe maintenance of appropriate records and submission of periodical returns for effective monitoring of wastages during export of spirit.

3.2.12.2 In cases of transport, storage and manufacture of liquor, the rules provide for allowance on wastages **but do not provide for any allowance for wastages of rectified spirit (RS) during re-distillation for manufacturing extra neutral alcohol (ENA).**

Test check of the records of Rajgarh and Raisen distilleries revealed that 218.42 lakh proof litres of RS in 576 cases was redistilled to produce ENA between March 2003 and February 2007 and wastage of 1.16 lakh proof litres of RS was allowed. This was not admissible and resulted in loss of excise duty of Rs. 1.22 crore.

After the cases were pointed out, the Government stated (August 2007) that the wastages of RS during the manufacture of ENA were allowed under Rule 6 (2) of MPDR. The reply is not tenable as Rule 6 (2) read with Rule 4, is related to wastages

during re-distillation of spirits that are below standard or unfit for human consumption. The above mentioned cases on the other hand were those where re-distillation of RS was carried out for making ENA. These were not the cases of re-distillation of RS unfit for human consumption or below standard.

3.2.13 Non-realisation of excise duty due to non-disposal of foreign liquor

MP Foreign Liquor Rules provide that on expiry, non-renewal and cancellation of licence or labels, the licensee shall place the entire stock of liquor under the control of the DEO. However, he can be permitted to dispose of such stock to any other licensee within 30 days of such expiry or cancellation failing which the EC may ask any other eligible licensee of the state to purchase such stock or may give necessary directions for the disposal of the stock. **No periodical return for submission to the EC has been prescribed in the rules for effective control and monitoring of levy of excise duty in such cases.**

Test check of the records of DEOs at Chhatarpur and Ujjain revealed that 23,722.5 proof litre of foreign liquor and 16,500.25 bulk litre of beer involving excise duty of Rs. 41.26 lakh was not disposed even after 23 to 36 months of the expiry of the licences/labels. No efforts were made by the department to dispose the stock. Failure of the department to monitor the disposal of foreign liquor stock resulted in non-realisation of revenue of Rs. 41.26 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and stated that action to dispose the stock was in progress.

The Government may consider prescribing the submission of periodical returns for effective control and monitoring of disposal of foreign liquor stock by the EC.

3.2.14 Absence of provision for recovery of losses suffered during resale of shops under the lottery system

The Government introduced lottery system for the sale of liquor shops from the year 2004-05. However, the shops which could not be sold under the lottery system were to be sold through the tendering process. The conditions of the sale of the liquor shops through tendering process during 2004-05 and 2005-06 provide that if any highest bidder takes back his offer, fails to pay basic licence fee/security deposit in time or breaches any condition of sale, the shop shall be resold. In case of any loss suffered by the Government due to resale, such loss shall be recoverable from the defaulter. **The conditions of sale notified by the Government under the lottery system do not provide for recovery of loss suffered by the Government during resale of shops.**

Test check of the records of six DEOs⁴⁴ revealed that 19 and 10 applicants were declared successful under the lottery system for allotment of 21 and 20 liquor shops at the annual value of Rs. 18.62 crore and Rs. 11.27 crore for the year 2004-05 and 2005-06, respectively. The successful applicants failed to deposit the basic licence fee and security deposit within the prescribed dates and the shops had to be resold. In the process of resale of the shops, the Government suffered revenue loss of Rs. 2.29 crore and Rs. 1.02 crore during the years 2004-05 and 2005-06 respectively, after taking into account the forfeiture of deposit and income derived from the departmental running of the shops. No action could be taken to recover the loss sustained during 2004-05 as the conditions of sale did not provide for recovery of such loss from the defaulters under the lottery system. For the loss sustained during 2005-06, though undertakings from the applicants in respect of recovery of loss during resale of shops had been obtained by the excise officers, yet no action was taken by them to recover it from the defaulters.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and stated that the action against erring officers had been initiated.

The Government may consider providing for recovery of loss suffered due to resale of liquor shops from the defaulters under the lottery system.

3.2.15 Delay in remittances

As per Madhya Pradesh Treasury Code (MPTC) Volume-I, the money received on behalf of the Government shall be remitted into treasury in full without undue delay.

The State Excise Department has entered into an arrangement with the Punjab National Bank (PNB) in which the PNB collects the daily sale proceeds from the retail licensees on behalf of the department and remits to the treasury every fortnight. This arrangement, however, is not in conformity with the MPTC which provides for re Test check of the records of the EC office, Gwalior revealed that Rs. 916.89 crore was collected by the PNB on account of sale of liquor from seven warehouses⁴⁵ during the period from November 2002 to March 2007. It was noticed that there was undue delay in remittance of these funds into the treasury in 126 out of 127 cases. The accumulated collections of the fortnight were being remitted to the treasury with delays ranging from four to 40 days. This was not only contrary to the Treasury Code but also deprived the Government of interest of Rs.1.56 crore⁴⁶ on the delayed deposit of amount of funds by the PNB.

After the cases were pointed out, the Government stated (August 2007) that the procedure of fortnightly remittance was followed as per the orders of the MP Finance Department (MPFD) to prevent fake and forged treasury challans. The reply of the Government is not tenable as the system for reconciliation of departmental challans with the treasury receipts already exists for watching fraudulent challans. Moreover, the MPTC did not allow the PNB to accumulate the daily sale proceeds and remit to the treasury every fortnight. MPTC provides for immediate remittance of the money in the treasury.

3.2.16 Internal audit

The internal audit wing of a department is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the department to assure itself that the prescribed systems are functioning reasonably well.

⁴⁴ Datia, Gwalior, Hoshangabad, Indore, Jabalpur and Raisen.

⁴⁵ Bhopal, Gwalior, Indore, Jabalpur, Rewa, Sagar and Ujjain.

⁴⁶ Calculated at the minimum interest rate of 5.6 per cent on which the Government borrowed loans from the market during the period from 2002-03 to 2006-07.

An internal audit wing was established in the EC's office in the year 1978. As per its roster, audit of 48 units was to be conducted each year during the period from 2002-03 to 2006-07. Scrutiny of the records revealed the following position:

Year	Number of units audited	Shortfall with reference to roster	Percentage of shortfall
2002-03	41	07	14.58
2003-04	28	20	41.67
2004-05	21	27	56.25
2005-06	14	34	70.83
2006-07	23	25	52.08

Thus, the internal audit wing fell short of the targets fixed by the department. In addition, the details about the number of objections raised by the internal audit, money value involved, amount recovered etc. were not available with the internal audit wing. Records relating to follow up action on audit observations were not prescribed. As a result, internal audit function of the department was rendered ineffective.

The audit observation was accepted by the Government. It assured that the audit roster would be followed in future. As regards non-maintenance of records, EC stated in October 2007 that the records were now being maintained from the year 2007-08 at the instance of audit.

Compliance deficiencies

3.2.17 Irregular grant of licence/non-recovery of licence fee

The Act and the conditions of sale of retail shops provide that the successful applicant/tenderer shall pay the prescribed basic licence fee and security deposit before the issue of licence. If he does not deposit/deposits it partly, within the prescribed period, the deposits made by him shall be forfeited and the shop resold. The annual licence fee⁴⁷ is payable by the licensees in 24 equal fortnightly instalments in the prescribed manner. In case of default, the licence granting authority is empowered to cancel or suspend the licence. Where a licence is cancelled, the collector may take charge of the management of such shops or resell the shops at the risk and cost of the ex-licensees. The loss, if any, sustained in this process will be recovered as excise revenue from the defaulter.

Test check of the records of four DEOs⁴⁸ revealed that 46 liquor shop licences were granted for one year or part thereof during 2004-05 and 2005-06 for an aggregate annual licence fee of Rs. 9.35 crore. The licences for retail liquor shops were granted to 17 successful applicants despite their failure to deposit the requisite security deposit and basic licence fee within the prescribed period. Instead of granting the licences, the shops should have been resold by forfeiting the partial/insufficient amount of security deposit and basic licence fee of Rs. 24.04 lakh that had been deposited by the successful applicants.

Further, all these 46 licensees defaulted in making payment of the fortnightly instalment of the licence fee but no action for cancellation of the licences was taken in 19 cases. The licences of 26 shops were cancelled after the lapse of one to four months from the date of default and the shops were resold/operated by

⁴⁷ Annual licence fee is equal to the value of the shop minus basic licence fee.

⁴⁸ Datia, Hoshangabad, Jabalpur and Raisen.

the department. The management of remaining one shop was undertaken after a lapse of six months from the date of default without cancellation of the licence. As a result, the department suffered a revenue loss of Rs. 2.37 crore which was recoverable from the defaulters. The department did not take any action to recover it resulting in non-realisation. It was also noticed in DEO, Raisen that bank guarantee of Rs. 3.25 lakh obtained against the security deposit of one country liquor shop could not be encashed due to failure of the department to submit the claim in time before the bank.

After the cases were pointed out, the Government/EC stated (August and September 2007) that necessary action for recovery was in progress and action against the erring DEOs was also being taken. Further report in the matter has not been received (January 2008).

3.2.18 Loss due to resale of liquor shops

The conditions of sale of liquor shops through tendering process during 2005-06 and 2006-07 provide that if any highest bidder withdraws his offer, fails to pay the basic licence fee/security deposit in time or breaches any condition of sale, the shop will be resold. In case of any loss suffered by the Government due to resale, such loss will be recoverable from the defaulter.

Test check of the records of four DEOs⁴⁹ revealed that the successful bidders failed to pay the prescribed amount of basic licence fee and security deposit in respect of one and 14 liquor shops for the year 2005-06 and 2006-07, respectively. As a result, the shops had to be resold. The Government suffered a loss of Rs. 1.05 crore due to resale after taking into account the forfeiture of security and earnest money deposits (EMD). No action was taken by the department for recovery of this amount from the defaulters resulting in non-realisation of revenue of Rs. 1.05 crore. It was further seen that the AEC, Bhopal had failed to forfeit the EMD of Rs. 2.49 lakh in respect of one shop.

After these cases were pointed out, the Government accepted (August 2007) the audit observation and stated that the action against erring officers had been initiated.

3.2.19 Short levy of licence fee due to incorrect application of rates

The Government instructions of January 2005 read with the notification issued in April 2005 provided for issue of licences to restaurants and hotel bars on payment of licence fee at the prescribed rates. Slab rates of licence fee were prescribed on the basis of the population of the city in which the bars were situated. The departmental instructions in February 2005 provided for full levy of licence fee even if the licence was granted for a part of the year. The notification in April 2005 also provided for concessional rates in respect of the hotels of Madhya Pradesh *Paryatan* Nigam (MPPN) for the year 2005-06.

Test check of the records of the EC office and seven DEOs⁵⁰ revealed that 47 licences were granted during 2004-05 to 2006-07 to hotel bars of private individuals for Rs. 1.90 crore as against the leviable amount of Rs. 2.48 crore. This was due to applications of lower slab rates of licence fee on account of treating the population of Jabalpur city below 10 lakh and by proportionately reducing the licence fee in cases where licence was granted for a part of the year. Further, eight licences were granted to hotels/restaurant bars of MPPN for the year 2006-07 at a concessional licence fee of Rs. 14 lakh as against the leviable normal fee of Rs. 27.80 lakh. Concessional rates were extended

⁴⁹ Bhopal, Hoshangabad, Indore and Jabalpur.

⁵⁰ Bhopal, Chhatarpur, Gwalior, Hoshangabad, Jabalpur, Raisen and Ujjain.

to the MPPN for the year 2006-07 on the basis of the Government

directions but no notification was issued under the Act. Short levy of licence fee on 55 licences granted to hotel/ restaurant bars resulted in short realisation of revenue of Rs. 71.43 lakh.

After the cases were pointed out, the Government accepted (August 2007) short levy of licence fee in respect of 47 cases of Jabalpur. The EC replied in September 2007 that licence fee of Rs. 15.60 lakh had been recovered in 13 cases. In rest of the cases, recovery could not be effected due to stay order obtained by the licensees in July 2007. Regarding short levy of licence fee on licences granted to MPPN hotel/restaurant bars, the Government stated (August 2007) that the notification for extending concessional rates to MPPN during the year 2006-07 had been issued in August 2007 with retrospective effect. The reply is not tenable as section 27 of the Act empowers the Government to increase/reduce the licence fee with retrospective effect but not from the date earlier than the commencement of the financial year. Therefore, the cases pertaining to the year 2006-07 are beyond the purview of the notification of August 2007.

3.2.20 Non/short levy of transport/import fee

Madhya Pradesh Foreign Liquor Rules (MPFLR) provide for levy of transport/import fee on foreign liquor, rectified spirit (RS) and ENA transported/imported to bottling unit of foreign liquor at the rates prescribed from time to time.

Test check of the records of the AEC office Bhopal revealed that 2.62 lakh bulk litre ENA was transported from the distilleries to the bottling units of foreign liquor in April 2006. The licensees paid transport fee of only Rs. 550 as against leviable fee of Rs. 6.55 lakh. In Dhar and Gwalior, 2.76 lakh bulk litre ENA was imported by the licensees between April and August 2006. The licensees paid import fee of Rs. 6.72 lakh as against the leviable import fee of Rs. 13.50 lakh. In Chhatarpur, import fee of Rs. 2.02 lakh was not levied and recovered on 28,790 beer bottles brought from Uttar Pradesh in January 2007. Non/short levy of transport/import fees resulted in non/short realisation of revenue of Rs. 15.34 lakh.

After the cases were pointed out, Rs. 13.32 lakh was recovered by the excise authorities in Bhopal, Dhar and Gwalior between July 2006 and June 2007. As regards non-levy of import fee of Rs. 2.02 lakh on beer bottles, the EC contended that these beer bottles had been exported by the licensees during 2004-05 but brought back into the State in January 2007 as they were six months old and had expired. The reply is not tenable as the rules do not provide for non-levy of import fee in such cases.

3.2.21 Irregular manufacture and bottling of foreign liquor

MPFLR provides that special bottling licence (FL-9 A licence) for bottling of foreign liquor of such labels or brands already being manufactured outside Madhya Pradesh can only be granted to those licensees who have the licence (FL-9 licence) for bottling and manufacture of foreign liquor in MP. In other words, FL-9 licence is essential for bottling of foreign liquor under FL-9A licence.

Test check of the records of the bottling unit of Khargone in June 2007 revealed that two companies⁵¹ got special bottling licence (FL-9A licence) on sub lease from another licensee after obtaining permission from the EC. These companies manufactured foreign liquor under FL-9A licence without having FL-9 licence on which licence fee of Rs. 5 lakh was chargeable during 2006-07. The manufacture of foreign liquor was, therefore, not only irregular but also deprived the Government of licence fee of Rs. 10 lakh.

After these cases were pointed out, the Government stated in August 2007 that the notices for recovery of licence fee had been issued.

3.2.22 Conclusion

Audit noticed that the systems instituted by the Excise Department for collection of excise receipts on liquor were deficient. Monitoring of key areas such as verification reports on exported liquor, maintenance of minimum stock of spirit in distilleries, wastages during export, transport, storage and manufacture of liquor, etc. was non-existent. Internal audit, an important component of the internal control mechanism, was also rendered ineffective due to lack of follow up on audit observations. Additionally, the department failed to follow the provisions of the Act/rules and instructions issued by the Government in many areas like grant of licences for manufacture and sale of liquor, collection of licence fee, collection of fee on transport and import of liquor/spirit etc. resulting in significant amount of non/short realisation of excise receipts on liquor.

3.2.23 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:

- prescribing the maintenance of appropriate records for monitoring of receipt of verification reports and a periodical return to be submitted to the EC for effective control and monitoring of such cases;
- prescribing the maintenance of appropriate records and returns for effective monitoring of verification reports in such cases of transport of foreign liquor. It may also prescribe a time limit for the submission of verification reports to the EC regarding transport of liquor;
- prescribing the maintenance of appropriate records for effective monitoring of wastages during transport and export of liquor. Time limit for effecting recovery of excise duty on inadmissible wastages and periodical return for monitoring at the EC level may also be prescribed;
- prescribing a time limit for submission of cases of inadmissible wastages for levy of penalty to the competent authority. It may also prescribe maintenance of appropriate records and submission of periodical returns for effective monitoring of wastages during export of spirit;
- prescribing the submission of periodical returns for effective control and monitoring of disposal of foreign liquor stock by the EC; and

⁵¹

Diageo India Private Limited, Bombay.
Diageo Radico Distilleries Private Limited, New Delhi.

- providing for recovery of loss suffered due to resale of liquor shops from the defaulters under the lottery system.



CHAPTER - IV : TAXES ON VEHICLES

4.1 Results of audit

Test check of the records relating to taxes on vehicles during the year 2006-07 revealed non-assessment of tax and losses of revenue amounting to Rs.20.05 crore in 1,938 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
1.	Computerisation Project in Transport Department (An IT review)	01	0.39
2.	Non/short levy of vehicle tax, penalty and composition fee on public service vehicles	964	4.43
3.	Non/short levy of vehicle tax and penalty on goods vehicle	717	1.54
4.	Other irregularities	256	13.69
Total		1,938	20.05

The department accepted underassessment/loss etc. in 1,938 cases involving Rs. 20.05 crore which were pointed out in audit during 2006-07.

The findings involving Rs. 5.39 crore including an information technology review of “**Computerisation Project in Transport Department**” are mentioned in the following paragraphs:

4.2 Computerisation project in the Transport Department

Highlights

- The Transport Department failed to achieve the objective of issuing smart cards due to non-updation of data stored in them and non-utilisation of hand held terminals that are necessary to read data. The smart cards also lacked the requisite security features. (Paragraph 4.2.6)
- Lack of application checks in the software had resulted in the objective of checking evasion of revenue remaining unachieved. (Paragraph 4.2.7)
- Lack of application controls resulted in non-detection of the use of fake insurance cover notes and duplicate registration, chassis and engine numbers. The objective of checking the use of forged and fake documents remained unachieved. (Paragraph 4.2.8)

- Lack of essential controls had resulted in significant amount of incorrect, duplicate and missing data rendering the computer database unreliable and incomplete in many cases. **(Paragraph 4.2.10.2)**
- The State Government failed to safeguard its interests at the stage of entering into the contract with the vendor. **(Paragraph 4.2.13)**

4.2.1 Introduction

Smart card based computerisation project was introduced by the State Government in October 2001 with the objectives of checking evasion of government revenue and use of forged and fake documents in respect of motor vehicles; establishing a management information system; and ensuring efficiency and transparency in the departmental activities etc.

The work of computerisation was outsourced to M/s Smart Chip Limited in October 2001 on BOO (build-own-operate) basis for a period of five and a half years. The contract was subsequently converted into BOOT (build-own-operate-transfer) by a supplementary agreement in April 2005. The period of the contract has been extended until a vendor is selected under the new tender floated in August 2007.

4.2.2 Organisational set up

The Transport Department functions under the overall charge of the Principal Secretary (Transport). Issue of driving licenses and levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner (TC). He is assisted by three Deputy Transport Commissioners (DTC) and internal audit wing at headquarters level and nine regional transport officers (RTOs), 11 additional regional transport officers (ARTOs) and 25 district transport officers (DTOs) at field level. The computerisation project is under the charge of DTC (Enforcement).

4.2.3 Audit objectives

The review was conducted with a view to assess:

- the extent to which objectives of the smart card based computerisation project had been achieved;
- whether information technology controls were adequate to ensure integrity, reliability and confidentiality of data maintained in the Transport Department; and
- whether agreements/contracts with the outsourcing agency were formulated and managed effectively.

4.2.4 Audit scope and methodology

The records and general controls in the office of TC, Gwalior and seven field offices⁵² for the period between October 2001 (when the computerisation project was started) and May 2007 were scrutinised from April 2007 to May 2007. Data analysis, however, was done on data upto January 2007⁵³. Data stored in the central server placed at Gwalior and application controls were also analysed. Results of data analysis were also cross checked with the manual records maintained in the field offices.

4.2.5 Acknowledgement

The audit findings were reported to the Government/department in July 2007. The audit review committee to discuss the findings of review was held in August 2007. The department was represented by the TC while the Principal Secretary, Transport

⁵² RTO: Gwalior and Bhopal; ARTO: Dhar, Chhatarpur Katni and Shahdol, and DTO, Shajapur.

⁵³ Data entry was done upto January 2007. It was in progress for February 2007.

Department represented the Government. They had accepted most of the audit observations and recommendations and their replies have been incorporated in the review.

Audit findings

System deficiencies

4.2.6 Objective of issuing smart cards remained unachieved

4.2.6.1 As per the computerisation project, driving licences and registration certificates were to be issued on smart cards. A smart card is a pocket sized plastic card embedded with a computer chip. A special hand held terminal (instrument) is required for reading the information stored in the computer chip and for generating challans.

Audit noticed that the hand held terminals (HHTs) were not distributed to the enforcement personnel by any of the seven offices audited and were lying unutilised in the RTOs. In the absence of the HHTs, enforcement personnel could neither access crucial information such as the latest tax, permit and fitness status stored in the smart cards nor could they generate challans in case of offences under the Motor Vehicles (MV) Act. Further, it was also observed that smart cards of commercial vehicles were not being regularly updated in majority of the cases with latest tax, permit and fitness details. Failure to utilise HHTs and update the smart cards regularly with tax/fitness/permit details had rendered smart cards as mere plastic cards defeating the objectives of the smart card based computerisation project. Also, due to non-utilisation of HHTs, objectives⁵⁴ of the computerisation project such as networking of these terminals with the local server of RTO and creation of hot list could not be achieved. Moreover, HHTs costing Rs. 92.9 lakh were lying unused in the RTOs.

The Government accepted (August 2007) the audit observation regarding non-utilisation of HHTs and non-updation of data in the smart cards. It stated that it was not practical to regularly update the smart cards as owners of the vehicles did not bring them to the RTO at the time of payment of tax. Reasons for non-utilisation of HHTs were cited as delay in their supply by the vendor, lack of training to field personnel and frequent changes in the smart card specifications. The reply is not tenable as the smart cards will not serve any purpose unless the latest data is fed into them and is accessible to the enforcement personnel.

The Government may evolve a system to ensure utilisation of HHT and regular updation of smart cards.

4.2.6.2 Absence of security features in smart cards

As per the Central Motor Vehicles Rules, 1989⁵⁵, security features like ghost image and/or hologram is to be provided in the driving licence smart cards.

Audit observed that smart cards that were being issued from the smart card centres did not have any of these two security features. In addition, 400 ultra violet lamps were to be supplied by the vendor for reading the secret number on the smart card to establish the

⁵⁴ The purpose of networking of HHTs was to daily update the data related to driving offences at RTO's local server. The purpose of creation of hot list was to prevent re-issue of a driving licence or a registration certificate in cases where they had been impounded by the Transport Department.

⁵⁵ Note under form-7 [Rule 16(2)].

authenticity of a smart card driving licence. It was noticed that neither were any secret numbers printed on the smart cards nor was any ultra violet lamp supplied by the vendor. In the absence of these security features on smart cards, it is not possible for the enforcement personnel (check posts/flying squads) to establish the authenticity of a driving licence produced to them while checking.

The Government replied (September 2007) that action would be initiated to penalise the vendor for non-supply of UV lamps and the amount of penalty would be deducted from the final payments to the vendor. Regarding security features, the Government replied that it would suggest an amendment to the Central Motor Vehicle Rules as hologram and ghost image were optional features in the SCOSTA⁵⁶ specifications issued by the Central Government.

4.2.7 Objective of checking evasion of revenue remained unachieved

Evasion of revenue can be checked by incorporating adequate application checks in the software. **Audit noticed that necessary controls such as rejection of a transaction in case incorrect amount of tax/fee/penalty was deposited, had not been built into the software.** Computerisation was being used only as a data entry tool once the process of tax/fee/penalty collection had been performed manually. Many cases of non/short levy of fee/penalty were noticed during data analysis which could have been avoided had adequate application controls been programmed in the software. A few cases are mentioned in the following paragraphs.

4.2.7.1 Loss of revenue due to allotment of reserve registration numbers to vehicles without levying special fee

As per Rule 55A of Madhya Pradesh Motor Vehicles Rules, 1994, the registering authority shall allot reserve registration numbers in a series to any vehicle only after payment of the special fee. For example, registration numbers from 1 to 9 are allotted against a special fee of Rs. 15,000 and numbers from 10 to 100 are allotted against a special fee of Rs. 12,000.

Analysis of the data provided to audit from the central database revealed that in Additional RTO, Chhatarpur, reserve registration numbers were allotted to 177 vehicles between 15th February⁵⁷ 2001 and September 2003 without recovery of special fee from the vehicle owners. This resulted in loss of revenue of Rs. 21.60 lakh. Results of the data analysis were confirmed by manual test check of records in ARTO, Chhatarpur.

4.2.7.2 Non-levy of penalty on delayed payment of vehicle tax

According to Section 13 of the Madhya Pradesh *Motoryan Karadhan Adhiniyam*, 1991, if the tax due has not been paid by the owner of the vehicle within the prescribed period i.e. 15th of the month after the end of the quarter in respect of the goods vehicle, the owner should be liable to pay penalty at the rate of four *per cent* per month on the unpaid amount of tax.

Analysis of the data revealed that penalty was not charged in 8,442 cases of goods vehicles⁵⁸, which had paid vehicle tax either on 16 January 2006 or 16 October 2006. This resulted in non-recovery of penalty amounting to Rs. 14.16 lakh. Results of the data analysis were confirmed by the manual test check of records in RTO, Morena. It was observed that penalty was not levied in any of the 88 cases where tax was paid either

⁵⁶ Smart Card Operating System for Transport Application (SCOSTA).

⁵⁷ Date from which special registration fee was to be levied.

⁵⁸ with registered laden weight (RLW) of 16,200 kg and 25,000 kg.

on 16 January 2006 or 16 October 2006 i.e. after the due date of 15th January or October.

4.2.7.3 Short levy of temporary permit fee

The Transport Department in its notification dated 19 January 2006 enhanced the rate of fee from Rs. 500 to Rs. 750 in respect of temporary permits granted to transport vehicles u/s 87 (i)(b) and (c) of the MV Act.

Analysis of the data provided from the central server revealed that 1,098 goods and public service vehicles deposited temporary permit fee at the rate of Rs. 500 after 19 January 2006 in 18 offices⁵⁹. This resulted in short levy of Rs. 2.74 lakh. The results of data analysis were confirmed by manual test check of the records in RTO, Sagar. Scrutiny of 71 files produced to audit confirmed short levy of temporary permit fee in all the 71 cases. **This indicates that sufficient application checks were not built into the software to ensure correct levy of fee/penalty.**

After the cases were pointed out, the Government accepted (August 2007) the audit observations. It stated that action for recovery was being initiated and adequate

controls would be built into the software to ensure correct levy of tax, fee, and penalty.

The Government may consider ensuring that calculation of tax, penalty and fee is done through the computer system to bring transparency in the transactions. Necessary controls should be programmed into the software to ensure collection of correct amount of fee/tax/penalty before a transaction is completed.

4.2.7.4 Audit noticed that the software module for reconciliation of departmental challans with the treasuries had not been implemented in any of the seven offices audited. The objective of reducing leakage of revenue through reconciliation module by locating fraudulent challans, thus, remained unachieved.

4.2.8 Objective of checking use of forged and fake documents

4.2.8.1 Non-detection of use of fake insurance cover notes

A valid insurance certificate is required to be furnished along with the application for registration, transfer of ownership of vehicle, duplicate registration certificate, etc.

Analysis of the data provided to audit revealed 3,88,501 cases of duplicate insurance cover note (ICN) numbers in the State suggesting that one ICN was illegally used by two or more vehicles for the purposes mentioned above. The results of data analysis were crosschecked with the manual records in the RTO, Morena. Test check of 44 files produced to audit confirmed the use of fake ICNs by the vehicle owners. The transport authorities did not verify the validity of the ICN submitted along with the application. **In addition, there was no validation check⁶⁰ in the software to ensure that the insurance cover filed for a particular vehicle was not reused for other similar vehicles.**

4.2.8.2 Non-detection of duplicate registration, chassis and engine numbers

⁵⁹ Bhopal, Chhatarpur, Chhindwara, Dewas, Guna, Hoshangabad, Indore, Jabalpur, Khandwa, Morena, Rewa, Sagar, Satna, Seoni, Shivpuri, Sidhi, Ujjain and Vidisha.

⁶⁰ The computer system would not have allowed duplicate ICNs if the ICN field been made a 'unique' field in the software.

Chassis and engine number are unique identification marks of a vehicle which are essential for the purpose of its registration under the provisions of the MV Act and rules framed thereunder.

Analysis of the vehicle data provided to audit by the Transport Department revealed 39,473⁶¹ and 22,165⁶² cases of duplicate chassis and engine numbers respectively, suggesting multiple registration of a single vehicle. Such duplicate registration of the same vehicle is not only illegal but is also fraught with the risk of plying of invalid/stolen vehicles as well as insurance irregularities by declaring non-existent

vehicles as stolen. In addition, there were 2,990 instances of one registration number being granted to two or more vehicles (chassis). These 2,990 registration numbers were found granted to 6,005 vehicles. The matter needs to be investigated in detail by the Transport Department.

The Government accepted (September 2007) the audit observation and stated that the software was being modified to include essential application controls for checking the use of fake documents. An FIR was also being lodged in Morena district for use of fake ICNs.

4.2.9 Objective of checking driving test/fitness before issue of driving licence/registration certificate remained unachieved

4.2.9.1 One of the stated objectives of the computerisation project was to ensure that the applicants pass driving test as a mandatory condition under the MV Act and rules for issue of the driving licence.

Test check of the records at RTO, Gwalior revealed that 10,063 driving licences were issued while only 1,909 applicants had been passed by the Driving License Board during September 2006 to March 2007. The objective of ensuring passing of driving test before issue of permanent driving licence was, therefore, not being achieved. It was also observed that the mandatory details of driving test such as driving test date and the registration number of the vehicle on which driving test was conducted were not available in the computer system. The software developed by the vendor did not provide for capturing these details. In addition, the designation and name of the authority, which conducted the driving test, had not been captured in 17.82 lakh (73 per cent) cases of issue of permanent driving licence. **Reasonable assurance that driving tests were actually being conducted before issue of licences could not be derived due to lack of controls in the software.**

4.2.9.2 It is mandatory for all the transport vehicles to have fitness certificate at the time of registration. This was also one of the objectives of the computerisation project. This objective remained unachieved for the first five years of the project as fitness certificate module was not developed and implemented by the Transport Department till October 2006. Further, controls were not built into the fitness and registration modules to check fitness of a vehicle before registration.

Analysis of the data relating to fitness certificates revealed that 5,571 out of 8,072 transport vehicles registered after October⁶³ 2006 in the State did not have fitness certificate details in the computer system.

The department accepted (September 2007) the audit observations and stated that the software would be modified by incorporating the necessary application checks.

⁶¹ 39,473 registration numbers were found granted to 16,584 vehicles (chassis numbers).

⁶² 22,165 registration numbers were found granted to 10,527 vehicles (engine numbers).

⁶³ Month from which fitness certificate module was started.

The Government may consider strengthening of the application controls to prevent use of fake documents and to ensure reliability and usefulness of data.

4.2.10 Objective of implementing an effective MIS system

4.2.10.1 One of the objectives of the computerisation project was to generate MIS reports for better monitoring and evaluation and for checking evasion of revenue.

Audit noticed that the MIS reports as required by the Transport Department were not made available by the vendor till May 2006 i.e. for more than four years of the project. In response to an audit query, five⁶⁴ out of the seven field offices reported that the MIS reports were not being used by them. It was also observed that important reports such as demand and recovery register, list of commercial vehicles that have defaulted in tax payment, etc. were not being generated in any of the seven offices audited.

The Government stated (September 2007) that effective MIS system with adequate number of computers at field offices would be ensured in the new contract under consideration.

4.2.10.2 Data analysis of the central database revealed that the application software was fraught with many deficiencies and validation inadequacies. Many input controls were either missing or inadequate to ensure reliability and usefulness of the data maintained in the Transport Department. **Lack of essential controls had resulted in significant amount of incorrect, duplicate, and missing data rendering computer database unreliable and incomplete in many cases.** Module wise examples of control weaknesses observed during data analysis are mentioned below:

Mandatory fields	Number of missing records	Junk/garbage data	Duplicate records
Vehicle database (Total records: 20,43,804)			
Registration number	44	2,265	6,005
Insurance Cover Note Number	5,88,773	1,14,967	3,88,501
Chassis number	261		39,473
Engine number	234		22,165
Vehicle price	4,472	3,94,514	
PAN number ⁶⁵	17,76,990	3,255	
Owner's income	17,80,377		

⁶⁴ RTO Bhopal, ARTO Dhar, Katni and Shahdol and DTO Shajapur.

⁶⁵ For vehicles registered after 31-05-2002.

Fitness certificate module (Total records: 49,325)			
Fitness testing authority	40,960		
Date of fitness test	41,224		
NOC module (Total records: 41,204)			
Place to which NOC issued	9,914		
Date of effectiveness of NOC	9,912		
NOC number	2,013		27,478
Temporary permit database (PSV) (Total records: 53,362)			
Route distance	28,647	2,263	
Permit number	1,490		13,095
Vehicle receipt module (Total records: 27,02,813)			
Receipt number	193		3,48,923
License receipt module (Total records: 16,75,794)			
Receipt number	63		7,333
Learning license module (Total records: 13,83,740)			
Sex of the applicant	13,83,740		
License number	14,629		250
Permanent license module (Total records: 12,97,465)			
Sex of the applicant	12,97,465		
License number	74		191

The Government accepted (September 2007) the audit observation and stated that adequate application checks would be programmed into the software.

Other deficiencies

4.2.11 Inadequate preparedness for facing adverse circumstances

4.2.11.1 It is essential that computer hardware, software and data are kept under strict fire safety measures. During audit, fire safety measures were found inadequate as fire extinguishers, fire alarm and smoke detection systems were not in place in any of the seven offices audited.

The Government stated (September 2007) that fire and safety measures would be ensured in the new contract under consideration.

4.2.11.2 It was observed that the department did not have a formal business continuity and disaster recovery plan for continuation of the departmental activities in the event of a disaster. Also, there was no formal backup policy of the department. In all the field offices audited, backup of data was not being taken on an external media so that it could be stored in an offsite fire safe location and was readily available when needed. In the event of data loss, field offices were dependent on backup data stored on central server placed at Gwalior. It was also observed that backup/standby servers were not installed in the field offices (especially the bigger offices) so as to immediately resume the work in case of server failure due to some fault or crash.

Thus, in case of a disaster taking place there was a likelihood of the computerised system coming to a halt leading to disruption of work in the transport offices.

After the above cases were pointed out, the Government in September 2007 accepted the fact that some shortcomings had been noticed in the programme and stated that a consultant of international repute had now been hired and all the shortcomings noticed by audit would be rectified.

4.2.12 Lack of proper documentation and system development controls

4.2.12.1 Before developing any computer system, user requirement specifications (URS) and software requirement specifications (SRS), which give the complete description of the system to be developed, should be approved by the higher management so that the vendor understands the needs of the organisation. Also, documentation such as URS, SRS, detail design, data flow diagram, data dictionary, relationship between tables etc. is crucial for continuity of the computerisation project of the Transport Department since the work has been outsourced under the BOOT contract. Subsequent vendor who is awarded the contract needs to have proper documentation to understand the existing application and effectively discharge the functions. Audit noticed that the department did not have a proper written and authenticated documentation of licence, registration, permit, tax, fitness and NOC modules developed by the vendor.

The Government stated (September 2007) that the vendor had been instructed to complete the documentation before completion of the contract term.

4.2.12.2 There was no system in the Transport Department to test and formally accept the modules developed by the vendor before they were implemented in the field offices. Also, there was no change management policy or acceptable formal procedure for making changes to the software. The department did not formally authorise the changes that were to be carried out in the software by the vendor. Log of changes made to the application software was also not being maintained. This reflects an ad hoc approach and lack of involvement by the Transport Department towards development of the application software.

After the above cases were pointed out, the Government in September 2007 accepted the fact that some shortcomings had been noticed in the programme and stated that a consultant of international repute had now been hired and all the shortcomings noticed by audit would be rectified.

4.2.13 Contract management

Scrutiny of the contents of the main and supplementary agreements and their implementation revealed serious lapses that are discussed in the succeeding paragraphs.

4.2.13.1 Undue favour to the vendor

Scrutiny of the main agreement (October 2001) revealed that the clause for liquidated damages was not included in the contract to safeguard the interest of the Government in case the vendor defaulted in the contractual obligations. Despite a mention of liquidated damages in the tender document and recommendation by the committee chaired by the Chief Secretary for inclusion of a penal clause (June 2001), the Government failed to include the clause in the main agreement. The committee appointed by the Government noticed in June 2004 that the performance guarantee and arbitration clauses of the tendered document were changed in favour of the vendor at the time of entering into the contract. In addition, the liability clause included in the tender document empowered the Transport Department to complete the project at the risk and cost of the successful bidder in case the contract was terminated due to failure of the vendor. This clause was not included in the contract. Rather, as per the terms of the contract, the Government had to acquire all the hardware, software, smart cards etc. from the vendor at the price determined under the contract even if the contract was terminated due to the continued failure of the vendor.

The terms of the contract pertaining to 'Local Area Network' and 'duration of the contract' were not precise and definite leaving sufficient room for ambiguity and misconstruction. The timeframe for completion of the various activities under the contract was not specified to enable periodic assessment of the performance of the vendor on contractual obligations. Also, the processes that were required to be computerised by the vendor such as tax payment, cash and challan management, issue of

permits etc. were not clearly specified in the contract. The State Government also failed to obtain legal advice before entering into the contract as required under the MP Financial Code Volume-I and as recommended by the committee chaired by the Chief Secretary on 14 June 2001.

The matter was reported to the Government; their reply has not been received (January 2008).

4.2.13.2 Irregularities and lapses observed during execution of the main agreement

- Payments of Rs. 8.8 crore were made to the vendor without obtaining bank guarantee of Rs. 50 lakh from the vendor as required under the main agreement. The vendor failed to start data entry for the purpose of creating a central database and generate MIS reports for more than two years. Despite failure on these two components of the definition of "Satisfactory Performance" under the contract, payments of Rs. 8.8 crore were made to the vendor till the month of July 2003.

- As per the main agreement (October 2001), system audit of the computerisation project was to be conducted by an agency called MAP_IT to assess the performance of the vendor. The Transport Department failed to get the system audit conducted by MAP_IT. First objective evaluation of the performance of the vendor was done after two years and four months from the date of commencement of the contract by the Transport Department. As a result, despite continued failure of the vendor to carry out various contractual obligations under the contract, the Transport Department was not able to initiate any corrective action for more than two years. Moreover, the TC issued a certificate (September 2003) in favour of the vendor stating that the work of issue of smart cards was smooth and as per the Government directions.

Due to the terms of the main agreement being in favour of the vendor coupled with poor monitoring of the contract, the State Government was not able to hold the vendor accountable for his repeated failure to discharge his contractual obligations. Rather, the State Government lost in the court of law (District Court, Bhopal and High Court, Jabalpur) after the vendor filed a petition in 2004 against the withholding of its payments by the State Government. Further, poor contract management was one of the main reasons for failure of the project for more than two years.

The Transport Department accepted (September 2007) the above mentioned observations and replied that the new contract under consideration would be professionally drafted by engaging a consultant of international repute.

4.2.13.3 Contractual obligations of the vendor not yet discharged

In addition to non-supply of 400 ultra violet lamps and non-networking of HHT as mentioned in paragraph 4.2.6.1, the following contractual obligations are yet to be discharged by the vendor :-

- As per the contract, data entry of old vehicles was to be completed by October 2006. It was observed that total number of registered vehicles as on 31 March 2006 were 46.09 lakh. Out of this, data entry of 17.12 lakh vehicles was done by the vendor

till January 2007. Considering the cost of data entry of one record as Rs. 4⁶⁶, data entry

⁶⁶ As estimated by the Centre for Research and Industrial Staff Performance (CRISP), an agency appointed by the State Government for technical audit of computerisation in the Transport Department.

work worth Rs. 1.16 crore is yet to be discharged by the vendor. Further, it was observed during the audit of field units that data entry done by the vendor was not being authenticated and validated by the department personnel resulting in significant quantity of incorrect and missing data.

The audit observations were accepted (September 2007) by the Government and it stated that deductions would be made from the final payments to the vendor for incomplete data entry work.

- As per the supplementary agreement, computer hardware installed in the beginning of the project was to be upgraded by October 2006. Configuration of the new hardware to which old hardware was to be upgraded was not specified in the agreement. Audit noticed that upgradation of old hardware had not been done in any of the seven offices audited (April & May 2007).

4.2.14 Conclusion

Smart card based computerisation project which aims to bring accuracy and transparency in the activities of the Transport Department, has a tremendous potential to check evasion of revenue and use of fake documents. The objectives of the project, however, remain unachieved due to poor implementation and failure of the higher management to provide a detailed roadmap for computerisation of the various activities. Driving licence and RC applicants are being charged Rs. 200 extra as cost of smart cards without any benefit being derived from them. Issue of permits and tax collection procedures have not been computerised even after five and a half years reflecting low commitment towards bringing transparency in the departmental activities. Further, adequate application controls have not been built into the system to ensure reliability and usefulness of the data maintained in the Transport Department. As a result, the Transport Department has not been able to derive most of the benefits of computerisation and depended on manual procedures for most of its activities.

4.2.15 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and other issues:

- The Transport Department must provide a detailed roadmap within a specified timeframe for computerisation of various activities by the field offices;
- Regular updation of smart cards with latest tax, permit and fitness details should be made mandatory;
- Calculation of tax, penalty and fee should be done through the computer system to bring transparency in the transactions. Necessary controls should be programmed into the software to ensure collection of correct amount of fee/tax/penalty before a transaction is completed; and
- Application controls may be strengthened to prevent use of fake documents and to ensure reliability and usefulness of data.

4.3 Non-realisation of vehicle tax and penalty on vehicles

According to the provisions of the Madhya Pradesh *Motoryan Karadhan Adhiniyam* (MPMKA), 1991 and the rules made thereunder, a tax shall be levied on every motor vehicle used or kept for use in the State at the rate specified in the first schedule of the *adhiniyam*. If the tax due has not been paid, the owner shall, in addition to the payment of the tax due, be liable to pay a penalty at the rate of four *per cent* of the unpaid amount of the tax for the default of each month but not exceeding twice the unpaid amount of tax. In case of non-payment, the taxation authority is required to issue a demand notice and recover the dues as arrears of land revenue.

Test check of the records of 12⁶⁷ transport offices, between June 2006 and March 2007, revealed that vehicle tax amounting to Rs. 3.34 crore in respect of 1,171 vehicles for the period between April 2003 to March 2006 was neither paid by the vehicle owners nor was levied by the taxation authorities. Besides, penalty of Rs. 1.71 crore though leviable was also not levied. This resulted in non-realisation of Rs. 5.05 crore as mentioned below:

(Rupees in crore)

Sl. No.	No. of offices	Category of vehicles	Number of vehicles	Tax not paid	Penalty leviable	Total
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⁶⁷ Regional transport offices (RTO) (Bhopal, Gwalior, Hoshangabad, Jabalpur, Morena, Rewa and Sagar)
Additional regional transport offices (ARTOs): (Chhatarpur and Dhar),
District transport offices (DTOs) (Betul, Datia and Shivpuri).

1.	12	Public service vehicles ⁶⁸ plying as stage carriages ⁶⁹	157	1.10	0.53	1.63
2.		Reserve vehicles	258	1.20	0.58	1.78
3.		Goods vehicles	690	0.92	0.52	1.44
4.	3 ⁷⁰	Maxicab	63	0.08	0.06	0.14
5.	2 ⁷¹	Public service vehicles plying on all India tourist permits	03	0.04	0.02	0.06
Total			1,171	3.34	1.71	5.05

After the cases were pointed out, the RTOs/ARTOs and DTOs stated between June 2006 and March 2007 that action for recovery would be taken after scrutiny of the cases. Further report has not been received (January 2008).

The matter was reported to the Transport Commissioner and the Government between July 2006 and April 2007; their reply has not been received (January 2008).

4.4 Short levy of tax and non-levy of penalty on public service vehicles plying on contract carriage permits

According to the provisions of MPMKA, tax shall be levied on every public service vehicle used or kept for use in the State as contract carriage at the rates specified under the *adhiniyam*. The rate of tax specified under the *adhiniyam* is applicable either to such vehicles as are under the ownership of private/ educational institution or to the vehicle which is kept on contract for full time. Further, in case of non-payment of tax, the owner shall be liable to pay a penalty at the prescribed rates.

Test check of the records of RTO Bhopal and Rewa revealed in June 2006 that

24 temporary contract carriage permits were issued for 14 public service vehicles of 12 operators during the period between April 2005 and March 2006. The tax was deposited by the operators at the rates applicable to private/educational institution buses instead at the rates applicable to contract carriages. This resulted in short levy of tax of Rs. 20.77 lakh and non-levy of penalty of Rs. 5.19 lakh aggregating Rs. 25.96 lakh.

After the cases were pointed out, the RTOs stated in June 2006 that the action for recovery would be taken after scrutiny of the cases. Further report has not been received (January 2008).

⁶⁸ Any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward and includes a maxicab, a motor cab, contract carriage and stage carriage.

⁶⁹ A motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers either for the whole journey or for stages of the journey.

⁷⁰ RTO (Gwalior).

ARTO (Chhindwara and Dhar).

⁷¹ DTO (Datia and Shivpuri).

The matter was reported to the Transport Commissioner and the Government between July 2006 and April 2007; their reply has not been received (January 2008).

4.5 Short levy of tax and non-levy of penalty due to deposit of tax at lower rates

According to the provisions of the MPMKA and the rules made thereunder, a tax shall be levied on every public service vehicle used or kept for use in the State at the prescribed rates. The tax will be calculated on the basis of the seating capacity of the vehicle and distance of the route allowed. The tax will be levied at the rate prescribed for reserve vehicles only in case of deposit of permit allowed by the taxation authority with the declaration of non-use of permit by the owner of vehicle. In case of non-payment of the tax due, the owner shall be liable to pay a penalty at the prescribed rates.

Test check of the records of two RTOs⁷², one ARTO⁷³ and one DTO⁷⁴ revealed in June and July 2006 that the vehicle tax of 32 public service vehicles plying on 31 regular permits and two reserved vehicles for the period between April 2004 and March 2006, was short deposited by the operators by Rs. 5.44 lakh. Besides, penalty of Rs. 2.33 lakh was also leviable on the unpaid amount of tax but was not levied. This resulted in short levy of vehicle tax and non-levy of penalty amounting to Rs. 7.77 lakh.

After the cases were pointed out, the RTOs/ARTO/DTO stated in June and July 2006 that the action for recovery would be taken after scrutiny of the cases. Further report has not been received (January 2008).

The matter was reported to the Transport Commissioner and the Government between July 2006 and April 2007; their reply has not been received (January 2008).

⁷² Bhopal and Rewa.
⁷³ Chhatarpur.
⁷⁴ Betul.

CHAPTER V : OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records relating to stamp duty, registration fee, entertainment duty, assessment and collection of land revenue during the year 2006-07 revealed non-assessment/underassessment of revenue and non-raising of demand amounting to Rs. 214.35 crore in 1,08,176 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
A: STAMP DUTY & REGISTRATION FEE			
1.	Inordinate delay in finalisation of cases	1,524	4.38
2.	Short realisation of stamp duty and registration fees due to undervaluation of properties/incorrect exemption from payment	2,876	3.02
3.	Loss due to misclassification of documents	137	1.22
4.	Loss on instruments executed in favour of societies	59	0.59
5.	Others	384	0.95
Total		4,980	10.16
B: ENTERTAINMENT DUTY			
1.	Non-recovery of entertainment duty	153	0.11
2.	Non/short deposit of entertainment duty by the proprietors of VCRs and VCPs	348	0.11
3.	Incorrect exemption from payment of entertainment duty	68	0.01
4.	Others	287	0.31
Total		856	0.54
C: LAND REVENUE			
1.	Non-registration of revenue recovery certificates	1,914	14.35
2.	Non-recovery of arrear of revenue	2,256	6.34
3.	Non-realisation of process expenses	2,928	4.53
4.	Non-raising of demands for diversion rent premium and fine/penalty	19,957	2.93
5.	Loss of revenue due to non-renewal of <i>nazul</i> lands	838	0.50
6.	Others	74,447	175.00
Total		1,02,340	203.65

Grand total	1,08,176	214.35
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During the year 2006-07, the concerned departments accepted underassessment of tax in 1,12,553 cases involving Rs. 291.79 crore, of which 1,04,635 cases involving Rs. 205.12 crore were pointed out during 2006-07 and the rest in the earlier years.

An amount of Rs. 24.20 crore had been recovered in 2,893 cases.

A few illustrative cases involving Rs. 3.63 crore are mentioned in this chapter.

A. STAMP DUTY AND REGISTRATION FEE

5.2 Non-reimbursement of stamp duty and registration fee

As per the Government notification dated 1 September 1989, stamp duty and registration fee leviable on lease/sale deeds, executed to acquire land in favour of the members of a family displaced on account of *Narmada Valley Development Project (NVDP)* is to be reimbursed by the *Narmada Valley Development Authority (NVDA)* to the Registration Department within the same financial year in which the registration of sale/lease deed takes place. Further, according to the notification dated 12 July 2002, the reimbursement shall be made on the basis of the demand letter produced by the sub-registrar (SR).

Test check of the records of eight sub registrar (SR) offices⁷⁵ between September 2006 and August 2007 revealed that 341 sale deeds were executed in favour of persons displaced on account of NVDP during September 2004 to March 2007. But NVDA had not reimbursed the stamp duty and registration fee of Rs. 1.29 crore to the Government. Even the demand letters for reimbursement were not issued by the SRs to NVDA. This resulted in non-realisation of revenue of Rs. 1.29 crore.

The matter was reported to the Inspector General of Registration (IGR) and the Government between October 2006 and March 2007. The IGR stated in June 2007 that the demand notices for reimbursement had been issued to the concerned department. SR, Manavar (Dhar) further stated in August 2007 that amounts totalling Rs. 27.17 lakh had been recovered till March 2007. Reply of the Government has not been received (January 2008).

5.3 Non-realisation of revenue due to misclassification of instruments

Under the Indian Stamp Act, 1899, stamp duty on instruments is leviable as per their classification and at the rates specified in schedule I-A of the Act.

Test check of the records of four⁷⁶ SR offices between August 2006 and February 2007 revealed that lower rates of stamp duty were applied on six instruments registered between April 2005 and January 2006, due to misclassification of the instruments. The misclassification and incorrect application of rates resulted in short realisation of stamp duty and registration fee of Rs. 71.57 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the SR	Date of execution Amount of consideration	Nature of observation	Amount of stamp duty and registration fee leviable levied	Amount of stamp duty and registration fee levied short
1.	SR Bhopal	<u>27.4.2005</u> 1,600	Settlement ⁷⁷ deed was	<u>64.51</u> Nil	64.51

⁷⁵ Badwani, Dharampuri (Dhar), Dewas, Indore, Kukshi (Dhar), Maheshwar (Khargone) Manawar (Dhar) and Tikari (Khargone).

⁷⁶ Bhopal, Dewas, Gwalior and Jabalpur.

⁷⁷ Any non-testamentary disposition in writing of movable or immovable property made for the purpose of distributing property of the settler among his family.

			classified as will ⁷⁸		
2.	SR Dewas	<u>2.2.2006</u> 35.84	Sale deed ⁷⁹ was classified as power of attorney ⁸⁰	<u>3.17</u> 0.74	2.43
3.	SR Jabalpur	<u>28.12.2005</u> 35.92	Compound ⁸¹ document was classified as release ⁸² deed	<u>3.45</u> 0.29	3.16
4.	SR Gwalior	<u>12.1.2006</u> 5.54	Sale deed was classified as surrender deed	<u>0.48</u> Nil	0.48
5.	SR Gwalior	<u>30.1.2006</u> 5.47	Gift deed ⁸³ was classified as partition ⁸⁴ deed	<u>0.54</u> 0.07	0.47
6.	SR Jabalpur	<u>27.9.2005</u> 8.60	Gift deed was classified as settlement deed	<u>0.76</u> 0.24	0.52
Total		1,691.37			71.57

After the cases were pointed out between August 2006 and February 2007, the SR, Gwalior stated that these cases have been registered in the Court of Collector of Stamps in August 2007 and orders for recovery had been issued in two cases. Reply in the remaining cases has not been received.

The matter was reported to the IGR and the Government between September 2006 and April 2007. The IGR stated in June 2007 that the cases had been registered and action for disposal was being taken.

5.4 Short realisation of revenue due to undervaluation of properties

The Indian Stamp Act, 1899, requires market value of the property to be specified in any deed of transfer of properties for determining the stamp duty and registration fee leviable. The instruments are liable to stamp duty at the rates prescribed in the Act on the basis of the nature and value of properties of each instrument. The SR is required to refer the undervalued cases⁸⁵ to the Collector of Stamps before registering the documents.

Test check of the records of the four⁸⁶ SRs revealed that in 22 sale deeds registered between April 2005 to January 2006, the market value of the property was undervalued as mentioned below:

⁷⁸ A legal statement of a person's wishes concerning the disposal of his or her property.

⁷⁹ The transaction where the transfer of immovable property is absolute.

⁸⁰ A document authorising a person to act on behalf of the owner.

⁸¹ Any instrument comprising or relating to several distinct matters.

⁸² A deed whereby a person renounces a claim upon any other person or against any specified property.

⁸³ Instrument of not being a settlement, will or transfer.

⁸⁴ Any instrument by which the co-owners of any property divide or agree to divide such property in several parts.

⁸⁵ Cases where the value shown in the document is less than the value arrived at as per the rates given in the guidelines.

⁸⁶ Bhopal, Gwalior, Indore and Jabalpur.

(Rupees in lakh)

Sl. No.	Name of the SR	No. of documents	Value of the property assessed by the department	Value as per the guideline	Short realisation of stamp duty & registration fees
1.	SR Jabalpur	3	26.23	56.64	1.32
2.	SR Indore	1	4.80	7.74	0.43
3.	SR Gwalior	7	27.05	94.56	3.84
4.	SR Bhopal	11	264.43	353.85	7.69
Total		22	322.51	512.79	13.28

The undervaluation of properties resulted in short levy of stamp duty and registration fees of Rs. 13.28 lakh.

After the cases were pointed out, the IGR stated in June 2007 that all the 22 documents were registered in the court of the Collector of Stamps and action for finalisation of the cases was in progress.

5.5 Short realisation of revenue in instruments executed by/in favour of co-operative housing societies

As per the Government notification dated 24 October 1980, instruments executed in favour of primary co-operative housing societies for acquisition of land for housing purposes are exempted from payment of stamp duty. The department directed in August 2001 that all such cases should be reviewed where exemption from payment of stamp duty on conveyance deeds were granted to societies for the purchase of land for housing purposes and where later on such land was used for a purpose other than housing and the stamp duty and registration fees so exempted should be recovered.

Test check of the records of the SR offices at Indore and Gwalior revealed that land valued as Rs. 1.42 crore purchased between May 1997 to October 2003 by six primary co-operative housing societies for housing purposes through 33 instruments, were not utilised for housing purpose of the members of the society and subsequently sold between April 2005 to March 2006 to persons other than the members of the societies. Exemption of stamp duty and registration fee of Rs. 12.66 lakh granted at the time of purchase, therefore, become recoverable. However, action to recover the amount was not taken.

After the cases were pointed out between June 2006 and February 2007, the IGR stated that all the cases had been registered in the court of Collector of Stamps for revaluation and action for disposal was in progress.

The matter was reported to the Government in May 2007; their reply has not been received (January 2008).

5.6 Short realisation of stamp duty and registration fees in trade quarries

The Mineral Resources Department issued instructions in March 1993 and October 1994, reiterated by the IGR (May 2005), that on registration of agreements of trade quarries, the amount stipulated in the auction of a quarry for the entire period whether payable in lumpsum or in yearly instalments, is to be treated as premium and stamp duty at eight *per cent* is to be levied on it under the Indian Stamp Act, 1899. Further, registration fees at 75 *per cent* of the stamp duty is also leviable under the Registration Act, 1908.

Test check of the records of three⁸⁷ SRs between June 2006 and February 2007 revealed that 33 trade quarries were auctioned to private parties for two years between July 2004 to

⁸⁷ Chitrangi (Sidhi), Gwalior and Shivpuri.

March 2007. At the time of registration of the agreements, the department had levied Rs. 6.52 lakh and Rs. 4.89 lakh as stamp duty and registration fees respectively on consideration of only one year against the leviable amount of Rs. 13.01 lakh and Rs. 9.75 lakh for two years on the auction amount of trade quarries. This resulted in short levy of stamp duty of Rs. 6.49 lakh and registration fee of Rs. 4.86 lakh.

After the cases were pointed out between June 2006 and March 2007, the IGR stated in June 2007 that out of 33 cases, 15 had been finalised and recoveries totalling Rs. 1.03 lakh had been made in three cases. Report on recovery in 30 cases has not been received. (January 2008).

The matter was reported to the Government in May 2007; their reply has not been received (January 2008).

5.7 Short realisation of stamp duty and registration fees in lease deeds

According to the provisions of the Indian Stamp Act, 1899, where the lease deed is executed for a period exceeding 30 years or there is no specified period in the lease deed, such deeds are liable to stamp duty at eight *per cent* of the market value of the property as applicable to conveyance deeds.

Test check of the records of SR Gwalior revealed that two lease deeds were executed/registered in January 2006 for a period of more than 30 years but the department while registering the document levied stamp duty of Rs. 24,000 and registration fee of Rs. 18,000 against the leviable stamp duty of Rs.6.70 lakh and registration fee of Rs. 67,000 treating the lease period as not exceeding 30 years. This resulted in short levy/realisation of stamp duty and registration fee of Rs. 6.95 lakh.

After the cases were pointed out in January 2007, the SRs stated in August 2007 that these cases had been registered in the court of Collector of Stamps in August 2007 and orders for recovery totalling Rs. 6.29 lakh had been issued.

The matter was reported to the IGR and the Government in March 2007; their reply has not been received (January 2008).

B. ENTERTAINMENT DUTY

5.8 Non-recovery of entertainment duty from cable operators

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936, and Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999, provide that every cable operator providing entertainment through cable service shall pay entertainment duty at the prescribed rates.

Test check of the records of four district excise offices⁸⁸ between April 2006 and October 2006 revealed that entertainment duty of Rs. 7.16 lakh from 90 cable operators providing entertainment through cable service during April 2003 to September 2006 was neither recovered nor were demand notices issued by the department. This resulted in non-realisation of entertainment duty of Rs. 7.16 lakh.

After the cases were pointed out, the district excise officer (DEO), Khargone

stated (April 2006) that the action for recovery would be taken. DEO, Shajapur stated (July 2006) that action for recovery was being taken and

⁸⁸

Betul, Damoh, Khargone and Shajapur.

rest of the DEOs stated (September 2006) that action for recovery was in progress. The matter was reported to the Excise Commissioner and the Government between July 2006 to May 2007; their reply has not been received (January 2008).

C. LAND REVENUE

5.9 Non-levy/recovery of process expenses

Under the provisions of the Madhya Pradesh *Lokdhan Adhiniyam*, 1987 and the rules made thereunder, process expenses at the rate of three *per cent* of the principal amount recovered from the defaulters shall be deposited in the treasury by challan.

Test check of the records of 12 *tahsils*⁸⁹ between October 2006 and March 2007 revealed that process expenses of Rs. 42.91 lakh recoverable on principal amount of Rs. 14.30 crore recovered against revenue recovery certificates (RRCs) issued between October 2001 to September 2006 were neither included in the demand by the recovery officers nor were deposited by the bank. This resulted in non-levy/realisation of Rs. 42.91 lakh.

After the cases were pointed out, all the *tahsildars* stated between October 2006 and March 2007 that necessary action for recovery of process expenses would be taken.

The matter was reported to the Commissioner, Land Records and the Government between December 2006 and April 2007; their reply has not been received (January 2008).

5.10 Non-raising of demand for diversion rent, premium and fine

According to the Madhya Pradesh Revenue Book Circular (RBC) issued under the MP Land Revenue Code, 1959, (MPLR Code) the sub-divisional officer (Revenue) shall intimate to the concerned *tahsildar*, the dues recoverable from each assessee in a statement called B-1. This statement consists of the demand for premium, diversion rent and fine imposed under the penal provisions of MPLRC. The *tahsildar* on receipt of statement B-1 is to effect the recovery of dues through the *patwaris*.

Test check of the *Diara* register⁹⁰ maintained in the Collectorate, Ratlam (diversion section) in January 2007 revealed that diversion rent, premium and fine totalling Rs. 37.31 lakh was due in 108 cases of 28 villages for the period between 2004-05 and 2005-06. The Collectorate diversion section did not prepare the statement form B-1 for onward transmission to the *Tahsildar* Ratlam for raising the demand.

This resulted in non-realisation of Rs.37.31 lakh.

⁸⁹ Balaghat, Betul, Dhar, Jawad (Neemuch), Jawra (Ratlam), Kareli (Narsinghpur), Mhow (Indore), Narsinghgarh (Rajgarh), Ratlam, Shajapur, Shujalpur (Shajapur) Timarni (Harda).

⁹⁰ Register in which the revenue cases are registered for proceedings.

After the cases were pointed out in January 2007, the officer incharge stated that the B-1 statement would be prepared and sent to the concerned *tahsildars* for effecting recovery.

The matter was reported to the Commissioner, Land Records and Settlement and the Government between February and March 2007; their reply has not been received (January 2008).

5.11 Non-recovery of collection charges

According to the *Panchayat Raj Adhiniyam*, 1993, and the instructions (June 1999) issued thereunder, the amount collected by the Government on account of land revenue, cess, fees and other taxes shall be credited to the '*Panchayat Raj Nidhi*' after deducting 10 *per cent* of the amount collected as collection charges.

Test check of the records of two⁹¹ tahsils between October 2006 and November 2006 revealed that revenue of Rs. 180.90 lakh collected between October 2004 and September 2006 were credited by the *tahsildars* to *Panchayat Raj Nidhi* without deducting collection charges of Rs. 18.09 lakh. This resulted in non-recovery of the revenue.

After the cases were pointed out, the *Tahsildar*, Shajapur accepted in October 2006 that the collection charges were not deducted and stated that they would be deducted in future. Reply in the remaining case has not been received.

The matter was reported to the Commissioner, Land Records and Settlement and the Government between December 2006 and January 2007; their reply has not been received (January 2008).

5.12 Non-assessment of panchayat cess on diversion rent

The Madhya Pradesh *Panchayati Raj Adhiniyam*, 1981, provides that *panchayat cess* is leviable for each revenue year on every tenure holder and Government lessee in respect of the land held by him in *gram panchayat* area at the rate of 50 paise per rupee of land revenue or rent assessed for each piece of land. The cess is leviable in addition to the land revenue or rent. Under the MPLR Code, diversion rent is included in the definition of land revenue. Hence, *panchayat cess* is leviable on the diversion rent also.

Test check of the records of two *tahsils*⁹² revealed that in 152 cases of 72 villages, *panchayat* cess amounting to Rs. 7.16 lakh for the years 2004-05 and 2005-06 was not levied on diversion rent of Rs. 14.32 lakh in respect of land pertaining to *gram panchayat* areas. This resulted in non-levy of Rs. 7.16 lakh.

After the cases were pointed out, the *tahsildars* stated in January 2007 that action to raise the demand would be taken.

The matter was reported to the Commissioner, Land Record and Settlement and the Government (March 2007); their reply has not been received (January 2008).

5.13 Non-renewal of temporary leases of nazul plots

According to the instructions issued by the Government (August 1994) temporary lease of *nazul* land should be renewed on its expiry on the basis of the applications of the pre-occupants. As per the Revenue Book

⁹¹ Mhow (Indore) and Shajapur.

⁹² Jawad (Neemuch) and Ratlam.

Circular, the premium and ground rent will be calculated on the basis of the average market value of the land as mentioned in the guideline of the previous year.

Test check of the records of the Collectorate (*Nazul*), Ratlam in January 2007 revealed that in 10 cases of temporary leases the renewal of leases were due in April 2004. The lessees had continued to occupy the land unauthorisedly. The department had neither renewed the aforesaid leases nor took any action

for eviction of the lessees. This resulted in non-levy of revenue amounting to

Rs. 5.56 lakh.

After the cases were pointed out, Joint Collector (*Nazul*) Ratlam stated in January 2007 that the renewal of temporary lease cases was being processed and recovery would be made.

The matter was reported to the Commissioner, Land Records and Settlement and the Government (October 2007); their reply has not been received (January 2008).



CHAPTER VI : MINING RECEIPTS

6.1 Results of audit

Test check of the records relating to the assessment and collection of mining revenue during the year 2006-07 revealed non/short assessment of royalty, dead rent, non-recovery of contract money, royalty, mineral area development cess and short levy of interest on belated payment of royalty etc. amounting to Rs. 38.84 crore in 1,258 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
1.	Short levy of interest on belated payments of royalty	59	3.04
2.	Non/short realisation of mineral area development cess and revenue against revenue recovery certificates	19	1.04
3.	Non-levy of royalty and penalty on minor mineral and non-recovery of contract amount, stamp duty and registration fee	98	0.49
4.	Non-assessme	76	0.24

	nt of royalty and dead rent		
5.	Others	1,006	34.03
Total		1,258	38.84

During the year 2006-07, the department accepted underassessment of royalty, dead rent of Rs. 293.16 crore in 1,746 cases, of which 1,258 cases involving Rs. 38.84 crore were pointed out during 2006-07 and the rest in the earlier years. An amount of Rs. 49 lakh had been recovered in 96 cases.

A few illustrative cases involving Rs. 5.20 crore are mentioned in the following paragraphs.

6.2 Non-realisation of revenue due to non-renewal of lease deeds

According to the Mineral Concession Rules, 1960, if the application for renewal of mining lease is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended. Under the Registration Act, 1908, deeds conveying lease hold right for a period beyond one year are required to be registered compulsorily. According to the Indian Stamp Act, 1899, in case of a lease of mine in which royalty or share of produce is received as rent or part of rent, stamp duty and registration fees are leviable on the average annual royalty.

Test check of the records of the mining offices Katni and Satna between October and November 2006 revealed that four lessees holding mining leases for a period of 20 years between October 1976 and May 2002 applied for renewal of their lease between October 1995 and May 2001. The department after completing the formalities had forwarded their applications (between October 1997 and September 2004) to the State Government. Since the Government did not take a decision for renewal, the stamp duty could not be levied. This resulted in non-realisation of stamp duty and registration fee of Rs. 7.29 crore.

After the cases were reported to the Director, Geology and Mining in January 2007; he stated (September 2007) that action for recovery was in progress.

The matter was reported to the Government (January 2007); their reply has not been received (January 2008).

6.3 Non-realisation of rural infrastructure and road development tax from the holders of mining lease

According to the provisions of Madhya Pradesh *Grameen Avasanrachna Tatha Sadak Vikas Adhiniyam*, 2005 and notification of September 2005, rural infrastructure and road development tax shall be levied annually at five *per cent* of the annual value of such minerals.

Test check of the records of the mining offices at Katni and Satna between October and November 2006, revealed that 10 lessees holding mining leases for different periods from October 1976 to June 2035 had extracted and removed 107.25 lakh tonne minerals from the lease area between August 2005 to October 2006. The sale value of the minerals worked out to Rs. 63.61 crore on which the rural infrastructure and road development tax amounting to Rs. 3.18 crore was leviable. The department had not initiated any action for realisation of the tax.

After the cases were reported to the Director, Geology and Mining in January 2007; he stated in September 2007 that Rs. 20,000 has been recovered in Satna District. The reply in the remaining cases has not been received. (January 2008).

The matter was reported to the Government (January 2007); their reply has not been received (January 2008).

6.4 Short realisation of royalty

According to the Mines and Mineral (Regulation and Development) Act, 1957,

every lessee holding a mining lease is required to pay royalty in respect of the minerals removed/consumed from the leased area at the rate prescribed in the second schedule. The rate of royalty on crude white clay was revised from Rs. 10 per tonne to Rs. 21 per tonne w.e.f. 12 September 2000.

Test check of the records of the Mining Officer, Katni in October 2006 revealed that a lessee holding mining lease for extraction of lime stone and manufacture of cement, had extracted and removed 3.77 lakh tonne clay mineral from the leased area between January 2005 and March 2006. The lessee had paid Rs. 35.62 lakh as royalty at the rate of Rs. 10 per tonne against the rate of Rs. 21 per tonne. Payment of royalty at lower rate resulted in loss of revenue of Rs. 43.55 lakh.

The cases were reported to the Director, Geology and Mining and the Government in January 2007. The Director, Geology and Mining stated (September 2007) that demand notice had been issued for recovery. The reply from the Government has not been received (January 2008).

6.5 Short realisation of royalty from lessees holding quarry leases

According to the provisions of Madhya Pradesh Minor Minerals Rules, 1996 every lessee holding quarry lease shall pay to the State Government royalty in respect of minerals removed by him from the leased area at the rate specified in schedule III to the rules.

Test check of the records of the Mining Officer, Katni in October 2006 revealed that three lessees had removed 82,361.50 cubic metre of marble stone from the leased area between May 2002 and June 2006. The lessees had paid royalty amounting to Rs. 287.59 lakh against the payable amount of Rs. 330.28 lakh.

The department

had not taken any action against the lessees to realise the balance revenue of Rs. 42.69 lakh.

After the cases were reported to the Director, Geology and Mining and the Government in January 2007, the Director, Geology and Mining stated (September 2007) that Rs. 20.41 lakh had been recovered and action for recovery of balance amount was in progress. The reply from the Government has not been received (January 2008).

6.6 Non-levy of interest on belated payment

According to the Mineral Concession Rules, 1960, a lessee is liable to pay royalty by the prescribed date, failing which he is liable to pay simple interest at the rate of 24 per cent per annum from the sixtieth day of the expiry of the stipulated date until the payment of such royalty. Under the Madhya Pradesh Minor Mineral Rules, 1996 and conditions of contract agreement, contractors of trade quarries⁹³ are required

⁹³

Quarries which were granted by way of auction for a maximum period of three years.

to pay contract money on or before the dates indicated in their contract agreement, failing which the contractor is liable to pay, in addition to the contract money, interest at 24 per cent per annum till the default continues.

Test check of the records of the mining offices at Rewa and Shivpuri between June 2006 and March 2007 revealed that one lessee holding mining lease and nine contractors of trade quarries delayed the payment of royalty/contract money amounting to Rs. 11.72 crore by periods ranging from one to nine months. The department had not initiated any action for the levy of interest on belated payments. This resulted in non-levy of interest amounting to Rs.37.87 lakh.

The cases were reported to the Director, Geology and Mining and the Government between June 2006 and April 2007. The Director, Geology and Mining stated (September 2007) that action for recovery was in progress. Reply from the Government has not been received (January 2008).

6.7 Short realisation of contract money

Under the Madhya Pradesh Minor Mineral Rules, 1996, if the contract money remains unpaid for more than three months, the Government may cancel the contract and take possession of the quarry and re auction at the risk and cost of the original contractor. Consequent upon cancellation of contract and its re auction, the loss sustained in this process would be recovered as arrears of land revenue.

Test check of the records of five mining offices⁹⁴ between June 2006 and January 2007 revealed that 30 trade quarries were auctioned for different periods between April 2005 and March 2007. Though the contractors had paid contract money amounting to

Rs. 28.32 lakh against the payable amount of Rs. 67.85 lakh, yet the department had not initiated any action, either for cancellation of the contract and re auction or for recovery of the outstanding amount. This resulted in short realisation of contract money amounting to Rs. 39.53 lakh.

The cases were reported to the Director, Geology and Mining and the Government between June 2006 and March 2007; the Director, Geology and Mining stated (September 2007) that the action for recovery was in progress. Reply from the Government has not been received (January 2008).

6.8 Non/short realisation of dead rent

According to the Madhya Pradesh Minor Mineral Rules 1996, a lessee is liable to pay dead rent every year except the first year of the lease at the rates specified in Schedule IV, in advance for the whole year, on or before the twentieth day of the first month of the following year.

Test check of the records of seven mining offices⁹⁵ revealed that 43 quarry lessees either did not pay dead rent or paid it short.

⁹⁴ Chhatarpur, Guna, Gwalior, Hoshangabad and Shivpuri.

⁹⁵ Barwani, Bhopal, Guna, Katni, Neemuch, Satna and Shivpuri.

Dead rent of Rs. 33.58 lakh due from March 2001 to December 2006 was payable against which Rs. 7.50 lakh was paid. This resulted in short realisation of revenue amounting to Rs. 26.08 lakh.

The case was reported to the Director, Geology and Mining and the Government between August 2006 and April 2007; the Director, Geology and Mining stated that Rs. 8.86 lakh had been recovered. Action for recovery of balance amount was in progress. Reply from the Government has not been received (January 2008).

6.9 Short levy of stamp duty and registration fee

The Mineral Resources Department issued instructions in March 1993 and October 1994 that on registration of agreement of trade quarries, the whole amount stipulated in auction of a quarry is to be treated as premium and stamp duty at eight *per cent* shall be leviable under the Indian Stamp Act, 1899.

Further, registration fee at 75 *per cent* of stamp duty is also leviable under Indian Registration Act, 1908.

Test check of the records of the mining offices at Gwalior and Shivpuri between

June 2006 and January 2007 revealed that 17 trade quarries were auctioned for

two years from April 2005 to March 2007 on levy of contract money of Rs. 76.16 lakh per year. At the time of registration of the documents, the department had levied

Rs. 6.09 lakh and Rs. 4.59 lakh as stamp duty and registration fee against the leviable amount of Rs. 12.18 lakh and Rs. 9.18 lakh respectively. This resulted in short levy of stamp duty of Rs. 6.09 lakh and registration fee of Rs. 4.59 lakh.

The matter was reported to the Director, Geology and Mining and the Government between July 2006 and April 2007. The Director, Geology and Mining stated (September 2007) that the action for recovery was in progress. Reply from the Government has not been received (January 2008).

CHAPTER VII : OTHER NON-TAX RECEIPTS

7.1 Results of audit

Test check of the records relating to the Public Works, Water Resources, Forest and Electricity Duty departments during the year 2006-07 revealed non/short realisation and loss of revenue amounting to Rs. 509.45 crore in 12,466 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
A. FINANCE DEPARTMENT			
	Interest Receipts (A review)	01	379.72
Total		01	379.72
B. PUBLIC WORKS DEPARTMENT			
1.	Non-levy of percentage charges on deposit works	89	5.12
2.	Non-recovery of lease rent	13	4.59
3.	Short imposition of licence fee due to misclassification of Government accommodation	465	0.03
4.	Non-levy of licence fee and penal rates	01	0.02
5.	Others	1,384	6.55
Total		1,952	16.31
C. ELECTRICITY DUTY			
1.	Short	01	0.02

	assessment of electricity cess		
2.	Loss of revenue due to non-inspection of electrical installations	3,513	1.51
Total		3,514	1.53
D. FOREST RECEIPTS			
1.	Non/short realisation of forest receipts	110	37.08
Total		110	37.08
E. WATER RESOURCES DEPARTMENT			
1.	Non-levy of betterment contribution	01	1.07
2.	Non-levy of penalty on delayed payment	01	0.06
3.	Short imposition of agriculture cess	01	0.01
4.	Others	4,346	52.25
Total		4,349	53.39

F. CO-OPERATIVE DEPARTMENT			
1.	Others	1,071	7.30
Total		1,071	7.30
G. FOOD & CIVIL SUPPLIES DEPARTMENT			
1.	Non-disposal of seized goods	01	0.13
2.	Others	93	13.01
Total		94	13.14
H. AGRICULTURE DEPARTMENT			
1.	Loss due to non-registration of institutions	170	0.05
2.	Others	34	0.52
Total		204	0.57
I. PUBLIC HEALTH DEPARTMENT			
1.	Others	1,171	0.41
Total		1,171	0.41
Grand total		12,466	509.45

During the year 2006-07, the concerned departments accepted underassessment of tax of Rs. 60.82 crore involved in 11,097 cases, out of which Rs. 17.27 lakh had been recovered in five cases. All these cases were pointed out during 2006-07.

A few illustrative cases involving Rs. 278.58 crore including a review of

“Interest Receipts” are mentioned in the following paragraphs:

A. FINANCE DEPARTMENT

7.2 Interest receipts

Highlights

- Failure of the Finance Department to monitor maintenance of the records and ensure regular submission of returns by the loan disbursing departments resulted in lack of complete information regarding the position of overdue principal and interest.

(Paragraph 7.2.6)

- Lack of monitoring on the part of the Finance Department to ensure that the loans were disbursed by the administrative departments only after specifying the terms and conditions resulted in sanction of loans aggregating Rs. 678.66 crore to various loanees during the period 2001-02 to 2005-06 without prescribing the terms and conditions for repayment of loan and interest/penal interest thereon. This led to loss of interest and penal interest of Rs. 263.81 crore.

(Paragraph 7.2.7)

- Failure of the administrative departments to maintain the relevant records required to watch the recovery of principal and interest thereon and lack of a system in the Finance Department to monitor the disbursement and recovery of loans by these departments resulted in non-assessment/raising of demand for interest and penal interest of Rs. 114.95 crore.

(Paragraph 7.2.8)

- Delay in disbursement of loans resulted in the loss of interest of Rs. 96 lakh.

(Paragraph 7.2.9)

7.2.1 Introduction

Interest receipts constitute a significant part of the non-tax revenue of the State Government and comprise interest chargeable on loans and advances granted to the various public sector undertakings, local bodies, co-operative societies etc. and individuals including Government employees.

According to the Madhya Pradesh Financial Code, the rate of interest shall be decided every year keeping in view the rate of interest at which the Government borrows or can borrow from the open market or the rate at which the loans are received from the Government of India or other financial institutions. The rate of interest ranges from 8.3 to 13.25 *per cent* per annum, depending on the nature and purpose of the loan and the period of repayment. Penal interest is also chargeable in cases of default in timely repayment of principal and interest as per the terms and conditions specified in the respective sanction order. The position of outstanding loans and advances⁹⁶ of the Government during 2001-02 to 2005-06 was as mentioned below:

(Rupees in crore)

Sl. No.	Particulars	2001-02	2002-03	2003-04	2004-05	2005-06
1.	Opening balance	2,990.98	2,001.91	2,439.89	2,608.42	5,866.08
2.	Amount advanced	598.58	480.69	204.36	3,310.86	834.45

	during the year					
3.	Amount repaid during the year	1,587.65	42.71	35.83	53.20	2,851.99 ⁹⁷
4.	Closing balance	2,001.91	2,439.89	2,608.42	5,866.08	3,848.54

Thus, the outstanding loans and advances have been continuously rising except during 2005-06 in which interest free loan amounting to Rs.2,749.36 crore granted in 2004-05 was converted into equity by the Government. Also, the amount repaid by the loanees during the last four years is meagre as compared to the amount of outstanding loans/loans extended by the Government during that period.

A review of the interest receipts was included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 1999 of the receipts of the Government of Madhya Pradesh. The Public Accounts Committee (PAC) recommended in March 2006 that the departments should ensure prompt recovery of principal and interest thereon to avoid loss to the Government. Action taken notes (ATNs) on the recommendations of the PAC have not been received from the Government even after than seven years although instructions of the State Legislature Affairs Department of 2 November 1994 stipulate that ATNs should be furnished within six months of the receipt of the recommendations of the PAC by the concerned Government department.

The current review of interest receipts has revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

7.2.2 Organisational set up

Intending loanee organisations submit proposals of loans to the concerned heads of the department. The concerned departments process the proposals and sanction the loans with the concurrence of the Finance Department. The responsibility of watching the recovery of loan, interest and penal interest leviable rests with the concerned heads of the departments. The position of outstanding loans of the departments is monitored by the Finance Department.

7.2.3 Audit scope and methodology

The review covered the period from 2001-02 to 2005-06 and was conducted during June to December 2006. Four departments viz. Energy, Local Self Government, Housing & Environment and Co-operation which account for 86 *per cent* of the total loans sanctioned during the period 2001-02 to 2005-06 were selected for audit.

7.2.4 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Finance, Energy, Local Self Government, Housing & Environment and Co-operation Department in

⁹⁷

This amount includes adjustment of Rs. 2,749.36 crore which was given as interest free loan by the Government to Madhya Pradesh State Electricity Board (MPSEB) in 2004-05 and subsequently converted into equity in the year 2005-06.

providing the necessary information and records for audit. The audit findings of the review were reported to the Government/department in April 2007 and discussed in the Audit Review Committee meeting held in August 2007 in which the Secretary, Finance Department represented the Government. The replies of the Government have been incorporated in the review.

Audit findings

7.2.5 Trend of revenue

The trend of interest receipts for the last five years ending 31 March 2006 is mentioned below:

(Rupees in crore)				
Year	Budget estimates	Actual	Variation (+) increase (-) decrease	Percentage increase/ decrease
2001-02	271.68	246.59	(-) 25.09	(-) 9.24
2002-03	89.79	32.05	(-) 57.74	(-) 64.31
2003-04	82.09	19.22	(-) 62.87	(-) 76.59
2004-05	43.49	25.90	(-) 17.59	(-) 40.45
2005-06	526.70	527.20	(+) 0.50	(+) 0.09

The reason for sharp increase in interest receipts during 2005-06 was stated by the department to be due to adjustment of interest of Rs. 464.60 crore against the financial assistance payable by the State Government to MPSEB. The department did not intimate (November 2007) the reasons for the substantial variations between budget estimates and actuals for 2002-03 to 2004-05, despite being requested (May 2007). The deviations between the estimated and actual receipts from 2002-03 to 2004-05 indicates the need for a closer look at the budgeting process.

System deficiencies

7.2.6 Lack of control over recoveries of the principal, interest and penal interest

The Finance Department issued instructions to the administrative departments in May 1978, January 1990 and July 1993 for maintaining the records in the prescribed format so that the recovery of instalments of principal, interest and penal interest could be monitored. The departments were also required to submit annual returns in the prescribed form to the Finance Department indicating the position of outstanding principal and interest. **Audit noticed that neither were the records maintained/return submitted by the administrative departments nor was any system instituted by the Finance Department to monitor the maintenance of records and submission of return by these departments.**

Test check of the records of the Energy, Urban Administration & Development, Housing & Environment and Co-operation departments revealed that the records were not maintained in

any of the departments in the prescribed formats. None of the departments had maintained the loan ledgers or demand, collection and balance registers containing the relevant loan wise information such as the date of payment of loan, period of loan, details of repayment of loan and interest/penal interest thereon, and the amount of interest/penal interest due. Besides, the departments did not submit the prescribed annual returns to the Finance Department indicating the position of outstanding principal and interest. **Thus, due to the failure of the Finance Department to monitor maintenance of the records and ensure regular submission of returns by the loan disbursing departments, complete information regarding the position of overdue principal and interest was not available either with the administrative or the Finance Department.**

After the cases were pointed out, the Government stated (August 2007) that the concerned departments would be instructed to maintain the relevant records in the prescribed formats.

The Government may consider measures for enforcing accountability to ensure maintenance of records and submission of returns by the loan disbursing departments so that the repayment of loans and interest thereon could be monitored.

7.2.7 Loss of interest and penal interest due to failure in prescribing the terms and conditions of loan

The sanctions for payment of loans issued by the Government should contain the terms and conditions for repayment of loan such as the number of instalments for repayment of principal and interest, date and year of commencement of the first instalment and rate of interest/penal interest chargeable. Further, according to Rule 224 of the Madhya Pradesh Financial Code Volume-I, the rate of interest on loans shall be fixed every year keeping in view the rate at which the Government borrows

from the open market or the rate at which the loan is received from the Government of India or other financial institutions. **Audit noticed that there was no monitoring on the part of the Finance Department to ensure that the loans were disbursed by the administrative departments only after specifying the terms and conditions.**

Test check of the records of three departments⁹⁸ revealed that in 55 (47 per cent) out of 126 cases, loans aggregating Rs. 678.66 crore were sanctioned to the loanees during the period 2001-02 to 2005-06 without prescribing the terms and conditions for repayment of loan and interest/penal interest thereon. Thus, lack of monitoring on the part of the Finance Department resulted in non-assessment/recovery of interest including penal interest of Rs. 263.81 crore⁹⁹.

After the cases were pointed out, the Government intimated in October 2007 that instructions for prescribing the terms & conditions in respect of the above mentioned loans were being issued. It was further stated that the guidelines for framing terms and conditions of loans were also being prepared.

The Government may consider instituting a mechanism for monitoring by the Finance Department to ensure that loans are not disbursed without specifying the terms and conditions of the loan.

7.2.8 Non-assessment and non-raising of demand for interest and penal interest

⁹⁸ Co-operation, Housing & Environment and Urban Administration & Development Department.

⁹⁹ The interest/penal interest has been calculated at the rates on which the loans were obtained from the Central Government/other institutions or the rates on which loans were being granted by the State Government to other similar loanees such as urban local bodies and co-operative sectors.

As per the MP Financial Code, the departments are responsible for prompt assessment and recovery of the revenues payable to the Government. The departments are also required to maintain the relevant records for watching the progress of recovery and take prompt action for recovery of any outstanding amount.

Audit noticed that the administrative departments did not maintain the relevant records required to watch the recovery of principal and interest thereon. Also, no system existed in the Finance Department to monitor disbursement and recovery of loans by these departments.

7.2.8.1 Audit of the records of two departments¹⁰⁰ revealed that the interest and penal interest leviable on 56 out of 116 loan cases test checked was not assessed. In these 56 cases, Rs. 37.36 crore was disbursed to the loanees during the period 2001-02 to 2005-06. The relevant records required to watch the recovery of principal and interest thereon were not maintained by the departments. Thus, due to non-maintenance of the records by the administrative departments and lack of monitoring on the part of the Finance Department, interest of Rs. 14.07 crore and penal interest of Rs. 56 lakh was neither demanded nor recovered from the loanees as mentioned below:

(Rupees in crore)

Sl. No.	Name of the Department	Amount of loan	No. of cases	Period of loan	Amount of interest	Amount of penal interest
1.	Co-operation	34.44	24	3/2002 to 1/2005	13.15 (upto August 2006)	0.51
2.	Urban Administration & Development	2.92	32	5/2001 to 6/2005	0.92 (upto September 2006)	0.05
Total		37.36	56		14.07	0.56

7.2.8.2 During the audit of the Energy Department, it was noticed from the annual accounts of the MPSEB that interest of Rs. 100.32 crore was outstanding as on 31 March 2006. The department, however, did not have the sanction and year wise details of the loans on which interest of Rs.100.32 crore was leviable. As a result, the department failed to raise the demand for the recovery of this amount. Further, the State Government adjusted Rs. 464.60 crore as interest receipts against financial assistance payable to the MPSEB during the year 2005-06. The Energy Department did not have the details of this adjusted amount as well which indicates lack of monitoring of the repayment of loans and interest thereon.

¹⁰⁰

Co-operation and Urban Administration & Development Department.

After the case was pointed out, the Government stated (August 2007) that the records were being prepared by the electrical inspectorate, which was the drawing and disbursing authority of the department. However, it was noticed during audit that no such records were being maintained by the electrical inspectorate.

The Energy Department may consider ensuring timely issue of demand notices for the repayment of loan and interest thereon. While processing and sanctioning second and subsequent loans, the position of previous outstanding loans alongwith interest/penal interest should be ascertained and reviewed. Further, the Government may consider strengthening internal control mechanism by way of periodic review of loan cases to ensure prompt realisation of dues.

Compliance deficiencies

7.2.9 Loss of interest due to the delay in disbursement of loan

The loans sanctioned by the Government and drawn by the concerned department should be paid to the loanees immediately without undue delay so as to avoid loss of interest to the Government.

Test check of the records of three departments¹⁰¹ revealed that in five cases, loans aggregating Rs. 26.39 crore were drawn by the heads of the department during the years 2001-02 and 2002-03 and were kept under the head 'Civil Deposit' for periods ranging from two to 12 months before being disbursed to the loanees. The delay in the disbursement of loans resulted in the loss of interest of Rs. 96.42 lakh¹⁰².

After the cases were pointed out in audit, the Government stated (August 2007) that the amount could not be made available to the loanees immediately because the financial position of the State was not good. The reply is not tenable as most of this amount was received as loan from the Government of India/other institutions under specific schemes on which the State Government itself was paying interest. The amounts were drawn in the month of March and kept in civil deposits instead of being disbursed to the loanees.

7.2.10 Non-reconciliation of figures of departmental receipts with those of treasury

The Madhya Pradesh Financial Code requires the drawing and disbursing officers to prepare at the end of each month a statement of amounts credited into treasury on account of revenue of the State Government and to get it verified by the treasury officer concerned. Reconciliation is essential to ensure correct accounting of receipts and check leakage of revenue through fraudulent challans.

Test check of the records revealed that in none of the cases the above mentioned statements in respect of interest receipts were prepared and got verified from the treasury records by any of the four heads of the department. Non-reconciliation left the receipts of public money vulnerable to fraud and misappropriation.

After the case was pointed out, the Co-operation Department stated in September 2007 that the instructions in this regard had been issued to the concerned units. The remaining three departments did not give any reply.

7.2.11 Conclusion

Interest receipts from loans is one of the sources of non-tax revenues of the State Government. To have effective control over the sanction and recovery of loan and interest thereon, it is essential that the prescribed records are maintained properly by the departments. Audit scrutiny revealed that these were not maintained. Lack of monitoring

¹⁰¹ Co-operation, Housing & Environment and Urban Administration & Development Department.

¹⁰² The interest has been calculated at the rates specified in the respective sanction orders or the rates on which the loans were obtained from Government of India/other institutions (in case of those loans where terms and conditions were not specified in the sanction orders).

by the Finance Department led to sanctioning of loans by the loan disbursing departments without prescribing the terms and conditions for repayment. There was no monitoring by the loan sanctioning departments of the overdue loan and interest. It is necessary for the Government to have a detailed look at the system and procedure for prompt recovery of loans and interest.

7.2.12 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:

- prescribing measures for enforcing accountability for proper maintenance of records and submission of returns by the loan disbursing departments to facilitate monitoring of the repayment of loans and interest;
- instituting a mechanism for monitoring by the Finance Department to ensure that loans are not disbursed without specifying the terms and conditions of the loan; and
- ensuring timely issue of demand notices by the Energy Department for the repayment of loan and interest thereon. While processing and sanctioning second and subsequent loans, the position of previous outstanding loans alongwith interest/penal interest should be ascertained and reviewed. Further, it may consider strengthening the internal control mechanism by way of periodic review of loan cases to ensure prompt realisation of dues.

B. PUBLIC WORKS DEPARTMENT

7.3 Non-realisation of contract money

The Madhya Pradesh Works Department Manual, 1983 provides for collection of toll tax on bridges being given out on lease. As per the terms and conditions of the lease deed for the collection of toll tax, the lessee is required to pay the instalment of lease money on the dates mentioned in the lease deed, failing which the lease may be terminated and the unexpired portion of the lease reauctioned at the risk and cost of the original lessee or the collection of toll tax may be made departmentally. The amount of security deposited by the contractor with the department shall be forfeited in case of violation of the terms of the contract agreement. The defaulter shall be liable to pay the loss sustained by the Government and the amount shall be recovered as arrears of land revenue.

Test check of the records of the Executive Engineers, PWD (B&R) divisions, Sidhi and Satna between April and July 2006 revealed that two contractors were given the right to collect toll tax in March 2003 and March 2005 for Rs. 21.78 lakh for the year 2003-04 and 2005-06. The contractors were required to deposit the contract money into the Government account in seven

instalments and the last instalment was due in February 2004 and February 2006 respectively. The contractors paid amounts totalling Rs. 10.23 lakh between April 2003 and January 2006 and defaulted in the payment of the balance amount. The department did not cancel the contract for reauctioning the unexpired portion of the lease. Security deposit of Rs. 2.91 lakh was also not forfeited. This resulted in short realisation of revenue of Rs. 14.46 lakh.

After the cases were pointed out, the Executive Engineer, Satna stated in April 2006 that security deposit was being forfeited.

The Executive Engineer, Sidhi stated in

July 2006 that action would be taken for recovery.

The matter was reported to the department and the Government between July 2006 and April 2007. Further progress in the matter was called for from Engineer-in-Chief, PWD Bhopal in August 2007; their reply has not been received (January 2008).

C. ELECTRICITY DUTY & SAFETY

7.4 Loss due to non-inspection of the electric installations

According to the provision of Indian Electricity Act, 1910 and Indian Electricity Rules, 1956, fees at the prescribed rates are leviable for carrying out inspection of the electrical installations according to their categories. The periodicity for conducting inspections of electrical installations of medium voltage is triennial and in other cases, it is annual.

Test check of the records of the Divisional Engineer (Electric and Safety), Sehore

and Chhindwara revealed between September and December 2006 that inspections of 45,469 high voltage electric installations and 1,65,810 medium voltage electric installations were not carried out as per the prescribed norms during the period

from 2003-04 to 2005-06. This resulted in loss of Rs. 92.93 lakh on account of inspection fee.

After the cases were pointed out, the Divisional Engineer (Electric and Safety), Sehore and Chhindwara stated between September and December 2006 that the inspection could not be carried out due to shortage of staff.

The matter was reported to the Chief Engineer (E&S) and the Government between January and April 2007; their reply has not been received (January 2008).

D. FOREST RECEIPTS

7.5 Non-recovery of lease rent resulting in undue benefit to MPSFDC

The State Government decided in November 1979 that the net revenue earned every year from the sale of bamboo and teak from Project I¹⁰³ areas by the Madhya Pradesh State Forest Development Corporation (MPSFDC) would be paid to the State Government as lease rent after deducting a commission of two *per cent*. The State Government order, however, did not prescribe the due date for depositing the yearly lease rent by the corporation. The order also did not provide for the levy of penalty on delayed payments by the corporation which could act as a deterrent.

Test check of the records in the office of the Additional Principal Chief Conservator of Forests, in September 2006, revealed that Rs. 38.50 crore was outstanding against the MPSFDC on account of lease rent payable to the State Government at the end of 2004-05. Out of this, Rs. 2 crore was paid by the MPSFDC during the year 2005-06 leaving a balance of Rs. 36.50 crore. It was noticed during audit that the Forest Department did not monitor and demand the lease rent due from the MPSFDC. Lack of monitoring and failure to demand lease rent from the MPSFDC, therefore, led to non-realisation of Rs. 36.50 crore by the State Government. Further, lack of action by the Forest Department in recovering the dues led to undue benefit to the Corporation as it had earned Rs. 1.61 crore as interest during 2004-05 from the term deposits of Rs. 32.68 crore with the scheduled banks.

After the case was pointed out in audit (September 2006), the MPSFDC deposited lease rent of Rs. 12.59 crore in November 2006 and Rs. 15 crore in April 2007 into the State Government account.

¹⁰³

Project I or crop I areas are the forest lands with standing crop of bamboo and timber that are transferred by the Forest Department to MPSFDC for exploitation.

The State Government may consider prescribing the due date by which MPSFDC should deposit the yearly lease rent and may consider providing for levy of interest on delayed payments by the Corporation as in other states such as Himachal Pradesh and Karnataka.

The matter was reported to the Principal Chief Conservator of Forests and the Government (March 2007); their reply has not been received (January 2008).

**Bhopal,
The**

**(M. RAY BHATTACHARYYA)
Accountant General
(Works & Receipts Audit)
Madhya Pradesh**

Countersigned

**New Delhi,
The**

**(VINOD RAI)
Comptroller and Auditor General of India**