Chapter-2
Compliance Audit (Revenue Sector)

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Compliance Audit (Revenue Sector)

A. General

2.1 Tax administration

2.1.1 Sales Tax/ Value Added Tax/State Excise

The Principal Secretary (Excise and Taxation) administers State GST and State Excise at the Government level. The Commissioner of State Taxes and Excise (CSTE) is the Head of the Excise and Taxation Department and is assisted by three Additional CSTE, two Joint CSTE, and five Deputy CSTE. There are 12 Deputy CSTE at District level in the field, assisted by 119 Assistant CSTE. In addition, there are State Taxes and Excise Officers and Assistant State Taxes and Excise Officers in the field to control all the activities of Department and other allied staff for administering the relevant tax laws and rules.

2.1.2 Stamp Duty

The State Government exercises control over the registration of instruments through the Additional Chief Secretary (Revenue) at the Government level. The Inspector General of Registration (IGR) is the Head of the Revenue Department who is assisted by Deputy Commissioners (Collectors) and Sub-Registrars (SRs), respectively. He is empowered with the task of superintendence and administration of registration work. For levy and collection of Stamp duty and Registration Fees, State has 12 Collectors and 117 *Tehsildars*/*Naib-Tehsildars* acting as the Registrars and SRs, respectively.

2.1.3 Taxes on Vehicles, Passengers and Goods

The Principal Secretary (Transport) is the administrative head at the Government level. The Department consists of a State Transport Authority, an Additional District Magistrate (Special Road Tax), 10 Regional Transport Officers and 63 Registering and Licensing Authorities to regulate the receipts of the Department under the provisions of the Central and the State Motor Vehicle Acts and Rules. The AETCs under the administrative control of Commissioner (Excise and Taxation) regulate the receipts of passengers and Goods Taxation Act, 1955.

2.1.4 Forests Receipts

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

2.2 Results of Audit

Test-check of records of 166 units out of a total of 383 units of Sales Tax/ Value Added Tax/ State Excise, Stamp Duty, Taxes on Vehicles, Passengers and Goods and Forest Receipts conducted during the year 2018-19 revealed under-assessment/ short levy of revenue

aggregating ₹ 297.10 crore in 1,168 cases as detailed in **Table 2.1**.

Table 2.1: Results of audit

			₹ in crore
Sr. No.	**Categories**	**Number of cases**	**Amount**
Sales Tax/ Value Added Tax			
1.	Under assessment of tax	16	1.5
2.	Acceptance of defective statutory forms *C, D, E* and *F*	24	13.29
3.	Evasion of tax due to suppression of sale/Purchase	43	10.86
4.	Irregular/incorrect/excess allowance of Input Tax Credit	36	8.08
5.	Application of incorrect rate of tax	37	24.83
6.	Other irregularities	115	11.99
	Total	**271**	**70.55**
Others Tax and Non-Tax			
1.	Entertainment Tax	10	0.47
2.	Multi-purpose barriers and Luxury tax	35	0.13
	Total	**45**	**0.60**
State Excise			
1.	Non/short realisation of excise duty	07	4.71
2.	Non/short recovery of license fee/interest/penalty etc.	35	103.55
3.	Other irregularities	30	1.40
	Total	**72**	**109.66**
Stamp Duty			
1.	Incorrect determination of market value of property and irregular exemption on housing loan	04	0.33
2.	Non/short levy of stamp duty and registration fees	133	7.65
3.	Non/short recovery of stamp duty on lease deeds	32	2.67
4.	Other irregularities	136	0.00
	Total	**305**	**10.65**
Taxes on Vehicles, Passengers and Goods			
1.	**Non/short realisation of**		
	• Token Tax and Composite Fee	117	6.34
	• Special Road Tax	38	25.86
	• Passengers and Goods tax	14	1.77
2.	**Evasion of**		
	• Token Tax	33	1.83
	• Passengers and Goods tax	21	50.10
3.	**Other irregularities**		
	• Vehicles Tax	171	0.97
	• Passengers and Goods tax	17	0.0007
	Total	**411**	**86.87**
Forest Receipts			
1.	Non/ Short recovery of royalty	25	11.22
2.	Non-levy of interest/ extension fee	06	0.10
3.	Blockade/ Loss of revenue due to non-disposal of seized timber	09	2.76
4.	Other irregularities	24	4.69
	Total	**64**	**18.77**
	Grand Total	**1,168**	**297.10**

Source: Inspection Reports

The total revenue loss on account of the deficiencies highlighted by Audit through IRs during 2018-19 amounted to ₹ 297.10 crore in 1,168 cases (3.14 *per cent* of total tax and non-tax revenue - ₹ 9,471.52 crore during 2017-18). During the year 2018-19, the Departments

accepted audit observations of ₹ 18.59 crore in 860 cases, of which ₹ 3.92 crore in 188 cases related to audit findings of previous years. The Department recovered an amount of ₹ 2.72 crore (14.63 *per cent* of accepted amount of ₹ 18.59 crore) in 195 cases during the year 2018-19.

Category-wise audit findings noticed under taxes on sales, trade VAT, etc., State Excise, Stamp duty/ registration fees, Taxes on Vehicles, Passengers and Goods and Forest Receipts are depicted in Chart- 2.1, 2.2, 2.3 and 2.4 respectively

Chart 2.1: Sales Tax/ Value Added Tax/ MPB

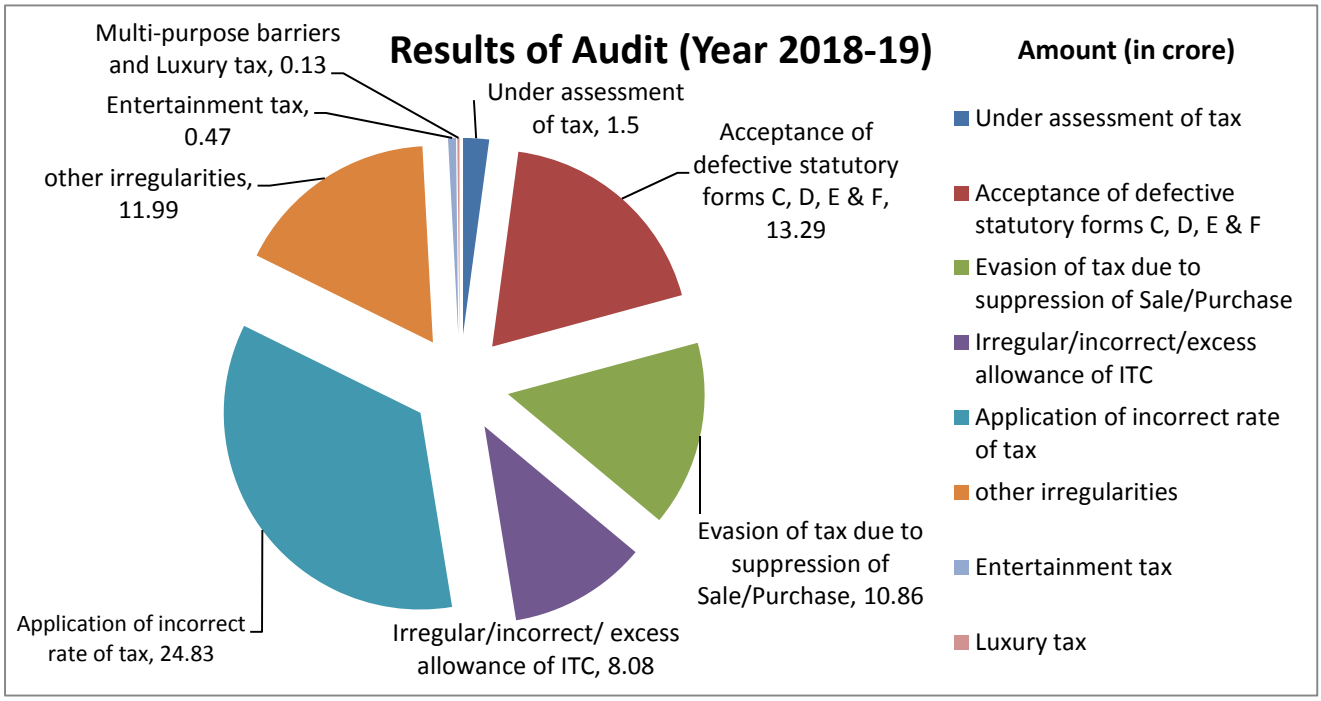


Chart 2.2: State Excise

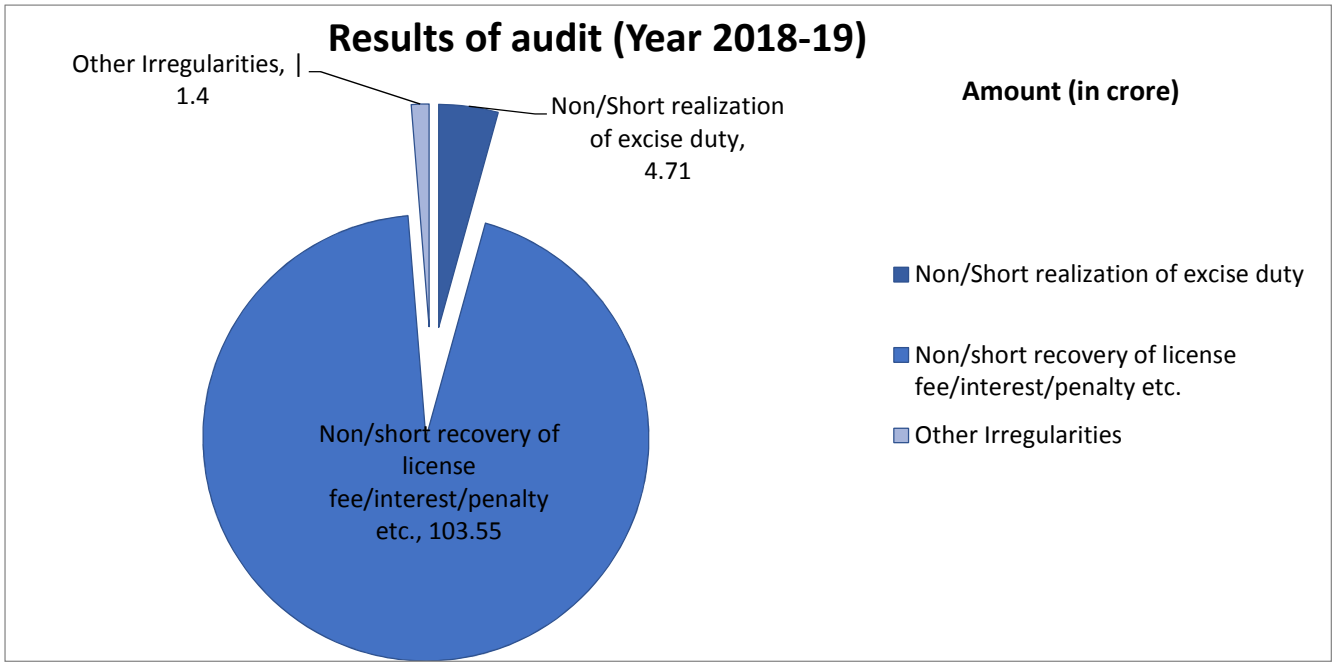


Chart 2.3: Stamp Duty

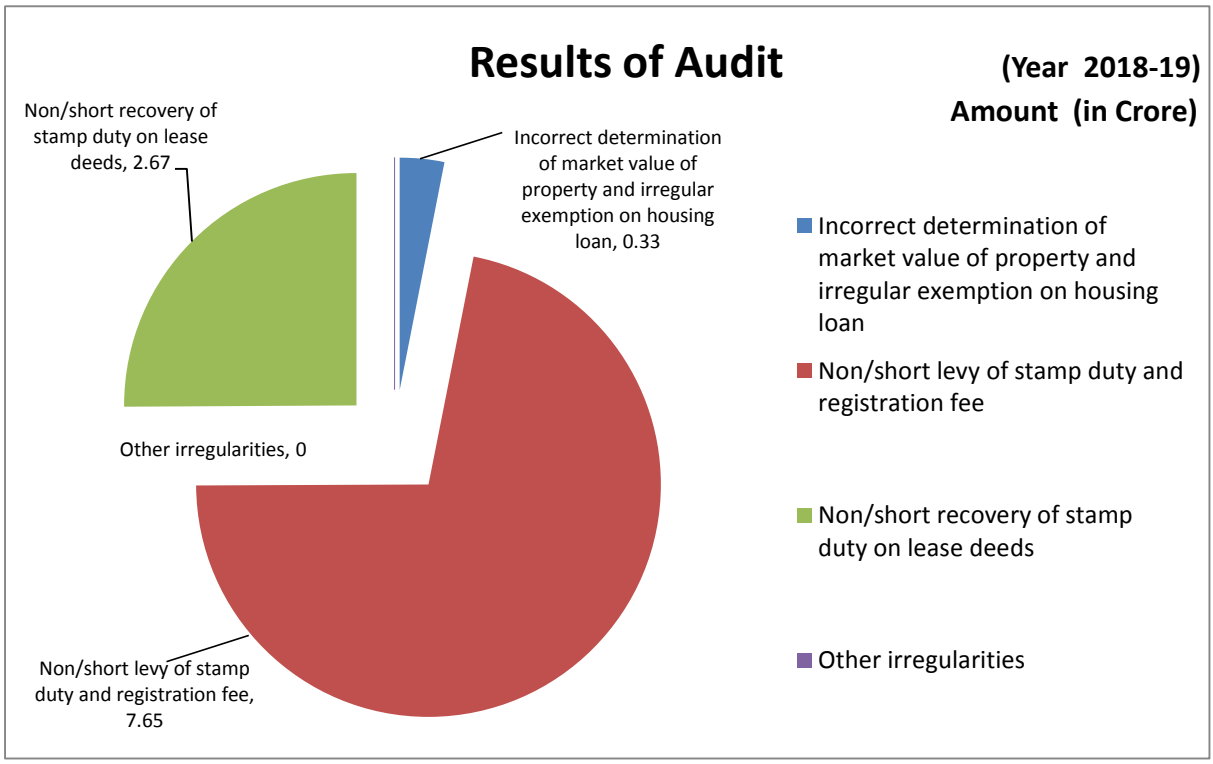


Chart 2.4: Taxes on Vehicles, Passengers and Goods

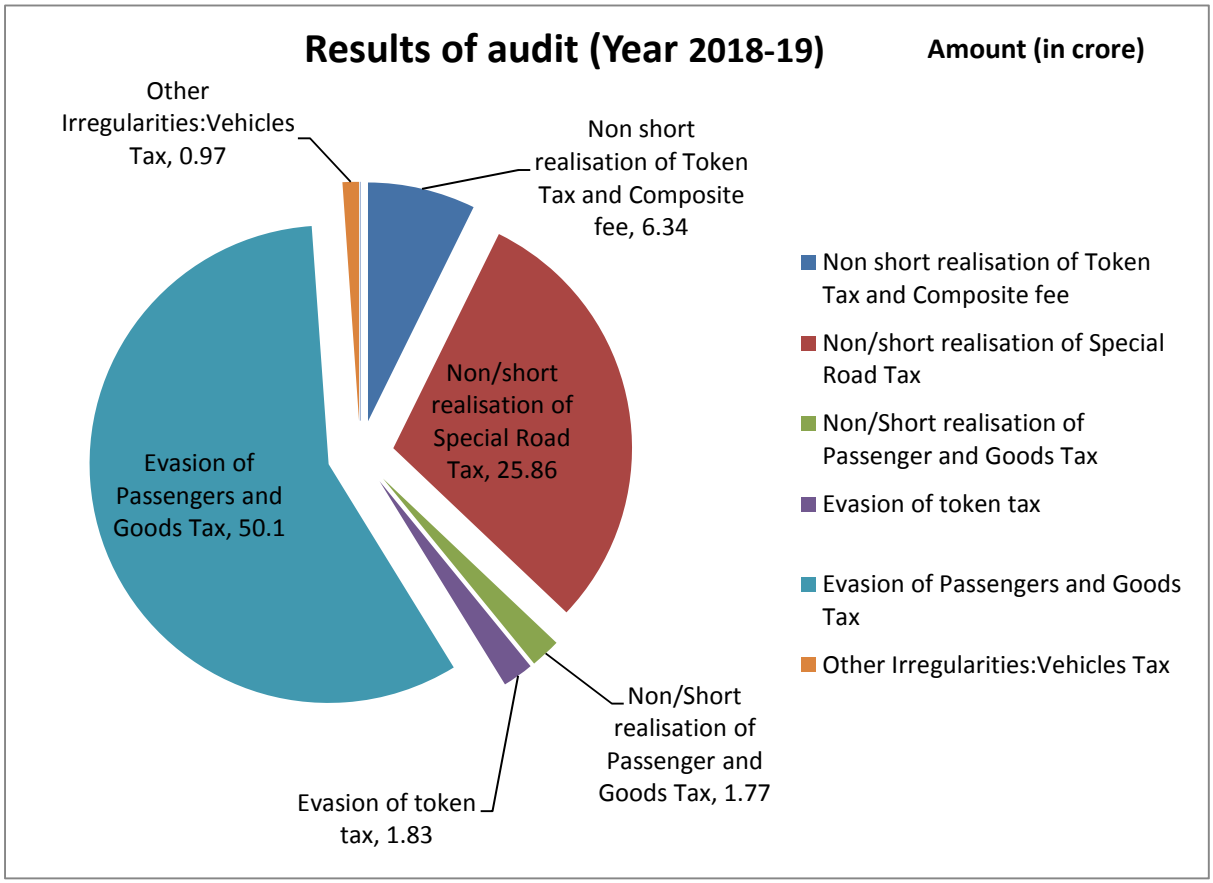
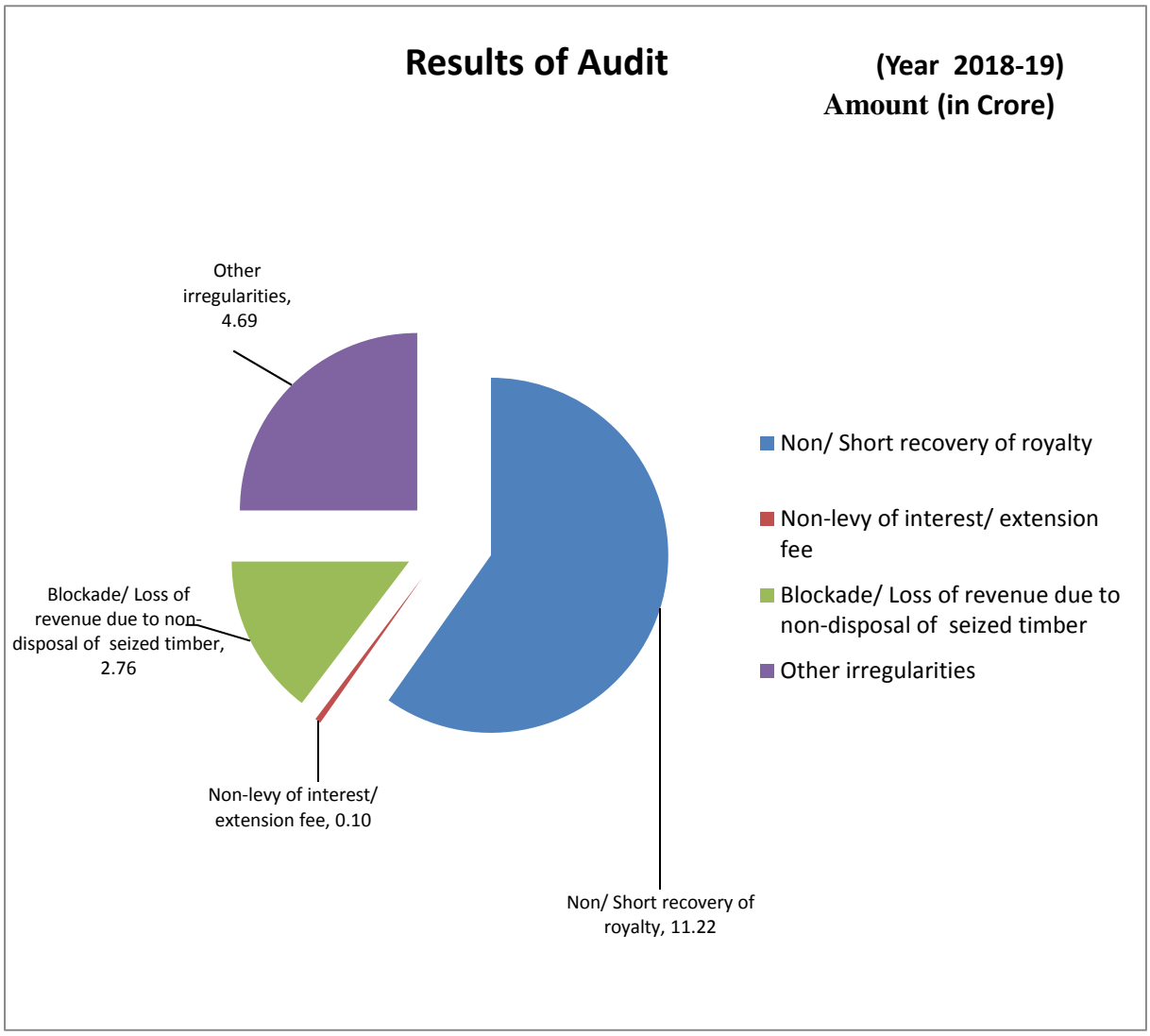


Chart 2.5: Forest Receipts



Source: Inspection Reports

Significant cases having a total revenue implication aggregating ₹ 173.63 crore are discussed in the following 23 paragraphs.

B. Audit Findings

Excise and Taxation Department

Sales Tax/ Value Added Tax

During 2018-19, audit test-checked 40 units out of 87 units involving receipt of ₹ 2,274.70 crore under VAT/GST, Multi-purpose Barriers and Luxury tax which revealed under assessment of tax and other irregularities involving short levy of tax of ₹ 71.15 crore in 316 cases.

The Department accepted and recovered under-assessment and other deficiencies of ₹ 70.25 lakh in 45 cases related to audit findings of earlier years. The Department also accepted under-assessment and other deficiencies of ₹ 03.84 crore in 31 cases related to audit findings of 2018-19.

Significant cases (9) having a financial implication of ₹ 9.18 crore are discussed in the following paragraphs 2.3 to 2.11.

2.3 Allowance of concessional rate of tax

Failure of the Assessing Authorities to correctly classify the nature of manufactured goods, led to illegitimate allowance of concessional rate of tax, which resulted in under assessment of tax of ₹2.42 crore. Interest of ₹1.67 crore was also leviable.

HP Government vide notification dated April 2013 had raised the concessional rate of tax to one and half *per cent* instead of one *per cent* in respect of sale in course of interstate trade or commerce of goods other than those manufactured by the industrial units specified in negative list (List of items prescribed by the Department of Industries, GoHP which will attract two *per cent* CST).

In case of any violation of the conditions mentioned in the notification, *ibid,* at any point of time by the concerned industrial unit, no further concession shall be admissible to it and tax at rate of two *per cent* as per Section 8 of the Central Sales Tax Act, 1956 shall be leviable.

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

Scrutiny of records showed that in the office of three Assistant Excise and Taxation Commissioners (AETCs)[10], the AAs had allowed concessional rate of tax to 17 dealers in 27 cases who were engaged in manufacturing of craft and printing papers and plastic articles falling in the negative list. These dealers were not entitled to avail any concessional rate of tax on interstate sales of ₹ 406.90 crore for the tax period 2013-14 to 2016-17. However, the AAs, while finalising the assessments of the dealers between April 2017 and May 2018, failed to

[10] Baddi, Nahan and Solan.

correctly classify the nature of manufactured goods and allowed one or one and half *per cent* concessional rate of tax and levied tax of ₹ 5.72 crore instead of leviable tax at the rate of two *per cent* amounting to ₹ 8.14 crore. This resulted in short levy of tax of ₹ 2.42 crore[11]. Besides, interest of ₹ 1.67 crore was leviable.

The Department intimated (September 2020) that notices have been issued to nine dealers in 15 cases. In seven cases, the Department has stated that items do not fall in the negative list but the replies are not acceptable as items did fall under negative list issued by the Department of Industries. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider issuing necessary directions to the Department to follow the provisions of the notifications and the Act/Rules while finalising assessments.

2.4 Allowance of concessional rate of tax against form-I

Assessing Authorities allowed concessional rate of tax in 19 cases to ineligible units or without form-I, resulting in short levy of tax of ₹ 3.87 crore. Besides, interest of ₹ 4.03 crore was required to be levied.

The Excise and Taxation Department, Government of Himachal Pradesh vide notification dated April 2013, had raised the concessional rate of tax to one and half *per cent* instead of one *per cent* barring new industrial units coming into operation on or after 1st April, 2013 with effect from the date of commencing of production, or on existing industrial units which carry out substantial expansion (25 *per cent*) both on installed capacity and manpower for a period of five years or till the implementation of Goods and Services Tax, whichever is earlier.

One of the conditions for availing the concessional rate of tax is that the unit should obtain certificate to the effect in Form-'I' from the Department of Industries of the GoHP that the unit is located in the Category 'C' areas, employs at least 70 *per cent* of its total manpower employment from amongst the bonafide Himachalis and has furnished the same certificate to assessing authority. In case of any violation of this condition at any point of time by the concerned industrial unit, no further concession shall be admissible to it and tax at rate of two *per cent* as per Section 8 of the Central Sales Tax Act, 1956 shall be leviable.There is no provision in the Act/Rules that enables the AA to allow concessional rate of tax at his discretion.

Further, Section 19 of the Act, *ibid,* provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month and one and a half *per cent* per month thereafter, till the default continues. Audit observed that two AETCs[12] had not pursued the cases under the provisions of notifications, *ibid,* as detailed below:

I. Scrutiny of records showed that AAs while finalizing the assessments (between April 2017 to February 2018) of 11 units for the years 2009-10 to 2017-18 had accepted

[11] Baddi: ₹ 1.35 crore, Nahan: ₹ 23.32 lakh and Solan: ₹ 83.94 lakh.
[12] Baddi and Solan.

Form-I, which did not pertain to the corresponding assessment year. In the absence of *Form-I* belonging to the corresponding year, the condition on employment of 70 *per cent* Himachalis could not be ascertained. The AAs had levied concessional rate of tax of one and one and half *per cent* on interstate sale of ₹ 421.95 crore. The allowance of concessional rate of tax instead of applicable rate of two *per cent* by AAs at their own discretion was against the provision of the notification, resulting in under assessment of tax of ₹ 3.38 crore. Besides, interest amounting to ₹ 3.39 crore was also leviable.

II. Similarly, audit scrutiny showed that AAs had finalized the assessment of 08 units (between July 2017 to February 2018) who made inter-state sales of ₹ 50.49 crore for the years 2009-10 to 2016-17. The AAs, while finalising the assessments applied concessional rate of tax of one and one and half *per cent* and levied tax of ₹ 52.09 lakh instead of leviable tax at the rate of two *per cent,* amounting to ₹ 1.01 crore. Audit noticed that there was nothing on records to prove that the units submitted the 'Form I' or they had carried out substantial expansion on or after 1 April, 2013 and as such these units did not qualify for availing concessional rate of tax. Thus, without verification of the provisions of the notifications, *ibid*, the AAs had applied incorrect rate of tax, resulting in under assessment of tax to the tune of ₹ 48.89 lakh. Interest amounting to ₹ 63.98 lakh was also leviable.

Audit observed that the AAs had not finalised the assessments under the provisions of notification, which resulted in short levy of tax of ₹ 3.87 crore and interest of ₹ 4.03 crore.

The Department intimated (September 2020) that in four cases notices had been issued to the dealers for reassessment and in 15 cases units are not required to furnish Form- I annually. The reply is not acceptable as the audit point is regarding non submission of Form-I pertaining to current year and Department has not taken action to re-assess the cases. Moreover, in the absence of Form-I pertaining to corresponding year, the condition on employment of at least 70 *per cent* of the Himachalis could not be ascertained. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider issuing necessary directions to the Department to ensure that the dealers must submit the mandatory 'Form-I' and fulfil the conditions mandated in the notifications to avail of concessional rates.

2.5 Grant of concessions without statutory forms

Acceptance of invalid and defective statutory forms by the Assessing Authorities and allowance of concessional rate of tax on inter-state sale resulted in short levy of tax of ₹1.43 crore. In addition, interest of ₹1.79 crore was required to be levied.

In case of sale in the course of interstate trade or commerce seeking full or partial exemption from tax, statutory *forms*-'*C*', and '*F*' are pre-requisite for claiming tax exemption under the CST Act, 1956 before finalisation of assessment of dealer. The *form*-'*C*' is provided by the purchasing dealers to the selling dealer for claiming concession in the course of interstate trade or commerce. These forms are issued in three parts i.e. *Original,*

Duplicate and *Counterfoil*. It has been judicially held[13] that production of original forms containing full particulars like date of issue, transaction details, name of selling and purchasing dealers, value of form and period to which these forms pertain etc. is mandatory for claiming concessional rate of tax.

2.5.1 Form-'C'

The Central Sales Tax (CST) Act, 1956 prescribes that in the course of interstate trade or business, the selling dealer has to submit *form*-C obained from the purchasing dealer to avail concessional rate of tax or else the tax at full rate is to be paid.

Scrutiny of records of 11 AETCs showed that in three AETCs[14], the AAs had finalised the assessments between June 2017and September 2017 (for the years 2009-10 to 2013-14) of six dealers who had made interstate sales of ₹ 143.52 crore, out of which sales valued at ₹ 12.23 crore were supported with ineligible *form-'C'*. These ineligible forms did not pertain to assessment year or had overwriting or cuttings over critical inputs and entries, or were photocopies/counter-foils, instead of original forms (***Appendix 2.1***). These forms were liable to be rejected at the time of assessments but the AAs did not do the same. The AAs levied tax of ₹ 23.07 lakh at the concessional rate of one/two *per cent* on ₹ 12.23 crore involved in ineligible *forms-'C'* whereas tax of ₹ 74.39 lakh at the rate of five, 12.50 and 13.75 *per cent* was to be levied. This resulted in short levy of tax of ₹ 51.32 lakh. Interest of ₹ 53.94 lakh was also required to be levied.

2.5.2 Form-'F'

The CST Act 1956, read with the CST Rules 1957, provides that exemption of tax to a registered dealer is granted in case of branch transfer/consignment sale, provided these are supported by a declaration in *form-'F'*. Further, a single *form-'F'* is to cover transactions of only one calendar month. Besides, interest at the prescribed rate under the Act is also required to be levied on the unpaid amount of tax.

Scrutiny of records of 11 AETCs showed that in AETC Solan, the AA while finalising the assessments of two dealers between October 2017 and March 2018 for the tax periods 2009-10 to 2014-15, had allowed exemption of tax of ₹ 84.40 lakh on transfer of stock amounting to ₹ 6.75 crore against declaration in *form-'F'*. Audit observed that *form-'F'* were liable to be rejected at the time of assessment as these were covering transactions for more than one calendar month or were not in original. However, the AAs concerned did not properly scrutinise the forms and allowed concessions, which resulted in non-levy of tax of ₹ 84.40 lakh. Interest of ₹ 1.20 crore was also required to be levied (***Appendix 2.2)***.

[13] Commissioner Sale Tax v/s M/s Prabhu Dayal Prem Narayan (1988) 71 STC (SC) and Delhi Automobiles Private Limited v/s Commissioner of Sales Tax (1997) 104 STC 75 (SC).

[14] AETCs: Baddi (three dealers: ₹ 47.98 lakh), Solan (two dealers: ₹ 2.08 lakh) and Una (one dealer: ₹ 1.26 lakh).

2.5.3 Form-'H'

As per Rule 12(10) of the CST (Registration and Turnover) Rules 1957, a dealer is not liable to pay tax in the course of export of goods out of the territory of India, if he submits *form*-H duly filled and signed by the exporter along with the evidence of export of such goods.

Scrutiny of records of AETC Solan showed that while finalising the assessments of two dealers between March 2017 and December 2017 for the tax period 2013-14 to 2015-16, the AAs allowed exemption of tax of ₹ 7.94 lakh on export of stock amounting to ₹ 57.78 lakh without declaration form–'*H'*. This resulted in non-levy of tax of ₹ 7.94 lakh on which interest of ₹ 4.91 lakh was also required to be levied.

There is no provision in the Act/Rules that enables the AAs to accept the defective forms. Thus, non-rejection of the invalid and defective statutory forms resulted in irregular allowance of concessional rate of tax of ₹ 1.43 crore.

The Department stated (September 2020) that in six cases, an additional demand of ₹ 0.12 lakh[15] had been created and recovered whereas the remaining cases (four) of the dealers were under process for re-assessment. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider issuing necessary directions to the Department to ensure that the AAs verify that dealers submit the respective mandatory Forms and fulfil the conditions mandated in the notifications before allowing concessional rates of tax and finalising their assessments.

2.6 Incorrect determination of turnover

Assessing Authorities assessed the Gross Turnover lesser than the actual turnover as depicted in certified accounts of the dealers, resulting in loss of revenue of ₹ 58.43 lakh. Besides, interest of ₹ 64.17 lakh was required to be levied.

As per Section 2(v)(zd) of HPVAT Act, 2005, turnover means aggregate amount of sales, purchases or any part of sales and purchases made by dealer and includes any sum charged on account of freight, storage, demurrage, insurance and for anything done by the dealer in respect of the goods at the time of or before delivery thereof. Further, Section 32(1) provides that Commissioner or Excise and Taxation Officer may inspect, examine any book, document or account as may be necessary.

During 2017-18, Audit test checked the records of 11 AETCs and observed that four AAs[16] while finalising (between April 2017 and February 2018) the assessments of nine dealers/ contractors in nine cases for the tax years 2011-12 to 2015-16, assessed Gross turnover at ₹ 244.26 crore against the actual determinable Gross turnover of ₹ 253.41 crore as depicted in the certified accounts or in Form STXI-B of the dealers/contractors. Further, the AAs neither examined books, documents/accounts nor did they cross check the returns with certified

[15] AETC Solan: six dealers: ₹ 0.12 lakh.

[16] AETCs: Baddi: two dealers, Sirmour at Nahan: three dealers, Shimla: one dealer and Solan: three dealers.

Accounts or Form STXI-B of the dealers/contractors to verify the Gross turnover for calculation of tax, penalty and interest due on applicable tax rates. This led to undue benefits to dealers/contractors at the cost of State revenue. Thus, short determination of Gross turnover/Taxable turnover of ₹ 9.15 crore, resulted in short levy of tax of ₹ 58.43 lakh[17]. Besides, interest of ₹ 64.17 lakh was required to be levied.

The Department intimated (September 2020) that in five cases notices had been issued to re-assess the cases, whereas in remaining cases re-assessments has been done by the Department. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider setting up a mechanism to monitor turnover and a system to correlate annual returns with certified accounts of the dealers.

2.7 Short levy of interest

Assessing Authorities levied interest of ₹ 1.16 lakh instead of leviable interest of ₹ 32.18 lakh on additional demand created, resulting in short levy of interest of ₹ 31.02 lakh.

As per Section 19 of the HPVAT Act 2005, if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* for a period of one month and one and a half *per cent* per month thereafter, till the default continues.

Scrutiny of records of three AETC[18] showed that the AAs while finalising the assessments (between April 2017 and January 2018) in respect of 11 dealers in 15 cases for the tax period 2007-08 to 2015-16, created additional tax demands of ₹ 32.93 lakh and levied interest of ₹ 1.16 lakh against the leviable interest of ₹ 32.18 lakh on additional demand created, upto the date of assessment. No reasons were recorded in the assessment orders by the AAs for short levy of interest despite the fact that there was no discretion granted in the Act to the AAs. Audit had pointed out similar lapses for last five years in Inspection Reports/Audit Reports, however, AETCs did not review the assessments made by the AAs to take corrective action. The Department neither took any action to strengthen its mechanism to guard its revenue loss due to wrong calculation nor did it conduct regular review of the assessments which highlighted that the Department did not have an effective mechanism to assess the tax due and tax paid by tax payers. This resulted in short levy of interest of ₹ 31.02 lakh[19].

The Department stated (September 2020) that AETC Baddi had issued notices to four dealers in six cases which are under process, whereas in nine cases the dealers had been re-assessed and additional demand of ₹ 1.80 lakh had been created and ₹ 1.40 lakh recovered. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider issuing necessary directions to the Department to follow the provisions of the Act and exercise appropriate checks before finalising any assessment.

[17] AETCs: Baddi: ₹ 24.38 lakh, Sirmour at Nahan: ₹ 24.05 lakh, Shimla: ₹ 4.84 lakh and Solan: ₹ 5.16 lakh.
[18] AETCs: Baddi, Mandi and Solan.
[19] AETCs: Baddi: ₹ 26.44 lakh, Mandi: ₹ 1.80 lakh and Solan: ₹ 2.78 lakh.

2.8 Short levy of entry tax

AAs neither verified the interstate purchases nor take cognizance of the Government notification for levy of entry tax during the period 2013-16, which led to short levy of entry tax by ₹24.14 lakh and interest of ₹17.92 lakh.

The Himachal Pradesh Tax on Entry of Goods into Local Area Act, 2010 (TEGLA) under Schedule-II provides that goods used in the works contract including Hydropower and Thermal power projects, and all other turnkey projects being executed by private as well as the Government Departments/Corporations/Board etc. in the State, will attract entry tax at the rate of five *per cent* of the value of goods. Further, as per GoHP, Excise and Taxation Department notification dated 25 February 2014, the entry tax is payable at the rate of two *per cent* of the value of goods *w.e.f.* 1 March 2014 (instead of one *per cent* earlier) on all industrial inputs, raw material and packing material, when administered into State. This is applicable to dealers registered outside the State and supplying goods in Himachal Pradesh.

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

During 2017-18, Audit test checked the records of 11 AETCs and observed that a dealer under AETC Baddi, purchased raw material worth ₹ 131.80 crore during the year 2013-14, out of which goods worth ₹ 13.13 crore were brought into the State during the month of March 2014. The AAs did not take cognizance of the notification dated 25 February 2014 and incorrectly levied entry tax at the rate of one *per cent* amounting to ₹ 1.28 crore instead of applicable rate of two *per cent* which resulted in short levy of tax amounting to ₹ 11.39 lakh. In addition, interest of ₹ 10.03 lakh was required to be levied.

Similarly in AETC Shimla[20], scrutiny of dealer-wise details of Goods Imported (form VAT XXVI-A) and Assessment Order of a dealer for the years 2014-15 and 2015-16 (finalised on 11.01.2018.), it was found that the dealer had imported goods worth ₹ 3.91[21] crore into the State in two years, while the assessing authority has assessed the value of imported goods as ₹ 1.36[22] crore only. Thus, the Assessing Authority did not levy entry tax of ₹ 12.75 lakh on imported goods valuing ₹ 2.55 crore at the rate of 5 *per cent*. This resulted in short levy of tax to the tune of ₹ 12.75 lakh besides an interest of ₹ 7.89 lakh was required to be levied.

For calculation of tax, penalty and interest due on applicable tax rates, the AAs had not undertaken the scrutiny of returns filed during the tax period. Audit observed that AAs did not verify the interstate purchases for calculation of entry tax during the tax period. This resulted in short levy of tax of ₹ 24.14 lakh[23] and interest of ₹ 17.92 lakh.

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[20] AETC Shimla: (one dealer: ₹ 20.64 lakh).
[21] 2014-15: ₹ 2.70 crore; 2015-16: ₹ 1.2 crore.
[22] There was nothing on the records regarding the levy of tax/ justification of the remaining amount (₹ 3.91 cr-1.36 cr = ₹ 2.55 crore).
[23] ₹ 11.39 lakh + ₹ 12.75 lakh.

The Department intimated (September 2020) that in one case (Shimla) an additional demand of ₹ 5,000 had been created and recovered, whereas in the second case (Baddi) the Department had initiated the proceedings against the dealer for non-payment of entry tax liability for the year 2011-12 to 2013-14 and recovered ₹ 50.40 lakh. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider issuing necessary directions to the Department to follow the provisions of the Act and exercise proper control before finalising assessments. The Government may also consider cross verifying the returns filed by the dealers with their annual accounts.

2.9 Suppression of Sale and Stock

12 dealers in 15 cases suppressed sales and closing stock of ₹ 1.51 crore which escaped assessment, resulting in evasion of tax of ₹ 12.96 lakh. Interest of ₹ 9.58 lakh and minimum penalty of ₹ 3.24 lakh was also required to be levied.

Section 16(8) of HPVAT Act, 2005 provides that if a dealer has maintained false accounts with a view to suppress his Sales, Purchases or stocks of Goods, or has concealed any particulars of his sales or purchases, or produced false accounts before any Authority under the Act, then he is liable to pay penalty not less than 25 *per cent* of tax due. Section 32(1) provides that Commissioner or Excise and Taxation Officer may inspect, examine any book, document or account as may be necessary. Further, Section 19 of the Act, *ibid*, provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one per cent on the tax due for a period of one month and one and a half per cent per month thereafter till the default continues.

During 2017-18, Audit test checked the records of three AETCs[24], and observed that 10 dealers in 12 cases having GTO of ₹ 537.48 crore during tax periods 2010-11 to 2015-16 had not disclosed sales of ₹ 1.47 crore in the annual returns which were otherwise depicted in their Trading, Profit and Loss accounts as sale of assets (Vehicles, Plant and Machinery). In another case of AETC Chamba, audit scrutiny revealed that two dealers in three cases having GTO of ₹ 2.12 crore for the tax period between 2011-12 and 2014-15 had shown opening stock of ₹ 16.15 lakh whereas closing stock of ₹ 20.35 lakh was depicted in their certified accounts of the previous years. Thus, there was a difference of ₹ 4.20 lakh in closing and opening stock during the tax period.

Audit observed that the AAs did not examine books, documents/accounts as well as crosscheck the returns with certified accounts of the dealers to verify the GTO for calculation of tax and interest during the tax period. The AAs did not take cognizance of gross receipts while comparing certified receipts for corrective action and the AA/AETC did not check/review the deficiencies to uniform applicability of Rules, even repeatedly pointed out by Audit in the Audit

[24] AETCs: Chamba, Sirmour (Nahan) and Solan.

Reports for the last five years. Audit scrutiny revealed that the AAs did not calculate the GTO, even though the records were available with the Department, which indicated either negligence or inaction in applying the provisions of Act/Rules. Thus, due to failure on the part of AAs to crosscheck annual returns with annual accounts, dealers were able to supress GTO/TTO of ₹ 1.51 crore (₹ 1.47 crore + ₹ 4.20 lakh) which escaped assessment, resulting in evasion of tax of ₹ 12.96[25] lakh and led to undue benefits to dealers, at the cost of State revenue. Interest of ₹ 9.58 lakh and minimum penalty of ₹ 3.24 lakh was also required to be levied.

The Department intimated (September 2020) that two AETCs[26] had created an additional demand of ₹ 0.39 lakh against three dealers, whereas in remaining cases, notices had been issued for re-assessment which were under process. The reply of the Government was awaited (September 2020).

The Government may consider creating a procedure to fix accountability of officials for failure to implement the provisions of the VAT Act/Rules while assessing the dealers and take appropriate action against the official concerned after reviewing all such cases in the State.

2.10 Assessment of work contractor

Assessing Authority did not scrutinise the annual returns of a dealer which led to under-assessment of tax by ₹11.11 lakh. Interest of ₹15.78 lakh was also leviable.

Rule 18 of HPVAT Rules, 2005 provides that every registered dealer shall classify his taxable turnover of sale, on the basis of rate of tax specified in the Schedule(s) appended to the HPVAT Act. Section 60 of the Act, *ibid,* read with Rule 44 provides that the Assessing Authority may undertake scrutiny of the returns filed during any tax period for ascertaining compliance of the provisions of Act, to check correctness of rates of tax applied and payment of tax, penalty and interest payable and due, according to such return.

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

In AETC Baddi, a dealer filed two separate annual returns[27] having Gross Turnover (GTO) of ₹ 7.93 crore[28] for the tax period 2010-11. The AA assessed the dealer in April 2017. Audit cross checked the returns submitted by the dealer and assessment orders made by the Assessing Authority and observed the following:

[25] AETCs: Chamba: two dealers: ₹ 0.21 lakh, Sirmour (Nahan): eight dealers: ₹ 12.46 lakh and Solan: two dealers: ₹ 0.29 lakh.
[26] AETCs: Chamba: ₹ 0.16 lakh and Sirmour (Nahan): ₹ 0.23 lakh.
[27] Trading and works contract.
[28] GTO: ₹ 7.93 crore (Annual return of trading account ₹ 5.81 crore plus Annual return of works contracts ₹ 2.12 crore).

Table 2.2: Audit Observations on Assessment made by the AA and returns filed by the dealer

(Amount in ₹)

Description	Assessment made by the AA	GTO/TTO as per annual returns filed		Audit observations
		Trading	Works contract	
GTO	**7,92,86,325**	**5,80,91,930**	**2,11,94,395**	--
Interstate sale (-)	18,62,783	0	0	The AA allowed interstate sales of ₹ 18.63 lakh and exempted it as export sale whereas dealer did not claim any interstate or export sales.
Labour Charges (-)	1,98,21,581	--	43,69,535	On the GTO of ₹ 2.11 crore (work contract), the dealer claimed ₹ 0.44 crore as labour charges which is tax free whereas the AA allowed labour charges and profit on labour charges as ₹ 2.18 crore (₹ 1.98 crore + ₹ 0.20 crore). This resulted in excess allowance of labour charges and profit on labour charges by ₹ 1.74 crore[29]. Besides, allowance of labour charges and profit exceed the GTO of works contract by ₹ 7.00 lakh which was overlooked by the AA.
Profit on Labour (-)	19,82,158	--	--	
Stock in Hand (-)	48,34,896	--	--	Out of total GTO of ₹ 7.93 crore, the AA deducted closing stock of ₹ 48.35 lakh which is against the provisions of the Act. This resulted in wrong deduction and under assessment of Taxable Turnover (TTO).
TTO @ 5%	4,58,80,070	5,80,91,930	41,48,056	The AA while assessing the dealer mentioned in assessment order that dealer had made sales of ₹ 6.22 crore (trading ₹ 5.81 crore and works contract ₹ 41.48 lakh) at the rate of five *per cent* during the tax period. However, the AA determined TTO of ₹ 4.59 crore and levied tax of ₹ 22.94 lakh against leviable tax of ₹ 31.12 lakh (₹ 29.04 lakh + ₹ 2.08 lakh) on ₹ 6.22 crore at the rate of five *per cent*. This resulted in under assessment of tax by ₹ 8.18 lakh (₹ 31.12 lakh- ₹ 22.94 lakh). Interest of ₹ 11.62 lakh was also required to be levied.
Tax @ 5%	22,94,003	29,04,596	2,07,402	
Total of classified sales in annual returns		**5,80,91,930**	**74,07,243[30]**	
Labour charges			(+) 43,69,535	
Profit on labour charges		--	(+) 4,36,954	
Machinary charges		--	(+) 16,45,650	
		5,80,91,930	**1,38,59,382**	The total of classified sales including labour charges, profit on labour charges and machinery charges worked out to be ₹ 1.38 crore, as compared to works contract GTO of ₹ 2.11 crore. This is short by ₹ 73 lakh and resulted in short levy of tax @ 4% (minimum rate of tax) amounting to ₹ 2.93 lakh. Interest of ₹4.16 lakh was also required to be levied.
			73,35,013	

Audit observed that in this case, the AAs did not undertake the scrutiny of returns filed during the tax period to check correctness for application and calculation of rate of tax, penalty and interest payable, which was required as per the provisions of the Act/Rule. Thus, inefficiency of the AA to check the records and failure to follow the provisions of the Act/Rules resulted in under-assessment of tax by ₹ 11.11 lakh[31], on which interest of ₹ 15.78[32] lakh was also required to be levied.

The Department stated (September 2020) that the notices had been issued to the dealer for re-assessment. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

[29] Excess allowance of labour charges and profit on labour charges (₹ 1.98 crore + ₹ 0.20 crore - ₹ 0.44 crore = ₹ 1.74 crore).

[30] TTO @ 4% ₹ 10,37,014+ TTO @ 5% ₹ 41,48,056 + TTO @ 13.75% ₹ 22,22,173= ₹ 74,07,243.

[31] ₹ 8.18 lakh + ₹ 2.93 lakh=₹ 11.11 lakh.

[32] ₹ 11.62 lakh + ₹ 4.16 lakh = ₹ 15.78 lakh.

The Government may consider creating a system to fix accountability of officials for failure to implement the provisions of the VAT Act/Rules while assessing the dealers and take appropriate action against the official concerned after reviewing all such cases in the State.

2.11 Excess allowance of labour charges

Excess deduction of labour charges of ₹ 99.23 lakh from GTO, resulted in under assessment of tax of ₹ 7.92 lakh.

The HPVAT Act, 2005 provides that where labour charges are not determinable from the accounts of the works contractors or are considered unreasonably high in consideration of the nature of the contract, the deductions towards labour charges shall be allowed by the AAs according to limits prescribed for the type of contract specified in the Act/Rules,*ibid*.

Scrutiny of records of 11 AETCs showed that two AAs,[33] while finalising the assessments of two contractors in four cases between December 2017 and February 2018 for the tax period 2014-15 to 2016-17, had allowed inadmissible deductions towards labour charges. The AAs allowed labour charges of ₹ 4.38 crore (25 *per cent* of the Gross Turn over of ₹ 17.52 crore) against ₹ 3.39 crore as claimed by the contractors. The AAs had allowed labour charges without verifying the account of labour charges or cross-checking the returns with the certified accounts of the contractors which led to excess allowance of labour charges of ₹ 99.23 lakh. Even after repeatedly pointed out by Audit for the last five years in Audit Reports, the AAs did not determine labour charges on the basis of certified accounts in these cases. This resulted in under assessment of tax by ₹ 7.92 lakh[34]. Interest of ₹ 3.12 lakh[35] was also required to be levied.

The Department intimated (July 2020) that the cases of dealers had been re-assessed and an additional demand of ₹ 1.98 lakh had been created and recovered but in the absence of supporting documents, the reply could not be verified. The reply of the Government was awaited (September 2020).

The Government may consider issuing necessary directions to the Department for carefully examining the assessments of the dealers to avoid excess and impermissible allowance of labour charges and other deductions and allow deductions under the purview of HPVAT Act.

The cases pointed out are based on test check conducted by Audit. The Department may initiate action to comprehensively examine similar cases and take necessary corrective action.

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33 AETCs: Shimla and Una.

34 Tax leviable = Excess Allowance x rate of tax (minimum)/100
Shimla: ₹ 18,22,552 x 5/100 = ₹ 91,128 and ₹ 33,84,759 x 13.75/100 = ₹ 4,65,404
Una: ₹ 47,16,116 x 5/100 = ₹ 2,35,805,
Total Tax: ₹ 91,128 + ₹ 4,65,404 + ₹ 2,35,805 = ₹ 7,92,337

35 Interest =Tax leviable x Rate of interest x delay in months/100
Shimla: ₹ 91,128 x 1.5 x 22/100 + ₹ 91,128x1/100 = ₹ 30,983 and ₹ 4,65,404 x 1.5 x 22/100 + ₹ 4,65,404 x1/100=₹ 1,58,237
Una: case-I : ₹ 1,04,895 x 1.5 x 46/100 + ₹ 1,04,895x1/100 = ₹ 73,426
Case-II : ₹ 24,866 x 1.5 x 34/100 + ₹ 24,866x1/100 = ₹ 12,930
Case – III : ₹ 1,06,046 x 1.5 x 22/100 + ₹ 1,06,046x1/100 = ₹ 36,056
Total Interest: ₹ 30,983 + ₹ 1,58,237 + ₹ 73,426 + ₹ 12,930 + ₹ 36,056 = ₹ 3,11,632

STATE EXCISE

In 2018-19, audit test checked records of ten units, out of 13 units having receipt of ₹ 2,184.20 crore relating to State Excise Department which revealed non-realisation and short realisation of Excise Duty, License Fee, Interest, Penalty and other irregularities involving ₹ 109.66 crore in 72 cases.

During the year 2018-19, the Department accepted under-assessment and other deficiencies worth ₹ 95.49 lakh in six cases pertaining to audit findings of earlier years and recovered the same.

Significant cases (five) having a financial implication of ₹ 107.46 crore are discussed in the following paragraphs 2.12 to 2.16:

2.12 Short recovery of License fee

The Assessing Authorities did not take any action either to seal vends or cancel/suspend the permit for re-selling the license, to recover the short deposited license fee of ₹ 82.32 crore from 23 licensees.

Excise Announcement (EA) 2017-18 of the State Government provides that annual license fee of a particular vend shall be predetermined based on the Minimum Guaranteed Quota (MGQ) of liquor fixed for each vend for the whole year. The fee so fixed is required to be levied in 12 monthly instalments and paid by the last day of each month and last instalment for the month of March has to be paid in full by 15 March. If the licensee fails to pay the license fee upto the last day of the next month, or the last instalment by 15th March, the AETC in-charge of the District or any other officer authorised by him would ordinarily seal vend on 1st day of the following month or 16th March as the case may be. The AETC or any other officer authorised by him may also cancel or suspend the license or re-sell vend and attach the property, after declaring such case as arrears under land revenue.

Scrutiny of M-2 registers[36] of nine AETCs[37] between May 2018 and March 2019 showed that against the recoverable license fee of ₹ 334.68 crore for the years 2016-18 from 23 licensees, out of 1192 licensees, the Department could recover only a sum of ₹ 252.36 crore. The AETCs had neither taken any action to cancel/suspend the permit nor did they seal the vends for re-selling the license for recovery of remaining license fee, even though the licensees of these vends were in default of payment of monthly instalment between May 2016 and March 2018. All these cases were required to be sent to the Collector concerned to effect recovery as per prescribed procedure, after declaring arrears under land revenue (ALR) to recover the balance license fee. However, two AETCs had declared ₹ 3.08 crore[38] as ALR in three cases and no further action was taken to attach the property i.e. shop/premises etc., of such licensee.

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36 A register showing the quantity of Foreign Spirit including IMFL and CL issued for sale, amount of additional license fee payable and received during the month.

37 Baddi: two units: ₹ 12.33 crore, Bilaspur: six units: ₹ 0.53 crore, Hamirpur: three units: ₹ 1.44 crore, Nahan at Sirmour: two units: ₹ 10.52 crore, Mandi: two units: ₹ 0.50 crore, Nurpur: one unit: ₹ 0.16 crore, Shimla: five units: ₹ 5.22 crore, Solan: one unit: ₹ 0.22 crore and Una: one unit: ₹ 51.40 crore.

38 Bilaspur: two units: ₹ 1.59 crore, Nahan at Sirmour: one unit: ₹ 1.49 crore.

Thus, failure of the AAs to follow the procedures of the Act/EA, resulted in short recovery of license fee amounting to ₹ 82.32 crore.

The Department stated (between July 2018 and March 2019) that after reviewing the cases, action would be initiated. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider setting up an effective mechanism for a monthly review of recoveries from the licensees or seal of vends in case of default.

2.13 Non-levy of additional fee and penalty on short lifting of Minimum Guaranteed Quota of liquor

The Assessing Authorities had not reviewed the status of lifting of MGQ quarterly, resulting in non-levy of additional fee of ₹ 20.28 crore for short lifting of 62,87,807 proof litres of liquor by licensees of 1,130 vends. Penalty of ₹ 2.48 crore was also required to be levied for short lifting of quota.

Excise Announcement (EA) 2017-18 of the State Government stipulates that each licensee shall be required to lift the Minimum Guaranteed Quota (MGQ) both of Country Liquor (CL) and Indian Made Foreign Liquor (IMFL) fixed for each vend and the licensee shall be liable to pay license fee fixed on the basis of the MGQ. The licensee shall also be liable to pay additional fee of ₹ 10 per proof litre (pls) on CL and ₹ 56 per pls on IMFL on the un-lifted quota of liquor which falls short of the benchmark of 100 *per cent* of MGQ. Further, the licensee shall also be liable to pay penalty of ₹ 7 per pls on CL and ₹ 14 per pls on IMFL on the un-lifted quota of liquor which falls short of the benchmark of 80 *per cent* of MGQ. AETC or Excise and Taxation Officer (ETO) in-charge of the District shall review the status of lifting of MGQ on quarterly basis and ensure recovery of the additional fee and penalty on the un-lifted MGQ.

Scrutiny of records (between May 2018 and March 2019) of 10 AETCs[39] revealed that 1,130 vends out of 1,837 vends had short-lifted 62,87,807pls[40] (CL 32,44,913 pls and IMFL 30,42,894 pls) of liquor against the fixed annual MGQ of 2,36,83,000 pls (CL 1,36,93,032 pls and IMFL 99,89,968 pls) which was short of the benchmark of 100 *percent* of MGQ.

Table 2.3: Details of MGQs fixed, short lifted and additional fees/penalty levied

Types of Liquor	MGQ quota fixed (in pls.)	Less than 100% (in pls.)	Additional Fee (in ₹)	Less than 80% (in pls.)	Penalty (in ₹)
Country Liquor	1,36,93,032	32,44,913	3,24,49,128	10,94,315	76,60,209
Indian Made Foreign Liquor	99,89,967	30,42,894	17,04,02,068	12,22,666	1,71,17,323
TOTAL	**2,36,82,999**	**62,87,807**	**20,28,51,196**	**23,16,981**	**2,47,77,532**

[39] Baddi: 58 vends: ₹ 1.98 crore; Bilaspur: 151 vends: ₹1.52 crore; Hamirpur: 72 vends: ₹ 0.45 crore; Kangra at Dharamshala: 134 vends: ₹ 0.90 crore; Mandi: 171 vends: ₹ 3.80 crore; Nurpur: 24 vends: ₹ 0.29 crore; Sirmour: 33 vends: ₹ 1.54 crore; Solan: 62 vends: ₹ 2.67 crore; Shimla: 144 vends: ₹ 2.37 crore and Una: 281 vends: ₹ 4.74 crore.

[40]

Liquor quota	CL	IMFL	Total
MGQ fixed	1,36,93,032	99,89,967	2,36,83,000
MGQ lifted	1,04,48,119	69,47,073	1,73,95,193
MGQ short lifted	32,44,913	30,42,894	62,87,807

Thus, additional fees of ₹ 20.28 crore was required to be levied on short lifted quota. Further, in 546 vends out of these 1,130 vends, the lifting against MGQ was also short of the 80 *per cent* benchmark by 23,16,982 pls and the penalty of ₹ 2.48 crore was required to be levied on these licensees. However, the Department did not levy the same.

In violation of the EA, AETCs/ETO did not review the quota lifting statement to check the lifting status of MGQ on quarterly basis in-spite of the fact that Audit had pointed out the same deficiencies repeatedly for the last six years, indicating either negligence or unwillingness in applying provisions of EA. Thus, failure on the part of AETC/ETO resulted in short realisation of additional fee and penalty of ₹ 22.76 crore (₹ 20.28 crore + ₹ 2.48 crore).

The Department stated (January 2020) that notices have been issued to the concerned licences and efforts are being made to recover the amount. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider setting up of an effective mechanism for monthly review of status of lifting of quota so that timely action can be taken to recover additional fee.

2.14 Non/short recovery of salaries of excise staff posted at distillery/bonded warehouses

Salaries of ₹ 58.36 lakh of excise establishment staff posted in two breweries, three distilleries and five bottling plants were not recovered from the licensees.

Rules 9.13 and 9.16 of the Punjab Distillery Rules (PDR) 1932, as applicable to Himachal Pradesh, stipulates that licensee shall agree to the posting of a Government Excise Establishment to his distillery for the purpose of ensuring the due observance of the Rules and for watch and ward. The licensee shall, if required, by the Excise Commissioner, make payment to the Government as may be demanded on account of the salaries of the Government Excise Establishment posted to the distillery, but he shall not make any direct payment to any member of such establishment.

Audit cross checked the records of 10 licensees (two breweries, three distilleries and five bottling plants) with that of concerned five AETCs[41] and observed that the salaries amounting to ₹ 74.40 lakh of the excise establishment staff posted to the distilleries/breweries/bottling plants were required to be paid by the licensees for the years 2016-18. However, two out of 10 licensees had paid only ₹ 16.03 lakh[42] to the concerned AETCs. AETCs being the Drawing and Disbursing Officers were aware of these postings and were responsible for realising the

[41] AETCs: Baddi, Mandi, Nahan, Nurpur and Una.
[42] AETCs: Nurpur: ₹ 5.32 lakh and Una: ₹ 10.71 lakh.

Government dues in time. Lack of monitoring and weak internal control to assess the demand raised on account of salaries due and paid by AETCs, led to non-recovery of ₹ 58.36 lakh[43].

The Department intimated (August 2020) that in five cases ₹ 23.57[44] lakh have been recovered and in other cases notices have been issued to recover the amount. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

2.15 Non-recovery of bottling fee

AETC Mandi did not take any action to recover bottling fee of ₹51.31 lakh from a licensee.

Excise Announcement (EA) for the year 2017-18 provides that the licensee shall pay bottling fee of ₹ five per 750 ml on Indian Made Foreign Liquor (IMFL) and ₹ one per 750 ml on Country Liquor (CL). Rule 9.5(6)(9a) of PDR, 1932 provides that fee shall be payable on quarterly basis i.e. within seven days of the expiry of each quarter of the financial year.

Scrutiny of the records of AETC Mandi showed that a licensee of bottling plant did not deposit bottling fee of ₹ 51.31 lakh during the year 2017-18. Despite the fact that Audit had pointed out the lapses every year, AETCs had not taken any action either to recover the bottling fee or cancel the license as per EA, even though the licensee was in default of payment from July 2017.The ETO/ETI posted in bottling plant was required to realise bottling fee after each quarter but did not do the same.

Thus, absence of follow-up action as per Act/Rules against licensee and inadequate action on part of the Department to review the position of payment for realising revenue on time was indicative of weak internal control which led to non-recovery of bottling fee amounting to ₹ 51.31 lakh.

The Department stated (November 2019) that AETC Mandi has directed the Excise and Taxation Inspector to recover the bottling fee from the concerned bottling plant. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider setting up an effective mechanism for periodic review of recoveries from the licensees on a quarterly basis.

[43] AETCs: Baddi: ₹ 18.29 lakh, Mandi: ₹ 10.11 lakh, Nahan: ₹ 18.21 lakh, Nurpur: ₹ 3.14 lakh and Una: ₹ 8.61 lakh.
[44] AETCs: Baddi: Two cases ₹ 11.64 lakh, Nahan: two cases ₹ 8.80 lakh and Nurpur : one case ₹ 3.13 lakh.

2.16 Non-levy of interest on delayed payment

Interest amounting to ₹ 3.75 crore on delayed payment of license fee/bottling fee was not demanded by the Department from the licensees of 134 vends, resulting in non-levy of interest to that extent.

The Excise Announcement 2017-18 of the State Government provides that if the licensee is unable to lift the MGQ within a month, he shall be required to pay the full instalment of license fee for that month by the last day of the month, and fee for the month of March shall be paid in full by 15 March. Para 4.5(a) further, provides that if the licensee fails to pay the amount of fees or part thereof on due dates, interest at the rate of 14 *per cent* upto one month and 18 *per cent* per annum from the date of expiry of one month's period thereafter shall be leviable. Rule 9.5(6(a) ii) of the Punjab Distillery Rules, 1932 as applicable to Himachal Pradesh provides that bottling fee at the rates prescribed shall be payable on quarterly basis i.e. within seven days of the expiry of each quarter of the financial year. Rule 9.5(8) further provides that in the event of failure to pay the bottling fee or part thereof by the due date, interest at the rate of 12 per cent per annum for a period of one month or a part thereof from the date of default in the payment of fee and if the default in the payment of fee exceed one month, the interest at the rate of 18 *per cent* per annum from the initial date of default in payment shall be payable, till the default continues.

Scrutiny of records of 10 AETCs[45] between May 2018 and March 2019 revealed that licensees of 134 out of 1,837 vends, had deposited (between April 2016 and November 2017) license fee of ₹ 258.37 crore and bottling fee of ₹ 3.73 crore, after the due dates. The delay ranged between two and 339 days. Therefore, these licensees were liable to pay interest of ₹ 3.75 crore[46] (₹ 3.54 crore on license fee and ₹ 21.26 lakh on bottling fees) on the delayed payments.

However, AETCs concerned neither raised any demand for the same nor did they seal vends as per the provisions of the EA. Further, AETCs/AAs did not review the same deficiencies even after having been pointed out repeatedly in Audit for the last five years, indicating either negligence or inaction in applying the provisions of EA.

The Department stated (August 2020) that notices have been issued to concerned Excise and Taxation Inspectors to recover the amount from the licensees. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider conducting periodic review of recoveries from distilleries, breweries, bottling plants to safeguard its revenue.

[45] AETCs: Baddi, Bilaspur, Hamirpur, Dharamshala, Mandi, Nurpur, Shimla, Sirmour, Solan and Una.

[46] AETCs: Baddi three vends: ₹ 0.79 crore, Bilaspur10 vends: ₹ 0.25 crore, Hamirpur 19 vends: ₹ 0.25 crore, Dharamshala 29 vends: ₹ 0.11 crore, Mandi 15 vends: ₹ 0.26 crore, Nurpur one vend: ₹ 0.05 crore, Shimla 19 vends: ₹ 0.67 crore, Sirmour 26 vends: ₹ 0.26 crore, Solan six vends: ₹ 1.07 crore and Una six vends: ₹ 0.03 crore.

Stamp Duty

Test check of records of 55 units, out of 155 units, having receipts of ₹ 251.6 crore, during the year 2018-19 relating to Revenue Department which revealed incorrect determination of market value of property non/short levy of Stamp Duty and Registration Fees, non/short recovery of Stamp Duty on lease deeds and other irregularities involving ₹ 10.65 crore in 305 cases.

During the year 2018-19, the Department accepted under-assessments and other deficiencies with revenue implications of ₹ 1.55 crore in 107 cases related to audit findings of earlier years and ₹ 10.48 crore in 292 cases related to audit findings of 2018-19. An amount of ₹ 60.45 lakh was realized in 114 cases, of which ₹ 57.03 lakh in 107 cases related to audit findings of earlier years and ₹ 3.41 lakh in 7 cases were related to audit findings of the year 2018-19.

Significant cases (two) having a financial implication of ₹ 12.07 crore are discussed in the following paragraphs 2.17 and 2.18:

2.17 'Levy and collection of Stamp Duty and Registration Fees'

In 809 cases of sales/lease deeds, the Sub Registrars had not considered value or market value of the properties with reference to revised rates or verified the circle rates of land or cross-checked the affidavits with reference to distance of land from road before registration. In lease deed cases, the SRs had not adopted a uniform procedure. The incorrect levy of Stamp Duty and Registration Fees, resulted in loss of revenue of ₹ 10.53 crore. Further, Himachal Registration Information (HIMRIS) Software used for the registration of deeds had flaws and the application was running on standalone servers in each unit and there was no centralised server.

2.17.1 Introduction

The amount charged on registration of a sale/lease deed document on market value or consideration value of the properties is known as Stamp Duty and Registration Fees.

The Stamp Duty is a direct tax levied by the Government payable under Section 3 of the Indian Stamp Duty Act, 1899 on all transactions of properties. The State Government levies and collects Stamp Duty (SD) and Registration Fee (RF) on various types of instruments such as conveyance, mortgage, lease etc. through Inspector General of Registration (IGR) who is the Head of the Department assisted by Deputy Commissioners/Collectors (DCs) and Sub-Registrars (SRs). For levy and collection of Stamp Duty and Registration Fees, the State has 12 Collectors and 117 *Tehsildars*/*Naib-Tehsildars* acting as the Registrars and SRs, respectively.

The consideration amount or market value of the property, whichever is higher, is considered for the levy of Stamp Duty and Registration Fees on transfer of properties *viz.* built-up

structures, land, lease deeds. For registration of the same, a valuation report of the properties is mandatory from a registered or licensed valuator.

The Stamp Duty is leviable at the rate of six *per cent*. For women, the Stamp Duty is leviable at the rate of four *per cent* which was reduced to three *per cent* w.e.f. 21 June 2016 on sale/gift deed of built-up (residential) structures. The Registration Fee is leviable at the rate of two *per cent* on consideration or market value of property, whichever is higher.

The Department has Himachal Registration Information Software (HIMRIS) running in each SR or Sub-*Tehsil* Office separately for registration of sale/conveyance deeds. HIMRIS is a self-sustaining-Governance project ensuring simple and uniform document registration process with a guarantee to return original document after registration and archival within the same day. The application is work flow based and integrated with HIMBHOOMI (computerized land records system).

In order to assess the efficiency and adequacy of the system with regards to levy and collection of Stamp Duty and Registration Fees on sale and conveyance deeds etc. audit was conducted between December 2018 and April 2019.

Out of 156 registering offices (Registrar/SRs), the records of 33[47] SRs for the years 2015, 2016 and 2017 were test checked. In test checked SRs, 1.50 lakh deed documents were registered, out of which 40,625 documents were test checked during the period covered. The receipts of the State under the Stamp Duty as well as the receipts in the sampled SRs for the years 2015-2017 is depicted below:

Table 2.4: Receipts of the State and sampled SRs under Stamp Duty

Year	Receipts of State (₹ in crore)	Receipts in sampled SRs (33) (₹ in crore)
2015-16	205.52	86.91
2016-17	209.16	87.99
2017-18	205.52	99.13

Source: Finance Accounts and Inspection Reports of sampled SRs

[47] Amb, Baddi, Balh, Bhalej, Bharwain, Bhunter, Bilaspur, Dalhousie, Darlaghat, Hamirpur, Haroli, Indora, Jawali, Kamrau, Kandaghat, Kullu, Nahan, Nalagarh, Nirmand, Nurpur, Pachhad, Palampur, Paonta, Sainj, Sandhole, Shahpur, Shimla Rural, Shimla Urban, Solan, Sundernagar, Theog, Thural and Una.

2.17.2 Short recovery of SD and RF on Built-up structures

Rule 4(c) of Himachal Pradesh Stamp (Prevention of Undervaluation of Instruments) Amendment Rules, 1992, amended (June 2013), stipulates that certain factors are to be taken into consideration for fixing the rates of valuation of residential/non-residential buildings such as (i) classification of buildings into *Pucca, Semi Pucca and Kutcha*; (ii) area in which buildings are located; (iii) latest plinth area rates notified by Himachal Pradesh Public Works Department (HPPWD), (iv) Premium for annual increase and (v) land area occupied by the structure (proportionately or wholly) etc. to arrive at minimum cost of building/structures.

The built-up area rates as notified in June 2013 are applicable for the lowest category of land. Further, it is stated that the DCs shall finalise the rates for higher categories of land in the District by making increase in the base rate for building in the same proportion as in the land rates. The rates shall be applicable upto 31 March of the preceding year and for the next years rates shall be revised which shall be effective from 1 April 2014. The notification, *ibid,* also provides that latest plinth area rates notified by the Himachal Pradesh Public Works Department should be taken into consideration for fixing rates for valuation of residential or non-residential buildings.

The Revenue Department notified (June 2013) the built-up structure rates as ₹ 12,746 per square meter (sqm) for the year 2013-14. The HPPWD had revised structure rates to ₹ 24,436 per sqm. for residential buildings in August 2014.

In test checked 33 SRs, scrutiny of rates for built up structures finalised by 10 DCs[48] showed that the instructions issued vide notification (June 2013) had not been complied with, as the DCs did not revise the rates from 1 April of every year. The DC (Kangra) revised the rates which were applicable from 1 April 2015 and the DC (Solan) revised the rates w.e.f. 1 April 2016. The DCs of three districts (Chamba, Shimla and Una) revised the rates applicable from 1 April 2017 after a lapse of three years. The revised rate (₹ 1,603.56 for *Katcha* building by the DC Shimla for year 2017-18) was much less than that of the minimum prescribed rate (₹ 6,109) in the notification of August 2014. The remaining five DCs of Bilaspur, Hamirpur, Kullu, Mandi and Sirmour had not revised/fixed the rates till 2017.

As a result, out of 33 SRs test checked, 31 SRs[49] had levied short Stamp Duty and Registration Fees on built up structures in 403 sale deeds. These deeds were registered between January 2015 and December 2017 for a consideration amount of ₹ 77.31 crore calculated on the basis

[48] Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Shimla, Sirmour, Solan and Una.

[49] Bilaspur: 24 cases: ₹ 16.03 lakh; Hamirpur: 34 cases: ₹ 98.88 lakh, Indora: One case: ₹ 1.05 crore; Jawali: One case: ₹ 0.30 lakh, Nurpur: Five cases: ₹ 1.50 lakh, Palampur: Four cases: ₹ 2.63 lakh, Shahpur: Two cases: ₹ 0.13 lakh; Thural: Two cases: ₹ 0.39 lakh; Bhunter: Five cases: ₹ 16.52 lakh; Kullu: 26 cases: ₹ 20.77 lakh; Nirmand: One case: ₹ 0.51 lakh; Sainj: Four cases: ₹ 4.20 lakh; Balh: 26 cases: ₹ 18.88 lakh; Sandhole: One case: ₹ 0.27 lakh; Sundernagar: 16 cases: ₹ 24.73 lakh; Shimla R: 68 cases: ₹ 50.30 lakh; Shimla U: 33 cases: ₹ 32.03 lakh; Theog: Five cases: ₹ 5.55 lakh; Kamrau: Six cases: ₹ 3.73 lakh; Nahan: 20 cases ₹ 38.70 lakh; Pacchad: Nine cases: ₹ 11.04 lakh; Paonta: 11 cases: ₹ 12.78 lakh; Baddi: 28 cases: ₹ 33.88 lakh; Darlaghat: Seven cases: ₹ 10.25 lakh; Kandaghat: One case: ₹ 0.90 lakh; Nalagarh: 13 cases: ₹ 6.20 lakh; Solan: 20 cases: ₹ 8.31 lakh; Amb: Eight cases: ₹ 2.22 lakh; Bharwain: One case: ₹ 0.55 lakh; Haroli: 12 cases: ₹ 59.86 lakh and Una: Nine cases: ₹ 5.30 lakh.

of valuation of properties prepared by private valuators. The valuation was not based on rates for built-up structures as notified by the Government/Department. Audit observed that on the basis of plinth area rates fixed by the concerned DCs or revised rates of HPPWD, the actual value of the properties, including value of built-up structures, worked out to ₹ 149.32 crore. However, the SRs while registering these sale deeds did not verify the consideration amount with reference to fixed/revised plinth area rates of built-up structures, though the rates/records were available with the Department. The HPPWD had revised the rates in August 2014 of built-up structures whereas the concerned DCs did not revise the rates of built-up structures annually, which was in contravention of the provisions of the notification. Non adherence to the provisions of the notifications resulted in undue benefits to the purchasers as well as short realisation of revenue of ₹ 5.03 crore (SD of ₹ 3.58 crore and RF of ₹ 1.45 crore).

On this being pointed out, the Department informed (July 2019) that ₹ 6.08 lakh[50] in 17 cases had been recovered and no reply was furnished for the remaining cases.

2.17.3 Application of incorrect circle rates

The valuation of land for the purpose of registration of sale deeds, both in the case of rural and urban areas, is made on the basis of classification of land and in accordance with the Himachal Pradesh Land Records Manual 1992. A notification issued in January 2016 classified the land in rural and urban areas for valuation purpose into five categories *viz.* land situated (i) up to 25 meters from any road; (ii) more than 25 metres to 50 metres; (iii) distance of more than 50 metres to 100 metres from any road; (iv) more than 100 metres to 1000 metres distance from any road; and (v) more than 1000 metres from any road in the Revenue Estate. The roads were also categorised as National Highway (NH), State Highway (SH) and Other Road (OR). The purchaser was required to file affidavit stating the distance of the relevant land or holding from a NH, SH or OR for levy of rates of land for Stamp Duty calculation. If the affidavit of purchaser is found false, penalty upto 50 *per cent* of the applicable Stamp Duty/Registration Fee was to be levied and recovered.

i. Out of test checked 33 SRs, audit scrutiny revealed that in 21 SRs, 155 documents were registered between 2015 and 2017 for a consideration amount of ₹ 59.12 crore on the basis of affidavits filed by the purchasers, regarding the distance of the properties from different categories of roads. The land was classified by measuring incorrect distance of land or holding from NH, SH or OR and Stamp Duty of ₹ 2.78 crore and Registration Fees of ₹ 1.02 crore was levied. Audit cross verified the affidavits with maps *(lattha)* available with *Kanungo* (Revenue Authority) under the administrative control of the SRs and calculated valuation of the properties as ₹ 94.43 crore on the basis of leviable rates of land. Audit observed that the SRs have to verify the actual distance of land or holding from the roads as well as facts stated in the affidavits as the records (*latha*) and rates of the land are

[50] SRs: Hamirpur: nine cases, Sainj: one case and Sundernagar: seven cases.

available with the Department before registration of deeds. However, the SRs relied on the affidavits filed by the purchasers which had incorrect/false particulars, resulted in adopting valuation of ₹ 59.12 crore as against the actual valuation of ₹ 94.43 crore, based on the actual distance in these cases. Had the SRs verified the current circle rates of lands before registration of these deeds, the Department could have recovered ₹ 6.10 crore against which only ₹ 3.80 crore was realised. This led to short levy of SD and RF of ₹ 2.29 crore[51] (SD ₹ 1.67 crore + RF ₹ 0.62 crore). In addition, penalty of ₹ 2.98 crore at the rate of 50 *per cent* of applicable SD and RF was also required to be levied. Despite similar cases repeatedly having been pointed out by Audit, accountability/responsibility on erring officials of the unit/ Department was not fixed.

ii. Further, Audit scrutiny of the records of 19 SRs revealed that 155 documents were registered between 2015 and 2017 for a consideration amount of ₹ 15.14 crore. The SRs while registering these sale deeds ignored/overlooked the supporting documents and did not consider the circle rates for the category of land as cultivated or uncultivated according to *Jamabandi* and location of land from any road. This resulted in wrong valuation as ₹ 15.14 crore against actual valuation of ₹ 20.56 crore, which led to short realisation of SD and RF of ₹ 33.53 lakh[52] (SD: ₹ 24.16 lakh, RF:₹ 9.37 lakh).

iii. Similarly, Audit scrutiny of records of of 12 SRs[53] revealed that the SRs had not procured the requisite affidavits in 42 cases out of 155 from the purchasers stating distance of land while registering the deeds. In the absence of affidavit, incorrect valuation of the properties could not be ruled out. Thus, absence of a mechanism in the Department to check the particulars of affidavits led to inaccurate assessment of market value of properties, resulting in short determination of SD and RF at the cost of State revenue.

On being pointed out, two SRs intimated (June 2019 and June 2020) that ₹ 2.69 lakh[54] had been recovered. Other SRs did not give any reply (September 2020).

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51 Indora: nine cases: ₹ 7.12 lakh; Jawali: nine cases: ₹ 5.16 lakh, Nurpur: 13 cases: ₹ 11.84 lakh, Palampur: six cases: ₹ 23.48 lakh, Shahpur: two cases: ₹ 0.29 lakh, Thural: three cases: ₹ 0.19 lakh, Bhunter: four cases: ₹ 0.43 lakh, Nirmand: one case: ₹ 1.67 lakh, Balh: three cases: ₹ 2.39 lakh, Sundernagar: one case: ₹ 5.27 lakh, Shimla R: 10 cases: ₹ 59.04 lakh, Shimla U: one case: ₹ 1.26 lakh, Theog: seven cases: ₹ 3.91 lakh, Nahan: nine cases: ₹ 42.93 lakh, Paonta: 18 cases: ₹ 13.47 lakh, Baddi: 16 cases: ₹ 29.36 lakh, Nalagarh: eight cases: ₹ 7.45 lakh, Amb: 12 cases: ₹ 7.41 lakh Bharwain: 12 cases: ₹ 1.86 lakh, Haroli: five cases: ₹ 1.76 lakh and Una: six cases: ₹ 3.26 lakh.

52 Bilaspur: two cases: ₹ 0.24 lakh; Bhalei: two cases: ₹ 0.17 lakh; Dalhousie: four cases: ₹ 0.33 lakh; Hamirpur: nine cases: ₹ 3.46 lakh; Nurpur: four cases: ₹ 1.50 lakh; Bhunter: 12 cases: ₹ 2.16 lakh; Kullu: 15 cases: ₹ 2.0 lakh; Sainj: one case: ₹ 0.05 lakh; Balh: six cases: ₹ 0.99 lakh; Sandhole: eight cases: ₹ 0.20 lakh; Nahan: four cases: ₹ 1.10 lakh; Pacchad: two cases: ₹ 4.98 lakh; Paonta: 56 cases: ₹ 8.72 lakh; Baddi: five cases: ₹ 2.83 lakh; Nalagarh: eight cases: ₹ 1.81 lakh; Solan: six cases: ₹ 2.19 lakh; Amb: one case: ₹ 0.10 lakh; Bharwain: one case: ₹ 0.13 lakh and Una: nine cases: ₹ 0.57 lakh.

53 Amb, Bharwain, Balh, Haroli, Indora, Jawali, Nurpur, Palampur, Paonta Sahib, Shahpur, Thural and Theog.

54 Hamirpur: two cases: ₹ 0.24 lakh and Nirmand: one case: ₹ 2.45 lakh.

2.17.4 Short realisation of Stamp Duty and Registration Fees on Lease Deeds

The Revenue Department vide notification (January 2012) prescribed the rates of Stamp duty of five *per cent* and Registration Fees of two *per cent* of the market value of the property or the consideration amount, whichever is higher, for registration of a lease deed.

Out of test checked 33 SRs, in 25 SRs in 96 cases, land was leased out between 2015 and 2017 for the period ranging from 2 years to 99 years. On registration of these lease deeds, the SRs levied Stamp Duty and Registration Fees of ₹ 65.61 lakh (SD ₹ 47.45 lakh, RF ₹ 18.16 lakh) instead of leviable SD and RF of ₹ 3.53 crore (SD ₹ 2.53 crore + RF ₹ 1.00 crore) on the basis of market value of ₹ 185.96 crore of land. Audit observed that before registration of these lease deeds, the SRs without taking any cognizance whether the rate of the land was correct or not, levied SD and RF on lower rates, even though the current circle rates of the land were available with the Department.

Thus, in the absence of uniform application of correct rates by the Department and failure of internal control to detect undervaluation, led to short realisation of SD and RF of ₹ 2.88 crore[55] (SD: ₹ 2.05 crore, RF: ₹ 0.83 crore).

The Department stated (between September and November 2019) that two SRs had recovered an amount of ₹ 4.76 lakh[56] and the market value of the land leased out by SR Nichar to Hydropower projects is not to be determined on the basis of prevailing circle rates. The reply is not acceptable because as per the sanction given (March 2016) by the Revenue Department, the land had to be leased out as per HP Lease Rules. Therefore, according to HP Lease Rules, market value of the land should be assessed as per prevailing circle rates.

2.17.5 HIMRIS (Himachal Registration Information System) IT Application

HIMRIS (IT application) was introduced in the Department to provide facility to register all types of deeds and better monitoring of Stamp Duty and Registration Fees collection by plugging in the leakage of Government revenue through proper and correct evaluation as defined by administration based on current rates. It was also envisaged to provide better services to citizens by facilitating on the spot registration and single window service, prevention of frauds like impersonation, professional witnesses and proxies by capturing photographs of all the parties and the witnesses on the spot and inclusion of Aadhar number as ID proof. The transparency in the system was also to be increased by removing all the discretion at different levels through automation of scrutiny, valuation, and checking of

[55] Bilaspur: nine cases: ₹ 3.21 lakh; Dalhousie: one case: ₹ 0.26 lakh; Dehra: one case: ₹ 1.80 lakh; Hamirpur: three cases: ₹ 0.29 lakh; Indora: 13 cases: ₹ 115.56 lakh; Nichar: 11 cases: ₹ 45.74 lakh; Palampur: three cases: ₹ 0.62 lakh; Thural: three cases: ₹ 3.12 lakh; Sainj: one case: ₹ 0.16 lakh; Kullu: three cases: ₹ 3.26 lakh; Sundernagar: two cases: ₹ 1.07 lakh; Shimla (R): five cases: ₹ 15.70 lakh; Shimla (U): three cases: ₹ 0.11 lakh; Theog: five cases: ₹ 6.42 lakh; Nahan: two cases: ₹ 8.70 lakh; Paonta: four cases: ₹ 3.03 lakh; Rakkad: two cases: ₹ 2.16 lakh; Baddi: three cases: ₹ 0.84 lakh; Darlaghat: two cases: ₹ 0.08 lakh; Kandaghat: five cases: ₹ 2.33 lakh; Nalagarh: two cases: ₹ 2.68 lakh; Solan: six cases: ₹ 4.16 lakh; Haroli: two cases: ₹ 62.94 lakh; Una three cases: ₹ 1.13 lakh and Sangla: two cases: ₹ 2.60 lakh.

[56] SRs: Rakkad: ₹ 2.16 lakh and Sangla: ₹ 2.60 lakh.

supporting documents. HIMRIS has seven main operational tables[57] which were test checked in audit and revealed that:

Table 2.5: Observations on HIMRIS Application and its Implications

Sr. No.	Observation	Implication
1.	Data in table 'RegMain_detail' revealed that in the database, Stamp Duty at the rate of 6 *per cent* only was shown. In another column, percentage share of the female purchaser was captured. Thus, Based on it, Stamp Duty for female purchasers was calculated on manual entries at the rate of three or four *per cent*.	The application does not store the gender information in the database for the depiction of the correct rate of stamp duty which needs to be applied. Due to manual interventions, it could not be ensured that the percentage of female share entered and captured were same as per deed and possibility of wrong calculation of the SD and RF could not be ruled out.
2.	In the table 'Regyear" data up to four characters (alpha/numeric) could be inserted, however, audit scrutiny observed that in one case the value was shown as '0'	Due to lack of data validation, invalid registration year could be captured in the database which cannot provide any reliable information in respect of registration year.
3.	Software did not show the original unit of area of the transacted land. It was shown in sqm only whereas there were different units (bigha-biswa, hectare-centiare, kanal- marla etc.) for measuring the land areas in deeds and the circle rates were also fixed per bigha/ sqm.	Due to non-availability of original unit and area of land entered in the software, it could not be verified that the area of land entered and stored in the system after conversion into sqm was same as per deed document.
4.	While entering the property details, the relevant land record details such as Khasra No, Khata No. and Khatouni No. etc. were available on screen for verification with online data of HIMBHOOMI but it was not co-related with the application of circle rates of the Revenue Department.	In the absence of software with the provisions of calculation and correlation with circle rates of the concerned District, the market value of the structures or consideration amount could not be cross checked resulting in short realisation of SD and RF.
5.	Scrutiny of the database revealed that transaction date and time in some cases were beyond office hours *viz.* 6:27 AM, 6:43 AM and 8:16 AM whereas the working hours in State Government offices start at 10:00 AM.	The reasons for this could not be ascertained as to whether this was a system issue or data security issue in terms of access as the application is not a web application and operates on standalone machine only. The timings depicted created doubts on trans actions with regards to their genuineness.

The Government may consider issuing instructions to Department to strictly follow the provisions of the Acts/Rules/Notifications, verify the distance from roads before registration of sale/lease deeds and link the HIMRIS with other computerised applications (HP Circle Rates, Settlement (digitised maps/Moumi) and HIMBHOOMI).

[57] Regmain_detail, CIVmain_detail, CIVreceipt_detail, Fee_detail, Regreceipt_detail, SerReceipt_detail, RegStamp_detail.

2.18 Short realisation of Lease Money, Stamp Duty and Registration Fees due to incorrect determination of market value

The incorrect determination of market value of property by the Department, led to short realization of lease rent, stamp duty and registration fees to the extent of ₹ 1.53 crore.

Under the Himachal Pradesh Lease Rule (HPLR) 2013, Government land can be granted on lease to individuals/private companies for various purposes in the interest of the development of the State. The lease amount shall be charged from the lessee *per annum* at the rate of 10 *per cent* of the current circle rate. Article 35 of Schedule I-A of Indian Stamp Act, 1899, provides that where the lease purports up-to one hundred years or exceeding hundred years, Stamp Duty is chargeable at the rate of five *per cent* of the market value of the leased property, subject to the minimum of rupees one hundred and duty rounded off to nearest rupees ten. Besides, registration fees at the rate of two *per cent* shall be charged on the same amount of the market value of the leased property, on which Stamp Duty has been assessed in terms of the Government of Himachal Pradesh, Department of Revenue notification dated 12 January 2012.

i). Scrutiny of the records (June 2018) of the Sub-Registrar (SR) Nirmand (Kullu), showed that sanction for transfer of the Government land measuring 60-09-00 *bighas* was accorded (March 2015) to a lessee for a period of 40 years to establish a Hydroelectric Project. The market value of the Government land worked out to ₹ 3.10 crore and lease money was required to be fixed as ₹ 30.97 lakh per annum at the rate of 10 *per cent* on the prevailing market rates of the year as notified by the Department under the Rules, *ibid*. Therefore, a lease amount of ₹ 1.55 crore was required to be paid by the lessee for the years 2014-15 to 2018-19. Audit scrutiny revealed that it was clearly mentioned in the sanction letter that lease money would be charged at the rate of 10 *per cent* of the current circle rates whereas the Department incorrectly fixed lease amount as ₹ 9.73 lakh instead of ₹ 30.97 lakh per annum. The lessee paid ₹ 9.73 lakh during 2014-15 and thereafter lease amount was neither paid by the lessee nor was it demanded by the Department. This resulted in short realisation of lease money of ₹1.45 crore.

ii). Scrutiny, further, showed that the SR while registering these documents did not levy the Stamp Duty and Registration Fees on the prevailing market value (₹ 3.10 crore) of leased property under the Act, *ibid*. The Stamp Duty and Registration Fees of ₹ 8.67 lakh was leviable on the leased land against which the lessee paid only ₹ 0.27 lakh, which was short by ₹ 8.40 lakh. Thus, due to non-adherence of the provisions of the Lease Rules and absence of the provisions to verify or review applicable circle rates of the land, resulted in short realisation of revenue of ₹ 1.53 crore (₹ 1.45 crore + ₹ 8.40 lakh).

The Department stated (October 2020) that the matter has been sent to the DC Kullu to recover the amount as Arrears of Land Revenue. The Government stated (October 2020) that the matter is under examination at its level.

The Government may issue instructions to the Department to strictly follow the provisions of the Act/Rules to determine the correct market value of the properties to safeguard the revenues.

TAXES ON VEHICLES, PASSENGERS AND GOODS

Test check of records of 46 units, out of 91 auditable units, having receipt of 370.55 crore during the year 2018-19 brought out under-assessment of tax and other irregularities relating to Token tax, Special Road Tax, Registration Fees, Permit Fee, Driving License Fee, Conductor License Fee, Penalties and Composite Fee under the National Permit Scheme, involving ₹ 86.87 crore in 411 cases.

During the year 2018-19, the Department accepted under-assessments and other deficiencies with revenue implications of ₹ 38.56 lakh in 24 cases related to audit findings of earlier years and ₹ 34.92 lakh in 349 cases relate to audit findings of 2018-19. An amount of ₹ 22.24 lakh was realised in 24 cases pertaining to audit findings of earlier years.

Four cases having a financial implication of ₹ 12.73 crore are discussed in the following paragraphs 2.19 to 2.22:

2.19 Non-realisation of Token tax

Token tax of ₹ 7.72 crore in respect of 21,107 vehicles for the years 2015-18 was neither demanded by the Department nor was it paid by the commercial vehicle owners.

Under the Himachal Pradesh Motor Vehicles Tax (HPMVT) Act, 1972 and Rules made there-under, token tax[58] as per different rates of tax[59] prescribed for different types of vehicles is payable by vehicle owners in advance, quarterly or annually. If motor vehicle owner fails to pay the tax due within the prescribed period, then the vehicle owner is liable to pay the penalty at the rate of 25 *per cent* per annum of the tax due.

During 2018-19, Audit test checked the Demand and Collection Register and VAHAN database relating to 30,868 commercial vehicles in 30 Registering and Licensing Authorities (RLAs) and 10 RTOs for the years 2015-16 to 2017-18. Audit observed that the owners of 21,107 commercial vehicles (68.38 *per cent*) in 27 RLAs[60] and 10 RTOs[61], did not pay token tax amounting to ₹ 7.72 crore for the period 2015-16 to 2017-18. There was nothing on record to indicate that the vehicles were off the road. The VAHAN software has provision to generate list of defaulters for non-payment of motor vehicles tax and penalty, if any. However, the RTOs and RLAs concerned did not realise the tax due, even after availability of report generating facility in VAHAN software. Despite having the software facility, the RTOs/RLAs

[58] As per Section-3 of the Himachal Pradesh Motor Vehicles Taxation Act, 1972, there shall be levied, charged and paid to the State Government an annual tax on motor vehicles used or kept for use in Himachal Pradesh described in Column 2 of Schedule-I of the Act at the rates specified.

[59] Tax is payable by (**Goods Carriage**) LGV: ₹ 1500 annually, MGV: ₹ 2,000 annually, HGV: ₹ 2,500 annually, (**Stage Carriage): ₹** 500 per seat per annum and (**Contract Carriage): Maxi Cab:** ₹ 750 per seat per annum, **Motor Cab**: ₹ 350 per seat per annum and **Auto Rickshaw**: ₹ 200 per seat per annum.

[60] **RLAs:** Anni, Amb, Arki, Bharmour, Baijnath, Bhoranj, Bilaspur, Chopal, Chuwari, Churah, Dehra, Ghumarwin, Joginder-nagar, Karsog, Kangra, Kaza, Manali, Mandi, Nadon, Nichar, Palampur, Parwanoo, Pooh, Rajgarh, Rohru, Sarkaghat and Shimla.

[61] **RTOs:** Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Shimla, Sirmour, Solan and Una.

did not issue notices to defaulters to recover tax of ₹ 7.72 crore and penalty of ₹ 1.93 crore from the owners of 21,107 commercial vehicles as detailed below:

Table 2.6: Details of vehicles from which Token Tax was not realized

Sr. No.	Category of vehicle	Name of RLAs/RTOs/STA	Period	Total No. of Vehicles	No. of vehicles not paid tax	Amount recoverable (₹ in crore)
1.	**(Construction Vehicles)** Cranes, Recovery Van etc.	**RLAs-** Anni, Arki,Bilaspur, Chopal, Mandi, Nadon, Rajgarh and Shimla	2015-16 to 2017-18	395	190	0.26
		RTOs- Bilaspur, Chamba, Hamirpur, Kullu, Mandi, Shimla, Solan and Una		786	398	0.36
	Total (A)			**1,181**	**588**	**0.62**
2.	**(Passenger Vehicles)** Buses/Mini Buses/ Maxi Cabs/ Taxi	**RLAs**- Amb, Arki,Bilaspur, Churah, Dehra, Ghumarwin, Joginder-nagar, Kangra, Nichar, Palampur, Rohru, Sarkaghat and Shimla		1,148	358	0.63
		RTOs-Bilaspur, Chamba, Hamirpur, Kangra,Kullu, Mandi, Nahan, Shimla,Solan and Una		6,156	4,187	2.42
	Total (B)			**7,304**	**4,545**	**3.05**
3.	**(Goods vehicles)** Heavy/ Medium/ Light Goods Vehicles/ Tractors	**RLAs**- Anni, Amb, Arki,Bharmour, Baijnath, Bhoranj,Bilaspur, Chopal, Chuwari, Churah, Dehra, Ghumarwin, Joginder-nagar, Karsog, Kangra, Kaza, Manali, Mandi, Nadon, Nichar, Palampur, Parwanoo, Pooh, Rajgarh, Rohru, Sarkaghat and Shimla		11,791	7,612	2.49
		RTOs-Bilaspur, Chamba, Hamirpur, Kangra,Kullu, Mandi, Nahan, Shimla,Solan and Una		10,592	8,362	1.56
	Total (C)			**22,383**	**15,974**	**4.05**
	Grand Total (A)+ (B)+(C)			**30,868**	**21,107**	**7.72**

Similar observations were pointed out in the Audit Reports for the years 2004-05 to 2017-18. The Department failed to take any concrete action to check the persistence of such irregularities in-spite of repeatedly being pointed out by audit for last 15 years.

On this being pointed out, RLA Karsog stated (June 2020) that an amount of ₹ 50,750 out of ₹ 2.18 lakh has been recovered.

The Department intimated (September 2020) that ₹ 47.69 lakh had been recovered by four RTOs and five RLAs. The reply of the Government was awaited (November 2020).

The Government may consider issuing necessary directions to the Department to follow the provisions of the notifications or Act/Rules in totality.

2.20 Non-registration of commercial vehicles with Excise and Taxation Department

Due to lack of co-ordination between the RLAs/RTOs and AETCs, the owners of the commercial vehicles did not register their vehicles with the concerned Excise and Taxation offices, which resulted in non-realisation of Passenger and Goods tax amounting to ₹2.38 crore.

Under the Himachal Pradesh Passenger and Goods Tax (HPPGT) Act, 1955, owners of stage/contract carriages and goods carriages are required to register their vehicles with the

concerned Excise and Taxation Offices and pay PGT at the prescribed rates. Vehicle registration is handled by RTOs and RLAs and collection of passenger and goods tax is handled by different AETCs. No vehicle shall ply in the State unless it has a possession of a valid certificate of registration issued by the Excise Department. If the vehicle owner fails to apply for registration or to pay tax or surcharge, penalty not exceeding five times the amount of tax so assessed, subject to a minimum of ₹ 500, is also required to be levied.

Scrutiny of the records of six AETCs involving total number of 40,215 commercial vehicles showed that in six RLAs[62] and five RTOs[63], 4,489 out of 10,476 commercial vehicles registered during 2016-17 to 2017-18, were not found registered with concerned six AETCs[64], as required under the HPPGT Act. Audit scrutiny further revealed that there was no mechanism to ensure co-ordination between AETCs/ETOs and the concerned RLAs/RTOs or *vice-versa* for registration of all commercial vehicles with the Excise and Taxation Department. Thus, failure on the part of Department to bring newly registered commercial vehicles under the preview of PGT despite the fact that audit had pointed out similar lapses for the last two years, resulted in non-realisation of passenger and goods tax amounting to ₹ 2.38 crore from the owners of these vehicles. Besides, a minimum penalty of ₹ 22.44 lakh was also required to be levied, as per the details given below:

Table 2.7: Details of vehicles not registered with the Excise and Taxation Department

₹ in lakh

Sr. No.	Types of vehicle	No. of vehicles registered with RLAs/ RTOs	No. of vehicles not registered with the Excise and Taxation Department	Amount recoverable			
				Passenger tax	Goods tax	Total amount recoverable	Minimum penalty @ ₹ 500/-per vehicle
1.	**Passenger Vehicles** (Maxi Cabs/Taxi)	3,164	1,044	32.21	--	32.21	5.22
2.	**Passenger Vehicles** (Educational Institution Buses)	300	121	12.56	--	12.56	0.60
3.	**Goods vehicles** (HGV/MGV/LGV/ Tractors)	7,012	3,324	--	193.51	193.51	16.62
Total		**10,476**	**4,489**	**44.77**	**193.51**	**238.28**	**22.44**
						Say ₹ 2.38 crore	

Source: Departmental figures

The Department stated (June 2020) that six AETCs had recovered ₹ 44.95 lakh (Passenger Tax ₹ 9.66 lakh + Goods Tax ₹ 26.49 lakh + Passenger Tax (Educational institutional Bus) ₹ 8.79 lakh) from 1,022 commercial vehicle owners but in the absence of details and supporting documents, the amount recovered by the Department could not be verified in audit. The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider to share the information of commercial vehicles between RLAs/RTOs and the Excise and Taxation office or interconnect the VAHAN and Himachal Pradesh Tax Administration System (HIMTAS) for the levy of Passenger and Goods Tax.

[62] **RLAs:** Arki, Kandaghat, Nalagarh, Parwanoo, Rajgarh and Solan.
[63] **RTOs:** Bilaspur, Kangra, Sirmour, Shimla and Solan.
[64] **AETCs:** Baddi, Bilaspur, Kangra at Dharamshala, Shimla, Sirmour at Nahan and Solan.

2.21 Non-realisation of Passenger and Goods Tax

The passenger and goods tax amounting to ₹ 1.97 crore was neither paid by the owners of 2,472 commercial vehicles nor was it demanded by the Department.

Under the Himachal Pradesh Passenger and Goods Tax (HPPGT) Act, 1955 owners of vehicles are required to pay Passenger and Goods Tax (PGT) on all fares and freight at the prescribed rates either quarterly or annually. The HPPGT Rules, 1957 provides that vehicle owners shall inform the Assessing Authorities (AAs) concerned as soon as the vehicle goes out of use for exemption from payment of tax for that period. In case any sum is payable by an owner, the AA shall serve a notice to the vehicle owner to furnish receipt of *challan* in proof of tax payment. Any arrears or penalty imposed under this Act shall be recoverable as an arrear of land revenue under the Act, *ibid*.

In five AETCs, a total number of 17,750 vehicles were registered out of which records of 8,230 vehicles were test checked. Further, scrutiny of Demand and Collection Register (DCR) maintained by five AETCs revealed that PGT in respect of 2,472 vehicles[65] amounting to ₹ 1.97 crore for the period from 2016-17 to 2017-18 was not paid by the commercial vehicle owners already registered with Excise and Taxation Department. The commercial vehicle owners had also not sought exemption from tax for non-use of the vehicles during the tax period. The AAs neither issued demand notices to the owners nor referred the cases to the Collector for recovery, as arrears of land revenue (ALR) as depicted below:

Table 2.8: Details of vehicles for which Passenger and Goods Tax was not realised

₹ in lakh

Sr. No.	Category of vehicles	No. of vehicles not paying PGT(Test checked)	Amount recoverable			
			Passenger tax	Goods tax	Total amount recoverable	Minimum penalty @ ₹ 500 per vehicle
1.	**Passenger Vehicles** (Maxi Cabs/Taxi)	613(2,172)	44.98	-	44.98	3.07
2.	**Passenger Vehicles** (Educational Institution Buses)	30(96)	4.50	-	4.50	0.15
3.	**Goods vehicles** (HGV/MGV/LGV/Tractors)	1,829(5,962)	-	147.81	147.81	9.15
Total		**2,472 (8,230)**	**49.48**	**147.81**	**197.29**	**12.37**
						Say ₹ 1.97 crore

Thus, absence of internal control, lack of monitoring and non-conducting of regular review to assess the tax due shows that the AETCs did not have an effective mechanism to verify the amount of tax due and tax collected from tax payers. Audit had pointed out similar lapses for the last five years. This resulted in non-realisation of PGT of ₹ 1.97 crore.

On this being pointed out, five AETCs stated (between September 2018 and November 2018) that notices were being issued to the defaulters for payment of PGT whereas AETC Chamba did not furnish any reply.

The Government intimated (October 2020) that directions have been given to the Commissioner (Excise and Taxation) for immediate necessary action.

The Government may consider to share the information of commercial vehicles between RLAs/RTOs and the Excise and Taxation office or interconnect the VAHAN and HIMTAS for the levy of Passenger and Goods Tax.

[65] Baddi: 355 vehicles: ₹ 35.03 lakh, Bilaspur: 393 vehicles, ₹ 23.18 lakh, Solan: 577 vehicles, ₹ 46.98 lakh, Nahan: 85 vehicles: ₹ 5.93 and Shimla: 1,062 vehicles, ₹ 86.17 lakh

2.22 Non recovery of Green Tax and Cess

Green tax of ₹40.90 lakh and Cess of ₹25.15 lakh in respect of 4,417 vehicles for the year 2017-18 was not demanded by the Department.

The Department of Transport, GoHP created (February 2017) the Himachal Pradesh Transport Infrastructure Development Fund (HPTIDF) vide Notification dated 21 February 2017 in order to provide organized and safe traffic and public transport and to mitigate its effects on environment. The Green Tax and Cess are one of the sources to generate the HPTIDF. Further, notification dated 28 March 2017 prescribes the rates of Green Tax and Cess on the tax payable Under Sections 3 and 3A of the Himachal Pradesh Motor Vehicle Taxation Act, 1972, for different classes of vehicles at the rate of 10 *per cent* and 5 *per cent* for the vehicles paying one time / lump sum tax and other than one time/ lump sum tax respectively. The rates are applicable with effect from 1 April 2017. The levy of various taxes and cess has been computerized and is collected by the transport Department through the 'VAHAN' software developed for this purpose.

Audit scrutiny of the data (between May 2018 to March 2019) regarding Green tax and Cess maintained in 'VAHAN' software of 11 Registering and Licensing Authorities (RLAs) and five Regional Transport Offices (RTOs) revealed that the 'VAHAN' software was not updated for more than one month during the year 2017-18 for incorporating Green tax and cess as mentioned in the notification, *ibid*. Audit observed that from April 2017 to 21 May 2017, 4,417 vehicles were registered with RLAs and RTOs; however, concerned RTOs/RLAs did not levy Green tax and Cess manually during the period even though the notification was issued in advance. This resulted in non-levy of Green tax and Cess of ₹ 66.05 lakh[66] (₹ 40.90 lakh and ₹ 25.15 lakh) by the Department. The Department did not take corrective follow-up action required even after updation in the 'VAHAN' software as there was no evidence on record to indicate that RLAs and RTOs initiated any action for recovery of the applicable Green Tax and Cess.

The Department intimated (September 2020) that an amount of ₹ 6.50 lakh had been recovered by one RTO and four RLAs. The reply of the Government was awaited (September 2020).

The Government may consider issuing necessary directions to the Department to follow the provisions of the notifications or Act/Rules. Further, all changes in applicable rates, Rules should be promptly mapped with the IT software, developed to administer tax/duties etc.

The cases pointed out are based on test check conducted by Audit. The Department may initiate action to comprehensively examine similar cases and take necessary corrective action.

[66] **RTOs:** Hamirpur: ₹ 1.20 lakh, Kullu: ₹ 4.12 lakh, Nahan: ₹ 1.02 lakh, Shimla: ₹ 6.16 lakh and Solan: ₹ 2.90 lakh **RLAs:** Amb: ₹ 5.24 lakh, Arki: ₹ 3.22 lakh, Bilaspur: ₹ 4.26 lakh, Dehra: ₹ 5.44 lakh, Joginder Nagar: ₹ 1.94 lakh, Kangra:₹ 7.04 lakh, Mandi: ₹ 7.22 lakh, Palampur: ₹ 9.01 lakh, Parwanoo: ₹ 1.88 lakh, Rajgarh: ₹ 2.57 lakh and Sarkaghat: ₹ 2.83 lakh.

Forest Receipts

Test check of records of 15 units, out of 37 auditable units, having receipt of ₹ 14.51 crore, during the year 2018-19, brought out non/short recovery of royalty, non-levy of interest/extension fee, blockade/loss of revenue due to non-disposal of seized timber and other irregularities involving ₹ 18.77 crore in 64 cases.

During the year 2018-19, the Department accepted under-assessment and other deficiencies of ₹ 33.28 Lakh in six cases, out of which ₹ 25.06 lakh was realised in six cases related to audit findings of earlier years.

Significant cases involving an amount of ₹ 32.19 crore are discussed in the following three paragraphs 2.23 to 2.25:

2.23 Levy and Collection of Royalty from Resin and Timber

Non-claiming of royalty on exploitation of timber and tapping of resin blazes, interest on belated payment of royalty; non-maintenance of permanent and reliable inventory of chil trees, led to less handing over of chil trees for resin tapping; lack of monitoring by the Department and failure of the Corporation to exploit timber; reduction in royalty rates; non-levy of extension fee by the Department; resulted in non-realisation of revenue of ₹ 31.70 crore.

2.23.1 Introduction

Forests in Himachal Pradesh are spread over 15,100 square kilometres which is 27.12[67] *per cent* of its total area (55,673 sq. km.). The Forest Department (Department) has the primary duty of managing the forests in a sustainable manner and protect, conserve and augment them with plantation activities. The management of Forests receipts is governed by the provisions of the Indian Forest Act (IFA), 1927, the Forest Conservation Act (FCA), 1980, the National Working Plan Code 2004 and 2014 (Code) and decisions of the State Government on recommendations of the statutorily constituted "Pricing Committee" (PC). The major sources of forest receipts are royalty on sale of resin[68], timber, extension fee, damage bills etc. received from the Corporation.

2.23.2 System for levy and collection of royalty

The exploitation of forest is carried out by the Himachal Pradesh State Forest Development Corporation (Corporation), as a sole agency which was incorporated (March 1974) under the Companies Act, 1956. The Department identifies the salvage (dead and broken) trees in the forest, area-wise and class-wise and such identified trees are jointly inspected by the Department and Corporation. The trees are then marked and a marking list is prepared. The marking lists, sent by the Department (Divisional Forest Officer) and accepted by the Corporation (Divisional Manager), indicate lease period of each lot determined on the basis of volume of marked trees. After lease period, the forest lot has to be handed over to the Department. The Corporation is required to complete the extraction works within the working

[67] Source: State of Forest Report – Himachal Pradesh 2017.

[68] Chil tree yields a good quality oleo resin, which on stem distillation generates two industrially important products viz., turpentine oil (about 70 *per cent*) and rosin (about 17 *per cent*). Rosin is extensively used in many industries viz., soap, paper, paints and varnishes, sealing waxes, oil cloth, inks and disinfectants. Turpentine is chiefly used in preparation of paints and varnishes, polishes, chemicals and pharmaceuticals.

period allowed by the Department. The Corporation can seek extension in working period on payment of extension fee for the extended period at the rate of 0.2 *per cent per* month of the total royalty with effect from April 2007. The Corporation extracts and sells timber and in turn pays royalty to the State Government at the rates fixed by the PC. The rates of royalty to be paid on timber and resin blazes are fixed by the PC on the basis of average sale rate of timber/rosin obtained in previous years. Similarly, tappable *chil* trees (having 1.2 metre girth/diameter 35 cm and above) are handed over to the Corporation each year for extraction and the royalty per blaze[69] as fixed by the PC is paid by the Corporation to the Department. Royalty for trees taken over for exploitation (both salvage timber and extraction of resin) by the Corporation is required to be paid to the Department in two to ten instalments, depending upon the working period of lots. Delay in payment of instalments attracts interest at the rate of 7.5 *per cent* per annum *w.e.f.* 2013-14.

2.23.3 Organizational Setup

The Additional Chief Secretary (Forests) is the administrative head at the Government level and Principal Chief Conservator of Forest, Head of Forest Force (PCCF) is the head of the Department. The latter is assisted by two Principal Chief Conservators of Forests, nine Additional Principal Chief Conservators of Forests (APCCFs) and 10 Conservator of Forests (CFs). Each CF controls the exploitation and regeneration of forest activities being carried out by Divisional Forest Officers (DFOs) in 37 territorial divisions under their control.

The affairs of the Corporation are managed by Board of Directors (BoD) through a Managing Director (MD who is assisted by the Executive Director, Financial Advisor, Company Secretary and three Directors (North, South and Marketing).The Corporation has 12 Forest Working Divisions (FWD) and eight *Himkashth* Sale Depots (HSDs) managed by the Divisional/ Depot Managers.

Audit covered the period of 2013-14 to 2017-18. Records of 10[70], out of 37 divisions were test checked.

2.23.4 Non-claiming of royalty and interest on delayed payment of royalty

2.23.4.1 Resin

The Pricing Committee (PC) initially fixes the tentative royalty rates and then later revises these to final royalty rates. As per guidelines regarding working of forest by the Corporation issued by PCCF (September 2005), the payment of resin royalty is required to be made by the Corporation in two equal instalments on 15 September and 15 December of the respective year of tapping seasons. Further, as per the PC decision (September 2013), balance payment/ adjustment is to be made by the Corporation within 30 days of fixing of final royalty rates by the PC.

The PC in its meeting decided (January 2019) that the Corporation would pay interest at the rate of 7.5 *per cent* per annum from 2013-14 on belated payment of royalty. A grace period of

[69] Blaze is a cut near the base of *chil* tree for collection of resin in a cup fixed at its base. This cut is freshened weekly throughout the tapping season.

[70] Bilaspur, Kotgarh, Kunihar, Mandi, Paonta Sahib, Rohru, Solan, Theog and Una were selected through sampling. Besides records of Kullu division were also test checked.

90 days is admissible. If the payment is made after the grace period, the Corporation is liable to pay interest from the due date of payment of royalty.

Audit scrutiny of five test checked divisions showed that the Department handed over trees having 8,37,423 resin blazes to the Corporation for tapping during the period under audit, for which royalty of ₹ 5.16 crore was payable (**Appendix 2.3**). Out of this, the Corporation had paid ₹ 2.97 crore and ₹ 2.19 crore remained unpaid as on March 2018. The delay in payment of royalty ranged between 54 and 784 days up to 31 March 2018. Interest of ₹ 38.53 lakh on delayed payment of royalty though leviable, was not levied by the Department for the period 2013-14 to 2017-18.

The DFO Theog accepted (February 2020) the audit observation and stated that correspondence has been made with the Corporation for payment of outstanding royalty and interest. No reply was provided by the other DFOs.

2.23.4.2 Timber

As per the PC decision (September 2007), royalty on salvage lots of timber was to be paid by 20 March for first instalment and 20 June for second instalment for low lying lots and 30 November and 20 March for high lying lots, applicable for the lots of 2007-08 onwards. Interest at the rate of 7.5 *per cent* per annum on belated payment of royalty w.e.f. 2013-14 was also required to be levied.

Scrutiny of records in 12 test checked divisions showed that royalty on 382 salvage lots amounting to ₹ 15.71 crore was not paid by the Corporation as of 31 March 2018 (**Appendix 2.4**). Besides, interest on belated/non-payment of royalty amounting to ₹ 2.27 crore had neither been raised by the Department nor was it paid by the Corporation.

Further, the Department did not review the same deficiencies, even after having been repeatedly pointed out by Audit in earlier years, indicating either negligence or inaction in applying the decisions of the PC.

The Department intimated (October 2020) that reconcialiation for getting final payment of royalty and interest from the Corporation was in progress and dues would be demanded. The Government intimated (July 2020) that directions have been given to the Department for necessary action.

2.23.4.3 Non-maintenance of Permanent and Reliable Inventory of Chil trees

As per the Forest Manual, Volume-IV, every tree shall be serially numbered and the number of blazes permissible must be indicated. Audit noticed the following instances where improper enumeration of trees affected the revenue to be obtained from resin tapping:

- Scrutiny of records in seven[71] test checked divisions revealed that there was no mechanism as per the Forest Manual, Volume-IV for efficient management of tree resources. The Conservator of Forest (Bilaspur Circle) also issued a standing order (February 2011) for following a system of permanent inventory management of *chil*

[71] Kunihar, Una, Kotgarh, Paonta Sahib, Mandi, Rohru and Bilaspur.

trees and for data regarding resin tapping to be recorded and managed for it in hard (registers) and in soft (MS Excel) forms, as per the prescribed format and to be refreshed every year. The system was devised for forest conservation, efficient management of tree resources and mobilisation of financial resources. The system devised by the CF, Bilaspur which is a good system to keep a permanent and reliable inventory of trees was also not being followed by the seven test checked divisions .In the absence of data, there was no system to ascertain the number of years a tree has been continuously tapped or could be tapped in future. Thus, control over resin tapping and detection of illicit felling and illicit blazes could not be ensured in these divisions.

- Lack of proper enumeration system also did not provide a reliable basis for checking the handing over of tappable *chil* trees. Audit noticed that against 21,80,075 tappable trees (as per enumeration details in Working Plan) in four[72] test checked divisions, only 5,56,629 trees were handed over to the Corporation for resin tapping, during the period 2013-14 to 2017-18.

Thus, failure on the part of the divisions to hand over tappable *chil* trees as per the working plan to the Corporation, resulted in loss of revenue amounting to ₹ 9.72 crore.

- Further, as per the instruction (May 2000) of PCCF, the proposal for deletion of blazes should be prepared by the respective DFOs by the end of the tapping season (latest by 15 December) every year, so that the approval of the CF is obtained well before the commencement of the ensuing tapping season (15 March).

Audit noticed that the DFOs of five divisions deleted 31,523[73] number of resin blazes while handing over the list of resin blazes for tapping to the Corporation during the period 2013 to 2017. However, the mandatory approval of CF was not obtained before deletion of number of blazes and in the absence of reliable data of tappable trees, the rationale behind deletion could not be ascertained. This shows lack of internal control mechanism at the CF level and resulted in irregular deletion of blazes having a revenue implication of ₹ 18.90 lakh.

The Department intimated (October 2020) that some trees which have got uprooted or become dry are marked every year for exploitation through the Corporation. Resultantly, there is variation in number of trees mentioned in Working Plan and actually enumerated in the field for resin tapping. The reply is not acceptable as the Department has to scrutinize the number of blazes permissible before handing over the list of blazes for tapping to the Corporation. The Government intimated (July 2020) that directions have been given to the Department for necessary action.

[72] Bilaspur– 12,61,900/2,04,155/₹ 6.33 crore, Kotgarh -2,01,645/39,954/₹ 97.27 lakh, Kunihar-4,62,570/1,96,411/₹ 1.60 crore and Una – 2,53,960/1,16,109/ ₹ 81.72 lakh. (total number of trees/trees handed over/loss of revenue).

[73] Kotgarh-1618/(₹ 1,21,835), Kunihar-9743/(₹ 5,90,396), Mandi-17,125/(₹ 9,72,496), Paonta Sahib-217/(₹ 10,850) and Solan-2,820/(₹ 1,94,535).

2.23.4.4 Non-exploitation of salvage lots by the Corporation

The PC (September 2013) decided that all lots (resin and timber) handed over to the Corporation would have to be tapped by the Corporation and would not be taken back by the department on the plea that any lot remained unworked/untapped. If there were any specific cases in which a lot/tree could not be worked due to natural factors or some other specific problem in the concerned area, such cases had to be brought with full facts before the committee for its decision. It was also decided that the unworkable lots in remote areas would be considered for deletion after joint inspection by the DFO and the Divisional Manager within 60 days and 90 days of handing over for low and high lying lots respectively.

Scrutiny (August 2019) of records in Kullu division showed that a lot of 1,535 trees having 5,702.91 cubic meters (cum) volume was handed over (March 2006) to the Corporation for exploitation with lease period upto March 2007. Royalty of ₹ 47.85 lakh at 2006 rates was payable for the above lot. Audit noticed that all the trees (1,535) were felled and 801 trees having volume 3,187.15 cum were converted into logs and the remaining 734 trees having 2,515.76 cum volume were left to be converted into log. The Corporation could not complete the exploitation of the salvage lot even after getting multiple extensions till December 2014. A joint inspection to designate the lot as unworkable was conducted (October 2016) after a considerable delay of ten years. It was further noticed that an initial instalment of royalty of ₹ 19.40 lakh paid in respect of above lot was adjusted against subsequent lots without the approval of PC which was also objected by the CF, Kullu. The Department had also not taken any decision (March 2019) either to take back the lot or to get it exploited.

Audit noticed (November 2019) that in Rohru division, two lots of 1,468 trees (Volume – 5,594.11 cu m.) of value ₹ 14.26 lakh were handed over to the Corporation, during the period 2005 to 2008. The Corporation could not exploit the lots and handed them back to the department after a delay of five and seven years from the expiry of lease period. It was also noticed that against the handed over volume of 5,594.11 cum., the Corporation handed back only 4,884.03 cum. volume of timber (less volume handed back – 710.08 cum. having a value ₹ 1.89 lakh).

Thus, lack of monitoring by the divisions led to non-working of lots by the Corporation which resulted in non-realization of royalty of ₹ 62.11 lakh[74] besides loss of ₹ 1.89 lakh due to less handing over of trees by the Corporation.

The DFO, Kullu accepted (August 2019) the audit observation and stated that the matter has been taken up with the Corporation for refund of adjusted royalty. No reply was submitted by the DFO, Rohru.

2.23.4.5 Non/short realization of royalty due to incorrect application of royalty rates

The PC decided (August 2001) that a percentage of weighted average sale rates of a species obtained during preceding year would be the royalty rate of such species for the current year.

[74] Kullu - ₹ 47.85 lakh; Rohru - ₹ 14.26 lakh.

The rates so fixed are applicable uniformly for the whole State except Dodra Kawar for which special concessional rates are fixed in view of the difficult working conditions and higher working cost of timber extraction. The special concessional rates were further extended to special hill tracts (classified on the basis of Travelling Allowance (TA) rates) in 2008. The PC (March 2017 and March 2018) fixed the royalty for special hill tracts @ 40 *per cent* of the royalty rates fixed for the normal area for the period 2016-17 and 2017-18.

Scrutiny of periodical dues/demand register and statements of royalty due in Kullu division revealed that during the period 2016-17 and 2017-18, six salvage lots[75] were handed over to the Corporation for exploitation. The lots pertained to normal areas and the royalty of ₹ 75.33 lakh at normal rates was raised by the DFO Kullu. However, the Corporation itself worked out and paid (between 22 February 2017 and 29 January 2019) royalty of ₹ 25.36 lakh at special hill rates instead of normal rates. Thus, reduction in royalty rates by the Corporation and the inaction on the part of the Department, to demand royalty at normal rates, resulted in short/non realization of royalty amounting to ₹ 49.97 lakh.

2.23.4.6 Non-levy of extension fee

As per Clause-3 of the standard lease deed agreement with the Corporation for exploitation of timber/trees, the corporation shall have no right on such trees as are left standing in the leased forest, felled trees and any scattered/stacked timber un-removed from leased forest, after the expiry of the lease period. Further, as per decision of the PC (September 2007), extension fee at the rate of 0.20 *per cent* per month of the total royalty, whether paid or unpaid shall be levied for extension of the working period, beyond the lease period.

In two[76] test checked divisions, it was noticed that the Corporation could not complete the exploitation work of 14 salvage lots within the lease period and sought extension for the working period with delay, ranging between one and 97 months. However, the Department did not raise any demand to realise extension fee of ₹ 9.56 lakh, which was also not paid by the Corporation.

Thus, inaction on the part of the Department to claim the extension fee resulted in short realization of revenue of ₹ 9.56 lakh.

The Department intimated (October 2020) that DFOs concerned have been directed to reconcile the amount with the concerned Divisional Manager of the Corporation. The Government intimated (July 2020) that directions have been given to the Department for necessary action.

The Government may devise a mechanism to maintain permanent records of trees and leases granted for forest conservation, efficient management of tree resources and efficient mobilisation of financial resources and direct the divisions to work towards reconciliation of royalty, interest and extension fee with the Corporation on regular basis and raise demand promptly to realise revenue.

[75] Number of trees – 2,627 and volume 6,743.87 cum.
[76] Kotgarh – 7 lots; extension fee - ₹ 2.65 lakh and Rohru – 7 lots; extension fee - ₹ 7.00 lakh.

2.24 Non-disposal of seized timber

The Department did not dispose of seized timber measuring 66.098 cu.m lying in various depots, which resulted in blocking of revenue of ₹ 41.17 lakh.

Section 52 of the Indian Forest Act, provides for seizure of property liable to confiscation. As per Departmental instructions of April 1951, seized timber or forest produce, after accounting for in Form-17, should be kept in the *spurdagi* (safe custody) of a *sapurdar*[77] or with the concerned field staff. The Principal Chief Conservator of Forest (PCCF) instructed (April 1999) all Conservators of Forest (CFs) that where the *spurdagi* of forest produce is taken for unduly long period, the concerned Investigating Officer should be asked to obtain orders of the Competent Court for auctioning the seized property within 15 days, to minimize expenditure on watch and ward and further deterioration/pilferage of such produce.

Scrutiny of timber forms of five forest divisions between August 2018 and March 2019 showed that in 11 ranges, the Department had seized timber measuring 66.098 *cu.m* valued at ₹ 41.17 lakh[78]. The Department did not reinforce or review the Departmental instructions for suitable framework to dispose of the seized timber on time or to optimize its revenue collection. Thus, failure of the Department to obtain orders of the Court for auctioning seized timber within the prescribed time of 15 days resulted in not only blocking of revenue but also incurring of expenditure on watch and ward and carried the risk of further deterioration of timber.

On this being pointed out (between August 2018 and March 2019), the DFOs stated that efforts were being made to auction the seized timber.

The matter was reported to the Government between September 2018 and April 2019; their reply was awaited (November 2020).

The Government may consider issuing instructions to the Department to ensure the auction proceedings within stipulated time, for timely disposal of seized timber.

2.25 Non-tapping of resin blazes

The Department carved only one blaze instead of two blazes on Chil trees irrespective of class of trees, resulting in non-tapping of 16,127 blazes and loss of revenue of ₹ 8.28 lakh.

The Manual of HP Forest Department Volume-IV and notification of April 2007, of the Government of Himachal Pradesh prescribes that two blazes are to be carved per *Chil* tree having girth 1.90 meter (dia 60 cm) and above. Further, the Pricing Committee in its meetings of March 2017, March 2018 and January 2019 fixed the final rates of ₹ 65, ₹ 51 and ₹ 50 per blaze for the tapping season 2015 to 2017 respectively, which were to be paid by Himachal Pradesh State Forest Development Corporation (HPSFDC) Limited to the Forest Department.

[77] A *lambardar* or any reliable person of a place.

[78] Ani at Luhri: vol: 9.510 cu.m ₹ 5.58 lakh, Churah at Salooni: vol: 2.472 cu.m ₹ 1.61 lakh, Dharamsala: vol: 5.892 cu.m ₹ 4.13 lakh, Kotgarh: vol: 43.705 cu.m ₹ 27.16 lakh and Pangi at Killar: vol: 4.52 cu.m ₹ 2.68 lakh.

During 2018-19, Audit test checked the lists of handed over trees for resin tapping of five DFOs involving 139 cases and observed that in the Forest Division Ani at Luhri, 49 cases of trees having dia of each tree more than 60 cm, were handed over to HPSFDC Limited for resin tapping. Out of these, in seven cases, HPSFDC Limited had carved only one blaze on 16,127 *Chil* trees against the required two blazes on each tree as dia of these trees was more than 60 cm. Thus, due to failure on the part of DFOs to follow the procedure as laid down in the manual, resulted in short tapping of 16,127 blazes and short realisation of revenue of ₹ 8.28 lakh.

The Department intimated (September 2020) that trees were being tapped under cup-lip method before introduction of rill method, resulting in less space on the trees for current blaze and due to hilly terrain only one blaze could be tapped. The reply is not acceptable as it has nowhere been prescribed that adopting a particular method would hamper the process of carving of two blazes on trees having dia of 60 cm or above and as per the notification issued by the Government, two blazes per tree were required to be marked. The reply of the Government was awaited (November 2020).

The Government may consider issuing necessary directions to the Department to follow the provisions of the Act/Rules.