

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2016-2019)**

SEVENTEENTH REPORT
(Presented on 22nd March, 2018)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2018**

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On

**Paragraphs relating to Registration and Commercial Taxes Department
contained in the Report of The Comptroller and Auditor General
of India for the year ended 31 March, 2011 (Revenue Receipts).**

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INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the 17th Report on paragraphs relating to Registration and Commercial Taxes Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2011 (Revenue Receipts).

The Reports of the Comptroller and Auditor General of India for the year ended 31st March 2011 (Revenue Receipts) was laid on the Table of the House on 6th March 2012.

The Committee considered and finalised this Report at the meeting held on 19th March, 2018.

The Committee place on record their appreciation of the assistance rendered to them by the Accountant General in the examination of the Audit Report.

Thiruvananthapuram,
19th March, 2018.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

REPORT

REGISTRATION AND COMMERCIAL TAXES DEPARTMENT

AUDIT PARAGRAPH

Tax Administration

The Registration Department is under the control of the Secretary to the Government, Taxes at Government level and the Inspector General of Registration is the head of the Department. Instruments affecting immovable property are to be presented for registration in the office of the Sub-Registrar within whose jurisdiction the whole or some portions of the property is situated.

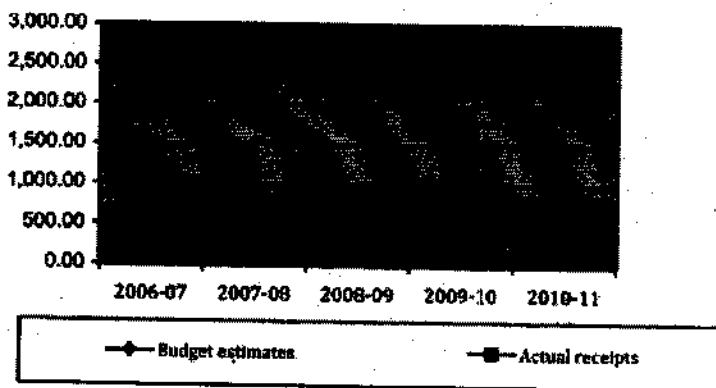
Trend of Receipts

Actual receipts from stamp duty and registration fees during the last five years (2006-07 to 2010-11) along with the budget estimates during the same period is exhibited in the following table and graph:

(₹ in crore)

Year	Budget Estimates	Actual receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts	Percentage of growth rate
2006-07	1,400.37	1,519.93	(+) 119.56	(+) 8.54	11,941.82	12.73	37.99
2007-08	1,524.12	2,027.97	(+) 503.85	(+) 33.06	13,668.95	14.84	33.42
2008-09	2,420.56	2,002.99	(-) 417.57	(-) 17.25	15,990.18	12.53	(-) 1.23
2009-10	2,728.63	1,896.41	(-) 832.22	(-) 30.50	17,625.02	10.76	(-) 5.32
2010-11	2,187.51	2,552.49	(+) 364.98	(+) 16.68	21,721.69	11.75	34.59

Budget estimates and actual receipts



We noticed that after two years of negative growth in 2008-09 and 2009-10 the Department achieved positive growth during 2010-11.

Cost of Collection

The gross collection of revenue receipts under the head Stamps and registration fees, expenditure incurred on collection and the percentage of expenditure to gross collection during 2006-07 to 2010-11 along with the all India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection	Expenditure on collection of revenue	Percentage of Expenditure to gross collection	All India average percentage over the previous year
2006-07	1,470.73	59.06	4.02	2.87
2007-08	1,946.08	77.64	3.99	2.33
2008-09	1,931.75	82.97	4.30	2.09
2009-10	1,812.89	100.70	5.55	2.77
2010-11	2,477.19	101.56	4.09	2.47

(Source : Finance Accounts and Departmental figures)

We appreciate that the cost of collection has come down substantially (1.46 per cent) during 2010-11 due to increase in revenue collection by 36 per cent. However, the cost of collection is more than the All India average and thus Government may take steps to reduce the cost of collection.

Impact of Audit

During the last four years, we pointed out undervaluation of documents, short levy of stamp duty etc. with revenue implication of ₹ 18.24 crore in 834 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 3.75 crore and had since recovered ₹ 0.09 crore. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2006-07	96	0.59	15	0.10	9	0.01
2007-08	245	1.59	118	0.25	6	0.02
2008-09 Vol. I	235	7.02	54	0.38	52	0.03
2009-10	258	9.04	176	3.02	54	0.03
Total	834	18.24	363	3.75	121	0.09

As seen from the above table, the recovery made by the Department is only 2.40 per cent of the amount involved in the total accepted cases.

[Audit paragraphs 4.1 to 4.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts)].

To a query of the Committee the witness, Inspector General, Registration Department explained that the oscillation in the number of registration of document was the prime reason behind the negative growth in income during 2008-09 and 2009-10 and detailed that documents got registered in the years 2008-09 and 2009-10 were 2.8% and 5.5% respectively less in the number of

documents than the previous years. The introduction of fair value for land in the State with effect from 1-4-2010 reflected in the number of registration in the year 2010-11. The Committee accepted the explanation furnished by the Department.

2. Regarding cost of collection the witness, Inspector General, Registration Department submitted that it was very low at national level when compared to that of our state and he asserted that it showed 2.47 % decrease in the year 2010-11 in the State. He doubted the accounting system followed by the Audit regarding cost of collection. Intervening the matter, an official from the Office of the Accountant General apprised that the cost of collection is being assessed based on the figures submitted by the Taxes (Registration) Department itself and in other cases, where the figure were not submitted by the department the Accountant General generally rely Finance Department, for the details regarding Cost of collection. He continued that three items such as cost of stamps, expenses towards sale and administrative expenses inclusive of salaries, wages etc. were incorporated to calculate the cost of collection.

3. Detailing the matter, the witness, Inspector General, Registration Department, informed that the printing and distribution of stamp paper, issual of commission to the vendors etc. were brokered through the treasury system and expenses incurred under these heads were also reckoned under Registration Department. Regarding the audit paragraph, the Inspector General, Registration Department was optimistic that with the introduction of e-stamping, average cost of collection could be reduced. The Committee urged the Taxes (Registration) Department to look into the matter and furnish a report to it.

4. With regard to the audit observation, the Committee asked, whether steps had taken to collect the accepted amount the witness, Inspector General, Registration Department informed that the findings of the Accountant General was merely on the basis of quoting the value in Gahan or the value in the subsequent documents. The department would examine the real figure booked by the Accountant General and would realise only the figures which were found under valued. Intervening the matter, the Committee wanted to know the details regarding the fair value of land in the State, the witness, Inspector General,

Registration Department deposed that the same was implemented on 1st April, 2010 and its sudden launching had created hue and cry among the public, and so as to ease the situation the department decided to reduce the stamp duty.

5. In this context the Committee observed that Government of India (GOI) has stipulated a reduced rate of stamp duty and directed the States to standardize the stamp duty to national level also, and reminded that it was one of the main conditions of JNNURM (Jawaharlal Nehru National Urban Renewal Mission). The witness, Inspector General, Registration Department continued that in the year 2010 the stamp duty existed in Panchayath, Municipality and Corporation at the rate of 10%, 12.5% and 13.5% respectively had been reduced to the corresponding 7%, 8% and 9% and surcharge of 4% on stamp duty had also been reduced and there had been an increase of ₹ 600 crore in collection even after the reduction of stamp duty to 4 per cent. Responding to a question, he also submitted that the stamp duty of 5, 6 & 7 per cent provided in these levels, were also rationalised into 6 per cent in the previous year. He added that about 60% of registration in the State was done in the Grama Panchayaths and corresponding increase in revenue collection has been anticipated in the current year.

6. Responding to a doubt put forth by the Committee, whether the Stamp duty had reduced, or not, the witness Inspector General, Registration Department clarified that the stamp duty was not reduced but it was rationalised. Citing various examples he also refuted the argument made by the Accountant General that there was a marginal decrease in the registration of title deeds in the State.

Conclusions/Recommendations

7. The Committee observes that, the cost of revenue collection in the state is much higher than the All India average and directs the Registration Department to take necessary steps to bring down the cost of collection. The Committee also urges the Taxes (Registration) department to examine whether average cost of collection could be reduced by the introduction of e-stamping and insists to furnish a report in this regard at the earliest.

AUDIT PARAGRAPH

Results of audit

In 2010-11 we test checked the records of 164 units relating to the Registration Department and detected undervaluation of documents and other irregularities involving ₹ 47.24 crore in 235 cases which fall under the following categories:

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1	Levy and collection of Stamp Duty and Registration Fees (A review)	1	41.29
2	Undervaluation of documents	225	5.89
3	Other lapses	9	0.06
	Total	235	47.24

The Department accepted undervaluation and other deficiencies of ₹ 2.75 crore in 87 cases, of which 38 cases involving ₹ 1.61 crore were pointed out in audit during the year 2010-11 and the rest in earlier years. An amount of ₹ 4.02 lakh was realised in 74 cases during the year of which seven cases involving ₹ 0.47 lakh pertained to 2010-11.

A review on "Levy and Collection of Stamp Duty and Registration Fees" with financial impact of ₹ 41.29 crore and a few illustrative observations involving ₹ 25.14 lakh are mentioned in the following paragraphs:

Introduction

The Indian Stamp Act (IS Act), 1899, the Registration Act, 1908, the Kerala Stamp Act (KS Act), 1959 and the rules made thereunder regulate receipts from stamp duty and registration fees in the State. Section 17 of the Registration Act deals with documents for which registration is compulsory and Section 18 deals with documents for which registration is optional. Every instrument chargeable with duty shall be stamped before or at the time of execution of the document at the rates prescribed in the Schedule to the Kerala Stamp Act and the Indian Stamp Act.

The adequacy of stamp duty in respect of documents which require compulsory registration is to be ensured by the registering authority when the documents are presented for registration, whereas no mechanism is in existence to ensure the adequacy of stamp duty in respect of documents for which registration is optional. However, Section 34 of the KS Act, envisages that public officers shall not act upon instruments not duly stamped, unless proper stamp duty, along with penalty which may extend upto ten times the deficit stamp duty, is paid. Further, Section 68 of the KS Act requires public officers to keep records maintained in public offices open to inspection by a person authorised by the collector to identify any fraud or omission in relation to any duty.

Organisational setup

The Secretary to the Government, Taxes Department has administrative control over the Department of Registration; which deals with levy of stamp duty, registration fees, penalty and other dues under the Kerala Stamp Act. The Inspector General of Registration (IGR) is the head of the Department and is assisted by one Joint IGR, two Asst. IGRs and one Deputy IGR at Headquarters. The Department is divided into four zones, each under the control of a Dy. IGR. There are 14 District Registrars (General) (one for each district) and 10 District Registrars (Audit) and 321 Sub-Registrars posted in the 310 Sub Registry Offices. The levy and collection of stamp duty and registration fee on instruments is done by District Registrars and Sub-Registrars.

Audit Objectives

We conducted the review to examine:

- the efficiency and effectiveness of the systems and procedures relating to levy and collection of stamp duty and registration fee;
- whether the Department has systems in place to identify various types of transactions that require payment of stamp duty and registration fee;
- the extent of compliance with the prescribed rules and procedures;

- the objective and manner of implementation of the Amnesty scheme and the extent to which the objective was achieved;
- whether systems are in place and are effective for timely detection and plugging of leakage of revenue.

Scope and methodology of audit

We conducted the review during November 2010 to March 2011 and covered the period from 2005-06 to 2009-10. We test checked records and collected information from the IGR's office, the District Registrar's offices in seven¹ districts selected out of 14, and 35² Sub Registry Offices selected out of 169 SROs in the selected seven districts. The details regarding issue of bonds/debentures/shares by companies were collected from the Registrar of companies, Kerala and the Ministry of Corporate Affairs website. The details of trade in securities by brokers on behalf of clients in Kerala were collected from the BSE and NSE. Details regarding sale of flats/apartments were collected from Commercial Taxes Department and Sub Registry Offices. Details of lease of immovable properties were collected from Local Bodies and Cochin Port Trust.

For selection of seven districts (50 per cent) for the review the fourteen districts were divided into two clusters; Cluster I consisting of five districts having municipal corporations and Cluster II consisting of the remaining nine districts. Three districts from Cluster I and four districts from Cluster II were selected by using Probability Proportional to Size Sampling Without Replacement (PPSWOR) method. One district each in Cluster I and II were replaced with districts suggested by the Departmental officers of the Government of Kerala during the entry conference (December 2010) attended by the Joint Secretary (Taxes) and Joint IGR. Selection of 35 SRO's (20.7 per cent) out of 169 in seven districts were also made using the above method. The Secretary to Government (Taxes) and joint IGR

1 Ernakulam, Idukki, Kannur, Kasargod, Kozhikode, Thiruvananthapuram & Thrissur.

2 Ayyanthol, Attingal, Chalai, Chalakkudy, Chathamangalam, Edappally, Ernakulam, Fort, Hosur, Kadachira, Kakkody, Kannur, Karikode, Kasargod, Kattappana, Koduvally, Koothuparamba, Kozhikode, Kuttanallur, Kuzhuppilly, Maradu, Meenchanda, Mundoor, Nemom, Neyyattinkara, Pattom, Thiruvallam, Thalassery, Thaliparamba, Thodupuzha, Thrikkakkara, Thrissur, Vadakkancheri, Varkala and Westhill.

attended the exit conference (June 2011). Replies of the Government/Department furnished during the exit conference and subsequently have been appropriately included in the Report.

Acknowledgement

We acknowledge the help and co-operation extended by the Registration Department, Commercial Taxes Department, Registrar of Companies, (Kerala & Lakshadweep), Local Bodies and Cochin Port Trust, NSE/BSE, NSDL and banks in providing necessary information and records for the review. The draft review report was forwarded to the Government on 30th May, 2011 for their response.

AUDIT FINDINGS

Trend of revenue

(₹ in crore)

Year	Budget estimates	Actual collection	Variation excess(+)/ shortfall(-)	Percentage of variation to Budget Estimates
2005-06	895.27	1,101.41	206.14 (+)	23.03 (+)
2006-07	1,400.37	1,519.93	119.56 (+)	8.54 (+)
2007-08	1,524.12	2,027.97	503.85 (+)	33.06 (+)
2008-09	2,420.56	2,003.00	417.56 (-)	17.25 (-)
2009-10	2,728.63	1,896.41	832.22 (-)	30.50 (-)

There was a steady increase in the budget estimates. The actual revenue collection was in excess of the budget estimates during the years 2005-06 to 2007-08 and there was shortfall in collection during 2008-09 and 2009-10. The shortfall was substantial during 2009-10 in spite of collection of ₹ 63.77 crore under compounding scheme in 270130 undervaluation cases. The reason for the shortfall during 2008-09 and 2009-10 was stated to be the effect of recession in real estate business in these years. We also found that the shortfall during 2008-09 and 2009-10 was due to decrease in the number of documents registered.

Chapter III para 14 of Kerala Budget Manual stipulates that the estimates should neither be inflated nor under-pitched, but as accurate as practicable. The

Department stated that the budget estimates were prepared in respect of stamp duty and registration fees by adding 20 per cent and 5 to 10 per cent over the actual collection in the previous year respectively. However, on an analysis of budget estimates, we found that the increase over actual collection ranged from 10.25 per cent to 51.73 per cent in respect of judicial stamps and (-) 2.82 per cent to 33.24 per cent in respect of non-judicial stamps. The increase in respect of registration fee ranged from 5 per cent to 105.6 per cent. Hence, we recommend that the Department must devise a more scientific basis for preparing budget estimates than adopt a flat per cent inflation.

[Audit paragraphs 4.5 to 4.6.7 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is included as Appendix II.]

8. Regarding the audit observation, the Committee enquired the reason for decline in registration of title deeds last year in the State, the witness, Inspector General, Registration department detailed that 12.78 and 11.79 lakh title deeds were got registered in the years 2012-13 and 2013-14 respectively which implied that in the year 2013-14 registration was less in number than the previous year. To a query of the Committee he added that about three percentage of registration are of partition deeds. He also added that deeds in the year 2013-14 includes sixty three per cent of sale documents, 3.4% partition documents, 10.3% release deed and 19.3% of gift deeds. To a query he also deposed that the percentage of registration of settlement deed had increased from ten to nineteen and clarified that both the gift and settlement mean one and the same as per Transfer of Property Act of 1882 (T.P.Act). When enquired about the effect of slab system in family document, he remarked that the slab system of registration of deeds is not practicable in the case of family documents.

Conclusion/Recommendation

9. No comments.

AUDIT PARAGRAPH**Computerisation of Registration Department**

The Government of Kerala approved the project of Computerisation of the Registration Department in January 2000. NIC developed the software-Package for Effective Administration of Registration Laws (PEARL) with Visual Basic and MS SQL Server in Windows platform. All the 310 SROs have been supplied with a server, two personal computers (three PCs where there were two Sub Registrars), two dot-matrix printers, one laser jet printer and one scanner each along with the required UPS working in LAN. For issuing certified copies a digital imaging unit comprising a digital camera, a PC and a laser printer each was provided to all the 310 SROs.

An IT audit review on PEARL was conducted during the period February-May 2009. The findings of the review report appeared in the Audit Report for the year ending March 2009. We noticed that the Department had taken considerable efforts to implement the recommendations made by us in our earlier audit review and to rectify/change the software.

Further, the Department envisaged (August 2009) an IT enabled solution for the implementation of the Compounding scheme 2009 introduced by the Government as a one time settlement for clearing all pending undervaluation cases in the Registration Department. Accordingly, E-mudra (Electronic Module for undervalued documents in registration and administration) software was developed by C-DIT for managing the one time settlement of undervaluation as per the user requirement specification furnished by the Department. An amount of ₹ 10.92 lakh was paid to C-DIT for software development charges, database conversion charges and hosting charges. The existing PEARL database was converted into Unicode format for integration with the application.

The system consists of the following modules:

1. Offline Notice Generation Module
2. Offline Remittance Module

3. Online Data Updation Module
4. The Report Generation Module
5. The Administration Module

The software was installed in the District Registrar Offices between December 2009 and February 2010, i.e., eight months after commencement of the Compounding Scheme 2009 by which time 8.97 lakh notices had already been issued manually. Out of 6.57 lakh notices issued after installation of E-mudra, only 16190 notices were generated in seven DR offices through E-mudra (2.44 per cent) using the Offline Notice Generation Module. Receipts for remittances made under the scheme were generated using Offline Remittance module in 5156 cases. The Online Data Updation Module could not be put to use since feeding of primary details of UV cases had not been completed in any of the DR offices. Thus, the objective of implementation of E-mudra could not be achieved.

Compliance deficiency—Fixation of fair value

Under the Registration Act, 1908, instruments affecting immovable property are to be presented for registration in the office of Sub Registrar (SR) within whose sub-district, the whole or some portion of the property is situated. Under section 28A of the KS Act, every Revenue Divisional Officer (RDO) shall fix the fair value of the land situated within the area of his jurisdiction, for the purpose of determining the duty chargeable at the time of registration of instruments involving lands. Under section 45A, where the registering officer finds that the value of land or consideration set forth in the instrument is less than the fair value of the land fixed under section 28A, he shall by order direct the payment of proper stamp duty on the fair value of the land. Though the fair value of land in the State was fixed by the RDOs concerned on 5 January 2004, it was withdrawn on 19th February, 2004 due to public complaints and to provide an opportunity to interested parties to file objections/suggestions on the value notified. Though the Government directed the RDOs in February 2004 that the final notification would be issued within 120 days from the draft notification after considering objections and suggestions received from the public, the final notification of the fair value of land was issued and implemented only with effect from 1st April, 2010.

During the period under review, no fair value was in existence. In the absence of fair value, undervaluation cases were to be dealt with under Section 45B of the KS Act, which provides that if the registering officer, while registering instruments involving transfer of property has reason to believe that the value of the property or the consideration has not been fully and truly set forth in the document, he may, after registering such document, refer the same to the Collector for determination of the value or consideration and the duty payable thereon. The Collector may also suo-motu, within two years from the date of registration of any instrument not already referred to him, call for and examine the instrument and determine its consideration and the duty payable thereon. The Government in October 1986 appointed the District Registrars (DR) as Collectors for this purpose. Year-wise details of undervaluation cases reported during the period of review are given below:

Year	Number
2005-06	251600
2006-07	254980
2007-08	187462
2008-09	128441
2009-10	24285
2010-11	23218

During the review period, the SRs had reported 26.24 per cent of the total documents registered as undervaluation cases. Out of this 21.25 per cent was decided by the DRs and 26 per cent of the decided cases were settled. We find that the Department was not manned by trained officials to handle the huge number of undervaluation cases accumulating year after year.

We consider that fixation of fair value has had a salutary impact on the number of cases reported for undervaluation which came down drastically from an average of two lakh cases a year to 23218 during 2010-11.

[Audit paragraph 4.6.8 and 4.6.9 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraph is included as Appendix II.]

10. With regard to the audit observation, the Committee wanted to know the present position of computerisation in the Registration Department. The witness, Inspector General, Registration Department replied that a software namely E-Mudra (Electronic module for undervalued documents in registration and administration) was developed by C-DIT for managing the one time settlement of undervaluation cases as per the user requirement specification furnished by the department, but data entry could not be completed due to the acute shortage of manpower in the department. He submitted that it had accelerated in the collection of money which was due to the department and disclosed that an amount of ₹ 69.22 crore had realized out of targeted ₹ 100 crore in the year 2009. To a query whether the collection was increased in the succeeding years, the witness, Inspector General, Registration Department also disclosed that an amount of ₹ 30 crore had been realised in 2012 by launching one time settlement scheme by the department from the period 2012 to 31-3-2014 and informed that 10 lakh cases were still pending. In this context the Committee sought the possibility of conducting district wise camps to clear the pending cases on the ground that the government is unable to proceed with ten lakh cases in a row. The witness, Inspector General, Registration Department replied that the department had proceeded with Revenue Recovery proceedings instead of one time settlement right now. But when the Committee pointed the practical difficulty in resorting the RR proceedings for such a huge number of cases, the witness, Inspector General, Registration Department replied that Revenue Recovery proceedings could solve the issues pending since 1986. The department now targets to initiate action on the latest cases, he added. He also continued that, the number of undervaluation cases had been lowered to 25000 as against the 2 lakh cases in 12 lakh title deeds. In this context the Committee directed the Registration Department that pendency should be cleared in a time bound manner.

Conclusion/Recommendation

11. The Committee perceives that by resorting RR proceedings the department could solve the pending issues since 1986 and could decrease the number of undervaluation cases considerably. As the Committee is informed that the department is concentrating on latest cases, it also recommends that Registration department should take necessary steps to clear all the pendencies in a time bound manner.

Implementation of compounding scheme

The government introduced compounding schemes in 1997 and 2002 with the objective of settling pending undervaluation cases since 1986. Under the first scheme, liability of the parties stood completely discharged on payment of 30 per cent of the stamp duty already levied, whereas the second scheme envisaged payment of 30 per cent of the deficit stamp duty and registration fee.

On expiry of the Compounding Scheme, 2002 on 31st March, 2004, there were 4.85 lakh UV cases pending settlement. Introduction of the amnesty schemes at regular intervals and large number of undervaluation cases remaining unsettled at the end of these schemes indicated that these schemes were not effectively implemented.

The total number of UV cases pending settlement as on 31st March, 2009 was 17.19 lakh. The PAC in its 111th Report (2008-2011) on undervaluation cases in the Registration Department had reiterated the need to sort out the matter either by revenue recovery processes or through an Amnesty Scheme, giving maximum possible discounts on stamp duty.

Based on the recommendation of PAC, the Government of Kerala, introduced³ a scheme for disposal of undervaluation cases referred to the Collectors by the registering officers under sub-section (1) of Section 45B of KS Act up to

3 Notification No. G. O. (P) 57/2009/TD dated 27-3-2009.

31st March, 2009. Under the scheme, about 20.11 lakh cases involving revenue of ₹ 2,409 crore were proposed to be considered for disposal and the liability of the parties stood completely discharged on payment of a fixed amount which was based on the extent of land and locality as detailed below:

Sl. No.	Extent	Corporation Area	Municipal Area	Panchayat Area
1	Transactions upto 5 cents	₹ 2,000	₹ 1,000	Fully exempted
2	Above 5 cents upto 10 cents	₹ 5,000	₹ 3,000	₹ 1,000
3	Above 10 cents upto 50 cents	₹ 10,000	₹ 5,000	₹ 2,000
4	Above 50 cents	6 per cent of the stamp duty already paid or ₹ 12,000, whichever is higher	4 per cent of the stamp duty already paid or ₹ 7,000, whichever is higher	2 per cent of the stamp duty already paid or ₹ 3,000, whichever is higher

We were unable to verify the rationale behind the determination of fixed amount of duty for each category, as such records were not available with the IGR. The scheme, though initially introduced for a period of six months from 1st April, 2009 was finally extended upto 31st March, 2011. We noticed that the successive compounding schemes have been more generous than the earlier schemes in discharging liability in undervaluation cases. We consider that such liberal dispensations may deter prompt settlement of undervaluation cases.

Target and achievement under compounding scheme

We noticed that the Department had made concerted efforts to issue 15.54 lakh notices to parties to settle undervaluation cases under the scheme. However, despite such efforts, the Department was able to mop up only ₹ 69.22 crore in 2.91 lakh cases (18.73 per cent) at an average of ₹ 2,380 per case under the scheme against a target of ₹ 100 crore. We consider that failure of

the Department to initiate action against 4.73 lakh out of 4.85 lakh persons who did not respond to the previous compounding schemes was mainly responsible for the poor response to the compounding scheme.

Loss of revenue due to short accounting of UV cases

Analysis of data furnished by IGR, Thiruvananthapuram, revealed that 213190 UV cases involving revenue of ₹ 50.74 crore, were not brought under Compounding Scheme 2009 as detailed below:

No of UV cases pending settlement as on 31 March 2004	No of UV cases reported from 2004-05 to 2008-09 by SROs	Total	No of cases settled during 2004-05 to 2008-09	Cases to be brought under compounding scheme	No of UV cases pending as on 31 March 2009 as per information furnished by IGR	Difference (being cases not brought under compounding scheme)
9,53,770	10,41,999	19,95,769	58,316	19,37,453	17,24,263	2,13,190

The Collection under compounding scheme was as detailed below:

No of UV cases pending disposal as on 31st March, 2009	No of cases exempted being below 5 cents in Panchayat area	No of cases settled under compounding scheme as on 31st March, 2011	Balance No of cases pending collection as on 31st March, 2011	Amount collected under compounding scheme as on 31st March, 2011 ₹	Average collection per case under compounding scheme ₹
17,24,263	2,30,440	2,90,808	12,03,015	69.22 crore	2,380

Based on the average collection of ₹ 2,380 per case settled under the compounding scheme, the total revenue involved in respect of 184708 cases (after giving an allowance of 13.36 per cent towards exemption in panchayat area) not brought under the compounding scheme in the State works out to ₹ 43.96 crore.

Lack of periodic reconciliation of UV cases reported by SROs with the records of UV cases received in the District Registrar Offices and improper maintenance of records resulted in the short accounting of UV cases.

The Department may take action to reconcile, identify and account for the missing UV cases for further action.

Potential revenue remaining unrealised in undervaluation cases

Test check of records of the selected 35 SROs in seven selected districts in the State with reference to the records of District Registrar Offices of the selected districts revealed the following.

- The total number of UV cases pending settlement in respect of selected SROs in seven districts as on 31st March, 2009 was 3.63 lakh cases involving deficit stamp duty of ₹ 653.01 crore and registration fee of ₹ 134 crore.
- Final orders were issued in 5854 cases which represents 1.61 per cent of UV cases pending in the selected SROs. Collection of ₹ 2.44 crore was effected in 5381 cases in which final orders were issued during the period 2004-05 to 2008-09. This represents 91.92 per cent of the number of UV cases in which final orders were issued. Average collection of stamp duty in each case is ₹ 4,537.

The number of UV cases pending settlement in the State as on 31st March 2011 is 12.03 lakh. Potential revenue remaining unrealised in respect of the pending cases that could have been realised; in the normal course by issue of final orders would work out to ₹ 545.81 crore based on the average collection of ₹ 4,537. Even if all the pending cases were settled under the compounding scheme potential revenue that could have been realised based on the average collection of ₹ 2,380 per case under the compounding scheme would be ₹ 286.32 crore.

The District Registrars stated that huge pendency in UV cases was due to paucity of staff. However, we noticed that no time limit/target was fixed for issue of final orders by DRs in UV cases. In the absence of final orders no enforceable demand was created for recommending cases for RR action in case of non-payment of deficit SD & RF by the concerned parties in UV cases.

Government may implement a time bound action plan to settle outstanding undervaluation cases.

Loss of revenue due to short collection of stamp duty under compounding scheme

- In S.R.O. Kozhikode, one undervaluation case involving an extent of 96 cents of land in corporation area was settled under the compounding scheme collecting ₹ 5,000 instead of ₹ 81,000 resulting in short collection of ₹ 76,000.
- In S.R.O., Thiruvananthapuram, three undervaluation cases involving an extent of more than 50 cents were settled under the compounding scheme collecting ₹ 36,000 (12,000 each) instead of ₹ 78,870 resulting in short collection of ₹ 42,870.
- In S.R.O. Chala, one undervaluation case involving an extent of 1.01 hectare was settled under the compounding scheme collecting ₹ 13,500 instead of ₹ 40,500 resulting in short collection of ₹ 27,000.

The total short collection in three SROs mentioned above is ₹ 1.46 lakh. We are of the view that the above mistakes occurred due to application of incorrect rate of compounding duty based on the classification of land and stamp duty already paid.

Irregular exemption under compounding scheme

In S.R.O. Maradu one undervaluation case involving recommended deficit stamp duty of ₹ 3.70 lakh and RF of ₹ 0.70 lakh and having an extent of 51.02 cents of land was exempted as a case below 5 cents in panchayat area. The irregular exemption resulted in loss of revenue of ₹ 4.40 lakh.

[Audit paragraph 4.6.9 and 4.6.10 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is included as Appendix II.]

12. Regarding the audit observation, that due to short collection of stamp duty under compounding scheme in the three Sub Registrar Offices at Kozhikode, Thiruvananthapuram and Chala resulted in the revenue loss of ₹ 1.46 lakh to the Government, the Committee firmly opined that, Government must review the one time settlement scheme and urged to initiate action in cases which were not settled under the amnesty scheme. It also recommended to formulate a system to check whether the compounding fee collected during settlement under amnesty scheme was compatible with the amount fixed as per the norms and also to ensure that lesser amount would not be realized under any circumstance.

13. Regarding the audit reference, that 213190 undervaluation(UV) cases involving revenue of ₹ 50.74 crore were not brought under the compounding scheme of 2009, the Committee sought explanation and the witness, Inspector General, Registration Department informed that while consolidating the undervaluation cases reported by Sub registrars at the District Registrar Office, some shortfall had been occurred in the figures and necessary instructions had been issued to the District Registrar and subordinate officers for reconciliation of the figures. He submitted that the department suffers paucity of space in the offices to maintain the voluminous records which were added year by year. He hinted the earlier remarks of the Accountant General in its 1997-Report that 504922 case file in 13 District Registrar Offices were reported to be destroyed by white ants were not traceable as a justification for the short accounting of UV cases. Intervening the matter, an officer from the office of the Accountant General appraised that periodical reconciliation had not been done as there was no mechanism to monitor whether the details of undervaluation cases were forwarded to the Office of District Registrar from the office of the Sub Registrar were recorded or not. In this context the Committee decided to recommend that the reconciliation process should be speed up and should be completed in a time bound manner.

14. Regarding the audit observation made by the Accountant General that the Potential revenue remaining unrealized, the Inspector General Registration Department submitted that in respect of the pending cases the revenue could have been realized in the normal course by the issuance of relevant orders. The senior audit officer informed that District Registrars had issued orders to initiate RR proceedings only in 5854 cases out of the total 3.63 lakh undervaluation cases. The Committee was astonished to understand that the total number of undervaluation cases pending settlement in respect of selected Sub Registrar Offices (SROs) in seven districts as on 31st March, 2009 was 3.63 lakh which involves deficit stamp duty of ₹ 653.07 crore and registration fee of ₹ 134 crore, and only 1.61 per cent of the total cases were settled by the DRs. Re-joining with arguments of the IGR, the Committee opined that this could be an important source of Revenue to the State Exchequer and decided to recommend that sufficient staff should be redeployed on temporary basis to settle this issue at the earliest.

Conclusions/Recommendations

15. The Committee observes that the implementation of compounding scheme with liberalised provisions resulted in huge loss to the exchequer. The Committee directs the Department to formulate a system to check whether compounding fee collected during settlement under Amnesty Scheme was compatible with the amount fixed as per the norms. The Committee also recommends that the Registration Department should review the one time settlement scheme and to initiate action against the unsettled cases. The Committee also insists that a strict supervision is needed to ensure that an amount lesser than that fixed as per norms wouldn't be collected under any circumstances and a proper system should be implemented to monitor the procedure.

16. The Committee is aggrieved to note that improper maintenance of records and lack of periodic reconciliation of undervaluation cases resulted in short accounting of undervaluation cases. Therefore, the Committee recommends that reconciliation of undervaluation cases should be speeded up and completed in a time bound manner in order to identify the missing undervaluation cases and account for further action.

17. The Committee is astonished to note that lack of staff resulted in huge pendency in undervaluation cases which prevents the realisation of potential source of revenue to the State exchequer. Therefore, the Committee recommends that time bound action plan should be implemented to settle outstanding undervaluation cases and by redeploying sufficient staff on temporary basis.

AUDIT PARAGRAPH

Loss of revenue due to lack of mechanism to effectively enforce provisions of Kerala Stamp Act, 1959

Every instrument chargeable with duty shall be stamped before or at the time of execution. Under section 33 of the Kerala Stamp (KS) Act, 1959, every person having by law authority to receive evidence and every person in-charge of a public office before whom any instrument, chargeable in his opinion, with duty, is produced, or comes in the performance of his functions, shall impound the same if it appears to him that such instrument is not duly stamped. The instrument so impounded shall be sent in original to the District Registrar who shall require the payment of the proper duty or the amount required to make up the same, together with penalty of an amount not exceeding ten times the amount of the proper stamp duty or of the deficient portion thereon. As per Section 34 of the KS Act, no instrument chargeable with duty shall be admitted in evidence or shall be acted upon by any public officer, unless such instrument is duly stamped.

As per the section 68 of the KS Act, public officers shall permit any person authorised in writing by the Collector, to inspect registers, books, papers, documents and proceedings which may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty. District Registrars have been notified as Collectors to exercise the powers under section 68.

As per section 17 (d) of the Indian Registration Act, 1908 registration is compulsory for leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent. Lease includes an under lease or sub-lease and any agreement to let or sublet (Article 33 of KS Act, 1959).

Test Check of records maintained in selected public offices revealed revenue loss of stamp duty and registration fee amounting to ₹ 23.46 crore due to failure of District Registrars to authorise persons to inspect records of public offices under Section 68 of KS Act 1959, to detect omissions/deficiencies in relation to stamp duty. The details are furnished below:

• **Non-registration of lease/licence deeds/agreements executed between Mobile tower infrastructure companies and land/building owners**

Test check in nine⁴ local bodies of 301 lease/rent/licence agreements of mobile tower infrastructure companies with the owners of the buildings along with applications for permits for setting up mobile towers revealed that none of the agreements was registered and the agreements were executed on stamp paper of ₹ 50/100 even though the agreements have all the essential characteristics of lease and all the agreements were required to be compulsorily registered. The revenue loss involved in 301 cases was ₹ 1.64 crore. The officers in charge of local bodies failed to impound the documents under section 33 of the KS Act. During 2005-06 to 2009-10, 8,412 permits were issued by the local bodies for setting up mobile towers in the State. Based on the average revenue loss per case, the potential revenue loss worked out to ₹ 23.18 crore⁵.

• **Non-registration of lease/licence/rent agreements relating to lodges/boarding homes/resorts**

Test check of lease/rent agreements produced along with application for registration of hotels/loading houses under the Kerala Luxury Tax Act in three⁶ Luxury Tax Offices in the State showed that the agreements were executed on stamp paper worth ₹ 50/100 and the agreements were not registered. The deficit stamp duty and registration fee involved in respect of 18 cases is ₹ 27.99 lakh.

4 Aluva, Ernakulam, Kanmir, Koduvally, Kollam, Kozhikode, Kunnammangalam, Thiruvananthapuram and Thrissur.

5 Average revenue loss in one case in Corporation Area ₹ 58095 x 353 permits = ₹ 205.08 lakh
Municipal area ₹ 46946 x 1082 permits = ₹ 507.96 lakh
Panchayat area ₹ 23000 x 6977 permits = ₹ 1604.71 lakh

Total = ₹ 2317.75 lakh.

6 Ernakulam, Mattanchery and Thiruvananthapuram.

The Department has not prescribed any norms for inspection of public offices. As per information collected from selected District Registrars and IGR, no inspection of public offices was conducted by officers of the Registration Department under section 68 of the KS Act to detect omission/deficit in relation to stamp duty.

• **Non-registration of lease agreements for installing ATMs of banks**

Many ATMS were established by various banks like public sector, private sector and new generation banks in Kerala during the last five years. Most of the ATMs were established in private buildings on long term lease with the building owners. With a view to identifying leakage of revenue in different areas, we collected details of 72 lease agreements executed by three⁷ banks with building owners for setting up ATMs in two⁸ cities in Kerala. It was noticed that out of 72 lease agreements, 38 agreements were not registered even though the lease was for periods exceeding one year and liable for compulsory registration. Revenue loss involved in respect of 38 lease agreements alone works out to ₹ 3.52 lakh.

• **Loss of revenue due to non-execution of lease of Cochin Port Trust land**

Lease deeds were not executed and registered in respect of 122 cases of lease of land of Cochin Port for periods exceeding one year to 37 years. This deprived the State Government of revenue by way of stamp duty and registration fee amounting to ₹ 2.15 crore and ₹ 54.71 lakh respectively.

There was no mechanism in the Department to obtain details of such omissions leading to leakage of revenue.

We recommend that the Government may prescribe norms for inspection of public offices by the employees of DRs to detect omission/deficiency in realisation of stamp duty.

⁷ Syndicate Bank, Canara Bank and Federal Bank.

⁸ Ernakulam and Thiruvananthapuram.

*** Loss of revenue due to execution of instruments having essential characteristics of lease as licence deeds**

As per Section 2(1) of the KS Act, lease means a lease of immovable property and also includes any agreement or other undertaking in writing to occupy or pay or deliver rent for immovable property'. As per article 33 of KS Act, lease includes an under lease or sub-lease and any agreement to let or sublet.

As per section 17(d) of the Indian Registration Act, 1908 registration is compulsory for leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent.

We observed in one Luxury Tax Assessment circle and Corporation of Thiruvananthapuram that two agreements, between lessor and lessee leasing out hotels, having all the essential characteristics of lease for period of more than one year were executed as license agreements on stamp paper worth ₹ 50. The revenue loss involved by way of stamp duty and registration fee was ₹ 6.93 lakh and ₹ 2.99 lakh respectively.

We found that states like Karnataka and Maharashtra have included 'Licence of movable and immovable properties' in their Schedules to the Stamp Act at a rate equal to that of lease. However, no such provision exists in the Schedule to the Kerala Stamp Act to plug the practice of creating documents of lease as licence deeds to evade stamp duty.

The Government may consider amending the KS Act by inserting provisions for levy of stamp duty on licence agreements relating to movable and immovable properties akin to such provisions in other states.

*** Loss of revenue due to undervaluation of sale deeds executed by builders/developers of flats/apartments**

We test checked 1,155 sale deeds executed by 22 builders of flats/apartments in selected sub Registrar Offices in the state and cross verified the details with reference to details in Form 49/agreements filed by the respective builders in four works contract offices under the Commercial Tax Department in the State.

We noticed that only two out of the 22 builders had shown the consideration reported as per form 49 in the 75 sale deeds executed by them. All the 504 sale deeds identified with reference to Form 49/agreements out of the balance 1080 sale deeds executed by the remaining 20 builders¹⁰ were undervalued. The deficit stamp duty and registration fee involved in the identified 504 cases was ₹ 8.36 crore and ₹1.75 crore respectively as shown below:

Total number of sale deeds test checked	1155
Number of cases in which discrepancy noticed with Form No. 49 (returned filed with the Commercial Taxes Department)	504
Short levy of stamp duty and registration fee in 504 cases	₹ 10.11 crore

In respect of the remaining 576 sale deeds, details of consideration set forth in Form 49/agreements were not available with Commercial Tax Department. The Builders were following the same pattern of undervaluation in all the sale deeds executed by them. Based on the average revenue loss of ₹ 2.01 lakh in one case the total deficit stamp duty and registration fee involved in respect of the remaining 576 sale deeds worked out to ₹ 11.58 crore. The loss of revenue would be substantial if sale deeds executed by all the builders in the State were taken into account.

We are of the view that if the registering officers had insisted for production of the original agreements for purchase/construction of flats/ apartments with builders at the time of registration of sale deeds, they could have ensured the correctness of consideration set forth in the sale deed. Further, the Registration Department did not co-ordinate with the Commercial Taxes Department to obtain details regarding transfer of apartments/flats/villas/and the cost of flat in respect of each purchaser/intending purchaser.

We recommended that the Government may direct registering officers to insist on production of original agreements for purchase/construction of flats/apartments at the time of registration of sale deeds. We also recommend that

¹⁰ Abad Constructions, AC City builders, Castle homes, Creation India, Desire homes, Heera Constructions, Kent Constructions, Skyline foundation and structure, Olive Builders, Infra Housing, KGL Builders, Mather Projects, MRG Builders, Noel Villas, Oceaners Builders, Pentark Builders, Sree Gokulam Housing, Sunny Housing, Skyline Builders and Wexco Constructions.

the department may evolve a mechanism to obtain data on a periodic basis regarding actual cost of flats/apartments from the Commercial Taxes Department (Works contract) and co-relate the same with sale deeds to detect undervaluation of flats/apartments.

[Audit paragraph 4.6.11 and 4.6.12 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is included as Appendix II.]

18. While discussing the audit observation that there occurred loss of revenue due to lack of an effective enforcement mechanism for the Kerala Stamp Act 1959, the Committee sought the explanation from the officials concerned. The witness, Inspector General, Registration Department confessed that the Accountant General's observation was true. He also deposed that mobile towers and ATM counters were also brought under the purview of Stamp Act recently and were levied with stamp duty at the annual rate of ₹ 5,000 and ₹ 2,500 respectively and informed that necessary directions had already been issued to all District Registrars to inspect Public Offices to detect the omission or deficiency in realising stamp duty regularly. He also enlisted various practical difficulties to realize the stamp duty before the Committee. In the meantime an official from the office of Accountant General drew the attention of the Committee on the reality that though amendment was brought to the stamp Act to impose stamp duty on the lease agreement executed to install ATM, Mobile tower etc., rather than registration, the parties were undertaking lease agreement in stamp paper costing ₹ 100. Pointing out the prevailing practice was checking whether stamp duty was upto the standard in registered cases he reminded that so long as the agreement was not registered, evasion could not be found out. He also emphasized the importance of an intelligence investigation within the department to unearth the discrepancies prevailing in the department. In this context the witness, Inspector General, Registration Department informed that, an economic intelligence wing was already

functioning in the department and an online system had been established for almost all the transactions in the department. The Committee though accepted the explanation, directed the Department to evolve a mechanism to ensure that the lease agreement executed during the installation of mobile towers, ATM, etc., were not excluded from registration. It also suggested that co-ordination between the Registration department and corresponding Local Bodies should be ensured in this regard.

19. Regarding the audit paragraph the witness Inspector General, Registration Department admitted the Audit's point of view and remarked that since registration of licensed deed was not liable to stamp duty, lease agreements were preferably got registered as licensed agreement and thereby incurred great loss to the exchequer. He added that in order to avoid such discrepancies, proposal to amend relevant provision in the Stamp Act has been pending with the Government was under consideration. The Committee accepted the explanation furnished by the Department.

20. Regarding the audit observations, that the loss of revenue in terms of deficit stamp duty and registration fee to the tune of ₹ 8.36 crore and ₹ 1.75 crore respectively due to undervaluation of sale deeds executed by builders /developers of flats/apartments, the Committee asked for a detailed explanation in this regard. The witness, Inspector General of Registration Department submitted that the amount shown in the sale agreement and that in form No. 49 was different. He added that even though steps were initiated to realize the amount short levied in the undervaluation cases, Thrissur District Court ordered that neither the declaration under form 49 nor the market value need to be considered. The Committee rectified and reminded that the court's verdict was against the fair value fixation and directed the department to file appeal against the position taken by the court in this regard. The Committee exhorted that had registration of sale agreement made mandatory, such omission could have been avoided and advised that more alertness should be shown by the department itself to avoid loss of revenue in future.

Conclusions/Recommendations

21. The committee observes that there occurs leakage of revenue due to non registration of lease/agreement for installing mobile towers, ATM of banks etc. The amendment of the Stamp Act does not achieve its objective without registration. Therefore, the Committee recommends that the department should evolve a mechanism to ensure that in addition to the execution of the lease agreement during the installation of mobile towers, ATM etc., it should also be registered. The Committee also urges the Department to co-ordinate the Registration Department with corresponding Local Bodies in order to find out evasion.

22. The Committee observes that, since registration of license deed has not been liable to stamp duty, lease agreements were preferably got registered as license agreements and thereby incurred great loss to the State exchequer. Therefore the Committee directs that necessary amendments should be made in the Kerala Stamp Act for imposing levy of stamp duty on licence agreements also.

23. The Committee recommends that, the Registration Department should conduct regular inspection of Public Offices to detect Omissions/deficiency in realization of stamp duty.

Non/Short collection of stamp duty on corporate bonds/debentures

As per section 8A of the Indian Stamp Act, 1899, an issuer, by the issue of securities to one or more depositories shall, in respect of such issue, be chargeable with duty on the total amount of security issued by it and such securities need not be stamped.

Bonds come under the meaning of securities as per Section 2 (16A) of the Indian Stamp Act read with Section 2(h) of the Securities Control (Regulation) Act, 1956. According to Section 2 (12) of Companies Act, 1956, "debenture" includes bonds.

As per Article 27 of Indian Stamp Act, 1899 on debenture (whether mortgage debenture or not) being a marketable security transferable by delivery (issued in

demat form) the rate of stamp duty was "three rupees seventy five paise for every ₹ 500 or part thereof in excess of rupees 1000" from 1st March, 2004 to 12st September, 2008 and at the rate of 0.05 per cent per year of the face value of the debenture, subject, to a maximum of 0.25 per cent or ₹. twenty five lakh, whichever is lower from 12th September, 2008.

Debenture, (Whether mortgage debenture or not), being a marketable security transferable by endorsement or by a separate instrument of transfer (issued in physical form) attracts stamp duty at the rate ₹ 1.85 per ₹ 500 up to 11th September 2008 and at the rate of 0.05 per cent per year of the face value of the debenture, subject to the maximum of 0.25 per cent or ₹ 25 lakh, whichever is lower from 12th September, 2008 onwards.

As per the data collected from NSDL, seven companies registered in Kerala had issued bonds valued at ₹ 1986.40 crore in demat form having face value of ₹ 10 lakh each during the period 2005-06 to 2009-10. Three Companies paid stamp duty at the rate applicable to promissory notes, two companies paid stamp duty at the rate applicable to debentures transferable by endorsement or by separate deed of transfer and two companies did not pay any stamp duty. The total short/non-remittance of stamp duty works out to ₹ 5.66 crore as detailed below:

Name of Company/ Bank	Year of issue	No. of bonds/ Deben- tures issued	Value of bonds/ Debentures issued (₹ in crore)	Stamp duty payable (₹ in lakh)	Stamp duty paid (₹ in lakh)	Short/non remittance of SD (₹ in lakh)
1	2	3	4	5	6	7
Apollo tyers	2008-09	1250	125	25.00	4.20	20.80
Dhanalakshmi Bank	2005-06 to 2006-07	434	43.40	32.55	24	8.55
Manappuram General Finance & Leasing Co.	2009-10	250	25.00	6.25	Nil	6.25
State Bank of Travancore	2005-06 to 2007-08	13200	1320.00	990.00	662	328.00

1	2	3	4	5	6	7
Catholic Syrian Bank	2005-06	400	40.00	30.00	14.80	15.20
Federal Bank	2006-07	2000	200.00	150.00	30.40	119.60
The South Indian Bank	2005-06	650	65.00	48.75	6.50	42.25
-do-	2009-10	1680	168.00	25.00	Nil	25.00
Total			1986.40			565.65

There was no mechanism in the Registration Department to obtain data on a periodic basis from depositories regarding issue of bonds/debenture by companies/banks in demat form and to check the adequacy of stamp duty thereon. Lack of co-ordination with depositories, SEBI and the Registrar of Companies resulted in loss of revenue amounting ₹ 5.66 crore.

We recommend that the Department may evolve a mechanism in consultation with depositories to obtain details of issue of securities by companies registered in Kerala and ensure that stamp duty thereon was paid before admitting such securities in depositories.

During the period 2005-06 to 2009-10 four companies issued non convertible secured debentures of different series totaling ₹ 6,480.16 crore. One company paid a nominal amount of stamp duty and the other three companies did not pay any stamp duty on the debentures issued.

When we pointed this out, it was stated by the companies in their letters addressed to the Registrar of Companies that these companies issued the debentures on private placement basis and not as marketable securities and such debentures were not listed in stock exchanges. Hence, they were not liable to pay stamp duty under Article 27 of the Indian Stamp Act which deals with marketable securities.

Marketable securities have been defined under Section 2 (16A) of the Indian Stamp Act and Section 2(m) of the KS Act as a 'security of such a description as to be capable of being sold in any stock market in India'. The contention of the

companies cannot be accepted since the term marketable security does not necessarily imply securities which are listed in stock exchanges, but all securities which are capable of being listed in stock exchanges. As per SEBI circular No. SEBI/MRD/SE/AT/36/2003 dated 30th September, 2003, any listed company making issue of debt securities on private placement basis shall issue and trade them in demat form. Further as per SEBI circular dated 22nd December, 2003, unlisted companies/statutory corporations/entities, if they so desire, may get their privately placed debt securities listed in the stock exchanges. Hence the companies have the option to list the debentures in the stock exchanges though, issued on private placement basis. Moreover, the debentures issued by the companies were transferable by separate deed of transfer and endorsement on the debenture certificate as is evident from both the debenture certificate and the prospectus. Hence, debentures issued by the companies attract stamp duty under Article 27 of the Indian Stamp Act. The stamp duty leviable works out to ₹ 13.96 crore as detailed below:

Name of Company	Total Value of debentures issued (₹ in Crore)	Period of issue	Stamp duty due under Article 27 of Indian Stamp Act (₹ in lakh)	Stamp duty paid (₹ in lakh)	Stamp duty due under Article 27 of Indian Stamp Act (₹ in lakh)
Muthoot Finance Ltd.	5,508.47	2005-06 to 2009-10	1,263.28	8.70	1,254.58
Muthoot Capital Services	68.61	2005-06 to 2009-10	23.10	Nil	23.10
Muthoot Fincorp Ltd.	531.46	2006-07 to 2009-10	32.93	Nil	32.93
Kosamattam Finance	371.62	2005-06 to 2009-10	85.07	Nil	85.07
Total	6,480.16		1404.38	8.70	1,395.68

We noticed that the Registration Department did not coordinate with the ROC to obtain data to examine the adequacy of stamp duty paid on issue of debentures/bonds by companies who take advantage of the ambiguity in the Stamp Act to interpret the provisions therein in such a way that legitimate duties payable to Government is not paid.

We recommend that the Department may evolve a mechanism to periodically obtain data from ROC to verify the adequacy of stamp duty paid on debentures/bonds by companies. We also suggest that the Government may consider amending the Stamp Act to clearly establish liability for payment of stamp duty in cases similar to the one described above.

[Audit para 4.6.13 contained in the report of the comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is included as Appendix II.]

24. Regarding the audit paragraph, the witness Inspector General, Registration Department informed that necessary instructions had been issued to the District Registrar, Ernakulam to collect the details after linking with the data of Registrar of Companies and he was optimistic that with the help of the NIC's software support team, online data could be made available. The Committee accepted the explanation furnished by the Department.

Conclusion/Recommendation

25. **No remarks.**

Non-remittance of differential duty

As per Section 19 of the KS Act, where any instrument of the nature described in any article in the Schedule and relating to any property situated or to any matter or thing done or to be done in the State of Kerala is executed out of the said State and subsequently received in the said State, the amount of duty

chargeable on such instrument shall be the amount of duty chargeable under the schedule on a document of the like descriptions executed in the State of Kerala less the amount of duty, if any already paid on such instrument in any other State in India.

On a test check of mortgage deeds executed outside Kerala involving immovable properties in the State by two selected companies registered in Kerala for securing debentures issued and corporate loans/credit facilities extended by Banks/Consortium of banks, it was observed that differential duty applicable to mortgage deeds in the State of Kerala amounting to ₹ 7.70 crore under Section 19 was not remitted before registering the charge documents with the Registrar of Companies, Kerala under Section 125 of Companies Act as detailed below:

Name of Company	Details of documents executed in Bombay	Stamp duty due/ Reference to schedule to Stamp Act in Kerala	Stamp duty paid/reference to rate in other State	Differential duty due
M/s Joy Alukkas Traders India Pvt. Ltd.	Second supplementary Memorandum entry (MOE) of ₹ 25 crore	₹ 37.50 lakh (Article 6(1) of Kerala Stamp Act @ ₹ 15 for every ₹ 1,000 or part thereof)	₹ 5 lakh (Article 6(1) of Bombay Stamp Act @ 0.20 per cent of the amount secured)	₹ 32.50 lakh
	Third supplementary MOE for ₹ 50 crore	₹ 75 lakh	₹ 10 lakh	₹ 65 lakh
	Fourth supplementary MOE for ₹ 40 crore	₹ 60 lakh	₹ 8 lakh	₹ 52 lakh
M/s Apollo Tyres Ltd.	Mortgage deed for ₹ 125 crore	₹ 625 lakh (Article 37 (b) @ ₹ 5 per ₹ 100	₹ 4.20 lakh (0.25 per cent per ₹ 100	₹ 620.80 lakh
Total				₹ 770.30 lakh

Non-payment of stamp duty on instrument evidencing agreement relating to deposit of title deeds

Under article 6(1) (iii) of the Schedule to KS Act, an agreement relating to deposit of title deeds, pawn or pledge, that is to say, any instrument evidencing any agreement relating to deposit of title deeds or instruments constituting or being evidence of the title to any property attracts stamp duty of ₹ 15 for every ₹ 1,000 or part there of the secured amount.

As per Section 2(j) of KS Act 'instrument' includes every document by which any right or liability is, or purports to be created.

M/s, Joy Alukkas Traders (India) Pvt., Ltd., having its registered office at Kochi, Kerala created an equitable mortgage by deposit of title deeds in respect of immovable properties situated in Kerala for obtaining credit facilities/loan from ABN Amro Bank Consortium and an instrument evidencing an agreement in this regard styled as Memorandum of Entry was executed. Copy of the instruments filed with the Registrar of Companies, Kerala revealed that no stamp duty was paid on the instrument. It was observed that stamp duty was paid on similar mortgages executed subsequently by M/s Joy Alukkas in other States. The stamp duty involved in the documents works out to ₹ 2.03 crore as detailed below:

Date	Details of documents	Amount of credit facility/loan covered by the mortgage	Stamp duty involved (₹ 15 for ₹ 1000 & part there of)
1st September, 2006	Memorandum of entry for ₹ 80 Crore	₹ 80 Crore	₹ 120 lakh
14th March, 2007	First supplementary Memorandum of entry enhancing limit to 135 crore	₹ 55 Crore	₹ 82.50 lakh
Total		₹ 135 Crore	₹ 202.50 lakh

We observed that the Registration Department did not coordinate with the ROC to obtain data for examining the adequacy of stamp duty paid on documents described in paras 4.6.14 and 4.6.15 above.

Non-remittance of Stamp duty on 'attested instruments evidencing an agreements relating to the hypothecation of movable property'

As per G.O. (Ms.) 813/RD dated 2 September 1961 published in K.G. No. 48 dated 12th September, 1961, the Government of Kerala reduced stamp duty for "Attested instruments evidencing an agreement relating to the hypothecation of movable property where such hypothecation has been made by way of security for the repayment of money advanced or to be advanced by way of loan or of an existing or future debt, to the amount chargeable on agreement relating to deposit of title deeds, pawn or pledge under clause (a) of Article 6 of the Schedule to the Kerala Stamp Act, 1959, for the amount secured if such loan or debt is repayable on demand or more than three months from the date of the instrument and to half that amount if such loan or debts is repayable not more than three months from the date of the instrument.". The rate of stamp duty under Article 6(a) is ₹ 15 for every ₹ 1,000 or part thereof.

Verification of the documents filed in office of the ROC for registration of charge documents by M/s. Kosamattam Finance (P) Ltd. revealed that the company had raised working capital amounting to ₹ 200 crore by issue of redeemable non-convertible secured debentures as follows:

Date	No. of debentures issued	Face value	Total amount raised
September 2008	10000000	₹ 100	₹ 100 Crore
July 2009	10000000	₹ 100	₹ 100 Crore
Total			₹ 200 Crore

The company created a charge by way of hypothecation of movable assets of the company as security for the debentures of ₹ 200 crore (₹ 100 crore each) issued in favour of the debenture trustees by executing two instruments titled as "unattested deed of hypothecation" on stamp papers worth ₹ 100 in one case and ₹ 50 in another case. Verification of the said instruments revealed that the instrument dated 1st September, 2008 was attested by two witnesses (Reena Mary Jacob and Julie John) and the instrument dated 15th August, 2009 was attested by two witnesses (Reena Mary Jacob and Manjusree S).

The term "Attested" has been defined in the Transfer of Property Act as follows:

"Attested" in relation to an instrument, means and shall be deemed always to have meant attested by two or more witnesses each of whom has seen the executants sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executants or has received from the executants a personal acknowledgment, of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executants; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary.

Even though the documents were titled as unattested deed of hypothecation, the same were actually attested deed of hypothecation liable to stamp duty as mentioned above. The stamp duty due on the secured amount of ₹ 200 crore works out to rupees three crore.

There was no coordination between the Registration Department and the ROC to obtain details regarding charge documents presented before the ROC under the Companies Act for registration, to examine and ensure the adequacy of stamp duty on such documents before registering the same by ROC.

The Department may evolve a mechanism in consultation with the Registrar of Companies (ROC), Kerala before whom charge documents have to be filed by companies, to ensure that proper stamp duty on debentures and charge documents are paid before registering the charge documents by ROC.

[Audit paragraph 4.6.14 to 4.6.16 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is enclosed as Appendix II].

26. The Committee appreciated the Accountant General of Kerala for their commendable observation and remarked that the capabilities of Registration Department could be enhanced by implementing these recommendations. It is of the opinion that whatever be the constraints, paramount importance should be given for the modernization of Registration Department in future. It also directed the Registration Department to submit a comprehensive report before the Committee detailing suggestions to enhance the capabilities and technical competency of the department at the earliest.

Conclusions/Recommendations

27. The Committee realises that huge revenue lapse to state exchequer has been incurred due to the lack of co-ordination between Registration Department and the Registrar of Companies before whom documents have to be filed by companies. Therefore the Committee recommends that the Registration Department should evolve a mechanism in consultation with the Registrar of Companies (RoC) Kerala, to ensure that proper stamp duty has been paid before registering the documents by Registrar of Companies.

28. The Committee also directs the Registration Department to submit a comprehensive report before the Committee detailing suggestions to enhance the capabilities and technical competency of the department at the earliest.

Notional loss of revenue due to failure to prescribe ad-valorem rate of stamp duty on share certificates

As per the Finance Act, 2000 (Act 10 of 2000), Section 8A of the Indian Stamp Act was substituted which provides that "An issuer, by the issue of securities to one or more depositories (CDSL, NSDL etc.) shall in respect of such issue, be chargeable with duty on the total amount of security issued by it (in demat form) and such security need not be stamped". The rate prescribed in the KS Act

(Article 17) for share certificates issued is ₹ 0.50 irrespective of the value of shares included in the share certificate. No ad-valorem rate has been prescribed. The corresponding article in the Stamp Act of Karnataka, Bombay and Delhi prescribes ad-valorem rate of 0.10 per cent on the value of shares issued.

Since no ad-valorem rate has been prescribed in the KS Act, no stamp duty is being paid by companies registered in Kerala on issue of shares in demat form, whereas companies registered in States like Karnataka, Bombay and Delhi pay stamp duty on the total value of shares issued including premium. Had the Government amended the rate of stamp duty leviable under Article 17 of the KS Act as ad-valorem (0.1 per cent of the value of shares issued) in line with other States, substantial revenue could have been generated. Failure of the Government to prescribe ad-valorem rate of stamp duty on share certificates after the introduction of Depositories Act and compulsory trading of securities in demat form (from January 1999) resulted in notional loss of revenue to the tune of ₹ 1.68 crore (Appendix III).

The Government may consider amending Article 17 of Kerala Service Act to levy ad-valorem rate of stamp duty on share certificates.

Non-remittance of stamp duty on contract notes by share brokers

As per Article 40 of the KS Act, note or memorandum (contract notes) sent by a broker or agent to his principal intimating the purchase or sale of securities attracts stamp duty at the rates mentioned therein. Under Section 10A of the KS Act, share brokers who issue contract notes shall deduct stamp duty payable from the client and remit it to the Government treasury on or before the seventh day of the succeeding month.

The intention of the Government was to collect stamp duty on contract notes issued to all clients residing in Kerala based on the Unique client code (UCC)

download address of clients (Lr. No. 13179/E2/09/TD dated 17 July 2009 from Prl. Secretary to Government, Taxes (E) Department addressed to NSE, Mumbai). However no specific provision in this regard was included in the Act. Hence, a large number of brokerage firms registered outside Kerala and issuing contract notes to clients in Kerala in respect of transactions effected through their branches in the State were not paying stamp duty to the Government of Kerala.

As per information received from Bombay Stock Exchange and National Stock Exchange, the total number of share brokers executing trades on behalf of clients based in Kerala was 220 and 221 respectively. However, only 27 share brokers were collecting and paying stamp duty to the Government of Kerala. Hence 193 share brokers who have executed trades on behalf of clients in Kerala during the period 2005-06 to 2009-10 in BSE involving turn over of ₹ 7,142.78 crore and 194 share brokers in NSE who had executed trades on behalf of clients in Kerala during the period 2007-08 to 2009-10 involving turnover of ₹ 1,06,044.53 crore, had not remitted stamp duty on contract notes. The stamp duty involved worked out at the minimum rate of 0.002 per cent applicable in case of non-delivery transactions works out to ₹ 2.26 crore.

IGR is the authority entrusted with monitoring collection of stamp duty on contract notes. However, no database of share brokers functioning in the State and executing share transactions for clients based in Kerala is available with the IGR. There was no co-ordination between stock exchanges, SEBI and depositories for obtaining data of share transactions. This resulted in loss of revenue amounting to ₹ 2.26 crore.

The Government may evolve a mechanism to periodically obtain details of turnover of share brokers executing trades on behalf of clients in Kerala from NSE/BSE to examine, ensure and enforce payment of stamp duty collected by share brokers from clients.

Notional loss of revenue due to non-revision of Schedule I of Indian Partnership Act, 1932

The Deputy Inspector General of Registration (Licencing) is designated as the Registrar of Firms in the State of Kerala. The Registrar of Firms collects fee for various services fixed vide Schedule I of the Indian Partnership Act, 1932. State Governments are empowered to levy fees for services stated in schedule I. The rates for registration of firms in Madhya Pradesh, Tamilnadu and Karnataka were ₹ 500, ₹ 100 and ₹ 50 respectively. The last revision of schedule I by Government of Kerala was done in 1973 by the Act 25 of 1973.

A proposal to escalate the existing rate of fee ₹ 15 to ₹ 500 under the Indian Partnership Act, 1932 was forwarded by the Department to the Principal Secretary in February 2006; no revision however has been effected so far. The financial impact due to non revision of fee during the last four years was ₹ 63.79 lakh as detailed below:

Year	No. of firms registered	Fee at proposed rate of ₹ 500	Fee at existing rate of ₹ 15	Loss due to non revision
		₹	₹	₹
2007	2742	13,71,000	41,130	13,29,870
2008	2845	14,22,500	42,675	13,79,825
2009	3526	17,63,000	52,890	17,10,110
2010	4040	20,20,000	60,600	19,59,400
Total	13153	65,76,500	1,97,295	63,79,205

On this being pointed out, the IGR stated that the matter has been reported to the Government.

Government may consider enhancing registration fee of partnership firms by issue of necessary amendment to the schedule to Indian Partnership Act

[Audit paragraph 4.6.17 to 4.6.19 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraph is enclosed as Appendix II].

29. The committee accepted the explanation furnished by the department that Government should take necessary steps to amend Article 17 of the Kerala Stamp Act to levy ad-valorem rate of Stamp Duty on share certificates. It wanted the department to furnish a report on the steps taken in this regard at the earliest.

30. With regard to the audit observations that the non remittance of Stamp duty on contract notes by share brokers, the witness Inspector General, Registration Department apprised that ceiling limit was removed in 2013. The Committee recommended for a comprehensive amendment in the Registration Act in this regard. It also directed to evolve a mechanism to obtain details of turnover of share brokers executing traders on behalf of clients in Kerala from NSE/BSE to examine ensure and enforce payment of stamp duty collected by share brokers from clients.

31. The Committee accepted the explanation submitted by the Department that the amendment to revise the Schedule I of Indian Partnership Act passed by the Kerala Legislative Assembly had been assented to by the President of India on 27-9-2013 and is in force.

Conclusions/Recommendations

32. The Committee observes that failure to amend article 17 of Kerala Stamps Act to levy ad-valorem rate of Stamp duty in accordance with other states resulted in a revenue loss of ₹ 1.68 crore. Therefore, the Committee recommends that the Government should amend Article 17 of Kerala Stamp Act to levy ad-valorem rate of stamp duty on share certificates with immediate effect and directs to furnish the report regarding the steps taken by the department in this regard at the earliest.

33. The Committee observes that lack of specific provision in the Act regarding the remittance of Stamp duty and lack of co-ordination between the stock exchanges, SEBI and depositories resulted in the revenue loss of ₹ 2.26 crore. Therefore, the Committee recommends that comprehensive amendments should be made in the Registration Act and directs to evolve a mechanism to obtain periodical details of turnover of sharebrokers.

Working of internal audit wing

Inspector General of Registration (IGR) Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The District Registrar (DR) (Audit) is responsible for conducting audit in the district. The periodicity of audit of SROs is annual. The 63 employees perform internal audit work in the Department. DR (Audit) is the leader of the internal audit field team. There was neither an Internal Audit Manual nor a centralised training system for the audit wing. The auditee offices were being selected by giving preference to those offices where the Registering Officer was due to retire shortly. During 2010-11, the IAW audited 261 units out of 303 units planned for audit. The IAW observed that the implementation of fair value has improved the revenue collection considerably and noted that non-stipulation of guidelines for the value of buildings is a system deficiency in the fair value reform which may lead to leakage of stamp duty. We endorse the views of the IAW.

We recommend that the IAW may be strengthened by imparting training to the persons deployed for audit and an Internal Audit Manual must be prepared.

Internal control

Internal control is an integral process by which an organization governs its activities to effectively achieve its objectives. A built in internal control mechanism and strict adherence to statutes, codes and manuals provide reasonable assurance to the Department about the compliance of applicable rules, thus achieving reliability of financial reporting and effectiveness and efficiency in Departmental operations. Internal control is affected through internal inspection, internal audit and maintenance of registers. The Registration Department has separate wings for inspection and audit. In spite of this we noticed internal control failure due to the following:

Shortfall in inspection

According to the Kerala Registration Manual Part II Vol. I the IGR should inspect the SR offices at least once in five years and DR offices every year. The DR shall inspect the SR office twice in every calendar year. The position of inspection by IGR is given below:

Year	No. of inspections							
	Target		Achievement		Shortfall		Percentage of shortfall	
	SRO	DRO	SRO	DRO	SRO	DRO	SRO	DRO
2005-06	310	24	45	19	265	5	85 per cent	21
2006-07		24		24		0		-
2007-08		24		9		15		63
2008-09		24		15		9		38
2009-10		24		17		7		29

It would be seen that there was a shortfall of 85 per cent in inspection of SROs and upto 63 per cent in inspection of DR offices.

Failure to fix time limit/target for disposal of undervaluation cases

As per section 46 of the KS Act, all duties, penalties and other sums required to be paid may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

During the period 2004-05 to 2008-09 only 12160 cases out of 485089 UV cases were reported for RR action. However, collection through RR action was effected in 7399 cases only. It was observed that no target and time frame was fixed for issue of final orders by District Registrars in UV cases reported by Sub Registrars. Hence final orders in UV cases were issued only in about 10 per cent of the UV cases reported/pending.

We recommend that a time limit may be fixed for disposal of undervaluation cases by District Registrars.

Improper maintenance of records relating to undervaluation

During test check of the register of undervaluation cases maintained in DR offices, we found that all UV cases reported by SROs were not accounted in the register. No periodical reconciliation of undervaluation cases reported by SROs with records of DR offices has been prescribed and followed. The details of notices issued, provisional and final orders issued and collection details have been noted only in very few cases.

Failure to conduct inspection of public offices

As per section 68 of the KS Act, public officers shall permit any person authorized in writing by the Collector, to inspect registers, books, papers, documents and proceedings which may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty. District Registrars have been notified as Collectors to exercise the powers under section 68. Enquiry with District Registrars of selected districts and IGR revealed that no inspection of public offices was conducted till date to identify any fraud or omission in relation to any duty and to secure any stamp duty.

On this being pointed out, the IGR stated that District Registrars have been appointed to be Collectors under Section 68 only for the completion of procedures taken to deal with undervalued documents and that it is the duty of public officers to ascertain whether proper stamp duty has been levied for the instrument produced and impound the same for not duly stamped.

The reply of the Department is not acceptable since the District Registrars did not nominate persons to exercise the powers under Section 68 and the cases brought out by us could have been unearthed by the Department had it exercised the powers vested with it.

We recommend that the Department may fix the minimum number of inspection of other public offices to be carried out by District Registrars so as to identify cases of non-registration/undervaluation.

Lack of system to identify various streams of revenue while preparing budget estimates

No system exists in the Department to identify various streams of revenue by way of stamp duty and registration fee that can be tapped. It was also informed by the Department that no study was conducted to analyse the reason for shortfall and drop in revenue collection during 2008-09 and 2009-10.

The Government may consider establishing an Economic Intelligence Unit (EIU) in the Department to identify sources from which stamp duty and registration fee can be raised by conducting a study of Stamp Acts of other states. The EIU may also be vested with the responsibility of coordinating with external agencies to obtain data and verify that documents have been registered, where due, for the right value.

Conclusion

Our review revealed that:

1. There was no effective system in the District Registrar offices in disposing of undervaluation cases which led to huge delay/non-recovery of stamp duty.
2. There was lack of co-ordination between the Registration Department and public officers to obtain data regarding documents produced before them to verify the correctness of stamp duty on such instruments.
3. There was no mechanism to co-ordinate with the Registrar of Companies, depositories and Stock exchanges to obtain data regarding issue of bonds/securities by companies. Hence the Department could not monitor and ensure payment of stamp duty on issue of securities and charge document registered by the ROC.
4. Lack of provision to levy ad-valorem rate of stamp duty on issue of shares and lack of provision to levy stamp duty on licence agreements resulted in notional loss of revenue.
5. The internal audit/inspection of Registration Department is in arrears and the District Registrars in their capacity as Collectors did not exercise the powers of inspection of public offices under Section 68 of KS Act.

Recommendations

- The Government may implement a time bound action plan to settle outstanding undervaluation cases.
- The Government may consider creating awareness amongst public officers regarding their responsibility in respect of understamped instruments produced before them.
- The Government may consider an Economic Intelligence Unit to co-ordinate with external agencies like Registrar of Companies, Stock Exchanges, Commercial Taxes Department, depositories etc. to obtain data and verify that documents have been registered when due for the right value.
- The Government may consider amendment to the Kerala Stamp Act to include provisions for collection of stamp duty on ad-valorem basis on issue of shares and levy of stamp duty on licence agreements as lease.
- The Government may direct registering officers to insist on production of agreements relating to purchase/sale of flats at the time of registration or evolve a mechanism to obtain data on a periodical basis on actual cost of flats/apartments from Commercial Taxes Department (Works contract) and cross verify the same with sale deeds to detect undervaluation of flats/apartments.
- Internal audit/inspection of sub offices may be made mandatory and up to date.
- Inspection of public offices may be contemplated to plug leakage of revenue.

[Audit paragraph 4.6.20 to 4.6.23 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is enclosed as Appendix II].

34. Regarding the audit observation made by the Accountant General, the Committee decided to recommend that the Internal Audit Wing in the Registration Department should be strengthened. It also advocated that necessary training should be imparted to the personnel in the Internal Audit Wing and mooted for the formulation of an Internal Audit Manual at the earliest.

35. With regard to the internal control mechanism, exercised by the Department the Committee strongly advised for the monthly review meeting of District Registrars. The Committee directed to fix a target on number of inspections to be conducted. It opined that inspections based on specific issues conducted by a Senior Officer would have a tremendous impact and it could better the overall performance of the Registration Department.

36. The Committee was informed that currently time limit had fixed to settle the issues under RR. The Committee remarked that on real time checking of District Registrar Offices revealed that only 1.62% of cases were pending under RR proceedings. It suggested that positive action would require for one time settlement.

37. Regarding the improper maintenance of records, the witness, Inspector General, Registration Department reiterated his earlier observation that missing of records was due to destruction by termites and other factors and steps were taken to reconcile the missing undervaluation cases. He added that available data was digitized currently. The Committee accepted the explanation furnished by the Department.

38. On audit observation, that no inspection of Public Offices was conducted to identify any fraud or omission in relation to any duty and to secure any stamp duty, the Committee while dismissing the explanation made by the Inspector General, Registration Department, recommended that the Registration Department should fix the minimum number of inspection of Public offices to be carried out by District Registrar in future. Intervening the occasion, an official from the Office of the Accountant General reminded that there was already a provision in Kerala Stamp Act that any Public officer can impound the instrument and urged for creating awareness among the officers of the Registration Department in this regard. The witness, Inspector General, Registration Department explained that

Accountant General's novel observation in this regard was to enhance the efficiency of the department and apprised that the Registration Department has been conducting inspections as per the remarks pointed out by the Accountant General. In this context the Committee lauded the initiative made by the Accountant General and decided to recommend that these steps should be speed up and scaled up by the Registration Department.

39. To a query of the Committee, witness, Inspector General, Registration Department submitted that fund was provided in the current year's budget to constitute an Economic Intelligence Unit in the Department.

Conclusions/Recommendations

40. The Committee observes that there exists a shortage of staff and lack of training in the internal audit wing. Therefore the Committee recommends that Internal Audit Wing should be strengthened by engaging adequate staff and by impart proper training to deployed officials. The Committee also directs that an Internal Audit Manual should be prepared at the earliest.

41. The Committee observes that, inspections based on specific issues conducted by Senior officers could better the overall performance of, the department. Therefore the committee recommends that the department should conduct higher level inspections on specific issues and should fix on the number of inspection to be conducted. The Committee also recommends for monthly review meeting of District Registrars as well.

42. The committee opines that the Registration Department should increase the quantum of inspections in other public offices so as to identify and rectify non registered/undervalued cases. The Committee recommends that, the Registration Department should launch an awareness programme among its officials regarding their responsibility in respect of under stamped instruments produced before them.

43. The Committee recommends for the immediate realisation of Economic Intelligence Unit in the Department to identify potential streams of revenue and also to co-ordinate with external agencies to obtain data and to ensure that documents have been registered, where due, for the right value.

Other audit observations

We scrutinised the records of various registration offices and noticed several cases of non-compliance of the provisions of the Indian Stamp Act, 1899 and the Kerala Stamp Act, 1959 (KS Act) and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Sub-Registrars (SRs) are pointed out by us each year but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening the internal audit.

Non-compliance of provisions of Act/Rules

The provisions of the KS Act and Registration Rules require:—

1. initiating action in cases where documents were undervalued; and
2. correct classification of documents.

We noticed that the SRs did not observe some of the above provisions at the time of registration of the documents. This resulted in short levy/evasion of stamp duty of ₹ 25.14 lakh as mentioned in the succeeding paragraphs.

Defalcation of receipts

(SRO, Pattom; April 2011)

The Kerala Treasury Code provides that every officer receiving money on behalf of the Government should maintain a Cash Book and all monetary transactions should be entered in the cash book as soon as they occur and be attested by the head of office in token of check. The cash book should be closed regularly and completely checked. The head of office should verify the totalling of the cash book or have this done by some responsible subordinate other than the writer of the cash book and initial them as correct. Rule 92(c) of the Kerala Treasury Code Vol. I stipulates that a government servant who maintains a cash book, on receiving any money on behalf of the Government, shall remit it into the treasury on the date of receipt or as soon as possible.

We test checked the cash book and related documents for the period from January 2009 to March 2011 and found that cash remitted to Government account was short by ₹ 33,929 in 15 instances. Some of the glaring mistakes are narrated below:

- Collection on 8th September, 2009 was ₹ 3,30,832 against which remittance was made for ₹ 3,26,832.
- Undervaluation collection on 25th September, 2009 was ₹ 2,05,450 against which ₹ 1,93,450 only was remitted.
- Collection of ₹ 6,011 on 29th December, 2009 was not remitted to Government accounts.
- Collection on 5th January, 2010 was ₹ 1,88,750 against which remittance into the treasury was for ₹ 1,88,550 resulting in short remittance of ₹ 200.

Besides short remittance there were other irregularities which are highlighted below:

- Receipt in respect of disbursement of ₹ 390 on 30th March, 2009 was not noted.
- An amount of ₹ 4,09,779 was posted in the payment side of the cash book as against collection and remittance of ₹ 86,081.
- The closing balance of 31st August, 2009 was certified as ₹ 3,91,837 against ₹ 4,03,123.
- Total of the entries for 15th September, 2009 was arrived as ₹ 5,84,202 against ₹ 5,88,802.
- On 19th September, 2009 collection was ₹ 1,51,275. The amount remitted on 22nd September 2009 was ₹ 1,75,635 without indicating the details of remittance of ₹ 23,360.
- Receipt as on 29th January, 2011 was ₹ 2,13,756, but the amount remitted on 31st January, 2011 was ₹ 2,12,213 only.

These cases are only illustrative. Almost all noting in the cash book was not conforming to the cash transactions. We found that all these entries were attested by supervisory staff in token of check. Had the head of office detected these lapses in the initial stage the situation would not have continued for two years.

After we pointed out the matter (April 2011), the Sub Registrar stated that the matter would be examined.

The case was reported to the Government in May 2011; their reply has not been received (December 2011).

Short levy due to undervaluation of property

(SRO, Rajakumari; August 2010)

Section 45 B of the Kerala Stamp Act, 1959 stipulates that if the registering authority has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument transferring any property brought before him for registration, he may after registering the document, refer the same to the District Collector for determination of the value or consideration and the proper duty payable thereon. For this purpose the power of the District Collector has been delegated to the District Registrars.

We noticed in two cases that the consideration revealed in documents relating to sale deeds registered on the same day or within a period of one or two weeks in respect of landed properties in the same locality and with similar features, varied substantially. The Sub Registrar had not reported these cases to the District Registrar. These cases should be examined to see whether there is undervaluation.

After we pointed out the matter to the Department in August 2010, the registering authority stated that detailed remarks would be furnished later. We have not received further information from the Department (December 2011.)

The case was reported to the Government in May 2011; their reply has not been received (December 2011).

(SRO, Mulanthuruthy; May 2010)

We noticed in Sub Registry Office, Mulanthuruthy that:—

40.47 ares of land in Mulanthuruthy *panchayat* was sold for rupees four lakh vide sale deed No. 186/08 dated 16th January, 2008. On the next day, the same property was pledged with Ernakulam District Co-operative Bank Ltd. against a cash loan of rupees one crore. Hence the sale deed No. 186/08 was undervalued to the extent of ₹ 96 lakh resulting in short levy of stamp duty and registration fee of ₹ 11.52 lakh.

Similarly, 25.49 ares (63 cents) of land in Chottanikkara *panchayat* was sold for consideration of ₹ 12.60 lakh vide sale deed No. 958/08 dated 6th March, 2008. 38.4 ares of land in the same survey number adjacent to the above property was registered as a sale deed on the same day for a consideration of ₹ 1.06 crore vide document 962/08 for establishing software unit for export under STP Scheme. This sale was exempted from stamp duty and registration fee shown in the document. The two properties lie adjacent to each other and are similarly placed in all respects. Hence, the property in document 958/08 was undervalued which needs to be examined.

The documents were not reported as cases of undervaluation as stipulated under Section 45 B.

When we pointed out the cases in June 2010, the registering authority stated (June 2010) that detailed remarks would be furnished later. Further report is awaited (December 2010).

The case was reported to the Government in May 2011; their reply has not been received (December 2011).

(SRO, Mundur; June 2010)

We noticed huge variations in consideration in Sub Registry Office, Mundur in 11 sale deeds registered on the same day or within a period of two or three days in respect of landed properties in the same locality and with similar features sold by the same individual. The documents in which the land value was shown at lesser rates were not referred to the District Registrar as stipulated.

We pointed out the matter to the Department in June 2010. The Department stated (June 2010) that detailed remarks would be furnished later. We have not received further information (December 2011).

The case was reported to the Government in May 2011; their reply has not been received (December 2011).

(SRO, Kothamangalam; July 2010)

We noticed in Sub Registry Office, Kothamangalam that in three cases properties measuring 26.30 ares, 22.26 ares and 16.69 ares were sold for a sale consideration of ₹ 3.28 lakh, ₹ 3.52 lakh and ₹ 1.60 lakh respectively. These properties were pledged in various branches of Ernakulam District Co-operative Bank Ltd. against cash loans of ₹ 21 lakh, ₹ 21 lakh and ₹ 10 lakh respectively within one to two days from the date of sale. As such the sale deeds were undervalued to the tune of ₹ 17.72 lakh, ₹ 17.48 lakh and ₹ 8.40 lakh respectively and the Sub-Registrar did not report the matter as a case of undervaluation. This resulted in total short levy of stamp duty and registration fee of ₹ 6.32 lakh.

We pointed out the matter to the Department in August 2010 and reported to Government in November 2010. We have not received further information (December 2011).

(SRO, Chalappuram; May 2010)

We noticed in Sub Registry Office, Chalappuram that 23.72 cents of land was sold in January 2008 for a sale consideration of ₹ 23.72 lakh. We also noticed that in January 2008 itself another five cents of land in the same survey number sharing a common boundary with the first property was sold for a consideration of ₹ 12.50 lakh. As such the sale deed executed for 23.72 cents was undervalued to the tune of ₹ 35.58 lakh. However, the Sub Registrar did not report the matter as a case of undervaluation.

We pointed out the matter to the Department in June 2010 and reported to Government in October 2010. We have not received further information (December 2011).

(SRO, Sasthamangalam; May 2010)

We noticed in Sub Registry Office, Sasthamangalam that in December 2008, 2.22 ares of land in Thycaud village including a building was sold for a sale consideration of ₹ 4.96 lakh (building: ₹ 21,000, land ₹ 4,75,000). In January 2009 the same property, without any improvement in the land or building, was sold for a consideration of ₹ 28.87 lakh (building ₹ 21,000, land ₹ 28,66,000). As such the document executed in December 2008 was undervalued to the tune of ₹ 23.91 lakh. This resulted in short levy of stamp duty and registration fees of ₹ 3.71 lakh.

We pointed out the matter to the Department in May 2010 and reported to Government in October 2010. The Department stated that the District Registrar (General) has initiated action under Section 45(B) (3) ie. *suo motu*. We have not received further information from the Department (December 2011).

(SRO, Chalai; March 2010)

We noticed in Sub Registry Office, Chalai that in June 2009, 2.01 ares of land including a building was sold for a sale consideration of ₹ 4 lakh (value of land and building: ₹ 2 lakh each). In September 2009 the same property was sold for a consideration of ₹ 25 lakh (land: ₹ 17 lakh and house: ₹ 8 lakh). As such the document executed in September 2009 was undervalued to the tune of ₹ 21 lakh. This resulted in short levy of stamp duty and registration fees of ₹ 3.26 lakh.

We pointed out the matter to the Department in April 2010 and reported to Government in October 2010. We have not received further information from the Government (December 2011).

[Audit paragraph 4.7 to 4.8 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is enclosed as Appendix II].

44. Regarding the irresponsible way of handling the cash book in the Department, the witness Inspector General, Registration Department deposed that all the discrepancies and mistakes noticed in the Cash Book had been rectified.

45. Regarding the case of undervaluation at Sub Registrar Office at Mulanthuruthy resulting in short levy of Stamp duty and registration fee, the Committee directed to submit a detailed reply regarding the follow up action taken in this regard. The witness, Inspector General, Registration Department informed that in the case Mulanthuruthy, the rate fixed was as per Gahan System, which would be at higher rate. In this regard an official from the Office of the Accountant General invited the attention of the Committee over the fact though department's stance was substantial, the objection was raised on the procedure followed by SRO in taking decision in such UV cases as the law provided that SRO should report to DR who in turn would take action. The Committee understood that the department had failed to comply procedure to be followed. It directed the Registration Department to issue necessary direction to insist SRO's to report the cases of UV to the District Registrars. It also wanted the department to seek explanation from the SROs who were delegated unauthorised powers. The I.G., Registration department informed that in the case of Mundoor, ten cases out of twelve pointed out by the Accountant General had been settled based on Compounding Scheme.

Conclusion/Recommendation

46. The Committee is displeased to note that the omissions on the part of Sub Registrars at the time of registration of the documents resulted in short levy/evasion of stamp duty of ₹ 25.14 lakh and regrets to note that there incurred huge loss to the exchequer due to the short levying of stamp duty and registration fee in two under valuation cases of Sub Registrars office, Mulanthuruthy. Therefore the committee urges the department to make follow up action in these cases and also to submit a detailed report in this regard.

47. The Committee criticise the irresponsible attitude of the department in improper maintenance of cash Book and lack monitoring of remittance of cash collection to the treasury. The Committee recommends that the officer who is responsible to intial the Cash Book should assure that no mistakes had occurred while making entries and should ensure the prompt remittance of cash in treasury.

48. The Committee is astound to note that huge loss had occurred to the exchequer due to the short levy of Stamp duty of undervalued property in so many cases. The Committee opines that had the SRO's refer the cases of undervalued property after registration to the District Registrars, loss occurred due to the short levy of stamp duty could have been avoided. Therefore the Committee directs the Registration Department to issue necessary directions to insist SRO's to report the case of undervaluation to the District Registrars in time and also to seek explanations from SRO's who were delegated unauthorised powers by violating S45B of the Kerala Stamp Act, 1959. The Committee also urges to furnish a detailed report regarding the follow up action in short levy of stamp duty of undervalued cases.

AUDIT PARAGRAPH

Tax Administration

The Department of Commercial Taxes is under the control of the Secretary to Government, Taxes at the Government level and collection of tax under the Kerala Agricultural Income Tax (KAIT) Act, 1991 is administered by the Commissioner of Commercial Taxes (CCT). The KAIT Act, 1991 governs the levy and collection of tax on agricultural income. The assessment, levy and collection are done by Inspecting Assistant Commissioners, Agricultural Income Tax and Commercial Tax Officers.

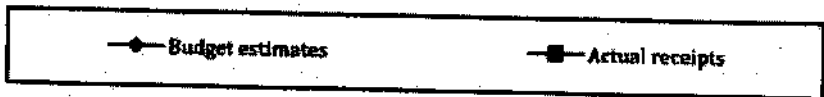
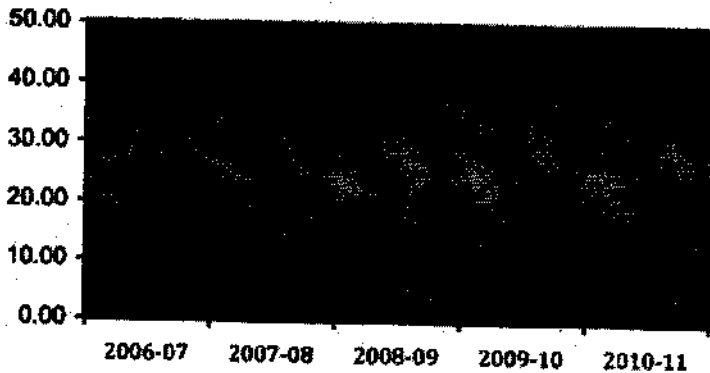
Trend of Receipts

Actual receipts from agricultural income tax during the last five years (2006-07 to 2010-11) along with the budget estimates during the same period is exhibited in the following table and graph:

(₹ in crore)

Year	Budget Estimates	Actual receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts	Percentage of growth rate
2006-07	6.24	9.63	(+) 3.39	(+) 54.33	11941.82	0.08	56.58
2007-08	6.56	22.05	(+) 15.49	(+) 236.13	13668.95	0.16	128.97
2008-09	7.39	11.97	(+) 4.58	(+) 61.98	15990.18	0.07	(-) 45.71
2009-10	8.52	27.73	(+) 19.21	(+) 225.47	17625.02	0.16	131.67
2010-11	12.00	46.97	(+) 34.97	(+) 291.41	21721.69	0.22	69.38

Budget estimates and actual receipts



We noticed that the Department was able to achieve a healthy growth rate of 69.38 per cent during 2010-11. We, however, feels that the Department needs to streamline their budgeting process to make the budget estimates realistic as significant variations were noticed persistently between budget estimates and actual receipts.

Arrears in AIT assessment

The Department furnished the position of arrears under agricultural income tax which is as shown below:

Opening Balance	6,314
Addition during 2010-11 including remanded cases	2,706
Total	9,020
No. of assessments completed	1,970
Arrear cases—1913	
Current cases—57	
Closing Balance	7,050

The above table shows that the Department completed 1,970 assessments which was only 21.84 per cent of the cases due to be assessed.

[Audit paragraph 3.1 & 3.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is enclosed as Appendix II].

49. The committee asked the trends of income from the Agriculture Income Tax, the witness, Secretary, Taxes Department detailed that it is based on the price of the commodities and cited the price fall of rubber as an example in this regard. He also added that individuals are now exempted from paying the Agricultural Income Tax and only 42 companies come under the purview of AIT, at present. Responding to a question, the witness, Secretary, Taxes Department remarked that the income from commodity market would fluctuate with the fall and rise of the price of commodities and only middlemen were benefited out of it. The Committee expressed its anguish in this regard.

50. The Committee enquired the reason for proposing budget estimate much lesser than the actual receipt of agricultural income tax during the years 2006 to 2011. The witness, Commissioner of Commercial Taxes Department apprised that major collection turned out only at the fag end of the year and proposal for budget estimates would be in accordance with the trend of receipts prevailing at the time of coining of budgetary procedures. He supplemented that huge variation in figures during the years 2010-11 and 2011-12 was the impact of the introduction of amnesty scheme. In this context the Committee advised that the Taxes Department should streamline the budgeting process to make the budget estimate more realistic in future.

51. The Committee noticed that figures shown as arrears before the Committee was different from that submitted for audit and enquired the reason for the mismatch, the witness, Secretary Taxes Department informed that the figures booked by the Accountant General in this regard was not correct and the number of arrears pending collection was 7249. To a query of the Committee, he replied that compounding of Agricultural Income Tax was permitted to individuals upto last year and it was limited to companies from the current year onwards. He continued that certain assessments were completed subsequently, i.e., 3426 in 2009-10, 2706 in 2010-11 and 3250 in 2013-14.

Conclusion/Recommendation

52. The Committee observes that wide variation was there between budget estimates and actual receipts. Therefore, the Committee recommends that, the Taxes Department should streamline the budget process to make the budget estimate more realistic in future.

IMPACT OF AUDIT

Revenue impact

During the last four years, we pointed out inadmissible expenses, income escaping assessment, incorrect computation of income, under assessment due to

assignment of incorrect status etc., with revenue implication of ₹ 42.53 crore in 199 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 3.14 crore and had since recovered ₹ 0.47 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2006-07	50	4.61	29	1.72	8	0.24
2007-08	43	3.69	17	0.35	10	-
2008-09 Vol. I	67	28.66	9	0.12	4	0.11
2009-10	39	5.57	19	0.95	11	0.12
Total	199	42.53	74	3.14	33	0.47

The recovery of cases vis-a-vis the accepted paragraphs was almost negligible.

[Audit paragraph 3.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is enclosed as Appendix II].

53. The Committee is aggrieved to note that the Government could recovered only ₹ 0.47 even from the accepted amount of ₹ 3.14 crore as against the short levy of ₹ 42.53 crore pointed out by the audit. The Committee then enquired any departmental action had been initiated to lift the stay proceeding granted by Government, Appellate authorities and other courts of law. The witness, Secretary Taxes Department apprised that steps have been taken to lift the stay.

Conclusion/Recommendation

54. The Committee perceives that steps have been taken to lift the stay in the remaining cases of pending collection. The Committee desires to be informed of the progress in the collection of ₹ 2.67 crore at the earliest.

Working of internal audit wing

As internal audit was not conducted, we were unable to comment on the performance of the internal audit wing.

[Audit paragraph 3.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by the Government on the above audit paragraphs is enclosed as Appendix II].

55. With regard to the audit observation – that the internal audit wing of the Taxes Department was not working efficiently, the Committee sought the reason for the nominal functioning of internal audit wing in the department, an official from the Commercial Taxes Department replied that about sixty inspections had been conducted by the internal audit wing in the previous year of which thirteen were in connection with the Agricultural Income Tax and it settled forty two observations out of 1333. In this context the Committee emphasised the importance of internal audit wing in the Department, and remarked that if the internal audit wing in the department was effective, the lapses occurred if any, could have been detected timely. It decided to recommend that the internal audit wing in the department must be strengthened immediately and expressed its grave concern over the non-conduction of internal audit since 2012.

Conclusion/Recommendation

56. The Committee expresses its grave concern over the inefficient functioning of the Internal Audit wing. The Committee opines that if the Internal Audit wing functions effectively, lapses occurred could have been detected in time. Therefore, the Committee recommends that Internal Audit Wing in the department should be strengthened by providing adequate staff at the earliest in order to reduce the irregularities.

Results of audit

In 2010-11, we test checked the records of 23 units relating to agricultural income tax and noticed underassessment of tax and other irregularities involving ₹ 17.07 crore in 59 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Income escaping assessment	13	11.03
2	Incorrect computation of income	03	0.15
3	Incorrect computation of tax	08	0.16
4	Inadmissible expenses	07	1.42
5	Others	28	4.31
	Total	59	17.07

During the course of the year, the Department accepted underassessment and other deficiencies of rupees two lakh in four cases out of which one case involving ₹ 0.03 lakh was pointed out in audit during the year 2010-11. The Department realised an amount of ₹ 0.03 lakh in one case during the year 2010-11.

A few illustrative audit observations involving ₹ 7.54 crore are mentioned in the succeeding paragraph.

Audit observations

We scrutinised the assessment records of agricultural income tax in the Commercial Taxes Department and found several cases of non-observance of the provisions of the Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowances and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of the Assessing Authorities (AAs) are pointed out by us each year but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the government to improve the internal control system including strengthening of the internal audit.

Non-observance of provisions of Act/Rules

The KAIT Act and Rules made thereunder provide for completing assessments observing the following aspects:

- (i) Levy of tax at the prescribed rate on the agricultural income derived by the assessee;
- (ii) allowance of deductions on income derived subject to certain conditions; and
- (iii) levy of interest on the balance tax payable.

We observed that the AAs, while finalising the assessments, did not observe some of the provisions of the Act/Rules resulting in short levy of tax and interest of ₹ 7.54 crore as mentioned in the paragraphs 3.8.1 to 3.8.3.

Income escaped assessment

[IAC (AIT &CT), Mattancherry; October 2010]

Under the first proviso to Section 39(6) of the KAIT Act, 1991, in the case of assessment of agricultural income derived from manufactured tea, if the assessment under Income Tax Act 1961 is not completed when the agricultural income tax officer (AITO) proceeds to complete the assessment, he may provisionally accept agricultural income as per the return filed by him and revise such assessment in accordance with the order of the income tax authority. The limitation fixed under any of the provisions of the Act shall not apply for such revision, in respect of tea income.

We noticed that the assessment of a domestic company for the year 2001-02 was provisionally finalised (December 2003) accepting the loss of ₹ 6.13 crore from manufactured tea returned by the assessee. Even though the composite loss on manufactured tea was assessed at ₹ 54.03 lakh in the income tax assessment in February 2004, the AITO did not revise the assessment reckoning the loss as ₹ 32.42 lakh (60 per cent of ₹ 54.03 lakh) in place of ₹ 6.13 crore computed in the AIT provisional assessment. The omission to revise the assessment resulted in excess carry forward of loss of ₹ 5.81 crore.

After we pointed out the case in October 2010 the assessing authority stated that even after revising the assessment, there would be loss and hence tax would not be payable for the assessment year. The reply is not tenable as the assessee was allowed to carry forward more loss than eligible and this was not allowable.

We pointed out the matter to the Department in November 2010 and to the Government in December 2010. We reminded the Government in September 2011. We have not received any further information from them (December 2011).

(AIT & CT, Kottayam, March 2011)

Section 5 of the KAIT Act enumerates the deductions allowable from the agricultural income. Further, expenditure on the upkeep and maintenance of immature plantations is not allowable deduction as per clause (p) of Section 5.

We noticed that while finalising the assessment (December 2009) of a public sector company for the assessment year 2007-08 in IAC Kottayam, the assessing officer allowed an amount of ₹ 1.53 crore being the cost of the failed plantations. As the cost of raising failed plantations is a capital loss, this will not qualify for deduction under Section 5 of the KAIT Act. The irregular deductions resulted in escape of income of ₹ 1.53 crore with tax effect of ₹ 76.57 lakh.

After we pointed out the matter to the Department in March 2011 and reported to the Government in May 2011, the Government stated (August 2011) that the corporation is raising plantations solely for felling and sale of wood and income out of this sale was subjected to tax and hence cost of raising it ought to have been allowed for deduction. Further, failure of plantation is very common and 10 to 20 per cent plantations will perish when they attain maturity. It is clear from the reply that the plants had perished when plants were in the immature stage and in view of the provisions in the Act that expenditure incurred for the cultivation, upkeep or maintenance of immature plants from which no agricultural income is derived during the previous year shall not be allowed.

[AIT & CT, Kottayam, March 2011]

We noticed that while finalising the assessment (December 2009) of a public sector company for the assessment year 2007-08, an amount of ₹ 31.83 lakh being the amount of development of property (cost of raising tea, coffee and cashew plantation till the commercially yielding stage) written off was wrongly allowed as deduction under Section 5 of the KAIT Act. This resulted in escapement of income of ₹ 31.83 lakh with consequent tax effect of ₹ 15.92 lakh.

We pointed out the case to the Department in March 2011 and reported to the Government (May 2011). The assessing authority stated that the case would be examined.

(IAC, Kottayam, March 2011)

The KAIT Act stipulates that agricultural income means any income derived from land by sale by the cultivator or received by him in respect of which no process has been performed. The forest development tariff is the amount collected by the assessee at the rate of five per cent of the value of invoice raised during the year for timber and timber growth retained by them.

We noticed that while finalising the assessment for the year 2007-08 of a public limited company (December 2009) the assessing officer did not add forest development tariff of ₹ 36.16 lakh collected by the assessee as shown in the comments in the Profit and Loss account of the company submitted along with the AIT return. This resulted in escapement of income of ₹ 36.16 lakh with resultant short levy of tax of ₹ 18.08 lakh.

After the case was pointed out to the Department in April 2011 and reported to Government in May 2011, the Government stated (August 2011) that forest development tariff would not form part of income as in the case of forest development tax. The reply is not correct since tax and development tariff are different.

(IAC (AIT&CT), Mattancherry, October 2010)

Income derived from sale of manufactured tea by a seller shall be computed as if it were liable to tax. The High Court of Kerala¹ had ruled that levy of tax under the AIT Act can relate only to sixty per cent of the income derived from sale of manufacture tea. Income from sale of green tea leaves is an agricultural income chargeable exclusively under agricultural income tax.

We noticed that in the case of a domestic company who had income from both manufactured tea and green tea leaf, the assessing authority finalised the assessment for the year 2007-08 in November 2009 assessing only sixty per cent of the income of ₹ 39.34 lakh derived from the sale of green tea leaves as returned by the company. The omission to assess the entire income of green tea leaves resulted in underassessment of income of ₹ 15.74 lakh leading to short levy of tax of ₹ 7.99 lakh.

After we pointed out the case (November 2010) the Department stated that the assessment completed was provisional which was subject to modification on completion of assessment by the income tax authorities and the assessee had sufficient loss carried forward from previous years which was sufficient to set off the additional income pointed out. The reply of the assessing authority is not tenable as the assessment order is provisional only in respect of income relating to manufactured tea. Further, the contention that there is sufficient loss carried forward from previous years is no justification for assessing income incorrectly.

The case was reported to the government in February 2011, their reply has not been received (December 2011).

(AIT & CT, Nedumkandam, February 2011)

Under the KAIT Act, agricultural income means an income derived from land by sale of agricultural produce. Agricultural income chargeable to tax shall be computed in accordance with the method of accounting regularly employed by the assessee. Cash system of book-keeping envisages accounting of actual cash receipts and cash payment as they occur.

We noticed that while finalising the assessment for the year 2009-10 of an assessee following cash system of accounting (September 2009) the assessing authority did not add an amount of ₹ 19.48 lakh realised from sundry debtors of the previous year by the assessee. This resulted in escapement of ₹ 19.48 lakh with consequent tax effect of ₹ 5.84 lakh. The actual short levy after adjusting carried forward loss would come to ₹ 4.43 lakh.

We pointed out the case to the Department in February 2011 and to the Government in May 2011. The assessing authority stated that the case would be examined. Further report is awaited.

Irregular adjustment of loss

[IAC (AIT & CT), Mattancherry, October 2010]

Under the KAIT Act, the total agricultural income of the previous year of any person comprises of all agricultural income derived from land situated within or outside the State. Under Section 12 of the Act, where any person sustains a loss as a result of computation of agricultural income for any year, the loss shall be carried forward to the following year and set off against the agricultural income of that year and if it cannot be wholly set off, shall be carried forward to the following year and so on but no loss shall be carried forward for more than eight years.

We noticed that the assessing authority while finalising (November 2009) the assessment of domestic company for the assessment year 2007-08, accepted adjustment of income of ₹ 49.47 lakh derived during the year against the loss of ₹ 16.70 crore carried forward from assessment year 1998-99 onwards. Adjusting loss relating to 1998-99 against the income earned in 2007-08 resulted in escapement of income of ₹ 49.47 lakh having potential tax effect of ₹ 24.73 lakh.

We pointed out the matter in October 2010. The assessing authority stated that the assessment completed was provisional and subject to revision of finalisation of Central Income Tax assessment and further, the assessee had sufficient carry forward loss from 1999-00. We consider that the reply of the

assessing authority is not proper as the provisional assessment relates only to income from manufactured tea and assessment of income from other sources was final. Further, loss cannot be carried forward for more than eight years and the carried loss has a potential tax impact.

We pointed out the matter to Government in December 2010. We have reiterated our stand to the Department in September 2011.

(AIT & CT, Kottayam, March 2011)

We noticed that while finalising the assessment of a company for the assessment year 2005-06 in March 2010 the assessing authority fixed the net income at ₹ 46.66 lakh and recorded that this would be adjusted against the losses carried forward from the previous year. As per the assessment order for the year 2004-05, the balance of loss to be carried forward was ₹ 27.12 lakh only. Hence there was a taxable income of ₹ 19.54 lakh which was not assessed. This resulted in excess set off loss of ₹ 19.54 lakh with consequent tax effect of ₹ 9.77 lakh. Further while arriving the taxable income, the assessing authority had deducted ₹ 1.90 lakh being excess expenditure disallowed, which should have been added. This resulted in escapement of income of ₹ 3.81 lakh and consequent short levy of tax of ₹ 1.90 lakh. The total short levy works out to ₹ 11.67 lakh.

We pointed out the case to the Department in March 2011. The assessing authority stated that a reply would be furnished after examining the case. Further developments have not been reported (December 2011).

The case was reported to the Government in May 2011. Their reply has not been received (December 2011).

Grant of inadmissible expenses

(IAC Wayanad, December 2009)

The KAIT Act 1991 allows deduction of expenditure not being in the nature of capital expenditure or personal expenses of the assessee expended wholly and exclusively for the purpose of deriving the agricultural income. Repairs of residential building is not an expenditure incurred wholly and exclusively for the purpose of deriving agricultural income.

We noticed that while finalising the assessment of an assessee for the assessment years 2004-05 and 2005-06 in February 2007 and 2006-07 in October 2008 respectively, the assessing officer allowed expenses of ₹ 15.94 lakh incurred for the repairs of residential building. The incorrect allowance of Expenditure resulted in excess carry forward of loss of ₹ 15.94 lakh having potential tax effect of ₹ 7.97 lakh.

We pointed out (December 2009) the case to the Department. The Department replied (August 2010) that the assessment orders have been revised by disallowing the expenses. We have not received any further information from them (December 2011).

The case was reported to the Government in May 2011. Their reply has not been received (December 2011).

(IAC, Kottayam, March 2011)

Section 5 of the KAIT Act provides that expenditure incurred during the relevant previous year for the production of agricultural income is an allowable expenditure.

We noticed that while finalising the assessment (December 2009) of a public limited company for the year 2007-08, the assessing officer allowed expenditure of ₹ 12.07 lakh being expenditure incurred by the assessee towards repairs and maintenance and sale of tea and eucalyptus relating to the period prior to the relevant previous year 2006-07. This resulted in escapement of income of ₹ 12.07 lakh with consequent tax effect of ₹ 6.04 lakh.

After we pointed out the matter to the Department in March 2011 and reported to the Government in May 2011, the Government stated (August 2011) that certain income and expenditure related to the previous year are derived and incurred in the current year which was allowed as per the order of the AIT Tribunal. The remark of the Government is not correct as the AIT Tribunal order requires prior period income and expenditure to be assessed in accordance with law and the Act does not allow expenses incurred in a year to be adjusted against income in subsequent assessment years.

[Audit paragraph 3.6 to 3.8.3 contained in the report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (RR).

Notes furnished by the Government on the above audit paragraphs are included as Appendix II.]

57. With regard to the audit observation, that non-observance of provisions of Act/Rules result in short levy of tax, an official from the office of the Accountant General, invited the attention of the Committee that if meeting of the district wise audit committee had been convened, pending cases could have been settled to a great extent. The witness, Secretary Taxes Department informed that the target of collection towards AIT was ₹ 26 crore only. In this context the Committee advised that the observation made by the Accountant General in this regard should seriously be viewed regardless of the quantum of amount to be realised and reminded that the Act/Rules should invariably be complied with in future.

58. The Committee sought the reason for the non-revision of the loss at the time of completion of AIT assessment even after Income Tax Department accepted the loss in respect of Harrisons Malayalam Ltd., the witness, Secretary Taxes Department informed that as per the modified assessment the loss due to Harisons Malayalam Ltd. was ₹ 5,64,37,912 and added that the agricultural income tax had been revised by accepting sixty percent of the said amount as loss towards AIT. Since the company is running in loss for years there was no question of tax effect of revenue loss in this case. The Committee accepted the explanation furnished by the department.

59. Regarding the Audit paragraph, the Committee enquired the reason for revising the assessment even after challenging the objection of the Audit in the explanation furnished before the Committee. The Secretary, Taxes Department admitted the lapse on their part and accepted the observation of the Accountant General. The Committee accepted the explanation.

60. With regard to the audit reference, the Committee enquired whether the case had been re-opened as mentioned in the reply furnished by the department that

the Commissioner of Commercial Taxes was given administrative sanction to re-open the case, the witness, Secretary, Taxes Department formed that the case was re-opened in 11-8-2014 itself. On the basis of the above said reply, the Committee approved the explanation furnished by the department.

61. On the audit observation made by the Accountant General that, due to the non-addition of Forest Development Tariff of ₹ 36.16 lakh, which resulted in the short levy of ₹ 18.08 lakh, the witness, Secretary, Taxes Department admitted the findings of the AG. Then the Committee observed that profit making companies are liable for taxation, and expressed its anguish and displeasure over the tendency that the profit making companies had been escaping from taxation by securing stay from an authority.

62. Regarding the audit reference that the escapement of income of ₹ 49.47 lakh having potential tax effect of ₹ 24.73 lakh due to the adjustment of loss relating to 1998-99 against the income earned in the year 2007-08, the Committee enquired the current position of the case, and the witness Secretary, Taxes Department informed that necessary administrative sanction had been accorded to re-open the case. The Committee accepted the explanation furnished by the Department.

63. To a query on the reason for not making necessary entry of figures regarding finalisation of assessment after the year 2005-06, the witness, Secretary, Taxes Department informed that the Department has finalized the assessment only up to the year 2005-06. The Committee accepted the explanation furnished by the Department and urged to finalise the assessment for the subsequent years at the earliest.

64. The Committee was of the opinion that the improper procedure followed by the department by allowing ₹ 15.94 lakh incurred for the repair of residential building, which resulted in excess carry forward of loss of ₹ 15.94 lakh having potential tax effect of ₹ 7.97 lakh.

65. The Committee concluded the evidence examination from the officials of Taxes Department with the remarks that the department had not taken any corrective steps on the objections raised by the Accountant General. The mistakes pointed out by the AG had been repeating in succeeding years also.

66. The Committee was surprised to note that no action had been taken against the erring officials. Taking into account of the serious remarks on the taxes Department made by the Audit and the huge loss incurred to the Exchequer by way of short levy or incorrect assessment, the committee vehemently criticised the negligence on the part of the officials. It is decided to recommend that in future departmental action must be taken against the officers who prima facie found guilty. It also suggested that stern measures should be initiated to rectify these issues and to avoid such lapses in future.

Conclusions/Recommendations

67. The Committee observes that failure of complying the provisions of Act/Rules, in efficient functioning of internal audit etc., resulted in short levy of tax. The Committee opines that if the department took corrective measures in time regarding the objections raised by the Accountant General, mistakes which were being repeated in succeeding years could have been avoided. Therefore, the Committee recommends that stern measures should be initiated to rectify these issues and to avoid such lapse in future and steps should be taken to convene district wise audit Committee meeting regularly to settle the pending cases.

68. The Committee expresses its suspicion that whether any illegal nexus had there between the AITO and the assesses hence the AITO did not reckon the loss accepted by the IT department at the time of finalisation of statements. The Committee is surprised to note that the department made irregular deductions which resulted in the short levy of tax of ₹ 76.57 lakh by acting against the provisions of S5 of the KAIT Act.

69. The Committee is desired to be furnished about the action taken by the department against the wrong deduction of written off amount of ₹ 31.83 lakh under S 5 of KAIT Act which resulted in the short levy of tax of ₹ 15.92 lakh.

70. The Committee is aggrieved to note that non addition of Forest Development Tariff of ₹ 36.16 lakh resulted in the short levy of tax at ₹ 18.08 lakh. The Committee expresses its anguish over the fact that profit making companies are escaping from paying tax by securing stay from an authority even though they are liable to pay tax.

71. The Committee is of the opinion that short levy of tax due to the incorrect assessments is the best example of irresponsibility of the concerned officers. Therefore, the Committee recommends the Taxes department to take immediate disciplinary action against those officers who willfully failed to follow the provision of the Act/Rules and the officers who are prima facie found guilty in order to avoid such serious irregularities in future.

Thiruvananthapuram,
19th March, 2018.

V. D. SATHEESAN
Chairman,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl. No.	Para. No.	Department concerned	Conclusion/Recommendation
1	2	3	4
1	7	Taxes Department	The Committee observes that, the cost of revenue collection in the state is much higher than the All India average and directs the Registration Department to take necessary steps to bring down the cost of collection. The Committee also urges the Taxes (Registration) department to examine whether average cost of collection could be reduced by the introduction of e-stamping and insists to furnish a report in this regard at the earliest.
2	11	Taxes Department	The Committee perceives that by resorting RR proceedings the department could solve the pending issues since 1986 and could decrease the number of undervaluation cases considerably. As the Committee is informed that the department is concentrating on latest cases, it also recommends that Registration department should take necessary steps to clear all the pendencies in a time bound manner.
3	15	Taxes Department	The Committee observes that the implementation of compounding scheme with liberalised provisions resulted in huge loss to the exchequer. The Committee directs the Department to formulate a system to check whether compounding fee collected during settlement under Amnesty Scheme was compatible with the amount fixed as per the

1	2	3	4
			<p>norms. The Committee also recommends that the Registration Department should review the one time settlement scheme and to initiate action against the unsettled cases. The Committee also insists that a strict supervision is needed to ensure that an amount lesser than that fixed as per norms wouldn't be collected under any circumstances and a proper system should be implemented to monitor the procedure.</p>
4	16	Taxes Department	<p>The Committee is aggrieved to note that improper maintenance of records and lack of periodic reconciliation of undervaluation cases resulted in short accounting of undervaluation cases. Therefore, the Committee recommends that reconciliation of undervaluation cases should be speeded up and completed in a time bound manner in order to identify the missing undervaluation cases and account for further action.</p>
5	17	Taxes Department	<p>The Committee is astonished to note that lack of staff resulted in huge pendency in undervaluation cases which prevents the realisation of potential source of revenue to the State exchequer. Therefore, the Committee recommends that time bound action plan should be implemented to settle outstanding undervaluation cases and by redeploying sufficient staff on temporary basis.</p>

1	2	3	4
6	21	Taxes Department	<p>The committee observes that there occurs leakage of revenue due to non registration of lease/agreement for installing mobile towers, ATM of banks etc. The amendment of the Stamp Act does not achieve its objective without registration. Therefore, the Committee recommends that the department should evolve a mechanism to ensure that in addition to the execution of the lease agreement during the installation of mobile towers, ATM etc., it should also be registered. The Committee also urges the Department to co-ordinate the Registration Department with corresponding Local Bodies in order to find out evasion.</p>
7	22	Taxes Department	<p>The Committee observes that, since registration of license deed has not been liable to stamp duty, lease agreements were preferably got registered as license agreements and thereby incurred great loss to the State exchequer. Therefore the Committee directs that necessary amendments should be made in the Kerala Stamp Act for imposing levy of stamp duty on licence agreements also.</p>
8	23	Taxes Department	<p>The Committee recommends that, the Registration Department should conduct regular inspection of Public Offices to detect Omissions/deficiency in realization of stamp duty.</p>

1	2	3	4
9	27	Taxes Department	The Committee realises that huge revenue lapse to state exchequer has been incurred due to the lack of co-ordination between Registration Department and the Registrar of Companies before whom documents have to be filed by companies. Therefore the Committee recommends that the Registration Department should evolve a mechanism in consultation with the Registrar of Companies (RoC) Kerala, to ensure that proper stamp duty has been paid before registering the documents by Registrar of Companies.
10	28	Taxes Department	The Committee also directs the Registration Department to submit a comprehensive report before the Committee detailing suggestions to enhance the capabilities and technical competency of the department at the earliest.
11	32	Taxes Department	The Committee observes that failure to amend article 17 of Kerala Stamps Act to levy advalorem rate of Stamp duty in accordance with other states resulted in a revenue loss of ₹ 1.68 crore. Therefore, the Committee recommends that the Government should amend Article 17 of Kerala Stamp Act to levy ad-valorem rate of stamp duty on share certificates with immediate effect and directs to furnish the report regarding the steps taken by the department in this regard at the earliest.

1	2	3	4
12	33	Taxes Department	The Committee observes that lack of specific provision in the Act regarding the remittance of Stamp duty and lack of co-ordination between the stock exchanges, SEBI and depositories resulted in the revenue loss of ₹ 2.26 crore. Therefore, the Committee recommends that comprehensive amendments should be made in the Registration Act and directs to evolve a mechanism to obtain periodical details of turnover of sharebrokers.
13	40	Taxes Department	The Committee observes that there exists a shortage of staff and lack of training in the internal audit wing. Therefore the Committee recommends that Internal Audit Wing should be strengthened by engaging adequate staff and by impart proper training to deployed officials. The Committee also directs that an Internal Audit Manual should be prepared at the earliest.
14	41	Taxes Department	The Committee observes that, inspections based on specific issues conducted by Senior officers could better the overall performance of, the department. Therefore the committee recommends that the department should conduct higher level inspections on specific issues and should fix on the number of inspection to be conducted. The Committee also recommends for monthly review meeting of District Registrars as well.

1	2	3	4
15	42	Taxes Department	The committee opines that the Registration Department should increase the quantum of inspections in other public offices so as to identify and rectify non registered/undervalued cases. The Committee recommends that, the Registration Department should launch an awareness programme among its officials regarding their responsibility in respect of under stamped instruments produced before them.
16	43	Taxes Department	The Committee recommends for the immediate realisation of Economic Intelligence Unit in the Department to identify potential streams of revenue and also to co-ordinate with external agencies to obtain data and to ensure that documents have been registered, where due, for the right value.
17	46	Taxes Department	The Committee is displeased to note that the omissions on the part of Sub Registrars at the time of registration of the documents resulted in short levy/evasion of stamp duty of ₹ 25.14 lakh and regrets to note that there incurred huge loss to the exchequer due to the short levying of stamp duty and registration fee in two under valuation cases of Sub Registrars office, Mulanthuruthy. Therefore the committee urges the department to make follow up action in these cases and also to submit a detailed report in this regard.

1	2	3	4
18	47	Taxes Department	The Committee criticise the irresponsible attitude of the department in improper maintenance of cash Book and lack monitoring of remittance of cash collection to the treasury. The Committee recommends that the officer who is responsible to intial the Cash Book should assure that no mistakes had occurred while making entries and should ensure the prompt remittance of cash in Treasury.
19	48	Taxes Department	The Committee is astound to note that huge loss had occurred to the exchequer due to the short levy of Stamp duty of undervalued property in so many cases. The Committee opines that had the SRO's refer the cases of undervalued property after registration to the District Registrars, loss occurred due to the short levy of stamp duty could have been avoided. Therefore the Committee directs the Registration Department to issue necessary directions to insist SRO's to report the case of undervaluation to the District Registrars in time and also to seek explanations from SRO's who were delegated unauthorised powers by violating S45B of the Kerala Stamp Act, 1959. The Committee also urges to furnish a detailed report regarding the follow up action in short levy of stamp duty of undervalued cases.
20	52	Taxes Department	The Committee observes that wide variation was there between budget estimates and actual receipts. Therefore, the Committee recommends that, the Taxes Department should streamline the budget process to make the budget estimate more realistic in future.

1	2	3	4
21	54	Taxes Department	The Committee perceives that steps have been taken to lift the stay in the remaining cases of pending collection. The Committee desires to be informed of the progress in the collection of ₹ 2.67 crore at the earliest.
22	56	Taxes Department	The Committee expresses its grave concern over the inefficient functioning of the Internal Audit wing. The Committee opines that if the Internal Audit wing functions effectively, lapses occurred could have been detected in time. Therefore, the Committee recommends that Internal Audit Wing in the department should be strengthened by providing adequate staff at the earliest in order to reduce the irregularities.
23	67	Taxes Department	The Committee observes that failure of complying the provisions of Act/Rules, in efficient functioning of internal audit etc. resulted in short levy of tax. The Committee opines that if the department took corrective measures in time regarding the objections raised by the Accountant General, mistakes which were being repeated in succeeding years could have been avoided. Therefore, the Committee recommends that stern measures should be initiated to rectify these issues and to avoid such lapse in future and steps should be taken to convene district wise audit Committee meeting regularly to settle the pending cases.
24	68	Taxes Department	The Committee expresses its suspicion that whether any illegal nexus had there between the AITO and the assesses hence the AITO did not reckon the loss accepted by the IT department at the time of finalisation of statements. The Committee is surprised to note that the department made irregular deductions which resulted in the short levy of tax of ₹ 76.57 lakh by acting against the provisions of S 5 of the KAIT Act.

1	2	3	4
25	69	Taxes Department	The Committee is desired to be furnished about the action taken by the department against the wrong deduction of written off amount of ₹ 31.83 lakh under S 5 of KAIT Act which resulted in the short levy of tax of ₹ 15.92 lakh.
26	70	Taxes Department	The Committee is aggrieved to note that non addition of Forest Development Tariff of ₹ 36.16 lakh resulted in the short levy of tax at ₹ 18.08 lakh. The Committee expresses its anguish over the fact that profit making companies are escaping from paying tax by securing stay from an authority even though they are liable to pay tax.
27	71	Taxes Department	The Committee is of the opinion that short levy of tax due to the incorrect assessments is the best example of irresponsibility of the concerned officers. Therefore, the Committee recommends the Taxes department to take immediate disciplinary action against those officers who willfully failed to follow the provision of the Act/Rules and the officers who are prima facie found guilty in order to avoid such serious irregularities in future.

APPENDIX I

NOTES FURNISHED BY GOVERNMENT

**STATEMENT OF ACTION TAKEN ON THE REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL OF INDIA FOR THE YEAR
ENDED 31.03.2011 (RR)**

I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Loss of revenue due to lack of mechanism to effectively enforce provisions of Kerala Stamp Act 1959.
	c)	Paragraph Number	4.6.11
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	13.06.2011 RR/DP-4082/2011-2012
	b)	Date of Department Reply	04.07.2011
III		Gist of Paragraph	<p>Para 4.6.11.f:</p> <p>Test check of records maintained in selected public officers revealed revenue loss of stamp duty and registration fee amounting to 23.46 crore due to failure of DRs to authorize persons to inspect records of public offices under section 68 of KS Act 1959, to detect omissions/deficiencies in relation to stamp duty.</p> <p>*Non-registration of lease/licence deeds/agreements executed between Mobile tower infrastructure companies and land/building owners.</p> <p>Test check in nine local bodies of 301 lease/licence/rent agreements of mobile infrastructure companies with the owners of the buildings along with applications for permits for setting up mobile towers revealed that none of the agreements was registered and agreements were executed on stamp paper of ₹.50/100 even though the agreements have all the characteristics of lease and compulsorily registered. The revenue loss involved in 301 cases was ₹.1.64 crore. The Officers in charge of local bodies failed to impound the documents. 8,412 permits were issued by the local bodies for setting up mobile towers in the state. The potential revenue loss worked out to ₹.23.18 crore.</p> <p>** Non-registration of lease/licence/rent agreements relating to lodges/boardings homes/resorts.</p> <p>Test check of lease/rent agreements produced along with</p>

			<p>application for registration of hotels/ lodging houses under the Kerala Luxury Tax Act in three Luxury Tax Officers in the state showed that the agreements were executed on stamp paper worth ₹.30/100 and the agreements were not registered. The deficit SD and RF involved in respect of 18 cases is ₹.27.99 lakh.</p> <p>The Department has not prescribed any norms for inspection of public offices. No inspection of public offices was conducted by the officers of the Registration Department under section 68 of the KS Act to detect omission/deficit in relation to SD.</p>
			<p>Para 4.6.11.2: Non-registration of lease agreements for installing ATMs of banks.</p> <p>Most of the ATMs were established by various banks in private buildings on long term lease with the building owners. With a view to identifying leakage of revenue in different areas, we collected details of 72 lease agreements executed by 3 banks with building owners for setting up ATMs in two cities in Kerala. It was noticed that out of 72 lease agreements, 38 agreements were not registered even though the lease was for periods exceeding one year and liable for compulsory registration. Revenue loss involved in respect of 38 lease agreements alone works out to ₹.3.52 lakh.</p> <p>Para 4.6.11.3: Loss of revenue due to non-execution of lease of Cochin Port Trust Land.</p> <p>Lease deeds were not executed and registered in respect of 122 cases of lease of land of Cochin Port for periods exceeding one year to 37 years. This deprived the State government of revenue by way of SD and RF amounting to ₹.2.15 crore and ₹. 54.71 lakh respectively.</p> <p>There was no mechanism in the Department to obtain details of such omissions leading to leakage of revenue.</p> <p>We recommend that Government may prescribe norms for inspection of public offices by the employees of DRs to detect omission/deficiency in realization of SD.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA

V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	If not please indicate the areas of disagreement	<p>As per section 68 of the Kerala Stamp Act, 1959 'Every public officer having in his custody any registers, books, records, papers, documents or proceeding, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, records, papers, documents and proceedings and to take such notes and extracts as he may deem necessary, without fee or charge.'</p> <p>As per G.O (MS) No. 132/86/TD dated 13/10/1986 the District Registrars are appointed to be Collector for the above section. By the reading of the order and its explanatory note it can be observed that the powers given to District Registrars for the completion of the procedures taken to deal with the undervalued documents as per section 45 (B) only.</p>
VI		Remedial Action taken	<ol style="list-style-type: none"> 1. All the Zonal Deputy Inspector General of Registration and also all the District Registrar (General & Audit) have been instructed vide circular numbered R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration to take immediate action in this regard for monitoring and collection of details including sample of documents in which revenue loss as mentioned above has been detected. It is also instructed to submit suitable proposals/recommendations to check the leakage and omission of revenue loss. 2. The department is of the view that the proper authority to realize such short falls are the Collectors, or the Land Revenue Commissioner who is exercising general control and supervision on all matters connected with stamp revenue in the State. 3. A proposal received from the Inspector General of Registration, for modifying the existing notification by appointing the District Registrars of the Registration Department to be Collectors to exercise the powers under section 45-B, 46, 65 and 68 of the Kerala Stamp Act, is under active consideration of Government. In the circumstances the audit para may be dropped.

		Gist of Paragraph	<p>Para 4.6.11.4: Loss of revenue due to execution of instruments having essential characteristics of lease as licence deeds.</p> <p>We observed in one Luxury Tax assessment circle and Corporation of TVM that two agreements, between lessor and lessee leasing out hotels having all the essential characteristics of lease for period of more than one year were executed as licence agreements on stamp paper worth ₹.50. The revenue loss involved by way of SD and RF was ₹.6.93 lakh and ₹.2.99 lakh respectively.</p> <p>We found that States like Karnataka and Maharashtra have included "licence of movabale and immovable properties" in their Schedules to the Stamp Act at a rate equal to that of lease. However, No such provision exists in the Schedule to the Kerala Stamp Act to plug the practice of creating documents of lease as licence deeds to evade stamp duty.</p> <p>The Government may consider amending the KS Act by inserting provisions for levy of stamp duty on licence agreements relating to movable and immovable properties akin to such provisions in other States.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Partially
	b)	It not please indicate the areas of disagreement	<p>The term "license" is not defined in the Kerala Stamp Act, 1959 or in the Indian Stamp Act, 1899. License or grant of license means to give permission and refers to that permission as well as to the document recording that permission.</p> <p>It is the creation of an interest in immovable property or a right to possess it that distinguishes a lease from a license. The test to determine whether a document is lease or not is whether it vests any exclusive interest in immovable property in favour of the transferee or whether it gives him merely a right to enter on the property and to do something thereon.</p>
V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	It not please indicate the areas of disagreement	Every person having by law or consent of parties authority to receive, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the

			<p>performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same. For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument executed or first executed.</p> <p>Therefore it become the duty of the officer in charge of a public office to ascertain whether proper stamp duty has been levied for the instrument produced or comes in the performance of his functions and impound the same for not duly stamped.</p>
VI		Remedial Action taken	<ol style="list-style-type: none"> 1. All the Zonal Deputy Inspector General of Registration and also all the District Registrar (General & Audit) have been instructed vide circular numbered R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration to take immediate action in this regard. It is also instructed to submit suitable proposals/ recommendations to check the leakage and omission of revenue loss. After the receipt of the report/recommendations from the Registration Department in this regard, Government will consider amending the Kerala Stamp Act by inserting provisions for levy of stamp duty on license agreements. 2. The concerned officers, of the public office can also examine and impound the instrument not duly stamped as per section 33 of the Kerala Stamp Act, 1959. The Government are considering to issue circular instructions in this regard to all Head of the Departments/Head of the Local Bodies/ Collectors/Public Sector Undertakings etc. In the circumstances, the audit para may be dropped.
III		Gist of Paragraph	<p>Para 4.6.12; Loss of revenue due to undervaluation of sale deeds executed by builders/developers of flats/apartments.</p> <p>We test checked 1,155 sale deeds executed by 22 builders of flats/apartments in selected SROs. We noticed that only two out of the 22 builder's had shown the consideration reported as per Form 49 in the 75 sale deeds executed by them. All the 504 sale deeds identified with reference to Form 49/agreements out of the balance 1,080 sale deeds executed by the remaining 20 builders were undervalued. The deficit SD and RF involved in the identified 504 cases was ₹.8.36 crore and ₹.1.75 crore respectively. In respect of the</p>

			<p>remaining 576 sale deeds, details of consideration set forth in Form 49/agreements were not available with Commercial Tax Department. The deficit SD and RF worked out to ₹.11.58 crore. The loss of revenue would be substantial if sale deeds executed by all the builders in the state were taken into account.</p> <p>We recommend that the Government may direct registering officers to insist on production of original agreements for purchase/construction of flats/apartments at the time of registration of sale deeds. We also recommend that the department may evolve a mechanism to obtain data on a periodic basis regarding actual cost of flats/apartments from the Commercial Taxes Department and co-relate the same with sale deeds to detect undervaluation of flats/apartments.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Partially
	b)	If not please indicate the areas of disagreement	Accountant General is of the view that the Registering officers shall insist for production of the original agreements for purchase/construction of flats/apartments with builders at the time of registration of sale deeds for ensuring the correctness of the consideration set forth in the sale deed. At present there is no provision in the Registration Act, 1908 or in the Registration Rules (Kerala), 1958 directing the Registering officer to insist for production of the original agreements for registration of an instrument. Therefore the department is incapable of issuing such direction.
V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	If not please indicate the areas of disagreement	As per section 17(1) (b) of Indian Registration Act 1908 compulsory registration is required for non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future any right, title or interest whether vested or contingent of the value of one hundred rupees and upwards to or in immovable property. Here Agreement will not come within the provision of the above section and do not require compulsory registration.
VI		Remedial Action taken	1. In order to prevent the evasion of stamp duty and to include agreement as a document for which registration is compulsory, a proposal has been furnished by the Registration Department. Government have already taken up the matter with Central Government for amendment of Section of

			<p>Indian Registration Act, 1908, since the same being a Central Act. The decision of the Central Government is awaited.</p> <p>2. Accountant General also recommended evolving a mechanism to obtain data on a periodic basis regarding actual cost of flats/apartments from the Commercial Taxes Department and co-relate the same with sale deeds to detect undervaluation of flats/apartments. The above type of data collection shall be helpful for the District Registrars in settling the under valuation cases involving sale of flats/apartments. Therefore the recommendation is acceptable and necessary directions have already been given to the District Registrars for obtaining data from the concerned department vide circular number R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration.</p> <p>3. Moreover fixation of fair value of flats/apartments is seriously considered by the Government and a committee in this regard has already been constituted and fixation of fair value for flats is under process. Hence the audit para may be dropped. Considering the above, the audit para may be dropped.</p>
III	Gist of Paragraph	Para 4.6.13:	<p>Para 4.6.13.1: Non/short collection of stamp duty on corporate bonds/debentures.</p> <p>As per the data collected from NSDL, Seven companies registered in Kerala had issued bonds valued at 1,986.40 crore in demat form having face value of ₹.10 lakh each during the period 2005-2010. Three companies paid SD at the rate applicable to promissory notes, two companies paid SD at the rate applicable to debentures transferable by endorsement or by separate deed of transfer and two companies did not pay any SD. The total short/non remittance of SD works out to ₹.5.66 crore.</p> <p>Appollo tyres- ₹.20.80 lak Dhanalakshmi Bank- ₹.8.55 lakh Manappuram- ₹.6.25 lakh SBT- ₹.328.00 lakh CSB- ₹.15.20 lakh Federal Bank- ₹.119.60 lakh The SI Bank- ₹.42.25 lakh + ₹.25.00 lakh</p>

There was no mechanism in the Registration Department to obtain data on a periodic basis from depositories regarding issue of bonds/debenture by companies/banks in demat form and to check the adequacy of SD thereon. Lack of co-ordination with depositories, SEBI, ROC resulted in loss of revenue to ₹.5.66 crore.

We recommend that the Department may evolve a mechanism in consultation with depositories to obtain details of issue of securities by companies registered in Kerala and ensure that stamp duty thereon was paid before admitting such securities in depositories.

Para 4.6.13.2:

During the period 2005-2010 four companies issued non-convertible secured debentures of different series totaling ₹.6,480.16 crore. One company paid a nominal amount of SD and other 3 companies did not pay any SD on the debentures issued.

It was stated by the companies in their letter to the Registrars of Companies that these companies issued the debentures on private placement basis and not as marketable securities and such debentures were not listed in stock exchanges. Hence they were not liable to pay SD under Article 27 of the Indian Stamp Act which deals with marketable securities. The marketable securities have been defined under Section 2(16A) of IS Act and Section 2(m) of the KS Act. The contention of the companies cannot be accepted since the term marketable security does not necessarily imply securities which are listed in stock exchanges, but all securities which are capable of being listed in stock exchanges. Hence debentures issued by the companies attract SD under Article 27 of the IS Act. The SD leviable works out to ₹.13.96 crore.

Muthoot Finance - ₹.1,254 lakh

Muthoot Capital - ₹.23.10 lakh

Muthoot Fin corp - ₹.32.93 lakh

Kosamattom Finance - ₹.85.07 lakh

We noticed that Registration Department did not coordinate with the ROC to obtain data to examine the adequacy of SD paid on issue of debentures who take ambiguity in the Stamp Act to interpret the provisions therein in such a way that legitimate duties payable to Government is not paid.

We recommend that the Department may evolve a mechanism to periodically obtain data from ROC to

			verify the adequacy of stamp duty paid on debentures/bonds by companies. We also suggest that the Government may consider amending the Stamp Act to clearly establish liability for payment of stamp duty in cases similar to the one described above.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<ol style="list-style-type: none"> 1. The recommendation is acceptable and necessary directions have already been given to the District Registrars for obtaining data from the concerned department vide circular number R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration. Furthermore the District Registrar (General) Ernakulam is deputed for the purpose to detect omission of SD and to collect details from ROC and onward submission of report and recommendations in this regard. 2. The concerned officers of ROC can also examine and impound the instrument not duly stamped as per section 33 of the Kerala Stamp Act, 1959. The Government are considering to issue circular instructions in this regard to all Head of the Departments/Head of the Local Bodies/Collectors/Public Sector Undertakings etc. Considering the above, the audit para may be dropped.
III		Gist of Paragraph	<p>Para 4.6.14:</p> <p>On test check of the mortgage deeds executed outside Kerala involving immovable properties in the State by two selected companies registered in Kerala for securing debentures issued and corporate loans/credit facilities extended by Banks/Consortium of banks, it was observed that differential duty applicable to mortgage deeds in the State of Kerala amounting to ₹.7.70 crore under Section 19 of The KS Act was not remitted before registering the charge documents with the Registrar of Companies under Section 125 of Companies Act.</p>

			<p>Reference: Article 6(1) and 37(b) to the Schedule of KS Act.</p> <p>M/s Joy Alukkas Traders Pvt Ltd - ₹.32.50+₹.65+₹.52 lakhs. M/s Apollo Tyres Ltd- ₹.620.80 lakhs</p> <p>We observed that the Registration Department did not coordinate with the ROC to obtain data for examining the adequacy of SD paid on documents described above.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<ol style="list-style-type: none"> 1. The recommendation is acceptable and necessary directions have already been given to the District Registrars for obtaining data from the concerned department vide circular number R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration. Furthermore the District Registrar (General) Ernakulam is deputed for the purpose to detect omission of SD and to collect details from ROC and onward submission of report and recommendations in this regard. 2. The concerned officers of ROC can also examine and impound the instrument not duly stamped as per section 33 of the Kerala Stamp Act, 1959. The Government can give instruction to all the Public officers in this respect. The Government are considering to issue circular instructions in this regard to all Head of the Departments/Head of the Local Bodies/ Collectors/Public Sector Undertakings etc. Considering the above, the audit para may be dropped.
III		Gist of Paragraph	<p>Para 4.6.15: Non-payment of stamp duty on instrument evidencing agreement relating to deposit of title deeds.</p> <p>M/s Joy Alukkas Traders Pvt, Ltd having its registered office at Koechi created an equitable mortgage by deposit of title deeds in respect of immovable properties situated in Kerala</p>

			<p>for obtaining credit facilities/loan from ABN Amro Bank and an instrument evidencing an agreement in this regard styled as Memorandum of Entry was executed. Copy of the instruments filed with the Registrar of Companies, Kerala revealed that no stamp duty paid on the instrument. It was observed that SD was paid on similar mortgages executed subsequently by M/s Joy Alukkas in other States. The SD involved in the documents works out to ₹.2.03 crore.</p> <p>We observed that the Registration Department did not coordinate with the ROC to obtain data for examining the adequacy of SD paid on documents described above.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<ol style="list-style-type: none"> 1. The recommendation is acceptable and necessary directions have already been given to the District Registrars for obtaining data from the concerned department vide circular number R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration. Furthermore the District Registrar (General) Ernakulam is deputed for the purpose to detect omission of SD and to collect details from ROC and onward submission of report and recommendations in this regard, 2. The concerned officers of ROC can also examine and impound the instrument not duly stamped as per section 33 of the Kerala Stamp Act, 1959. The Government can give instruction to all the Public officers in this respect. The Government are considering to issue circular instructions in this regard to all Head of the Departments/Head of the Local Bodies/ Collectors/Public Sector Undertaking etc. Considering the above, the audit para may be dropped.
III		Gist of Paragraph	Para 4.6.16: Non-remittance of SD on attested instruments evidencing an agreement relating to the

			<p>hypothecation of moveable property'</p> <p>Verification of the documents filed in office of the ROC for registration of charge documents by M/s Kosamatom Finance (P) Ltd, revealed that the company had raised working capital amounting to ₹.200 crore by issue of redeemable non-convertible secured debentures. The Company created a charge by way of hypothecation of moveable assets of the company as security for the debentures trustees by executing two instruments titled as 'unattested deed of hypothecation' on SD worth ₹.100 in case and ₹.50 in other case. Verification of the said instruments revealed that the instrument dated 01.09.2008 was attested by two witnesses and the instrument dated 15.08.2009 was attested by two witnesses.</p> <p>Even though the documents were titled as unattested deed of hypothecation, the same were actually attested deed of hypothecation liable to SD as mentioned. The SD due on the secured amount of ₹.200 crore works out to three crore.</p> <p>There was no coordination between the Registration Department and the ROC to obtain details regarding charge documents presented before the ROC under the Companies Act for registration, to examine and ensure the adequacy of SD.</p> <p>The Department may evolve a mechanism in consultation with the Registrar of Companies (ROC), Kerala before whom charge documents have to be filed by companies, to ensure that proper SD on debentures and charge documents are paid before registering the charge documents by ROC.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>1. The recommendation is acceptable and necessary directions have already been given to the District Registrars for obtaining data from the concerned</p>

			<p>department vide circular number R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration.</p> <ol style="list-style-type: none"> 2. Furthermore the District Registrar (General) Ernakulam is deputed for the purpose to detect omission of SD and to collect details from ROC. It is also instructed for submission of report and recommendations in this regard. 3. The concerned officers of ROC can also examine and impound the instrument not duly stamped as per section 33 of the Kerala Stamp Act, 1959. The Government can give instruction to all the Public officers in this respect. The Government are considering to issue circular instructions in this regard to all Head of the Departments/Head of the Local Bodies/ Collectors/Public Sector Undertakings etc. Considering the above, the audit para may be dropped.
III		Gist of Paragraph	<p>Para 4.6.17: Notional loss of revenue due to failure to prescribe ad-valorem rate of SD on share certificates.</p> <p>The rate prescribed in the KS Act (Article 17) for share certificates issued is 0.50 irrespective of the value of shares included in the share certificate. No ad-valorem rate has been prescribed. The corresponding article in the Stamp Act of Karnataka, Bombay and Delhi prescribes ad-valorem rate of 0.10 per cent on the value of shares issued.</p> <p>Since no ad-valorem rate has been prescribed in the KS Act, no SD is being paid by companies registered in Kerala on issue of shares in demat form whereas companies registered in other states pay SD on the total value of shares including premium. Had the Government amended the rate of SD leviable under Article 17 of the KS Act as ad-valorem (0.1 per cent of the value of shares) in the line with other states, substantial revenue could have been generated. Failure of the Government to prescribe ad-valorem rate of SD on share certificates resulted in notional loss of revenue to the tune of ₹.1.68 crore.</p> <p>The Government may consider amending Article 17 of KS Act to levy ad-valorem rate of SD on share certificates.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes

	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>3. The recommendation is acceptable and necessary directions have already been given to the District Registrars/Zonal Deputy Inspector General of Registration for obtaining data from the concerned department vide circular number R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration.</p> <p>4. Furthermore the District Registrar (General) Ernakulam is deputed for the purpose to detect omission of SD / to collect details from ROC and onward submission of report and recommendations in this regard. After the receipt of the report/recommendations this matter will be examined closely by Government and will consider amending Article 17 of the Kerala Stamp Act.</p> <p>5. The concerned officers of ROC can also examine and impound the instrument not duly stamped as per section 33 of the Kerala Stamp Act, 1959. The Government are also considering to issue circular instructions in this regard to all Head of the Departments/Head of the Local Bodies/Collectors/Public Sector Undertakings etc. In the circumstances, the audit para may be dropped.</p>
III		Gist of Paragraph	<p>Para 4.6.18: Non-remittance of SD on contract notes by share brokers.</p> <p>As per information received from Bombay Stock Exchange and National Stock Exchange, the total number of share brokers executing trades on behalf of clients based in Kerala was 220 and 221 respectively. However only 27 share brokers were collecting and paying SD to the Government of Kerala. Hence 193 share brokers who have executed trades on behalf of clients in Kerala during the period 2005-2010 in BSC and 194 share brokers in NSE who had executed trades on behalf of clients in Kerala had not remitted the SD on contract notes. The SD involved in case of non-delivery transactions works out to 2.26 crore.</p> <p>No database of share brokers functioning in the state and executing share transactions for clients in Kerala is available with the IGR. There was no co-ordination between stock</p>


			exchanges, SEBI etc. The Government may evolve a mechanism to periodically obtain details of turnover of share brokers executing trades on behalf of clients in Kerala from NSE/BSE to examine, ensure and enforce payment of SD collected by share brokers from clients.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	It not please indicate the areas of disagreement	<p>The share broking companies making business in Kerala and having their head office/regional office in a particular district commonly remits the stamp duty in the district/sub treasuries situated near by their offices. They were remitting the stamp duty based on their business in a calendar month in the whole state.</p> <p>At present about 48 companies were remitting stamp duty based on their business in the whole state. The companies were informing the remittance of stamp duty to the District Registrar concerned, with relevant details and chalans. Detailed report regarding the deduction of stamp duty and statement were submitting to the Government at regular intervals. A total collection ₹.6,07,18,457/- has been reported for the year 2011-2012 in this regard</p>
VI		Remedial Action taken	<p>Mean while the Empowered committee of State Finance Ministers has taken up this matter with the Ministry of Finance of the India Government to evaluate a harmonized stamp duty structure across the state on securities/contract notes since different states charge different rates of SD. The present system of levy has caused ambiguity especially with respect to its jurisdictional applicability and also multiple incidence of SD. It is proposed that no SD shall be collected by the State under any other clause or any Note of Memorandum or document associated with the transaction on which depository/stock exchange has been authorized by the Government to collect the SD. The SD so collected by the Stock Exchanges and depositories is proposed to be transferred within a fortnight of the end of the month to the concerned State Government, having residence of the seller or concerned dealing office of the broker.</p>

			<p>The matter was intimated to the Inspector General of Registration and his office expressed positive attitude/remarks for the introduction of the aforesaid Harmonized SD Structure. Government are actively considering to introduce this system. Introduction of the newly proposed system of imposing a uniform rate of SD from the part of the Central Government can prevent the evasion of SD as mentioned above in the audit para.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.21.4: Failure to conduct inspection of public offices.</p> <p>Enquiry with District Registrars of selected districts and IGR revealed that no inspection of public offices was conducted till date to identify any fraud or omission in relation to any duty and to secure any stamp duty. (Section 68 of the KS Act). On this pointed out, the IGR stated that District Registrars have been appointed to be Collectors under Section 68 only for the completion of procedures taken to deal with UV documents and the duty of public officers to ascertain whether proper SD has been levied for the instrument produced and impound the same.</p> <p>The reply of the Department is not acceptable since the District Registrars did not nominate persons to exercise the powers under section 68.</p> <p>We recommend that the Department may fix the minimum number of inspection of public offices to be carried out by DRs so as to identify cases of non-registration/UV.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Partially
	b)	It not please indicate the areas of disagreement	As per section 33 of the Kerala Stamp Act, every person having by law or consent of parties authority to receive, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same. For that

			<p><u>purpose every such person shall examine every instrument so chargeable and so produced or coming before him</u>, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument executed or first executed.</p> <p>Therefore it become the duty of the officer in charge of a public office to ascertain whether proper stamp duty has been levied for the instrument produced or comes in the performance of his functions and impound the same for not duly stamped.</p>
V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	If not please indicate the areas of disagreement	<p>The District Registrars are appointed to be collectors to exercise the powers under section 31, 32, 37, 38(1), 39, 41, 45 (a), 46, 65, 68 of the above Act. In this, section 45 (A) has been renumbered as 45 (B) by Act 14 of 1988 published in Kerala Gazette extraordinary no. 358 dated 22/04/1988. As per G.O (MS) No. 132/86/TD dated 13/10/1986 the District Registrar are appointed to be Collector under section 45 (A), 46, 65 and 68 of the Kerala Stamp Act, 1959. The explanatory note of the said G.O explains that the powers of Collector are given to the District Registers with a view to checking the undervaluation of documents. For the above purpose the Kerala Stamp (Prevention of under valuation of instruments) Rules has been framed and Collectors (District Registrar) are holding enquiry in such manner as prescribed by the above rules and taking appropriate actions.</p> <p>Due to heavy work load related to Appeals/Complaints from Public, Conducting Enquires, Society Registration, frequent assembly sessions and surfacing of several land scams, periodic inspections/audit as stipulated by law, conferences by District level/Departmental Conferences etc already makes the District Registrar very busy. Furthermore disposing of the Undervaluation cases from 1986 is another important time consuming and difficult task in front of the District Registrar. Lack of suitable infrastructure and appropriate staff strength is another factor.</p>
VI		Remedial Action taken	<p>1. All the Zonal Deputy Inspector General of Registration and also all the District Registrar (General & Audit) have been instructed vide circular numbered R.R.9-13041/2011 dated 24.09.2012 to take immediate action in this regard</p>

			<p>for monitoring and collection of details including sample of documents in which revenue loss as mentioned above has been detected.</p> <ol style="list-style-type: none"> 2. This department is of the view that the proper authority to realize such short falls are the Collectors, or the Land Revenue Commissioner who is exercising general control and supervision on all matters connected with stamp revenue in the State. 3. Government are considering the matter by giving the powers to the District Registrars for inspecting the public offices/ authorizing persons for inspection of every public office. 4. Government are actively considering to modify the existing notification by appointing the District Registrars of the Registration Department to be Collectors to exercise the powers under section 45-B, 46, 65 and 68 of the Kerala Stamp Act. 5. The concerned officers of Public Office can also examine and impound the instrument not duly stamped as per section 33 of the Kerala Stamp Act, 1959. The Government are considering to issue circular instructions in this regard to all Head of the Departments/Head of the Local Bodies/ Collectors/Public Sector Undertakings etc. Considering the above, the audit para may be dropped.
III		Gist of Paragraph	<p>Para 4.6.21.5:</p> <p>Recommendation: The Government may consider establishing an Economic Intelligence Unit (EIU) in the Department to identify sources from which SD and RF can be raised by conducting a study of Stamp Acts of In other States. The EIU may also be vested with the responsibility of coordinating with external agencies to obtain data and verify that documents have been registered. Where due, for the right value.</p>

IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<ol style="list-style-type: none"> 1. This department has already been taken proper steps to raise the SD and RF from the documents registered, by introducing Fair Value in the state. Fixation of fair value had made a salutary impact on the collection hike as well as in decrease in number of undervaluation cases reported under section 45-B of the Kerala Stamp Act. 2. All the Zonal Deputy Inspector General of Registration and also all the District Registrar (General & Audit) have been instructed vide circular numbered R.R.9-13041/2011 dated 24.09.2012 of the Inspector General of Registration to take immediate action in this regard for the inspection of public offices for monitoring the evasion of Stamp duty and Registration fee which in turn helps the department to identify sources to raise SD and RF. They are also entrusted to obtain data and verify the documents to check evasion of stamp duty. 3. Government are considering to modify the existing notification by appointing the District Registrars of the Registration Department to be Collectors to exercise the powers under section 45-B, 46, 65 and 68 of the Kerala Stamp Act, for conducting inspection of public offices. Government will actively consider the matter regarding the constitution of a separate Economic Intelligence Unit in the department by appointing officials from the Government side and also from the department side. Considering the above, the audit para may be dropped.


A. SHAH
 Additional Secretary to Govt.
 Taxes Department
 Govt. Secretariat
 Thiruvananthapuram

**STATEMENT OF ACTION TAKEN ON THE REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL OF INDIA FOR THE YEAR
ENDED 31.03.2011 (RR)**

I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Review on levy and collection of stamp duty and registration fee.
	c)	Paragraph Number	4.6.7, 4.6.8, 4.6.9, 4.6.10
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	13.06.2011 RR/DP-4062/2011-2012
	b)	Date of Department Reply	04.07.2011
III		Gist of Paragraph	Para 4.6.7: Trend of Revenue (Budget Estimates). Chapter III para 14 of Kerala Budget manual stipulates that the estimates should neither be inflated nor under pitched, but as accurate as practicable. The department stated that the budget estimates were prepared in respect of stamp duty and registration fees by adding 20% and 5-10% over the actual collection. Hence we recommend that the department must devise a more scientific basis for preparing budget estimates than adopt a flat per cent inflation.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	There are no specific criteria existing for revenue budget preparation in this department. At present budget relating registration fees is calculated by the Registration department and relating to stamps is calculated by Land Revenue

			<p>Commissioner. Registration department is only operating Head of account "0030-03-Registration Fees" and budget estimate is calculated by taking into account of last three years trend and adding 5 to 10 % excess on previous actual receipts.</p> <p>Now the department has decided to consider a more scientific method, taking into account of the previous year collection, the general trend in real estate business, considering the policies of the Government regarding registration fees etc for the preparation of revenue budget regarding registration fee.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.8: Computerization of Registration Department.</p> <p>Department envisaged an IT enabled solution for the implementation of the Compounding scheme 2009. Accordingly, E-mudra software was developed by C-DIT for managing the one time settlement Compounding scheme as per the user requirement specification furnished by the department. An amount of ₹.10.92 lakh was paid to C-DIT for software development charges, database conversion etc. The existing PEARL Data base was converted into Unicode format. The software was installed in the DRO's between December 2009 and February 2010, i.e. 8 months after the commencement of the scheme by which time 8.97 lakh notices had already been issued manually. Out of the 6.57 notices issued after the installation of E-mudra only 16,190 notices were generated in 7 DRO's through E-mudra (2.44%). Receipts of remittances made under in 5,156 cases. The Online Data Updation Module could not be put to use since feeding of primary details had not been completed. Thus the objective of implementation of E-mudra could not be achieved.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA,
V	a)	Does the Department agree with the Audit Conclusion	Partially

	<p>b) It not please indicate the areas of disagreement</p>	<p>The department has introduced the one time Settlement scheme in the financial year 2009-10. At the time of implementing the scheme the necessary work flow and procedure for recording the transaction and event related to the system was also worked out. On assessment of the heavy manual workload involved in the scheme, it was decided to have web application in the place to monitor the scheme from all the offices concerned which will enable various MIS reports to the concerned.</p> <p>Accordingly C-DIT was entrusted with the task for a system study and as per the user requirement specification, the data conversion and consolidation of the database in all the SRO's was undertaken and a front end application was designed and developed to fetch the details of documents that comes under the One Time Settlement Scheme. The data conversion of all the databases was undertaken by C-DIT and a web application viz. e-Mudra was developed and deployed to monitor the scheme. The application was made to work locally also due to the concern in connectivity issues. The synchronization with central application at the state Data Centre was done at regular intervals.</p>
VI	Remedial Action taken.	<p>In order to ease the operation of the monitoring mechanism for the scheme, the department has proposed to engage data entry operators on contract basis to feed the primary details of Undervaluation details into the application system. This requirement was felt in view of the probable workload related to scheme which was to be managed by the Department staff. But the government denied sanction to engage data entry operators on contract basis and the department staff was forced to operate the system along with other duties in connection with the scheme.</p> <p>Since the staff strength available with the district offices were insufficient to hand the extra workload due to the scheme, the employees from sub Registry Offices were deputed with special duties in connection with the scheme. The employees so deputed were given training in operating the e-Mudra application for monitoring the scheme.</p> <p>On receiving complaints from the public regarding delay in service deliveries from the SRO's were employees were deputed to One time settlement scheme, it was decided to depute employees from the Sub Registry Offices on rotation basis so as to ensure smooth functioning of the Sub Registry Offices concerned.</p>

			<p>This had created problem in smoothly operating the application system proposed for the scheme. The employees, who were given training in operating the system was changed due to the rotation system mentioned above and it was practically impossible to give hands on training to all employees who deputed on rotation basis. This had adversely affected the smooth functioning of the monitoring mechanism over the e-Mudra application and the timely updating the transactions and events get delayed or ignored.</p> <p>One among the success factors of the scheme was a fool proof monitoring mechanism. The Department has made every effort to have an effective monitoring mechanism through an IT enabled solution in this issue.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.9: Compliance deficiency - Fixation of Fair Value.</p> <p>During the period of review, the SR's had reported 26.24 per cent of the total documents registered as undervaluation cases. Out of this 21.25 per cent was decided by the DRs and 26 per cent of the decided cases were settled.</p> <p>We find that the department was not manned by trained officials to handle the huge number of undervaluation cases accumulating year after year.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>During 2011-2012, under STP Scheme, 9 training programs (3 Days - 30 Participants) related to Act and</p>

			<p>Rules has been given to various cadres of staffs in this department, through IMG – TVM, EKM and KKD. Under TTP Scheme 8 training programs were also organized during 2011-2012, related to Act and Rules through IMG-TVM.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.10: Implementation of Compounding Scheme.</p> <p>The Government introduced compounding schemes in 1997 and 2002 for settling pending UV cases. Under the first scheme, liability of the parties stood discharged on payment of 30% of the stamp duty already levied, and in the second scheme payment of 30% of the deficit SD and RF. On expiry of the scheme in-2002 there were 4.85 lakh UV cases pending settlement. Introduction of the amnesty scheme at regular intervals and large number of UV cases remaining unsettled at the end indicated that these schemes were not effectively implemented.</p> <p>The Government of Kerala introduced a scheme for the disposal of UV cases on 2009. Under the scheme about 20.11 lakh cases involving revenue of ₹.2,409 crore were proposed to be considered for disposal and the liability of the parties stood completely discharged on payment of fixed amount based on the extent of land and locality. We are unable to verify the rationale behind the determination of the fixed amount of duty, as such records were not available with the IGR. We noticed that the successive compounding scheme have been more generous than the earlier schemes in discharging the liability. We consider that such liberal dispensations may deter prompt settlement of UV cases.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA

VI		Remedial Action taken	<p>By considering the well response of the public to the settlement scheme of 2009 and respective collection hike than earlier settlement schemes, Government, as per GO(P)No.151/12/TD dated 25/8/12 have decided to introduce one time settlement scheme for compounding of duties in respect of the under valuation cases pending as on 31/3/12.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.10.1: Target and achievement of Compounding scheme.</p> <p>We noticed that the Department had made concerted efforts to issue 15.54 lakh notices to parties under the scheme. However, despite such efforts, the Department was able to mop up only ₹.69.22 crore in 2.91 lakh (18.73%) at an average of ₹.2,380 per case under the scheme against the target of ₹.100 crore.</p> <p>We consider that failure of the Department to initiate action against 4.73 lakh out of 4.85 lakh persons who did not respond to the previous compounding schemes was mainly responsible for the poor response to the compounding scheme.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes//
	b)	It not please indicate the areas of disagreement	NA/.
VI		Remedial Action taken	<p>All duties, penalties and other sums required to be paid due to the undervaluation of instruments may be the recovered by the collector by the process in force for the recovery of arrears of land revenue. The revenue authorities have been instructed that only after the departmental appeals process is exhausted, revenue recovery action needs to be initiated.</p>

			<p>Therefore the request for revenue recovery of UV cases can only be forwarded to the Collector after departmental procedures are completed. As per the recommendations of AG, necessary direction has given to the District Registrars to take necessary actions on the pending UV cases.</p> <p>All Zonal Deputy Inspector General of Registration have been instructed to direct the District Registrars to issue final orders on all the pending under valuation cases as per the Kerala Stamp (Prevention of under valuation of Instruments) Rules, 1968 and to refer the pending under valuation cases to the District Collector concerned for Revenue Recovery proceedings.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.10.2: Loss of revenue due to short accounting of UV cases.</p> <p>Analysis of data furnished by IGR, TVM revealed that 2,13,190 UV cases involving revenue of 50.74 crore, were not brought under compounding scheme 2009. The collection under compounding scheme is ₹.69.22 crore. Based on the average collection of ₹.2,380 per case settled under the compounding scheme, the revenue involved in respect of 1,84,708 cases not brought under the scheme in the state works out to ₹.43.96 crore.</p> <p>Lack of periodic reconciliation of UV cases reported by SROs with the records of UV cases received in the DROs and improper maintenance of records resulted in the short accounting of UV cases.</p> <p>The Department may take action to reconcile, identify and account for the missing UV cases for further action.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	If not please indicate the areas of disagreement	NA

V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>The details collected from the District Offices were consolidated and submitted to the Audit team. Necessary directions have been given to the District Registrars to take action to identify, reconcile and account the missing UV cases.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.10.3: Potential revenue remaining unrealized in UV cases.</p> <p>The number of UV cases pending settlement in the State as on 31.03.2011 is 12.03 lakh. Potential revenue remaining unrealized in respect of the pending cases that could have been realized in the normal course by issue of final orders would work out to ₹.545.81 crore based on the average collection of ₹.4,537. Even if all the pending cases were settled under the compounding scheme potential revenue that could have been realized based on the average collection of ₹.2,380 per case under the scheme would be ₹.286.32 crore.</p> <p>We noticed that no time limit/target was fixed for issue of final orders by DRs in UV cases. In the absence of final orders no enforceable demand was created for recommending cases for RR action in case of non- payment of deficit SD & RF by the concerned parties in UV cases.</p> <p>Government may implement a time bound action plan to settle outstanding UV cases.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes

	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>All Zonal Deputy Inspector General of Registration have been instructed to take immediate action to direct the District Registrars for issuing final orders on under valuation cases as per the Kerala Stamp (Prevention of under valuation of Instruments) Rules, 1968 and to refer the pending under valuation cases to the District Collector concerned for Revenue Recovery proceedings. More over, Government, as per GO(P)No.151/12/TD dated 25/8/12 have decided to introduce one time settlement scheme for compounding of duties in respect of the under valuation cases pending as on 31/3/12.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.10.4: Loss of revenue – Short collection of SD under Compounding scheme.</p> <p>In SRO Kozhikkode, one UV case involving an extent of 96 cents of land in corporation area was settled by collecting ₹.5, 000 instead of ₹.81, 000 resulting short collection of ₹.76, 000.</p> <p>In SRO, TVM, three UV cases involving an extent of more than 50 cents were settled under the scheme collecting ₹.36,000 instead of ₹.78,870 resulting in short collection of ₹.42,870.</p> <p>In SRO, Chala, one case involving an extend of 1.01 hectare was settled under the scheme collecting ₹.13, 500 instead of ₹.40, 500 resulting in short collection of ₹.27, 000.</p> <p>The total short collection in 3 SROs mentioned is ₹.1.46 lakh. We are of the view that the above mistakes occurred due to application of incorrect rate of compounding duty based on the classification of land and SD already paid.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Partially
	b)	It not please indicate the areas of disagreement	The Government of Kerala introduced one time settlement-compounding scheme vide GO (P) No.57/2009/TD dated 27.03.2009 to settle all pending undervaluation cases referred to the District Registrar or called for by him under sections 45

			<p>A, 45 B, 45 C of the Kerala Stamp Act, 1959 which includes the cases that were finally disposed off and referred for revenue recovery proceedings for recovering the deficient stamp duty. Under the scheme unsettled cases from 1986 were proposed to be considered for disposal and the liability of the parties stood completely discharged on payment of fixed amount based on the extent of land and locality. In order to implement the scheme more effectively than earlier schemes, separate slabs were introduced with respect of extent of transactions.</p>
V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	It not please indicate the areas of disagreement	<p>The documents related to the above three offices, in the audit remarks also deserve the benefit of the scheme and thus the documents have been settled through this scheme. The collection hike while-comparing with the earlier scheme itself proves the effectiveness of the above scheme.</p> <p>Hence the above Para may be dropped from this report.</p>
VI		Remedial Action taken	NA
III		Gist of Paragraph	<p>Para 4.6.10.5: Irregular exemption under Compounding scheme.</p> <p>In SRO, Maradu one UV case involving recommended deficit SD of ₹.3.70 lakh and RF of ₹.0.70 lakh and having an extent of 51.02 cents of land was exempted as a case below 5 cents in panchayath area. The irregular exemption resulted in loss of revenue of ₹.4.40 lakh.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	No
	b)	It not please indicate the areas of disagreement	<p>The action regarding this issue can be initiated only after getting the detailed report regarding the document number, date etc. Unfortunately nothing in this regard is mentioned in the review report or audit para. So it is very difficult from this end to recheck all the settled cases from 1986 onwards through the above compounding scheme.</p>

V	a)	Does the Department agree with the Audit Conclusion	No
	b)	It not please indicate the areas of disagreement	As mentioned in IV (b)
VI		Remedial Action taken	N.A Considering the above facts, the para may ideally be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Loss of revenue due to lack of mechanism to effectively enforce provisions of Kerala Stamp Act 1959.
	c)	Paragraph Number.	4.6.19
II	a)	Date of receipt of the Draft Para	13.06.2011 RR/DP-4082/2011-2012
	b)	Date of Department Reply	04.07.2011
III		Gist of Paragraph	Para 4.6.19: Notional loss of revenue due to non-revision of Schedule I of Indian Partnership Act 1932. A proposal to escalate the existing rate of fee of 15 to 500 under the Indian Partnership Act, 1932 was forwarded by the Department to the Principal Secretary in February 2006; no revision however has been effected so far. The financial impact due to non revision of fee during the last 4 years was 63.79 lakh. On this pointed out, the IGR stated that the matter has been reported to the Government. Government may consider enhancing RF of Partnership firms by issue of necessary amendment to the Schedule to IP Act.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the	NA

		areas of disagreement	
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	Government have approved a draft bill for amending the Schedule to the Indian Partnership Act and forwarded to the Legislative Assembly in the year 2011, and the same is still pending before the Legislative Assembly for enactment.
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Loss of revenue due to lack of mechanism to effectively enforce provisions of Kerala Stamp Act 1959.
	c)	Paragraph Number	4.6.20
II	a)	Date of receipt of the Draft-Para	13.06.2011 RR/DP-4082/2011-2012
	b)	Date of Department Reply	04.07.2011
III		Gist of Paragraph	Para 4 6.20: Working of Internal audit wing: Inspector General of Registration monitors the functioning of the IAW. Of the Registration Department. The District Registrar (Audit) is responsible for conducting audit. The audit offices were being selected by giving priority to those offices where the Registering officer was due to retire shortly. During 2010-11 the IAW audited 261 units out of 303 units planned for audit. Recommendation: The IAW may be strengthened by imparting training to the persons deployed for audit and an Internal Audit Manual must be prepared.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes

	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>The District Registrar (Audit) is responsible for conducting audit in the Sub Registrar offices. The periodicity of audit of SROs is annual. Besides the audit conducted by the District Registrar (Audit), the District Registrar (General) also conducts inspection in all SROs in the district annually. Apart from this, surprise inspection is also conducted by the District Registrar and Deputy Inspector General of Registration. Inspector General of Registration also conducts inspection and audit in 14 District Registrar offices annually.</p> <p>In order to strengthen the internal audit, an audit monitoring committee has been constituted already under the head of Joint Inspector General of Registration with Finance officer and section clerks. This committee conducted two sitting at Kozhikkode District and Wayanad District, in the last year to dispose of long pending audit paras. About 70-80 per cent of reports were disposed during the above sittings. Further more, schedule is also prepared for the inspection in the current year for other district also.</p> <p>During 2011-2012, under STP Scheme, 9 training programs (3 Days - 30 Participants) related to Act and Rules has been given to various cadres of staffs those who engaged in audit and other works in this department, through IMG - TVM, EKM and KKD. Under ITP Scheme 8 training programs were also organized during 2011-2012, related to Act and Rules through IMG-TVM.</p> <p>By accepting the views and recommendations rendered by the C & AG through the above para in good spirit, this office is on the way for the preparation of IWA Manual.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Loss of revenue due to lack of mechanism to effectively enforce provisions of Kerala Stamp Act-1959.
	c)	Paragraph Number	4.6.21

II	a)	Date of receipt of the Draft Para	13.06.2011 RR/DP-4082/2011-2012
	b)	Date of Department Reply	04.07.2011
III		Gist of Paragraph	Para 4.6.21: Internal Control Para 4.6.21.1-Shortfall in inspection. Inspection by IGR: there was a shortfall of 85 per cent in inspection of SROs and up to 63 per cent in inspection of DR Offices.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	Due to heavy work load, frequent assembly sessions and surfacing of several land scams, the Inspector General of Registration could not inspect all the Sub Registrar and District registrar offices in time. Earnest efforts will be taken for inspecting all these offices in time without making any arrears in future. Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.
III		Gist of Paragraph	Para 4.6.21.2: Failure to fix time limit/target for disposal of UV cases. During the period 2004-2005 to 2008-09 only 12,160 cases out of 4,85,089 UV cases were reported for RR action. However collection through RR action was effected in 7,399 cases only. It was observed that no target and time frame was fixed for issue of final orders by District Registrars in UV cases reported by ERs. Hence final orders in UV cases were issued only in about 10 per cent of the UV cases reported/pending. We recommend that a time limit may be fixed for disposal

			of UV cases by DRs.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>As per Kerala Stamp (Prevention of under valuation of instruments) Rules, 1968 time frame for disposing the under valuation cases by the District Registrar have been fixed. Strict direction has been given to the District Registrar to abide by the time limit to dispose of the pending cases.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
III		Gist of Paragraph	<p>Para 4.6.21.3: Improper maintenance of records relating to UV.</p> <p>During test check of the register of UV cases maintained in DR offices, we found that all UV cases reported by SROs were not accounted in the register. No periodical reconciliation of UV cases reported by SROs with records of DR offices has been prescribed and follows.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	It not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	It not please indicate the areas of disagreement	NA

VI		Remedial Action taken	<p>Necessary directions has been given to the District Registrars to take action to identify, reconcile and account the missing UV cases and proper maintenance of the UV registers by noting all the details.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Non Compliance of Provisions of Kerala Stamp Act and Rules.
	c)	Paragraph Number	4.8.1
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	03.06.2010 RR/DP-4066/2011-2012
	b)	Date of Department Reply	25.06.2010
III		Gist of Paragraph	<p><u>Defalcation of Receipts:</u></p> <p>SRO Pattom, T.V.M. April 2011</p> <p>Scrutiny of the cash book and related documents for the period from January 2009 to March 2011 and found that the cash remitted to Government account was short by ₹. 33,929/- in 15 instances. Some of the glaring mistakes are narrated below.</p> <ul style="list-style-type: none"> • Collection on 08.09.09 was ₹.330832/- against which remittance was made for ₹.326832/- • UV collection of on 25.09.09 was ₹.205450/- against which ₹.193450/- only was remitted • Collection of ₹.6011/- on 29.12.09 was not remitted to Government. • Collection on 05.01.10 was against which remittance to the treasury was for resulting in short remittance of ₹.200/- <p>Besides short remittance there were other irregularities which are highlighted.</p> <ul style="list-style-type: none"> > Receipt in respect of disbursement of ₹.390/- on 30.03.09 was not noted. > An amount of ₹.409779/- was posted in the payment side of the cash book as against collection and

			<p>remittance of ₹.86,081/-</p> <ul style="list-style-type: none"> ➤ Closing balance of 31.08.09 was ₹.391837/-certified as against ₹.403123/- ➤ Total entries of 15.09.09 was arrived as ₹.584202/- against ₹.588802/- ➤ Incorrect remission on 19.09.09 without indicating the details of remittance of ₹.23360/- ➤ Receipt as on 29.01.2011 was ₹.213756/- but the amount remitted on 31.01.2011 was ₹.212213/- <p>These cases are only illustrative. Almost all noting in the cash book was not conforming to the cash transactions.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Partially.
	b)	It not please indicate the areas of disagreement	<ul style="list-style-type: none"> • Collection relating "A" account, UV and Special Marriage on 08.09.2009 was ₹.326832/- and ₹.4000/- was collected for Will Enquiry. Actual collection of ₹.326832/- was remitted into treasury on 09.09.09 vide Chalan 126, 131 and 130 respectively. Collection of ₹.4000/- relating Will Enquiry was kept in "C" account to met will enquiry expenses and also carried over to next days. Hence no short remittance occurred. • Collection relating "A" account on 25.09.2009 was ₹.193450/- and ₹.12000/- was collected for UV as DD. Actual collection of ₹.193450/- was remitted into treasury on 16.09.09 vide Chalan 187. Demand Draft No. 984454/Federal Bank for ₹.12000/- relating UV was sent to DR (Audit) for collection. Hence no short remittance occurred. • The collection on 28.12.2009 was not able to remit on the next day due to Harthal on 29.12.2009. Actual collection of ₹.100237/- (including the amount ₹.6011/-) was able to remit only on 30.12.2009. Hence no short remittance occurred. { • The collection on 29.12.2009 could not remit on the same day due to Harthal Actual collection of ₹.69000/- (including the amount ₹.8000/-) was able to remit only on 30.12.2009. Hence no short remittance occurred. • There occurred a short levy of ₹.200/- on 05.01.2010 and the same amount was remitted by the concerned employee in to the treasury on 31.05.2012 vide chalan number 337. Hence the item

			may be dropped.
V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	It not please indicate the areas of disagreement	<ul style="list-style-type: none"> ➤ While posting, omission occurred to enter an amount of 390/- in receipt regarding Will Enquiry on 30.03.2009. The above clerical mistake has already been rectified. The actual collection on 30.03.2009 is ₹.3060624/- and the same has been remitted in to the treasury on 31.03.2009 vide chalan number 471. ➤ The clerical mistake occurred in the certificate has already been rectified. The actual cash balance is ₹.403124/-. ➤ Short remittance of ₹.80/- (which was collected towards Chitty account -Actual collection is ₹.36600/- and not ₹.36520/-) on 15.09.09 was remitted by the concerned employee in to the treasury. ➤ Omission occurred to post an amount of ₹.23360/- relating chitty collection on 19.09.09 has already been rectified. Actual collection of ₹.175635/- had remitted in to the treasury on 22.09.09 vide chalan 353. ➤ Clerical mistake occurred while posting the actual amount of ₹.4559/- relating "D" account on 29.01.11. The "D" account collection of 31.01.11, Monday is wrongly posted in the column of 29.01.11, Saturday. Actual collection of ₹.212213/- had remitted in to the treasury on 31.01.11 vide chalan 357.
VI		Remedial Action taken	<p>The reports received from the District Registrar reveals that in all cases except in two cases (05.01.10 and 15.09.09) the amount collected had been remitted as substantiated by the remittance register entries. The deficit amount mentioned in the two dates has already been remitted in to the treasury by the concerned employee. In all other cases the mistake was due to the wrong entry and clerical errors in cash book.</p> <p>This office also conducted a supplementary enquiry regarding this issue by deputing the Finance Officer and Establishment section Senior Superintendent. Strict instructions have been given to the Sub Registrar from this office on 08.08.2011 to</p>

			<p>rectify the inadvertent discrepancies and mistakes noticed in the Cash Book. It is also reported by the Sub Registrar, that all the discrepancies noticed in the Cash Book has been rectified and the Cash Book is now maintained properly.</p> <p>Furthermore the above issue pointed out by the Accountant General, has been viewed seriously by the department and action has already been taken to prevent this type of irregularities in future. A general circular has been issued in the intention to take extra care to avoid this type of mistakes and also to strengthen the internal audit wing.</p> <p>Considering the above facts, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
I.	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Non Compliance of Provisions of Kerala Stamp Act and Rules.
	c)	Paragraph Number	4.3.2
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	10.05.2010 RR/DP-4028/2011-2012
	b)	Date of Department Reply	13.05.2011
III		Gist of Paragraph	<p>Short levy due to Undervaluation of Property.</p> <p>SRO Rajakumari, August 2010.</p> <p>In two cases that the consideration revealed in documents relating to sale deeds registered on the same day or within a period of one or two weeks in respect of landed properties in the same locality and within similar features varied substantially. The Sub Registrar had not reported these cases to the District Registrar. These cases should be examined to see whether there is undervaluation. (Short levy ₹. 71.71 lakh)</p> <p>1: Doc No. 592/2007 and 648/2007 are undervalued while comparing with Doc. No. 580/2007- Properties are in same survey number- 20/1 of Chinnakkanal Village</p> <p>2. Doc. 2201/07 undervalued comparing with 2190/07. Properties are in same survey number- 20/1 of Chinnakkanal Village.</p>

IV	a)	Does the Department agree the fact and figures included in the paragraph	No
	b)	It not please indicate the areas of disagreement	<p>The audit team, comparing the documents numbered 580/2007 and 2190/2007 with other documents numbered 592/2007, 648/2007 and 2201/2007 comprising the same Re-Survey number made remarks that the later documents are undervalued for an amount of ₹. 71.71 lakh.</p> <p>It is common that the value of the property varies from place to place depending on geography and topography. The development of the area is another factor determining the value of property even though there is similarity in R.S. Number. It is a fact that no absolute and accurate higher or minimum value can be pre determined. Value of a property is decided by the buyer and seller and there is no provision in the Kerala Stamp Act or the law made there under, to determine the value of the property based on the value of the other adjacent properties in the same survey numbers.</p> <p>There is no prevailing rule that empowers the registering officer to check the market value at the time of presentation and to refuse to register the document on the ground that the document was not stamped on the basis of the market value. Since the fair value was not prevalent in the state, there is no other option in front of the registering officer, but to accept the document for registration. He has to agree with the consideration passed between the parties and set forth in the document. A number of judgments (case laws) uphold the above aspect.</p> <p>Taking a highest value of a property in a particular survey number as yardstick, and demanding the same price for all the properties in the same survey number is not legally sustainable. Registration department keeps 15 types of classification in a same survey number. This aspect is the basic principle behind the Fair Value fixation of land.</p>
V	a)	Does the Department agree with the Audit Conclusion	No
	b)	It not please indicate the areas of disagreement	<p>The following facts are submitted herewith, for consideration.</p> <p><u>I.1. In the First Case</u> from the recitals of the document itself it is obvious that the properties mentioned in the documents 592/2007 and 648/2007 were situated in non residential "Hill Tract", and also almost unfertile barren land.</p>

		<p>2. In the property description of document 592/2007, it is well stated that the west portion of the property is "Government Tharissu"</p> <p>3. In the property description of document 648/2007 also, it is stated that the east portion of the property is "Tharissu"</p> <p>4. The District Registrar and the concerned Sub Registrar reports that as usual hearing conducted while registration the parties stated that the <u>road mentioned in the properties 592/2007 and 648/2007, is lying 15 meters to 20 meters vertically below the plot and only a steep, narrow entry is existing in the plot from the road.</u></p> <p>5. From the recitals of the document 580/2007, it is very clear that the properties mentioned in the document is a residential plot with private road access situated in a plain area with a reinforced concrete building. The above aspect alone gave a clear intimation regarding the higher consideration. It is to be admitted that the proximity of land in document 580/2007 to the building, the nature of land such as garden, fertility etc will surely influence the price hike in the document than the other two documents.</p> <p>6. <u>The document 592/2007 and 648/2007 comprises an area of 121.41 and 113.31 Ares respectively which is 100 times larger than the extent in the document 580/2007 of 2.83 Ares.</u> It is quite natural that large extent of land fetches low price/cent than small extent of land. It is also a fact that there would be topographical and geographical variation in large extent properties than small extent properties.</p> <p>7. Further more in hilly areas of Rajakumari sub district, vast areas of land with different classifications and geological difference comprised in one survey number. In the survey number 20/1 of Chinnakkanal village there are 13 different classifications with different values in the fair value chart.</p> <p>8. The "Fair value" fixed by the Government on 14.12.2009 and come into force on April 2010 for the survey number 20, of Chinnakkanal village is ₹. 1,28,000/- per Acre for residential plot with private road access, and ₹.66,000 - 80,000/- per Acre for Hill tract with road access.</p> <p>9. The above aspect of difference in value is also to be considered with respect to the documents, <u>one with residence and other two without residence against a mere comparison of same survey number. The same condition is prevailing in the</u></p>
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			<p><u>documents under remark.</u></p> <p>(Copy of the fair value chart is attached herewith for perusal regarding the classification and price difference).</p> <p>II.</p> <p>1. <u>In the second case the property mentioned in 2201/2007 is lying in the hill tract area of Chinnakkamal kara. Whereas the properties mentioned in the document 2190/2007 is situated in Suryanelli kara, which is an area of economical importance regarding tourism and resorts.</u> The above aspects fetching a higher price in the document 2190/2007 could not be ruled out. Comparing two plots situated in two different kara and making remarks that the plots are same is not fair.</p> <p>2. Besides, the proximity of land in document 2190/2007 to the Blue Mount Resort (Property description - East), the nature of land, vegetative growth, standing crops etc will surely influence the price hike in the document than the other document 2201/2007.</p>
VI		Remedial Action taken	<p>Not applicable.</p> <p>Considering the above facts, and since there occurs no revenue loss, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Non Compliance of Provisions of Kerala Stamp Act and Rules.
	c)	Paragraph Number	4.8.2
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	09.05.2011 RR/DP-4029/2011-2012
	b)	Date of Department Reply	06.06.2011
III		Gist of Paragraph	<p>Short levy due to Undervaluation of Property.</p> <p>SRO Mulanthuthy, May 2010.</p> <p>Case 1: 40.47 ares of land in Mulanthuruthy Panchayath was sold for rupees 4 lakh vide sale deed number 186/2008 dated 16.01.2008. On the next day the same property was pledged with Ernakulam District Co-operative Bank Ltd against a cash</p>

			<p>loan of 1 crore. Hence the sale deed number 186/2008 was undervalued to the extent of 96 lakh resulting short levy of SD and RF of 11.52 lakh.</p> <p><u>Case 2:</u> Similarly 25.49 ares (63 cents) of land in Chottanikkara Panchayath was sold for consideration of 12.60 lakh vide sale deed number 958/2008 dated 06.03.2008. 38.4 ares of land in the same survey number adjacent to the above property was registered as a sale deed on the same day for a consideration of 1.06 crore vide document 962/2008 for establishing software unit for export under STP Scheme. This sale was exempted from SD and RF shown in the document. The two properties lie adjacent to each other and are similarly placed in all respects. Hence the property in document 958/2008 was undervalued which needs to be examined. The document was not reported as a case of undervaluation.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	No
	b)	It not please indicate the areas of disagreement	<p>There is no prevailing rule that empowers the registering officer to check the market value at the time of presentation and to refuse to register the document on the ground that the document was not stamped on the basis of the market value. Since the fair value was not prevalent in the state, and there is no other option in front of the registering officer, but he is to accept the document for registration. He has to agree with the consideration passed between the parties and set forth in the document. A number of judgments (case laws) uphold the above aspect.</p> <ol style="list-style-type: none"> 1. Sitaram Kamalia vs State of Bihar, ILR 39 Pat 228 (AIR 1960) 2. District Registrar vs. Itivirah John, 1975 KLT 486, ILR 1975 (AIR 1976 Ker) 3. Ramachandran vs. The State of Maharashtra, AIR 1981, Bom 164) 4. K. Ramaswamy and G.B. Pattnaik JJ, AIR 1996 SC 1170 5. Balakrishnan vs. District Collector 1996 (1) KLT 31. 6. District Registrar vs. Lake Paradise, 2001 (3) KLT 521. AIR 2002 Ker 105. 7. CMA No. 45/2004 of Hon: District Court, Palakkad <p>Since Fair value was not prevalent in the state, the department was forced to introduce a system / alternate arrangement (Guideline Value) which prevent the loss of revenue due to under valuation, by the way of setting low value during</p>

			documentation by the document writers itself. Even though the guideline value has no statutory backing this administrative reform from the side of Department helps the smooth functioning of Sub Registrar's Offices and also prevents the loss of revenue to the Government to an extent, by setting low values in document. Instructions were issued to subordinate officers not to refer documents registered with higher value than the Guide line value, for undervaluation.
V	a)	Does the Department agree with the Audit Conclusion	No
	b)	It not please indicate the areas of disagreement	<p><u>Case 1: Document 186/2008.</u></p> <p>The factor for determining or ascertain the value of property to sanction a loan is entirely different than fixing the consideration of a property.</p> <p>It is also to be noted that through a Gehan no right of the property is transferred.</p> <p>As far as a Co-operative Bank is considered the conditions for sanctioning loan to their members (especially members having the right to vote in governing body election) are very much relaxed. It is common that the board take liberal decision to sanction higher loan to their members. Here social contact, recommendations etc plays important role than the market value of the property pledged. Apart from this, the personal influence of the borrower over the director board, local politics may also be a positive factor. Sometimes he was a well known personality and business magnet of that particular area. Here credit worthiness, repayment capacity, and social status of the member play a vital role than the property pledged.</p> <p>In many instances while creating Gehan apart from the landed property other movable /immovable properties are also pledged for acquiring higher amount which will not mentioned in the Gehan presented for filing.</p> <p>Comparing the previous document with subsequent higher valued Gehan sanctioned by another financial institution and assuming the former as undervalued is not fair. No Registering officer can foresee any kind of mortgage with respect of a landed property already registered or considerable increase of price / amount sanctioned in the subsequent transactions while registering the documents.</p>

Initiation of undervaluation proceedings must be carried out while registering the document as per the section 45 B of the Kerala Stamp Act, on the same day itself. Comparing with the pre document, it is obvious that the value has been truly set forth in the document numbered 186/08. In such a situation the Sub Registrar is not liable to report it for undervaluation.

There is no rule prevailing that empower the registering officer to initiate undervaluation proceedings against a pre document if there is variation in values when compared with the values shown in Gehan sanctioned by another financial institution. The above type remark is also not legally sustainable in the absence of Fair Value.

As far as a Sub Registrar is concerned he is not liable to take into account of the loan amount sanctioned for a Gehan presented before him. He is only liable to check whether the property mortgaged is within his jurisdiction in whole or as any part.

In Kerala, Co-operative banks are financially very sound while considering their assets and turn over. Co-operative banks usually paid interest higher than commercial banks. These conditions for sanctioning loans are also different while comparing with the commercial banks. Here as far as a Co-operative bank is considered market value of the property and limitation to 80% of the market value never plays a vital role for sanctioning loans as other commercial banks.

In the document itself it is stated that the borrower has been admitted the membership and create a Gehan over the property with the bank on terms and conditions in the loan sanctioning order. Here the terms and conditions might have been obeyed by the borrower, has much importance for sanctioning higher amount.

The "Fair value" fixed by the Government on 14.12.2009 and come into force on April 2010 (i.e. after 2 years of the audit remark and registration of document numbered 186/2008) for the survey numbers 155/3 of Mulanthurathy village is ₹.11466/- per Acre for wet land. By comparing this fair value of 2010, with that of the consideration shown in the document 186/2008 (₹.9884/- per Acre) there occurs no revenue loss as pointed out by the audit, (₹.11.52 lakhs) because the mentioned documents were registered in 2008 i.e. before 2 years.

Since the day to day increase in land value is

unpredictable now a days, a nominal decrease of value per Arc (₹.1582/-) in 2008 while comparing with the value in 2010 is quite natural. Hence the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.

Case 2: Document No. 958/2008.

In the absence of fair value, the Sub Registrar is not liable to refuse the document, and insist the parties to make alteration on the document by enhancing the valuation of property, as a condition for receiving and registration of the document. WP (C) 13196/2006 dated 07.06.2006 also upholds the above view.

The Sub Registrar is also not liable to take into account of the market value. He had to agree with the consideration passed between the parties and set forth in the document which depends upon the necessity of money by the Vendor, Financial position of the Vendor, Interest on that particular property by the Purchaser etc.

Here the property mentioned in the document 962/2008 was purchased by a well known company for establishing software unit for export, under the STP Scheme with the consent of the Government of Kerala. So to avoid legal formalities, delay in land acquisition, and other possible hindrances the purchaser offered a charming price (Ponnum Vila) to the vendors in order to start the project within the time limit stipulated.

But this is not the situation while considering the other document 958/2008. Here in the absence of fair value the parties set forth guideline value (assigned by the department to prevent revenue loss) in the document and the Sub Registrar has no reason to believe the document is undervalued and further not reported for undervaluation.

It may be also noted that there is no provision in the Kerala Stamp Act to determine the value of the property based on the value of transaction of the adjacent plot. For these reason the above audit argument doesn't seem to be legally sustainable.

Highest value in a locality is considered only when Government offers compensation for land acquisition. Also the highest value of land in the locality is not a criteria prescribed for consideration by the Revenue Divisional Officer while fixing fair value under Section 28A of the

			Kerala Stamp Act, 1959.
VI		Remedial Action taken	Not applicable. Considering the above facts, and since there occurs no revenue loss, the two items may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Non Compliance of Provisions of Kerala Stamp Act and Rules.
	c)	Paragraph Number	4.8.2
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	03.06.2011 RR/DP-4877/2011-2012
	b)	Date of Department Reply	14.07.2011
III		Gist of Paragraph	Short levy due to Undervaluation of Property. SRO Mundur. June 2010 We noticed huge variations in considerations in the SRO Mundur in 11 sale deeds registered on the same day or within a period of two or three days in respect of landed properties in the same locality and with similar features sold by same individual. The documents in which the land value was shown at lesser rates were not referred to the District Registrar as stipulated.
IV	a)	Does the Department agree the fact and figures included in the paragraph	No.
	b)	If not please indicate the areas of disagreement	1. The Government of Kerala has not fixed minimum value of land under Section 28 of the Kerala Stamp Act 1959, at the time of registration of documents under Audit. The Sub Registrars were under instruction from the Inspector General of Registration vide Lr. No. RR6/12815/2006 dated 19.3.2007 that until the "Fair Value" is enforced by the Govt. the documents brought for registration, with "Guideline Value" (imposed by the department) shall not be taken up for

			<p>undervaluation proceedings.</p> <p>2. <u>The value shown in the eleven documents under audit remarks is above the Guideline value and hence not referred under Section 45B of Kerala Stamp Act, 1959.</u></p> <p>3. <u>It is also to be noted that the higher value documents chosen by the Audit team relates to lands having better road facilities and land conditions.</u> This is evident from the first sight itself while comparing the recitals and property details of the documents. <u>In such a situation the Sub Registrar has no reason to believe that the value of the property has not truly set forth in the document and also not liable to report it for undervaluation.</u></p> <p>(Comparison statement attached)</p>
V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	It not please indicate the areas of disagreement	<p>1. It is evident and common that a large extent of properties will comprise in same survey number, with difference in topography, vegetation, pathway, road with better facilities etc. The land in document number 2180/2008 (Serial No.1) with 2 survey sub division number with main NH Road attracts higher rate than that of the land in document number 2179/2008 with Panchayath Road access. Further more the pre document is also different. Thus it is clear that the audit finding by comparing the identical survey number is unfair and illogical and there occurs no undervaluation.</p> <p>(Comparison statement attached) -</p> <p>2. It is brought to your kind notice that all the 11 documents under the Audit were not undervalued because the lands having better road facilities and better condition of land would fetch higher value than the others. In the document numbered 1150/09 (serial number 11) two large wells and two three phase electric connections with motors are also transferring along with land while in document numbered 1151/09 no such facilities are transferred.</p>
VI		Remedial Action taken	In spite of the above facts, and even though there occurs no undervaluation, <i>suo- motto</i> action under Section 45B (3) of Kerala Stamp Act, 1959 had been initiated in respect of the

			<p>documents with serial number 2 to 11 by the District Registrar within the time limit and notices were issued to the parties. Further-more the cases were also included in the compounding scheme. But the parties not remitted the amount. So again the District Registrar issued preliminary orders to the concerned parties vide registered post. But the parties have not remitted the amount yet and the follow up action is in progress.</p> <p>Initiation of <i>suo- motto</i> action has no meaning of admitting audit remarks, and there occurs undervaluation and revenue loss to Government. The comparison of documents itself reveals that there exists remarkable differences in land even if the survey numbers are same. It is only a precautionary measure to safe guards the Registering Officers, against personal liability with respect to the alleged revenue loss and timely disbursement of DCRG.</p> <p>Considering the above facts, and since there occurs no revenue loss, the para may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Non Compliance of Provisions of Kerala Stamp Act and Rules.
	c)	Paragraph Number	4.8.2
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	23.02.2011 RR/DP-3970/2011-2012
	b)	Date of Department Reply	15.06.2010
III		Gist of Paragraph	<p>Short levy due to Undervaluation of Property.</p> <p>SRO Kothamangalam. July 2010</p> <p>We noticed in the SRO, Kothamangalam that in three cases properties measuring 26.30 ares, 22.26 ares and 16.69 ares were sold for a sale consideration of ₹.3.28 lakh, ₹.3.52 lakh and ₹.1.60 lakh respectively. These properties were pledged in various branches of Ernakulam District Co-operative Bank Ltd. Against cash loans of ₹. 21 lakh, ₹. 21 lakh and ₹.10 lakh respectively within one or two days from the date of sale. As such the sale deeds were undervalued to the tune of</p>

			<p>₹.17.72 lakh, ₹.17.48 lakh and ₹.8.40 lakh respectively and the Sub Registrar did not report the matter as a case of undervaluation. This resulted in total short levy of stamp duty and registration fee of ₹.6.32 lakh.</p> <p>Documents 887/08, 3143/09 and 3144/09 undervalued while comparing with subsequent Gehan 597/08, 2450/09 and 2448/09 for higher loan amount.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Partially
	b)	It not please indicate the areas of disagreement	<p>Section 45 B (1) of the Kerala Stamp Act, 1959 reads as follows.</p> <p><i>"If the Registering Officer, while registering any instrument transferring any property, has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the collector for determination of the value..."</i></p> <p>1. Initiation of undervaluation proceedings must be carried out "while" registering the document as per the section 45 B (1) of the Kerala Stamp Act, on the same day itself and "may refer" means it is the discretion of the Registering Officer whether to report or not the instrument for undervaluation.</p> <p>2. Comparing with the pre documents, it is obvious that the value has been truly set forth in the documents numbered 887/08, 3143/09 and 3144/09. <u>More over the higher valued subsequent Gehans has not been registered. In such a situation the Sub Registrar has no reason to believe that the value of the property has not truly set forth in the document and also not liable to report it for undervaluation.</u></p> <p>3. Determination of consideration and accessing revenue loss in a particular document by comparing with the exaggerated cash loan amount shown in a Gehan has no legal validity.</p>
V	a)	Does the Department agree with the Audit Conclusion	Partially
	b)	It not please indicate the areas of disagreement	<p>1. Through a Gehan, right of the property is not transferred.</p> <p>2. As far as a Co-operative Bank is considered the conditions for sanctioning loan to their members are very much relaxed. It is common that the board take liberal decision to sanction higher loan</p>


			<p>to their members. Here social contact, recommendations etc plays important role than the market value of the property pledged. Apart from this, the personal influence of the borrower over the director board may also be a positive factor. Sometimes he was a well known personality and business magnet of that particular area.</p> <p>Here credit worthiness, repayment capacity, and social status of the member play a vital role than the property pledged.</p>
VI		Remedial Action taken	<p>Even though there occurs no undervaluation, <i>suo-moto</i> action under Section 45B (3) of Kerala Stamp Act, 1959 had been initiated in respect of the above documents by the District Registrar within the time limit and included in the compounding scheme. But the parties not remitted the deficit amount and further action is in progress.</p> <p>Initiation of <i>suo-moto</i> action has no meaning of admitting audit remarks, and there occurs undervaluation. It is only a precautionary measure to safe guards the Registering Officers, against personal liability with respect to the alleged revenue loss and to facilitate timely release of DCRG.</p> <p>Considering the above facts, and since there occurs no revenue loss, the item may kindly be dropped from the Report of Comptroller and Auditor General for the year ended 31-03-2011.</p>
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Non Compliance of Provisions of Kerala Stamp Act and Rules.
	c)	Paragraph Number	4.8.2
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	23.02.2011 RR/DP-3969/2011-2012
	b)	Date of Department Reply	23.02.2011
III		Gist of Paragraph	<p>Short levy due to Undervaluation of Property.</p> <p>SRO Chalappuram, May 2010.</p> <p>We noticed in the SRO, Chalappuram that 23.72 cents of land was sold in January 2008 for a sale consideration of 23.72 lakh. We also noticed that in January 2008 itself another five</p>

			<p>cents of land in the same survey number sharing a common boundary with the first property was sold for a consideration of 12.50 lakh. As such the sale deed executed for 23.72 cents was undervalued to the tune of 35.58 lakh. However, the Sub-Registrar did not report the matter as a case of undervaluation.</p> <p>Document No. 61/2008 was undervalued while comparing with 105/2008 comprises in same survey number 31/8.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	No
	b)	It not please indicate the areas of disagreement	<p>1. It may be noted that there is no provision in the Kerala Stamp Act to re determine the value of property already registered on the basis of the value set forth in a subsequent transaction. Comparison based on the transaction value of a particular portion of a land with another portion of land in same survey number at different occasion is not fair and also acceptable. The value of property varies from place to place or even locality to locality, based on the demand of the property.</p> <p>2. It is common that geography and topography of a particular portion of a land is not similar to the entire extent even though it belongs to a same survey number. The development of the area is another factor determining the value of property. Besides variation, in vegetation, easy access for water/electricity connection, easy access to transportation facility etc influence the value even though there is similarity in R.S. Number.</p>
V	a)	Does the Department agree with the Audit Conclusion	No
	b)	It not please indicate the areas of disagreement	<p>1. Since fair value was not prevalent in the state undervaluation cases were increasing enormously. So the department was forced to introduce guideline value - system / alternate arrangement for preventing the loss of revenue. Instructions were issued to subordinate officers not to refer documents registered with higher value than the Guide line value, for undervaluation. As stated earlier in the explanations, it is seen that the value shown in the document 61/2008 is higher than the Guide line value. The document 61/2008 under remark was therefore not reported for undervaluation by the registering officer.</p> <p>2. It is humbly stated that the comparison of document</p>

			<p>61/2008 with the "Fair value" introduced by the Government is more relevant than comparing with the subsequent document 105/2008 for accessing revenue loss. The "Fair value" fixed by the Government on 14.12.2009 and come into force on April 2010 (i.e. after 2 years of the audit remark and registration of both documents) for the survey numbers 31/8 of Valayamad village is ₹.62,500/- per Acre (i.e. ₹.25,304/- per cent) for residential plot without road access.</p> <p>Here the parties set forth ₹.1,00,000/- per cent in 2008 itself which is remarkably high, when compared to the value fixed as per fair value in 2010.</p> <p>(Fair value attached)</p> <p>3. In the other document 105/2008 the parties set forth ₹.2,50,000/- per cent in 2008 itself. Therefore the revenue gain to Government through the document 61/2008 is ₹.2,74,630/- and the excess revenue collected through the document 105/2008 in the absence of fair value is ₹.1,74,140/-. The total revenue gain to the Government through both the transactions is ₹.4,48,770/-.</p> <p>This relevant, legally sustainable and logical comparison based on the value fixed by the Government, proves without doubt that there occurs no revenue loss of ₹.5,51,490/- to the Government as pointed out by the audit team.</p>
VI		Remedial Action taken	Not applicable.
I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Non Compliance of Provisions of Kerala Stamp Act and Rules.
	c)	Paragraph Number	4.8.2
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	23.02.2011 RR/DP-3965/2011-2012
	b)	Date of Department Reply	01.03.2011
III		Gist of Paragraph	Short-levy due to Undervaluation of Property.

			<p>SRO Sasthamangalam, May 2010.</p> <p>We noticed in the SRO, Sasthamangalam that in December 2008, 2.22 ares of land in Thycaud village including a building was sold for a sale consideration of ₹.4.96 lakh (building ₹.21,000/- land ₹.4,75,000/-) In January 2009 the same property, without any improvement in the land or building, was sold for a consideration of ₹.28.87 lakh (building ₹.21,000/- land ₹.28,66,000). As such the document executed in December 2008 was undervalued to the tune of ₹.23.91 lakh. This resulted in short levy of stamp duty and registration fees of ₹.3.71 lakh.</p> <p>Document No. 4281/2008 undervalued while comparing with subsequent document no. 129/2009.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph.	Yes
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion.	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>The District Registrar, Thiruvananthapuram has taken <i>suo-motu</i> action against the document 4281/2008 of SRO Sasthamangalam. The Government of Kerala introduced one time settlement compounding scheme vide GO (PO No.57/2009/TD dated 27.03.2009 to settle all pending undervaluation cases referred to the District Registrar or called for by him under sections 45 A, 45 B, 45 C of the Kerala Stamp Act, 1959 which includes the cases that were finally disposed off and referred for revenue recovery proceedings for recovering the deficient stamp duty.</p> <p>The aforesaid document also deserves the benefit of the scheme. So notice was issued to the party to remit the deficit amount. But the party neither responded to the notice nor remits the amount. So further action has been taken by the District Registrar regarding the above and issued preliminary</p>

			<p>27.03.2009 to settle all pending undervaluation cases referred to the District Registrar or called for by him under sections 45 A, 45 B, 45 C of the Kerala Stamp Act, 1959 which includes the cases that were finally disposed off and referred for revenue recovery proceedings for recovering the deficient stamp duty.</p> <p>The aforesaid document also deserves the benefit of the scheme. Notice was issued to the party to remit the deficit amount. But the party neither responded to the notice nor remits the amount. So further action has been taken by the District Registrar and issued preliminary orders to the concerned parties. But the parties have not remitted the amount yet and the follow up action under section 45 B of the Kerala Stamp Act- 1959 is in progress.</p>
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 Additional Secy. (Tax) - II
 - Tax & Department
 Govt. Secretariat
 Thiruvananthapuram

I	a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Non Compliance of Provisions of Kerala Stamp Act and Rules.
	c)	Paragraph Number	48.2
	d)	Report No /Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2011 (RR)
II	a)	Date of receipt of the Draft Para	23.02.2011 RR/DP:3968/2011-2012
	b)	Date of Department Reply	01.03.2011
III		Gist of Paragraph	Short levy due to Undervaluation of Property. SRO Chalai, March 2010 We noticed in the SRO, Chalai that in June 2009, 2.01 Area of land including a building was sold for a sale consideration of ₹.4.0 lakh (value of land and building ₹. 2.0 lakh each). In September 2009 the same property was sold for a consideration of ₹.25 lakh (land ₹.17.0 lakh and house ₹.8.0 lakh). As such the document executed in September 2009 was undervalued to the tune of ₹.21.0 lakh. This resulted in short levy of stamp duty and registration fees of ₹.3.26 lakh. Document No. 1441/2009 undervalued while comparing with subsequent document No. 2437/2009.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	The District Registrar, Thiruvananthapuram has taken suo-motu action against the document 1441/2009 of SRO Chalai. The Government of Kerala introduced one time settlement compounding scheme vide GO (P9 No.57/2009/ITD dated


Action taken Notes on C&AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Tax Administration
	(c)	Paragraph No.	3.1
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Department of Commercial Taxes is under the control of the Secretary to Government, Taxes at the Government level and collection of tax under the Kerala Agricultural Income Tax & AIT Act 1991 is administered by the Commissioner of Commercial Taxes. The assessment levy and collection are done by Inspecting Assistant Commissioner, AIT & Commercial Tax Officers.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI

Remedial action taken

	(a) Improvement in system and procedures, including internal controls.	This para discusses about the organizational set up of Department and hence no remarks to offer against the para.
	(b) Recovery of overpayment pointed out by audit	
	(c) Recovery of under assessment, short levy or other dues	--
	(d) Modification in the schemes and programmes including financing pattern	--
	(e) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--


S. DEEPA DEVI
 Additional Secretary to Govt
 Taxes Dept., Govt. Secretariat
 Thiruvananthapuram

Action taken Notes on C&A AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Trend of receipt
	(c)	Paragraph No.	3.2
	(d)	Report No. and Year	C&AAG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Dist of Paragraph/Review	It was noticed in the audit that the Department was able to achieve a healthy growth rate of 69.38 % during 2010-11. The Department need to streamline their budgeting process to make the budget estimates realistic as significant variations were noticed persistently between budget estimates and actual receipts.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI

Remedial action taken

(a)	<p>Improvement in system and procedures, including internal controls.</p>	<p>Agricultural Income during 2009-10 was Rs.26.386 crores. But that for the year 2010-11 was Rs.45.28 crores. Growth rate is nearly 70 %. The reason for higher growth rate when compared to previous year is the following.</p> <p>By the Finance Act 2010, the period for Amnesty Scheme was further extended from 01.07.2010 to 31.12.2010. Average price of rubber and cardamom/kg was increased significantly. Average price of rubber/kg was increased from Rs.140/kg to Rs.240 and that of cardamom was increased from Rs.750/kg to Rs.1000/kg. About 90% of the agricultural income derives from companies. During the year 2010-11 almost all companies were functioned in full swing and attained a record profit.</p> <p>Agricultural income for the years 2011-12, 2012-13 & 2013-14 was Rs.43.28 crores, Rs.19.28 crores and Rs.22.43 crores respectively.</p> <p>Details of collection from AIT from 2010 -11 to 2013-14 is shown below.</p> <table border="1" data-bbox="530 707 978 879"> <thead> <tr> <th>Year</th> <th>Budget estimate (Rs in crores)</th> <th>Collection (Rs in crores)</th> </tr> </thead> <tbody> <tr> <td>2010-11</td> <td>12.00</td> <td>45.28</td> </tr> <tr> <td>2011-12</td> <td>14.49</td> <td>43.28</td> </tr> <tr> <td>2012-13</td> <td>15.98</td> <td>19.28</td> </tr> <tr> <td>2013-14</td> <td>23.99</td> <td>22.43</td> </tr> </tbody> </table> <p>The main reasons for fall in collection during 2012-13 and 2013-14 are due to low price in plantation crops such as rubber and cardamom and heavy loss sustained to major companies in the agricultural sector. Difference between budget estimate and actual receipt during the year 2010-11 and 2011-12 is due to the reason that the budget estimate was made without taking into consideration of the unforeseen exigencies usually prevalent in the Agricultural sector.</p> <p>AIT is levied on the income received from crops. Yielding of crops is depending upon the climate conditions of the State which is unpredictable. Collection from AIT also depends upon price of commodities prevalent from time to time and hence the difference.</p>	Year	Budget estimate (Rs in crores)	Collection (Rs in crores)	2010-11	12.00	45.28	2011-12	14.49	43.28	2012-13	15.98	19.28	2013-14	23.99	22.43
Year	Budget estimate (Rs in crores)	Collection (Rs in crores)															
2010-11	12.00	45.28															
2011-12	14.49	43.28															
2012-13	15.98	19.28															
2013-14	23.99	22.43															
(b)	<p>Recovery of overpayment pointed out by audit</p>																

(c)	Recovery of under assessment, short levy or other dues	-
(d)	Modification in the schemes and programmes including financing pattern	-
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-

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Action taken Notes on Cb AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Arrears in AIT assessment
	(c)	Paragraph No.	3,3
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	It was noticed in audit that the out total arrear assessment pending, the assessment completed was only 21.84%.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

VI

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>According to the Accountant General opening balance of assessment under AIT was 6314 Nos. Addition during 2010-11 including remanded cases was 2706 Nos. Thus the total no. of assessments to be completed was 9020. Number of assessment completed during the year was 1970 and the closing balance was 7050 nos.</p> <p>But the Department figures show that opening balance was 6314 nos. Addition during the year was 935 nos. Thus the total number of assessment to be completed was 7249. Of this, number of assessment completed was 2630 leaving a balance of 4619 pending for completing.</p> <p>Details of assessment completed from 2009-10 to 2013-14 is given below.</p> <table border="1" data-bbox="467 498 962 679"> <thead> <tr> <th>Year,</th> <th>To be completed</th> <th>Completed</th> <th>Balance</th> </tr> </thead> <tbody> <tr> <td>2009-10</td> <td>9740</td> <td>3426</td> <td>6314</td> </tr> <tr> <td>2010-11</td> <td>7249</td> <td>2630</td> <td>4619</td> </tr> <tr> <td>2011-12</td> <td>7356</td> <td>2633</td> <td>4723</td> </tr> <tr> <td>2012-13</td> <td>7455</td> <td>2997</td> <td>4458</td> </tr> <tr> <td>2013-14</td> <td>6406</td> <td>3056</td> <td>3350</td> </tr> </tbody> </table> <p>The balance number of assessment to be completed at the end of 2009-10 was 6314 Nos. But at the same time the pendency at the end of 2013-14 is only 3350 Nos. Not only that, nearly 50 % of the total pendency in assessment has been cleared up during the last year.</p>	Year,	To be completed	Completed	Balance	2009-10	9740	3426	6314	2010-11	7249	2630	4619	2011-12	7356	2633	4723	2012-13	7455	2997	4458	2013-14	6406	3056	3350
Year,	To be completed	Completed	Balance																							
2009-10	9740	3426	6314																							
2010-11	7249	2630	4619																							
2011-12	7356	2633	4723																							
2012-13	7455	2997	4458																							
2013-14	6406	3056	3350																							
(b)	Recovery of overpayment pointed out by audit																									
(c)	Recovery of under assessment, short levy or other dues	-																								
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(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-																								



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Action taken Notes on CA AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Impact of Audit
	(c)	Paragraph No.	3.4
	(d)	Report No. and Year	CB&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The Accountant General has observed in Audit that the revenue implication of various audit objection was Rs.42.53 crore in 199 paragraphs. Out of this, the Department accepted the Audit observations involving 3.14 crore and had received an amount of Rs.0.47 crore.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Assessment has been revised in almost all case, where short levy pointed out by Accountant General is sustaining. The entire amount pending for realization has been recommended for collection under Revenue Recovery. Progress of collection under Revenue Recovery by the Revenue Department and the Inspecting Assistant Commissioners are reviewing every month. The details AIT arrears pending for collection under Revenue Recovery as on 31.03.2014 is given below.</p> <table border="1" data-bbox="372 425 967 790"> <tr> <td>Arrear Demand</td> <td>Ra. 49.42 crores</td> </tr> <tr> <td>Stay by Court (before RRC)</td> <td>(-) Ra. 15.50 crores</td> </tr> <tr> <td>Stay by Govt. (before RRC)</td> <td>(-) Nil</td> </tr> <tr> <td>Stay by Appellate Authorities</td> <td>(-) Ra. 5.29 crores</td> </tr> <tr> <td>To be Writs Off</td> <td>(-) Ra. 1.04 Crores</td> </tr> <tr> <td>Other action (RRC returned)</td> <td>(-) Ra. 3.34 crores</td> </tr> <tr> <td>RRC to be issued and appellate orders to be given effect</td> <td>(-) Ra. 4.27 crores</td> </tr> <tr> <td>RRC issued</td> <td>Ra. 19.96 crores</td> </tr> <tr> <td>Stay by Court (after RRC)</td> <td>(-) Ra. 0.40 crores</td> </tr> <tr> <td>Stay by Govt. (after RRC)</td> <td>(-) Ra. 17.83 crores</td> </tr> <tr> <td>Stay by Appellate Authority (after RRC)</td> <td>(-) Ra. 0.30 crores</td> </tr> <tr> <td>Amount collectable under RR</td> <td>Ra. 1.45 crores</td> </tr> <tr> <td>Collection</td> <td>(-) Ra. 0.87 crores</td> </tr> <tr> <td>Collectable balance</td> <td>Ra. 0.58 crores</td> </tr> </table>	Arrear Demand	Ra. 49.42 crores	Stay by Court (before RRC)	(-) Ra. 15.50 crores	Stay by Govt. (before RRC)	(-) Nil	Stay by Appellate Authorities	(-) Ra. 5.29 crores	To be Writs Off	(-) Ra. 1.04 Crores	Other action (RRC returned)	(-) Ra. 3.34 crores	RRC to be issued and appellate orders to be given effect	(-) Ra. 4.27 crores	RRC issued	Ra. 19.96 crores	Stay by Court (after RRC)	(-) Ra. 0.40 crores	Stay by Govt. (after RRC)	(-) Ra. 17.83 crores	Stay by Appellate Authority (after RRC)	(-) Ra. 0.30 crores	Amount collectable under RR	Ra. 1.45 crores	Collection	(-) Ra. 0.87 crores	Collectable balance	Ra. 0.58 crores
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(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-																												

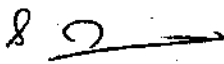
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 S. DEEPA DEVI
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Action taken Notes on C&A's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Working of Internal Audit
	(c)	Paragraph No.	
	(d)	Report No. and Year	3.5 C&A's report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Dist of Paragraph/Review	It was observed in Audit that the Internal Audit was not conducted by the Department.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The Internal Audit Wing of the Department started functioning w.e.f 01.06.2009. No. of inspections conducted by the Internal Audit Wing in the AIT units are very less. Details of inspection from 2009-10 onwards in the AIT offices are given below.</p> <table border="1" data-bbox="468 365 1002 616"> <thead> <tr> <th>Office</th> <th>From to</th> <th>No. of paras</th> <th>Settled</th> <th>Balance</th> </tr> </thead> <tbody> <tr> <td>AIT & CTO Kalpetta</td> <td>07/02/11 to 11/02/11</td> <td>7 nos</td> <td>0</td> <td>7 nos</td> </tr> <tr> <td>IAC(AIT), Idulki</td> <td>12/03/12 to 17/03/12</td> <td>12 nos</td> <td>0</td> <td>12 nos</td> </tr> <tr> <td>AIT & CTO, Kanjirappally</td> <td>08/10/12 to 12/10/2012</td> <td>7 nos</td> <td>0</td> <td>7 nos</td> </tr> </tbody> </table> <p>Direction has been given to the Internal Audit Wing of the Department to conduct more inspection to the AIT files vide letter No.E1.8100/12/CT dated 27.08.2014.</p>	Office	From to	No. of paras	Settled	Balance	AIT & CTO Kalpetta	07/02/11 to 11/02/11	7 nos	0	7 nos	IAC(AIT), Idulki	12/03/12 to 17/03/12	12 nos	0	12 nos	AIT & CTO, Kanjirappally	08/10/12 to 12/10/2012	7 nos	0	7 nos
Office	From to	No. of paras	Settled	Balance																		
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IAC(AIT), Idulki	12/03/12 to 17/03/12	12 nos	0	12 nos																		
AIT & CTO, Kanjirappally	08/10/12 to 12/10/2012	7 nos	0	7 nos																		
(b)	Recovery of overpayment pointed out by audit																					
(c)	Recovery of under assessment, short levy or other dues	--																				
(d)	Modification in the schemes and programmes including financing pattern	--																				
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--																				



S. DEEPA DEVI
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Action taken Notes on Ch AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Results of Audit
	(c)	Paragraph No.	3.6
	(d)	Report No. and Year	CAAG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	It was noticed in Audit that out of test checked the records of 23 units related to AIT and noticed under assessment of tax and other irregularities involving 17.07 crore in 59 cases during 2010-11. Out of the above amount the Department collected only 0.03 lakhs in one case.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	Observation of Accountant General relates to the year 2010-11. Short levy involved is Rs.17.07 crores in 59 cases. Of this short levy of Rs.7.54 crores is included in the paragraph from 3.8.1 to 3.8.3 of the C&AG report for the period ended on 31.03.2011. With respect to the above paras reports are submitted separately.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--



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Action taken Notes on C&AG's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Audit Observations
	(c)	Paragraph No.	3.7
	(d)	Report No. and Year	C&AG report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Dist of Paragraph/Review	There is need for the Government to improve the internal control system including strengthening of the internal audit. Non observance of provisions of Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowances.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	As per GO (MS) No.130/201/TD dated 14.08.2014 Government has decided to restore of Audit Assessment Wing with a view to strengthen the process of audit as there is limitation to extent the working of internal audit wing with the limited manpower now available. Communication has already been given to the assessing officers against the non observance of provisions of Act/ Rules in correct determination of income / interest, grant of inadmissible expense / allowances. Vide Circular No.16/05 dated 23.07.2005.
	(b) Recovery of overpayment pointed out by audit	
	(c) Recovery of under assessment, short levy or other dues	--
	(d) Modification in the schemes and programmes including financing pattern	--
	(e) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--


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Action taken Notes on C&A's Reports

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non observance of Provisions of Act/ Rules
	(c)	Paragraph No.	3.8
	(d)	Report No. and Year	C&A report for the year ended 31.03.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	It was observed in the Audit that while finalizing the assessment, the assessing authorities did not observe some provisions which resulted in short levy of tax and interest of Rs.7.54 crores as mentioned in Paragraphs 3.8.1 to 3.8.3
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	Observation of the Accountant General is that most of the assessing officers are not adhered to the directions regarding prescribed tax rate on agricultural income, conditions for the deductions allowable and levy of interest on balance payable. The observation of Accountant General in paras 3.8.1 to 3.8.3 are discussed separately.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

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S. DEEPA DEVI
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Action taken Notes on C& AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Income escaped assessment. [E8-7261/11]
	(c)	Paragraph No.	3.8.1.1
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	28.2.11
	(b)	Date of Department's Reply	8.8.11
III		Gist of Paragraph/Review	In the office of erstwhile Inspg Asst. Commissioner (Special) Ernakulam the assessment of a domestic company M/s. Harrison Malayalam Ltd. for the year 2001-02 was provisionally finalized (December 2003) accepting the loss of Rs.6.13 Crore from manufactured tea returned by the assessee. Even though the composite loss on manufactured tea was assessed at Rs. 54.03 lakh in CIT assessment in February 2004 the Agricultural Income Tax Officer did not revise the assessment reckoning the loss as Rs. 32.42 lakh in the place of Rs. 6.13 Crore computed wrongly in AIT assessment. The failure to revise the assessment resulted in excess carry forward loss of Rs. 5.81 Crore.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The assessment in respect of Harrison Malayalam Ltd. for the year 2001-02 was completed provisionally on 24.12.2003. The loss pointed out by the Accountant General is based on the CIT order dated 24.02.2004. But the assessee company filed appeal

			<p>against the CIT order dated 24.02.2004 and the CIT authority implemented the Appellate order on 12.12.2007. The Deputy Commissioner of Income Tax, Range-1, Cochin has modified the order on 7.06.2010.</p> <p>In the modified order CIT authority has assessed loss for an amount of Rs.5,02,62891/-.</p> <p>The audit observation based on the original CIT order has been modified by the CIT appellate authority. The Inspg.Asst. Commissioner, Mattancherry has modified the provisional order dated 24.12.2003 on 9.02.2011. The gross loss shown in the order is Rs. 5,64,37,912/-, 60% of this amount is Rs. 3,01,57,735/- which has to be reckoned as loss for AIT assessment purpose. The company is running loss for the years from 1999-2000 onwards till 2005-06. Hence there is no question of Tax effect or revenue loss in this case.</p>
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The assessment in respect of Harrison Malayalam Ltd. for the year 2001-02 was completed provisionally on 24.12.2003. The loss pointed out by the Accountant General is based on the CIT order dated 24.02.2004. But the assessee company filed appeal against the CIT order dated 24.02.2004 and the CIT authority implemented the Appellate order on 12.12.2007. The Deputy Commissioner of Income Tax, Range-1, Cochin has modified the order on 7.06.2010. In the modified order CIT authority has assessed loss for an amount of Ra.5,02,62891/-.</p> <p>The audit observation based on the original CIT order has been modified by the CIT appellate authority. The Inspg.Asst. Commissioner, Mattancherry has modified the provisional order dated 24.12.2003 on 9.02.2011. The gross loss shown in the order is Ra. 5,64,37,912/- 60% of this amount is Ra. 3,01,57,735/- which has to be reckoned as loss for AIT assessment purpose. The company is running in loss for the years from 1999-2000 to 2005-06. Hence there is no question of Tax effect or revenue loss in this case.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

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Action taken Notes on C& AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Income escaped assessment. (E8-18524/11)
	(c)	Paragraph No.	3.8.1.2
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	7.6.11
	(b)	Date of Department's Reply	2.8.11
III		Gist of Paragraph/Review	While finalizing the assessment of a public sector company M/s.Kerala Forest Development Corporation Ltd. for the year 2007-08 in Inspecting Assistant Commissioner, Kottayam, the assessing officer allowed an amount of Rs. 1.53 crore being the cost of the failed plantations. As the cost of raising failed plantations is a capital loss, this will not qualify for deduction under section 5 of the KAIT Act. The irregular deduction resulted in escape of income of Rs.1.53 Crore with tax effect of Rs. 76.57 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	The Corporation is engaged in a particular mode of operation of agriculture, apart from the common agricultural practice of raising plantations and deriving income out of its yield. The corporation is raising plantations solely for felling and sales of wood. The income derived out of the sales of this wood is disclosed in their return and subjected to Agricultural Income Tax. As the final product is subjected to tax, the cost of raising it ought to have been allowed deduction. Failure of plantation is a very common

			phenomenon. 100% success cannot be expected for raising any kind of plantation. 10 to 20% of the seedlings planted will perish when it attains maturity, in normal conditions. According to climatic conditions, the percentage will still rise. If there is heavy rain or drought, the number which comes out will further reduce. Thus whenever, there is raising of new plantations, there will be failure of plantations and cost of failed plantations. This cannot be denied. This is a well settled fact.
V	(a)	Does the Department agree with the Audit conclusions?	
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	The Corporation is engaged in a particular mode of operation of agriculture, apart from the common agricultural practice of raising plantations and deriving income out of its yield. The Corporation is raising plantations solely for felling and sales of wood. The income derived out of the sales of this wood is disclosed in their return and subjected to Agricultural Income Tax. As the final product is subjected to tax, the cost of raising it ought to have been allowed deduction. Failure of plantation is a very common phenomenon. 100% success cannot be expected for raising any kind of plantation. 10 to 20% of the seedlings planted will perish when it attains maturity, in normal conditions. According to climatic conditions, the percentage will still raise. If there is heavy rain or drought, the number which comes out will further reduce. Thus whenever, there is raising of new plantations, there will be failure of plantations and cost of failed plantations. This cannot be denied. This is a well settled fact. But this report was not considered by the AG favourably. Hence the defects pointed out by the AG has been further examined by the CCT in accordance with Sec.5 of the KAIT Act 1991 and found that if there is no income for raising plantation during a year no expense can be allowed. The CCT has granted sanction for reopening the case and directed the assessing authority to revise the AIT assessment for the assessment year 2007-08 vide Ir.No.E1-8100/12/CT dt.11.8.14.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	-
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-


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Action taken Notes on C& AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Income escaped assessment. (ES-18536/11)
	(c)	Paragraph No.	3.8.1.3
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	7.6.11
	(b)	Date of Department's Reply	16.11.11
III		Gist of Paragraph/Review	While finalizing the assessment of a public sector company M/s. Kerala Forest Development Corporation Ltd. on the rolls of the Inspecting Assistant Commissioner, Kottayam for the year 2007-08, an amount of Rs. 31.83 lakh being the amount of development of property (Cost of raising tea, coffee and cashew plantation till the commercially yielding stage) written off was wrongly allowed as deduction under section 5 of the KAIT Act. This resulted in escape of income of Rs. 31.83 lakh with consequent tax effect of Rs. 15.92 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The Forest Development Corporation was assessed to Agricultural Income Tax to a net Agricultural Income of Rs. 40,83,370/- for the year 2007-08 vide order dated 02-12-2009 of Inspg. Asst. Commissioner, Kottayam. It is pointed out in audit that the amount of development of property written off, was wrongly allowed deduction U/S. 5 of the AIT Act. The issue of development of property had

		<p>already been raised in earlier audits of the Accountant General. The issue had been examined in detail by the Accountant General and after detailed discussion with the assessing authority, all the previous cases relating to this issue was dropped by the Accountant General. The following are the references thereon.</p> <ol style="list-style-type: none"> 1. SRA(HQ)III/19-GI/ACM/KTM/9-10/324 Dated 10-09-2009 of the Accountant General in item No.72 2. SRA (HQ)III/19-1617/08-09/IAC/ATCT/Kottayam Para VB(ii) <p>The issue of development of property had already been settled by the Accountant General with an endorsement that "may be pursued by the Department, not pursued further in this office". The Hon'ble Agricultural Income Tax Appellate Tribunal, Addl. Bench, Ernakulam vide their decision in AITA 41/03 and 23/04 Dated: 07-04-2005 had accepted the Contention of assessee stating that it had not resulted in a "Lasting enduring benefit to the enterprise in issue" relying on an earlier decision of the same Tribunal TA-38/97, which had reference to the decision of the Hon'ble Supreme Court reported in 841 TR 277. The assessment for the year 1997-98 to 2001-02 were modified in the light of the Tribunal order. The Accountant General had objected to this revision stating that the Tribunal order was not in conformity with the provisions of Sec. 5 (1) of the KAIT Act 1991, but had later on dropped this objection on the basis of discussions held in the District</p>
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			<p>Level Audit Committee Meeting on 11-06-2009 and 12-06-2009 in the office of the Inspecting Assistant Commissioner, Commercial Taxes, Kottayam. The audit objection was raised by the Accountant General on 04-09-2008 vide report SRA (HQ)III/19-1617/08-09/819 Dated: 04-09-2008 and dropped on 10-09-2009 vide SRA(HQ)III/19-GI-ACM KTM/09-10/324 dated: 10-09-2009.</p>
V	(a)	Does the Department agree with the Audit conclusions?	-
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The Forest Development Corporation was assessed to Agricultural Income Tax to a net Agricultural Income of Rs. 40,83,370/- for the year 2007-08 vide order dated 02-12-2009 of Inspg. Asst. Commissioner, Kottayam. It is pointed out in audit that the amount of development of property written off, was wrongly allowed deduction U/S. 5 of the AIT Act. The issue of development of property had already been raised in earlier audits of the Accountant General. The issue had been examined in detail by the Accountant General and after detailed discussion with the assessing authority, all the previous cases relating to this issue was dropped by the Accountant General. The following are the references thereon.</p> <ol style="list-style-type: none"> 3. SRA(HQ)III/19-GI/ACM/KTM/9-10/324 Dated 10-09-2009 of the Accountant General in item No.72 4. SRA (HQ)III/19-1617/08-09/IAC/AITCT/Kottayam Para VB(ii) <p>The issue of development of property had already been settled by the Accountant General with an endorsement that "may be pursued by the Department, not pursued further in this office". The Hon'ble Agricultural Income Tax Appellate Tribunal, Addl. Bench, Ernakulam vide their decision in AITA 41/03 and 23/04 Dated: 07-04-2005 had accepted the Contention of assessee stating that it had not resulted in a "Lasting enduring benefit to the enterprise in issue" relying on an earlier decision of the same Tribunal TA-38/97, which had reference to the decision of the Hon'ble Supreme Court reported in 841 TR 277. The assessment for the year 1997-98 to 2001-02 were modified in the light of the Tribunal order. The Accountant General had objected to this revision stating that the Tribunal order was not in conformity with the provisions of Sec. 5 (1) of the KAIT Act 1991, but had later on dropped this objection on the basis of discussions held in the District Level Audit Committee Meeting on 11-06-2009 and 12-06-2009 in the office of the Inspecting Assistant Commissioner, Commercial Taxes, Kottayam. The audit objection was raised by the Accountant General on 04-09-2008 vide report</p>
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			<p>SRA (HQ)III/19-1617/08-09/819 Dated: 04-09-2008 and dropped on 10-09-2009 vide SRA(HQ)III/19-GL-ACM KTM/09-10/324 dated: 10-09-2009. But this report was not considered by the AG favourably. Hence the defects pointed out by the AG has been further examined by the CCT in accordance with Sec.5 of the KAIT Act 1991 and found that the amount spent towards development of property till the commercially yielding stage is nothing but capital expenses. The CCT has granted sanction for the reopening the case and directed the assessing authority to revise the AIT assessment for the assessment year 2007-08 vide Ir.No.E1-8100/12/CT dt.11.8.14</p>
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other dues	-
	(d)	Modification in the schemes and programmes including financing pattern	-
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-

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Action taken Notes on Cb AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Income escaped assessment. (ES-18526/11)
	(c)	Paragraph No.	3.8.1.4
	(d)	Report No. and Year	Cb AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	7.5.11
	(b)	Date of Department's Reply	29.7.11
III		Gist of Paragraph/Review	While finalising the assessment of a public limited company (M/s.Kerala Forest Development Corporation Ltd. 2007-08) in Inspg. Asst. Commissioner, Kottayam, the assessing officer failed to add Forest Development tariff of Rs. 36.16 lakh collected by the assessee. This resulted in escape of income of Rs.36.16 lakh with resultant short levy of tax Rs. 18.08 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Forest Development Tariff is a levy introduced by the Corporation on the sale of their products, set up for carrying out research and development activities of the Corporation. It is an independent levy on the purchases. It will not form part of income. The decision of the Hon'ble High Court of Kerala in Haji Mohamed and others reported in 12 - KTR 62 clarifies this position. It is clearly held by the Hon'ble High Court that Forest Development Tax will not form part of the turnover of the selling dealer. The decision is squarely applicable here also, in the facts and circumstances of the case. It

			is not at all Agricultural income. The Hon'ble Agricultural Income Tax Appellate Tribunal, Addl. Bench, Ernakulam had also arrived at the same decision in this assessee's own case, vide AITA Nos. 41/03, 33/04 dated 07.04.2005.
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>Forest Development Tariff is a levy introduced by the Corporation on the sale of their products, set up for carrying out research and development activities of the Corporation. The department had the view that it is an independent levy on the purchases. It will not form part of income. The decision of the Hon'ble High Court of Kerala in Haji Mohamed and others reported in 12 - KTR 62 clarifies this position. It is clearly held by the Hon'ble High Court that Forest Development Tax will not form part of the turnover of the selling dealer. The decision is squarely applicable here also, in the facts and circumstances of the case. It is not at all Agricultural income. The Hon'ble Agricultural Income Tax Appellate Tribunal, Addl. Bench, Ernakulam had also arrived at the same decision in this assessee's own case, vide AITA Nos. 41/03, 33/04 dated 07.04.2005. But this report was not favorably considered by the AG. Hence the defect has been further examined by CCT in accordance with Sec.41 of KAIT Act 1991 and found that Forest Development Tariff will form part of the revenue of the company and also will form part of Agrl.income in view of sec.2 of KAIT Act 1991.</p> <p>The CCT has granted permission to reopen the assessment u/s 41 of the AIT Act with direction to the assessing authority to revise the assessment for the assessment year 2007-08 as per letter No.E1-8100/12/CT dtd.11.8.14.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

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S.DEEPA DEVI
Additional Secretary to Govt
Times Dept., Govt. Secretariat
Thiruvananthapuram

Action taken Notes on C& AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Income escaped assessment. (ES-6164/11)
	(c)	Paragraph No.	3.8.1.5
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	28.2.11
	(b)	Date of Department's Reply	22.7.11
III		Gist of Paragraph/Review	In the case of domestic company M/s.Cochin Malabar Estates and Industries Ltd, on the rolls of Inspg. Assistant Commissioner, Mattancherry, who had income from both manufactured tea and green tea leaf, the assessing authority finalized the assessment for the year 07-08 in November 2009 assessing only 60% of the income of Rs.39.34 lakh derived from the sale of green tea leaves as returned by the company. The omission to assess the entire income of green tea leaves resulted in short levy of Rs.7.99 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support.	
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The audit objection is based on the provisional order dated 28.11.09 which was based on the return filed for the year 07-08. It has been specifically mentioned in that order that the assessment completed is subject to modification on production of Central Income Tax (CIT) Order.</p>																																								
		<p>In the light of audit, assessment was revised u/s 41(2) of the AIT Act as per order dated 9.2.11 by the Inspg Asst. Commissioner, Mattancherry. Escaped income from green tea leaves is assessed to tax. There is sufficient amount to carry forward the loss of Rs.3,24,15,658/- from 99-00 onwards to adjust the tax due Rs.7.99 lakh at Rs.50% of Rs.15,97,775/-.</p> <p>Since there is sufficient amount of loss to be carry forward to adjust the tax due for the year 07-08, no revenue impact in this case.</p>																																								
		<p>Since the above report was not considered by the AG the assessment records from 99-2000 to 07-08 were called for and verified by the CCT. On verification it is revealed that final assessment based on CIT orders up to 07-08 were already completed with the following result.</p>																																								
		<table border="1"> <thead> <tr> <th>Year</th> <th>Date of order</th> <th>Amount of loss</th> <th>Gross loss</th> </tr> </thead> <tbody> <tr> <td>99-00</td> <td>21.12.01</td> <td>32415658</td> <td>32415658</td> </tr> <tr> <td>00-01</td> <td>17.11.03</td> <td>34122649</td> <td>66538307</td> </tr> <tr> <td>01-02</td> <td>31.3.03</td> <td>28422050</td> <td>94960357</td> </tr> <tr> <td>02-03</td> <td>28.12.04</td> <td>7020856</td> <td>101981243</td> </tr> <tr> <td>03-04</td> <td>17.8.06</td> <td>16040048</td> <td>118021291</td> </tr> <tr> <td>04-05</td> <td>25.9.07</td> <td>18522787</td> <td>136544078</td> </tr> <tr> <td>05-06</td> <td>10.12.07</td> <td>17046338</td> <td>153590416</td> </tr> <tr> <td>06-07</td> <td>22.12.08</td> <td>7651230 (income)</td> <td>145939186</td> </tr> <tr> <td>07-08</td> <td>9.2.11</td> <td>6544759 (income)</td> <td>106978769</td> </tr> </tbody> </table>	Year	Date of order	Amount of loss	Gross loss	99-00	21.12.01	32415658	32415658	00-01	17.11.03	34122649	66538307	01-02	31.3.03	28422050	94960357	02-03	28.12.04	7020856	101981243	03-04	17.8.06	16040048	118021291	04-05	25.9.07	18522787	136544078	05-06	10.12.07	17046338	153590416	06-07	22.12.08	7651230 (income)	145939186	07-08	9.2.11	6544759 (income)	106978769
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		<p>Gross to be carried forward to 08-09 Rs.106978769 [145939186 (-) 6544759 + 32415658]</p>																																								
		<p>The escape of income pointed out by the AG is Rs.15.98 lakh with short levy to the tune of Rs.7.99 lakhs. Assessment for the year 07-08 was finally completed on 9.2.2011 based on audit objection as stated above. As there is sufficient amount of loss to cover up the escaped income the short levy in the audit objection has no revenue impact.</p>																																								

(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

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S. DEEPA DEVI
 Additional Secretary to Govt
 Taxes Dept., Govt. Secretariat
 Thiruvananthapuram

Action taken Notes on CA AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Income escaped assessment. (ES-18527/11)
	(c)	Paragraph No.	3.8.1.6
	(d)	Report No. and Year	CA & AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	7.6.11
	(b)	Date of Department's Reply	22.7.11
III		Gist of Paragraph/Review	In AIT & ST office, Nedumkandam while finalizing the assessment of an assessee, Sri.S.B.Senkar, Devagiri and Cavery Estate, Pampadumpara, following cash system of accounting (September 2009) the assessing authority failed to add an amount of Rs.19.48 lakh realized from sundry debtors of the previous year by the assessee. This resulted in escape of Rs.19.48 lakh with consequent tax effect of Rs.5.84 lakh. The actual short levy after adjusting carried forward loss would come to Rs.4.43 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	-
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The books of accounts of the dealer was verified and the assessment for the year has been completed accepting with net loss on Ra.1,50,221/-. On further verification of annual return and audited statements by the Accountant General (A), Thiruvananthapuram, it was noticed that an amount of Ra.19,48,194/- as difference in sundry debtors which resulted in a short levy of tax of Ra.4.43 lakh for the year 08-09. In these circumstances the Commercial Tax Officer, Nedumkandom issued notice u/s 41(1) of the AIT Act on 9.5.11 to revise the assessment. The dealer accepted the notice and filed objection on 12.5.11 without supporting documents. Hence the assessment was revised on 14.6.11 with tax Ra.3,63,072/- and interest from 4/09 to 6/11 (27%) Ra.95,329/-. Assessment order and Demand Notice were issued and served on the dealer on 29.6.11. Aggrieved by the revised assessment order the assessee preferred appeal before DC(A), Kottayam. The DC(A), Kottayam while allowing the appeal observed that the appellant is having three sister concerns namely Sholayar Estate, Pampadampara Estate and Amaravathi Estate and money transaction is regularly doing from the individual account of the assessee at Viruda Nagar and vice versa for the purpose of estate operations. These are the only sundry debtors shown in the balance sheet. Since the estates have no overdraft facility with any Bank, the assessee furnished proof of cash transactions, bank statements etc. of M/s.Tamil Nadu Mercantile Bank, Viruda Nagar. The above decision of the DC(A) is examined in the light of audit objection raised by Accountant General. It is found that claim of the assessee can be proved only by verifying the flow of money transactions among the sister concerns with the help of ledger and day book and on examination of opening and closing balances. Name of some institutions other than the sister concerns also found place in the list of sundry debtors. Particulars of amount to be received from the sundry debtors are also not mentioned in the balance sheet.</p> <p>In the light of above findings, the assessing authority has been directed to file second appeal vide Ir.No.E1-8100/12/CT dated 16.9.2014.</p>
(b)	Recovery of overpayment pointed out by audit	

(c)	Recovery of under assessment, short levy or other dues	-
(d)	Modification in the schemes and programmes including financing pattern	-
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	-

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S. DEEPA DEVI
Additional Secretary to Govt
Tamil Dept., Govt. Secretariat
Thiruvananthapuram

Action taken Notes on C& AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Irregular adjustment of loss. (E8-6261/11)
	(c)	Paragraph No.	3.8.2.1
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	28.2.11
	(b)	Date of Department's Reply	8.8.11
III		Dist of Paragraph/Review	In office of the Inspg. Asst. Commissioner, Mattancherry while finalizing the assessment of a domestic company M/s. Cochin Malabar Estates & Industries Ltd. for the assessment year 2007-08, accepted adjustment of income of Rs. 49.47 lakh derived during the year against the loss of Rs. 16.70 crore carried forward from assessment year 1998-99 onwards. Adjusting loss relating to 1998-99 against the income earned in 2007-08 resulted in escape of income of Rs. 49.47 lakh having a potential tax effect of Rs. 24.73 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	-
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The objection pointed out by the Accountant General is based on the provisional order dated 28.11.09 and the defect pointed out has been set right in the revised assessment order dated 9.02.11. There is sufficient amount to carry forward the loss of Rs. 3,24,15,658/- from 99-00 onwards. The quantum of the loss to be carry forward to the year will be subject to the assessment orders to be issued by the Inspg. Asst. Commissioner, Mattancherry, for the concerned previous years, which would be on the basis of the CIT orders to be produced.</p> <p>Since the above report was not considered by the AG the assessment records from 99-2000 to 07-08 were called for and verified by the CCT. On verification it is revealed that final assessment based on CIT orders up to 07-08 were already completed with the following result.</p> <table border="1" data-bbox="475 616 971 924"> <thead> <tr> <th>Year</th> <th>Date of order</th> <th>Amount of loss</th> <th>Gross loss</th> </tr> </thead> <tbody> <tr> <td>99-00</td> <td>21.12.01</td> <td>32415658</td> <td>32415658</td> </tr> <tr> <td>00-01</td> <td>17.11.03</td> <td>34122649</td> <td>66538307</td> </tr> <tr> <td>01-02</td> <td>31.3.03</td> <td>28422050</td> <td>94960357</td> </tr> <tr> <td>02-03</td> <td>28.12.04</td> <td>7020856</td> <td>101981243</td> </tr> <tr> <td>03-04</td> <td>17.8.06</td> <td>16040048</td> <td>118021291</td> </tr> <tr> <td>04-05</td> <td>25.9.07</td> <td>18522787</td> <td>136544078</td> </tr> <tr> <td>05-06</td> <td>10.12.07</td> <td>17046338</td> <td>153590416</td> </tr> <tr> <td>06-07</td> <td>22.12.08</td> <td>7651230 (income)</td> <td>145939186</td> </tr> <tr> <td>07-08</td> <td>9.2.11</td> <td>6544759 (income)</td> <td>106978769</td> </tr> </tbody> </table> <p>Gross to be carried forward to 08-09 Rs.106978769 [145939186 (-) 6544759 + 32415658]</p> <p>As per the final assessment order for the year 06-07 dtd.22.12.08 the gross loss availed for adjusting towards the year 07-08 is Rs.145939186. The assessment for 07-08 was finally completed with income of Rs.6544759/- and the gross loss of Rs.106978769/- The gross loss carry forwarded is only from 2000-01 onwards. Therefore, the irregular adjustment of carry forwarding of loss pointed out by AG has been rectified.</p>	Year	Date of order	Amount of loss	Gross loss	99-00	21.12.01	32415658	32415658	00-01	17.11.03	34122649	66538307	01-02	31.3.03	28422050	94960357	02-03	28.12.04	7020856	101981243	03-04	17.8.06	16040048	118021291	04-05	25.9.07	18522787	136544078	05-06	10.12.07	17046338	153590416	06-07	22.12.08	7651230 (income)	145939186	07-08	9.2.11	6544759 (income)	106978769
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			However in the assessment order for the year 07-08 gross loss was arrived by carry forwarding the loss from 99-2000 onwards. This is irregular and same to be carry forwarded from 2000-01 onwards instead of 1999-2000. This will be rectified.
	(b)	Recovery of overpayment pointed out by audit	
	(c)	Recovery of under assessment, short levy or other dues	--
	(d)	Modification in the schemes and programmes including financing pattern	--
	(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

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S. DEEPA DEVI
 Additional Secretary to Govt
 Tams Dept., Govt. Secretariat
 Thiruvananthapuram

Action taken Notes on C& AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Irregular adjustment of loss. (E8-18532/11)
	(c)	Paragraph No.	3.8.2.2
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	7.6.11
	(b)	Date of Department's Reply	2.8.11
III		Gist of Paragraph/Review	While finalising the assessment of a company Travancore Rubbers Ltd., on the rolls of the Inspg. Ast. Commissioner, Kottayam for the assessment year 2005-06 in March 2010 the assessing authority fixed the net income at Rs. 46.66 lakh and recorded that this would be adjusted against the losses carried forward from the previous year. As per the assessment order for the year 2004-05, the balance of loss to be carried forward was Rs. 27.12 lakh only. Hence there was a taxable income of Rs. 19.54 lakh which was not assessed. This resulted in excess set off loss of Rs. 19.54 Lakh with consequent tax effect of Rs. 9.77 lakh. Further while arriving the taxable income, the assessing authority had deducted Rs. 1,90,250/- being excess expenditure disallowed, which should have been added. This resulted in escape of income of Rs. 3,80,500/- and consequent short levy of Rs. 1,90,250/-. Total short levy works out to Rs. 11.67 lakhs.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	Partially
		If not, Please indicate areas of	

	(b)	disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>The incorrect computation of income was a mistake apparent on the face of records which was rectified vide proceedings dtd. 18.05.2011 under section 42 of the AIT Act 1991. But the incorrect carry forwarding of loss pointed out is not correct. At the time of assessment, the assessments for the years 2002-03 and 2003-04 were modified in appeal by the Agricultural Income Tax Appellate Tribunal and the Deputy Commissioner (Appeals) respectively which were not given effect to, due to the non availability of records. Afterwards, the appellate orders were given effect to. When the appellate orders were given effect on 16.05.2011 the following were the results.</p> <p style="text-align: center;">Net loss for 2002-03 Ra. 29,98,145 Net income for 2003-04 Ra. 2,24,199</p> <p>Thus the figures illustrated in the audit objection will change to the following position.</p> <table border="1" data-bbox="376 582 977 854"> <thead> <tr> <th>Assmt. year</th> <th>Date of revised order</th> <th>Net Income fixed</th> <th>Net loss fixed</th> <th>Set off</th> <th>Balance to be carried forward</th> </tr> </thead> <tbody> <tr> <td>98-99</td> <td>05.12.06</td> <td>-</td> <td>81260</td> <td>Nil</td> <td>81260</td> </tr> <tr> <td>99-00</td> <td>05.12.01</td> <td>-</td> <td>2183835</td> <td>Nil</td> <td>2265095</td> </tr> <tr> <td>00-01</td> <td>05.12.06</td> <td>-</td> <td>3240760</td> <td>Nil</td> <td>5505885</td> </tr> <tr> <td>01-02</td> <td>21.04.06</td> <td>-</td> <td>1664850</td> <td>Nil</td> <td>7170700</td> </tr> <tr> <td>02-03</td> <td>16.05.11</td> <td>-</td> <td>2998145</td> <td>Nil</td> <td>10168850</td> </tr> <tr> <td>03-04</td> <td>16.05.11</td> <td>224199</td> <td>-</td> <td>224199</td> <td>9944651</td> </tr> <tr> <td>04-05</td> <td>04.11.06</td> <td>4776980</td> <td>-</td> <td>4776980</td> <td>5167671</td> </tr> <tr> <td>05-06</td> <td>16.05.11</td> <td>5046504</td> <td>-</td> <td>5046504</td> <td>121167</td> </tr> </tbody> </table> <p>Thus there is no incorrect carry forwarding of loss. There is still an amount of loss of Rs. 1,21,167/- to be carried forwarded to the subsequent year 2006-07, after adjusting all the previous incomes for the years 03-04, 04-05 and 05-06.</p>	Assmt. year	Date of revised order	Net Income fixed	Net loss fixed	Set off	Balance to be carried forward	98-99	05.12.06	-	81260	Nil	81260	99-00	05.12.01	-	2183835	Nil	2265095	00-01	05.12.06	-	3240760	Nil	5505885	01-02	21.04.06	-	1664850	Nil	7170700	02-03	16.05.11	-	2998145	Nil	10168850	03-04	16.05.11	224199	-	224199	9944651	04-05	04.11.06	4776980	-	4776980	5167671	05-06	16.05.11	5046504	-	5046504	121167
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S. DEEPA DEVI
Additional Secretary to Govt
Taxes Dept., Govt. Secretariat
Thiruvananthapuram

Action taken Notes on C& AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Grant of inadmissible expenses. (E8-18512/11)
	(c)	Paragraph No.	3.8.3.1
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	7.6.11
	(b)	Date of Department's Reply	29.7.11
III		Gist of Paragraph/Review	While finalizing the assessment of an assessee M/s.Fathima Farma, office of the IAC, Wayanad for the assessment years 2004-05, 2005-06 in February 2007 and 2006-07 in October 2008 respectively, the assessing officer allowed the expenses of Ra.15.94 lakh incurred for the repairs of residential building. The incorrect allowance of expenditure has resulted in excess carry forward of loss of Ra. 15.94 lakh having potential tax effect of Ra. 7.97 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	--
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	<p>M/s.Fathima Farms (P) Ltd., Chembra Estate, Meppadi, Wayanad is a registered assessee on the rolls of the Inspecting Assistant Commissioner, Wayanad. The dealer has filed return for the assessment years 2004-05, 2005-06 and 2006-07 with Audit Report in Form No.38 as prescribed U/s 34(1) of the AIT Act 1991.</p> <p>The original assessment of the assessee for the years 2004-05 to 2006-07 were completed as under.</p> <table border="1" data-bbox="494 443 1000 628"> <thead> <tr> <th>Year of Assessment</th> <th>Gross Income</th> <th>Less expenses</th> <th>Total Agri. Income</th> </tr> </thead> <tbody> <tr> <td>2004-05</td> <td>12284804</td> <td>18979764</td> <td>6695160 (loss)</td> </tr> <tr> <td>2005-06 dt.4.2.07</td> <td>14697392</td> <td>20298179</td> <td>5600787 (loss)</td> </tr> <tr> <td>2006-07 dt.17.10.08</td> <td>11817822</td> <td>17131612</td> <td>5313790 (loss)</td> </tr> </tbody> </table> <p>In audit the Accountant General has observed that expenses incurred for repairs of residential building Rs. 5,96,094/-, Rs. 4,65,536/- and Rs. 5,32,589/- for the years 2004-05, 2005-06 and 2006-07 respectively is not an allowable expense u/s 5 of the AIT Act and the incorrect allowances of expenditure has resulted in excess carry forward of loss of Rs.15.91 lakhs having potential tax effect Rs. 7.97 lakh.</p> <p>In view of audit, assessments for the years 2004-05, 2005-06 and 2006-07 were revised u/s 41 of the AIT Act as per order dated 5.8.2010 and loss fixed in original order is reduced as Rs. 60,99,066/- Rs. 51,35,251/- and Rs. 47,81,201/- respectively.</p>	Year of Assessment	Gross Income	Less expenses	Total Agri. Income	2004-05	12284804	18979764	6695160 (loss)	2005-06 dt.4.2.07	14697392	20298179	5600787 (loss)	2006-07 dt.17.10.08	11817822	17131612	5313790 (loss)
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(d)	Modification in the schemes and programmes including financing pattern	--																

	(e) Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	
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Additional Secretary to Govt
Taxes Dept., Govt. Secretariat
Thiruvananthapuram

Action taken Notes on C& AG's Reports (Revised)

	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Grant of inadmissible expenses. (ES-18525/11)
	(c)	Paragraph No.	3.8.3.2
	(d)	Report No. and Year	C& AG report ended 31.3.2011
II	(a)	Date of receipt of the Draft Para/Review in the Department	7.6.11
	(b)	Date of Department's Reply	2.8.11
III		Gist of Paragraph/Review	While finalising the assessment of a public limited company M/s. Kerala Forest Development Corporation Ltd., for 07-08, in office of the inspecting Asst. Commissioner, Kottayam, the assessing officer allowed expenditure of Rs.12.07 lakh being expenditure incurred by the assessee towards repairs and maintenance, sale of tea and eucalyptus relating to the period prior to the relevant previous year 2006-07. This resulted in escape of income Rs. 12.07 lakh with consequent tax effect of Rs. 6.04 lakh.
	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	M/s. Forest Development Corporation is a public sector undertaking engaged in the plantation business. The Corporation is deriving income and incurring expenditure in the regular course. Certain part of its income and expenditure when related to previous years are accounted by the Corporation under the head "Prior Period Income" and "Prior period expenditure". Both the income and expenditure are derived and incurred in the current year itself. The Hon'ble Agricultural Income Tax Appellate Tribunal Addl.

			Bench, Kottayam had issued clear directions to simultaneously assess prior period income and allow prior period expenses, in accordance with law vide their Order No. ATTA/2/08 to 6/08 dated 2.7.2009.
V	(a)	Does the Department agree with the Audit conclusions?	-
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

Remedial action taken

(a)	Improvement in system and procedures, including internal controls.	M/s. Forest Development Corporation is a public sector undertaking engaged in the plantation business. The Corporation is deriving income and incurring expenditures in the regular course. Certain part of its income and expenditure when related to previous years are accounted by the Corporation under the head "Prior Period Income" and "Prior period expenditure". Both the income and expenditure are derived and incurred in the current year itself. The Honorable Agricultural Income Tax Appellate Tribunal Addl. Bench, Kottayam had issued clear directions to simultaneously assess prior period income and allow prior period expenses, in accordance with law vide their Order No. AITA/2/08 to 6/08 dated 2.7.2009. But this report was not considered by the AG favourably. Hence the defects pointed out by the AG has been further examined by the CCT in accordance with Sec.5 of the KAIT Act. 1991 and found that the expenditure towards repair and maintenance relating to an accounting year can be claimed during the financial year immediately preceding the assessment year. The CCT has granted sanction for reopening the case with direction to the assessing authority to revise the AIT assessment for the assessment year 2007-08 vide Ir.No.E1-8100/12/CT dt.11.8.14.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	--
(d)	Modification in the schemes and programmes including financing pattern	--
(e)	Review of similar cases/complete scheme/project in the light of findings of sample check by Audit findings of sample check by Audit	--

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APPENDIX III

APPENDIX FROM AUDIT REPORT

(Para 4.6.17)

Sl. No.	Name of Company	Value of shares issued including premium (₹ in L.A.)	Receivable Reserve (₹ in L.A.)
1.	M/s.V. Global Industrial Ltd.	6,684.75 (IPO in 2008) 1,164.75 (2005-08 to 2007) Total: 8,684.75	8.68
2.	M/s. South India Bank Ltd.	32,600 (24-9-08) 2,260.12 (25-10-08) 15,000 (28-2-06) Total: 49,860.12	49.86
3.	M/s. Catholic Syrian Bank Ltd.	19,600 (2007 to 1/2010)	19.60
4.	M/s. Mutual Finance Ltd.	37,009.60 (2005 to 2010)	37.10
5.	M/s. Apollo Tyres Ltd.	25,000 (27-10-2006) 2,837 (26-10-2007) 873 (7-11-2007) 4,564.94 (18-4-2008) Total: 33,080.89	33.08
6.	Joy Alukkas Traders India Pvt. Ltd.	3,500	3.50
		(Excluding premium)	Details of premium not available.
7.	Accel Transpatic Limited	776	0.776
8.	Aspinwall & Co. Ltd.	19.57	0.019
9.	BPL Ltd.	20.82	0.020
10.	Dhanalakshmi Bank	2,953.05	2.953
11.	Geojith BNP Paribas FSL	2,138.18	2.138
12.	GTN Textiles Ltd.	326.84	0.327
13.	JRG Securities	326.96	0.321
14.	Manappuram General Finance	739.12	0.739
15.	Southern Ispat & Energy Limited	449.58	0.450
16.	Sree Shakti Paper mills	674.92	0.675
17.	Federal Bank	8,182.15	8.182
		GRAND TOTAL	168.42

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