

COMMITTEE ON PUBLIC ACCOUNTS

(2013-2016)

HUNDRED AND FORTIETH REPORT



सत्यमेव जयते

(THIRTEENTH ASSEMBLY)

Report of the Committee on Public Accounts, Assam Legislative Assembly on the Report of the Comptroller and Auditor General of India (R/R) for the years 1994-95, 1995-96, 1996-97, 1997-98, 1998-99, 1999-2000, 2000-2001 and 2010-11 relating to Transport and Excise Departments, Government of Assam.

Presented to the House on 11-12-2015

ASSAM LEGISLATIVE ASSEMBLY SECRETARIAT,
DISPUR, GUWAHATI-6.

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(i)

COMPOSITION OF THE COMMITTEE

Chairman:

1. Shri Keshab Mahanta

Members:

2. Shri Abdul Muhib Mazumdar
3. Shri Gautam Bora
4. Capt. Robin Bordoloi
5. Shri Binanda Kumar Saikia
6. Shri Aklius Tirkey
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8. Shri Emmanuel Mosahary
9. Shri Utpal Dutta
10. Hafiz Bashir Ahmed
11. Shri Swapan Kar
12. Shri Prasanta Phukan
13. Shri Jatin Mali

Secretariat:

1. Shri P.K. Das, Principal Secretary
2. Shri Animesh Chaudhury, Deputy Secretary
3. Shri Ananta Baishya, Suptd.

(ii)

PREFATORY REMARKS

I, Shri Keshab Mahanta, Chairman, Committee on Public Accounts, Assam Legislative Assembly having been authorized to submit the report on its behalf present this Hundred and Fortieth Report of the Committee on Public Accounts on the Audit paras contained in the Reports of the Comptroller and Auditor General of India (R/R) for the years 1994-95, 1995-96, 1996-97, 1997-98, 1998-99, 1999-2000, 2000-2001 and 2010-2011 pertaining to Transport and Excise Departments, Government of Assam.

2. The Report of the Comptroller and Auditor General of India (R/R) for the years 1994-95, 1995-96, 1996-97, 1997-98, 1998-99, 1999-2000, 2000-2001 and 2010-2011 was laid before the House on 18-3-1996, 7-3-1997, 16-3-1998, 22-3-1999, 14-3-2000, 30-5-2001, 1-3-2002 and 30-3-2012.

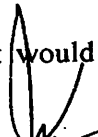
3. The Report mentioned above relating to the Transport and Excise Departments was considered by the Committee on Public Accounts in their sitting held on 23rd October, 2013, 6th November, 2013 and 16th June, 2014.

4. The Committee has considered the draft report and finalized the same in their sitting held on 07-12-2015.

5. The Committee has appreciated the valuable assistance rendered by the Accountant General (Audit), Assam and his Junior Officers and staff during the examination of the Department.

6. The Committee thanks to the Departmental witnesses as well as Finance Department for their kind co-operation. The Committee also pleased to offer thanks to the Principal Secretary, Assam Legislative Assembly with his officers and staff of the Committee on Public Accounts Branch for their valuable services rendered to the Committee.

7. The Committee earnestly hopes that the Government would implement the recommendations made in this Report.


SHRI KESHAB MAHANTA,
Chairman
Committee on Public Accounts.

Dispur:
The 7TH December, 2015.

CHAPTER-I
TRANSPORT DEPARTMENT
Non-assignment of new registration mark to
Vehicles from other State
(Audit para 5.2/C&AG.(R/R)1994-95)

1.1 The audit has pointed out that under the Motor vehicles Act, 1988, when a motor vehicle registered in one State has been kept in another State for a period exceeding twelve months, the owner of such vehicle shall, within such period and in such form as may be prescribed, apply to the registering authority within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority. On assignment of a registration mark, the owner of a vehicle is required to pay the prescribed fee under the Central Motor Vehicles Rules, 1989. Under the Act, if the owner of the vehicle fails to make an application within the prescribed period, the registering authority may require the owner to pay an amount not exceeding one hundred rupees by way of fine. Test check of assessment records of the District Transport Officer, Jorhat, revealed (December 1994) that in respect of 169 vehicles registered in the State of Nagaland which were brought to Jorhat during the period from June 1987 to June 1993 and allowed to ply in the State of Assam, but no new registration mark was assigned and consequently no fee was levied and realized from the owners of these vehicles inspite of the fact that all these vehicles had been plying in the State of Assam for a period exceeding twelve months. The failure on the part of the District Transport Officer to assign new registration marks to these vehicles resulted in non-realization of fees amounting to Rs. 48,900. Besides, for non-submission of application for assignment of new registration mark, maximum fine amounting to Rs. 16,900 was leviable on the vehicle owners, but was not levied.

1.2 The department by their written reply has stated that assignment of new registration mark on removal to another state kept in that state for a period exceeding twelve months is a requirement of U/S 47 of the M.V. Act, 1968. But the fact remains that the onus/responsibility lies with only the owner of such vehicle and owner shall within such period apply to the Registering Authority etc, So until the owner of a vehicle applies for re-assignment, the registering authority precisely does not have any option.

OBSERVATIONS/RECOMMENDATIONS

1.3. After threadbare discussion the Committee decided to direct the department to submit a note regarding raising of rates and to solve the matter permanently and submit a detailed report to the Committee within one month time from the date of presentation of this report before the House.

**Control over inspection of vehicle (Fitness certificate)
(Audit sub- para 4.2.9.1 C&AG/(R/R) 1995-96)**

1.4 The audit has pointed out that under Section 38 of the AMVT Act, 1936 reads with section 56 of the MV Act, 1988, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness issue by the Transport Department against payment of inspection fees. Before issue of such certificate the MV Inspector shall inspect the vehicle against payment of inspection fees and note the fact of issuance of such certificate in Combined Register. The certificate so issued remains valid for a period of two years after which the same is required to be renewed every year. As a measure of internal control, the MVI's are required to submit a fortnightly report on inspections carried out by them, to the Commissioner of Transport through the DTO as per executive instructions issued in this regard. The test check of combined register of 12 DTOs revealed that in 249365 cases fitness certificate required to be renewed during the period 1990 to 1995 were not renewed after the expiry of the original period. Consequently the inspection fees amounting to Rs. 328 lakhs realizable in these cases could not be realized which resulted in loss of revenue to this extent.

1.5 The department in their written reply has stated that regarding objection of non renewal of Fitness certificate in 249365 cases between year 1990-1995 resulting in non-realization of inspection fees amounting to Rs. 328 lakhs, it is stated that (1) perhaps, some computing error has occurred there, in assessing the number of cases of non renewal of Fitness certificates to be 249365 numbers in year 1990-95. As per latest statistics available there are a total of 20,57,308 vehicles on road in Assam. Again, from 1996-97 to current year, there are only 16,88,081 numbers registered vehicles in Assam.

Maintaining this ratio, it can be estimated that there were 3,69,227 vehicles in Assam up to 1995-96. Apparently, there is hardly any probability of existence of 2.50 lakhs commercial vehicles up to 1995-96. Moreover, registration of 20,000 vehicles on average in the 12 districts in question appears to be impossible. (2) Whatever may be the number of vehicles mentioned above, it is stated that, the number includes LMV Commercial vehicles also. There is a general trend that many LMV commercial vehicles are converted to private vehicle afterwards and for such LMV vehicles renewal of Fitness certificate do not remain essential and accordingly not issued. (3) Some probability may also be there that for various reasons, D-Form may not be entered into the Combined Registers, but postulation of non-grant of Fitness certificate in such cases may lead to wrong facts and figures. In fact, without a Fitness certificate, no commercial vehicle can obtain a permit and therefore any commercial vehicle on road must have in possession of Fitness certificate. (4) Under sub-rule (1) as per AMV Rules, 1940 temporary Fitness certificate may be issued in other offices, on unforeseen and emergent situations.

OBSERVATIONS/RECOMMENDATIONS

1.6. The Principal Secretary, Transport Department in his oral deposition before the Committee assured that he will submit a detail report after one week as such the Committee has decided to drop the para.

Arrears of Road Tax**(Audit sub-para 4.2.9.2 C& AG/(R/R)1995-96)**

1.7 The audit has pointed out that under section 4 of the AMVT Act. 1936, taxes on motor vehicles are to be paid in advance on or before 15th day of April each year for a term of one year or optionally in four equal installments payable on or before 15th day of April, July, October and January. In case non-payment, a notice of demand is required to be issued in each case and noted in the Combined Register maintained for this purpose. The DTOs are required to review the register from time to time. In the course of test check of 325 Combined Register of 10 DTOs it was noticed that the same were not reviewed by DTOs and as such in 391 cases notices of demand for payment of tax were not issued. This resulted in non-collection of Motor Vehicles Tax amounting to Rs. 31.78 lakhs.

1.8. The department in their written reply has stated that as regards, the objection raised in this Para, it is to be stated that chances of vehicle plying on road without payment of M.V Taxes is near impossible because, due to vigorous road checking by Enforcement personnel and other authorized officers invariably at MV Check gates on road or strategic places at random. Moreover, effective up to date payment of AMV Tax of all vehicles are done by the different M.V. Offices at Districts as well as during grant and renewal of permit and also at the time of issuance of Fitness Certificate and renewal in most cases. AMV Taxes are actually paid and endorsed may not be recorded on Combined Register in time because of overload of works of the employees concerned. In case of large number of commercial vehicles working in some project/companies or temporary seasonal business, it is seen that those vehicles (specially the trucks) use to migrate from one place to another irrespective of functional jurisdiction registered or recorded in Transport Officers, after completion of their project or business. In such

circumstance, these vehicles do not send any intimation for which the accounts of the vehicle in the Combined Register remain idle without reflecting taxes for subsequent periods. Moreover, after imposition of ban/restriction on timber and plywood business by the Supreme Court in North East region, many vehicles engaged in carriage of these items have shifted elsewhere without intimation. In such circumstance, accounts of non liable tax may accumulate.

OBSERVATIONS/RECOMMENDATIONS

1.9. The Committee observes that the Combined Register is the vital control register maintained by the D.T.O.s, but the same were not reviewed by D.T.Os. The Committee feels that the monitoring system of the department is not satisfactory. The Committee therefore directed the department to collect the Motor Vehicle Tax correctly and submit a report to the Committee within one month from date of presentations of this report before the House.

**Non-levy of Surcharge
(Audit Sub- para 4.2.9.3.C&AG/(R/R) 1995-96)**

1.10. The audit has pointed out that under the provision of Section 4A of the AMVT(Amendment)Act,1992, a surcharge on motor vehicles is payable , except in cases of private service vehicles and two wheelers. Sub section(2) of the Act provides that a surcharge on motor vehicles shall be as if payable were a tax under Section 4 of AMVT (Amendment Act, 1992). In the course of test check in 12 districts it was noticed in audit that in 191 cases no surcharge though payable at the time of payment of road tax was realized. Also no demand notice was issued. This resulted in non-realization of surcharge amounting to Rs. 7.79 lakhs. While accepting the audit observations, the departments and Government stated (July 1996) that necessary instructions for realization of surcharge had been issued to the DTOs.

1.11. The department in their written reply has stated that it is objected that no surcharge for 191 cases in 12 districts was realized despite being introduced under section 4 of AMVT (Amendment 1992).It is fact that surcharge was introduced in 1992 to be realized from commercial vehicles. But at the beginning irregularities and non-realization took place because of lack of proper guideline at that time and filing of a court case by the Motor Vehicle Owner's Association against such surcharge. However, subsequently the arrear surcharges were being realized in course of time.

OBSERVATIONS/RECOMMENDATIONS

1.12. The Committee is satisfied with written as well as oral deposition made by the departmental representatives and decided to drop the para.

**Short collection due to wrong computation of tax
(Audit Sub-para 4.2.9.4/C&AG(R/R)/1995-96)**

1.13. The audit has pointed out that according to the Provision of the AMVT (Amendment) Act, 1992 effective from 1 July 1992 road tax and surcharge were leviable on gross weight of a vehicle instead of on pay load basis. Test check of the Combined Register maintained by the DTOs in three districts revealed that the departmental officers did not review the Combined Register in the context of the above amendment and as such the road tax was levied on the basis of pay load instead of on gross weight of a vehicle in contravention of the provision of the Act. This resulted in short-realization of road tax amounting to Rs. 3.28 lakhs in 46 cases for the period from January 1992 to March 1996. While accepting the audit observations, the department and Government stated (July 1996) that the concerned DTOs would be directed to reassess and realize the tax due.

1.14. The department by their written reply has stated that objection actually is a difference in interpretation of the provision of the Act in question because actually, the AMVT (Amendment) Act, 1992 did not demand for realization of tax surcharge on the basis of gross vehicle weight in respect of the normal goods vehicle i.e. trucks, but it allowed to realize tax and surcharge on the basis of pay load only. However, in case of 'Construction equipment vehicle' like Dumper, Tripper, JCV, Roller, Compactor etc, realization of tax and surcharge has been suggested to be done on the basis of GVW in the said AMVT (Amendment) Act, 1992.

OBSERVATIONS/RECOMMENDATIONS

1.15 .The Committee is satisfied with written as well as oral deposition made by the departmental representatives and decided to drop the para.

**Non-assignment of New Registration mark to foreign vehicles
(Audit sub- para 4.2.9.5 C&AG.(R/R)1995-96)**

1.16. The audit has pointed out that in accordance with the provision of Section 47 of the Motor Vehicle Act, 1988, when a motor vehicle registered in one state has been kept in another state for a period exceeding 12 months, the owner of the vehicle should apply to the registering authority for the assignment of a new registration mark and pay fees as prescribed. Further sub-Section (5) of the Section empowers the DTO to take penal action in the event of failure of the owner to apply for re-assignment. A Combined Register for foreign vehicles is maintained separately by the DTOs to watch the registration and collection of taxes due thereon. It was noticed in test check of combined register of 12 districts that in 911 cases the owner of the vehicle did not apply for new registration mark although the vehicles had been plying within the jurisdiction of the DTOs for more than 12 months. Failure of the DTOs to conduct review of the Combined Register for foreign vehicles from time to time resulted in non collection of tax amounting to Rs.1.98 lakhs. While accepting the audit observation, the department and Government stated (July 1996) that necessary instruction had been issued to concerned DTOs with regard to assignment of new registration mark to foreign vehicles.

1.17. The department by their written reply has stated that it has already been started against the reply at Para 5.2 of the CAG report 1994-95. The ground realities tended to exist as same during those years i.e. 18 years ago.

OBSERVATIONS/RECOMMENDATIONS

1.18 After discussion with the departmental witness the Committee directed the department to prepared a note and submit the same to the Committee within 30 days time from the date of presentation of this report before the House.

Non-reconciliation of revenue figures

(Audit sub-para 4.2.9.6 C&AG.(R/R) 1995-96)

1.19. The audit has pointed out that reconciliation of figures between the district units concerned and treasury as well as between the department and Accountant General (A&E) is an important control mechanism for the collection and remittance of taxes on motor vehicle. Test check of the records maintained by 12 out of 24 district unit offices revealed that 3 unit offices (Tezpur Nalbari & Dhubri) did not reconcile department figures of collection of revenue with those of records maintained by the treasuries for the purpose. Non-reconciliation of figures with treasury resulted in misappropriation of Rs. 43,110 in one case as discussed below. In DTO Tinsukia taxes on motor vehicle amount in to Rs. 43,110 each were shown to have been collected on 1 March and 31 March 1995. But only an amount of Rs.43,110 was actually credited into Government account vide treasury Challan no. 56 dated 1 March 1995. The balance amount of Rs. 43,110 was also shown to have been remitted by furnishing quadruplicate copy of the same treasury Challan which was actually not credited to Government account. Had the reconciliation been done with the treasury this misappropriation would have been detected.

1.20. The department in their written reply has stated that as regards, the objection raised in this Audit Para, it may be stated that actually a single amount of revenue (Rs. 43,110/-) was realized in the month of March, not two amount in two different dates of the same month i.e. 1st March and 31st March of 1995. The amount was deposited under the challan No. 56 and the copy of the challan has been collected and attached with the reply for verification.

OBSERVATIONS/RECOMMENDATIONS

1.21. The Committee observes that due to negligence of the concerned assessing authority the objection raised in this Audit para. The Committee therefore directed the department to verify the case and submit a report to the Committee within 30 days from the date of presentation of this report before the House.

Non-realization of Passengers and Goods Tax**(Audit sub-para 4.2.10.1.C&AG.(R/R)1995-96)**

1.22. The audit has pointed out that the COT, Assam in his circular of 6 April 1990 issued instructions to all DTOs that all cases under APGT Act 1962 transferred by the Commissioner of Taxes, Assam should be noted in the Combined Registered with full particulars indicating the upto date position of payments of tax. It was noticed in audit that in none of the 12 DTOs test-checked, the full details of transferred cases were recorded in the Combined Register instead the same were recorded in a separate register (APGT Register). A test check revealed that in 576 cases transferred by the Commissioner of Taxes, the failure to watch proper realization of tax resulted in short realization of Passengers and Goods Tax amounting to Rs. 20.67 lakhs.

1.23. The department in their written reply has stated that the objection raised by Audit in this Para regarding maintenance of separate Register for APGT, it may be stated that at the beginning of transfer of APGT from Commissioner of taxes to the Transport Department proper instruction did not reach District Transport Offices in time. It is due to this fact for which execution procedure could not be followed properly. However, this was rectified in due course and details of transferred cases were recorded in the Combined Register till its abolition in 1994.

OBSERVATIONS/RECOMMENDATIONS

1.24. The Committee discussed the matter thoroughly and in view of the assurance given by the department, the Committee has decided to drop the para.

Non-imposition of fine

(Audit sub-para 4.2.11.1.C&AG.(R/R)1995-96)

1.25. The audit has pointed out that the section 194 of the AMV (Amendment) Act 1994, provides that whoever drives a motor vehicle, causes or allows a motor vehicle to be driven in contravention of the provisions of Sections 113,114 and 115 shall be punishable with a minimum fine of two thousand rupees and in the case of a goods vehicle an additional amount of one thousand rupees per tone of excess load and charges for off loading of the excess load will also be payable. It was noticed from records maintained by the officer-in-charge of a check gate (Srirampur) that in the case of 14169 vehicles, only a minimum fine of Rs. 2000 for overload was collected from each of the errant drivers and an additional amount of Rs. 1000 per tone of excess load, was not levied. Assuming excess load of 1 tone only per vehicle the short levy of fine works out to Rs. 141.69 lakhs for 14169 vehicles for the period 18 January 1995 to 31 March 1995. This was due to lack of any provision for indicating the actual quantity of excess load carried by vehicle and furnishing a return in this regard. There is thus need to institute internal control by way of introducing a system of recording the details of excess load carried by each vehicle at the check gate and thereby safeguarding the Government revenue by way of imposing fine at the specified rate.

1.26. The department in their written reply has stated that as regards, the objection raised by Audit in this Para, it may be stated that the officials of Transport Department are not empowered to dispose the offence cases under section 194 of the M.V Act. 1988, which is more the jurisdiction of a Judicial Magistrate. But, section 200 of the same Act provides authority to State Govt. to delegate the power of compounding fines under section 194 along with some other penal sections to such

officers. Statutory notification specifying the rate of compounding fine (C.F) is issued by the Govt. from time to time which is applied to dispose the offence case contravening the provisions of Section 113. In the impugned period the notification did not prescribe realization of fine on per ton basis and hence the accounts shown by the audit on the basis of the load would not perhaps be applicable Notification of 1989 is attached here with for verification.

OBSERVATIONS/RECOMMENDATIONS

1.27. Considering the submission of the departmental representative the Committee has decided to drop the para.

Non-levy/Short levy of onetime Tax**(Audit sub-para 4.2.11.2.C&AG.(R/R)1995-96)**

1.28. The audit has pointed that the section 4B (i) of the AMVT (Amendment) Act, 1994, provides that the owner of a motor cycle, tricycle trailer/side car, motor car or jeep meant exclusively for personal use and not registered as public service vehicle and not more than 15 years old, while applying for first registration or assignment of a fresh registration mark or change of address or removal of the aforesaid vehicle from any other state on or after the commencement of the Act (April 1994) shall pay onetime tax (OTT) in lieu of any tax payable under AMVT Act, 1936. Subsection (2) of AMVT (Amendment Act, 1994) provides that one time tax shall be paid in one installment within 30 days of the motor vehicle coming within the purview of this Section or if any tax under Section 4 of AMVT (Amendment Act, 1994) has been paid in respect of it within 30 days after the expiry of the period for which such tax has been paid whichever is later. During test check it was noticed that in 1060 cases in 12 districts, there was non-levy of onetime tax amounting to Rs.17.15 lakhs. Further, in 996 cases due to wrong computation/wrong classification there was short levy of tax amounting to Rs.2.89 lakhs. While accepting the audit observation, the Government and department stated (July 1996) that all the concerned DTOs were instructed to issue demand notice for payment of onetime tax Report on the action taken by the DTOs has not been received (July 1996).

1.29. The department in their written reply has stated that the one time tax for the personalized vehicles came into force in 1994 after the commencement of the AMV Taxation (Amendment) Act. 1994. As soon as the Department started its implementation, there appeared a hue and cry from the public against the payment of tax for 15 years at a time. Even a few of

them approached the courts for redressed of their grievance against the impugned AMV Taxation Act. In such circumstance, the concerned officer faced difficulties in levying the onetime tax and it ultimately caused such irregularities. In course of time, however, the Act was accepted by the public and the arrear onetime tax was realized when such vehicles came to pay their tax in the next year or so. Hence, the objection of non-levying tax for 1060 cases in 12 districts amounting to Rs. 17.15 lakhs may kindly be dropped. As regards 996 cases pointed out by the audit that there was short levy of tax amounting to Rs. 2.89 lakhs due to wrong computation, it may be stated that this has already been shown in the reply of para 4.2.9.4 of 1995-96. AMVT (Amendment) Act, 1992 demands for realization of MV Tax in relation to goods vehicles (Trucks) on the basis of pay load excepting those construction equipment vehicles e.g. Dumper, Tripper, Roller, Excavators, Compactors etc., tax of which are leviable on GVW basis.

OBSERVATIONS/RECOMMENDATIONS

1.30. The Committee is satisfied with the reply of departmental representative and decided to drop the para.

Short recovery of composite fee due from other States**(Audit sub-para.4.2.11.3.C&AG.(R/R)1995-96)**

1.31. The audit has pointed out that the composite fee is payable by the tourist vehicles of other states permitted to ply in the state of Assam. In order to keep watch over the demand, recovery and balance of composite fee and the follow up action for realization of composite fee due, it is necessary to have complete details of all the permits issued from time to time by other state for operating vehicles in the State of Assam. Moreover, such information regarding tourist permits issued by other states for operation of vehicles in Assam was not available with STA. In the absence of this basis information, the composite fee due from other State could neither be determined nor any action taken for its recovery by STA. It was further noticed in test check the movement register maintained in Baxirhat check-gate in respect of tourist vehicle permits issued by other states operating in the State of Assam, that there were 9 to 21 tourist vehicles (totaling 101 in all), for the periods 1989-90 to 1994-95 from which no composite fee was received. Composite fee due from these vehicles at the rate applicable for these years worked out to Rs. 14.46 lakhs. For realization of composite fee, the COT, Assam only referred this matter to State Transport Authority of other States in August 1993. But thereafter no follow-up action was taken to realize this composite fee. The department and Government stated (July 1996) that the composite fee payable at the rate of Rs. 48,000 per annum per vehicle from 1 April 1994 could not be implemented as the matter was subjudice. However, they did not offer their comments regarding non-payment of composite fee at the rate of Rs. 1,960 per annum per vehicle up to June 1992 and at the rate Rs. 10,000 per annum per vehicle up to March 1994.

1.32. The department in their written reply has stated that the Movement of Tourist Buses, the permits of which were generally issued by our neighboring North East State were very closely monitored on road by our Enforcement Branch and also on special joint checking for detection of various offences including that of evasion of composite fee, if any. Once a Tourist Vehicle Permit is issued by other State, composite fee @ Rs. 48,000/- per annum is earmarked for Assam and after realization of the same is dispatched to the office of the Commissioner of Transport Assam/ Secretary, State Transport Authority vide Bank Drafts. This amount is then deposited to Govt. exchequer through Treasury Chillan's. Payment of composite fee @ 48,000/- per annum by Bank Draft by the Tourist bus operator is a pre-requisite for any permit issuing Authority of other States for grant of Tourist Permit. Thus there is hardly any scope for evasion of composite fee for Assam. Moreover, such Bank Drafts are dispatched to competent Authority in Assam by registered post and under no circumstances these are forwarded in the hands of the driver/conductor of the vehicles. Therefore, question of deposit of demand drafts regarding composite fee in the Boxirhat Check post does not arise.

OBSERVATIONS/RECOMMENDATIONS

1.33. The Committee is satisfied with the reply of departmental representative and decided to drop the para.

Non-imposition of fine for delayed authorization of renewal of tourist permit

(Audit sub-para 4.2.11.4.C&AG/(R/R) 1995-96)

1.34. The audit has pointed out that the authorization granted for annual renewal of tourist vehicle under Rule 87 of the Central Motor Vehicles Rules 1989 is valid for one year at a time. The authorization granted is to be renewed annually on application within 15 days before the date of expiry. Non-observance of this provision attracts imposition of fine under Section 192 of Motor Vehicle Act, 1988. In the course of audit of tourist permit registers and concerned vehicle case records maintained in the Office of the COT it was noticed that in case of 176 tourist vehicle out of 250 test checked, no penalty was levied as contemplated for delayed submission of renewal application. This resulted in non-realization of fine of Rs. 5.30 lakhs (calculated at the rate applicable prior to revision of rate from August 1994).

1.35. The department in their written reply has stated that regarding non-realization of fine U/S 192 involving an amount of Rs. 5.30 lakhs in case of 176 tourist vehicle for delayed submission of renewal application, it is stated that prior to 1994, the penal Section 192 of MV Act, 1988 provided punishment for these vehicle used in contravention of Sec-39 and Sec-66 of IMV Act, 1988 i.e. without registration or without permit or violating permit condition. The Section 192, therefore, was not applicable for delayed submission of renewal application in 1994. Moreover, there was no provision for imposing any fine for delayed submission of application for renewal of tourist permit and as such, question of non-realization of fine of Rs. 5.30 lakhs does not arise.

OBSERVATIONS/RECOMMENDATIONS

1.36. After giving a direction to examine the matter the Committee has decided to drop the para.

Non-levy of Passengers and Goods Tax

(Audit sub-para 4.2.11.5.C&AG/(R/R) 1995-96)

1.37. The audit has pointed out that under Section 2(12) of the APGT Act 1962, 'Taxable Vehicles' has been defined to mean either a boat or motor vehicle or both a boat and motor vehicle. Further under Section 3 of the Act tax is leviable on fares in respect of passengers and goods carried in a taxable vehicle. Section 3 of the Act also provides that where passengers or goods are carried in a taxable vehicle from any place outside the State to any place within the State or vice versa, tax is payable on a proportionate basis. The proportion being the ratio of distance covered within the State of Assam, to the total distance covered. The rate of tax is ten paise per rupee of the fare. Section 15 of the Act provides for inspection and verification of the compliance of the provisions of the Act or the Rules framed there under by the prescribed authority and for countersignature of any documents during the course of such inspection.

(a) Non-levy of tax on Passengers: Mention was made in para 4.2 (i) of the Audit Report (Revenue Receipts) of the Government of Assam for the year 1991-92 about non-levy of passengers and goods tax amounting to Rs. 54.75 lakhs during 1980-81 to 1990-91. It was further noticed from the records of the Director, Inland Water Transport (IWT), Govt. of Assam that IWT had 65 taxable vehicles as on 31 March 1995 operating in different inland waterways in Assam. The total fare on passengers realized during the years 1991-92 to 1994-95 was Rs. 318.49 lakhs against which tax amounting to Rs. 31.85 lakhs (@ 10%) was leviable but not levied.

(b) Non-levy of goods tax: (i) The Inland Water Transport, Assam also carried goods in taxable vehicles through water way to and from other States. It was noticed in audit that actual collection

of fares on goods on total distance covered by IWT during the years 1991-92 to 1994-95 was Rs.113.13 lakhs. Proportionate fares on distance covered within Assam worked out to Rs. 16.90 lakhs and tax leviable to Rs. 1.69 lakhs which not levied. (ii) Similarly the Central Inland Water Transport Corporation Ltd. (a Govt. of India Undertaking), Guwahati also realized fares on goods during the years 1991-92 to 1994-95 amounting to Rs. 482.91 lakhs and proportionate fares on distance covered within Assam worked out to Rs. 72.15 lakhs and the tax leviable to Rs. 7.22 lakhs which was not levied. Thus Internal Controls to ensure compliance of the provision of the Act and Rules made there under were not exercised. The department failed to levy tax totaling Rs. 41 lakhs on passengers and goods, under APGT Act, 1962. Even though the Government was aware of the non-payment of tax by the Central Inland Water Transport Corporation Ltd, it did not take any action to levy and collect tax.

1.38. The department by their written reply has stated that the Inland Water Transport Department realizes toll on passengers and cargoes as per provision of Section 15 of Northern India Ferries Act 1968. Section 15 of Northern India Ferries Act reads as follows:- 'Tolls according to such rates as are from time to time and by the Local Government shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service: Provided that the Local Government may, from time to time declare that any persons, animals, vehicles or other things shall be exempted from payment of such tolls. Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the (lease) shall entitle the lessee to such statement of the payable in respect of the tills as may be fixed by the Commissioner of the division or such other officer as the local Government, may from time to time appoint in this behalf

by name or in virtue of his office .Government of Assam in the Department of Transport issues Notification fixing toll on passengers and cargoes from time to time. The I.W.T. Department does not realize any fare from passengers nor cargos covered under the notification for using IWT vessels 2 (two) sample copies of Government notification no.TWT. 23/84/347 dated 26th October 1987 and No. TWT. 67/90/50 dated 4th April 1992. As such the provisions of Assam Passengers and Goods Tax Act were not applicable in respect of the passenger travelling with notified goods. In this connection, it may also be mentioned that most of the ferry services under IWT are operated through lease and the only a few ferry service are operated departmentally. The leases are given by inviting NIT and the kits money realized from the lessees are deposited in Treasury under proper Head of Account. Similarly the toll amount realized from the passengers and cargoes in respect of departmentally operated ferry service are also deposited in Treasury under proper Head of Account. Regarding non-levy of Goods Tax for an amount of Rs. 1.69 lakh, the relevant records could not be traced out in this Office. Therefore, the Accountant General, Assam has been requested to furnish the relevant extract of the Audit paras along with the list of concerned parties and amount recoverable from them so that the matter may be taken up with the parties for realization of the amount.

OBSERVATIONS/RECOMMENDATIONS

1.39. The Committee satisfied with the reply of departmental representative and decided to drop the para.

Short realization of taxes on motor vehicle**(Audit para 4.5 C&AG/(R/R) 1996-97)**

1.40. The audit has pointed out that as per Government notification of August 1993, the owner of a motor vehicle holding a National Permit is to pay as tax in respect of every such vehicle a lump sum of Rs. 5000/- per annum w.e.f. 1st September 1993. The said notification, inter alia, provides that National permit holder may deposit the said amount of Rs. 5000/- per annum, either in one installment or in two equal installments of Rs. 2500/- on half-yearly basis, in advance. Test check of records of the Commissioner of Transport, Guwahati, revealed (October 1996) that in respect of 222 vehicles holding National Permit for the different periods between September 1993 to September 1996, taxes were realized at the half-yearly lump sum rate of Rs. 1500.00 instead of Rs.2500.00, in respect of 188 vehicles and at the annum lump sum rate of Rs. 3000.00 instead of Rs. 5000.00 in respect of 34 vehicles, resulting in short realization of taxes amounting to Rs. 2.56 lakh.

1.41. The department in their written reply has stated that the Government notification No.TMV.262/88/Pt/174, Dated 27.8.1993, prescribed payment of lump-sum fee Rs. 5000/- per annum and Rs. 2500/- on half yearly basis by National Permit holder vehicles to ply in Assam on the strength of National Permits granted by the other States. As per procedure the authority issuing the National Permit should receive the lump-sum on behalf of the State of Assam by Bank Draft and after issue of the National Permit should forward the same to office of the Commissioner of Transport/Secretary, State Transport Authority, Assam. However, the discretion of fixing lump-sum amount of fee for authorizing plying of goods vehicles under National Permit by other States lies with that State only. Accordingly, almost the North East States barring Assam like

Meghalaya, Mizoram etc., fixed their lump-sum fee at Rs. 3000/- per annum and Rs. 1500/- on half yearly basis for authorizing plying of Assam based vehicles in these States. During the Test Check conducted in the Commissioner of Transport the Audit perhaps did not taken the difference in fee structure for which the confusion of short realization of taxes amounting to Rs. 2.56 lakh aroused. During September 1993 to September 1996, when National Permit were issued by Assam covering other N.E. State lump sum fee are drawn and dispatched to the respective Authorities at the rates fixed by them, that is Rs. 3000/- per annum & Rs. 1500/- on half basis and Registers of National Permit issued & maintained accordingly.

OBSERVATIONS/RECOMMENDATIONS

1.42. After threadbare discussion the Committee has decided to drop the para.

**Short levy of fine
(Audit para 6.4.C&AG/(R/R) 1997-98)**

1.43. The audit has pointed out that the section 194 of the Assam Motor vehicles (Amendment) Act, 1994, provides that any person who drives a motor vehicle, causes or allows a motor vehicles to be driven in contravention of the provisions of section 113, 114 and 115 of the Act shall be punishable with a minimum fine of two thousand rupees and in case of a goods vehicles an additional amount of one thousand rupees per tone of excess load together with the charges for off-loading of the excess load will also be payable. The records maintained by the District Transport Officer, Marigaon revealed (July-August 1997) that 99 goods-vehicles carrying excess load were detected by the Department during the period from April 1994 to June 1997. Against the permissible capacity of 1033.725 MT the vehicles carried 1412.923 MT. Total fine leviable for excess load of 379.198 MT worked out to Rs. 5.77 lakh. But the department levied and collected total fine of Rs. 1.40 lakh. This resulted in short levy of fine amounting to Rs. 4.37 lakh. The matter was reported to the department.

1.44. The department in their written replies has stated that it is noticed that objection raised by the audit relating to section 194 of IMV Act 1988 is in terms of Metric tone i.e. quantity of the goods but not in conformity with the statutory notification issued by the State Government under the provision of Section 200, IMV Act 1988. However, details of it have been stated in the reply of Para 4.2.11.2 of 1995-96 CAG report.

OBSERVATIONS/RECOMMENDATIONS

1.45. During the course of examination the department informed the Committee that Government has reduced the fine by a new order and as per the new order there was no any short levy. The Committee pleased with the reply and decided to drop the para.

Non-assignment of new registration mark to vehicles from other States.

(Audit para 6.5.C&AG.(R/R)1997-98)

1.46. The audit has pointed out that the under the Motor Vehicle Act 1998, when a Motor Vehicle registered in one State has been kept in another State for a period exceeding twelve months, the owner of such vehicle shall, within such period and in such form as may be prescribed, apply to the registering authority within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority. On assignment of a registration mark, the owner of a vehicle is required to pay the prescribed fee under the Central Motor Vehicle Rules 1989. Under the Act, if the owner of the vehicle fails to make an application within the prescribed period, the registering authority may require the owner to pay an amount not exceeding one hundred rupees by way of fine. Test check of assessment records of five District Transport Officers (DTO), revealed (July 1997-February 1998) that owners of 663 Vehicle of other States brought their vehicles to Assam but did not apply for assignment of new registration mark within the prescribed period. The D.T.O.s concerned failed to impose fine on the defaulting owners of these vehicles.

1.47. The department in their written reply has stated that reply on Para 5.2 of CAG Report 1994-95 may be referred to in relation to the similar objection raised in connection with the non-assignment of new Registration Mark to the vehicles coming from other State under the provision of Section 47 of IMV Act. 1988. However, statement of concerned District Transport Officer's regarding present status is attached for perusal.

OBSERVATIONS/RECOMMENDATIONS

1.48. The Committee observes that vehicles registered out of the state including the entire North-eastern region should be brought in to one uniform law, whether it is possible or not is a point to ponder about. With this recommendation the Committee has decided to drop the para.

Short/Non-levy of fine**(Audit para 6.3.C&AG.(R/R)/1998-99)**

1.49. The audit has pointed out that under the Assam Motor Vehicle Taxation (Amendment) Act. 1994, excess loading of goods vehicle shall be punishable with a minimum fine of two thousand rupees besides imposition of additional amount of one thousand rupees per tone of excess load along with the charges for off-loading of the excess load. (i) A test check of the records of District Transport Officer, Nagaon, revealed (October 1997) that 46 goods vehicle carrying load in excess (169.51 MT) of the permitted load were detected by the department during the period between October 1996 and September 1997. However, the department levied fine of Rs. 1.44 lakh against the fine leviable of Rs.2.65 lakh. This resulted in short levy of fine of Rs.1.21 lakh. The case was reported to the department and the Government (March 1998), their replies have not been received (November 1999).(ii) A test check of the records of the District Transport Officer, Barpeta revealed (March, 1998) that 131 goods-vehicles carrying excess load were detected by the department during the period from May 1995 to September 1997. But in 117 cases, neither the actual quantity of excess load carried by each vehicle was recorded in relevant records nor were the minimum fines levied. Even an excess load of 1 tone only per vehicle would result in non-levy of fine Rs.3.51 lakh. In respect of 3 other vehicles, the leviable fine of Rs.0.20 lakh was not imposed, even though these carried a total excess load of 14.6 M.T. In respect of the remaining 11 vehicles, the fine of Rs. 0.15 lakh was short-realized. Thus there was short/non-levy of fine aggregating Rs.3.86 lakh in respect of 131 vehicles.

1.50. The department in their written reply has stated that (i)& (ii) objection relates to the similar objection raised by the audit

para 4.2.11.2 of CAG Report 1995-96 in relation to see 194 of IMV Act. 1988.

OBSERVATIONS/RECOMMENDATIONS

1.51. The Committee was satisfied with the disposition of the departmental witnesses and decided to drop the para.

Arrears of vehicle tax and surcharge

(Audit para 4.2.7 C&AG.(R/R)/1999-2000)

1.52 .The audit has pointed out that under section 4, read with section 5 of the Assam Motor Vehicle Taxation Act, 1936, as amended from time to time taxes on motor vehicle are to be paid in advance on or before 15 April each year or optionally in four equal installments payable on or before 15 of April, July, October and January respectively. In case of non-payment, a notice of demand is required to be issued in each case and noted in the Combined Register maintained for the purpose. The DTOs are required to review the register from time to time. During a test check of 166 Combined Registers for foreign vehicle (gross weight 3 MT and above) maintained in 10 DTOs revealed (October 1999 February 2000) that these were not reviewed by the D.T.Os and as a result in 1817 cases Motor Vehicle Tax of Rs.2.66 crore and in 1780 cases surcharge of Rs.2.26 crore remained unrealized. Even demand notices for payment of tax were not issued in 1636 cases involving Rs. 2.36 crore. On this being pointed out, the Commissioner of Transport stated (May 2000) that necessary instructions were being issued to furnish the detailed particulars regarding outstanding Motor Vehicle Tax and Surcharge and that steps would be taken to collect the same. Details of D.T.O. wise and year wise tax and surcharge for the period from 1995-96. These also includes 1466 number of vehicles which were plying for more than 12 months without being assigned new registration marks, consequently Rs. 5.96 lakh being registration fee and fine remained unrealized.

1.53. The department in their written reply has stated that the objection raised is similar to that of in Para 4.2.9.2 of CAG

report 1995-96. Accordingly the reply may kindly be referred to the reply of the said Para.

OBSERVATIONS/RECOMMENDATIONS

1.54. After giving assurance by the department to examine the cases and updating the dates, the Committee has decided to drop the para.

Non/short-levy of fines**(Audit para 4.2.8.C&AG.C&AG/(R/R)/1999-2000)**

1.55. The audit has pointed out that under section 194 of the MV (Amendment) Act, 1994, excess loading of goods vehicles shall be punishable with a minimum fine of two thousand rupees besides imposition of additional amount of one thousand rupees per tone of excess load along with charges for off-loading of the excess load. A test check of the records of the Commissioner of Transport, 10 District Transport Officers and 2 check gates, revealed that 287811 goods vehicles carrying excess load were detected by the department during the period from April 1995 to March 2000. Out of these, in 287415 cases, fine of Rs.5744.03 lakh was incorrectly realized instead of Rs. 8629.88 lakh and in 396 cases neither the minimum fine nor additional fine amounting to Rs. 11.88 lakh was realized. Thus there was short/non-levy of fine of Rs. 2897.73 lakh.

1.56. The department in their written reply has stated that objection is of similar nature as of the Para 4.2.11.2 of 1995-96 and hence the reply may be referred to the reply submitted against the said Para.

OBSERVATIONS/RECOMMENDATIONS

1.57. Considering the submission on the objection made by the official witness the Committee has decided to drop the para.

**Non/Short realization of composite tax from other States
under National Permit Scheme:**

(Audit para 4.2.9. C&AG.(R/R)/1999-2000)

1.58. The audit has pointed out that as per Government notification issued in August 1993, an operator of a public carrier goods vehicle, under the National Permit Scheme, authorized to ply in Assam State but registered in another State, is liable to pay composite tax at the rate of Rs. 5,000 per annum effective from 1 September, 1993. This composite tax is in lieu of the tax chargeable under the Assam Passenger and Goods Taxation Act, 1962 and is to be paid in advance either in lump sum on or before 15 September or in two equal installments of Rs.2500/- on half yearly basis payable on 15 September and 15 March. The scheme provides that in case of delay in payment of composite tax by the owner of the owner of the vehicle within the period specified he is liable to pay in addition to the lump sum fee mentioned above, an additional sum of Rs. 100 per month or part thereof. Scrutiny of the statement of drafts forwarded by other States being Composite Tax in between April 1995 to October 1999 revealed that there was short levy of Composite Tax of Rs. 24.81 lakhs on 2907 goods vehicles plying in more than 12 Regional Transport Authorities (RTAs). This short- realization was mainly due to collection of Composite Tax by other States at lesser rates. It was further noticed in audit that the Commissioner of Transport did not maintain any register/records to watch the receipt and unrealized position of the Composite Tax realizable from the States year- wise. The department did not pursue the cases with concerned States. The exact amount due to be realized could not be ascertained as no records were maintained. The Commissioner of Transport received a list of drafts (402 nos.) from the Commissioner of Taxes, Assam, in November, 1998

which indicated that there was a short- realization of Rs. 0.93 lakh against 120 vehicles. The period for which tax was realized was not mentioned in the list. In May 1997, the Department took up the matter of short realization of Composite Tax with Regional Transport Authorities of other States. No. follow -up action was, however, taken thereafter.

1.59. The department in their written reply has stated that regarding objection raised in this Para, it is stated that the short realization of Composite Tax from other states has been realized by the inter-State border check gates (i.e. balance tax), where Composite Tax for National Permit was realized less than the amount fixed by the Government of Assam.

OBSERVATIONS/RECOMMENDATIONS

1.60. Considering the submission on the objection made by the official witness the Committee has decided to drop the para.

Short realization of fines**(Audit para 4.6) C&AG/(R/R) 2000-2001)**

1.61. The audit has pointed out that under Section 192 of the Motor Vehicles (Amendment) Act, 1994, using of a vehicle without registration shall be punishable for first offence with a fine, which may extend to five thousand rupees but shall not be less than two thousand rupees. Section 194 of the Act ibid further envisages that carrying excess load by a goods vehicles shall be punishable with a minimum fine of two thousand rupees besides imposition of additional amount of one thousand rupees as per tonne of excess load, together with the charges for off-loading of the excess load. Inspector of Police was also empowered to compound offences under the aforesaid Act by the Government Notification dated 11 September, 1989. Scrutiny of records of the Superintendent of Police (SP) City Guwahati; SP, Karimganj and Director, Bureau of Investigation (Economic Offences) Guwahati, revealed (December 2000-March, 2001) that 1049 vehicles plying on road without any registration and 211 goods vehicles carrying excess load were detected by the department during the periods of 5 years ending March 2000 and fines of Rs. 5.59 lakh and Rs. 2.09 lakh were realized against the minimum amount realizable Rs. 20.98 lakh and Rs. 4.22 lakh respectively. This resulted in total short realization of fine Rs. 17.52 lakh. Reasons for such short realization were neither on records nor could be stated. The above matter was referred to the Department/ Government in May, 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July, 2001.

1.62. The department in their written reply has stated that so far this query is concerned the objection involves the Superintendent of Police Guwahati & Karimganj as well as Director, BIEO. Hence it is a matter to be looked into by the

Home Department. Transport Department does not have records of any activities of the Police Deptt., although those might be related to M.V. Act and Transportation.

OBSERVATIONS/RECOMMENDATIONS

1.63. After threadbare discussion the Committee has decided to drop the para.

CHAPTER-II
EXCISE DEPARTMENT

Non-realization of excise duty on short production of liquor
(Audit para 3.9 C&AG(R/R) 2010-2011/P-72)

2.1. The audit has pointed out that the Assam Distillery Rules do not prescribe any norm for manufacture of IMFL from extra neutral alcohol (ENA). This is fraught with the risk of evasion of excise duty as duty is payable on IMFL which is produced from ENA and any shortfall in production due to absence of any benchmark would result in loss of revenue. In the absence of any prescribed benchmark/norm in AER, Audit noted the norm followed by three distilleries (out of seven distilleries operational in Guwahati) as certified by the concerned inspectors of excise which is-one bulk liter ENA X 1.66 strength= 1.66 LPL/0.75 degree proof = 2.2213 LPL. Audit has noticed that M/s North East Distilleries Pvt. Ltd. under the jurisdiction of SE, Kamrup used 64,63,913 BL of ENA during 2009-10. As per the norms adopted by the distilleries test checked in audit, 64,63,913 BL of ENA should have yielded 15,73,747 cases of IMFL whereas the distillery showed production of 14,96,188 cases of IMFL. The shortfall in the yield of 77,559 cases of IMFL involved excise duty of Rs. 3.10 crore. After audit pointed this out, the Government forwarded (August 2011) the reply of the SE, Kamrup stating that there was a variation of 633 cases of IMFL on which duty of Rs. 2.65 lakh has been demanded. Audit noticed that the reply furnished was obtain from the distiller by the SE in which the quantity of opening, closing stock and import of ENA during 2009-10 differed from those furnished to us by the officer -in- charge of the distillery during audit. Further, the distiller in its reply has showed transfer of 1.20 lakh BL of ENA to other distilleries during the year which was not mentioned by the officer-in-charge in his report to Audit. The figures of opening , closing stock and import/transfer of ENA as furnished by the distiller are not acceptable as the figures furnished by the

excise officer-in-charge are considered as final and the assessment of revenue and other control measures exercised by the CE on the distiller are based solely on these figures. Government did not furnish reply on Audit's recommendation on fixation of norms for manufacture of IMFL from ENA.

2.2. The department in their written reply has stated that, as reported by the Supdt.of Excise, Kamrup, the quantity calculated by the audit as short production is not correct and accordingly demand notice against the actual short production have been issued to the licensee by the concerned Supdt. of Excise. As reported by the S.E.Kamrup, M/s. North East Distillery Pvt. Ltd. has deposited an amount of Rs. 2,65,227.00 against short production of 633 C/s of IMFL from E.N.A During the 2009-10. As reported by the S.E. Kamrup, total of 1.20 lakh B.L. of E.N.A. was transferred to M/s Spey Bottlers Pvd. Ltd. and M/S Centenary Distillery Pvt. Ltd. as per the order of the Commissioner of Excise, Assam.

OBSERVATIONS/RECOMMENDATIONS

2.3. After discussion the Committee directed the department to reconcile the matter with the office of the Accountant General (Audit) Assam and submit a report within 30 days from the date of presentation of this report before the House.

Non-realisation of revenue on non/short lifting of country spirit**(Audit para 3.10.C&AG(R/R)/2010-2011/P-73-74)**

2.4. The audit has pointed out that in para 3.10.1 a Government approved contractor, Shri Deepak Sonowal under SE, Jorhat was permitted (September 2006 with validity upto 27 November 2006) to lift one lakh bulk liter (BL) of rectified spirit. The licensee neither imported the spirit nor furnished the required NEC despite lapse of more than three years as on the date of audit (February 2010). In another case, (para 3.10.2) Audit noticed that a Government approved contractor, M/s Maruti Nandan Enterprise, Guwahati under SE, Kamrup was permitted (April and July 2009 with the validity upto July and October 2009 respectively) to lift 3.30 lakh bulk liter of country spirit. The licensee, however, lifted 80,000 BL of country spirit (between May 2009 and August 2009) resulting in short lifting of 2.50 lakh BL of country spirit. The balance quantity was neither lifted by the license nor did he file the requisite NECs within the prescribed period of 15 days after the expiry of the permits. The Department also did not raise demand for recovery of the excise revenue of Rs. 1.45 crore on the unlifted quantity of country spirit in the two cases. After Audit pointed this out, the Government stated (August 2011) that the contractor under the SE, Jorhat had not executed the permit and returned the same in March 2011. As regards the other case, the Government stated that the contractor had submitted NECs from the respective distilleries. However, Audit found that while in the first case the contractor did not submit any NEC, in the other case, the NECs furnished were not acceptable as these were not countersigned by the concerned SE. Further, these NECs were submitted after four years from the dates of expiry of validity of the permits.

2.5. The department in their written reply has stated that in the para 3.10.1. Supdt. of Excise, Jorhat has informed that the import permit, in question for non/short lifting of country spirit amounting to Rs.

41,35,000/- was not executed. The permit was also not surrendered in time and the said permit was misplaced by the Spirit Supply Contractor. However, the said unused permit was recovered later on and as such it is evident that the same was not executed. Therefore, loss of revenue did not occur for non-execution of the said permit. Further, the Supdt. of Excise, Jorhat stated that without partial/complete transaction, distillery concerned does not issue NEC to any Spirit Supply Contractor and hence non-utilization of the said permit led to non-issuance of NEC from any distillery. Relating to the para 3.10.2 as reported by the Supdt. Of Excise, Kamrup, M/s Maruti Nandan Enterprise, Guwahati was permitted to lift total 3.30 lakh B.L of Rectified Spirit, but they lifted 80,000 B.L rectified Spirit only resulting short lifting of 2.50 lakh B.L the S.E. Kamrup has informed that the spirit Contractor has submitted required NECs for short lifting of spirit. Moreover it is to be mentioned here that during the period in question between (May, 2009 and August, 2009) the country spirit shops under Dharapur Country Spirit Warehouse, Guwahati did not go dry. So the question of loss of revenue does not arise. The C.E, Assam has been requested to keep watch on the execution of the permits/receipt of NEC within the prescribed time limit.

OBSERVATIONS/RECOMMENDATIONS

2.6. The Committee observes that there was a short lifting of country spirit amounting to Rs. 41,35,000/- was not executed. The Committee directed the department to verify the cases pointed out by the Audit and confirm that there was no loss of revenue and submit a report to the Committee within 30 days from the date of presentation of this report before the House.

Non-realisation of establishment charges**(Audit para 3.11 C&AG (R/R)/2010-2011/P-74-75)**

2.7. The audit has pointed out that during test check of the records of the SEs, audit observed that two distilleries and 15 bonded warehouse did not pay the establishment charges of Rs. 35.58 lakh due for various periods falling between August 2008 and August 2010 for the excise officials engaged in their warehouses/distilleries. The concerned SEs also did not issue demand notices to the defaulters for payment of establishment charges. This resulted in non-realisation of establishment charges of Rs. 35.58 lakh. After Audit pointed this out, the Government stated (August 2011) that Rs. 11.22 lakh has been recovered from 10 licenses while demand notices have been issued to the remaining seven licensees for payment of establishment charges. Further developments have not been reported (August 2011).

2.8. The department in their written reply has stated that the Supdt. of Excise, Dima Hasao District has informed that demand notice has been issued to M/s M.K. Bonded Warehouse, Haflong for realization of establishment charge. But, the licensee concerned failed to deposit the same due to various reasons, i.e. no sanctioned post in the bonded warehouse, deterioration of law and order situation, downfall of business etc. The Supdt. of excise, Nagaon has informed that on the amount of RS. 89,416/- only establishment charges for the period from April, 2010 to Sept, 2010 in respect of M/s United Enterprise Bonded Warehouse, Nagaon has been deposited. Further, he informed that there were no permanent posts sanctioned by Govt. or appointed as officer-in-charge in other 3 (three) nos. Bonded Warehouse in Nagaon during the period from April, 2010 to September 2010. The Supdt. of Excise, Nagaon has further informed that demand notice was issued to United Enterprise Bonded Warehouse, Nagaon for deposit of outstanding charges and accordingly all the establishment charges from April to September for

that year. Superintendent of Excise, Sonitpur has informed that the outstanding dues on Establishment charges amounting to Rs. 4,51,176/- have been recovered from the 2 (two) Bonded Warehouses as detailed below :-

| | | |
|--------------------------------------|---|----------------|
| 1. M/S. Luit Valley Bonded Warehouse | = | Rs. 2,19,000/- |
| 2. M/S Mid Assam Bonded warehouse | = | Rs. 2,32,176/- |

| | | |
|-------|--|----------------|
| Total | | Rs. 4,51,176/- |
|-------|--|----------------|

Again, notice has been issued by Superintendent of Excise to the following 2 (two) Bonded Warehouse to deposit the amounts as shown against them and further action is also being taken to deposit the same.

| | | |
|----------------------------------|---|----------------|
| 1. M/S. R.K.Bonded Warehouse | = | Rs. 3,10,000/- |
| 2. M/S Sonitpur Bonded Warehouse | = | Rs. 3,57,000/- |
| Total | = | Rs. 6,67,000/- |

The S.E., Sonitpur has in the meantime reported that the outstanding dues on Establishment charges amounting to Rs. 3,10,000/- has been recovered from M/s R.K.Bonded Warehouse of Sonitpur District. The establishment charge amounting to Rs. 3,57,000/- could not be realized from M/s Sonitpur Bonded Warehouse, Tezpur, though notice was served to the licensee of the Bonded Warehouse. But later on functioning of the Bonded Warehouse was closed by the licensee and till date it has not been opened. As stated by Supdt. of Excise. Kamrup, copies of Treasury Challans showing realization of establishment charges in respect of M/s K.D.C. Bonded Warehouse, M/s Megha Assam Bonded Warehouse M/s Carlsberg Bonded Warehouse, M/s Nilachal Distillery Pvt. Ltd. M/s Himalayan Distiller Pvt .Ltd. Guwahati, are furnished and in case of M/s Rhino Agencies Ltd., Guwahati, the party has deposited 50% of total establishment charges there was no regular officer in charge posted there.

OBSERVATIONS/RECOMMENDATIONS

2.9. Considering the assurance given by the department to realize the balance amount the Committee has decided to drop the para.

Non-realization of licence fees

(Audit para 3.12 C&AG/(R/R) 2010-2011/P-75)

2.10. The audit has pointed out that during scrutiny of the records in the offices, Audit observed that 15 license holders of bonded warehouse, wholesale, distillery, retail, bar etc, did not pay license renewal fee between 2005-06 and 2010-11. The CE/SE did not take any action to raise demand for payment of the license fee or to close their shops and cancel their licenses. It also noticed that there is no system for verifying the validity of licences while issuing permits. This resulted in running of the businesses without proper licences and non-realization of revenue of Rs. 20.70 lakh due as licence fees. After pointing this out, the Government stated (August 2011) that Rs. 1.60 lakh has been recovered from three licensees, demand notices issued to two licensees for payment of dues of Rs. 4 lakh while no specific reply was furnished as regards the other licensees.

2.11. The department in their written reply has stated that Supdt. of Excise, Dima Hasao has stated that license fees have been duly realized from 2005-06 to 2010-11 as objected by audit. Supdt. Excise, Kamrup has furnished copies of Treasury Challan showing deposit of license fees in respect of M/s N.V. Disilleries & Breweries (NE) Pvt. Ltd., Guwahati. The Wholsale license in favour of M/s Skol Breweries was not sanctioned by the Govt. and as such same was not required to be paid by the party. Regarding IMFL "OFF" licensees, the Supdt. of Excise, Kamrup has furnished Treasury Challan's showing deposit of renewal license fee for the year 2010-11 in respect of Maharaja Wine Shop, Classic Wine Shop, N.M. Wine Shop, Eagle Bar & Restaurant, Oasis Bar and Sirolily Bar. Further, Supdt. of Excise, Kamrup has informed that Honey Drop Wine Shop (Presently Closed), there is a pending case in Hon'ble Guwahati High Court regarding shifting of the premises for which license renewal fees has

not been paid by the license. Regarding Qbba bar and Trankar B.Booth, they closed their license premises and did not pay licensee renewal fees. Regarding license fees of Shri Ritu Ch.Deka, the Supdt.of excise, Kamrup stated that the licensee requested for adjustment of his security deposit of Rs.1,00,000/- against license fees.

OBSERVATIONS/RECOMMENDATIONS

2.12 The Committee satisfied with the deposition of departmental witnesses and decided to drop the para.

Non-realization of revenue due to warehouse going dry**(Audit para 3.13 C&AG(R/R)/2010-11/P-76)**

2.13. The audit has pointed out that the three contractors/licenses M/s Chavelier Enterprise, Ujjal Baruah and the Excise Warehouse Laipuli, Tinsukia did not maintain adequate/minimum stock of spirit and the stock declined to zero during 263 days at different spells between the period 1 June 2008 and 30 August 2009. As a result, the Government was deprived of revenue of Rs. 29.53 lakh which the contractors were liable to compensate. The contractors neither paid the compensation nor did the Department make any attempt to recover the amount which resulted in non-realisation of revenue of Rs.29.53 lakh. After pointed this out, the Government stated (August 2011) that show cause notices have been issued to the contractors under SE, North Lakhimpur while in the case of the contractor under SE, Tinsukia no specific reply was furnished (August 2011).

2.14. The department in their written reply has stated that Supdt. of Excise, North Lakhimpur has informed that the Spirit Supply Contractor were intimated on the matter for liabilities loss of revenue due to Warehouse going dry as pointed out by audit and to give favorable reasons for their failure to supply spirit to the North Lakhimpur Excise, Warehouse. However, as informed by the Supdt. of Excise, North Lakhimpur non-liability certificates were issued to the contractors concerned, pending disposal of the said audit objection. Further, it is informed that supply of spirit to the said warehouse for the period i.e.1.6.2008 to 10.1.2009 appeared to be disrupted as the concerned Spirit Supply Contractor refused to supply spirit to the Warehouse. Regarding, loss of revenue due to warehouse going dry amounting to Rs. 4.30 lakh, matter was brought to the Spirit Supply Contractor of Excise Warehouse, Tinsukia who

explained the fact in writing to Deputy Supdt. Of Excise, Tinsukia and informed that action had been taken to maintain the minimum stock of spirit in future and explanation of the concerned licensee is enclosed. However, the Supdt. of Excise, Tinsukia informed that the country spirit shops by the Tinsukia District did not go dry during the objected period due to interruption of supply of spirit to the country spirit shops by the Tinsukia Excise Warehouse. Hence, it is clear that the country spirit shops of Tinsukia were not affected as the said shops were running without disruption during the objected period, therefore question of revenue loss due to warehouse going dry does not arise.

OBSERVATIONS/RECOMMENDATIONS

2.15 With the direction to realize the outstanding dues, the Committee has decided to drop the para.