

## **Land Reform Commission – 2016**

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The audit of financial statements of the Land Reform Commission for the year ended 31 December 2016 comprising the statement of financial position as at 31 December 2016 and the statement of financial performance, statement of changes in equity and cash flow statement for the year then ended and a summary of significant accounting policies and other explanatory information, was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with Section 13(1) of the Finance Act, No.38 of 1971 and Section 56 of the Land Reform Law, No.01 of 1972. My comments and observations which I consider should be published with the Annual Report of the Commission appear in this report.

### **1.2 Management’s Responsibility for the Financial Statements**

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Management is responsible for the preparation and fair presentation of these financial statements in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as the management determines is necessary to enable the preparation of financial statements that are free from material misstatements whether due to fraud or error.

### **1.3 Auditor’s Responsibility**

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My responsibility is to express an opinion on these financial statements based on the audit. I conducted my audit in accordance with Sri Lanka Auditing Standards consistent with International Auditing Standards of Supreme Audit Institutions (ISSAI 1000 – 1810).

### **1.4 Basis for Disclaimed of Opinion**

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As a result of the matters described in paragraph 2.2 of this report. I am unable to determine whether any adjustment might have been found necessary in respect of the recorded or unrecorded items and the elements making up the statement of financial position, the statement of financial performance and the statement of changes in equity and the cash flow statement.

## **2. Financial Statements**

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### **2.1 Disclaimer of Opinion**

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Because of the significance of the matters described in paragraph 2.2 of this report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on these financial statements.

## **2.2 Comments on Financial Statements**

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### **2.2.1 Sri Lanka Public Sector Accounting Standards**

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The following observations are made.

#### **(a) Sri Lanka Public Sector Accounting Standard 01**

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Even though the transactions and events in the financial statements should be brought to amount in the accrual basis, the income received from the District Offices had been brought to account in the cash basis.

#### **(b) Sri Lanka Public Sector Accounting Standard 08**

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(i) The Court of Appeal had declared a judgement in the year 2009 for the payment of a sum of Rs.148,715,363 to the plaintiffs who had filed a case against the Commission for obtaining the title to a land. Even though the amount payable from that date together with the interest thereon exceeded Rs.200 million that had not been recognized as a provision and that had not been disclosed.

(ii) According to Section 58, when there is adequate objective evidence for the existence of future events having an impact on the value required for the settlement of a liability, those should be reflected in the amount of provision. Nevertheless, no provision whatsoever had been made in the financial statements for the year under review for the contributions payable to the Employees' Provident Fund on the allowance of the employees of the Commission for the years 2006 to 2013 amounting to Rs.32,763,795 and the surcharges payable thereon.

### **2.2.2 Accounting Deficiencies**

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The following observations are made.

(a) The surcharges for the delay in the payment of the lease rental for the year under review had been understated by a sum of Rs.1,417,607.

(b) Income amounting to Rs.296,286,827 comprising the lease rentals, income from mineral resources, charges for usage, and inheritance charges amounting to Rs.63,403,562, Rs.205,143,151, Rs.26,661,071 and Rs.1,079,043 respectively receivable in respect of the year under review had not been brought to account. As such the income and assets had been omitted in the accounts by that amount.

(c) A rectification of an error made by a journal entry in the year 2015 had been adjusted again in the year 2016 and as such the Computers and Accessories Depreciation Provision Account had been understated by a sum of Rs.786,034 and the Prior Year Adjustment Account had been overstated.

- (d) Even though a sum of Rs.6,858,292 out of the lease rentals on leased lands received in advance should have been brought to account as income of the year under review,, it had been adjusted to the Accumulated Surplus.
- (e) Out of the surcharge of Rs.1,923,334 that had to be paid to the Employees' Trust Fund, a sum of Rs.962,194 had been brought to account under the retirement gratuity expenditure whilst the balance sum of Rs.961,140 had been brought to account under the expenditure on the Employees' Trust Fund. As such the Surcharge paid had not been brought to account under the Surcharges.
- (f) The sum of Rs.676,169,345 shown in the financial statements as the balance of lands included only the minor adjustments made in the years 2003 and 2006 to the initial value computed in the year 1978 and the same value had been shown without making any changes during the years 2006 to 2016. Accordingly, the correct value had not been shown by making adjustments for the acquisitions and sales made annually.

### **2.2.3 Unexplained Differences**

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The following observations are made.

- (a) According to the financial statements for the year under review, the overall liability under the Compensation Suspense Stages 1 and 2 amounted to Rs.222,444,438 and according to the records of the Assessment and Compensation Division, the payables to the persons who made declarations inclusive of the interest amounted to Rs.585,800,000. Accordingly, a difference of Rs.363,355,562 was observed. Action had not been taken to establish the correctness of the amounts.
- (b) According to the records of the Income Division, the lease rental income receivable as at the end of the year under review amounted to Rs.185,995,884 and that had been shown as Rs.152,725,231 in the financial statements. As such a difference of Rs.33,270,653 existed in the lease rental income.
- (c) Comparison of the advances shown in the financial statements with the Register of Advances revealed a difference of Rs.84,297 whilst the comparison of lease rent advances with the schedule revealed a difference of RS.640,000.

### **2.2.4 Lack of Evidence for Audit**

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The following transactions could not be vouched or accepted as the evidence indicated against each items of account had not been furnished to Audit.

Item of Account -----	Value ----- Rs.	Evidence not made available -----
Lands	676,169,345	Registers/schedules giving the particulars of lands.
Stocks of Stationery	3,182,913	Detailed Schedules
Compensation    Suspense Accounts	222,444,438	

### 2.3 Accounts Receivable and Payable -----

The following observations are made.

- (a) The sum of Rs.2,311,017 receivable from the sundry debtors from the year 1999 remained the as it is even during the year under review as well. The Commission did not have the source documents in support of that amount.
- (b) The recoverables from 48 employees who had vacated posts or interdicted during periods ranging from 1 ½ years to 07 years amounted to Rs.745,785.
- (c) Action had not been taken either for the settlement or for write back to income the land sales advances amounting to Rs.11,302,992 relating to periods ranging from 5 years to 10 years and lease rental advances amounting to Rs.11,230,850 remaining payable over periods exceeding 11 years.
- (d) It was observed that a sum of Rs.181,500 out of the refundable bid deposits remain over periods ranging from 07 years to more than 11 years. Further, a sum of Rs.800,130 shown as payable to various state and private institutions shown under the trade and other payment had been existing over a period exceeding 11 years. Action had not been taken either for the settlement of those or for write back to income.
- (e) There were no compensation settlements from the Compensation Suspense Stage II Account over a period of 12 years from the year 2005 and the non-moving balance amounted to Rs.109,959,493.
- (f) Lease rentals had not been recovered over a long period from the State Institutions and Corporations and Boards. The lease rentals recoverable from two institutions, reported to Audit, as at the end of the year under review amounted to Rs.10,258,731. The lease rentals recoverable from the other State Institutions had not been reported to Audit.

## 2.4 Non-compliance with Laws, Rules, Regulations and Management Decisions

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The following non-compliances were observed.

<b>Reference to Laws, Rules, Regulations, etc.</b>	<b>Non-compliance</b>
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(a) Value Added Tax Act, No.14 of 2002	The Commission had not been registered for the Value Added Tax
(b) Section 11 of the Finance Act, No.38 of 1971	Even though the Public Enterprises should obtain the approval of the Minister of Finance for the investment of surplus money, a sum of Rs.1,369,328,834 had been invested on the approval of the Board of Directors without obtaining such approval.
(c) Financial Regulations of the Democratic Socialist Republic of Sri Lanka Financial Regulation 757	Board of Survey Reports on 6 items of assets totalling Rs.115,505,336 had not been furnished.
(d) Decision No.11/Misc(015-1) dated 25 August 2011 of the Cabinet of Ministers	Even though the Public Corporations and State Institutions should obtain the prior approval of the Cabinet of Ministers for the disposal of lands, such approval had not been obtained for the lease of lands for rental.
(e) Administration Circular No.2002/11 of 23 May 2002 Paragraph 05	In leasing of lands, it should be submitted for the approval of the Minister after obtaining the approval of the Board of Directors and Survey Orders should be issued after obtaining such approval. Contrary to that papers had been submitted for the approval of the Minister after the completion of Surveys and the recovery of money for 05 years.
(f) Paragraph 1(i) and (ii) of the Commission Circular No.2008/Gen/1 dated 17 April 2008	Even though instructions had been issued for the recovery of arrears of usage charges in the same year and for the prompt recovery of the arrears the usage charges, the usage charges of several years had not been recovered.

## **2.5 Transactions not Supported by Adequate Authority**

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An extent of 280 acres of the Monerakele Estate had been leased out to a Private Company in the year 2011 for a period of 30 years for Agricultural Projects over 5 Acres, without obtaining the approval of the Cabinet of Ministers. The lease rental of Rs.10,764,622 recoverable from the Company had not been recovered.

## **3. Financial Review**

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### **3.1 Financial Results**

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According to the financial statements presented, the operating result of the Commission for the year under review had been a surplus of Rs.120,442,701 as compared with the corresponding surplus of Rs.55,708,450 for the preceding year, thus indicating an improvement of Rs.64,734,251 in the financial result of the year under review, as compared with the preceding year. The increase of the lease rental income by Rs.61,376,383 due to the accounting for the lease rental income receivable in respect of the preceding year and current year and the increase of the operating income, that is , the interest on fixed deposits and the Treasury Bills, by a sum of Rs.42,446,909 as compared with the preceding year had been the main reason for the above improvement.

An analysis of the financial results of the preceding years indicated that there were continuous financial surpluses from the year 2012 to the year 2016 whilst the financial results which had been regularly decreasing from the year 2012 and had shown a substantial increase in the 2016. An evaluation of the contribution of the Commission for 4 preceding years as compared with the preceding years indicated a deterioration of Rs.12,728,112 in the year 2013, an improvement of Rs.14,994,085 in the year 2014, a deterioration of Rs.14,829,018 in the year 2015 and an improvement of Rs.95,018,964 in the year 2016.

### **3.2 Legal Actions Instituted against the Commission or by the Commission**

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The number of cases filed against the Commission and filed by the Commission as at 31 December 2016 had been shown as 562. The number of cases filed against the Commission during the year under review had been 68 whilst the number of cases filed by the Commission had been 22. Judgements had been declared on 35 cases.

## **4. Operating Review**

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### **4.1 Performance**

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In terms of Section 2 of the Land Reform Law, No.01 of 1972 the primary objective of the Commission is to ensure that no person shall own agricultural land in excess of the ceiling and to take over agricultural lands owned by any person in excess of the ceiling and to utilize such land in a manner which will result in an increase in its productivity and in the employment generated from such land.

The following observations are made in connection with the achievement of the objectives of the commission.

**(a) Award of Statutory Decisions**  
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- (i) The number of persons out of those who had produced declaration on lands during the year 1972 to 1974, who had not been given the statutory decisions up to date, that is, even after the elapse of more than 40 years, had been 235. Out of those, statutory decisions could not be given to 25 per cent declarants due to the failure to produce plans and to 53 per cent as the declarants had not appeared themselves before the Commission.
- (ii) Even though producing the plans should be done through the declarant by the intervention of the District Land Reform Authority, action had not been taken over a period exceeding 40 years to obtain the plans.
- (iii) Even though the statutory decisions are delayed the tenure of the land rests with the declarants. As such the opportunities for the useful utilization of the lands taken over by the Commission and earning income had been limited.

**(b) Payment of Compensation**  
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- (i) There were 104 files as at the beginning of the year of which the titles had not been established according to the Gazette Notifications on the payment of compensation published in terms of Section 29 of the Land Reform Law, No.1 of 1972. Out of that compensation had been paid only for 3 during the year 2016.
- (ii) According to Section 33 of the Law, where any compensation payable to any person under this Law is not accepted by them when it is tendered to him, or where such person is dead or not in existence or is not known, it shall be paid to any appropriate Court of civil jurisdiction to be drawn by the person or persons entitled thereto. But the money relating to 127 files had not been deposited in the Courts.

**(c) Progress in the Achievement of the Targets of the Action Plan**  
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- (i) None of the activities included in the Action Plan such as the disclosure of lands exceeding the maximum limit, the registration of lands transferred to the Commission, and the registration of titles and records, the conduct of training programmes on the subject of lands to the Executive Officers and the Field Officers, providing computer training for the special posts, commencement of a formal Performance Process, Conservation of Records, the establishment of a proper Record Room, disposal of unnecessary files, computerization of the files in the Record Room etc., had not been executed.

- (ii) The progress achieved in connection with 16 activities included in the Action Plan had been less than 50 per cent.
- (iii) The overall position is that the progress of 50 per cent of the activities in the Action Plan had been at the low level of 35 per cent.

## **4.2 Management Activities**

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The following observations are made.

- (a) The approval for leasing 20 perches of the land of the Aberfoil Estate situated in the Division of the Kolonna Divisional Secretariat, of the Ratnapura District for a period of 30 years in connection with a project for the construction of a transmission tower had been granted in the year 2014. Nevertheless, the lease rental and the valuation and service charges payable in that connection amounting to Rs.2,707,711 had not been paid up to the date of the audit report.
- (b) The Commission had not formulated written guidelines of the specified procedures for the lease of project lands.
- (c) In the issue of the Statutory Decisions after taking over of lands exceeding 50 acres in extent in terms of the provision in the Land Reform Law, No.1 of 1972, a land 89 acres 27 perches in extent of the Declaration No.KU/121 of the Kurunegala District had been taken over by the Commission. The issue of the statutory decisions relating to that takeover had been delayed for more than 40 years.
- (d) An extent of 175 acres 36.66 perches of the Declaration No.C/2962 had been declared to the Commission in the years 1975 and 1981. Even though the approval of the Cabinet Standing Committee had been obtained for providing 50 acres as exchange lands under the statutory decisions from the Ratnapura, Kegalla and Gampaha Districts, 40 acres out of that only had been released.
- (e) Land 5 acres in extent from the land of the Danawkanda Estate Managed by the Kurunegala Plantation Company had been leased to a person under Section 22(1)(b) of the Land Reform Law, No.1 of 1972. The concurrence of the Kurunegala Plantation Company had not been obtained for breaking rocks. Further erroneous information had been furnished by the lessee.
- (f) A sum of Rs.6,591,676 had been spent on the construction of the Puttlam District Office of the Commission and the work had been completed on 29 July 2016. Nevertheless, the office work had not been commenced even by 23 March 2017, the date of audit.

## **4.3 Operating Activities**

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Even though 50 acres of the land of the Thorawetiya Estate had been transferred to the declarant as the Statutory Decision and the declarant had possessed additional 108 acres as the boundaries had not been correctly identified. The Commission had incurred a loss as no



action had been taken to recover the possession of 108 acres of additional land possessed contrary to the law or for leasing the land.

#### **4.4 Transactions of Contentious Nature**

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The following observations are made.

- (a) Lands 319 acres in extent out of the Meddegedara Estate of 593 acres situated in the Kalutara District had been leased to 6 persons in the year 2016 without a decision of the Cabinet of Ministers. The lease had been granted on a rough valuation of Rs.4,546,000 without obtaining a Government Valuation.
- (b) An extent of 100 acres from the Pettiyakanda Estate had been leased on 30 years lease to a private Company in the year 2004. That lease had been cancelled in accordance with the decision of the Cabinet of Ministers dated 12 August 2004. The approval of the Commission had not been obtained for the transfers. Further, instead of following the methodology for the transfer of lands in use, and lease rental advance of Rs.100,000 only had been obtained. According to the reply of the Chairman sent in this connection the Chairman had decided to transfer again to the lessee the extent of the land for which the lessee had the tenure on 20 March 2017.
- (c) The tenure of an extent of 49 acres 03 roods 30 perches from the land called Ethhondagala Nindagama situated in the Division of Embilipitiya Divisional Secretariat of the Ratnapura District had been given to a private company on 22 August 2003 by obtaining a lease advance of Rs.100,000. Even though the arrears of lease rental and the surcharge of 10 per cent amounting to Rs.2,527,224 was recoverable as at 21 August 2016, action had not been taken even by the end of the year under review for the recovery of the arrears of lease rental.

#### **4.5 Identified Losses**

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The following observations are made.

- (a) An extent of 98 acres out of the land called Muthuwanawatta at Nikapotha in the Badulla District had been given on a 30-year lease in the year 2004 to a private company. As the transfer was irregular it had been cancelled by the decision of the Cabinet of Ministers dated 12 August 2004. Irrespective of the decision of the Cabinet of Ministers, the Commission had taken a decision on 26 August 2008 to lease the land to that company for a period of 30 years. Further, the Commission had not received any income from this land about 100 acres in extent.
- (b) An extent of 05 acres from the land of the Ambalamana Estate had been transferred by sale in the year 1985 to a private company for a white quartz project and that transfer as well had been cancelled by the decision of the Cabinet of Ministers dated 12 August 2004. Even though the company is excavating silica from the year 2002 up to date, the management had not taken action to institute legal action in that connection. Similarly, the Commission had been deprived of the occasion for earning a substantial income.

- (c) An extent of 660 acres of the Pitagoda Valley Estate in the Galle District had been leased out on 27 February 2004 to a Private Company for a Compost Fertilizer Production Project. This lease was prohibited by the decision of the Cabinet of Ministers dated 12 August 2004. Further, that Company had deviated from the implementation of a compost project, used the land for another activity. The management had not taken action for the recovery of the land whilst no action had been taken for the recovery of lease rent whatsoever up to the date of audit.
- (d) An extent of 48 acres from the Batagolla and Renagala Estate in the Gampaha District had been leased out to a Private Company in the year 2004 and a lease rent of Rs.224,000 had been specified as the initial assessment. Even though the lease rent should have been revised every five years by obtaining the Government Valuations the lease rent had not been revised though 2 valuations were due as 12 years had elapsed by 31 December 2016. Instead, lease rent had been recovered by making a provincial revision by adding 50 per cent of the amount.

#### **4.6 Staff Administration**

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The Secretary to the Ministry of Lands had appointed the Executive Director of the Commission with effect from 01 February 2015 contrary to the provisions in Section 45(1)(b) of the Land Reform Act, No.1 of 1972. Even though an Annual Budget and an Annual Programme with the main performance indicators should have been brought under his assignment, it had not been so done.

### **5. Accountability and Good Governance**

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#### **5.1 Internal Audit**

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The following observations are made.

- (a) The Commission had not taken action on the Internal Audit Queries issued during the year under review by the Internal Audit Division of the Commission,
- (b) An adequate internal audit to cover the sections included in the Internal Audit Plan had not been carried out and the half yearly Internal Audit Reports had not been furnished to the Auditor General in terms of Section 13(5)(d) of the Finance Act, No.38 of 1971.

#### **5.2 Procurement Plan**

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A Procurement Plan in terms of the Public Finance Circular No.01/2014 dated 17 February 2014 had not been prepared.

### **5.3 Budgetary Control**

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An examination of the actual and the budgeted income and expenditure for the year under review revealed significant variances ranging from 39 per cent to 53 per cent in respect of 02 items of income and variances ranging from 38 per cent to 167 per cent in respect of 16 items of expenditure, thus indicating that the budget had not been made use of as an effective instrument management control.

### **5.4 Audit Committee**

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Even though the Audit Committee should meet at least 4 times per year in terms of the Public Enterprises Circular No.PED/55 dated 14 December 2010, only 03 meetings had been held during the year 2016

### **5.5 Unresolved Audit Paragraphs**

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The following observations are made.

- (a) Even though the sum of Rs.17,000,000 paid for the purchase of the computer software package in the year 2002 had been shown in the financial statements as a computer advances during a period of 15 years, the Commission had failed to settle this entry even by 25 March 2017, the date of audit.
- (b) The sum of Rs.2,135,625,366 recoverable from 08 Institutions of the Government existing from periods beyond 11 years, remained unchanged even during the year under review and the Commission had failed even during this year to take appropriate action in that connection. Even though the reply furnished to the Committee on Public Enterprises at the meeting held on 23 March 2016, it was stated that a decision should be taken by calling all the parties concerned through the intervention of the Secretary to the Ministry, the Chairman and the Treasury, no such decision had been taken up to date.

## **6. Systems and Controls**

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The deficiencies in systems and controls observed during the course of audit were brought to the notice of the Chairman of the Commission from time to time. Special attention is needed in respect of the following areas of control.

**Areas of Systems and Controls**

**Observation**

<b>Areas of Systems and Controls</b> -----	<b>Observation</b> -----
(a) Accounting	(i) The registers on the arrears of income are not updated.  (ii) There is no Co-ordination between the Income Division, the Land Transfer Division, the Projects and all other parties with the Accounts Division
(b) Debtors Control	(i) It had not been possible to account for the money recoverable from certain institutions in the Government Sector as the relevant Divisions had not communicated the information.  (ii) Age analysis of the lease rental recoverable had not been prepared. (iii) Confirmation of debtors balances had not been obtained.
(c) Lease of Lands for Projects	(i) There is no methodology for the selection of lessees for leasing lands for projects.  (ii) The Commission had not considered up to date the matters regarding the criteria required and for evaluation of such criteria and as certain whether such are projects actually.
(d) Collection of Income	(i) The District Boards had not recorded in detail in registers, the different kinds income recoverable by each office.  (ii) Action had not been taken for the recovery of arrears of income.
(e) Stores Control	(i) Stock Books had not been updated  (ii) The Annual Verification of Stocks had not been carried out.  (iii) The Stores premises had not been properly maintained.