

**REPORT
OF THE
COMPTROLLER AND
AUDITOR GENERAL OF INDIA**

FOR THE YEAR ENDED 31 MARCH 2004

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

<http://cagindia.org/state/Maharashtra/2004>

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Preface

This Report for the year ended 31 March 2004 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, state excise, land revenue, taxes on motor vehicles, stamps and registration fees, other tax and non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2003-2004 as well as those noticed in earlier years, which could not be included in previous Reports.

Overview

This Report contains 38 paragraphs including five reviews relating to non-levy/short levy of taxes, duties, interest and penalty, *etc.*, involving Rs 1,246.50 crore. Some of the major findings are mentioned below:

1. General

- Total receipts of the State during the year 2003-2004 amounted to Rs 33,786.34 crore of which revenue raised by the State Government was Rs 28,126.92 crore and receipts from the Government of India were Rs 5,659.42 crore. The revenue raised constituted 83 *per cent* of the total receipts of the State and showed decrease of five *per cent* over the previous year.
- The receipts from the Government of India included Rs 3,389.49 crore on account of State's share of divisible Union taxes and Rs 2,269.93 crore as grants-in-aid and registered an increase of 48.66 *per cent* and 50.71 *per cent* respectively over 2002-2003. The increase in the State's share of divisible Union taxes was due to increase in share of net proceeds assigned to the State.

{Paragraph 1.1}

- At the end of 2003-2004, the arrears in respect of some taxes administered by the departments of Finance, Home and Energy amounted to Rs 6,866.45 crore of which Sales Tax *etc.*, alone accounted for Rs 6,668.15 crore.

{Paragraph 1.6}

- In respect of the taxes administered by the Finance Department, such as Sales Tax, Profession Tax and Tax on Works Contracts, *etc.*, 7.13 lakh assessments were completed during 2003-2004, leaving a balance of 29.26 lakh assessments as on 31 March 2004.

{Paragraph 1.7}

- Test check of records of Sales Tax, State Excise, Motor Vehicles Tax, Stamp Duty and Registration Fees, Land Revenue and other departmental offices conducted during the year 2003-2004 revealed under-assessment, short levy, loss of revenue, *etc.*, amounting to Rs 1,867.68 crore in 8,685 cases. The departments concerned accepted under-assessment, short levy, *etc.*, of Rs 665.65 crore in 5,079 cases pointed out in 2003-2004 and earlier years and recovered Rs 11.50 crore.

{Paragraph 1.11}

- At the end of June 2004, 14,131 paragraphs involving Rs 898.10 crore relating to 5,389 inspection reports issued upto 31 December 2003 remained outstanding.

{Paragraph 1.12}

2. Sales Tax

- Review on 'Levy and collection of sales tax on works contracts' revealed the following :

Arrears of sales tax on works contract amounting to Rs 89.93 crore in respect of 8,128 cases in 16 divisions were pending as on 31 March 2003.

{Paragraph 2.3.7}

Failure to take action for recovery of the differential dues resulted in short recovery of tax of Rs 27.64 crore.

{Paragraph 2.3.8}

Due to incorrect application of rate of tax or incorrect deduction of turnover or allowing inadmissible deductions there was under-assessment of Rs 10.88 crore in respect of 37 dealers.

{Paragraph 2.3.9}

Incorrect allowance of deduction of Rs 99.50 crore on account of labour and other charges in the assessments of 69 dealers resulted in under-assessment of Rs 9.54 crore.

{Paragraph 2.3.10}

Excess/incorrect allowance of deduction on account of resale of Rs 20.91 crore in the assessments of 12 dealers resulted in under-assessment of Rs 9.83 crore.

{Paragraph 2.3.11}

- **Package Schemes of Incentives**

Sales tax incentives of Rs 167.85 crore from 181 units which had closed their business during the period of agreement was not recovered.

{Paragraph 2.4.4}

Incorrect availment of incentives amounting to Rs 15.25 crore in the cases of five dealers was noticed in three divisions.

{Paragraph 2.4.6}

Annual instalments of deferred taxes of Rs 7.10 crore by 168 dealers was not paid.

{Paragraph 2.4.8}

- Incorrect grant of set-off under various provisions resulted in under-assessment of Rs 2.16 crore.

{Paragraph 2.5}

3. Taxes on Motor Vehicles

- There was non/short recovery of tax of Rs 1.25 crore in respect of 786 vehicles in 17 transport offices.

{Paragraph 3.2}

- Review on '**Working of internal control in collection of Stamp Duty**' revealed the following:

During the course of inspection, it was observed that 13 treasuries had not sent annual forecast to Superintendent of Stamps as provided in the rules.

{Paragraph 3.5.7}

Licensed Stamp Vendors/Stamp Vendors whose licences were suspect had sold/sold in excess insurance stamps of Rs 16.92 crore during the period from April 1994 to March 2004.

{Paragraph 3.5.8}

4. **Land Revenue**

- Non-recovery of occupancy price in respect of lands allotted to Maharashtra State Electricity Board and Maharashtra State Road Transport Corporation resulted in non-realisation of revenue of Rs 1.08 crore.

{Paragraph 4.4}

5. **Other Tax Receipts**

- Review on '**Levy and collection of entertainments duty**' revealed the following :

There was wide variation in the number of cable connections disclosed by the operators and that estimated to be serviced as per census figures during the period 1998-1999 to 2002-2003.

{Paragraph 5.2.7}

Non-levy of surcharge on payment for admission to three water parks in Mumbai and Thane districts resulted in non-recovery of surcharge of Rs 1.15 crore for periods between April 2000 and March 2003.

{Paragraph 5.2.8}

Failure to withdraw exemption to 14 films for non-fulfillment of prescribed conditions resulted in Government forgoing revenue of Rs 1.15 crore during the year 2002-2003.

{Paragraph 5.2.9}

- Short/non-remittance of education and employment guarantee cesses collected by Amravati, Kalyan-Dombivali, Mumbai, Nagpur and Solapur Municipal Corporations into Government account amounted to Rs 22.79 crore.

{Paragraph 5.3}

- Non-remittance of tax on buildings (with larger residential premises) collected by Amravati, Solapur, Pune and Brihan Mumbai Municipal Corporations into Government account amounted to Rs 6.35 crore.

{Paragraph 5.5}

- Repair cess amounting to Rs 26.48 crore collected by Brihan Mumbai Municipal Corporation was not credited in Government account.

{Paragraph 5.7}

- Maharashtra State Electricity Board had not remitted electricity duty of Rs 570.61 crore collected between April 2003 and February 2004 into Government account. The interest payable thereon amounted to Rs 60.49 crore.

{Paragraph 5.9}

6. Non-Tax Receipts

- Review on '**Interest Receipts**' revealed the following :

Complete details of principal and interest, essential for effective and meaningful control over the total amount of loans/advances of Rs 9,693.37 crore were not available with the Finance Department.

{Paragraph 6.2.7}

Non-recovery of principal and interest from 13 loanees amounted to Rs 347.65 crore and Rs 206.54 crore respectively.

{Paragraph 6.2.10}

Maharashtra Electronics Corporation Limited had not repaid loans and interest amounting to Rs 11.09 crore.

{Paragraph 6.2.11}

Failure to prescribe terms and conditions of loans advanced resulted in non-recovery of interest of Rs 34.75 crore from 71 co-operative sugar factories and 30 fisheries co-operative societies for periods between April 1998 and March 2003.

{Paragraph 6.2.15}

- Review on '**Non-tax receipts of Co-operative Department**' revealed the following :

Audit fee of Rs 14.23 crore for the period 1998-99 to 2002-03 was not recovered from 19,172 societies.

{Paragraph 6.3.8}

Due to delay in issue of instructions by the Commissioner, inspection/licence renewal fee of Rs 2.78 crore was recovered short from money lenders.

{Paragraph 6.3.11}

Minimum dividend on Government share capital amounting to Rs 1 crore was not recovered from 16 marketing co-operative societies.

{Paragraph 6.3.12}

- Non-recovery of bond money for failure to serve the State Government/ local self government or armed forces by medical students amounted to Rs 13.05 crore for the period 1998-2003.

{Paragraph 6.4.1}

- The State Government was to receive dues of Rs 11.18 crore from the Employees State Insurance Corporation towards its share of expenditure.

{Paragraph 6.4.2}

Investment of funds in the United States is not a new thing. It has been going on for many years. The only question is whether it is to be done in a wise and profitable manner.

The first step in the investment of funds is to determine the purpose for which the funds are to be used. This purpose may be to purchase real estate, to purchase stocks and bonds, or to purchase other investments.

Once the purpose has been determined, the next step is to select the investments which are to be purchased.

The third step is to purchase the investments selected.

The fourth step is to manage the investments so that they will produce the maximum return.

The fifth step is to sell the investments when they have reached the desired value.

The sixth step is to reinvest the proceeds of the sale in other investments.

The seventh step is to repeat the process as often as necessary.

The eighth step is to keep a record of all the investments made and the results thereof.

The ninth step is to consult with a professional investment advisor.

The tenth step is to follow the advice of the professional investment advisor.

The eleventh step is to repeat the process as often as necessary.

The twelfth step is to keep a record of all the investments made and the results thereof.

The thirteenth step is to consult with a professional investment advisor.

The fourteenth step is to follow the advice of the professional investment advisor.

The fifteenth step is to repeat the process as often as necessary.

The sixteenth step is to keep a record of all the investments made and the results thereof.

The seventeenth step is to consult with a professional investment advisor.

The eighteenth step is to follow the advice of the professional investment advisor.

The nineteenth step is to repeat the process as often as necessary.

The twentieth step is to keep a record of all the investments made and the results thereof.

The twenty-first step is to consult with a professional investment advisor.

The twenty-second step is to follow the advice of the professional investment advisor.

The twenty-third step is to repeat the process as often as necessary.

The twenty-fourth step is to keep a record of all the investments made and the results thereof.

The twenty-fifth step is to consult with a professional investment advisor.

The twenty-sixth step is to follow the advice of the professional investment advisor.

The twenty-seventh step is to repeat the process as often as necessary.

CHAPTER I: General

1.1 Trend of revenue receipts

Tax and non-tax revenue raised by the Government of Maharashtra during the year 2003-2004, State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

(In crore of rupees)

	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
I. Revenue raised by the State Government					
(a) Tax revenue	17,264.95	19,726.94	21,287.64	22,799.45	25,162.16
(b) Non-tax revenue ¹	3,914.78	5,579.94	4,538.66	4,249.48	2,964.76
	(3,936.87)	(5,596.26)	(4,655.08)	(4,517.47)	(3,548.94)
Total	21,179.73	25,306.88	25,826.30	27,048.93	28,126.92
	(21,201.82)	(25,323.20)	(25,942.72)	(27,316.92)	(28,711.10)
II. Receipts from the Government of India					
(a) State's share of divisible Union taxes	2,608.67	2,781.01	2,468.76	2,279.97	3,389.49
(b) Grants-in-aid	1,458.98	1,462.71	1,681.47	1,506.15	2,269.93
Total	4,067.65	4,243.72	4,150.23	3,786.12	5,659.42
III. Total receipts of the State	25,247.38	29,550.60	29,976.53	30,835.05	33,786.34
	(25,269.47)	(29,566.92)	(30,092.95)	(31,103.04)	(34,370.52)
IV. Percentage of I to III	84	86	86	88	83

¹ Lottery receipts included in non-tax revenue are net of expenditure on prize winning tickets. Figures in brackets indicate gross receipts.

Note: For details, please see Statement No. 11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Maharashtra for the year 2003-2004. Figures under the head "0020-Corporation Tax, 0021 - Taxes on Income other than Corporation Tax, 0028- Other taxes on Income and Expenditure, 0032 - Wealth Tax, 0037 - Customs, 0038 - Union Excise Duties, 0044- Service Tax, 0045- Other taxes and duties on commodities and services" - share of net proceeds assigned to State's booked in the Finance Accounts under tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this Statement.

1.1.1 The details of tax revenue raised during the year 2003-2004 alongwith the figures for the preceding four years are given below:

(In crore of rupees)						
Head of Revenue	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Percentage of increase (+) or decrease (-) in 2003-2004 over 2002-2003
1. Sales Tax						
(a) State Sales Tax etc.	8,853.84	10,331.08	10,071.89	11,746.21	12,795.01	(+) 9
(b) Central Sales Tax	1,655.18	1,865.31	2,059.50	1,742.14	2,530.95	(+) 45
2. State Excise	1,875.68	1,779.51	1,787.26	1,938.68	2,324.42	(+) 20
3. Stamp Duty and Registration Fees	1,939.83	2,200.92	2,442.68	2,823.11	3,354.06	(+) 19
4. Taxes and Duties on Electricity	377.71	933.59	1,034.26	1,149.18	629.72	(-) 45
5. Taxes on vehicles	708.30	785.84	947.79	941.23	1,205.97	(+) 28
6. Taxes on Goods and Passengers	331.94	100.23	1,027.39	245.03	231.91	(-) 5
7. Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	807.96	946.78	981.98	1,028.56	1,018.77	(-) 1
8. Other Taxes and Duties on Commodities and Services	536.52	568.96	674.27	798.90	710.86	(-) 11
9. Land Revenue	177.87	214.72	260.46	386.41	360.49	(-) 7
10. Taxes on Agricultural Income	0.12	Negligible	0.16	NIL	NIL	NIL
Total	17,264.95	19,726.94	21,287.64	22,799.45	25,162.16	

The reasons for variation, though called for were not furnished (February 2005).

1.1.2 The details of the major non-tax revenue raised during the year 2003-2004 alongwith the figures for the preceding four years are given below:

(In crore of rupees)							
Head of Revenue	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Percentage of increase (+) or decrease (-) in 2003-2004 over 2002-2003	
1. Interest Receipts	1,724.16	3,161.63	1,845.60	1,777.27	356.91	(-) 80	
2. Dairy Development	795.53	794.21	885.83	800.51	774.73	(-) 3	
3. Other Non-Tax Receipts	370.98	393.66	616.08	245.07	547.93	(+) 124	
4. Forestry and Wild Life	134.74	135.16	134.14	104.58	86.33	(-) 17	
5. Non-ferrous Mining and Metallurgical Industries	266.09	350.47	347.17	400.61	475.50	(+) 19	
6. Miscellaneous General ² Services (including lottery receipts)	149.12	197.00	125.55	290.14	113.65	(-) 61	
7. Power	75.42	86.45	85.70	85.79	1.32	(-) 98	
8. Major and Medium Irrigation	61.63	62.49	86.03	113.05	230.69	(+) 104	
9. Medical and Public Health	84.91	77.53	109.78	95.89	91.53	(-) 5	
10. Co-operation	49.61	58.93	71.26	63.01	60.06	(-) 5	
11. Public Works	74.99	69.33	62.71	54.31	65.26	(+) 20	
12. Police	83.55	91.38	110.78	152.77	102.75	(-) 33	
13. Other Administrative Services	44.05	101.70	58.03	66.48	58.10	(-) 13	
Total	3,914.78	5,579.94	4,538.66	4,249.48	2,964.76		

The increase of 124 and 104 *per cent* under the receipt heads 'Other Non-Tax Receipts' and 'Major and Medium Irrigation' was due to increase in subscriptions and contribution to pension and other retirement benefits and revision of water charges respectively.

Similarly decrease of 80 *per cent* under 'Interest Receipts', 61 *per cent* under 'Miscellaneous General Service (including lottery receipts)' and 98 *per cent* under 'Power' were due to non adjustment of notional interest in respect of

² Figure is net of expenditure on prize winning lottery tickets.

irrigation projects transferred to public sector undertakings, more expenditure on State Lotteries and less receipts of arrears of lease money respectively.

1.2 Variations between Budget estimates and actuals

The variations between the Budget estimates and actuals of revenue receipts for the year 2003-2004 in respect of the principal heads of tax and non-tax revenue are given below:

(In crore of rupees)					
	Head of Revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Sales Tax etc.	15,705.00	15,325.96	(-) 379.04	(-) 2
2.	State Excise	2,250.00	2,324.42	(+) 74.42	(+) 3
3.	Stamp Duty and Registration Fees	2,894.40	3,354.06	(+) 459.66	(+) 16
4.	Taxes and Duties on Electricity	1,280.00	629.72	(-) 650.28	(-) 51
5.	Taxes on vehicles	1,140.00	1,205.97	(+) 65.97	(+) 6
6.	Taxes on Goods and Passengers	659.90	231.91	(-) 427.99	(-) 65
7.	Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	1,100.00	1,018.77	(-) 81.23	(-) 7
8.	Other Taxes and Duties on Commodities and Services	700.00	710.86	(+) 10.86	(+) 2
9.	Land Revenue	338.06	360.49	(+) 22.43	(+) 7
10.	Interest Receipts	538.75	356.91	(-) 181.84	(-) 34
11.	Dairy Development	872.09	774.73	(-) 97.36	(-) 11
12.	Other Non-tax Receipts	614.97	547.93	(-) 67.04	(-) 11
13.	Forestry and Wild Life	143.33	86.33	(-) 57.00	(-) 40
14.	Non-Ferrous Mining and Metallurgical Industries	400.01	475.50	(+) 75.49	(+) 19
15.	Miscellaneous General services				
	(i) Lottery receipts ³	92.06	21.71	(-) 70.35	(-) 76
	(ii) Other receipts	208.53	91.94	(-) 116.59	(-) 56
16.	Power	85.50	1.32	(-) 84.18	(-) 98
17.	Major and Medium Irrigation	189.00	230.69	(+) 41.69	(+) 22

³ Net of expenditure on prize winning tickets

	Head of Revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
18.	Medical and Public Health	128.11	91.53	(-) 36.58	(-) 29
19.	Co-operation	75.68	60.06	(-) 15.62	(-) 21
20.	Public Works	83.97	65.26	(-) 18.71	(-) 22
21.	Police	185.00	102.75	(-) 82.25	(-) 44
22.	Other Administrative Services	61.86	58.10	(-) 3.76	(-) 6
	Total	29,746.22	28,126.92		

The reasons for variations between Budget estimates and actuals have not been received (February 2005).

1.3 Analysis of collection

Break-up of total collection at pre-assessment stage and after regular assessments of sales tax, motor spirit tax, profession tax, entry tax and luxury tax for the year 2003-2004 and the corresponding figures for the preceding two years as furnished by the Department was as follows:

(In crore of rupees)

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales Tax	2001-2002	9,001.34	494.29	72.79	330.83	9,237.59	97
	2002-2003	9,610.38	473.29	50.64	286.70	9,847.61	98
	*2003-2004	11,016.07	599.33	19.70	518.92	11,116.18	99
Motor Spirit Tax	2001-2002	3,282.18	Nil	Nil	Nil	3,282.18	100
	2002-2003	3,895.62	1.00	Nil	Nil	3,896.62	100
	*2003-2004	4,194.98	Nil	0.03	Nil	4,195.01	100
Profession Tax	2001-2002	962.14	4.72	Nil	0.03	966.83	100
	2002-2003	1,000.17	7.15	Nil	0.32	1,007.00	99
	*2003-2004	1,003.24	9.65	0.23	0.06	1,013.06	99
Entry Tax	2001-2002	3.69	1.12	0.04	Nil	4.85	76
	2002-2003	7.40	1.45	0.03	Nil	8.88	83
	*2003-2004	11.99	2.26	Nil	Nil	14.25	84
Luxury Tax	2001-2002	168.42	1.76	0.11	Nil	170.29	99
	2002-2003	145.74	5.40	0.14	0.27	151.01	97
	*2003-2004	145.46	1.65	0.04	0.33	146.82	99

* Figures as furnished by the Department are at variance with the Finance Accounts.

The table above shows that collection of revenue at pre-assessment stage ranged between 84 and 100 per cent during 2001-2002 to 2003-2004.

1.4 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 2001-2002, 2002-2003 and 2003-2004 along with the relevant all India average percentage of expenditure on collection to gross collection for 2002-2003 were as follows:

(In crore of rupees)

Sl. No.	Head of Revenue	Year	Collection ⁴	Expenditure on collection of revenue ⁵	Percentage expenditure on collection	All India average percentage for the year 2002-2003
1.	Sales Tax	2001-2002	12,131.39	100.26	0.83	1.18
		2002-2003	13,779.70	104.91	0.76	
		2003-2004	15,325.96	110.83	0.72	
2.	State Excise	2001-2002	1,787.26	26.80	1.49	2.92
		2002-2003	1,938.68	28.44	1.43	
		2003-2004	2,324.42	29.87	1.29	
3.	Motor Vehicles Taxes	2001-2002	947.78	29.74	3.13	2.86
		2002-2003	942.80	30.09	3.19	
		2003-2004	1,205.97	35.03	2.90	

The table above shows that the percentage expenditure on collection under motor vehicles taxes was higher than the All India average percentage.

1.5 Collection of sales tax per assessee

According to information furnished by the Department, the sales tax collection per assessee during the years from 1999-2000 to 2003-04 was as under:

(Amount in crore of rupees)

Year	No. of assesseees	Sales tax revenue ⁶	Revenue/ assessee
1999-2000	3,76,523	10,509.02	0.03
2000-2001	4,05,979	12,196.39	0.03
2001-2002	4,37,889	12,131.39	0.03
2002-2003	6,04,275	13,488.35	0.02
2003-2004	10,35,655	15,325.96	0.01

⁴ Figures as per Finance Accounts

⁵ Figures as furnished by the Department are at variance with the Finance Accounts.

⁶ Figures as per Finance Accounts

1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2004 in respect of some principal heads of revenue amounted to Rs 6,866.45 crore of which Rs 3,153.15 crore were outstanding for more than five years as detailed in the following table:

(In crore of rupees)				
Sl. No.	Head of Revenue	Amount outstanding as on 31 March 2004	Amount outstanding for more than five years as on 31 March 2004	Remarks
1.	Sales Tax etc.	6,668.15	3,049.00	Stay orders were granted by Appellate Authority for Rs 3,840.77 crore. The balance Rs 2,827.38 crore were under different stages of recovery.
2.	State Excise	11.72	8.03	Action taken by Department to recover the dues not intimated.
3.	Electricity Duty	23.73	5.10	District Collectors were directed to recover amount as arrears of land revenue. Rs 5.07 crore was under litigation.
4.	Motor Vehicles Taxes	158.39	90.68	Special drive was being undertaken by the Department and action specified under land revenue code was being taken.
5.	Sale of Jail articles	4.46	0.34	Suitable instructions were issued for recovery of arrears to subordinate offices.
Total		6,866.45	3,153.15	

The Revenue and Forests, Irrigation and Public Works Departments, responsible for collection of some of the major receipts had not furnished details of arrears of revenue (February 2005).

1.7 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2003-2004, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 2003-2004 as furnished by the Sales Tax Department in respect of sales tax, motor spirit tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts were as follows:

Name of tax	Opening balance	New cases due for assessment during 2003-2004	Total assessments due	Cases disposed of during 2003-2004	Balance at the end of the year	Percentage of Column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Finance Department						
Sales Tax	16,58,773	8,72,896	25,31,669	5,25,664	20,06,005	79
Motor Spirit Tax	8,508	1,495	10,003	1,866	8,137	81
Profession Tax	7,23,546	2,25,717	9,49,263	1,73,181	7,76,082	82
Purchase tax on sugarcane	2,888	154	3,042	115	2,927	96
Entry Tax	9	7	16	1	15	94
Lease Tax	5,683	1,123	6,806	1,097	5,709	84
Luxury Tax	5,827	2,212	8,039	1,415	6,624	82
Tax on works contracts	1,01,035	29,654	1,30,689	9,996	1,20,693	92
Total	25,06,269	11,33,258	36,39,527	7,13,335	29,26,192	

It would be seen from the table that cases pending as on 31 March 2004 ranged from 79 to 96 *per cent* of the total cases due for assessments under various heads.

1.8 Evasion of tax

The details of cases of evasion of tax detected by the Sales Tax and State Excise departments, cases finalised and the demands for additional tax raised as reported by the departments were as follows:

(Amount in core of rupees)

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2003	Cases detected during 2003-2004	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc., raised	No. of cases pending finalisation as on 31 March 2004
					No. of cases	Amount of demand
1.	Sales Tax	4,788	2,824	7,612	2,895	180.79
2.	State Excise	7	5	12	5	41.35

1.9 Write-off and waiver of revenue

During the year 2003-2004, demands for Rs 373.13 lakh in 43,482 cases, Rs 0.76 lakh in 4 cases and Rs 1.79 lakh in 19 cases relating to sales tax, motor vehicles taxes and state excise respectively were written off by the departments as irrecoverable. Reasons for the write-off of these demands as reported by the departments were as follows:

(In lakh of rupees)

Reasons	Sales Tax		Motor Vehicles Taxes		State Excise	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1. Whereabouts of defaulters not known	29,655	180.00	4	0.76	--	0.07
2. Defaulters no longer alive	36	0.46	--	--	9	0.76
3. Defaulters not having any property	53	1.67	--	--	2	0.06
4. Defaulters adjudged insolvent	Nil	Nil	--	--	3	0.47
5. Other reasons	13,730	155.00	--	--	3	0.33
6. Remission of penalty	8	36.00	--	--	2	0.10
Total	43,482	373.13	4	0.76	19	1.79

1.10 Refunds

The number of refund cases pending at the beginning of the year 2003-2004, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2003-2004, as reported by the departments were as follows:

(Amount in lakh of rupees)

		Sales Tax		Taxes and Duties on Electricity		State Excise		Works Contracts	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	12,404	5,654.00	124	471.73	59	28.57	61	149.00
2.	Claims received during the year	28,978	49,629.00	179	944.00	75	47.59	755	1,172.00
3.	Refunds made during the year	38,706	50,882.00	181	640.00	46	18.50	687	1,144.00
4.	Balance outstanding at the end of the year	2,676	4,401.00	122	775.73	88	57.66	129	177.00

1.11 Results of audit

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamps and registration fees, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2003-2004 revealed under-assessment/short levy/loss of revenue amounting to Rs 1,867.68 crore in 8,685 cases. During the course of the year, the departments accepted under-assessment of Rs 665.65 crore in 5,079 cases pointed out in 2003-2004 and earlier years and recovered Rs 11.50 crore. No replies have been received in respect of the remaining cases.

This Report contains 38 paragraphs including five reviews relating to non-levy/short levy of taxes, duties, interest and penalties *etc.*, involving Rs 1246.50 crore. The departments/Government have accepted audit observations involving Rs 693.77 crore of which Rs 5.20 crore had been recovered upto February 2005. No replies have been received in the other cases.

1.12 Response of Government to audit objections

Principal Accountant General (Audit)-I, Mumbai and Accountant General (Audit)-II, Nagpur arrange to conduct periodical inspection of the various offices of the Government departments to test check the transactions of tax and non-tax receipts and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed by Inspection Reports (IRs) issued to the Heads of offices with a copy to the next higher authority. Government of Maharashtra, Finance Department's circular dated 10 July 1967 provides for response within one month by the executive to the IRs issued by the Accountants General (AGs), after ensuring action in compliance to the objections made during audit inspection. Serious irregularities are also brought to the notice of the Head of the Department by the office of the AGs. A half yearly report is sent to the Secretary of the Department in respect of pending IRs to facilitate monitoring of the audit observations.

Inspection Reports issued upto 31 December 2003 pertaining to offices under the Finance, Home, Revenue and Forests, Industries, Energy and Labour, Housing, Urban Development, Public Works, Co-operation and Textiles, Irrigation, Agriculture, Animal Husbandry, Dairy Development and Fisheries, Public Health, Education and Employment, Law and Judiciary departments disclosed that 14,131 objections relating to 5,389 IRs involving Rs 898.10 crore remained outstanding at the end of June 2004. Of these, 2,203 IRs containing 4,402 objections involving Rs 176.10 crore had not been settled for more than four years. The yearwise position of the outstanding IRs and paragraphs is detailed in the Annexure.

In respect of 1,491 paragraphs relating to 497 IRs involving Rs 101.64 crore issued upto December 2003, even the first replies, which were required to be received from the Heads of Offices within one month, had not been received.

A review of the IRs which were pending due to non-receipt of replies, in respect of the various departments, revealed that the Heads of the

Offices/departments (Secretaries) failed to send any reply to a large number of IRs/paragraphs, indicating that no action was taken to rectify the defects, omissions and irregularities pointed out in the IRs issued by the AGs. The Secretaries of the departments, who were informed of the position through half yearly reports, did not ensure prompt and timely action. Such inaction would result in continuation of serious financial irregularities and loss of revenue to the Government despite these having been pointed out in Audit.

The details of outstanding inspection reports were reported to Government in August 2004; their reply had not been received (February 2005).

1.13 Departmental Audit Committee meetings

In order to expedite the settlement of outstanding audit observations contained in the IRs, Departmental Audit Committees are constituted by the Government. These Committees are chaired by Joint Secretary/Deputy Secretary of the concerned Administrative Department and attended among others by the officers concerned of the State Government and the offices of the AGs.

In order to expedite the clearance of the outstanding audit observations, it is necessary that the Audit Committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 2003-2004 four meetings by the Finance and one meeting by the Revenue and Forest departments out of the eight Government departments concerned was convened. This indicates that the Government departments did not make effective use of the machinery created for settling outstanding audit observations.

1.14 Response of the departments to draft Audit paragraphs

The Finance Department issued directions to all departments in July 1967 to send their response to the draft Audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs are always forwarded by the respective Audit offices to the Secretaries of the concerned departments through demi official letters drawing their attention to the audit findings and requesting them to send their response within the time prescribed. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Draft paragraphs included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2004 were forwarded to the Secretaries of the respective departments between March 2004 and August 2004 through demi official letters. Replies to most of the paragraphs have not been received; 90 such paragraphs (clubbed into 38 paragraphs) have been included in this Report.

1.15 Follow up on Audit Reports-summarised position

According to instructions issued by the Finance Department, all departments are required to furnish explanatory memoranda duly vetted by audit to the Maharashtra Legislative Secretariat, in respect of paragraphs included in the Audit Reports within one month of their being laid on the table of the House.

Review of outstanding explanatory memoranda on paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) disclosed that as on 30 September 2004 the departments had not submitted remedial explanatory memoranda on 61 paragraphs for the years from 1996-97 to 2001-2002 as detailed below:

Sl. No.	Name of the department	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	Total
1.	Revenue and Forests	3	5	9	4	7	11	39
2.	Finance	1	--	1	--	--	5	7
3.	Home	--	2	2	--	--	3	7
4.	Urban Development	--	--	--	--	--	4	4
5.	Irrigation	1	--	--	--	--	--	1
6.	Public works	--	--	1	--	1	--	2
7.	Industries, Energy & Labour	--	--	--	--	--	1	1
Total		5	7	13	4	8	24	61

With a view to ensure accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee lays down in each case the period within which action taken notes (ATN) on its recommendations should be sent.

The Public Accounts Committee had discussed 124 selected paragraphs pertaining to Audit Reports for the years from 1986-87, 1989-90 to 1996-97 and 1999-2000 and given their recommendations on 80 paragraphs which have been incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th, 14th and 18th Report (1996-97), 21st Report (1997-98), 5th Report (2000-2001) and 12th Report (2002-03). However, action taken notes have not been received in respect of 51 recommendations of the Public Accounts Committee (PAC) from the concerned departments as detailed below:

Year	Name of the Department			Total
	Home	Revenue and Forests	Industries, Energy and Labour	
1986-1987	--	1	--	1
1989-1990	1	4	--	5
1990-1991	8	2	--	10
1991-1992	--	1	2	3
1992-1993	--	8	1	9
1993-1994	3	2	2	7
1994-1995	--	2	--	2
1995-1996	--	3	--	3
1996-1997	--	5	--	5
1999-2000	--	6	--	6
Total	12	34	5	51

CHAPTER II : Sales Tax

2.1 Results of audit

Test check of records of Sales Tax Department conducted during the year 2003-04 revealed under-assessments/short levy/loss of revenue amounting to Rs 311.41 crore in 1,211 cases which broadly fall under the following categories.

Sl. No.	Category	No. of cases	Amount (in crore of rupees)
1.	Non/short levy of tax	713	8.42
2.	Incorrect allowance of set-off	318	4.72
3.	Non/short levy of interest/penalty	56	0.64
4.	Omission to forfeit tax collected in excess	30	0.21
5.	Other irregularities	92	14.58
6.	Review on Levy and collection of sales tax on works contract	1	68.26
7.	Package schemes of incentives	1	214.58
Total		1,211	311.41

During the course of the year 2003-04, the Department accepted under-assessments of Rs 19.60 crore involving 1037 cases out of which 109 cases involving Rs 0.59 crore were pointed out during 2003-04 and the rest in earlier years. The Department recovered Rs 2.77 crore. In eight other cases involving revenue of Rs 0.04 crore, action was stated to be time barred.

A review on **Levy and collection of sales tax on works contract** involving financial effect of Rs 68.26 crore and few illustrative cases involving financial effect of Rs 198.66 crore are given in the following paragraphs:

2.2 Internal audit

The internal audit wing in the Department is headed by a Deputy Commissioner who is assisted by four Assistant Commissioners and works under the control of the Commissioner of Sales Tax.

All assessment cases with tax liability of above Rs four lakh assessed by Assistant Commissioners and Sr. Assistant Commissioners and assessments finalised by the enforcement branch are audited by the internal audit wing. Cases involving refund of Rs 25 lakh and above are audited prior to issue of the refund payment order. Cases assessed during a year are subjected to audit in the following year.

According to information furnished by the Dy. Commissioner (Audit), the objections raised, disposed of and outstanding during the periods from 2000-01 to 2003-04 were as follows:

(Amount in crore of rupees)

Year	Opening balance		Additions		Disposal		Closing balance		Percentage of disposal	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	cases	Amount
2000-2001	8,886	126.23	1,479	33.02	4,949	85.91	5,416	73.34	47.14	53.95
2001-2002	5,416	73.34	2,413	12.56	123	4.51	7,706	81.39	2.00	5.25
2002-2003	7,706	81.39	843	12.00	465	9.43	8,284	83.96	4.00	11.57
2003-2004	8,284	83.96	771	14.88	494	13.66	8,561	85.18	5.45	13.82

The table indicates that while the disposal had marginally increased to 5.45 from four *per cent* in 2003, the disposal of objections had drastically reduced from 47.14 *per cent* in 2001. This indicates laxity on the part of the Department in settling internal audit observations.

2.3 Review on Levy and collection of sales tax on works contract

2.3.1 Highlights

Arrears of sales tax on works contract amounting to Rs 89.93 crore in respect of 8,128 cases in 16 divisions were pending as on 31 March 2003.

(Paragraph 2.3.7)

Failure to take action for recovery of the differential dues resulted in short recovery of tax of Rs 27.64 crore.

(Paragraph 2.3.8)

Due to incorrect application of rate of tax or incorrect deduction of turnover or allowing inadmissible deductions there was under-assessment of Rs 10.88 crore (including penalty and interest) in respect of 37 dealers.

(Paragraph 2.3.9)

Incorrect allowance of deduction of Rs 99.50 crore on account of labour and other charges in the assessments of 69 dealers resulted in under-assessment of Rs 9.54 crore (including penalty and interest).

(Paragraph 2.3.10)

Excess or incorrect allowance of deduction on account of resale of Rs 20.91 crore in the assessments of 12 dealers resulted in underassessment of Rs 9.83 crore (including penalty and interest).

(Paragraph 2.3.11)

2.3.2 Introduction

The Maharashtra Sales Tax on the Transfer of Property in goods involved in the execution of Works Contract Act, 1985 (Act), was introduced with effect from 1 October 1986. According to the provisions of the Act, every dealer engaged in the execution of works contract in the State and whose turnover of sales/purchases during a year exceeds Rs 2 lakh is liable to obtain a certificate of registration and make payment of tax, at the rates prescribed in the Act.

The Act also provides for payment of a lump sum amount by way of composition as a percentage of the total contract value as notified from time to time.

All the provisions of the Bombay Sales Tax Act, 1959 (BST Act), in relation to assessment, re-assessment, collection and enforcement of payment of tax including levy of penalty and interest are applicable to the Act.

2.3.3 Audit Objectives

A scrutiny of the assessment records was conducted to ascertain:

- whether assessments were completed as per the provisions of the Act and Rules and
- whether internal control mechanism was in existence in the Department to monitor the assessment and collection of sales tax under the Works Contract Act.

2.3.4 Organisational set up

The levy, collection and assessment of tax under the Act is under the overall control of the Commissioner of Sales Tax, Mumbai who is assisted by Additional Commissioners at zonal level, two at Mumbai, one each at Nagpur and Pune and Deputy Commissioners of Sales Tax at Division level, Senior Assistant Commissioners, Assistant Commissioners and Sales Tax Officers. The work of assessment and collection of tax under the Act is carried out separately in addition to assessments done under the BST Act. No separate staff is earmarked for assessment and collection of tax under the Act.

2.3.5 Scope of audit

A mention was made in paragraph 2.2 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1998 (Revenue Receipts), Government of Maharashtra regarding various aspects of levy and collection of sales tax under the Works Contract Act. The Audit Report has not yet been taken up for discussion by the Public Accounts Committee (PAC). Action taken by the State Government on the audit observations has not been intimated. With a view to verify action taken by assessing authorities on the audit findings, assessments completed between 1 April 1999 and 31 March 2003 were test checked in 11 divisions¹ between February 2004 and May 2004. Results of test check are mentioned in the succeeding paragraphs.

2.3.6 Arrears of Assessments

Under the provisions of the BST Act, where all the returns are filed by a registered dealer for any year by prescribed dates, the assessment shall be completed before the expiry of three years from the end of the said year. Where a registered dealer does not furnish return in respect of any period by the prescribed date, the Commissioner shall, at any time within eight years from the end of the year, proceed to assess the dealer.

The yearwise position of opening balance, additions, disposal and closing balance of assessments under the Act for the years 1998-99 to 2002-03 was as follows:

Year	Opening balance	New cases due for assessment during the year	Total assessments due	Cases disposed of during the year	Balance at the end of the year	Percentage of Col. 5 to Col. 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1998-1999	42,339	15,716	58,055	8,663	49,392	15
1999-2000	49,392	18,732	68,124	26,114	42,010	38
2000-2001	42,010	23,542	65,552	4,854	60,698	7
2001-2002	60,698	27,934	88,632	7,770	80,862	9
2002-2003	80,862	28,498	1,09,360	8,325	1,01,035	8

¹ Andheri, Aurangabad, Bandra, Borivali, Ghatkopar, Kolhapur, Nariman Point, Pune-I, Pune-II, Thane and Worli.

It would be seen that assessments completed during the years 1998-99 to 2002-03 ranged between seven and 38 *per cent*. The clearance of 38 *per cent* of the total assessments during the year 1999-2000 was due to the amnesty scheme².

Addition of cases during the last three years was 79,974 leaving a balance of 21,061 assessments pending for more than three years which may become time barred.

2.3.7 Arrears of Revenue

As a result of assessments under the Act in the 16 divisions³, demands for Rs 89.93 crore raised in respect of 8,128 cases were pending recovery as on 31 March 2003. The year wise break up of the arrears as furnished by the divisions was as under:

Assessment Year	No. of Cases	Amount (in crore of rupees)
upto 1997-1998	1,757	23.18
1998-1999	1,003	13.90
1999-2000	1,651	18.46
2000-2001	699	6.00
2001-2002	999	9.41
2002-2003	2,019	18.98
Total	8,128	89.93

Stages of action :

The stages of pendency of the arrears were as under :

Stages	(Amount in crore of rupees)	
	No. of cases	Amount
Pendency in appeals	1,664	45.29
Under liquidation	66	3.55
Maharashtra Land Revenue Code (Revenue Recovery Certificate)	311	1.92
Dealers not traceable	834	2.73
Due date for recovery not over	701	3.88
Others	1,501	17.88
Available for recovery	3,051	14.68
Total	8,128	89.93

² Amnesty Scheme: With a view to reduce the arrears of assessments and revenue, the Government of Maharashtra vide G.R. dated 25.11.1998 announced an Amnesty Scheme, 1998.

³ Andheri, Aurangabad, Bandra, Borivali, Churchgate, Ghatkopar, Kolhapur, Mazgaon, Mandvi, Nagpur, Nariman Point, Nashik, Pune-I, Pune-II, Thane and Worli.

2.3.8 Short recovery of composition tax

Under the provisions of the Act and the Rules made thereunder, in respect of un-registered dealers the statement of tax deduction by the employers is to be furnished to the prescribed authority. The statement is to be furnished within 20 days after the end of the month to which it relates. The rate of tax deducted at source is two *per cent*.

Scrutiny of the records maintained by the STO, (E-207) Mumbai revealed that 4,236 statements relating to the period April 2000 to March 2003 for tax deduction at two *per cent* aggregating Rs 34.20 crore by the employers and paid to Government account were received. The rate of composition tax was increased to three *per cent* from 1 April 2000 and four *per cent* from 1 April 2001 onwards. However, follow up action to recover the differential dues was not taken. This resulted in tax amounting to Rs 27.64 crore being short recovered.

After this was pointed out, the Department stated in January 2005 that follow-up action for recovery of the amount short recovered was in progress. Report on demand raised and recovery effected has not been received (February 2005).

2.3.9 Short levy of tax due to incorrect application of rate of tax

- Under the provisions of the Act, value of goods, if purchased from registered dealers in the State and used in the same form in which they were purchased was allowed deduction from the turnover of sales upto 30 April 1998. Otherwise, tax at the rate of four *per cent* was leviable on value of declared goods and in respect of other goods at the rate of tax applicable under the BST Act or 10 *per cent* depending on whether the goods are covered by the schedule to the Act or not respectively. The rate of tax leviable was 15 *per cent* in respect of goods other than declared goods sold in the same form from 1 May 1998. The rate of tax applicable for goods manufactured and used in the execution of works contract was as enumerated in the schedule to the Act. No deduction from the turnover of sales was admissible in respect of value of goods other than declared goods purchased from registered dealers from 1 May 1998.

It was noticed in the assessments between June 1999 and December 2003 of 16 dealers in eight divisions that due to application of incorrect rate of tax or incorrect deduction of turnover of consumables/raw materials from the turnover or allowing inadmissible deductions *etc.* there was under-assessment of Rs 4.92 crore as detailed below:

(Amount in lakh of rupees)

Sl. No.	Division No. of dealers	Period Month/ year of assessment	Nature of objection	Tax, penalty/interest		Under-assessment
				Leviable	Levied	
1.	Andheri & Pune-I 2	1996-97 and 1998-99 February 2000 and February 2002	Rate of tax leviable under the BST Act was 13 per cent as against 10 per cent levied.	423.97	237.77	186.20
Remarks : In one case of Andheri Division, the objection was accepted by the Department. In the other case, the assessing officer in Pune-I Division stated that oil engines do not run on electricity or power and hence spares were not covered by the schedule entry and therefore liable to tax at the rate of 10 per cent applicable to goods other than declared goods. The reply is not tenable as the spare parts were covered by the schedule to the Act attracting tax at the rate of 13 per cent under entry C-II-135 of the BST Act when goods are used in the same form.						
2.	Aurangabad, Kolhapur, Nariman Point, Pune-I, Pune-II & Worli 10	Between 1998-99 and 2000-01 Between August 2001 and December 2003	Incorrect deduction of turnover of consumables and raw materials which was inadmissible.	159.10	1.30	157.80
Remarks : In the cases of seven dealers in Aurangabad, Kolhapur, Nariman Point and Pune-II divisions, the Department accepted the audit objections. In respect of the remaining three cases of Pune-I and Worli divisions the assessing officers stated that tax was not leviable on consumables and hence not levied. The reply is not acceptable as except for declared goods, all other purchases are taxable from 1 May 1998.						
3.	Pune-II & Thane 2	1993-94 and 1997-98 July 1999 and February 2002	Goods not used in the same form.	96.01	6.62	89.39
Remarks : In the case of Pune-II Division, the assessing officer stated that the rate of tax of four per cent levied on declared goods was as per the provision in the Act. The reply is not tenable as declared goods have not been used in the same form. In the other case of Thane Division the Department stated that the tax levied at 10 per cent was correct. The reply is not tenable as tax was levied at 21 per cent treating the goods as machinery spares in the assessment for the year 1995-96.						
4.	Pune-I 1	Between 1993-94 and 1997-98 February 2003 and March 2003	Purchases from dealers outside the State not taxed.	53.06	Nil	53.06
Remarks : The Department accepted the audit objection (February 2005).						
5.	Thane 1	Between 1998-99 and 1999-2000 April 2002	As against tax of 15 per cent leviable, tax was levied at nil, two per cent and 10 per cent	9.79	4.28	5.51
Remarks : The Department accepted the audit objection (February 2005).						
16				741.93	249.97	491.96

- Under the Act the rate of composition tax was four per cent in respect of all types of contracts upto 31 March 1992. In respect of contracts entered into between 1 April 1992 and 30 April 1998 but not completed before 30 April 1998, the composition tax was one per cent of the total contract value in

respect of construction contracts⁴ and three *per cent* of total contract value in case of other contracts. From 1 May 1998, the rate of composition tax was two *per cent* of the total contract value for construction contracts and four *per cent* of total contract value in respect of other contracts received or receivable. The composition tax in respect of all types of contracts was revised to three *per cent* during the year 2000-01 and four *per cent* thereafter. Interest and penalty are leviable as per the provisions of the Act.

In nine divisions⁵ in the assessments finalised between June 2000 and March 2004 of 21 dealers for assessment periods falling between 1998-99 and 2001-2002 for the works contracts awarded between 1989-90 and 2000-01, due to incorrect application of the rate of tax there was under-assessment of Rs 5.96 crore (including interest of Rs 1.09 crore and penalty of Rs 1.92 crore).

After this was pointed out the Department accepted in October 2004 and December 2004 audit observations in the cases of 14 dealers and in one case raised demand for Rs 1.03 crore in January 2004. In the cases of six dealers, Department stated that repair works were covered under the term construction as per Commissioner's circular dated 6 January 2000. The reply is not tenable as Government has not notified repair works under construction contracts. In the remaining case Department stated that tax was levied correctly at two *per cent*. The reply is not tenable as the contract was awarded prior to April 1992.

2.3.10 Incorrect allowance of deduction

Under the provisions of the Act in respect of dealers paying lump sum tax by way of composition of two *per cent* in respect of construction contracts and four *per cent* in respect of other contracts, no deduction whatsoever was admissible with effect from 1 May 1998. However, if composition tax was paid at eight *per cent*, deduction of turnover of purchases of tax-free goods, goods exempt from tax and purchases from dealers registered under the BST Act was admissible.

It was noticed in the assessments between June 2000 and January 2004 of 69 dealers in 11 divisions⁶ for periods falling between April 1998 and March 2002 that inadmissible deductions of Rs 99.50 crore were allowed on account of labour and other charges. This resulted in under-assessment of Rs 9.54 crore including penalty and interest.

After this was pointed out, the Department accepted in October 2004 and December 2004 the audit observations in respect of 23 dealers. In the remaining 46 cases, it was stated that the work was purely of labour and did not involve transfer of property in the goods. This reply is not tenable as there was neither any documentary evidence on record nor was it furnished in support of the claim.

⁴ Buildings, Roads, Runways, Bridges, Flyover Bridges, Railway overbridges, Dams, Tunnels, Canals, Barrages, Diversions, Rail Tracks, Causeways, Subways, Spillways, Water supply schemes, Sewerage works, Drainage works, Swimming pools, Water purification plants.

⁵ Aurangabad, Bandra, Borivali, Ghatkopar, Nariman Point, Pune-I, Pune-II, Thane and Worli.

⁶ Andheri, Aurangabad, Bandra, Borivali, Ghatkopar, Kolhapur, Nariman Point, Pune-I, Pune-II, Thane and Worli.

2.3.11 Incorrect allowance of deduction from turnover

Under the provisions of the Maharashtra Works Contract (Re-enacted) Act, 1989, with effect from 1 January 1992, resale of declared goods and goods other than declared goods were allowed as deduction from the taxable turnover, if the purchases were from dealers registered under the BST Act and used in the execution of works contract in the same form without doing anything to them. This provision, was however, restricted to purchases of declared goods with effect from 1 May 1998.

It was noticed in the assessments finalised between September 1999 and March 2003 of 12 dealers in six divisions⁷ for the periods falling between 1992-93 and 2001-02 that resales of Rs 20.91 crore were either allowed in excess of that admissible in respect of assessments for the periods upto 30 April 1998 or incorrectly allowed in respect of assessments for the periods after 1 May 1998. This resulted in under-assessment of Rs 9.83 crore including interest of Rs 3.61 crore and penalty of Rs 3.11 crore.

After this was pointed out, the Department accepted in October 2004 and December 2004 the objections in eight cases. In four other cases it was stated that the deductions allowed were correct. This reply is not tenable as in two cases of Thane Division the value of purchases from registered dealers were not commensurate with the deductions allowed and in the other two cases no deduction other than the value of declared goods purchased from registered dealers was permissible after 1 May 1998.

2.3.12 Turnover escaping assessment

Under the provisions of the Act the taxable turnover of the dealer is determined on the basis of returns filed/accounts maintained by the dealer or on the basis of production of further evidence which the Commissioner of Sales Tax may direct to be produced or cause to be produced. The tax is leviable as per provisions of the Act on the taxable turnover so determined.

Cross verification of assessment records under BST Act and the assessments under the Act revealed that in the assessments finalised under the Act between May 2000 and March 2003 of 22 dealers in seven divisions⁸ for periods falling between 1998-99 and 2001-02, turnover of Rs 56.03 crore was either determined short or escaped assessment. This resulted in under-assessment of Rs 4.54 crore including interest of Rs 0.83 crore and penalty of Rs 1.86 crore.

After this was pointed out, the Department accepted in October 2004 and December 2004 the audit objections in 18 cases. In the remaining four cases, the Department stated that the works carried out were labour work and purchases were consumables wherein the property in goods does not pass over. The reply is not acceptable as with effect from 1 May 1998 no deduction was admissible except for value of declared goods purchased from registered dealers.

⁷ Aurangabad, Borivali, Ghatkopar, Pune-I, Thane and Worli.

⁸ Andheri, Aurangabad, Borivali, Nariman Point, Pune-I, Thane and Worli.

2.3.13 Incorrect grant of refund

Under the provisions of the Act read with the provisions in the BST Act, a registered dealer who has not collected tax separately may reimburse himself to the extent of tax liability in the sale price and accordingly claim reduction from the sale price. If it is found subsequently that he is not liable to pay tax or it is found that he is liable to pay less tax than the amount of tax so reimbursed, such excess amount shall not be refunded to the dealer but forfeited to Government and transferred to the Consumer Protection and Guidance Fund (CPGF).

It was noticed in the assessments finalised between June 2000 and January 2004 of 10 dealers in five divisions⁹ for various periods falling between 1993-94 and 2000-01, that due to excess reduction from the sale price/reimbursement of tax in the returns an amount of Rs 2.04 crore was refunded instead of being forfeited and transferred to the CPGF.

After this was pointed out, the Department accepted in October 2004 and December 2004 the objection in four cases. In six cases the Department stated that the dealers had not collected tax separately from their clients and therefore the question of forfeiture did not arise. The reply is not tenable as the dealers had quantified their tax liability in the returns and accordingly paid tax to the Government.

2.3.14 Allowance of deduction without documents

Under the provisions of the Act, a contractor may assign execution of works (either in whole or in part) to a sub-contractor and may deduct from his total contract value, the value in respect of works contract executed through sub-contractor. This benefit under the Act is available to the contractor, only if, the sub-contractor is a registered dealer under the Act and the contractor produces a declaration in the prescribed form from such sub-contractor towards payment of tax in respect of works executed by him. Contractor and sub-contractor are jointly and severally liable to pay tax in respect of transfer of property in goods involved in the execution of such works.

In nine divisions¹⁰, it was noticed in respect of assessments of 17 dealers finalised between February 1999 and September 2003, for periods falling between 1996-97 and 2001-02 that deductions of Rs 54.79 crore were allowed from the turnover of sales towards sub-contract though the deductions were not supported by declarations in the prescribed form or supported by incomplete declarations. Incorrect allowance of deduction resulted in short levy of tax of Rs 1.56 crore.

After this was pointed out, the Department accepted in October 2004 and December 2004 the audit objection in 16 cases. In the remaining case, the Department stated that the dealer was assessed under summary assessment. The reply is not tenable as deduction allowed was not supported by prescribed declaration.

⁹ Andheri, Bandra, Borivali, Ghatkopar and Pune-I.

¹⁰ Andheri, Aurangabad, Bandra, Borivali, Ghatkopar, Kolhapur, Pune-I, Pune-II and Thane.

2.3.15 *Incorrect allowance of exemption*

By an amendment effective from 1 April 2000, no tax was leviable on the turnover of sales effected by any contractor who is a registered dealer to the State Government on the works contract executed on or after 1 April 2000.

In three Divisions¹¹, it was noticed in the assessments finalised between October 2000 and March 2003 of five dealers for periods falling between 1992-93 and 1999-2000, that turnover of sales of Rs 1.29 crore effected to the State Government prior to April 2000 were incorrectly exempted. This resulted in under-assessment of Rs 37.35 lakh including penalty of Rs 10.95 lakh and interest of Rs 15.45 lakh respectively.

After this was pointed out, the Department accepted in October 2004 and December 2004, the audit objection in the cases of four dealers. In one case of Ghatkopar Division, the Department stated that exemption was correctly allowed. The reply is not tenable as the assessment pertained to the period prior to April 2000 when exemption was inadmissible.

2.3.16 *Non/short levy of interest*

Under the provisions of the Act, read with the BST Act, if any tax has remained unpaid, a dealer is liable to pay by way of simple interest, a sum equal to two *per cent* per month of the tax due from the first day after the end of the period for which the dealer has been assessed till the date of the order of assessment.

It was noticed in Andheri, Pune and Worli Divisions, in the assessments finalised between May 2001 and March 2003 of three dealers for the periods falling between 1 April 1996 and 31 March 1999 that interest was either not levied or short-levied which worked out to Rs 17.35 lakh.

After this was pointed out, the Department accepted in October 2004 the audit objection and raised demand for Rs 8.32 lakh in one case. Report on recovery and action taken in the remaining cases has not been received (February 2005).

2.3.17 *Non-verification of credits*

Under the provisions of the Works Contract Act, every employer who deducts tax and pays it into Government account is required to furnish a monthly return in the prescribed Form (Form XXXXI) to the Sales Tax Department and also give a certificate of tax deduction at source in the prescribed form to the contractor. According to instructions dated 30 June 1990, issued by the Commissioner of Sales Tax, challans are to be verified from the bank scroll before affording credit for payment in the assessment order.

During test check of records, it was observed in the assessments of five dealers in five divisions¹² that credit for payments amounting to Rs 1.68 crore were afforded in the assessment orders without supporting certificates or on the strength of incomplete certificates issued by the employer. The certificates were not supported by challans. Consequently, the payments made into bank were not susceptible to verification in the scroll received from the bank.

¹¹ Ghatkopar, Kolhapur and Thane.

¹² Bandra, Pune-I, Pune-II, Thane and Worli.

Moreover, reconciliation of these admitted payments were not carried out with the treasury/bank records with a view to verify their credit to Government account under the proper head of account.

After this was pointed out, the Department accepted in December 2004 the audit objections in three cases. In the remaining two cases reply has not been received (February 2005).

2.3.18 System deficiency

Under the BST Act, every registered dealer who is liable to pay tax is required to file monthly/annual returns specifying details of sales, purchases, tax liability and pay tax according to the return. The sales tax manual prescribes various registers to be maintained for noting and watching receipt of returns and payment of tax. In Mumbai, this work is assigned to the Returns Branch. On receipt of returns in the Returns Branch they are sent to the Computer Section for entry. On the expiry of the date prescribed for receipt of the periodical return and payment of tax, defaulters list is prepared by the Computer Cell and forwarded to the respective Assessing Officers for follow up and recovery of tax. This system, was however, not extended for watching receipt of returns and recovery of tax under the Act. Consequently, there is no system in place to keep a watch and control over receipt of returns and payment of tax under the Act.

2.3.19 Conclusions/recommendations

The review revealed that the Department has no control mechanism to monitor the receipt of returns and tax. There was no procedure evolved for completion of pending assessments. Government may consider the following suggestions to complete the pending assessments and safeguard the interest of revenue.

- (i) Prepare a time bound programme for completion of pending assessments and ensure its implementation.
- (ii) In respect of tax deducted at source from payments to unregistered contractors, the deduction should be at the rate applicable to registered dealers as per the provisions of the Act and not the flat rate of two *per cent*.
- (iii) The system of verification of payments of tax before allowing credit in the assessment order should be ensured.

The above points were reported to the Department and Government in June 2004. Final reply in the remaining cases from Department and reply from Government has not been received (February 2005).

2.4 Sales tax incentives under package schemes of incentives

2.4.1 Introduction:

In order to achieve dispersal of industries outside the Mumbai-Thane-Pune belt and to attract them to the undeveloped and the developing areas of the State, Government has provided a package of incentives to new units set-up in the underdeveloped/ developing regions of the State since 1964 under the Package Schemes of Incentives as amended from time to time (last amended in 1993). These apply to substantial expansion also.

The schemes are implemented by the Industries, Energy and Labour Department through the implementing agencies such as State Industries and Investment Corporation of Maharashtra Limited (SICOM) in respect of large and medium scale industries and the Regional Development Corporations and District Industries Centres in respect of small scale industries. The units eligible for the incentives under the schemes are required to apply in the prescribed form to the concerned implementing agency who issue the eligibility certificate subject to fulfillment of the stipulated terms and conditions. On the basis of the eligibility certificate, the Sales Tax Department issues an entitlement certificate for availment of sales tax incentives.

A mention was made in paragraphs 2.2 and 2.3 of the Report of the Comptroller and Auditor General of India for the years ended 31 March 1998 and 31 March 2003 (Revenue Receipts), Government of Maharashtra, respectively regarding inadequacies in the implementation of the package schemes of incentives. Action taken by the State Government on the audit observations has not been intimated. With a view to verify the action taken by the Assessing Authorities, a test check of records maintained by the Deputy Commissioners of Sales Tax at Kolhapur, Nashik and Thane Divisions and by 32 Assessing Officers working thereunder relating to dealers, holding eligibility/entitlement certificate was conducted in February 2004 and March 2004.

2.4.2 Monitoring of availing of incentives

According to the package schemes of incentives, procedural rules and the Departmental instructions, availment of incentives by the eligible units is to be monitored by the sales tax authorities through scrutiny of periodical returns filed by the units and by completion of the assessments of the eligible units. The Act provides that where all returns are filed within six months from the end of the year, the assessments are to be completed within three years and in other cases where returns have not been filed within six months at anytime within eight years. Monthly statement detailing progress of assessments of units eligible for deferment of taxes in respect of the division is to be furnished by the Dy. Commissioner of Sales Tax to the Commissionerate. No such return is prescribed in respect of units eligible for exemption from payment of tax. Consequently, the position of pendency of assessments of units availing exemption was not available with the Department.

Scrutiny of monthly statements furnished by three divisions to the Commissionerate and related records revealed that assessments of the eligible

units were not completed on priority and were in arrears. The pendency of assessments of eligible units under deferment mode relating to the periods between 1998-99 and 2002-03 as on 31 December 2003 was as under:

Division	No. of pending assessments	Period between
Kolhapur	2,270	1998-1999 and 1999-2000
Nashik	3,358 (Upto August 2003)	1998-1999 and 2002-2003
Thane	1,668	1998-1999 and 2002-2003
Total	7,296	

The pending assessments included 42 units (seven from Kolhapur Division, 21 from Nashik Division and 14 from Thane Division), which had availed of incentives of Rs 10.79 crore. Of these, 17 dealers who had availed of incentives of Rs 6.74 crore between 1998-99 and 2002-03 had not been assessed for any period.

In Kolhapur Division, the information in the prescribed proforma was not being regularly called for from the Assessing Officers by the Deputy Commissioner and no periodical statements were furnished from September 2002 onwards to the Commissionerate. Similarly, in Nashik Division, the statements were not furnished from September 2003 onwards.

The Department had prescribed various registers to be maintained by the Assessing Officers for effective monitoring of availing of incentives either through returns or assessments. It was noticed that though the prescribed registers were maintained, they were incomplete in as much as entries regarding incentives claimed in returns and incentives allowed in assessments were not recorded and brought up to date.

2.4.3 Lack of coordination between implementing agencies and sales tax authorities

The package schemes of incentives provide for monitoring/ periodical review of fixed capital investment and the production activity of the eligible units by the implementing agencies through periodical reports, copies of annual accounts and sales tax returns to be submitted by the eligible units to ensure that the incentives availed of are within the ceilings prescribed and that the units availing of the incentives remained in production during the operative period of the agreement entered into by the units with the implementing agencies. Failure to submit the required information/reports by the units tantamounts to breach of provisions of the schemes entailing cancellation of the eligibility certificate and premature recall of incentives. The sales tax authorities are required to ensure from time to time that the amount of sales tax incentives availed by a unit was within the ceiling and related to eligible products and production capacities. Further, the sales tax authorities shall assess the returns of the eligible units on priority and take appropriate and

timely steps to prevent availment of incentives in excess of the admissibility. The information regarding non-submission of the reports, returns, closure/stoppage of manufacturing activities, cancellation of registration certificate *etc.*, which entails cancellation of certificates, withdrawal of incentives are expected to be intimated by the implementing agencies to the Sales Tax Department and vice versa for taking timely action.

Test check revealed that there was lack of coordination between the implementing agencies and the sales tax authorities. The information regarding non-submission of reports, periodical returns, closure of units *etc.*, was not exchanged amongst the Implementing Agencies and the sales tax authorities. This led to non-recovery of incentives from the closed units, incorrect availment of incentives, *etc.*, as detailed in the succeeding paragraphs.

2.4.4 Non-recovery of incentives from closed units

The package schemes of incentives, the certificates issued thereunder and the procedural rules provide that if a unit is closed during the operative period of agreement or the registration certificate is cancelled, the amount of sales tax incentives availed of is recoverable with interest/ penalty forthwith. BST Act empowers the Sales Tax Authorities to recover tax dues as arrears of land revenue as provided in the Maharashtra Land Revenue Code (MLRC), 1966.

Test check of records of three divisions revealed that 181 eligible units which had availed of incentives of Rs 167.85 crore for various periods between March 1998 and December 2003 were closed during the period between April 1998 and April 2003 which was within the operative period of the eligibility certificates/agreements as detailed in the following table:

Division		Period		No. of units		Amount of incentives	

(Amount in crore of rupees)

Division		Exemption		Deferment		Total	
District	Period of avallment Between	No. of units	Amount	Period of avallment Between	No. of units	Amount	No. of units
1. Kolhapur Dn.							
Kolhapur	4/84 & 12/01	9	3.08	10/87 & 3/2000	6	0.92	15
Satara	4/88 & 3/01	2	0.37	3/83 & 3/02	3	0.46	5
Ratnagiri	1/86 & 3/97	6	7.26	4/91 & 3/99	2	49.32	8
Total		17	10.71		11	50.70	28
<p>Remarks: No action for recovery was taken in 18 cases. In two cases recovery under MLRC was in progress. Reports were sent to implementing agencies in eight cases.</p> <p>The Assessing Officers stated that action under MLRC was taken in one case. Recovery was in progress in two cases. Property of one unit was taken over by SICOM. In one case unit was closed after expiry of entitlement certificate. Reply was awaited in the remaining cases (February 2005).</p>							
2. Nashik Dn.							
Dhule	6/88 & 3/90	14	17.12	1/94 & 3/2000	4	5.41	18
Jalgaon	6/90 & 3/01	13	5.74	10/92 & 3/2000	3	3.55	16
Nashik	11/83 & 12/03	14	22.10	4/84 & 3/02	18	5.84	32
Total		41	44.96		25	14.80	66
<p>Remarks: Implementing agency was requested to cancel eligibility certificate in one case and withdraw incentives in two cases. Three units were under BIFR. No action for recovery was taken in the remaining 60 cases.</p> <p>The Assessing Officers stated in six cases, that the incentives availed of would be intimated to the implementing agencies and detailed reply would be furnished in five cases. Reply was awaited in the remaining cases (February 2005).</p>							
3. Thane Dn.							
Thane	9/85 & 3/02	37	14.30	7/87 & 3/03	50	32.38	87
<p>Remarks: Two cases were under BIFR. Action under MLRC was taken in six cases and in the remaining cases implementing agencies were intimated for necessary action (February 2005).</p>							
Grand Total		95	69.97		86	97.88	181

2.4.5 Incorrect computation of cumulative quantum of benefits

Dealers opting for the incentive scheme cannot avail of full or partial exemption from payment of tax admissible as per BST Act/Rules and Government notifications issued thereunder.

- In Nashik Division, the cumulative quantum of incentives on sales of fertilizers of Rs 6.47 crore by an eligible unit during the period 1999-2000 was not calculated being sales covered by general exemption. This resulted in short determination of incentives availed by Rs 34.96 lakh.
- In another case of an eligible unit in Aurangabad Division, sales tax incentive on sales of laminated fabrics of Rs 5.05 crore during the years 1988-89 and 1989-90 was worked out at eight *per cent* instead of at 12 *per cent* in the rectification orders passed in February 1999.

Thus, as against the ceiling limit of Rs 50.85 lakh the dealer had availed incentives of Rs 85.10 lakh. This resulted in excess availment of incentives of Rs 34.25 lakh including Rs 10.26 lakh quantified by the Department.

The Assessing Officer stated in July 2003 that the incentives on sales were worked out at the rate of sales tax as reduced by general exemption. The reply is not tenable as the incentives on sales were to be computed ignoring general exemption.

2.4.6 Incorrect availment of incentives

- As per the Package Schemes of Incentives, an eligible unit is entitled to avail sales tax incentives during the period covered by the certificate within the monetary ceiling prescribed in the certificate. The availment of incentives is to be reviewed/monitored periodically to ensure that the incentive availed is within the prescribed monetary ceiling. Any incentive, incorrectly availed, in excess of the monetary ceiling is recoverable alongwith interest/penalty.

In Nashik and Thane divisions, incorrect deferment of taxes resulted in excess availment of incentives of Rs 14.93 crore by three dealers as detailed below:

(Amount in lakh of rupees)

Sl. No.	Division	Assessment period Month of assessment	Nature of irregularity	Amount of incentives	Remarks
1.	Nashik	1.1.98 to 31.12.98 December 2001	Incorrect deferment of taxes for the period not covered by entitlement certificate.	47.93	The department revised the assessment order and raised additional demand for Rs 60.25 lakh including interest.
2.	Thane (i)	April 1999	Incorrect deferment of taxes when eligibility certificate was not valid	7.17	--
	(ii)	1996-97 to 1998-99 December 2001 and March 2001	Tax was incorrectly deferred in the assessments for the years 1996-97 to 1998-99 on sales of co-extruded tubes manufactured which were not covered by the entitlement certificate	1,437.76	The Assessing Officer stated in February 2004 that the matter would be considered in the assessments for the period 1999-2000 and onwards.
Total				1,492.86	

• Under the BST Rules, an industrial unit holding eligibility certificate for deferment of taxes under the Package Scheme of Incentives is allowed to defer taxes payable after reducing set-off or refund to which the eligible unit is entitled under the Act or Rules.

In Nashik and Aurangabad divisions, while finalising assessments of two dealers for the years 1998-99 and 1999-2000 in May 2001 and June 2002 respectively, set-off of Rs 32.13 lakh instead of being adjusted against the tax liability was refunded. This resulted in under-assessment of Rs 32.13 lakh.

After this was pointed out in May 2002 and August 2003, the Department rectified in February 2003 and August 2003 the assessment orders and raised additional demands for Rs 32.13 lakh. Report on recovery has not been received (February 2005).

2.4.7 Premature repayment of deferred taxes at Net Present Value (NPV)

As per the provisions of the BST Act and the Rules made thereunder as amended in May 2002 and November 2002, an eligible unit to whom entitlement certificate has been granted for deferment of taxes, may, in respect of any period falling within the validity of the certificate, at its option, prematurely pay in place of the amount of tax deferred by it, an amount equal

to the NPV of deferred taxes as prescribed by the Government and on making such payment, in public interest, the deferred tax shall be deemed to have been paid.

In one case, in Kolhapur, as against the deferment of taxes of Rs 2.57 crore in the returns for the period 1991-92 to 1995-96, the amount of taxes eligible for deferment on assessment in August 2003 was determined at Rs 1.75 crore. This resulted in incorrect deferment of taxes of Rs 0.82 crore by the dealer which was considered for payment at NPV.

2.4.8 Non-payment of instalments

As per the package scheme of incentives and the BST Rules, taxes allowed to be deferred for 12/10 years are payable thereafter in annual instalments not exceeding six/five instalments.

A test check of registers maintained by 18 Assessing Officers in three divisions¹³ revealed that 168 dealers had not paid the instalments of Rs 7.10 crore of deferred taxes for the assessment period between 1985-86 and 1993-94 due for payment between 1998-99 and 2003-04.

Three Assessing Officers from Kolhapur Division stated in March 2004 that action for recovery was in progress and the implementing agencies had been informed. One Assessing Officer from Thane stated that some units were closed. Another assessing officer stated that one case was with the BIFR and two units were making payments to SICOM Ltd. Replies in respect of the remaining cases has not been received (February 2005).

The matter was referred to Government in May 2004; their reply has not been received (February 2005).

2.5 Incorrect grant of set-off

2.5.1 According to the BST Act, and the Rules made thereunder, a manufacturer who has paid taxes on the purchases of goods specified in Part II of Schedule 'C' to the Act from registered dealers in the State and used them within the State in the manufacture of goods for sale or export or in packing of goods so manufactured was allowed set-off of taxes at prescribed rates.

It was noticed in the assessments between April 1998 and March 2003 of 44 dealers in 14 divisions¹⁴ for periods between 1994-95 and 2001-02 that excess set-off was allowed due to mistakes in computation resulting in under-assessment of Rs 91.78 lakh including interest of Rs 11.82 lakh. A few illustrative cases are detailed below:

¹³ Kolhapur, Nashik and Thane.

¹⁴ Andheri, Aurangabad, Bandra, Borivali, Ghatkopar, Kolhapur, Mandvi, Mazgaon, Nariman Point, Nashik, Pune-I, Pune-II, Worli and Thane.

(Amount in lakh of rupees)

Sl. No.	Division	Period Month of assessment	Nature of irregularity	Under- assessment including interest
1.	Bandra	1998-99 March 2002	Incorrect computation of set-off.	20.55
2.	Kolhapur	1999-2000 March 2003	Set-off was allowed incorrectly on inter-State purchases.	7.71
3.	Nariman Point	1997-98 September 2001	Set-off worked out without reduction of two <i>per cent</i> on inter-State purchases.	7.67
4.	Worli	1997-98 March 2001	Incorrect reduction of set-off on manufactured goods transferred to branches outside Maharashtra.	11.19

After this was pointed out between May 1999 and July 2003, the Department raised an additional demand for Rs 91.78 lakh including interest of Rs 11.82 lakh. Fifteen dealers paid Rs 32.41 lakh between March 2003 and August 2004 and Rs 24.53 lakh was adjusted against refund due to seven dealers. In one case Rs 0.35 lakh was waived under amnesty scheme. Nine dealers had filed appeal. Report on recovery in the remaining cases has not been received (February 2005).

The matter was reported to Government between March 2004 and May 2004. Government concurred with the action taken by the Department in 19 cases; their replies in the remaining cases have not been received (February 2005).

2.5.2 By an amendment effective from 1 May 1998, set-off of taxes paid on purchases was admissible to a dealer who manufactures goods for sale or export. However, when such manufacture results in production of goods other than taxable goods, set-off is not admissible on purchases of goods effected prior to 1 April 1998.

It was noticed in the assessments between February 2000 and March 2003 of eight dealers in four divisions¹⁵ for various periods between 1 April 1994 and 31 March 1998 that set-off was incorrectly allowed on purchase of goods including capital assets effected prior to 1 April 1998 and used in manufacture of sugar which is a tax-free commodity. This resulted in under-assessment of Rs 70.35 lakh.

After this was pointed out between May 2002 and December 2003, the Dy. Commissioner of Sales Tax, Aurangabad, Kolhapur and Nashik stated that the dealers manufacture taxable as well as tax-free goods and as such were entitled to set-off. The reply is not tenable as the Commissioner had clarified in June 1998 that the proviso prohibiting grant of set-off on purchases effected

¹⁵ Aurangabad, Kolhapur, Nashik, Pune-I

prior to 1 April 1998 would apply to a manufacturing activity resulting in production of taxable as well as tax-free goods. The Department had reassessed the dealer of Pune and recovered demand of Rs 6.05 lakh (March 2003).

The matter was reported to Government in March 2004 and May 2004. Government concurred with the action taken by the Department in seven cases; their reply in the remaining cases has not been received (February 2005).

2.5.3 Under the provisions of the BST Rules, a manufacturer is entitled to full set-off of taxes paid or deemed to have been paid on purchases of goods used by him within the State in the manufacture of specified goods for sale. Where the process of manufacture results in production of specified goods as also other goods, set-off is apportioned between specified goods and other goods on the basis of the sale price of manufactured goods and allowed to the extent of specified goods manufactured. When manufactured goods are transferred outside the State otherwise than by way of sale, set-off is allowed in excess of six *per cent* of the purchase price.

It was noticed in the assessments between September 1998 and March 2001 of eight dealers in four divisions¹⁶ for the periods between 1995-96 and 1998-99 that set-off was incorrectly granted for manufacture of non specified goods and incorrectly computed on manufactured goods transferred to branches. This resulted in under-assessment of Rs 19.67 lakh including interest.

After this was pointed out, the Department revised the assessment orders and raised additional demand for Rs 19.67 lakh between November 2002 and February 2004. In two cases, Rs 6.84 lakh was adjusted/recovered between February 2003 and June 2003. Four dealers had filed appeals. Report on recovery in remaining cases and development in appeal has not been received (February 2005).

The matter was reported to Government in March 2004 and April 2004. Government concurred with the action taken by the Department in four cases; their reply in the remaining cases has not been received (February 2005).

2.5.4 Under the provisions of the BST Rules, a dealer having turnover of sales in excess of Rs 1 crore (Rs 50 lakh from 1 October 1996 and Rs 40 lakh from 15 May 1997) was entitled to set-off of taxes paid on the purchases of goods for the period from 1 October 1995 to 31 March 1999. The set-off was admissible provided purchase price of the goods was not allowed as deduction from the turnover of sales. Set-off was also not admissible on purchases sold on declarations preceding the sale occasioning the export of the goods out of the territory of India.

It was noticed in seven divisions¹⁷, in the assessment of 12 dealers between June 1999 and December 2001 for the periods falling between 1995-96 and 1998-99 that set-off was incorrectly computed or allowed. This resulted in under-assessment of Rs 34.06 lakh including interest of Rs 6.85 lakh.

¹⁶ Andheri, Bandra, Kolhapur and Worli.

¹⁷ Andheri, Aurangabad, Bandra, Borivali, Mandvi, Mazgaon and Pune-II.

After this was pointed out, the Department raised between August 2002 and December 2003 demand for Rs 34.06 lakh including interest of Rs 6.85 lakh and recovered Rs 5.08 lakh from four dealers between September 2002 and December 2003. Five dealers had filed appeal. Report on recovery in remaining cases and development in appeals has not been received (February 2005).

The matter was reported to Government between March 2004 and May 2004. Government concurred with the action taken by the Department in six cases; their reply in the remaining cases has not been received (February 2005).

2.6 Short levy of sales tax

Under the provisions of the BST Act, the rate of tax leviable on any commodity is determined with reference to the relevant entry in the Schedule B or C of the Act. Further, the State Government may by notification exempt any class of sales or purchases from payment of whole or any part of the tax payable under the provisions of the Act subject to such conditions as may be prescribed. Besides, additional tax and interest are also leviable as per provisions of the Act.

It was noticed in the assessments finalised between May 1998 and December 2002 of 44 dealers in 13 divisions¹⁸ for various periods between 1989-90 and 1999-2000 that due to application of incorrect rate of tax/incorrect exemption/incorrect computation of taxable turnover/levy of concessional rate of tax/incorrect allowance of resales, there was under-assessment of Rs 71.01 lakh including interest of Rs 24.81 lakh.

After this was pointed out, the Department raised additional demand for Rs 71.01 lakh including interest of Rs 24.81 lakh. An amount of Rs 12.09 lakh was recovered/waived under amnesty scheme/adjusted against refunds due to 18 dealers and six dealers had filed appeals against the demands raised. Report on recovery in the remaining cases and developments in appeal has not been received (February 2005).

The matter was reported to Government between March 2004 and May 2004. Government concurred with the action taken by the Department in 28 cases, their reply in the remaining cases has not been received (February 2005).

2.7 Under-assessment of tax

Under the provisions of the Central Sales Tax (CST) Act, 1956, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall be deemed to be in the course of export, if the last sale or purchase took place and was for the purpose of complying with the agreement or order for such export, provided the selling dealer produces a certificate in Form H (Form 14B in case of a dealer within the State) duly filled and signed by the exporter alongwith evidence of export of goods.

¹⁸ Andheri, Aurangabad, Bandra, Borivali, Churchgate, Ghatkopar, Kolhapur, Mandvi, Nariman Point, Nashik, Pune-I, Thane and Worli.

It was noticed in the assessments between June 1998 and March 2001 of 19 dealers in nine divisions¹⁹ for the periods between 1 April 1993 and 31 March 1999, that sales of goods of Rs 18.19 crore were exempted from tax though the sales were either ineligible or not supported by certificate in Form H/Form 14B or were not duly supported by other documentary evidence in relation to the export. This resulted in underassessment of Rs 1.55 crore including interest of Rs 0.60 crore.

After this was pointed out, the Department raised between September 2002 and January 2004 additional demand for Rs 1.55 crore including interest of Rs 0.60 crore. The Department recovered/adjusted Rs 1.30 lakh in respect of two dealers and 10 dealers had filed appeal. Report on recovery in the remaining cases and developments in appeal has not been received (February 2005).

The matter was reported to Government between March 2004 and May 2004. Government concurred with the action taken by the Department in 13 cases; their reply in the remaining cases has not been received (February 2005).

2.8 Incorrect grant of exemption

Under the CST Act, when the sale of any goods inside the appropriate State is exempted generally from tax or subjected to tax generally at a rate which is lower than four *per cent*, the rate of tax applicable to the inter-State sale or purchase of such goods shall be nil or the lower rate. For this purpose, a sale or purchase of any goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State, if under the law, the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions. Sales of Indian made foreign liquor (IMFL) are exempt from sales tax under the local Act subject to the condition that excise duty is paid thereon.

In Pune, while assessing a manufacturer of IMFL in February 1999, inter-State sales of Rs 1.55 crore during the period 1 April 1995 to 31 March 1996 were exempted from tax. Since the exemption under the BST Act, was conditional, it was not applicable to inter-State sales. This resulted in underassessment of Rs 1.56 crore including interest and penalty.

After this was pointed out, the Department revised the assessment order in May 2003 raising demand for Rs 1.56 crore. Report on recovery has not been received (February 2005).

The matter was reported to Government in April 2004; their reply has not been received (February 2005).

2.9 Incorrect allowance of sales in the course of import

Under the provisions of the CST Act, a sale or purchase of goods shall be deemed to take place in the course of import of the goods into the territory of India, only if, the sale or purchase occasions the import of those goods into the

¹⁹ Andheri, Bandra, Borivali, Ghatkopar, Mandvi, Mazgaon, Mumbai (Enforcement), Thane and Worli.

territory of India or is effected by transfer of documents of title to the goods before the goods have crossed the customs frontiers of India. It has been judicially²⁰ held that sales of imported goods kept in customs bonded warehouse are sales within the State, liable to sales tax under the State Law. Further, additional tax, turnover tax, interest and penalty are leviable as per provisions of the Act.

It was noticed, in the assessments finalised between May 1998 and June 2001 of four dealers (two in Bandra and one each in Mandvi and Pune Divisions) for the periods falling between 1994-95 and 1998-99, that claims of sales of Rs 3.63 crore were incorrectly allowed as in the course of import though the goods were kept and cleared from the customs bonded warehouse. This resulted in under-assessment of Rs 1.05 crore including interest and penalty of Rs 0.61 crore.

After this was pointed out, the Department revised between May 2003 and December 2003 the assessments, raising additional demand for Rs 1.05 crore including interest and penalty of Rs 0.61 crore. Three dealers had filed appeals against the demands raised. Report on recovery in the remaining case and developments in appeal has not been received (February 2005).

The matter was reported to Government in March 2004. Government concurred with the action taken by the Department in three cases; their reply in the remaining case has not been received (February 2005).

2.10 Short levy of Central Sales Tax

Under the provisions of the CST Act, tax on sales in the course of inter-State trade or commerce supported by valid declaration is leviable at the rate of four *per cent* of the sale price. Otherwise, tax at twice the rate applicable to the sales inside the State in respect of declared goods and in respect of goods other than declared goods at 10 *per cent* or at the rate of tax applicable to the sale or purchase of such goods inside the State, whichever is higher, is leviable. Further, interest is also leviable as per the provision of the BST Act.

In Bandra Division, it was noticed that in the assessment finalised in February 2000 of a dealer for the period 1996-97, inter-State sales of Rs 1.05 crore of electronic medical equipments not supported by declaration in Form C were incorrectly taxed at the rate of four *per cent* instead of 13 *per cent*. This resulted in under-assessment of Rs 12.86 lakh including interest of Rs 3.42 lakh.

After this was pointed out, the Department revised the assessment orders in September 2003 and raised additional demand for Rs 12.86 lakh including interest. The dealer had filed appeal against the additional demand raised. Report on developments in appeal has not been received (February 2005).

The matter was reported to Government in March 2004; Government concurred with the action taken by the Department.

²⁰ Fairmacs Trading Co. v/s State of Andhra Pradesh (36 STC 260).

2.11 Sales in transit

Under the CST Act, a sale in the course of inter-State trade or commerce of any goods is effected by a transfer of documents of the title to the goods during their movement from one state to another. Subsequent sales to registered dealers made while the goods are in movement, are exempt from tax, provided, such goods are included in the registration certificate of the vendor and supported by declarations in Form 'C' or Form 'D'. In case of default, interest and penalty is also leviable under the CST Act.

It was noticed in the assessments finalised in April 1999 and October 2000 of two dealers in Bandra Division and Pune-I Division for the periods 1995-96 and 1996-97 that sales either not supported by declaration in Form 'C' or supported by Form 'D' which was inadmissible were exempted from tax. This resulted in under-assessment of Rs 5.88 lakh. Besides interest and penalty was also leviable.

After this was pointed out in February 2001 and December 2001, the Department revised the assessment orders in both the cases in September 2003 and December 2003 raising additional demand for Rs 10.23 lakh including interest and penalty of Rs 4.35 lakh. In one case the appellate authority upheld the revision order. Report on recovery has not been received (February 2005).

The matter was reported to Government in April 2004; Government concurred with the action taken by the Department.

2.12 Non/short levy of penalty/interest

2.12.1 Under the provisions of the BST Act, if a dealer does not pay tax within the time he is required to pay it or if any tax remains unpaid on the date prescribed for filing of the return in respect of a period of assessment, then he shall be liable to pay simple interest at the rate of two *per cent* of the amount of tax for each month or part thereof after the date by which he should have paid such tax or from the date following the date of the period of assessment till the date of payment or the order of assessment, whichever is earlier, as applicable. The Act also provides for levy of penalty not exceeding the amount of tax payable for concealment of turnover liable to tax.

In five divisions²¹, it was noticed in the assessments finalised between October 1998 and March 2002 of six dealers for the periods between April 1992 and 31 March 1997 that interest was not levied/short levied or deferred. This resulted in under-assessment of Rs 56.14 lakh including penalty.

After this was pointed out, the Department levied between March 2002 and August 2003 interest and penalty amounting to Rs 56.14 lakh. In the case of one dealer, Rs 3.06 lakh was recovered/adjusted against refund due and another dealer had filed appeal. Report on recovery in remaining cases and developments in appeal has not been received (February 2005).

²¹ Andheri, Bandra, Churchgate (2), Ghatkopar and Thane.

The matter was reported to Government in March 2004 and April 2004. Government concurred with the action taken by the Department in three cases; their reply in the remaining cases has not been received (February 2005).

2.12.2 Under the provisions of the BST Act, (as it stood upto 16 September 2000), if any tax remained unpaid for one month after the end of any period of assessment, then the dealer was liable to pay penalty at the rate of two *per cent* of the amount of tax for each month or part thereof from the date following the date of the period of assessment till the date of payment or the order of assessment whichever is earlier. The provisions are also applicable for levy of penalty under the CST Act.

In Pune-I Division, it was noticed in the assessment finalised in March 2000 of a dealer for the period 1 April 1996 to 31 March 1997 that as against penalty of Rs 20.58 lakh leviable, penalty was levied at Rs 10.29 lakh. This resulted in short levy of penalty of Rs 10.29 lakh.

After this was pointed out, the Department raised in March 2003 additional demand for Rs 10.29 lakh towards penalty short levied. Report on recovery has not been received (February 2005).

The matter was reported to Government in April 2004. Government concurred with the action taken by the Department.

2.13 Non/short levy of purchase tax

Under the provisions of the BST Act, during the period 1 September 1990 to 30 September 1995, when a dealer purchased any goods specified in Part-I of Schedule C, then in addition to sales tax or purchase tax, a purchase tax at the rate of two paise in the rupee on the turnover of such purchases was leviable unless the goods so purchased were resold by the dealer. With effect from 1 October 1995, purchase tax is leviable on purchases of goods used in the manufacture of taxable goods transferred to branches outside the State otherwise than as sale. Further, additional tax (upto September 1995) and interest are payable as per the provisions of the Act.

It was noticed that while assessing between March 1999 and March 2001 two dealers in Worli and one dealer in Nariman Point Divisions, purchase tax though leviable was not/short levied on the purchase of goods valued at Rs 5.85 crore. This resulted in under-assessment of Rs 13.86 lakh including interest of Rs 2.17 lakh.

After this was pointed out, the Department revised the assessments and raised additional demand for Rs 13.86 lakh between May 2003 and October 2003. One dealer had paid Rs 6.38 lakh in December 2003 and another dealer had filed appeal against the demand raised. Report on recovery in the remaining case and development in appeal has not been received (February 2005).

The matter was reported to Government in March 2004 and April 2004. Government concurred with the action taken by the Department in both the cases.

2.14 Short levy of tax due to incorrect exemption

Under the provisions of the BST Act, the State Government by notification exempted between 1 October 1995 and 31 March 1999, tax in excess of eight *per cent* on sale of goods on which the rate of sales tax was less than 16 *per cent* subject to certain conditions. One of the conditions was that the dealer should file monthly returns and pay tax at the rate of eight *per cent*. Besides, interest and penalty was leviable as per the provisions in the Act.

It was noticed in the assessments finalised between April 1998 and July 2001 of eight dealers in five divisions²² for periods between 1 April 1995 and 31 March 1999 that tax in excess of eight *per cent* was exempted. The dealers had not filed monthly returns or filed monthly returns but had not made payment of tax or had sold goods liable to tax exceeding 16 *per cent* and hence were not eligible for exemption. This resulted in under-assessment of Rs 12.76 lakh including interest and penalty of Rs 4.68 lakh.

After this was pointed out, the Department raised between April 2003 and October 2003 additional demand for Rs 12.76 lakh. Two dealers had paid Rs 3.90 lakh and five dealers had filed appeals. Report on recovery of the balance amount and developments in appeal has not been received (February 2005).

The matter was reported to Government in April 2004. Government concurred with the action taken by the Department in six cases; their reply in the remaining cases has not been received (February 2005).

2.15 Non/short levy of turnover tax/additional tax

Under the provisions of the BST Act, every dealer whose annual turnover of sales or purchases exceeded Rs 12 lakh was liable to pay turnover tax during the period from 13 July 1986 to 30 September 1995. The rate of turnover tax was 1.25 *per cent* of the taxable turnover (1.50 *per cent* with effect from 1 April 1993, where, turnover of sales or purchases exceeded Rs one crore). Besides, additional tax at 15 *per cent* (12 *per cent* upto March 1994) of the sales tax/purchase tax payable was leviable where the turnover of sales or purchases exceeded Rs 10 lakh. By an amendment on 31 March 1999, turnover tax on the turnover of sales of goods specified in Schedule C at the rate of one *per cent* after deducting re-sales of goods from such turnover and surcharge at the rate of 10 *per cent* of the tax payable where the aggregate of taxes payable by a dealer exceeded rupees one lakh in any year was leviable. Turnover tax was also leviable on the turnover of sales effected against declarations issued under the BST Act.

It was noticed in the assessments between March 1999 and March 2002 of five dealers in five divisions²³ that turnover tax, additional tax or surcharge though leviable were either not levied or short levied. This resulted in under-assessment of Rs 6.68 lakh including interest of Rs 2.17 lakh.

²² Bandra (4), Kolhapur, Mandvi, Mazgaon and Nashik.

²³ Mumbai (Enforcement), Nariman Point, Nashik, Thane and Worli.

After this was pointed out, the Department raised between February 2003 and August 2003 additional demand for Rs 6.68 lakh. One dealer had filed appeal. Report on recovery in the remaining cases and developments in appeal has not been received (February 2005).

The matter was reported to Government in April 2004. Government concurred with the action taken by the Department in two cases; their reply in the remaining cases has not been received (February 2005).

2.16 Short levy of tax under VAT

Under the provisions of the BST Act, sales of goods covered by schedule C to the Act by resellers exceeding the prescribed turnover limit during the previous year were not allowed as deduction from the taxable turnover but liable to value added tax (VAT) in respect of sales during the period 1 October 1995 to 31 March 1999. When the sales turnover was subjected to tax, the rules provided for grant of set-off of tax paid on the purchases.

In Sindhudurg, it was noticed in the assessment finalised in February 2001 of a reseller of medicines for the period 1 April 1997 to 31 March 1999 that sales of Rs 1.11 crore were allowed as resale instead of subjecting them to tax. This resulted in under-assessment of Rs 5.85 lakh including interest and penalty after grant of admissible set-off.

After this was pointed out, the Department reassessed in November 2003 the dealer raising additional demand for Rs 5.85 lakh including interest and penalty of Rs 2.34 lakh. The dealer filed appeal against the demand raised. Report on developments in appeal has not been received (February 2005).

The matter was reported to Government in April 2004. Government concurred with the action taken by the Department.

2.17 Incorrect determination of taxable turnover

Under the BST Act, sales tax is leviable on the turnover of sales of taxable goods at the rates specified in the Schedule 'B' or 'C' to the Act after deducting from the gross turnover, re-sales of goods purchased from other registered dealers, provided, the goods are re-sold in the same form in which they were purchased.

It was noticed in the assessments finalised between August 1998 and March 2002 of four dealers in Bandra, Nariman Point, Worli and Andheri divisions that taxable turnover of sales were determined short to the extent of Rs 62.27 lakh owing to non-inclusion of sales. This resulted in under-assessment of tax of Rs 5.22 lakh including interest of Rs 1.67 lakh.

After this was pointed out, the Department raised additional demand for Rs 5.22 lakh including interest between June 2003 and October 2003. All the dealers had filed appeal against the demand raised. Report on developments in appeal has not been received (February 2005).

The matter was reported to Government in April 2004. Government concurred with the action taken by the Department in three cases; their reply in the remaining case has not been received (February 2005).

2.18 Loss of revenue/revenue in risk

Under the BST Act, where all the returns are filed by a dealer for any year by the prescribed date the assessment for that year is to be completed within a period of three years. Any re-assessment proceedings relating to a period is to be initiated within a period of five years.

Where return in respect of any period is not furnished by a registered dealer by the prescribed date, the Commissioner shall at any time within eight years from the end of the year in which such period occurs, after giving the dealer reasonable opportunity of being heard proceed to assess the dealer to the best of his judgment.

2.18.1 In Ghatkopar Division, a dealer was assessed in October 1999 *exparte* for the period 1995-96 after the stipulated period of three years. In the assessment order, inter-State sales of Rs 4.47 crore not supported by declarations in Form C were incorrectly taxed at four *per cent* instead of 13 *per cent*. This resulted in short levy of tax of Rs 40.18 lakh.

After this was pointed out in July 2000, the Department reassessed the dealer in December 2002 and raised additional demand of Rs 61.08 lakh including interest of Rs 20.90 lakh. The Appellate Authority in August 2003 set aside the reassessment order on the grounds that the action was barred by limitation. Incorrect assessment of tax on inter-State sales not supported by declaration and delay in assessing the dealer as also initiating reassessment proceedings resulted in loss of revenue of Rs 61.08 lakh.

The matter was reported to Government in April 2004; their reply has not been received (February 2005).

2.18.2 A manufacturer of chemicals in Tarapur (Thane District) having sales office in Borivali was assessed for the period 1992-93 to 1998-99 with dues as under:

(Amount in lakh of rupees)					
Sl. No.	Assessment period	Assessed dues under		Total Rs.	Month of lodging claim with official liquidator
	Month/year of assessment	BST Act Rs.	CST Act Rs.		
1.	1992-93 June 1998	4.62	0.15	4.77	December 2002
2.	1993-94 March 2002	16.06	1.56	17.62	December 2002
3.	1994-95 October 2002	1.50	0.80	2.30	December 2002
4.	1995-96* March 2002	492.45 (including interest)	Nil	492.45	October 2003
5.	1996-97 October 2002	5.96	Nil	5.96	December 2002
6.	1997-98 October 2002	6.50	Nil	6.50	December 2002
7.	1998-99 March 2002	2.56	Nil	2.56	December 2002
		529.65	2.51	532.16	

*Exparte assessment order passed by Enforcement Branch.

The Department in response to its notice for recovery of dues relating to 1992-93 was informed in January 1999 by the State Bank of Saurashtra, Borivali that the dealer had closed his bank account eight years ago. Despite the bank account being closed and the assessment proceeding for the year 1995-96 being investigated (May 1998) by the Enforcement Branch, the assessments for periods between 1993-94 and 1998-99 were completed after a delay of three years. Notice for public auction of the movable property for recovery of the dues of Rs 4.77 lakh for the period 1992-93 was published in July 2000, when the premises of the dealer was already in possession of the official liquidator. The dealer was declared insolvent in June 2002. Thus, delay in assessment of the dealer for various periods, lack of follow up action and co-ordination between the enforcement and assessment wings had resulted in the Department running the risk of recovery of Rs 5.32 crore.

After this was pointed out in April 2003, the Dy. Commissioner of Sales Tax (Enforcement Branch) stated in October 2003 that there was no delay in assessing the dealer or follow up in recovery of the dues. The reply is not tenable as the Department was not aware until January 1999 that the dealer had closed his bank account in 1991-92 and assessments were completed thereafter in March 2002 and October 2002. This indicates that the department was not prompt enough in safeguarding the interest of revenue.

The matter was reported to Government in April 2004. Government concurred with the reply furnished by the Department.

CHAPTER III **TAXES ON MOTOR VEHICLES AND** **STAMP DUTY & REGISTRATION FEES**

3.1 Results of audit

Test check of records relating to taxes on motor vehicles and stamp duty and registration fees conducted during the year 2003-04 revealed short/non-levy of duty, loss of revenue *etc.*, amounting to Rs 42.55 crore in 2,059 cases as detailed below:

Sl. No.	Category	No. of cases	Amount (in crore of rupees)
A	TAXES ON MOTOR VEHICLES		
1.	Non-levy/short levy of tax due to incorrect application of rates	1,425	2.43
2.	Miscellaneous	7	0.05
	Total	1,432	2.48
B	STAMP DUTY AND REGISTRATION FEES		
3.	Non-levy of stamp duty on instruments executed by co-operative societies	27	1.64
4.	Incorrect grant of exemption of stamp duty and registration fees	101	3.10
5.	Short levy due to misclassification of documents	128	12.48
6.	Short levy due to under valuation of property	333	4.58
7.	Review on Working of internal controls in collection of Stamp Duty	1	16.92
8.	Other irregularities	37	1.35
	Total	627	40.07
Grand Total:		2,059	42.55

During the year 2003-2004, the Department accepted and recovered under-assessments *etc.*, in 688 cases amounting to Rs 0.89 crore, of which 158 cases involving Rs 0.13 crore had been pointed out during 2003-04 and the rest in earlier years.

A review on **Working of internal controls in collection of Stamp Duty** involving Rs 16.92 crore and a few illustrative cases involving Rs 1.90 crore are given in the following paragraphs:

SECTION A TAXES ON MOTOR VEHICLES

3.2 Non/short recovery of motor vehicles tax

Under the Bombay Motor Vehicles Tax Act, 1958 (BMVT Act) and the Rules made thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State and is payable in advance by the registered owner of the vehicle. Payment of one time tax was made compulsory for light motor vehicles (LMVs) registered on or after 1 May 2000 and extended from 30 May 2001 to existing LMVs paying tax at the annual rate. Interest at the rate of two *per cent* of the amount of tax for each month or part thereof is payable in each case of default in payment of tax dues.

During the course of test check of records in 17 offices¹, it was noticed between October 2000 and August 2003, that in respect of 786 vehicles, tax was either not recovered or short recovered resulting in under-assessment of tax amounting to Rs 1.25 crore.

After this was pointed out, the Department intimated recovery of Rs 45.07 lakh including interest of Rs 9.55 lakh in respect of 429 vehicles. Report on recovery in respect of the remaining vehicles has not been received (February 2005).

The matter was reported to Government in March 2004 and May 2004; their reply has not been received (February 2005).

3.3 Non-realisation of motor vehicles tax

Under the BMVT Act and the Rules made thereunder, tax shall be levied on every motor vehicle used or kept for use in the state unless prior intimation of non-use of the vehicle is given to the taxation authority on or before the date of expiry of the period for which tax has been paid, specifying *inter alia* the period of non use and the place where the motor vehicle would be kept during such period. If, at any time, during the period of non-use the vehicle is not found at the declared place, it shall be deemed to have been used through out the said period and the owner of the vehicle is liable to pay tax and interest at the prescribed rate for that period.

It was noticed in the office of the Regional Transport Officer, Nagpur that declarations of non-use in respect of two vehicles for the period from 2 February 1998 to 31 January 2004 were received from the owner of the vehicle in advance. On verification by the Inspector of Motor Vehicles in August 1999, the vehicles were not found at the declared place of parking. However no action was taken by the taxation authority to realise the tax and levy interest for violation of the non-use declaration. This resulted in under-assessment of Rs 14.26 lakh including interest of Rs 5.91 lakh.

¹ R.T.O./D.R.T.O. offices at Ahmednagar, Aurangabad, Jalna, Kalyan, Kolhapur, Latur, Mumbai (Central), Mumbai (East), Osmanabad, Pune, Pimpri-Chinchwad, Parbhani, Pen, Ratnagiri, Solapur, Sindhudurg and Thane.

After this was pointed out in February 2003, the Department accepted the non-recovery of tax and stated that Revenue Recovery Certificates for realisation of the dues had been issued on 28 May 2003. Report on recovery has not been received (February 2005).

The matter was reported to Government in April 2004; their reply has not been received (February 2005).

3.4 Delay in filing of returns

Under the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 and the rules made thereunder, every stage carriage operator is required to submit a monthly return in Form IV to the taxation authority not later than the seventh day of the month immediately following the month to which the return relates.

Test check of returns filed by the Solapur Municipal Transport for the periods between October 1998 and November 2001 in the office of the Deputy Regional Transport Officer, Solapur revealed that monthly returns were filed late with delays ranging from one month to six months.

There is no provision in the Act or Rules for levy of penalty for non-filing/delay in filing of returns. The Department has not moved a formal proposal for getting this lacuna removed.

The matter was reported to Government in May 2004; their reply has not been received (February 2005).

SECTION B STAMP DUTY AND REGISTRATION FEES

3.5 Review on Working of internal controls in collection of Stamp Duty.

Highlights

During the course of inspection, it was observed that 13 treasuries had not sent annual forecast to Superintendent of Stamps as provided in rules.

(Paragraph 3.5.7)

Licensed Stamp Vendors/Stamp Vendors whose licenses were suspect had sold/sold in excess insurance stamps of Rs 16.92 crore during the period from April 1994 to March 2004.

(Paragraph 3.5.8)

3.5.1 Introduction

The Indian Stamp Act, 1899 and Rules made thereunder as amended from time to time regulate the levy of stamp duty on various instruments. The Stamps and Registration department is empowered by Bombay Stamp Act, 1958 and rules made thereunder to appoint Licensed Stamp Vendors (LSVs) through the Joint District Registrar (JDR) of the concerned district for sale of stamps. Superintendent of Stamps (SoS) Mumbai who is also an ex-officio vendor is required to place indents for all categories of stamps on the Central Store Depot (CSD), Nashik. The treasury officer of the respective district receives stamps directly from CSD. The sale of stamps to the general public is effected directly through ex-officio vendors, treasuries or through the LSVs. Franking machines are also in use since 1994 for collection of stamp duty. Stamps required for instruments upto Rs 2000 (Rs 10000 from February 1999) can be sold by the LSVs. They in turn collect the stamps from treasuries by remitting sale value net of discount through treasury challans. The treasuries are required to submit the account of sale of stamps to the Accountant General in the form of monthly receipt schedules, plus minus memoranda and annual store accounts.

3.5.2 Organisational set up

At the apex level, Secretary, Relief and Rehabilitation(R&R) heads the Department. Responsibility for overall administration of these acts is entrusted to Inspector General of Registration (IGR), Pune. Forecasting, procurement and indenting of stamps is the responsibility of SoS, Mumbai who reports to IGR, Pune. IGR is assisted by eight Deputy Inspector General of Registration, and 36 JDRs. Realisation of stamp duty and registration fee through registered documents is the responsibility of 312 Sub Registrars (SRs).

3.5.3 Audit objectives

A review was conducted with a view to:

- draw assurance that the indenting and supply of stamps was based on actual requirement and that gap in indenting/supply did not lead to artificial shortages of stamps;
- compare secondary data from organisations other than stamp and registration authorities to ascertain gaps, if any, in the sale and use of stamps for documents that did not require registration; and
- detect the weakness/failures of internal controls leading to possible leakage of revenue.

3.5.4 Scope of audit

The review confined to overall indenting, receipt and sale of non-judicial stamps for entire State covering the period from 1996-97 to 2002-03² was conducted between February and September 2004 by referring to the records of IGR, SoS, JDRs and SRs of 12³ out of 33 districts in Maharashtra. Inputs were also obtained from the auditors of India Security Press (ISP), Nashik where considered necessary.

3.5.5 Discrepancies between departmental figures of receipt (actuals) and figures as per Finance Accounts

The administration of Stamp Act is with the Department of Revenue and Forests whereas the treasuries realising the sale value of stamps are under the administrative control of the Finance Department. An effective periodical reconciliation of receipts between two departments is therefore necessary.

As per information furnished by the IGR, non-judicial stamps worth Rs 11,023.82 crore were sold during the years 1997-1998 to 2002-2003 whereas the Finance Accounts disclosed the revenue realisation of Rs 10,564.76 crore as detailed below:

(Amount in crore of rupees)

Year	Actual Receipt Non-Judicial		Variation
	IGR	Finance Account	
1997-1998	1,443.20	1,453.15	9.95
1998-1999	1,406.43	1,263.27	(-) 143.16
1999-2000	1,680.95	1,500.09	(-) 180.86
2000-2001	1,936.92	1,901.86	(-) 35.06
2001-2002	2,099.83	2,073.79	(-) 26.04
2002-2003	2,456.49	2,372.60	(-) 83.89
Total	11,023.82	10,564.76	(-) 459.06

² Observations covering the period upto 2003-2004 are also included where possible.

³ Aurangabad, Ahmednagar, Jalgaon, Kolhapur, Mumbai, Nashik, Nagpur, Pune, Raigad, Sangli, Thane and Wardha.

Difference between these figures revealed that the reconciliation of figures was not done between the two departments.

Secretary(R&R) in response claimed in November 2004 that there is sufficient co-ordination between the two departments and IGR. He, however, accepted that there were lapses in the reporting mechanism between SoS and Treasuries and from Treasuries to the Accountant General.

3.5.6 Forecasting and indenting

In accordance with the provisions of Government of India Rules for the supply and distribution of stamps, SoS is the controlling officer to obtain annual forecast of non-postal stamps from treasuries in the State. SoS has to send a forecast in the prescribed format in respect of non-postal stamps to CSD not later than 15th June of each year. The forecast is to be prepared on the basis of the average sale for the preceding three years. The officer in charge of treasury sends indent to the SoS who in turn must scrutinise the indent and pass the quantity.

- During the course of inspection of 19 treasuries out of 33 it was observed that 13 treasuries⁴ did not submit annual forecast to SoS as provided in rules.

Director of Accounts and Treasuries while accepting the lapse in November 2004 informed that treasury officers were instructed to observe the time schedule provided in the rules.

- Each treasury officer is required to maintain a reserve stock of stamps not less than the probable consumption of two months in addition to the stock required for the quarterly or four monthly or annual consumption as the case may be. While placing the indents, the treasury officers should take into account the reserve stock of stamps for few months duration.

Test check of records revealed that Pune treasury held huge inventories in the categories of general, special adhesive, insurance, share transfer and foreign bill stamps. The opening stock of stamps in these categories in treasury was Rs 2,981.41 crore as on 1 April 1996. Stamps worth Rs 644.43 crore were received from CSD Nashik and other treasuries by way of inter-treasury transfers up to 31 March 2003. During this period the sale of stamps was Rs 620.23 crore only, leaving closing stock of Rs 3,005.61 crore as on 31 March 2003. If only SoS had taken into account surplus stock available with the treasury, placing of indents for 13⁵ other districts for stamps worth Rs 1,210.04 crore with CSD could have been avoided. Further, it was also noticed that in two⁶ treasuries reserve stock of stamps was not maintained in two categories of stamps for a period ranging from 23 to 288 days during the year 2001-02. This showed lack of control by SoS on placing of indents.

Director of Accounts and Treasuries stated in November 2004 that treasury officers had to place the demand for a particular denomination of stamps even

⁴ Akola, Beed, Buldhana, Chandrapur, Gadchiroli, Gondia, Jalna, Nagpur, Nanded, Osmanabad, Parbhani, Wardha and Yeotmal

⁵ Thane, Raigad, Ratnagiri, Sindhudurg, Kolhapur, Solapur, Satara, Ahmednagar, Jalgaon, Nashik, Dhule, Nandurbar, Sangli

⁶ Yavatmal and Osmanabad

though the stock of stamps of other denominations is heavy. However, the treasury officers were being directed to transfer the stock of the stamps which is not required by them to other treasuries with the consent of the SoS. The Treasury Officers were also being directed to take into account the reserve stock to be kept while placing the indents and to expedite the supply.

3.5.7 Weaknesses in monitoring stamp stocks and sales

- Lack of control over franking machine

To check the discrepancies in operation of franking machine, rules regarding franking were finalised and published.

In spite of the rules framed, it was noticed in Jalgaon District that the JDR had loaded franking machine provided to one SR for Rs 5 crore against the authorisation of Rs 1 crore by the IGR.

Secretary (R&R) stated in November 2004 that necessary action in the form of promulgation of new rules and reporting mechanism is being taken to avoid such instances.

- Incorrect accounting of stamp receipts

Treasury officers prepare a consolidated plus/ minus memorandum showing the value of opening stock, stamps sold and value of closing stock during the month for the whole district. The sale of stamps for the entire district should normally agree with the receipt schedules for the month of the district.

Test check of records of three⁷ district treasuries for the period from 1997-98 to 2002-03 revealed that total receipts as per receipt schedules (i.e. cash deposit challans) was more by Rs 55.92 crore than the plus/ minus memorandum as detailed below.

(Amount in crore of rupees)

Name of the treasury	Period	Figures of plus/minus memos	Figures of receipt schedule	Difference
Ahmednagar	4/1997 to 3/2003	135.79	187.63	(-) 51.84
Dhule	5/1998 to 3/2003	33.17	34.91	(-) 1.74
Solapur	2/2001 to 3/2003	25.13	27.47	(-) 2.34
Total				(-) 55.92

Director of Accounts and Treasuries stated in November 2004 that difference in the two sets is due to inclusion of receipts of franking charges and other receipts of registration department in the total of receipt schedule. Therefore, total sale figure of stamps will never agree with the total receipt schedules under the major head "0030 Stamps and Registration Department". Reply is

⁷ Ahmednagar, Dhule and Solapur.

not tenable as there is a separate sub-major head for accounting registration fees. Further reply has not been received (February 2005).

3.5.8 Analysis of selected Vendors Accounts

- Test-check of 265 vendors records selected on the basis of statistical sampling revealed that in the case of 25 vendors, the value of stamps sold for the period from 1996 to 2004 in six⁸ treasuries was in excess by Rs 36.88 lakh than the value of stamps received from treasuries after discount.
- Licensed stamp vendors of Jalgaon, Mumbai and Pune had sold insurance stamps to LIC Divisions outside the State in excess of Rs 8.48 crore than purchased by them from respective treasuries during the years from 1995-96 to 2001-02.
- Stamp vendors whose licenses were suspect, sold insurance stamps of Rs 8.07 crore to LIC Divisions outside the State from April 1994 to March 2003.

3.5.9 Internal audit

An effective Internal Audit (IA) wing always acts as deterrent to any major irregularity. The IA wing of this Department consists of five employees to cover 312 SRs offices. The Department originally planned to cover 36 units per year from 1996-97. However, it could cover only 102 units up to 2003-2004 as detailed below.

(Amount in lakh of rupees)

Year	Targeted units	Units audited	Objections raised	Amount involved	Pending objections	Amount involved
1996-1997	36	22	102	19.35	48	18.28
1997-1998	36	15	78	113.17	15	48.94
1998-1999	36	13	69	137.13	21	125.24
1999-2000	36	5	16	0.91	4	0.19
2000-2001	36	30	269	6.99	15	3.45
2001-2002	36	7	71	71.89	59	67.17
2002-2003	36	8	139	25.59	30	25.59
2003-2004	36	2	25	3.30	25	3.30
Total	288	102	769	378.33	217	292.16

⁸ Aurangabad, Jalgaon, Nagpur, Pune, Raigad and Sangli.

Failure to cover the targeted units planned resulted in increase in arrears of 65 per cent of units not being audited besides objections worth Rs 292.16 lakh remaining unsettled.

3.5.10 Conclusions

- There were lapses in the reporting mechanism between SoS and treasuries and from treasuries to Accountant General.
- Lapses in monitoring of LSVs at certain places were noticed.

3.5.11 Recommendations

It is recommended that :

- Monitoring of accounts of LSVs needs to be strengthened.
- Collection of stamp duty can be entrusted to designated banks.
- Internal audit wing of the IGR should be made more effective.

The report was referred to the Department and the Government in September 2004. Government stated in November 2004 that the review has given valuable suggestions by way of pinpointing shortcomings in certain procedures and lapses in compliance to certain rules and procedure relating to indent and supply. Certain flaws in reporting mechanism have also been spelt out. These recommendations are being looked into so as to address any shortcomings in future.

3.6 Short levy of stamp duty on lease deed

Stamp duty on lease deeds, where the lease purports to be for a period in excess of three years but not more than 10 years, is leviable on thrice the amount of annual average rent at the rates prescribed in Schedule I to the Bombay Stamp Act.

In Sub-Registry (SR) Andheri at Bandra (Mumbai), a lease deed was executed in March 2001 for a period of 10 years involving a dutiable consideration of Rs 66.12 lakh on which the stamp duty of Rs 6.61 lakh was to be levied against which stamp duty of only Rs 0.91 lakh was levied. This resulted in short levy of stamp duty of Rs 5.70 lakh.

After this was pointed out in November 2002, the Inspector General of Registration (IGR), Pune accepted the audit observation in December 2003. Report on recovery has not been received (February 2005).

The matter was reported to the Government in April 2004; their reply has not been received. (February 2005).

3.7 Short levy of stamp duty due to under valuation of property

As per the Bombay Stamp Act, stamp duty and registration fees on instruments relating to conveyance is to be levied on the true market value of the property which has to be ascertained by the registering authority by referring to the annual statement of rates of the area issued by the Chief Controlling Revenue Authority every year. In case the registering officer

finds the market value as stated in the instrument less than the minimum value prescribed by the statement, he shall refer the same to the Collector of the district for determination of true market value of the property which is the subject matter of the instrument. He is also required to prefer the deficient amount of stamp duty on such documents along with a penalty at the rate of two *per cent* per month of such deficiency.

In two⁹ SRs, two instruments of conveyance were registered in January 2000 and March 2002 wherein stamp duty of Rs four lakh was charged on a consideration of Rs 1.03 crore set forth in those instruments without verifying the true market value of the property by referring to the annual statement of rates. It was noticed in December 2001 and April 2003 that true market value of the property mentioned in the documents worked out to Rs 3.38 crore as per rates mentioned in the annual statement of rates. This resulted in short levy of stamp duty amounting to Rs 45.52 lakh including penalty of Rs 20.32 lakh.

After this was pointed out between December 2001 and April 2003, the IGR accepted the short levy of stamp duty in both the cases except penalty in one case¹⁰ without assigning any reasons. Report on recovery has not been received (February 2005).

The matter was referred to the Government in May 2004; their reply has not been received (February 2005).

⁹ Haveli-I, Pune and Andheri at Bandra (Mumbai)

¹⁰ Haveli-I, Pune

CHAPTER IV : Land Revenue

4.1 Results of audit

Test check of records of land revenue conducted during the year 2003-2004 revealed under-assessment, short levy, loss of revenue *etc.* amounting to Rs 40.72 crore in 215 cases which broadly fall under the following categories:

Sl. No.	Category	No. of cases	Amount (in crore of rupees)
1	Non-levy/short levy/incorrect levy of NAA, ZP/VP cess, conversion tax and royalty	129	37.02
2	Non-levy/short levy/incorrect levy of increase of land revenue	21	0.76
3	Non-levy/short levy of occupancy price <i>etc.</i>	61	2.91
4	Short levy of measurement fees, sanad fees <i>etc.</i>	4	0.03
Total		215	40.72

During the course of the year 2003-2004, the Department accepted under-assessment of Rs 1.42 crore in 146 cases which had been pointed out in earlier years and recovered the same.

A few illustrative cases noticed during 2003-2004 and earlier years involving Rs 1.62 crore are mentioned in the following paragraphs:

4.2 Short levy due to non-application of revised rates for non-agricultural assessment

Under the Maharashtra Land Revenue (MLR) Code, 1966 and the rules made there under the non- agricultural assessment (NAA) fixed on the basis of standard rate remains in force during the guarantee period and on expiry is liable to be revised. Such revised assessment shall become leviable with effect from the commencement of the next guarantee period. Further, increase of land revenue (ILR), Zilla Parishad (ZP)/Village Panchayat (VP) cess and conversion tax are also leviable at prescribed rates under the provisions of MLR Code.

4.2.1 Land measuring 1,70,676 sq.mts. being used for non-agricultural purpose by two¹ Agricultural Produce Marketing Committees (APMCs) in five villages was assessed for NAA before 1979. The Government of Maharashtra revised the standard rates for NAA for these villages in which the above mentioned APMCs were situated from 1 August 1991 and again from 1 August 2001. However, the Tahsildars² of the villages concerned continued recovery at the pre-revised rates without revising the assessment based on revised standard rates. This resulted in short levy of NAA, ILR and cess amounting to Rs 21.70 lakh for the period from 1 August 1998 to 31 July 2003.

After this was pointed out in May 2002 and March 2003, the Department accepted the short recovery in November 2003 and March 2004. Report on recovery has not been received (February 2005).

The matter was reported to Government in June 2004; their reply has not been received (February 2005).

4.2.2 Scrutiny of records in Pune and Thane Tahsil during July and August 2003 revealed that the Government had revised the standard rate from 1 August 2001. However, the NAA and conversion tax in nine cases in Pune Tahsil and 14 cases in Thane Tahsil were continued to be recovered at the pre-revised rates resulting in short levy of NAA and conversion tax amounting to Rs 15.63 lakh pertaining to the period from August 2001 to July 2003.

After this was pointed out, the Tahsildars concerned, stated in January and March 2004 that revised orders from the Collectors were awaited. The Collectors stated (December 2003) that revised orders would be issued soon for effecting necessary recovery from the landholders.

The matter was reported to Government in June 2004; their reply has not been received (February 2005).

¹ APMC Kurduwadi (Solapur) and APMC Manchar (Pune)

² Tahsildar Madha (Solapur) and Tahsildar Ambegaon (Pune)

4.3 Short levy of conversion tax and non-agricultural assessment

Under the MLR Code, land revenue is assessed with reference to the use of land such as agricultural, residential, industrial, commercial or any other purpose. Land revenue is levied according to the standard rates of NAA notified in the gazette from time to time. Further, in cases where such land is situated in the area of Municipal Corporation and Municipal Councils (A and B class cities only) or any peripheral area thereof, conversion tax equal to five times of NAA is also levied while granting permission for change in use of such land.

As a result of incorporation of seven villages³ in the limits of Municipal Corporation in Ahmednagar Tahsil in July 1999, the NAA was to be fixed based on the rates of urban area. However, while issuing the NAA orders the Collector applied the rates applicable to rural areas which resulted in short levy of NAA and conversion tax amounting to Rs 5.66 lakh.

After this was pointed out in January 2002, the Department accepted in November 2003 the short levy and agreed to effect recovery. Report on recovery has not been received (February 2005).

The matter was reported to Government in June 2004; their reply has not been received (February 2005).

4.4 Non-recovery of occupancy price

The MLR Code, and the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971 framed there under govern the grant and disposal of Government land for commercial, industrial and other non-agricultural purposes. The grantee has to pay occupancy price as fixed by the Government along with interest chargeable from the date of taking over the possession of the land till the date of final payment of occupancy price.

Government land measuring 5,150 sq.mt. in village Umele and 7,500 sq.mt. in village Supara in Vasai Tahsil, District Thane was allotted by the Collector to the Maharashtra State Road Transport Corporation (MSRTC) and Maharashtra State Electricity Board (MSEB) in April 1995 and March 1997 respectively. The Town Planning Department fixed the occupancy price for the land in the above two villages during July 2001 and August 2002 at Rs 400 per sq. mtr. for MSRTC and Rs 440 per sq. mtr. for MSEB. But, neither the MSRTC/MSEB paid the occupancy price nor were any efforts made for recovery by the Department. This resulted in non-realisation of Government revenue amounting to Rs 1.08 crore including interest.

After this was pointed out in August 2002, the Collector while admitting the non-recovery, stated in June 2004 that Tahasildar Vasai has been instructed to effect recovery from the grantees even by adopting coercive measures under the provisions of MLR Code. Report on recovery has not been received (February 2005).

³ Bistabad, Chaurana Bk, Chaurana Kh, Kedgaon, Maliwada, Nalegaon and Sawadi.

The matter was reported to Government in June 2004; their reply has not been received (February 2005).

4.5 Non/short levy of non-agricultural assessment, increase of land revenue and cess

Under the MLR Code, land revenue is assessed with reference to the use of land such as agricultural, residential, industrial, commercial or any other purpose. NAA is fixed in accordance with the standard rate notified in the gazette from time to time. Further, ILR under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 and cess at the prescribed rates under the Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961 are also leviable.

In four Tahsils⁴, land measuring 3,14,700 sq.mts. was put to non-agricultural use but NAA, ILR and cess was either not levied or levied short. This resulted in non/short levy of revenue amounting to Rs 11.07 lakh for the period from August 1998 to July 2003.

After this was pointed out between October 2000 and March 2003, the respective Tahsildars accepted the omission. Report on recovery has not been received (February 2005).

The matter was referred to Government in June 2004; their reply has not been received (February 2005).

⁴ Ambegaon (Pune), Chandur Bazar (Amravati), Malshiras (Solapur) and Sangola (Solapur)

CHAPTER V : Other Tax Receipts

5.1 Results of audit

Test check of records of departmental offices conducted during 2003-2004 revealed short realisation or loss of revenue amounting to Rs 626.39 crore in 5,146 cases as detailed below:

Sl. No.	Nature of receipt	No. of cases	Amount (in crore of rupees)
1.	Entertainments Duty	1,085	1.44
2.	Review on Levy and collection of entertainments duty	1	5.30
3.	State Education Cess and Employment Guarantee Cess	261	30.69
4.	Tax on Buildings (with larger residential premises)	30	7.16
5.	Repair and Reconstruction Cess	242	1.10
6.	Profession Tax	2,109	0.53
7.	Electricity Duty	121	571.58
8.	State Excise	1,297	8.59
Total		5,146	626.39

During the course of the year 2003-2004, the departments concerned accepted under-assessments *etc.* in 3,185 cases involving Rs 575.53 crore, of which 408 cases involving Rs 573.44 crore related to 2003-2004 and the rest in earlier years. The departments recovered Rs 1.93 crore.

A review on **Levy and collection of entertainments duty** with financial effect of Rs 5.30 crore and few illustrative cases having financial effect of Rs 688.15 crore are given in the following paragraphs:

SECTION A ENTERTAINMENTS DUTY

5.2 Review on levy and collection of entertainments duty

5.2.1 Highlights

There was wide variation in the number of cable connections disclosed by the operators and that estimated to be serviced as per census figures during the period 1998-1999 to 2002-2003.

(Paragraph 5.2.7)

Non-levy of surcharge on payment for admission to three water parks in Mumbai and Thane Districts resulted in non-recovery of surcharge of Rs 1.15 crore for periods between April 2000 and March 2003.

(Paragraph 5.2.8)

Failure to withdraw exemption to 14 films for non-fulfillment of prescribed conditions resulted in Government forgoing revenue of Rs 1.15 crore during the year 2002-03.

(Paragraph 5.2.9)

Incorrect grant of exemption to adhoc entertainments resulted in non/short recovery of entertainments duty, surcharge and penalty aggregating to Rs 96.09 lakh.

(Paragraph 5.2.10 and 5.2.12)

5.2.2 Introduction

The levy and collection of entertainments duty (ED) is governed by the Bombay Entertainments Duty Act (BED Act), 1923 and the Rules made thereunder. As per the provisions of the Act and the Rules made thereunder, duty at prescribed rates is levied and paid to the State Government on all payments for admission to any entertainment¹.

The BED Act empowers the Government to exempt any entertainment from ED by general or special order. The Commissioners of Police (upto January 2001) or the District Collectors, as the case may be, grant exemption to those entertainments which are organized for philanthropic or charitable purposes, educational or partly for educational and partly for scientific purposes. The power to grant exemption by general or special order to any entertainment or class of entertainments from liability to ED is exercised by the Revenue & Forests Department (R&FD) (Social Welfare, Cultural Affairs, Sports and Tourism Department upto January 2001).

¹ An entertainment includes any exhibition, performance, amusement, game or sport to which people are admitted on payment.

5.2.3 Organisational set-up

The implementation of the Act involves two aspects namely, licensing and collection of duty. In Aurangabad, Mumbai, Nagpur, Nashik and Pune the Commissioner of Police is the licensing authority and the District Collector (DC) is responsible for collection of duty. In other districts, the functions of licensing and collection of duty are carried out by the DC. At Taluka level, the Taluka Magistrate is declared as prescribed officer and he is responsible for issuing licences for touring talkies. The DCs are assisted by Resident Deputy Collectors (RDC), Entertainment Duty Officers and Entertainment Duty Inspectors (EDI) for recovery of tax.

5.2.4 Audit objectives

The review was conducted to ascertain -

- the adequacy and effectiveness of the system and procedure for conducting extensive and organised survey to detect unauthorised or illegal performance of any entertainment.
- whether entertainments duty and surcharge (SC), wherever applicable, had been correctly levied and collected on all payments for admission to any entertainment.
- whether internal control and monitoring system existed at Government and division level.

5.2.5 Scope of audit

With a view to examine whether ED was correctly levied and collected, records of the R&FD, Mantralaya, Mumbai, two Dy. Commissioner (ED) offices² out of six and nine RDC offices³ out of 35 for the period 1998-99 to 2002-03 were test checked between December 2003 and March 2004. Records of films exempted from duty by the R&FD during 2002-03 were also examined. Results of test check of records in these offices are detailed in the following paragraphs.

5.2.6 Trend of revenue

The budget estimates and actuals under the Head of Account 'ED' for the years 1998-99 to 2002-03 were as follows:

(Amount in crore of rupees)				
Year	Budget estimates	Actuals	Increase/Decrease	Percentage of variation (Col 4 to Col 2)
1	2	3	4	5
1998-1999	140.10	160.79	(+) 20.69	15
1999-2000	163.10	185.92	(+) 22.82	14
2000-2001	176.10	200.92	(+) 24.82	14
2001-2002	210.10	247.15	(+) 37.05	18
2002-2003	233.31	279.15	(+) 45.84	20

² Konkan and Pune Divisions

³ Ahmednagar, Aurangabad, Jalna, Kolhapur, Mumbai City, Mumbai Suburban, Pune, Thane and Yeotmal (Including units covered in local audit during 2003-04)

The Department attributed the increase in revenue to upward revision in the rate of ED payable by cable operators and inclusion of certain entertainments under the purview of the Act.

5.2.7 Absence of survey of cable connections to detect evasion of tax

Mention was made in paragraph 5.2.10 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 1998 regarding the absence of a periodical, comprehensive and organised survey to check evasion of duty by cable operators and the need to evolve some more practical alternative for computing duty.

The R&FD vide circular dated 12 May 1998 had directed that a special survey campaign be undertaken under the supervision of the Additional Collector of the District for a period of two months commencing from July 1998. The purpose of the campaign was to verify the correctness of the connections declared by the cable operators and to detect the connections not declared. Further, the DC was to review every 15 days the progress of the survey and report to the Government through the Divisional Commissioner. Except for districts in Pune Division wherein a survey was conducted during the period 21 May 2001 to 30 June 2001 in none of the other districts covered in audit any survey was undertaken. Even in Pune, the increase in connections was not commensurate to the population as detailed in the following para. Thus a satisfactory system has not been evolved yet.

Test check by audit in eight districts revealed that the number of cable connections serviced by the cable operators during various periods between 1998-99 and 2002-03 varied between 0.20 lakh and 3.74 lakh as detailed in the following table. However, as per the population of these districts based on the census figures for 1991 and 2001, considering each household as consisting of five members and also assuming that 50 per cent of the households are situated in areas having no cable connectivity (error/leverage margin), there appears to be wide variation in the number of connections disclosed by the cable operators and that being serviced. Failure of Government to conduct extensive survey of cable connections resulted in non-detection of connections and consequential loss of revenue. The revenue potential for the periods mentioned on the shortfall in connections estimated worked out to Rs 169.87 crore. If the statistics for the whole State were computed, the revenue involved would be substantial.

District	Period	Number of connections
Pune	1998-99	0.20 lakh
Pune	1999-00	0.20 lakh
Pune	2000-01	0.20 lakh
Pune	2001-02	0.20 lakh
Pune	2002-03	3.74 lakh
Other districts	1998-99	0.20 lakh
Other districts	1999-00	0.20 lakh
Other districts	2000-01	0.20 lakh
Other districts	2001-02	0.20 lakh
Other districts	2002-03	0.20 lakh

(Amount in crore of rupees)

Sl. No.	Name of the District	Upset price Revenue potential Rs.	Year	No. of connections estimated	No. of connections as per Govt./ Deptt.	Shortfall in connections (5 - 6)	Rate of ED per connection per month	Amount Rs.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Mumbai (city)	19.57 11.98	1998-1999* 1999-2000 2000-2001 2001-2002 2002-2003	3,17,489 3,17,489 3,17,489 3,32,684 3,32,684	88,638 1,07,771 1,21,734 1,39,211 1,51,012	2,28,851 2,09,718 1,95,755 1,93,473 1,81,672	15 15 30 30 30	3.78 3.77 7.05 6.96 6.54
								28.10
2.	Mumbai (Suburban)	28.23 30.92	1998-1999* 1999-2000 2000-2001 2001-2002 2002-2003	6,75,100 6,75,100 6,75,100 8,58,756 8,58,756	1,71,545 1,95,465 2,24,147 2,86,322 3,08,523	5,03,555 4,79,635 4,50,953 5,72,434 5,50,233	15 15 30 30 30	8.31 8.63 16.23 20.61 19.81
								73.59
3.	Pune	11.56 8.67	1998-1999* 1999-2000 2000-2001 2001-2002 2002-2003	5,53,253 5,53,253 5,53,253 7,22,422 7,22,422	19,837 68,109 1,56,358 2,40,754 2,40,754	5,33,416 4,85,144 3,96,895 4,81,668 4,81,668	5 5 10 10 10	2.93 2.91 4.76 5.78 5.78
								22.16
4.	Thane	22.22 9.75	1998-1999* 1999-2000 2000-2001 2001-2002 2002-2003	5,24,912 5,24,912 5,24,912 8,12,883 8,12,883	1,91,911 2,24,697 3,50,377 3,65,988 3,74,074	3,33,001 3,00,215 1,74,535 4,46,895 4,38,809	5 5 10 10 10	1.83 1.80 2.09 5.36 5.27
								16.35
5.	Nashik	3.73 5.99	2001-2002 2002-2003	4,98,792 4,98,792	74,952 85,793	4,23,840 4,12,999	10 10	5.09 4.95
								10.04
6.	Nagpur	7.32 4.86	2001-2002 2002-2003	4,05,144 4,05,144	65,265 65,423	3,39,879 3,39,721	10 10	4.08 4.08
								8.16
7.	Aurangabad	3.52 3.50	2001-2002 2002-2003	2,92,055 2,92,055	43,550 43,550	2,48,505 2,48,505	10 10	2.98 2.98
								5.96
8.	Amravati	1.16 3.13	2001-2002 2002-2003	2,60,606 2,60,606	32,903 29,232	2,27,703 2,31,374	10 10	2.73 2.78
								5.51
Total								169.87

From the table it would be seen that the revenue potential for the year 2002-03 in five out of the eight districts determined by audit was lower than the upset price fixed by Government when calling (July 2003) for tenders for recovery of ED from cable operators by auction.

* Rates effective from 1 May 1998.

After this was pointed out, Government reiterated (March 2004) that due to paucity of staff and heavy workload on the EDI, extensive survey of cable connections was not possible. Also, Government had not succeeded in its move to recover duty on cable connections through auction. The reply of Government is not tenable as Government was aware of the paucity of staff when issuing the circular in May 1998 and had therefore specifically directed that other staff be diverted to the ED branch for a temporary period for conducting the survey. The inaction on the part of Government was in disregard of the revenue potential involved.

5.2.8 Non-levy of surcharge on water parks

Under the provisions of the BED Act, ED on water park was exempted for the first three years from the date of its commencement. For the subsequent two years, ED at the rate of five *per cent* and from the sixth year onwards at the rate of 10 *per cent* on the admission fees was to be recovered. Further, SC at the rate of five *per cent* where payment for admission does not exceed one rupee and in all other cases at the rate of 10 *per cent* in respect of entertainments other than an amusement park is leviable.

Test check of records of Mumbai Suburban and Thane Districts revealed that though ED was recovered from three water parks⁴, no SC was levied and collected. This resulted in non-recovery of Rs 1.15 crore for various periods between April 2000 and March 2003.

After this was pointed out in March 2004, Government stated in October 2004 that orders had been issued in July 2004 for recovery of SC. Further report has not been received (February 2005).

5.2.9 Incorrect exemption to films

Under the provisions of the BED Act, Government may by general or special order, exempt any entertainment or class of entertainments from liability to pay ED. The rules framed under the Act require that exemption be granted to films which have been awarded the Presidents Gold Medal or on the recommendations made by an Advisory Committee appointed by the State Government, provided, it considers that the film fulfills criteria of educational, cultural or social purpose of a high order.

The producer of a film, which is granted exemption from payment of ED, is required to give an undertaking that he would pay an amount equivalent to the amount of ED leviable on the exhibition of such film to the person or persons as most responsible for the educational, cultural or social contribution of such film as nominated by the Advisory Committee.

The producer is also required to submit a weekly return to the DCs specifying particulars of payments made to the nominated person(s) with a copy thereof to Government. Further, any exemption from liability to pay ED granted for exhibition of any such film should be withdrawn, if the producer fails to comply with the undertaking.

Mention was made in paragraphs 5.2.9, 5.2 and 5.6 of the Report of the Comptroller and Auditor General of India for the years ended 31 March 1998,

⁴ Suraj Water Park, Tikuji-Ni-Wadi and Water Kingdom

31 March 1999 and 31 March 2002 of Government of Maharashtra (Revenue Receipts) respectively of the loss of revenue aggregating Rs 38.99 crore during the periods between 1992-1993 and 2001-2002 due to films being exhibited as tax free despite non-fulfillment of the prescribed conditions.

In reply to the audit observation, the Cultural Affairs Department stated (November 1998) that the provisions in the rule were outdated and defective and that action would be taken to amend the rule in consultation with the R&FD. However, Government had not taken any remedial measures in this direction (March 2004).

A scrutiny of the records of the R&FD granting exemption from ED during the year 2002-03 to 14 films revealed that:

- in none of the cases the committee had nominated any person or persons responsible for the educational, cultural or social value of the film, and
- weekly returns as prescribed were not submitted by the producer to the DCs with copy thereof to the Government.

As the essential conditions subject to which exemption from payment of ED granted were not fulfilled, the exemption orders declaring the films as tax free were required to be withdrawn under the rules. However, such action was not taken by the Government. Consequent revenue forgone on account of exemption from ED granted to the 14 films⁵ in six divisions (35 districts) as furnished by the DCs amounted to Rs 1.15 crore as detailed in the following table:

Sl. No.	Division	ED forgone (in lakh of rupees)
1.	Nagpur	1.79
2.	Pune	8.15
3.	Nashik	4.25
4.	Konkan	96.79
5.	Aurangabad	0.91
6.	Amravati	2.92
TOTAL		114.81

Government stated in October 2004 that action had been initiated for amending the rules.

⁵ Dilwale Dulhaniya Le Jayenge, Hum Aapke Hain Kaun, Jo Jeeta Wahi Sikandar, Qayamat Se Qayamat Tak, Dil To Pagal Hai, Maya Memsab, Raja Hindustani, Mission Kashmir, Darr, Ghayal, Lagan, Parinda, Makadi and Chandani.

5.2.10 Non/short levy of duty on new year eve programme

Under the provisions of the Act, where the payment for admission to an entertainment was made by means of a lump sum amount paid as a subscription or contribution, ED was to be levied on 50 per cent of such lump sum at the specified rates. In addition, SC and penalty were leviable as per provisions in the Act.

Scrutiny of records of four districts⁶ revealed that in respect of programmes for which no permission was sought or where there was violation of the conditions for exemption, action to levy or recover ED alongwith SC and penalty amounting to Rs 76.90 lakh was not taken. A few illustrative cases are detailed below:

(Amount in lakh of rupees)					
Sl. No.	Name of office	No. of cases	Nature of event	Nature of objection	Amount of ED, SC and penalty
1.	Deputy Collector, Mumbai Suburban District	2	i) Millennium celebration (December 1999)	Permission was sought for Indian Cultural Dances but Pop and Rock music was performed. No follow up action was taken to levy and recover ED, SC and penalty on failure of the organizers to respond to the show cause notice issued in February 2000.	31.74
			ii) New Year Eve (31 December 2001)	Permission was not obtained for conducting the show. Demand for Rs 26.70 lakh was raised in January 2002 and reference to Government made in July 2002 seeking clarification regarding liability of the organizers to pay ED was not followed up.	26.76
2.	Resident Deputy Collector, Pune	20	New Year Eve (31 December 2000 and 2001)	As against Rs 17.65 lakh only Rs 2.90 lakh was recovered. No follow up action was taken for recovery of balance amount.	14.75
Total:					73.25

After this was pointed out, it was stated (March 2004) that amount of ED, SC and penalty will be recovered from the organizers of the programmes. Further report has not been received (February 2005).

5.2.11 Non/short realisation of ED from cable/dish antenna operators

Under the provisions of the BED Act with effect from 1 May 1998, ED is payable by cable and dish antenna operators at the flat rate of Rs 15, Rs 10 or Rs 5 (increased to Rs 30, Rs 20 or Rs 10 with effect from 1 April 2000) per television set per month depending on whether the area is a municipal corporation, A and B class municipality or other area. A register is maintained in each office to note the connections serviced by each cable operator, ED recoverable and payments made there against.

⁶ Mumbai City, Mumbai Suburban, Pune and Thane.

A test check of records in 20 offices⁷ in 11 districts⁸ revealed that in respect of 394 cable and dish antenna operators, ED amounting to Rs 53.14 lakh was neither paid by the operators nor any demands were raised by the Department for various periods between May 1998 and March 2003. Further, in respect of 98 cable operators, duty of Rs 35.04 lakh was short recovered for the periods between April 1999 and March 2002. The under-assessment was due to failure to review the register containing data of connections serviced by each cable operator, ED recoverable and payments made there against.

After this was pointed out in audit the Department recovered ED of Rs 46.09 lakh from 314 cable/dish antenna operators. Report on recovery of the balance amount has not been received (February 2005).

5.2.12 Incorrect grant of exemption

Under the provisions of the BED Act, entertainments are exempt from levy of duty provided the Commissioner of Police (upto January 2001), RDC/Dist. Magistrate (as applicable) was satisfied that all the receipts of an entertainment are devoted to charitable purposes or the entertainment is of a wholly educational character or the entertainment is provided partly for educational and partly for scientific purposes by a society, institution or committee not conducted or established for profit. The organisers are required to render full and true account of the whole of the takings within one month or within such period as allowed by the prescribed officer after the date of entertainment.

Failure to comply with the conditions would entail forfeiture of the deposit amount besides legal action under the provisions of the Act and rules framed thereunder, in addition to payment of duty that would have been levied had exemption of ED not been granted. As exemption allowed has an impact on the revenue, it is essential to ensure that the purpose for which exemption is granted are clearly mentioned and fulfillment of the conditions followed up.

In Mumbai City, scrutiny of records relating to exemption from ED given by Government to Mehli Mehta Music Foundation for shows held in March 2003 revealed that neither accounts of the event nor certificate of utilisation of the funds were submitted by the organisation (March 2004). However, ED of Rs 19.19 lakh for non-fulfillment of the conditions was not levied and demanded.

After this was pointed out in January 2004, the Dy. Collector, Mumbai City stated that notice for recovery of the amount would be sent to the organisation. Further report has not been received (February 2005).

⁷ RDC: Amravati, Ahmednagar, Aurangabad, Jalgaon, Latur, Mumbai City, Pune Zone B, G & H, Thane, and Yeotmal.
Tahsildars: Andheri Zone I & III, Borivali Zone V, Kurla Zone VIII, IX, X, Miraj, Umarkhed and Ulhasnagar.

⁸ Ahmednagar, Amravati, Aurangabad, Jalgaon, Latur, Mumbai City, Mumbai Suburban, Pune, Sangli, Thane, and Yeotmal.

5.2.13 Non-recovery of ED despite withdrawal of exemption

As per resolutions dated 1 August 1998 and 25 February 2003 permanent exemption granted to four hindi films⁹ was withdrawn by Government.

A test check of records in 17 offices¹⁰ in seven districts¹¹ revealed that ED amounting to Rs 8.04 lakh was neither paid by the proprietors of theatres nor were demands raised by the Department for exhibition of these films between July 2002 and March 2003.

After this was pointed out between September 2003 and January 2004, the Department intimated recovery of Rs 0.50 lakh. Report on recovery of the balance amount has not been received (February 2005).

5.2.14 Non-levy of penal interest on delayed payment of ED

Under the provisions of the BED Act, where a proprietor fails to pay the amount of ED within the prescribed period, he shall be liable to pay in addition to duty, penal interest at 18 *per cent* per annum for the first 30 days and 24 *per cent* per annum thereafter on such amount, from the date such amount becomes payable till the amount and interest is fully paid. The payment of ED is monitored with the help of the register maintained in each office.

Scrutiny of records in four offices¹² between March 2001 and December 2002 revealed that in respect of 15 theatres and five cable operators, penal interest amounting to Rs 14.40 lakh was not levied and demanded for delays ranging between one to 26 months in payment of ED for periods between 1998-1999 and 2001-2002. The non-levy of penal interest was due to failure to review the payments made by the theatre owners and cable operators.

After this was pointed out, the Department recovered Rs 14.22 lakh in 18 cases between October 2002 and November 2004. Report of action taken in the remaining cases has not been received (February 2005).

5.2.15 Non-realisation of ED from proprietors of dance bars

Under the provisions of the Act, ED is payable in advance by the tenth day of every calendar month by the proprietor of every dance bar in respect of every dance performance at the rate of Rs 10,000 per month within the limits of Municipal Corporation of Brihan Mumbai and Rs 5,000 per month outside the limits of Municipal Corporation of Brihan Mumbai. A register is being maintained in each office to note the ED recoverable from the proprietors of dance bars and payments made there against.

A test check of records in three offices¹³ in Mumbai Suburban and Thane Districts between May 2002 and October 2002 revealed that in respect of 19 dance bars, ED amounting to Rs 6.75 lakh was neither paid by the proprietors

⁹ Dil To Pagal Hai, Dilwale Dulhaniya Le Jayenge, Darr and Hum Aapke Hain Kaun

¹⁰ RDC: Jalna, Kolhapur, Thane, Aurangabad and Pune Zone K and D1-D2.

Tahsildars: Dy. Collector Mumbai City Zone VI, VIII, XI, Borivali Zone V, VI, VII, VII-A, Kurla Zone IX, X, XII and Thane.

¹¹ Jalna, Mumbai City, Mumbai Suburban, Kolhapur, Pune, Thane and Aurangabad.

¹² RDC Aurangabad, Nashik and Solapur

Tahsildar Borivali VII A.

¹³ Tahsildar Kurla Zone VIII & X., R.D.C. Thane

nor were any demands raised by the Department for various periods between April 2001 and March 2002. The non-realisation of ED was due to failure to review the register.

After this was pointed out, the Department recovered between June 2002 and March 2003, ED of Rs 3.15 lakh from the proprietors of seven dance bars. Report on recovery of the balance amount has not been received (February 2005).

5.2.16 Non-forfeiture of security deposit

Under the Bombay Entertainments Duty Rules, 1958, every organizer of an entertainment shall furnish such security to the prescribed officer as that officer may require. If an organizer fails to submit return and accounts or to pay the ED due within 10 days after the date of entertainment or such extended period not exceeding one month as the prescribed officer may allow, the prescribed officer may after giving the organiser a weeks notice, forfeit the security deposit to the State Government.

In Mumbai (City), Mumbai (Suburban) and Pune Districts, security deposits amounting to Rs 86.88 lakh were collected during the period between April 1998 and March 2003 from the organisers of 79 performances such as new year eve programme, fun fair, music concert *etc.* However, despite failure on the part of the organizers to submit return and accounts or pay duty for periods ranging from one year to five years after the date of entertainment, the deposits were not forfeited and remitted to Government account but were lying in the personal ledger account/cash chest.

Further, in Mumbai City reconciliation of the balances of security deposit was not carried out with the balances as per RBI records.

After this was pointed out, the Department stated in March 2004 that action would be initiated and balance reconciled. Report of action taken has not been received (February 2005).

5.2.17 Non-furnishing of security deposit by the proprietors of dance bars.

As per Government circular dated 31 January 2001, security deposit (SD) of Rs one lakh from the proprietor of a dance bar in the jurisdiction of Greater Mumbai Municipal Corporation (GMMC) and of Rs 50,000 in case of a dance bar outside the jurisdiction of GMMC in the form of bank guarantee/national saving certificates was required to be obtained.

A test check of records in Konkan Division revealed that out of 406 dance bars functioning in the division, SD of Rs 2.50 lakh (Rs 1 lakh each in two cases and Rs 0.50 lakh in one case of Raigad) was obtained from only three dance bars. No SD was obtained from the remaining 403 dance bars.

After this was pointed out in January 2004, the Department stated that permission to dance bars was granted by the Collector under clause 4(2) (b) of the BED Act, subject to the proprietor of the dance bar obtaining performance licence from the police authority. Most of the proprietors were not interested in obtaining performance licence, hence, permission under clause 4(2)(b) was not granted which resulted in non-furnishing of SD by the proprietors of dance

bars. The reply is not tenable as non-adherence of the prescribed condition led to unauthorised functioning of the dance bars.

5.2.18 Working of vigilance squad and internal control

For proper implementation of the Act, a vigilance squad headed by a Assistant Commissioner (Entertainments) assisted by two EDIs is functioning in each Divisional Commissionerate.

A scrutiny of records of Konkan and Pune Divisions in January 2004 and March 2004 revealed that compliance reports to 327 out of the 973 inspection notes in Konkan Division and 53 out of 705 inspection notes in Pune Division pertaining to the period 1997-98 to 2002-03, forwarded to the concerned Collectors for necessary action were awaited (March 2004). These included non-recovery of Rs 23.86 lakh in four cases in Konkan Division and Rs 14.16 lakh in 35 cases in Pune Division forwarded to the Collectors between July 1998 and March 2003. This indicated absence of an effective internal control mechanism to follow up and recover the dues.

5.2.19 Conclusions/recommendations

Audit check revealed that in the absence of organised survey, the Department had no control mechanism to detect illegal or unauthorised performance of entertainments.

Government may consider the following steps to enhance revenue and improve collection:

- conduct extensive and organised survey, if necessary, in co-ordination with other agencies carrying out surveys to detect illegal or unauthorised performance of entertainments. For this purpose Government may create posts of EDIs.
- maintain complete data base of places of entertainments/cable operators at Divisional level to monitor and exercise overall control over assessment and collection of duty.
- reinforce the existing vigilance squad.

The above points were reported to Government in May 2004; Government accepted (September 2004) the recommendations proposed by audit.

SECTION B STATE EDUCATION CESS AND EMPLOYMENT GUARANTEE CESS

5.3 Short/non-remittance of cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, and the rules made thereunder, cess and penalty recovered by the municipal corporations (MCs) are required to be credited to Government account before the expiry of the following week. If any MC defaults in the payment to the State Government of any sum under the Act, the State Government may after holding such enquiry, fix a period for the payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum

from such bank account to the State Government. Any such payment made in pursuance of the orders of the Government shall be sufficient discharge to such bank/treasury from all liabilities to the MC.

It was noticed that five MCs, had not remitted revenue amounting to Rs 22.79 crore relating to State Education Cess (SEC) of Rs 9.29 crore and Employment Guarantee Cess (EGC) of Rs 13.50 crore, collected during various periods falling between 1998-99 and 2002-03 as detailed in the following table:

(Amount in crore of rupees)					
Sl. No.	Name of Corporation	Period of collection	Amount of collection		
			EC	EGC	Total
1.	Amravati	1998-99 to 2001-02	0.65	0.02	0.67
2.	Kalyan-Dombivali	March 2001	0.29	0.02	0.31
3.	Mumbai				
	(i) (City)	2002-03	--	4.36	4.36
	(ii) (Eastern Suburb)	2002-03	1.83	2.28	4.11
	(iii) (Western Suburb)	2002-03	3.76	6.49	10.25
4.	Nagpur	March 2003	2.53	0.30	2.83
5.	Solapur	March 2003	0.23	0.03	0.26
Total			9.29	13.50	22.79

After this was pointed out, an amount of Rs 2.49 crore (EC Rs 2.42 crore and EGC Rs 0.07 crore) was remitted/recovered by adjustment against grant due to four MCs¹⁴ between May 2001 and December 2003. Report of action taken for the balance amount has not been received (February 2005).

The matter was reported to Government in May 2004, their reply has not been received (February 2005).

SECTION C TAX ON BUILDINGS (With Larger Residential Premises)

5.4 Non-levy of tax on buildings with larger residential premises

Under the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (LRP) (Re-enacted) Act, 1979 (MTOB, Act), tax is leviable (with effect from 1 April 1974) on all buildings in corporation area containing residential premises with floor area exceeding 125 square metres and whose rateable value exceeds one thousand five hundred rupees. The rate of tax is 10 *per cent* of the annual rateable value of the residential premises and is collected in the same manner in which property tax is collected by the MCs. The Municipal Commissioner is required to furnish within three months

¹⁴ Amravati, Kalyan-Dombivali, Mumbai, Solapur.

from the date of expiry of every year to the State Government a return showing the aggregate amount of tax assessed by the assessing authority in respect of that year and the aggregate amount of tax and penalty collected in that year.

It was noticed from assessment records in 10¹⁵ municipal wards of Brihan Mumbai MC that tax amounting to Rs 88 lakh in respect of 3,133 properties for the year 1999-2000, 2000-2001 and 2001-2002 was not demanded resulting in non-recovery of tax of Rs 88 lakh. This indicated absence of monitoring at Mantralaya level.

After this was pointed out, the MC raised demands for the years 1999-2000, 2000-2001 and 2001-2002 in July 2001, July 2002 and August 2002 respectively and recovered Rs 21 lakh in 906 cases for the year 1999-2000, Rs 30 lakh in 1,023 cases for the year 2000-01 and Rs 2 lakh in 103 cases for the year 2001-02 between July 2001 and October 2003. Report on recovery of the balance amount has not been received.

The matter was reported to Government in May 2004; their reply has not been received (February 2005).

5.5 Non-remittance of tax

Under the provisions of the MTOB (LRP) Act, tax recovered by a MC on behalf of the State Government shall be credited to the Consolidated Fund of the State within 30 days from the date of its recovery. If any MC defaults in payment to the State Government of any sum under the Act, the State Government may after holding such enquiry, fix a period for payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of Government shall be sufficient discharge to such bank/treasury from all liabilities to the MC.

It was noticed in audit that four MCs¹⁵ had not remitted revenue amounting to Rs 6.35 crore collected on account of tax on buildings (with larger residential premises) during the years between 1999-2000 and 2002-2003. In none of the cases, the bank/treasury was directed to pay the sum to the State Government. Further the non-remittance of tax by the MC was not monitored at Mantralaya level.

After this was pointed out, the Amravati MC remitted the collection of Rs 0.01 crore in November 2002. The Pune MC and Solapur MC stated in August 2003 and December 2003 that the amount would be credited to Government account. Further report had not been received (February 2005).

The matter was reported to Government in March 2004; their reply has not been received (February 2005).

¹⁵ Andheri, Bandra, Chembur, Dahisar, Ghatkopar, Kandivali, Kurla, Mulund, Parel and Santacruz.

¹⁶ Amravati, Mumbai, Pune and Solapur.

SECTION D REPAIR CESS

5.6 Short levy of repair cess

Under the provisions of the Maharashtra Housing and Area Development (MHAD) Act, 1976, repair and reconstruction cess is leviable at slab rates as a percentage of the rateable value of the buildings in the city of Mumbai as prescribed in the second schedule to the Act. When a building is structurally repaired, the cess is leviable at enhanced rates depending upon the slab of expenditure incurred by the Board. The permissible limit towards cost of repairs to be borne by the Board was enhanced from Rs 750 to Rs 1,000 per square metre with effect from May 1998 but the rate of cess leviable was not prescribed.

In Mumbai, it was noticed in the assessments of 123 properties, in F (South) and B wards that the buildings were repaired by incurring expenditure in the slab of Rs 750 to Rs 1,000 per square metre and the rate of cess was to be enhanced on various dates between April 1999 and March 2002. Despite the rate of cess for repairs of expenditure of Rs 750 per square metre being prescribed, cess was continued to be levied at the rate applicable to the lower slab of Rs 300 to Rs 500 per square metre. This resulted in short levy of cess of a minimum of Rs 41.19 lakh for the periods between 1999-2000 and 2001-2002 at the rate applicable for the permissible expenditure limit of Rs 750 per square metre.

After this was pointed out, the Dy. Assessor & Collector, Brihan Mumbai MC issued instructions in February 2004 to the Asstt. Assessors and Collectors of the wards concerned to raise additional demand for the amounts short recovered. Report on action taken and recovery effected has not been received (February 2005).

The matter was reported to Government in April 2004; their reply has not been received (February 2005).

5.7 Non-remittance of repair cess

Under the provisions of the MHAD Act, 1976 (effective from 5 December 1977) repair and reconstruction cess recovered by the Brihan Mumbai MC on behalf of the State Government is required to be credited to the Consolidated Fund of the State within 15 days from the date of recovery after deducting there from five *per cent* of the amount of cess recovered towards cost of collection. The Act empowers the Government to direct the bank or treasury in which the earnings of the MC are deposited to pay such sums to the State Government. Any such payment made in pursuance of the orders of Government shall be sufficient discharge to such bank/treasury from all liabilities to the MC.

It was noticed that the Brihan Mumbai MC, had not remitted repair cess amounting to Rs 26.48 crore collected by it during the period between April 2003 and December 2003 to Government Account (March 2004). However, no action was taken to direct the bank/treasury for recovery of the dues.

The matter was reported to Government in April 2004; their reply has not been received (February 2005).

SECTION E PROFESSION TAX

5.8 Non-realisation of profession tax

Under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975 and the Rules made thereunder, every person liable to pay profession tax is required to obtain certificate of enrolment from the Profession Tax Officer and pay tax annually at the rates prescribed in the Schedule to the Act.

A test check of records in 10 Profession Tax Offices¹⁷ revealed that profession tax amounting to Rs 13.14 lakh in respect of 567 persons enrolled under various entries covered under the schedule to the Act for various periods between 1998-99 and 2001-02 was neither paid by them nor demanded by the Department.

After this was pointed out between June 1999 and December 2002, the Department recovered Rs 2.68 lakh in 125 cases (between June 1999 and July 2004). Report of recovery of the balance amount has not been received (February 2005).

The matter was reported to Government in April 2004; their reply has not been received (February 2005).

SECTION F ELECTRICITY DUTY

5.9 Incorrect retention of electricity duty

Under the provisions of the Bombay Electricity Duty Act, 1958, every licensee who supplies electricity to the consumers is required to collect the electricity duty from the consumers together with his own charges and pay it to the State Government by the prescribed date. Further, if the duty collected is not deposited by the prescribed date, interest at the rate of 18 per cent per annum for the first three months and at the rate of 24 per cent per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

The Maharashtra State Electricity Board (MSEB) had collected electricity duty aggregating Rs 570.61 crore for the period from April 2003 to February 2004 from the consumers but had not remitted the amounts to Government Account. The interest payable on the unpaid duty upto end of March 2004 amounted to Rs 60.49 crore.

¹⁷ Ahmednagar, Barshi, Beed, Kalyan, Khamgaon, Kolhapur, Malegaon, Mumbai, Osmanabad and Parbhani.

After this was pointed out, the Department stated that despite reminders in November 2003, February 2004 and March 2004, MSEB had not submitted the quarterly returns and challans evidencing payment of duty.

Government in reply to an audit enquiry in May 2004 stated that electricity duty payable by MSEB during the year 2003-04 had not been recovered by book adjustment against the grant payable to them.

The matter was reported to Government in May 2004; their reply has not been received (February 2005).

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CHAPTER VI : Non-Tax Revenue

6.1 Results of audit

Test check of records of non-tax receipts conducted during the year 2003-2004 revealed under-assessment/short levy/loss of revenue *etc.*, of Rs 846.61 crore in 54 cases, which broadly fall under the following categories:

Sl. No.	Category	No. of cases	Amount (in crore of rupees)
1	Loss of tendu leaves	4	1.87
2	Loss of forests revenue	24	17.76
3	Loss of revenue due to deterioration in transit, on sale, non-extraction/non-lifting of material other than tendu leaves and bamboo	13	4.23
4	Miscellaneous	9	47.35
5	Other	1	0.14
6	Levy and collection of guarantee fees	1	504.55
7	Review on Interest Receipts	1	247.23
8	Review on Non-tax receipts of Co-operation Department	1	23.48
Total		54	846.61

During the course of the year 2003-2004, the Department accepted under-assessments, *etc.*, in 23 cases involving Rs 68.22 crore. Of this two cases involving Rs 67.70 crore related to the year 2003-04 and the rest to earlier years. The departments recovered Rs 4.48 crore.

Two reviews on **Interest Receipts and Non-Tax Receipts of Co-operation Department** involving financial effect of Rs 247.24 crore and Rs 5.41 crore respectively and one paragraph having financial effect of Rs 13.05 crore are given in the following paragraphs:

6.2 Review on Interest Receipts

6.2.1 Highlights

Complete details of principal and interest, essential for effective and meaningful control over the total amount of loans/advances of Rs 9,693.37 crore were not available with the Finance Department.

(Paragraph 6.2.7)

Lack of monitoring and internal control was noticed in the administrative departments regarding repayment of principal and recovery of interest by field offices due to improper maintenance of records.

(Paragraph 6.2.8)

Principal and interest amounting to Rs 347.65 crore and Rs 206.54 crore respectively was outstanding from 13 loanees.

(Paragraph 6.2.10)

Maharashtra Electronics Corporation Limited had not repaid loans and interest amounting to Rs 11.09 crore.

(Paragraph 6.2.11)

Failure to prescribe terms and conditions of loans advanced resulted in non-recovery of interest of Rs 30.97 crore from 71 co-operative sugar factories and Rs 3.78 crore from 30 Fisheries Co-operative Societies for the periods between April 1998 and March 2003.

(Paragraph 6.2.15)

6.2.2 Introduction

Interest receipts is the major source of non-tax revenue of the State Government. This comprises interest charged on loans advanced by Government to various co-operative societies, local bodies, corporations, autonomous bodies, Government companies, non-government institutions and individuals including Government servants. The loans advanced by Government usually carry interest at the rates fixed by the sanctioning authority keeping in view the financial resources and purpose for which the loan is provided. The period and manner of repayment of the loan as well as the rate of interest and the mode of its payment are generally specified before grant of loan and are indicated in the sanction order itself. Penal interest is chargeable on instalments of principal and interest not paid as per conditions of sanction.

6.2.3 Organisational set up

Proposals for grant of loans are processed by the Heads of departments and then recommended to the administrative departments which issue sanction orders with the concurrence of the Finance Department. Recovery of loans alongwith interest and penal interest, wherever applicable, is watched by the various controlling and recovery officers (subordinate officers under the respective administrative departments) designated for the purpose.

6.2.4 *Audit objectives*

A test check of records was conducted to verify and ascertain

- whether the loan ledgers and other related records were properly maintained to determine the interest due and outstanding at the end of the year.
- whether demands were raised for recovery of interest on due dates and penal interest was levied and recovered in cases of default in repayment of principal and interest.
- the existence of internal control mechanism to ensure compliance of the terms and conditions of sanction with particular reference to maintenance of records and recovery of interest.

6.2.5 *Scope of audit*

Test check of records and accounts for the period 1998-99 to 2002-03 maintained by six¹ out of 16 departments which had advanced loans at Mantralaya and 19 controlling and recovery officers² thereunder who are responsible for disbursement and recovery of loans and interest and three corporations³ responsible for repayment of loans and payment of interest was conducted between December 2003 and April 2004. The findings of the review are given in succeeding paragraphs.

6.2.6 *Trend of Revenue*

Details of budget estimates(BEs) and actuals of interest receipts, variation between budget estimates and actuals of interest receipts and percentage of variation for the years 1998-99 to 2002-03 were as under:

¹ Agriculture, Animal Husbandry, Dairy Development and Fisheries; Water Supply and Sanitation; Housing; Co-operation & Textiles; Urban Development and Industries, Energy & Labour Department.

² Commissioner of Agriculture, Commissioner of Animal Husbandry, Commissioner of Fisheries, Commissioner of Sugar, Directorate of Marketing, Commissioner of Co-operation and Registrar of Co-operative Societies.

District Dy. Director of Animal Husbandry (Poultry) Pune; District Dy. Director of Animal Husbandry (Poultry) Nashik; District Dy. Registrar of Co-operative Societies Pune; District Dy. Registrar of Co-operative Societies Nashik; Regional Joint Director of Animal Husbandry Pune, Joint Registrar of Sugar, Pune; Regional Dy. Director Fisheries Bandra, Mumbai; Regional Joint Director of Marketing Pune; Assistant Director of Fisheries, Raigad, Thane; Mumbai; Director of Industries, Mumbai; Director of Municipal Administration, Mumbai.

³ Maharashtra State Farming Corporation Pune; Maharashtra State Cotton Growers Marketing Federation Ltd. Mumbai; Brihan Mumbai Municipal Corporation.

(Amount in crore of rupees)				
Year	BE	Actuals	Variation	Percentage of variation
1998-1999	1,510.55	1,653.89	(+) 143.34	9.49
1999-2000	1,163.48	1,724.16	(+) 560.68	48.19
2000-2001	1,226.21	3,161.63	(+) 1,935.42	157.84
2001-2002	982.42	1,845.60	(+) 863.18	87.86
2002-2003	1,136.58	1,777.27	(+) 640.69	56.37

The table indicates that the percentage of variation between budget estimates and actuals increased from 9.49 in 1998-99 to 157.84 in 2000-01 and thereafter decreased to 87.86 in 2001-02 and 56.37 in 2002-03.

The variation of 157.84 *per cent* during 2000-01 was attributed by the Finance Department mainly due to increase in recoveries of arrears of interest of the years 1998-99 and 1999-2000 from Maharashtra State Electricity Board (MSEB) by adjustment in 2000-01. As for the years 2001-02 and 2002-03 the receipts on account of interest from MSEB were pending. The variations were indicative of defective budgeting and lack of scientific approach in preparation of budget estimate.

6.2.7 Arrears of revenue

- According to circular instructions of Finance Department issued in December 1985, Administrative departments in Mantralaya/Heads of departments thereunder are required to maintain detailed accounts of loans indicating year-wise breakup of arrears of interest pending collection at the beginning of each year, interest receivable for the year, amount of interest waived or written off during the year, amount collected during the year and the balance recoverable at the end of the year. Except for the Commissioner of Fisheries, Mumbai and Commissioner of Animal Husbandry, Pune in none of the departments selected for audit detailed and complete loan accounts were maintained.

As per Finance Accounts of the Government of Maharashtra, the total arrears of loans and advances under different heads stood at Rs 9,693.37 crore as on 31 March 2003. Details of principal and interest thereon outstanding were not available in the Finance Department despite it being responsible for monitoring the debt and loan position.

- As per information furnished by five controlling officers, loans and interest amounting to Rs 233.84 crore and Rs 276.20 crore respectively were outstanding as on 31 March 2003 as follows:

(Amount in crore of rupees)

Sl. No.	Name of the controlling officer	Loans outstanding as on 31 March 2003	Interest
1.	Commissioner of Sugar, Pune	172.82	191.50
2.	Commissioner for Co-operation & Registrar of Co-operative Societies, Pune	1.23	1.45
3.	Director of Marketing, Pune	22.06	43.85
4.	Commissioner of Fisheries, Mumbai	18.51	4.08
5.	Commissioner of Animal Husbandry, Pune	19.22	35.32
Total		233.84	276.20

Except, for the Commissioner of Fisheries at Mumbai and Commissioner of Animal Husbandry at Pune, none of the remaining controlling and recovery officers concerned in the review had details of the year-wise break up of the arrears.

- During test check of records maintained by three controlling officers⁴ in the Co-operation and Animal Husbandry departments, it was noticed that Rs 212.19 crore including interest and penal interest was recoverable from 51 co-operative societies as on 31 March 2003. Of these, 35 societies were closed and 16 were under liquidation. The details of loans disbursed and outstanding interest as on 31 March 2003 in respect of two Marketing Co-operatives under liquidation were not available with the Department.

6.2.8 Lack of monitoring and internal control

According to orders issued by the Finance Department in February 1966 and reiterated in May 1999, the Administrative departments are required to intimate to the Accountant General every year by 15 July, the arrears in recovery of principal and interest on loans at the end of the preceding month of March. Further as per circular instructions of Finance Department of December 2000, the Administrative departments at Mantralaya are required to collect information from their subordinate controlling and recovery officers for compilation and consolidation.

Mention was made in paragraphs 6.2.6 and 6.3.6 of the Report of the Comptroller and Auditor General of India for the years ended 31 March 1998 and 31 March 1999 (Revenue Receipts), Government of Maharashtra respectively about the non-existence of a monitoring system in Government departments for periodical review of the demand, collection and balances

⁴ Commissioner of Sugar Pune, Director of Marketing Pune and Commissioner of Animal Husbandry, Pune.

under the different classes of loans. The Reports are yet to be discussed by the Public Accounts Committee. There was no change in the position as observed in the six departments reviewed. Mention was also made in paragraph 1.12 of the Report of the Comptroller and Auditor General of India (Civil) for the year ended 31 March 2001 regarding management of loans given by the State Government.

Government had not prescribed any return detailing the amount of loan outstanding at the beginning of the year, disbursement during the year, recovery made during the year of old arrears and current dues and balance outstanding at the end of the year. As a result, neither at Mantralaya nor at the level of controlling officers under any Department (except Fisheries and Animal Husbandry), information regarding the year-wise details of loans disbursed, recovery effected and outstanding balances were available.

None of the recovery officers were furnishing progress reports to Government regularly. There is no independent Internal Audit Wing functioning in any of the departments selected for review which is indicative of lack of internal control in the administrative departments.

6.2.9 Invocation of guarantees

Information furnished by the Finance Department revealed that the entire amount of Rs 24.06 crore paid during 2002-03 by Government on invocation of 16 guarantees⁵ by the lending institutions was yet to be recovered from the borrowers (September 2003). In addition, interest recoverable at the rate of 14.5 per cent for the period March 2002 to March 2003 worked out to Rs 2.23 crore. Details of follow up action taken to recover the principal and interest was not furnished by Government.

6.2.10 Non-recovery of principal and interest

Loans aggregating to Rs 353.53 crore were sanctioned to co-operative societies/public sector undertakings/municipal councils and corporations between 1995 and 1999-2000 which were repayable in periods ranging between six months and 20 years along with interest. For default in payment, penal interest was to be levied.

Test check of records revealed that 13 loanees had not repaid the loans alongwith interest as per repayment schedule. Penal interest was, however, not levied. The outstanding amounts of principal of Rs 347.65 crore and interest and penal interest of Rs 206.54 crore for the periods between April 1998 and March 2003 was as follows:

⁵ Co-operative Sugar Factories.

(Amount in crore of rupees)

Sl. No.	Name of the Department Name of the office	No. of societies /loances	Month of sanction Between	Amount of loan	Repayment period	Rate of interest in per cent	Period for which interest is payable Between	Amount due Principal Interest including penal interest	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	<u>Co-operation and Textiles</u>								
	Maharashtra State Co-operative Cotton Growers Marketing Federation Ltd.	1	11/99 and 3/2000	334.40	Within 6 months	14.5 per cent penal interest 2	11/99 and 3/03	334.40	196.49
2.	<u>Urban Development</u>								
	(i)Municipal Corporation	2	2/95 and 3/2000	5.66	10/20 years	Between 12.75 and 14.5 18 for default	1998-99 and 31.3.03	1.80	3.59
	(ii) Director of Municipal Administration	9	3/99 and 3/2000	2.27	15 annual instalments	13	2000 and 3/2003	0.25	0.42
3.	<u>Revenue and Forests</u>								
	Maharashtra State Farming Corporation	1	5/99 and 8/2000	11.20	5 annual instalments	18.5 for default 2.75 additional	5/99 and 3/03	11.20	6.04
		13		353.53				347.65	206.54
								554.19	

6.2.11 Non-recovery of principal and interest from the Maharashtra Electronics Corporation Limited (MELTRON)

The State Government had sanctioned loans amounting to Rs 7.60 crore to MELTRON between July 1999 and September 2000. The loans carried interest at the rate of 15.5 per cent per annum repayable in two annual instalments. For default in payment of principal and/or interest, penal interest at the rate of two per cent per annum was also leviable.

Scrutiny of records relating to loans given to the corporation revealed that loans amounting to Rs 7.60 crore and interest of Rs 3.49 crore including penal interest of Rs 0.53 crore for periods between July 1999 and March 2003 had not been recovered.

After this was pointed out, the Directorate of Industries stated in June 2004 that MELTRON had been asked to credit the loan with interest.

6.2.12 Non-conversion of special redeemable share capital into loan

Under the scheme of mechanisation of fishing vessels, if the entire loan amount was repaid in 12 years, 20 *per cent* of the total assistance being the Special Redeemable Share Capital (SRSC) was to be converted into subsidy, otherwise, it was to be treated as loan and recovered along with interest.

Test check of records maintained by the recovery officers at Mumbai, Raigad and Thane, revealed that in 57 cases loans amounting to Rs 2.16 crore were disbursed between June 1979 and October 1990 to the fisherman co-operative societies out of which Rs 1.21 crore were recovered and balance loan of Rs 0.95 crore was outstanding at the end of 12th year. However, SRSC amounting to Rs 57.67 lakh was not treated as loan on failure to repay the instalments within the stipulated period. Interest recoverable thereon at various rates ranging from 10 to 12 *per cent* amounted to Rs 10.66 lakh for periods between April 1998 and March 2003.

6.2.13 Forfeiture of rebate and liability towards interest

Funds in the form of loans are placed at the disposal of the State Government by the National Co-operative Development Corporation (NCDC) for disbursement to the co-operative bodies. The loans are repayable in instalments and carry varying rates of interest. A rebate is given to the State Government by NCDC for repayment of principal and interest due during any financial year by 20 September of the ensuing year. In case of delay in remittance of instalment beyond the due date, penal interest at the rate of 2.5 *per cent* is payable for the period of delay.

It was seen from the records in Agriculture, Animal Husbandry, Dairy Development and Fisheries Department that loans were advanced for various schemes by NCDC. In respect of loans advanced upto 2001-02, an amount of Rs 30.52 crore was payable by 20 September 2002 after allowing rebate. As against this, Rs 28.90 crore was paid on 20 September 2002 leaving a balance of Rs 1.62 crore. NCDC communicated to Government in April 2003 that for default in payment it was liable to pay Rs 16.51 lakh as under:

	Amount (in lakh of rupees)
1. Forfeiture of rebate on Rs 1.62 crore	4.50
2. Interest at the rate of 14.5 <i>per cent</i> for default in payment.	10.19
3. Penal interest at the rate of 2.5 <i>per cent</i>	1.82
	16.51

On representation by Government in June 2003 for waiver of penal interest and normal interest, NCDC stated in July 2003 that it may consider the waiver of penal interest of Rs 1.82 lakh only after payment of Rs 14.69 lakh was made and subject to approval by the Board.

Failure to make timely payment of the dues to NCDC resulted in Government forgoing rebate of Rs 4.50 lakh and being liable for interest and penal interest of Rs 12.01 lakh.

6.2.14 Non-payment of instalments of interest free loans

Government converted between March 2000 and May 2002 outstanding loan of Rs 22.59 crore and interest of Rs 13.17 crore due from six sugar co-operatives into interest free loan of Rs 29.87 crore (Rs 22.59 crore principal and Rs 7.28 crore interest) after waiving interest of Rs 5.89 crore due from Bhogawati Sahakari Sakhar Karkhana, Solapur. The loan was repayable in seven to 15 annual instalments fixed by Government commencing from March 2000. Each instalment was to be paid before 31 March every year. In case of default, the amount was to be recovered in lump sum with penal interest. Accordingly, Rs 8.95 crore were due for payment upto 31 March 2003 as per instalments fixed by Government.

A scrutiny of records in the office of the Commissioner of Sugar, Pune, revealed that none of the sugar co-operatives had paid the instalments fixed by Government. No action was taken to recover the dues as arrears of land revenue.

6.2.15 Failure to prescribe terms and conditions of loans

- The sanction orders for the payment of loans issued by Government should specify the terms and conditions of their payment, such as, number of instalments in which principal is to be repaid, the date of commencement of repayment, rate of interest including penal interest *etc.*

During scrutiny of records in the office of the Commissioner of Sugar, Pune it was noticed that in respect of loans amounting to Rs 57.08 crore sanctioned to 71 co-operative sugar factories between August 1993 and December 2002 the terms and conditions had neither been specified nor communicated by Government. The omission resulted in non-recovery of interest amounting to Rs 31.93 crore for the period August 1996 to March 2003 calculated at the rate of 14.5 *per cent* per annum applicable to similar loans granted by Government to sugar factories. Of this, the interest for the period April 1998 to March 2003 amounted to Rs 30.97 crore.

- Under the scheme of mechanisation of fishing crafts with assistance from the NCDC, the loans advanced were repayable in 12 years in 96 equal monthly instalments (excluding the four months from June to September every year). The rate of interest payable was 15.25 *per cent*. For default in payment of instalment of loan and interest, in addition to interest, penal interest at the rate of 3.25 *per cent* was recoverable for the period of default. As per General Financial Rules instalment due will also include interest due on the outstanding amount of principal.

In Mumbai, Raigad and Thane it was noticed that in respect of loans aggregating Rs 8.25 crore sanctioned between 1997-98 and 2000-01 to 30 fisheries co-operative societies, interest was not included in the

instalments on the plea that in the absence of mention of inclusion of interest in the instalment, the same was recoverable after 12 years. This resulted in non-recovery of interest amounting to Rs 3.78 crore (including penal interest of Rs 1.33 crore) for the period between April 1998 and March 2003.

6.2.16 Non-reconciliation

As per the provisions of the Maharashtra Treasury Rules, 1968 read with paragraphs 428 and 429 of the Maharashtra Treasury Manual, every head of office should carry out reconciliation of departmental receipts with the treasury officer immediately after completion of the month and get a certificate to that effect from the Treasury Officer.

None of the departments covered in the review carried out reconciliation of interest receipts and repayment of loans with the records maintained by the Treasury Officer concerned and the records of the Accountant General (A&E).

6.2.17 Conclusions/recommendations

A test check of records in the six departments revealed that failure to ensure timely repayment of loans and interest had adversely affected the ways and means position of the State. This was due to absence of a system to monitor recoveries by the controlling officers.

As interest receipts constitute a major portion of the non-tax revenue, it is necessary for Government to have a detailed look at the system and procedures with a view to ensuring timely raising of demands and follow up for recovery of loans and interest.

To improve the position Government may consider taking the following steps.

- review and strengthen the existing system for ensuring proper maintenance of records.
- ensure that the terms and conditions of loan are clearly spelt out in the sanction orders.
- consider setting up of an internal audit wing in each department.
- introduce periodical reports to be submitted by controlling officers to the Administrative departments to exercise control over realisation of interest receipts.

The above points were reported to the Department and Government in July 2004. Government agreed (October 2004) to update the loan records and create data base at Mantralaya level to facilitate co-ordination and monitoring of recovery of loans by a separate cell to be established in the Finance Department which would function in tandem with the Administrative departments.

6.3 Review on non-tax receipts of Co-operation Department

6.3.1 Highlights

Audit fee of Rs 14.23 crore for the period from 1998-99 to 2002-03 was not recovered from 19,172 societies.

(Paragraph 6.3.8)

Audit fee amounting to Rs 0.92 crore was short recovered from 13 co-operative banks/federations due to under-assessment.

(Paragraph 6.3.9)

Due to delay in issue of instructions from the Commissioner, inspection/license renewal fee amounting to Rs 2.78 crore was recovered short from money lenders.

(Paragraph 6.3.11)

Minimum dividend on Government share capital amounting to Rs 1 crore was not recovered from 16 marketing cooperative societies.

(Paragraph 6.3.12)

6.3.2 Introduction

The Maharashtra Co-operative Societies Act (MCS), 1960 and the rules made thereunder provide for promotion, registration, development, supervision, inspection and annual audit of co-operative societies. The major receipts of the Department are audit fee⁶, supervision charges⁷, license fee for issuing license to money lenders and inspection/license fee for renewal of license, etc. The procedure for assessment, levy and collection of these receipts stems from MCS Act, the Bombay Money Lenders (BML) Act, 1946 and the Maharashtra Agricultural Produce Marketing (Regulation) (MAPMR) Act, 1963 and the rules framed there under. As on 31 March 2003 there were six Apex societies⁸. There were 1,58,694⁹ societies registered with the Department. These societies were to be audited by the departmental auditors and Certified Auditors, under the provisions of the MCS Act.

6.3.3 Organisational set up

The Department headed by the Commissioner for Co-operation and Registrar of Co-operative Societies (Commissioner) functions under the overall supervision of the Co-operation and Textiles, Department. The Commissioner is assisted by an Additional Commissioner and Special Registrar (Finance)

⁶ From the societies audited by the Departmental auditors.

⁷ collected in respect of the agricultural produce purchased from the market regulated at market area.

⁸ Maharashtra State Co-operative Bank, Maharashtra State Co-operative Agricultural and Rural Development Bank, Maharashtra State Co-operative Marketing Federation, Maharashtra State Co-operative Cotton Growers Federation, Maharashtra State Finance Corporation, District Central Co-operative Banks

⁹ includes 29482 Animal Husbandry, Dairy and Fisheries societies which are registered with the Co-operation Department but no audit is being done by the Co-operation Department.

and two Additional Registrars at Headquarter and 15 Divisional Joint Registrars, 35 District Deputy Registrars (DDRs), 37 District Special Auditors (DSAs) and 421 Assistant Registrars at division, district and tahsil level respectively. The DSAs are responsible for collection of audit fee from the societies audited by the Departmental auditors, while the DD Rs are responsible for collection of license/inspection fee, supervision charges, liquidation fee, registration fee etc.

6.3.4 Audit objectives

The review was conducted with a view to

- examine whether the registered societies are audited
- ascertain the correctness of assessment/levy/recovery of audit fee in respect of societies audited and
- ascertain whether supervision charges are collected and remitted by the Agricultural Produce Marketing Committees (APMCs) into Government account as per the Act.

6.3.5 Scope of Audit

Test check of records in the office of the Commissioner and 14 out of 35 District Offices of the Department in the State covering the period from 1998-99 to 2002-03 was conducted between August 2003 and April 2004. There were 1,29,212 societies (excluding 29,482 the audit of which is not being done by the Department) in the State which were also covered in the test check to ensure their audit by the Co-operation Department. The results of test check are mentioned in the following paragraphs.

6.3.6 Trend of Revenue

As per the Maharashtra Budget Manual, the budget estimates should be prepared as close an approximation to the actuals as possible, in consultation with the Accountant General wherever necessary, based on existing rates of taxes, duties, fees etc., and based on the course of receipts in previous years after allowing for any abnormal features of any extra items that may be actually realised in the ensuing year.

The budget estimates, actuals and percentage of increase/decrease in receipts of the Department during 1998-99 to 2002-03 are tabulated below.

(In crore of rupees)

Year	Budget Estimates	Actuals	Variation (+) increase (-) decrease	Percentage of variation (+) increase (-) decrease
1998-1999	40.00	43.81	(+) 3.81	(+) 9.5
1999-2000	47.12	49.60	(+) 2.48	(+) 5.3
2000-2001	48.16	58.92	(+) 10.76	(+) 22.3
2001-2002	50.84	71.26	(+) 20.42	(+) 40.2
2002-2003	69.36	63.02	(-) 6.34	(-) 9.2

The shortfall of Rs 6.34 crore in actual receipts for the year 2002-2003 was attributed by the Department in December 2003 to allocation of audit of Urban Co-operative Banks having working capital in excess of Rs 100 crore to Chartered Accountants. The reply, was however, not tenable as the Government decision of January 2000 for allocation of audit of such societies to the Chartered Accountants should have been considered while framing the budget estimates for 2002-03. The reasons for variation in actuals with regard to budget estimates for the year 1998-1999 to 2001-2002 though called for (August 2004) were not furnished by the Government. The Additional Registrar, however, agreed during the discussion in the meeting held in October 2004, to adhere to the provisions of the manual at the time of preparing the budget estimates.

6.3.7 Audit in arrears

Under the provisions of the MCS Act, the Registrar shall audit, or cause to be audited, at least once in each cooperative year¹⁰, the accounts of every society which has been given financial assistance including guarantee by the State Government or Government undertakings from time to time and the accounts of the apex societies, State and District level Federal Societies, District Central Co-operative Banks, Co-operative Sugar Factories, Urban Co-operative Banks, Co-operative Spinning Mills, District and Taluka Co-operative sale and purchase organisations and any such Society or class of Societies which the State Government may from time to time by notification in the official gazette specify.

The societies other than those referred to in clause (a) of section 81(1) shall arrange to get their accounts audited under clause (b) of the aforesaid section, at least once in each cooperative year, by the certified auditor or chartered accountant.

The position of the completion and arrears of audit of societies during the period from 1998-99 to 2002-03 is given in the table below.

- Societies covered under the provisions of section 81 (1) (a) of MCS Act.

Year	Societies allotted for audit to		Audit completed by		Audit in arrears on the part of		Percentage of arrears in audit on the part of	
	Departmental auditors	Other than departmental auditors	Departmental auditors	Other than departmental auditors	Departmental auditors	Other than departmental auditors	Departmental auditors	Other than departmental auditors
1998-1999	34,599	8,670	30,089	2,715	4,510	5,955	13	69
1999-2000	34,171	11,129	27,527	3,690	6,644	7,439	19	67
2000-2001	31,149	6,220	25,526	2,911	5,623	3,309	18	53
2001-2002	34,651	12,152	32,279	5,594	2,372	6,558	7	54
2002-2003	35,070	12,016	32,850	5,906	2,220	6,110	6	51

¹⁰ Co-operative year means a year ending on the 31st day of March or on such other day in regard to a particular society or class of societies as may have been fixed by the Registrar, from time to time for balancing its or their accounts.

- Societies covered under the provisions of section 81 (1) (b) of MCS Act.

Year	No. of societies required to be audited	No. of societies audited	No. of societies not audited at the end of the year	Percentage of arrears of audit
1998-1999	36,780	6,329	30,451	83
1999-2000	67,070	4,156	62,914	94
2000-2001	70,136	6,128	64,008	91
2001-2002	71,450	7,732	63,718	89
2002-2003	74,617	7,918	66,699	89

Thus, while the percentage of arrears of audit to be done by the Department ranged between 6 and 19, and 51 and 69 *per cent* of the auditee units allotted to Chartered Accountants/Certified Auditors under section 81 (1) (a), 83 to 94 percent of the units under section 81 (1) (b) had remained unaudited during the period resulting in non-fulfillment of statutory provisions of the Act. The Government should consider the desirability for taking action against the societies who failed to get their accounts audited by the certified auditors and also to consider the cancellation of registration of such societies. The reasons for heavy arrears of audit though called for were not communicated by the Department. The Additional Registrar, however, agreed (October 2004) to blacklist the Chartered Accountants/ Certified Auditors who had failed to complete the audit.

6.3.8 Arrears of audit fee

Under MCS Rules, 1961, the charges on account of audit fee and supervision charges have to be paid annually on or before any specified date by all or any class of societies including the societies in liquidation at such rates as may be fixed by the Registrar with the approval of the State Government. A scrutiny of records revealed that a sum of Rs 18.07 crore was recoverable from 19,172 societies at the end of March 2003 for the period from 1998-1999 to 2002-2003.

The age-wise analysis is given as under:-

Age of arrears	Amount (in crore of rupees)
Three to less than five years	4.61
One to less than three years	5.96
Less than one year	7.50

During discussion the Additional Registrar stated in October 2004, that a sum of Rs 3.84 crore out of the above mentioned arrears has been recovered as of 31 March 2004. Report on balance amount of Rs 14.23 crore has not been received (February 2005).

6.3.9 Short recovery of audit fee

The audit of apex societies¹¹ is conducted on continuous and concurrent basis for which the staff has been provided by the Government. The entire cost of the staff including their pay and allowances, leave salary, pension contribution and office contingencies is recoverable as audit fee from the auditee units. Scrutiny of records of assessment of audit fee in 16 banks/federations¹² in 13 districts revealed that despite the revision of pay scales of the staff and officers with effect from 1-1-96 the pension contribution for the period from 1-1-96 to 31-3-99 was recovered with reference to the pre revised scales instead of the revised pay scales introduced in December 1998. This resulted in short recovery of audit fee of Rs 1.04 crore.

In reply, Government stated that the amount would be recovered after confirming the short levy of audit fee. An amount of Rs 12.31 lakh has been recovered from three units.

6.3.10 Non-recovery of supervision charges

Under the provisions of MAPMR Act, a purchaser of agricultural produce is liable to pay cost of supervision in respect of the agricultural produce purchased from the market regulated at market area. The supervision charges so levied are liable to be collected by the respective Agricultural Produce Marketing Committee (APMC) and remitted to Government account by 15 of the following month. The Act further provides that in case the amount so collected by the APMCs is not remitted within the stipulated period, the amount outstanding should be recovered along with a fine of one *per cent* of the amount due as arrears of land revenue.

A scrutiny of records of 14 APMCs¹³ in six districts¹⁴ revealed that supervision charges of Rs 73.98 lakh were collected between April 1998 and March 2003, out of which only Rs 15.30 lakh was credited to Government account leaving a balance of Rs 58.68 lakh with APMCs. Though the position of outstanding dues was reported by the APMCs to respective DDRs through monthly returns, the DDRs did not initiate any penal action to recover the outstanding amount from these APMCs. The Additional Registrar, however, agreed during discussion to recover the dues from them.

¹¹ 'apex society' means a society (a) the area of operation of which extends to the whole of the State of Maharashtra, (b) the main object of which is to promote the principal objects of the societies affiliated to it as members and to provide for the facilities and services to them, and (c) which has been classified as an apex society by the Registrars.

¹² Maharashtra State Co-operative Bank, Maharashtra State Co-operative Agricultural and Rural Development Bank, Maharashtra State Co-operative Marketing Federation, Maharashtra State Co-operative Cotton growers Federation in Mumbai and District Central Co-operative Banks in 12 districts (Ahmednagar, Akola, Amravati, Aurangabad, Beed, Bhandara, Kolhapur, Nanded, Nashik, Pune, Sangli and Thane)

¹³ Bhiwandi, Himayatnagar, Kalwan, Kalyan, Kandhar, Kundelwadi, Mukhed, Murbad, Naigaon, Palghar, Parli Vajinath, Parola, Sangamner, Shrirampur.

¹⁴ Ahmednagar, Beed, Jalgaon, Nanded, Nashik and Thane

6.3.11 Short recovery of inspection/license fee from money lenders

Under the provisions of BML Act, the license issued to a money lender for carrying out the business of money lending is to be renewed on submitting an application within the prescribed period along with the license fee and inspection fee to be reckoned at one *per cent* of the maximum capital utilised by him during the period of the license sought to be renewed or Rs 5,000¹⁵ whichever is less.

The money lenders belonging to Pune, Nagpur and Amravati filed an appeal in the High Court at Mumbai and Nagpur in 1993 against the revision of rates in 1992 by the Government. While Hon'ble High Court, Mumbai refused to grant stay, Nagpur Bench passed an interim stay order against the notice of recovery served on the "petitioners"¹⁶ in February 1994. Consequently, the Department recovered inspection fee at the revised rates except from the money lenders in Amravati (in view of the stay given by the Hon'ble High court) until July 1997 when the Commissioner, Pune directed all the DDRs for effecting recovery of inspection/license fee at the pre revised rates. The Hon'ble Bombay High Court, Nagpur Bench gave the final decision in favour of the Department quashing the appeal of the money lenders in August 2002.

The Commissioner delayed issuing instructions to the Deputy District Registrars to recover the differential amount on account of inspection/license fee upto October 2003 though the appeal of the money lenders was quashed by the Hon'ble High Court, Nagpur Bench in August 2002 leading to undue benefit to the money lenders of Rs 2.78 crore¹⁷. The short realised amount of Rs 2.78 crore had not been recovered upto April 2004. The Additional Registrar stated during discussion in the meeting that deficient amount will be recovered during ensuing renewal by the respective moneylenders.

6.3.12 Non-recovery of dividend

Sixteen marketing co-operative societies to whom share capital amounting to Rs 1.30 crore was given by the Government in 1994 and 1997 were required to pay minimum dividend at 12 to 16 *per cent* on the balance share capital at the end of each year even if they incurred loss.

It was seen that a sum of Rs 1.04 crore was to be recovered towards minimum dividend from these 16 societies out of which a nominal sum of Rs 0.04 crore was paid by them as on 31 March 2003.

The Additional Registrar during discussion in October 2004 stated that the Government will be moved for necessary amendment in the terms and conditions of the grant of share capital as the loss of societies will further increase in case these are compelled to pay minimum dividend. Further report has not been received (February 2005).

¹⁵ These words were substituted for the words 'Rs 500' by Maharashtra 7 of 1992.

¹⁶ Forty two petitioners of Amravati district.

¹⁷ Includes Rs 0.22 crore to be recovered from moneylenders of Amravati.

Recommendations

- Paragraphs 37 to 39 of the Budget Manual regarding framing of budget estimates as close an approximation to the actuals as possible be scrupulously adhered to. Effective steps may be taken to curb the tendency to estimate receipts on adhoc basis.
- The Chartered Accountants/Certified Auditors who have failed in completing the audits entrusted to them be black listed from further appointments and the fact of such black listing be communicated to the Institute of Chartered Accountants of India, New Delhi for appropriate action.
- A time bound programme for recovery of the Government revenues be framed and achievements or failures in this time bound programme be appropriately considered in the course of performance evaluation of the officials concerned.

The matter was reported to the Government in September 2004. Pending comments of the Government on the review, it was discussed with the authorised representative of the Government in a meeting held on 20 October 2004. The Additional Registrar, who represented the Government confirmed the facts in the review and agreed to effect recovery as pointed out in various paragraphs of the review.

6.4 Non-tax receipts in Medical & Public Health Department

6.4.1 Non-recovery of bond money

The students selected for admission to medical/dental course are required to execute a bond to serve the State Government or local self government or armed forces for a period of two years, as per the condition number (ii) of the bond agreement, failing which he/she is liable to pay to the Government a sum ranging from Rs 5,000 to Rs 1 lakh with interest at 15 *per cent* per annum depending on the year in which the admission was taken.

As per condition number (ii) the students shall on passing the said examination and after undergoing internship or rotating houseman ship for such a period as the institution may prescribe, shall within a period of 30 days give notice in writing to the Director of Medical Education and Research, Mumbai (DMER) about the completion of his/her internship. If the student is called upon by the Government or the Director of Health Services (DHS) at any time by notice, the student shall serve the Government/Zilla Parishad/Local Authority for a period of two years.

Scrutiny of records in 12¹⁸ medical colleges, one dental college¹⁹ and six Deputy Directors²⁰ revealed that an amount of Rs 13.05 crore was recoverable from 801 students who had completed internship and who were offered

¹⁸ Akola, Ambejogai, Aurangabad, Dhule, Miraj, Mumbai, Nagpur, IGMN Nagpur, Nanded, Pune, Solapur, Yavatmal.

¹⁹ Mumbai

²⁰ Akola, Aurangabad, Latur, Nashik, Pune, Thane.

services by the Government during 1998-2003 but did not join or left the services before completion of two years. Further, an amount of Rs 19.99 crore in respect of earlier years was also to be recovered. Scrutiny further revealed that only 10 cases were referred to Revenue Authorities for recovery of bond money as arrears of land revenue and in remaining 791 cases no efforts were made for recovery.

6.4.2 Outstanding amount from Employees State Insurance Corporation

The Employees State Insurance (ESI) scheme in the State is implemented by the ESI Corporation through 13²¹ ESIS hospitals of the Government of Maharashtra. There is a ceiling limit of Rs 600 per insured person per family unit per annum and the ceiling limit of grants from ESI Corporation is decided each year on the basis of average number of insured persons per year. The expenditure on medical care of insured persons is shared between ESI Corporation and State Government in the ratio of 7:1.

Scrutiny of the records revealed that an amount of Rs 11.18 crore was outstanding from ESI Corporation for want of assessment yet to be done by ESI Corporation. The year wise position of outstanding amount was as follows.

Year	Amount (In crore of rupees)
1999-2000	4.53
2000-2001	4.54
2002-2003	2.11
Total	11.18

6.4.3 Delay in crediting receipts collected to the receipt head

Maharashtra Treasury Rules (MTR) provide that all moneys received by or tendered to Government should be credited to Government account within two days of the date of receipt which may be extended to seven days by Heads of the Department.

In 15²² Colleges and Hospitals an amount of Rs 7.29 crore realised as Government receipt during 1998-99 to 2002-03 was credited to the receipt head after delays ranging from eight to 447 days. The practice continued for all the years adversely affecting the depiction of receipts under the Major

²¹ Andheri, Aundh (Pune), Aurangabad, Kandivali, Mulund, Nashik, Nagpur, Parel, Solapur, Thane, Ulhasnagar, Vashi, Worli.

²² Ambejogai, Aurangabad, Chandrapur, Dhule, Gondia, Mumbai (2), Nagpur (2), Nanded, Pune (2), Solapur, Wardha and Yavatmal.

Head 0210 Medical & Public Health, besides delay of receipts due into Government account.

After this was pointed out in audit, the delay in remittance was attributed by the Department to rush of work. The reply is not tenable, as the delay was in contravention of the provisions of the Maharashtra Treasury Rules.

Raghubir Singh

(RAGHUBIR SINGH)

Principal Accountant General (Audit)-I, Maharashtra

Mumbai,
The

12 0 JUN 2005

Countersigned

Vijayendra N. Kaul

(VIJAYENDRA N. KAUL)

Comptroller and Auditor General of India

New Delhi,
The

29 JUN 2005

Head-0200 Medical & Health (Health) dated 10/10/2002

After the receipt of the order, the delay in receipt was reported by the Department to the Government. The delay is not acceptable as the delay was in the receipt of the order from the Government.

[Signature]

(RAGHUBIR SINGH)
Principal Accountant General (Audit) & Assistant

Principal
The

12.0 2002

Countersigned

[Signature]

(V. V. K. K. K. K. K.)
Comptroller and Auditor General of India

New Delhi
The

2.0 2002

ANNEXURE

ANNEXURE
YEARWISE DETAILS OF OUTSTANDING INSPECTION REPORTS AND AUDIT OBSERVATIONS UNDER
VARIOUS RECEIPTS AS OF 30TH JUNE 2004

(Reference: Paragraph 1.12)

(Rupees in lakh)

Sl. No.	Nature of receipt	Upto:1999-2000			2000-01			2001-02			2002-03			2003-04			Total		
		IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount
1.	Sales Tax	918	2014	3758.91	293	858	3154.83	347	1079	6631.73	424	1473	2899.28	385	1626	2505.56	2367	7050	18950.31
2.	Land Revenue	590	1104	4931.42	142	292	1946.14	106	205	4769.29	169	488	7133.41	106	470	15076.57	1113	2559	33856.83
3.	Stamps and Registration fees	281	645	1342.32	96	207	765.75	67	145	2731.83	125	362	1984.73	189	1108	4268.73	758	2467	11093.36
4.	Taxes on Motor Vehicles	12	12	27.95	12	16	23.01	23	45	1065.01	31	80	380.79	24	77	182.91	102	230	1679.67
5.	Forests Receipts	137	259	4208.20	39	95	3050.90	32	85	2808.91	35	86	1283.39	24	91	1801.43	267	616	13152.83
6.	Entertainments duty	36	42	30.05	34	48	31.46	39	59	71.43	64	124	119.31	71	149	116.02	244	422	368.27
7.	State Excise	5	5	2.23	4	4	365.35	9	10	4.14	15	19	13.43	26	67	747.35	59	105	1132.50
8.	Electricity Duty	2	2	—	2	2	21.25	1	1	3.55	10	10	50.34	8	12	5.72	23	27	80.86
9.	Tax on Professions	75	130	84.71	16	20	16.52	19	21	38.59	40	69	41.26	35	61	45.21	185	301	226.29
10.	Tax on Residential Premises	7	8	30.43	8	9	7.58	14	20	28.02	10	11	4.79	3	3	0.22	42	51	71.04
11.	State Education Cess	24	38	17.32	9	11	40.00	13	20	117.32	14	20	1067.19	15	26	2935.08	75	115	4176.91
12.	Repair Cess	—	—	—	3	3	1.79	—	—	—	2	2	—	4	4	56.45	9	9	58.24
13.	Other Non-tax receipts	116	143	3176.35	7	9	1.88	5	7	101.74	13	15	1668.17	4	5	14.33	145	179	4962.47
	Total :	2203	4402	17609.89	665	1574	9426.46	675	1697	18371.56	952	2759	16646.09	894	3699	27755.58	5389	14131	89809.58

IRs - Inspection Reports
Objs - Objection

