

**Report of the  
Comptroller and Auditor General  
of India**

**For the year ended 31 March 2007**

**(REVENUE RECEIPTS)  
GOVERNMENT OF UTTAR PRADESH**



## Table of Contents

Particulars	Reference to	
	Paragraph (s)	Page (s)
Preface		iii
Overview		v
<b>Chapter – I : General</b>		
Trend of revenue receipts	1.1	1
Variations between budget estimates and actuals	1.2	3
Cost of collection	1.3	4
Arrears in assessment	1.4	4
Analysis of arrears of revenue	1.5	5
Results of audit	1.6	6
Outstanding inspection reports and audit observations	1.7	6
Follow-up on Audit Reports – Summarised position	1.8	8
Compliance with the earlier Audit Reports	1.9	8
<b>Chapter – II : Trade Tax Department</b>		
Results of audit	2.1	9
Evasion of tax in Trade Tax Department	2.2	10
Non-imposition of penalty	2.3	13
Incorrect grant of exemption to new industrial units	2.4	16
Irregular grant of deferment of the CST	2.5	18
Short levy of tax due to misclassification of goods	2.6	19
Acceptance of irregular declaration forms	2.7	20
Non/short charging of interest	2.8	21
Non-levy of purchase tax	2.9	21
Short levy of tax due to application of incorrect rate of tax	2.10	22
Short levy of central sales tax	2.11	23
Misuse of declaration forms	2.12	23
Irregular exemption	2.13	24
<b>Chapter – III : State Excise, Receipts and Taxes on Vehicles, Goods and Passengers</b>		
Results of audit	3.1	25
<b>State Excise</b>		
Low yield of alcohol from molasses	3.2	26

Particulars	Reference to	
	Paragraph (s)	Page (s)
Loss of excise duty due to short lifting of minimum guaranteed quota of country liquor	3.3	26
<b>Taxes on Vehicles, Goods and Passengers</b>		
Non/short realisation of additional tax on vehicles plying without permit	3.4	27
Loss of revenue due to underassessment of additional tax	3.5	28
<b>Chapter – IV : Other Tax Receipts</b>		
Results of audit	4.1	29
<b>Land Revenue</b>		
Allotment/unauthorised occupation of Government Land	4.2	30
<b>Stamp Duty and Registration Fee</b>		
Short levy of stamp duty due to undervaluation of property	4.3	40
Short levy of stamp duty due to misclassification of document	4.4	40
Short levy of stamp duty and registration fee due to incorrect computation of lease period	4.5	41
<b>Weights and Measures</b>		
Revenue lost due to non-observance of the provisions of Act/Rules	4.6	42
<b>Chapter – V: Other Departmental Receipts</b>		
Results of audit	5.1	45
<b>Irrigation Department</b>		
Levy and collection of irrigation receipts	5.2	46
<b>Labour Department</b>		
Non-recovery of compensatory house rent	5.3	56
<b>Public Works Department</b>		
Non-recovery of compensation ( <i>pratikar</i> ) in lieu of rent from unauthorised occupants	5.4	56



## Preface

This Report for the year ended 31 March 2007 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 trade tax, state excise, land revenue, taxes on motor vehicles, stamp duty and registration fees, other tax and non-tax receipts of the State.

The cases mentioned in the report are among those which came to notice in the course of test audit of records during the year 2006-07 as well as those which came to notice in earlier years but could not be included in the previous years' reports.



## OVERVIEW

This report contains 24 paragraphs including two reviews relating to non/short levy of tax, penalty, interest etc., involving Rs. 92.18 crore. Some of the major findings are mentioned below:

### I. General

- The total receipts of the Government of Uttar Pradesh for the year 2006-07 were Rs. 60,599.52 crore against Rs. 45,349.15 crore during 2005-06. The revenue raised by the State Government amounted to Rs. 29,530.61 crore comprising tax revenue of Rs. 22,997.97 crore and non-tax revenue of Rs. 6,532.64 crore. The receipts from the Government of India were Rs. 31,068.91 crore (State's share of divisible Union taxes: Rs. 23,218.31 crore and grants-in-aid: Rs. 7,850.60 crore). Thus, the State Government could raise only 49 *per cent* of the total revenue. Taxes on sales, trade etc. (Rs. 13,278.82 crore) and miscellaneous general services (Rs. 2,281.23 crore) were the major source of tax and non-tax revenue respectively during the year 2006-07.

(Paragraph 1.1)

- As on 31 March 2007 arrears of revenue under principal heads of revenue as reported by concerned departments were Rs. 15,021.59 crore.

(Paragraph 1.5)

- Test check of the records of trade tax, state excise, taxes on vehicles, goods and passengers, stamp duty and registration fees, land revenue, and other departmental receipts conducted during 2006-07 revealed underassessment, short levy, loss of revenue etc. amounting to Rs. 405.08 crore in 2,370 cases. During the course of the year 2006-07, the concerned departments accepted underassessment and short levy etc. of Rs. 56.23 lakh in 41 cases of which Rs. 19.58 lakh had been recovered upto March 2007.

(Paragraph 1.6)

- Inspection Reports numbering 9,524 issued upto 31 December 2006 containing 21,445 audit observations with money value of Rs. 4,782.48 crore had not been settled upto June 2007.

(Paragraph 1.7)

### II. Trade Tax

- Concealment of turnover/false declarations/irregular exemption on stock transfer by 37 dealers resulted in evasion of tax of Rs. 6.24 crore.

(Paragraph 2.2)



- Forty three dealers were liable to pay penalty amounting to Rs. 3.62 crore for purchase made against declaration in form C other than those covered by their certificate of registration.

(Paragraph 2.3)

### **III. State excise receipts and Taxes on Vehicles, Goods and Passengers**

- Low yield of alcohol from molasses as compared to norms resulted in loss of revenue of Rs. 4.63 crore.

(Paragraph 3.2)

- Plying of 332 stage carriages in seven RTOs on their prescribed routes without getting their permits renewed resulted in non/short realisation of additional tax amounting to Rs. 3.94 crore.

(Paragraph 3.4)

- Application of incorrect rates of additional tax resulted in short levy of tax of Rs. 2.17 crore.

(Paragraph 3.5)

### **IV. Other Tax Receipts**

A review of “Allotment/unauthorised occupation of Government Land” revealed as under:

- Lack of a system/procedure for disposal of the estate land through sale/auction resulted in loss of revenue by way of cost of land amounting to Rs. 433.24 crore.

(Paragraph 4.2.6.1)

- Due to lack of a database on the status of lease granted, the Government was deprived of revenue of Rs. 142.18 crore and stamp duty of Rs. 14.22 crore.

(Paragraph 4.2.6.2)

- Lack of a time bound plan for disposal of *nazul* land resulted in non-disposal by way of sale. Lack of maintenance of a database on the status of lease granted of *nazul* land resulted in non-reversion after termination of the lease period. The loss of revenue was Rs. 2,074.72 crore.

(Paragraph 4.2.6.3)

- Lack of a specified time frame for regularisation of unauthorised occupations of *nazul*/estate land deprived the Government of revenue of Rs. 1,763.64 crore.

(Paragraph 4.2.7)



- Non-payment of cost of ceiling land utilised by the developmental authority and other organisations deprived the Government of revenue of Rs. 251.91 crore.

(Paragraph 4.2.9.3)

- Under valuation of land resulted in short levy of stamp duty of Rs. 2.04 crore and cost of land amounting to Rs. 25.56 crore.

(Paragraph 4.2.10.1)

- In Weights and Measures Department due to non-registration/renewal of registration of users, the Government was deprived of revenue amounting to Rs. 81.83 lakh.

(Paragraph 4.6.1)

## **V. Other Departmental Receipts**

A review of “Levy and collection of irrigation receipts” revealed as under:

- Lack of monitoring of irrigation potential created resulted in non-achieving the target of irrigation and consequential loss of revenue amounting to Rs. 62.94 crore during the years 2001-02 to 2005-06.

(Paragraph 5.2.7)

- Lack of a system of monitoring the receipts vis-a-vis the water available for irrigation resulted in loss of revenue amounting to Rs. 3.12 crore.

(Paragraph 5.2.8)

- Lack of a prescribed system for measuring the quantity of water supplied for commercial use resulted in short levy of water charges amounting to Rs. 18.78 crore.

(Paragraph 5.2.9)

- Non-levy of centage charges of deposit works resulted in loss of revenue amounting to Rs. 1.18 crore.

(Paragraph 5.2.14)



## CHAPTER-I GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Uttar Pradesh during the year 2006-07, the 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 mentioned below:

(Rupees in crore)

Sl.No.	Particulars	2002-03	2003-04	2004-05	2005-06	2006-07
<b>I.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	12,783.81	13,601.23	15,692.61	18,857.90	22,997.97
	• Non-tax revenue	1,913.49	2,282.08	2,720.29	2,930.32	6,532.64
	<b>Total</b>	<b>14,697.30</b>	<b>15,883.31</b>	<b>18,412.90</b>	<b>21,788.22</b>	<b>29,530.61</b>
<b>II.</b>	<b>Receipts from the Government of India</b>					
	• State's share of divisible Union taxes	10,814.87	13,272.97	15,055.26	18,203.13	23,218.31 <sup>1</sup>
	• Grants-in-aid	2,309.02	2481.69	4,149.28	5,357.80	7,850.60
	<b>Total</b>	<b>13,123.89</b>	<b>15,754.66</b>	<b>19,204.54</b>	<b>23,560.93</b>	<b>31,068.91</b>
<b>III.</b>	<b>Total receipts of the State (I + II)</b>	<b>27,821.19</b>	<b>31,637.97</b>	<b>37,617.44</b>	<b>45,349.15</b>	<b>60,599.52</b>
<b>IV.</b>	<b>Percentage of I to III</b>	<b>53</b>	<b>50</b>	<b>49</b>	<b>48</b>	<b>49</b>

The above table indicates that during the year 2006-07, the revenue raised by the State Government was 49 *per cent* of the total revenue receipts (Rs. 60,599.52 crore) against 48 *per cent* in the preceding year. The balance 51 *per cent* of receipts during 2006-07 was from the Government of India.

<sup>1</sup> For details, please see Statement No. 11 - detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Uttar Pradesh for the year 2006-07. Figures under the major heads 0020 - Corporation tax, 0021 - Other taxes on income and expenditure, 0028 - Taxes on income other than corporation tax, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties 0044 - Service tax and 0045 - Other taxes and duties on commodities and services - Share of net proceeds assigned to states booked in the Finance Accounts under 'A - Tax revenue' have been excluded from revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.



**1.1.2** The following table presents the details of tax revenue raised during the period from 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Increase (+) or decrease (-) in 2006-07 with reference to 2005-06	Percentage of increase or decrease with reference to 2005-06
1.	Trade tax	6,850.93	7,684.13	8,888.31	11,284.67	13,278.82	(+) 1,994.15	(+) 17.67
2.	State excise	2,555.05	2,472.37	2,686.19	3,088.54	3,551.25	(+) 462.71	(+) 14.98
3.	Stamp duty and registration fees	2,078.68	2,296.06	2,682.36	2,996.78	4,513.67	(+) 1,516.89	(+) 50.62
4.	Taxes on vehicles	618.84	676.96	775.84	965.20	1,017.60	(+) 52.40	(+) 5.43
5.	Taxes and duties on electricity	145.29	174.72	354.36	182.26	193.92	(+) 11.66	(+) 6.40
6.	Land revenue	64.23	117.67	102.44	108.69	187.52	(+) 78.83	(+) 72.53
7.	Other taxes and duties on commodities and services	100.02	92.78	112.28	114.76	131.57	(+) 16.81	(+) 14.65
8.	Taxes on goods and passengers	77.33	80.21	81.74	105.19	108.70	(+) 3.51	(+) 3.34
9.	Other (hotel receipts, corporation tax, etc.)	3.70	6.33	9.09	11.81	14.92	(+) 3.11	(+) 26.33
	<b>Total</b>	<b>12,783.81</b>	<b>13,601.23</b>	<b>15,692.61</b>	<b>18,857.90</b>	<b>22,997.97</b>	<b>4,140.07</b>	<b>21.95</b>

The concerned departments did not inform (October 2007) the reasons for variation despite being requested (September 2007).

**1.1.3** The following table presents the details of non-tax revenue realised during the period 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Increase (+) or decrease (-) in 2006-07 with reference to 2005-06	Percentage of increase/decrease with reference to 2005-06
1.	Misc. general services	48.28	41.80	58.02	75.02	2,281.23	(+) 2,206.21	(+) 2,940.83
2.	Interest receipts	515.38	658.09	597.93	457.94	828.86	(+) 370.92	(+) 81.00
3.	Forestry and wild life	86.27	60.96	107.42	161.98	212.37	(+) 50.39	(+) 31.11



4.	Major and medium irrigation	90.12	136.10	176.60	53.78	143.29	(+) 89.51	(+) 166.44
5.	Education, sports, art and culture	255.35	227.68	581.02	934.81	814.96	(-) 119.85	(-) 12.82
6.	Other administrative services	110.95	116.91	128.23	99.96	99.71	(-) 0.25	(-) 0.25
7.	Non-ferrous mining and metallurgical industries	262.54	251.05	292.01	354.60	345.34	(-) 9.26	(-) 2.61
8.	Police	95.40	75.91	97.58	96.66	209.60	(+) 112.94	(+) 116.84
9.	Crop husbandry	25.58	188.73	18.60	40.84	33.96	(-) 6.88	(-) 16.85
10.	Social security and welfare	19.59	33.65	17.25	14.23	15.77	(+) 1.54	(+) 10.82
11.	Medical and public health	41.44	42.69	42.03	39.75	62.67	(+) 22.92	(+) 57.66
12.	Minor irrigation	12.11	18.53	12.53	21.21	33.02	(+) 11.81	(+) 55.68
13.	Roads and bridges	17.97	41.79	31.67	55.36	58.83	(+) 3.47	(+) 6.27
14.	Public works	25.26	19.92	31.44	36.09	26.59	(-) 9.50	(-) 26.32
15.	Co-operation	6.18	7.57	8.15	6.27	7.02	(+) 0.75	(+) 11.96
16.	Others	301.07	360.70	519.81	481.82	1,359.42	(+) 877.60	(+) 182.14
	<b>Total</b>	<b>1,913.49</b>	<b>2,282.08</b>	<b>2,720.29</b>	<b>2,930.32</b>	<b>6,532.64</b>	<b>3,602.32</b>	<b>122.93</b>

The concerned department did not inform (October 2007) the reasons for variations despite being requested (September 2007).

## 1.2 Variations between budget estimates and actuals

The variations between budget estimates and actuals of revenue receipts for the year 2006-07 in respect of principal heads of revenue are mentioned below:

(Rupees in crore)					
Sl. No.	Head of revenue	Budget estimates	Actual receipts	Variation excess (+) short fall (-)	Percentage of variation
<b>Tax revenue</b>					
1.	Trade tax	14,528.00	13,278.82	(-) 1,249.18	(-) 8.60
2.	State excise	3,650.00	3,551.25	(-) 98.75	(-) 2.71
3.	Stamp duty and registration fees	3,500.00	4,513.67	(+) 1,013.67	(+) 28.96
4.	Taxes on goods and passengers	642.32	108.70	(-) 533.62	(-) 83.08
5.	Taxes on vehicles	709.68	1,017.60	(+) 307.92	(+) 43.39

6.	Other taxes and duties on commodities and services	143.45	131.57	(-) 11.88	(-) 8.28
7.	Taxes and duties on electricity	220.00	193.92	(-) 26.08	(-) 11.85
8.	Land revenue	81.78	187.52	(+) 105.74	(+) 129.30
<b>Non-tax revenue</b>					
1.	Misc. general services	81.10	2,281.23	(+) 2,200.13	(+) 2,712.86
2.	Interest receipts	651.57	828.86	(+) 177.29	(+) 27.21
3.	Forestry and wild life	127.46	212.37	(+) 84.91	(+) 66.62
4.	Major and medium irrigation	35.11	143.29	(+) 108.18	(+) 308.12
5.	Education, sports, art and culture	71.22	814.96	(+) 743.74	(+) 1,044.29
6.	Non-ferrous mining and metallurgical industries	350.50	345.34	(-) 5.16	(-) 1.47

The concerned departments did not inform (October 2007) the reasons for variations despite being requested (September 2007).

### 1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2004-05, 2005-06 and 2006-07 along with the relevant all India average percentage of expenditure on collection to gross collection for 2005-06 were as follows:

(Rupees in crore)						
Sl. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the year 2005-06
1.	Trade tax	2004-05 2005-06 2006-07	8,888.31 11,284.67 13,278.82	178.53 193.51 200.19	2.00 1.71 1.51	0.91
2.	Taxes on vehicles, goods and passengers	2004-05 2005-06 2006-07	857.58 1,070.39 1,126.30	12.99 31.27 30.25	1.60 2.92 2.69	2.67
3.	State excise	2004-05 2005-06 2006-07	2,686.19 3,088.54 3,551.25	29.66 33.39 37.34	1.10 1.08 1.05	3.40
4.	Stamp duty and registration fees	2004-05 2005-06 2006-07	2,682.36 2,996.78 4,513.67	58.84 52.55 <sup>5</sup> 61.36	2.20 1.75 1.36	2.87

Thus, the cost of collection under trade tax was higher than the all India average percentage for the year 2005-06.

### 1.4 Arrears in assessment

The details of assessments relating to trade tax pending at the beginning of the year, additional cases became due for assessment during the year, cases

<sup>5</sup> Decrease due to saving of Rs. 8.41 crore under special circumstances



disposed during the year and cases pending finalisation at the end of the year as furnished by the Trade Tax Department during 2002-03 to 2006-07 are mentioned below:

Year	Opening balance	Cases which become due for assessment	Total	Cases disposed of during the year	Cases pending at the close of the year
1	2	3	4	5	6
2002-03	4,67,623	5,29,858	9,97,481	5,21,969	4,75,512
2003-04	4,75,512	4,83,428	9,58,940	4,76,263	4,82,677
2004-05	4,82,677	5,87,405	10,70,082	5,39,360	5,30,722
2005-06	5,30,722	5,33,349	10,64,071	5,22,962	5,41,109
2006-07	5,41,109	6,00,531	11,41,640	5,64,532	5,77,108

The pending cases have been steadily increasing every year. The department needs to take appropriate steps to dispose of the arrears in assessment.

### 1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2007, in respect of some principal heads of revenue amounted to Rs. 15,021.59 crore of which Rs. 8,390.34 crore relating to trade tax were outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Amount of arrears as on 31 March 2007	Arrears outstanding for more than five years as on 31 March 2007	Remarks
1.	Trade tax	14,569.19	8,390.34	Out of Rs. 14,569.19 crore, demand for Rs. 644.70 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 995.83 crore had been stayed by the Courts/ Government. Recoveries amounting to Rs. 257.11 crore were outstanding against Government / semi-Government departments. Demand of Rs. 1,183.27 crore was likely to be written off. Rs. 55.72 crore were outstanding on transporters. Recovery certificates amounting to Rs. 892.13 crore have been sent to other States. Arrears not covered under recovery certificates but under specific action of department amounted to Rs. 10,540.43 crore.
2.	Entertainment tax	12.43	4.54	Out of Rs. 12.43 crore, demand for Rs. 6.86 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 4.69 crore had been stayed by the courts/Government. Further notices have been issued for balance of Rs. 88 lakh.
3.	State excise	52.98	N.A.	Out of Rs. 52.98 crore, demand for Rs. 27.16 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 21.83 crore had been stayed by the Court and

				Rs. 1.72 crore by the Government/department. Demand for Rs. 2.27 crore was likely to be written off.
4.	Taxes on vehicles, goods and passengers Road tax = 5.39 Goods tax = 5.85 Passenger tax = 11.76	23.00	N.A.	Out of Rs. 23 crore, demands for Rs. 1.92 crore and Rs. 18 lakh had been stayed by judicial and administrative orders respectively. Balance demand of Rs. 20.90 crore was pending recovery.
5.	Stamp and registration	352.61	N.A.	Out of Rs. 352.61 crore, demands for Rs. 60.03 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 27.02 crore had been exempted by court. Demand for Rs. 154.25 crore had been stayed by different courts. Balance demand of Rs. 111.31 crore was pending recovery.
6.	Land revenue	11.38	N.A.	Out of Rs. 11.38 crore, demands for Rs. 1.55 crore had been stayed by the Government. Balance demand for Rs. 9.83 crore was pending recovery.
	<b>Total</b>	<b>15,021.59</b>	<b>8,394.88</b>	

### **1.6 Results of audit**

Test check of the records of trade tax, state excise, taxes on vehicles, goods and passengers, stamp duty and registration fees, land revenue and public works, irrigation, housing and urban development, education, mines and minerals, police, finance departments, etc. conducted during the year 2006-07 revealed underassessments/short levy/loss of revenue amounting to Rs. 405.08 crore in 2,370 cases. During the course of the year 2006-07, the concerned departments accepted underassessments and other deficiencies of Rs. 56.23 lakh in 41 cases of which Rs. 19.58 lakh had been recovered upto March 2007.

This report contains 24 paragraphs including two reviews involving financial effect of Rs. 92.18 crore. The departments/Government accepted audit observations involving Rs. 174.47 lakh, of which Rs. 2.80 lakh had been recovered upto August 2007.

### **1.7 Outstanding inspection reports and audit observations**

Accountant General (Commercial & Receipts Audit) conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). When important irregularities detected during the inspection are not settled on the spot, these IRs are issued to the heads of offices inspected with a copy to the next higher authorities. More important irregularities are reported to the heads of departments and the Government. The heads of offices are required to furnish replies to IRs through the respective heads of departments within a period of two months.

The number of IRs and audit observations relating to revenue receipts issued upto 31 December 2006 which were pending settlement by the departments as on 30 June 2007, along with corresponding figures for the preceding two years are as mentioned below:



Sl. No.		2005	2006	2007
1.	Number of inspection reports pending settlement	8,567	7,832	9,524
2.	Number of outstanding audit observations	17,394	19,257	21,445
3.	Amount of revenue involved (Rs. in crore)	4,102.33	4,225.60	4,782.48

The department wise details of IRs and audit observations outstanding as on June 2007 and the amount involved are indicated below:

Sl. No.	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Amount of revenue involved (in crores of rupees)	Year to which the observations relate
1.	Forestry and wild life	957	1,691	1,822.09	1991-92 to 2006-07
2.	Trade tax	1,932	8,744	1,772.67	1984-85 to 2006-07
3.	State excise	764	1,173	412.17	1984-85 to 2006-07
4.	Land revenue	918	1,293	39.98	1987-88 to 2006-07
5.	Taxes on vehicle, goods and passengers	932	2,862	126.19	1984-85 to 2006-07
6.	Public works	604	559	27.54	1985-86 to 2006-07
7.	Irrigation	384	672	81.63	1984-85 to 2006-07
8.	Taxes on purchase of sugarcane	99	113	56.08	1985-86 to 2006-07
9.	Stamp duty and registration fees	2,052	3,041	161.80	1984-85 to 2006-07
10.	Agriculture	208	311	22.55	1985-86 to 2006-07
11.	Electricity duty	280	358	170.64	1985-86 to 2006-07
12.	Food and civil supplies	114	179	19.61	1991-92 to 2006-07
13.	Co-operation	112	121	59.8	1985-86 to 2006-07
14.	Entertainment tax	101	146	6.12	1986-87 to 2006-07
15.	Medical and public health	64	179	3.59	2002-03 to 2006-07
16.	Jail	3	3	0.02	2002-03 to 2006-07
	<b>Total</b>	<b>9,524</b>	<b>21,445</b>	<b>4,782.48</b>	

Since the outstanding amount represents unrealised revenue, the Government needs to take speedy and effective action on the issues raised in the IRs.

### **1.8 Follow-up on Audit Reports - summarised position**

To ensure accountability of the executive in respect of all the issues dealt in the various Audit Reports (ARs), the Department of Finance issued instructions in June 1987 to initiate *suo moto* action on all paragraphs/reviews figuring in the ARs irrespective of whether the cases were taken up for examination by the PAC or not. Out of paragraphs/reviews included in ARs relating to the period 2001-02 to 2005-06 which have already been laid before the State legislature, explanatory notes (ENs) in respect of 70 paragraphs/reviews were not received in audit office as on August 2007 even after the lapse of the prescribed period of three months. The outstanding ENs dating back to 2001-02 are as mentioned below:

Year of Report	Date of presentation of Audit Report to the legislature	No. of paragraphs/ reviews included in the Audit Reports	No. of paragraphs/ reviews on which ENs have been received from the departments	No. of paragraphs/ reviews on which ENs are awaited from the departments
2001-02	27 July 2004	34	25	09
2002-03	08 November 2004	26	11	15
2003-04	20 July 2005	25	10	15
2004-05	11 March 2006	22	12	10
2005-06	25 January 2007	21	00	21
<b>TOTAL</b>		<b>128</b>	<b>58</b>	<b>70</b>

### **1.9 Compliance with the earlier Audit Reports**

In the Audit Reports 2001-02 to 2005-06 cases of underassessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc. involving Rs. 4,363.79 crore were reported. As of August 2007, the departments concerned have accepted observations amount to Rs. 303.17 crore and have recovered Rs. 1.94 crore only. Audit Report wise details of cases accepted and recovered are mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2001-02	987.71	50.95	0.54
2002-03	1,546.48	109.91	0.05
2003-04	473.20	104.01	0.12
2004-05	449.74	30.39	1.18
2005-06	906.66	7.91	0.05
<b>Total</b>	<b>4,363.79</b>	<b>303.17</b>	<b>1.94</b>



## CHAPTER-II TRADE TAX DEPARTMENT

### 2.1 Results of audit

Test check of the assessments and other records of trade tax offices conducted during 2006-07 revealed underassessment of tax, non/short levy of penalty/interest, irregular exemption of tax etc. amounting to Rs. 74.60 crore in 1,548 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Irregular exemption	214	23.67
2.	Non/short levy of penalty/interest	702	15.55
3.	Evasion of tax	1	6.24
4.	Non-levy of additional tax/entry tax	263	4.87
5.	Misclassification of goods	17	4.14
6.	Incorrect rate of tax	109	2.47
7.	Irregularities relating to central sales tax	08	1.37
8.	Turnover escaping tax	13	0.24
9.	Computation mistake	13	0.09
10.	Other irregularities	208	15.96
	<b>Total</b>	<b>1,548</b>	<b>74.60</b>

During the year 2006-07, the department accepted underassessment and other deficiencies of Rs. 35.73 lakh involved in 38 cases out of which amount totalling Rs. 1.67 lakh involved in six cases had been recovered.

A few illustrative cases involving Rs. 15.63 crore, are mentioned in the succeeding paragraphs. An amount of Rs. 2.80 lakh had been recovered.

## **2.2 Evasion of tax in Trade Tax Department**

### **2.2.1 Ineligible exemption**

Rule 25 of the Uttar Pradesh Trade Tax (UPTT) Rules, 1948 read with the Commissioner's circular<sup>1</sup> of 25 June 2001 provides that in case divisional level committee does not finalise the applications for exemption/reduction in rate of tax to new industrial units within three months from the date of receipt of the report from Trade Tax Department, it loses the right to dispose off the applications. The eligibility certificate (EC) issued by such committee would not be valid and the manufacturer would not be entitled to avail the facility of exemption/reduction in tax on the basis of such EC.

During test check of the records of the office of DC (A) 4 TT Ghaziabad, it was noticed that a manufacturer of mineral water and mango pulp juice was granted exemption between March 2005 and March 2006 from payment of tax for the years 2002-03 to 2003-04 though he had not been granted EC till the date of audit (September 2006). This resulted in incorrect exemption of tax of Rs. 4.18 crore.

The matter was reported to the department and the Government in June 2007; their replies have not been received (August 2007).

### **2.2.2 Irregular exemption on stock transfer**

Section 6A of the Central Sales Tax Act, 1956 (CST Act) read with Rule 12 (5) of the CST Rules, provides that a selling dealer is entitled to exemption on stock transfer of goods to other States, if he furnishes to the concerned assessing authority (AA) upto the time of assessment, a declaration in form 'F' obtained from the transferee. In case the transaction is not covered by form 'F', tax is leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher.

Section 7 of the CST Act, read with Rule-3 of the CST (Registration & Turnover) Rules, 1957 provides that a dealer seeking registration will specify in his application the places of business in other States along with their addresses and particulars of registration so that the same are included in the registration certificate issued by the AA.

During test check of the records in six trade tax offices it was noticed that while finalising the assessment cases, nine dealers were granted exemption from payment of tax on stock transfer of goods worth Rs. 12.06 crore to their depots of other States against declarations in form 'F'. The dealers were not entitled to the exemption as they had not disclosed their places of business in other States. The dealers were, therefore, liable to pay tax amounting to Rs. 1.29 crore treating the transactions as inter State sale instead of stock transfer as mentioned below:

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<sup>1</sup> New unit - Jhansi Range Jhansi/176/trade tax dated 25 June 2001



(Rupees in lakh)								
Sl. No.	Name of office	No. of dealer	<u>Year</u> Month of assessment	Name of goods	Place to which goods were transferred but not included in RC	Turnover treated as stock transfer	Rate of tax (per cent)	Tax leviable
1.	DC (A) 6 TT Lucknow	1	2003-04 (January 2006)	Tyre tube	Dehradun	265.11	12	31.81
2.	DC(A) 17 TT Kanpur	1	2003-04 (March 2006)	Matar dal	Delhi, Punjab and Assam	79.42	10	7.94
3.	DC(A) 11 TT Ghaziabad	1	2002-03 (October 2005)	Paint	Uttaranchal	44.19	12	5.30
			2003-04 (October 2005)	Paint	-do-	46.33	12	5.56
4.	DC (A) 18 B TT Kanpur	2	2003-04 (December 2005) (January 2006)	Medicine Plastic goods	New Delhi Jabalpur and Kashipur	96.61	10	9.66
						284.90	10	28.49
5.	DC(A) 7 TT Noida	1	2003-04 (October 2006)	Resin	New Delhi	24.15	10	2.42
		1	2003-04 (March 2006)	Electronic goods	Chennai, Mumbai and Kolkata	214.68	10	21.47
6.	DC(A) 7 A TT Noida	1	2002-03 (October 2005)	Electrical wire	New Delhi	47.90	10	4.79
			2003-04 (December 2005)	Electrical wire		30.46	10	3.05
		1	2002-03 (October 2005)	Cement paint	Punjab, Jammu and Uttaranchal	72.73	12	8.73
	Total	9				1,206.48		129.22

The matter was reported to the department/Government in June 2007; their replies have not been received (August 2007).

### 2.2.3 Evasion due to concealment of turnover/false declarations

Under the provisions of the UPTT Act 1948, if the AA is satisfied that any dealer has concealed the particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover or has issued a false certificate/declaration by reason of which tax on sale or purchase ceases to be leviable, he may direct that such dealer shall pay by way of penalty in addition to tax, a sum not less than 50 per cent but not exceeding 200 per cent of the amount of tax which would thereby have been avoided.

During test check of the records of 17 trade tax offices it was noticed that 18 dealers had either concealed turnover or furnished false/fake declarations on which tax amounting to Rs. 1.09 crore was levied but no penalty was imposed though the dealers were liable to pay a minimum penalty of Rs. 55 lakh.

After the cases were pointed out, the department stated in August 2007 that penalty amounting to Rs. 46 lakh in 15 cases was imposed. The reply in the remaining cases has not been received.

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

#### **2.2.4 Irregular exemption/concession against defective forms**

Under the provisions of the CST (Registration and Turnover) Rules, the selling dealer is liable to pay tax at the rate of four *per cent* if he furnishes to the concerned AA upto the time of assessment a declaration in form 'C' obtained from the purchasing dealer containing complete particulars i.e. central registration number, date of validity, number and date of purchase order etc. Tax on sale of goods (other than declared goods) not covered by declaration in form 'C' is leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher. Further, a dealer transferring goods outside the State is entitled to exemption if he furnishes to the concerned AA a declaration in form 'F' obtained from the transferee.

During test check of the records in five trade tax offices it was noticed that in the assessment cases of six dealers, tax on inter State sale of goods valued as Rs. 81.92 lakh and Rs. 96.39 lakh was levied at the rate of four *per cent* and nil respectively though declarations in form C and form F did not contain the prescribed particulars. Incorrect allowance of concessional rate of tax resulted in short levy of tax of Rs. 14.02 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the office	No. of dealers	Year and month of assessment	Name of commodity	Nature of defect	Taxable turnover	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Tax short levied
<b>Defective 'C' forms</b>									
1.	DC(A) 3 TT Meerut	1	2003-04 November 2005	Transformer	Regn. no. and date not mentioned	11.20	10	4	0.67
		1	2003-04 February 2006	-do-	-do-	28.77	10	4	1.72
2.	DC(A) 17 TT Kanpur	1	2003-04 May 2006	Dressed hide	Registered in December 2004	26.22	8	4	1.05
3.	DC(A) 7 TT Noida	1	2003-04 June 2005	Pollution control equipment	Regn. no. and date not mentioned	15.73	10	4	0.94
<b>Defective 'F' forms</b>									
4.	DC(A) 2 TT Allahabad	1	2003-04 March 2006	PV yarn	Complete address, registration no. and date not mentioned	83.61	10	Nil	8.36
5.	DC(A)12 TT Lucknow	1	2003-04 March 2006	Medicine	-do-	12.78	10	Nil	1.28
	<b>Total</b>	<b>6</b>				<b>178.31</b>			<b>14.02</b>

After the cases were pointed out, the department stated in August 2007 that in one case (Sl. no. 5) tax of Rs. 1.28 lakh had been levied. The reply in the remaining cases have not been received (August 2007).

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).



### 2.2.5 Evasion by Khadi Gramodyog institutions

Under the Government notification dated 31 January 1985, institutions certified by All India Khadi and Village Industries Commission or the UP Khadi and Village Industries Board are exempted from payment of tax on sale of self manufactured products.

During test check of the records of two trade tax offices it was noticed that three dealers were granted exemption on sale of self manufactured goods valued as Rs. 86.54 lakh treating them as certified by the Khadi Gramodyog Board whereas they did not submit the certificate either of the UP Khadi and Village Industries Board or from the All India Khadi and Village Industries Commission. The dealers were, therefore, liable to pay tax of Rs. 8.06 lakh on sale of goods as mentioned below:

(Rupees in lakh)							
Sl. No.	Name of office	No. of dealers	Year and month of assessment	Name of goods	Turnover	Rate of tax (per cent)	Tax leviable
1.	DC(A) 12 TT Lucknow	1	2002-03 March 2004	Washing powder	49.96	8	4.00
		1	2003-04 March 2006	DG set assembly	8.22	8	0.66
2.	DC(A) 10 TT Lucknow	1	2003-04 October 2005	Achar, murabba	28.36	12	3.40
	<b>Total</b>	<b>3</b>			<b>86.54</b>		<b>8.06</b>

After the cases were pointed out, the department stated in August 2007 that in two cases, tax of Rs. 4.82 lakh had been levied. The reply in the remaining cases have not been received (August 2007).

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

### 2.3 Non-imposition of penalty

**2.3.1** Under the CST Act, if a registered dealer purchases any goods from outside the State at concessional rate of tax on the strength of declaration in form 'C' by falsely representing that such goods are covered by his registration certificate under the CST Act or if the goods purchased from outside the State at concessional rate of tax, are used for a purpose other than that for which the registration certificate is granted, the dealer is liable to be prosecuted. However, in lieu of prosecution, if the AA deems it fit, he may impose a penalty upto one and half times of the tax payable on the sale of such goods.

Test check of the records of 33 trade tax offices between December 2005 and December 2006 revealed that 34 dealers, assessed between September 2003 and March 2006, for the year 2001-02 to 2003-04, purchased goods worth Rs. 13.90 crore against declaration in form 'C' which were not covered by their certificates of registration. The dealers were, therefore, liable to pay a penalty of Rs. 2.92 crore. A few instances are mentioned below:



(Rupees in lakh)							
Sl. No.	Name of unit	No. of dealer	Year/month of assessment	Name of commodity not covered by registration certificate	Purchase amount	Rate of tax (in per cent)	Penalty leviable
1.	DC(A)12 TT, Agra	1	<u>2002-03</u> May 2004	Duplex board	76.40	10	11.46
2.	DC(A) 3 TT, Meerut	1	<u>2003-04</u> March 2006	Float glass	39.25	16	9.42
3.	DC(A) TT, Mainpuri	1	<u>2003-04</u> October 2005	Rubber roller, water softner, Drail material	33.40	10	5.01
4.	DC(A)IV TT, Meerut	1	<u>2003-04</u> February-06	Panel, Washer	120.83	10	18.12
5.	DC(A) TT, Sardhana, Meerut	1	<u>2003-04</u> January 2006	LSD/HSD	433.13	20	129.94
6.	DC(A)V TT, Noida	1	<u>2003-04</u> June 2005	Nitrogen, PVC resin	93.16	10	13.97
7.	DC(A)IV TT, Noida	1	<u>2002-03</u> March 2005	Hot bitumen pressure distributor capacity and others, Edge liter (sight machine), Tata tippers, crusher equipment LDO	94.99 70.05	10 20	35.26
8.	DC(A) I TT, Gorakhpur	1	<u>2003-04</u> February 2006	MS Channels, MS Angles, GI Pin, Steel channels Transformer Oil, Metal oxide	40.33 4.57	8 10	5.53
9.	DC(A) 18 B TT, Kanpur	1	<u>2003-04</u> September 2005	Silica	20.73	10	3.11

After the cases were pointed out, the department stated in August 2007 that penalty of Rs. 40 lakh in 13 cases had been imposed. The department further stated that duplex board and silica were covered under paper board and PPT silica respectively (Sl. no.1 and 9). The reply in these two cases is not tenable as duplex board and silica are different from paper board and PPT silica. The reply in other cases has not been received (August 2007).

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

**2.3.2** Under the UPTT Act, a person responsible for making payment to a contractor, for discharge of any liability, on account of valuable consideration payable for the transfer of property in goods, in pursuance of works contract, shall deduct an amount equal to four *per cent* of such sum payable under the Act on account of such works contract. In case of failure to deduct the amount or deposit the amount so deducted into the Government treasury before the expiry of the month following the month in which the deduction was made, the AA may direct that such person shall pay by way of penalty a sum not exceeding twice the amount so deducted.

During test check of the records of two trade tax offices, it was noticed between June 2006 and August 2006 that five dealers deducted tax of Rs. 18.05 lakh from contractors during the year 2003-04 but did not deposit it in the Government treasury within the time prescribed. The delay ranged between eight days to three months and 19 days. The AA while finalising the assessments between December 2005 and March 2006 failed to levy the penalty<sup>1</sup> of Rs. 36.10 lakh as mentioned below:

<sup>1</sup> Penalty has been worked out at the maximum rate as the minimum rate for levy of penalty is not provided in the Act.

(Rupees in lakh)						
Sl. No.	Name of Office	No. of dealers	Year/Month of assessment	Amount of tax/dates of deposit	Period of delay	Amount of penalty
1.	AC Sector III TT Bhadohi	3	2003-04 / January 2006	4.48 / 18 August 2003 to 17 May 2004	17 days to 1 month	8.96
			2003-04 / December 2005	2.29 / 29 August 2003 to 29 July 2004	14 days to 2 months and 29 days	4.58
			2003-04 / March 2006	1.02 / 08 May 2003 to 19 March 2004	8 days to 3 months and 19 days	2.04
2.	AC Sector I TT Saharanpur	2	2003-04 / February 2006	9.30 / 26 July 2003 to 31 March 2004	18 days to 2 months and 5 days	18.60
				0.96 / 23 July 2003 to 17 May 2004	17 days to 1 month and 26 days	1.92
	<b>Total</b>	<b>5</b>		<b>18.05</b>		<b>36.10</b>

After the cases were pointed out, the department stated in August 2007 that penalty of Rs. 8.71 lakh in three cases has been imposed. The reply in other cases has not been received (August 2007).

The matter was reported to the Government in September 2006; their reply has not been received (August 2007).

**2.3.3** Under the UPTT Act, if the AA is satisfied that any dealer or other person has, without reasonable cause, failed to furnish the return of his turnover or fails to deposit the tax under the provision of this Act, he may direct the dealer to pay by way of penalty in addition to tax, if any, payable by him, a sum which shall not be less than 10 *per cent* but not exceeding 25 *per cent* of the tax due, if the tax due is upto Rs. 10,000 and 50 *per cent* if it is above Rs. 10,000.

Test check of the records of three trade tax offices between September 2005 and January 2006 revealed that three dealers, whose cases were assessed between October 2004 and March 2005 for the period 2002-03, had not deposited their admitted tax of Rs. 1.96 crore in time. The delay ranged from one to 10 days. The belated payment of admitted tax attracted penalty amounting to Rs. 19.57 lakh, which was not imposed by the assessing officers. The details are mentioned below:

(Rupees in lakh)						
Sl. No.	Name of office	No. of dealers	Year/Month of assessment	Amount of admitted tax/date of deposit	Period of delay	Minimum amount of penalty leviable
1.	DC(A) TT Gautam Budh Nagar	1	2002-03/ February 2005	59.62/ 21 March 2003 to 24 March 2003	1 to 4 days	5.96
2.	DC(A)-IX, TT Lucknow	1	2002-03/ March 2005	38.69 / 25 March 2003	5 days	3.87
3.	DC(A)-IV, TT, NOIDA	1	2002-03/ October 2004	97.37/ 7 June 2002 to 10 January 2007	1 to 10 days	9.74
<b>Total</b>		<b>3</b>		<b>195.68</b>		<b>19.57</b>



After the cases were pointed out, the department stated in August 2007 that penalty amounting to Rs. 3.87 lakh in one case has been imposed. Reply in other cases has not been received (August 2007).

The matter was reported to the Government between November 2005 and July 2006; their reply has not been received (August 2007).

**2.3.4** Under the UPTT Act, read with the Government notification dated 21 May 1994, a manufacturer is allowed to purchase raw material and packing material etc. at concessional rate of tax, required for use in the manufacture of such goods, which he is authorised to manufacture, for sale within the State or in the course of inter State sale or export out of India. In case, the raw material or goods are disposed off for a purpose other than that for which the recognition certificate<sup>1</sup> was granted, the dealer shall be liable to pay by way of penalty, a sum which shall not be less than the amount of relief in tax so secured by him, but not more than three times of such relief.

Test check of the records of the Deputy Commissioner (A), TT, Sardhana, Meerut revealed in November 2006 that during the year 2004-05, a dealer holding recognition certificate for the manufacture of certain specified goods<sup>2</sup>, purchased raw material (timber) worth Rs. 106.49 lakh at concessional rate of tax. Though the raw material was disposed of otherwise (in sports goods) than those mentioned in recognition certificate, he got relief in tax of Rs. 14.38 lakh. The dealer was, therefore, liable to pay minimum penalty of Rs. 14.38 lakh which was not imposed.

The case was reported to the department and the Government in January 2007; their replies have not been received (August 2007).

## **2.4 Incorrect grant of exemption to new industrial units**

Under the UPTT Act, read with the CST Act, the State Government notified a scheme to grant exemption from or reduction in the rate of tax to new industrial units and the existing units undertaking expansion or modernisation and diversification on or after April 1995. To avail of the facility of exemption or reduction of tax, the applicant is required to file an application in the prescribed form before the district/zonal/state level committees. Though the Industries Department is the authority to issue EC it does so on the recommendation of the Trade Tax Department (TTD). The committee also has a representative of TTD. The TTD issued instructions on 18 March 1986 prescribing certain checks to be exercised while recommending the case for issue of EC so that only eligible units were allowed the benefit. Further, if the Commissioner is of the opinion that new unit to which the EC has been granted is not entitled to the facility, he may, by an order in writing, cancel or amend the EC from a date specified in the order and such date may be prior to the date of such order.

**2.4.1** Under the provisions of the UPTT Act read with the Government's instructions issued on 31 March 1995, exemption or reduction in the rate of

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<sup>1</sup> A certificate issued by the department to the manufacturer stating the names of goods to be manufactured and its raw material.

<sup>2</sup> Agricultural implements, Iron Doors, Windows, Bogis, Iron Grills, timber and timber products, stone and hardware.



tax is to be allowed to such existing units which had undertaken diversification of goods of a nature different from those manufactured by the units earlier.

During test check of the records of four trade tax offices it was noticed that four dealers were granted EC between 9 December 1997 and 8 December 2005 for diversification of industries to manufacture such goods which were similar and identical to the goods, which were already being manufactured by these units. Thus, grant of EC for diversification in violation of the existing provisions of the Act/notification resulted in incorrect exemption of Rs. 1.57 crore as mentioned below:

(Rupees in crore)							
Sl. No.	Name of office	No. of dealers	Assessment year	Period of exemption	Name of goods manufactured previously by the dealer	Name of goods manufactured under diversification	Amount of exemption availed through eligibility certificate
1.	DC(A) IV TT Ghaziabad	1	1999-2000 to 2003-04	24 October 1998 to 23 October 2006	Acetic acid (chemical)	Butyl acetate (chemical)	0.55
2.	DC(A) IV TT Kanpur	1	2002-03	7 February 1999 to 6 February 2011	Billet	SS Billet	0.12
3.	DC(A) VII A TT Noida	1	2002-03	31 December 1999 to 30 December 2007	Metallised polyester film	Embossed polyester film	0.40
4.	DC(A) V TT Kanpur	1	2002-03 to 2003-04	31 March 2000 to 30 March 2008	Multilayer film	Karona treated multilayer film	0.50
<b>Total</b>		<b>4</b>					<b>1.57</b>

After the cases were pointed out, the department stated in August 2007 that the above items were of different nature. The reply is not tenable as the goods are similar in nature to the ones being already manufactured, applying the analogy of departmental circular<sup>1</sup> of 13 August 2001 which considered black and white and colour TV as goods of similar nature.

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

**2.4.2** The Government notification dated 27 July 1991, provides that a dealer manufacturing hard coke is not entitled to avail of the facility of exemption or reduction in the rate of tax for the establishment of a new industrial unit under section 4A of the UPTT Act. Further, the Government notification dated 17 October, 1994 provides that a dealer manufacturing smokeless fuel is also not entitled to avail of the facility of exemption or reduction in rate of tax.

During test check of the records in the office of DC(A), TT Chandauli, it was noticed that three dealers who sold self manufactured hard coke and another dealer who sold smokeless fuel, were allowed the facility of reduction in tax on the strength of EC for establishment of new industrial units although they were not entitled to the benefit. Thus, due to irregular grant of EC, the Government was deprived of tax amounting to Rs. 76.43 lakh, as mentioned below:

<sup>1</sup> Letter no. New unit-Sarva Shri new box system/254/TT Lucknow dated 13 August 2001.

(Rupees in lakh)

Name of office	No. of dealers	Year/Month of assessment	Goods manufactured	Period of exemption	Amount of exemption availed
DC(A) TT Chandauli	1	2001-02 to 2002-03 (May 2004)	Hard coke	3 July 1995 to 2 July 2003	10.07
	1	2001-02 to 2002-03 (March 2005)	-do-	14 June 1995 to 13 June 2003	7.68
	1	2001-02 (November 2004) to 2002-03 (January 2005)	-do	14 March 1996 to 13 March 2008	18.03
	1	1993-94 to 1999-2000 (March 2002)	Smokeless fuel	1 January 1993 to 31 December 2002	40.65
<b>Total</b>	<b>4</b>				<b>76.43</b>

After the cases were pointed out, the department stated in August 2007 that hard coke and smokeless fuel were different from coal. The reply is not tenable in view of the notifications of July 1991 and October 1994 mentioned above.

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

### **2.5 Irregular grant of deferring of the CST**

Under the UPTT Act, rules and notification, the Commissioner may grant deferring of payment of state trade tax admittedly payable by the manufacturer on the sale of goods within the State in lieu of exemption/reduction in tax. Under the CST Act, the State Government is competent to exempt from payment of tax or levy tax at lower rate. However, there exists no provision for deferring of tax under the CST Act.

Test check of the records in three trade tax offices revealed that four dealers were granted moratorium from payment of tax for the period from 2001-02 to 2003-04. The department had issued orders for deferring the tax on the basis of ECs issued under Section 4-A of the UPTT Act and not under the CST Act. The assessing authorities while finalising assessments for the years from 2001-02 to 2003-04, between November 2003 and September 2006, allowed deferring of Rs. 1.25 crore under the CST Act, which was irregular as mentioned below:

(Rupees in lakh)

Sl. No.	Name of office	No. of dealers	Period of moratorium	Year of deferral	Date of assessment	Amount of deferral of CST
1.	DC(A)7 TT Noida	1	9 February 2000 to 8 February 2008	2003-04	28 September 2006	36.40
2.	DC(A)7 A TT Noida	1	24 January 1996 to 23 January 2004	2001-02	8 November 2003	12.02
				2002-03	15 October 2004	26.10
				2003-04	28 November 2005	23.53
3.	DC(A)5 A TT Kanpur	1	23 April 2000 to 22 April 2008	2002-03	7 December 2004	7.43
				2003-04	21 December 2004 30 May 2005	8.62 10.48
	<b>Total</b>	<b>4</b>				<b>124.58</b>



The matter was reported to the department and the Government in June 2007; their replies have not been received (August 2007).

## 2.6 Short levy of tax due to misclassification of goods

Under the UPTT Act, tax is leviable as per schedule of rates notified by the Government from time to time. In case of goods not classified elsewhere, tax is leviable at the rate of 10 *per cent* with effect from 1 December 1998.

Test check of the records of nine trade tax offices revealed that in the assessment cases of 12 dealers, correct rate of tax on sale of goods worth Rs. 15.46 crore was not applied due to misclassification. This resulted in short levy of tax amounting to Rs. 81.98 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the office	No. of dealers	Year and month of assessment	Nature of misclassification	Taxable turnover	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Tax short levied
1.	DC(A) 3 TT Meerut	1	2003-04 March 2006	Toughened glass treated as plain glass	53.07	16	12	2.12
2.	DC(A) 17 TT Kanpur	1	2002-03 June 2004	Naphthalene balls treated as insecticide	22.90	10	5	1.15
			2003-04 May 2005	-do-	50.65	10	5	2.53
3.	DC(A) 7 TT Noida	1	2003-04 February 2006	Water proofing compound treated as chemical	46.73	12	4	3.74
		1	2003-04 August 2005	Textile auxiliaries treated as chemical	21.57	10	4	1.29
4.	AC TT Sec 14 Agra	1	2002-03 October 2004	Float glass treated as plain glass	11.68	16	10	0.70
5.	DC(A) 12 TT Lucknow	1	2003-04 March 2006	Printer and its parts treated as electronic goods	38.92	8	4	1.56
6.	DC(A) I TT Agra	1	2000-01 December 2002	Float glass treated as unclassified	167.37	15	10	54.06
		1	2001-02 to 2003-04/ December 2003 to February 2006	Float glass and glass mirror treated as unclassified	761.56	16	10	
7.	DC(A) II TT Kanpur	1	2002-03 to 2003-04/ March 2004 and May 2005	Float glass treated as unclassified	121.24	16	10	7.27
8.	DC(A) III TT Kanpur	1	2003-04/June 2005	Disposable glass (thermo) treated as plastic goods	100.87	10	8	2.02
9.	DC(A) III TT Saharanpur	1	2002-03 to 2003-04/ January 2006	Thermowares (vacuum flasks) treated as plastic goods	127.26	12	8	5.54
		1			22.45 (Central)	12	10	
	<b>Total</b>	<b>12</b>			<b>1,546.27</b>			<b>81.98</b>

The matter was reported to the department and the Government between August 2006 and June 2007; their replies have not been received (August 2007).



## **2.7 Acceptance of irregular declaration forms**

**2.7.1** Under the UPTT Rules, as amended from 21 April 2001, any single declaration form shall cover transactions upto Rs. 5 lakh and that too of only one assessment year.

Test check of the records of six trade tax offices revealed that seven dealers were granted concessional rate of tax on sale of goods of Rs. 17.16 crore against declarations in form-3 B though the monetary limit of forms exceeded Rs. 5 lakh. This resulted in short levy of tax of Rs. 41.65 lakh as mentioned below:

(Rupees in lakh)								
Sl. No.	Name of office	No. of dealers	Year and month of assessment	Name of commodity	Taxable turnover	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Tax short levied
1.	DC(A) 4 TT Ghaziabad	1	2001-02 December 2003	Ferro alloys	484.81	4	2.5	7.27
2.	DC(A) 3 TT Meerut	1	2001-02 September 2004	Liquid detergent	38.00	8	2.5	2.09
3.	DC(A) 7 A TT Noida	1	2002-03 January 2005	Exerciser	55.43	10	2.5	4.16
4.	AC Sec. 14 Agra	1	2002-03 March 2005	PVC soles	33.35	10	2.5	2.50
		1	2002-03 January 2005	Corrugated boxes	2.20	10	2.5	0.17
5.	DC(A) 2 TT Allahabad	1	2003-04 March 2006	Coal	932.00	4	2	18.64
6.	DC(A) TT Bhadohi	1	2002-03 November 2004	Woollen yarn	170.60	4	Exempt	6.82
	<b>Total</b>	<b>7</b>			<b>1,716.39</b>			<b>41.65</b>

After the cases were pointed out, the department stated in August 2007 that tax amounting to Rs. 22,000 had been levied in one case of Agra. A reply in the remaining cases has not been received (August 2007).

The matter was reported to the Government in June 2007; their reply has not been received (August 2007)

**2.7.2** Under the provisions of the UPTT Rules, exemption/reduction in the rate of tax is admissible on submission of original copy of the declaration forms.

Test check of the records of the Deputy Commissioner (Assessment)-XVII, Trade Tax, Kanpur, revealed in November 2005 that a dealer sold betblue (leather) worth Rs. 6.43 crore against 135 duplicate copy of declaration forms during the assessment year 2002-03. The AA accepted these declaration forms and allowed exemption instead of levying tax at the rate of four *per cent* which resulted in incorrect grant of exemption amounting to Rs. 25.70 lakh.

The matter was reported to the department and the Government in March 2006; their replies have not been received (August 2007).

## 2.8 Non/short charging of interest

Under the UPTT Act, every dealer, liable to pay tax, is required to deposit the amount of tax into the Government treasury before the expiry of the month following the month in which the tax was due. The tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of two *per cent* per month upto 11 August 2004 and thereafter at the rate of 14 *per cent* per annum on the unpaid amount, till the date of deposit.

Test check of the records of six trade tax offices, conducted between September 2004 and August 2006 revealed that in case of six dealers, assessed between July 2003 and March 2006 for the assessment years 2000-01, 2002-03 and 2003-04, admitted tax of Rs. 45.01 lakh was deposited late. The delay ranged from 555 days to 1,105 days. Interest of Rs. 19.68 lakh was chargeable on the delay but not charged by the department. The cases are mentioned below:

(Rupees in lakh)						
Sl. No.	Name of office	No. of dealers	Year Month of assessment	Amount of admitted tax	Period of delay for which interest was not charged	Amount of interest
1.	DC(A) TT Etah	1	2002-03 March 2005	6.32	893 days	3.29
2.	DC(A) XVIII A TT Kanpur	1	2000-01 July 2003	5.41	555 to 1,105 days	1.08
3.	DC(A) TT Najibabad	1	2002-03 and 2003-04 December 2004	1.58 1.12	1,078 days, 734 days	1.36
4.	DC(A) TT Raebareli	1	2003-04 March 2006	27.26	970 days	12.50
5.	DC(A) TT Sonebhadra	1	2002-03 March 2005	1.21	1,053 days	0.71
6.	AC Sec IX TT Lucknow	1	2003-04 February 2006	2.11	665 to 728 days	0.74
<b>Total</b>		<b>6</b>		<b>45.01</b>		<b>19.68</b>

After the cases were pointed out, the department stated in August 2007 that in five cases interest of Rs. 17.12 lakh was levied and in one case the recovery certificate was revised. Of these, in two cases interest of Rs. 2.80 lakh had been recovered.

The matter was reported to the Government between November 2004 and November 2006; their reply has not been received (August 2007).

## 2.9 Non-levy of purchase tax

Under Section 3 AAAA of the UPTT Act, every dealer who purchases any taxable goods from any person other than a registered dealer, shall be liable to pay purchase tax at the same rate at which the tax is payable on the sale of such goods. It has been judicially held<sup>1</sup> that 'bagasse'<sup>2</sup> is taxable if purchase tax on sugarcane has not been paid.

<sup>1</sup> S/Shri SMC Foods Ltd., Saharanpur Vs. Commissioner of Trade Tax, UP decided by member of Trade Tax Tribunal, Bench: Saharanpur on 14.10.2005.

<sup>2</sup> Residue of sugarcane



During test check of the records of two trade tax offices<sup>1</sup> it was observed between November 2006 and January 2007 that two dealers purchased 'bagasse' valued as Rs. 176.10 lakh from unregistered dealers during the year 2003-04. Purchase tax on its sugarcane had not been paid. The AA at the time of finalising the assessments in January 2006 did not levy purchase tax of Rs. 17.61 lakh on 'bagasse'.

After the cases were pointed out, the AA stated in November 2006 that no tax was leviable on purchase of 'bagasse' from unregistered dealers. The reply is not tenable because tax was leviable as per the above decision.

The matter was reported to the department and the Government between January 2007 and March 2007; their replies have not been received (August 2007).

## **2.10 Short levy of tax due to application of incorrect rate of tax**

Under the UPTT Act, tax on classified goods at different rates is leviable as prescribed in the schedule of rates notified by the Government from time to time. The goods which are not classified in the prescribed schedule of rates are taxable at the rate of 10 *per cent* with effect from 1 December 1998.

During test check of the records of six trade tax offices, it was noticed between March 2006 and December 2006 that while finalising the assessments of six dealers for the period from 2002-03 to 2003-04 assessed between March 2005 and March 2006 the AAs levied tax at incorrect rates on goods valued as Rs. 376.65 lakh. This resulted in short levy of tax of Rs. 12.36 lakh as mentioned below:

Sl. No.	Name of the unit	Year	Name of commodity	Turn over	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Tax short levied
		Month of assessment					
1.	DC(A) I A TT, Ghaziabad	2002-03 March 2005	Voltage stabilizer	46.65	12	10	0.93
2.	DC(A) I TT, Kanpur	2003-04 March 2006	Moped tyres and tubes	41.38	12	8	1.66
3.	DC(A) VIII TT, Lucknow	2003-04 January 2006	Auto tyres and tubes	20.12	12	8	0.80
4.	DC(A) IV TT, Meerut	2003-04 December 2005	Stationery	173.57	10	8	3.47
5.	AC Sec V TT, Allahabad	2002-03 March 2005	Solder rod	20.00	10	5	1.00
6.	AC Sec II TT, Varanasi	2002-03 June 2005	Invertor	74.93	10	4	4.50
<b>Total</b>				<b>376.65</b>			<b>12.36</b>

After the cases were pointed out between March 2006 and December 2006, the department stated in May 2006 and August 2007 that tax of Rs. 2.74 lakh in three cases of Allahabad, Ghaziabad and Lucknow had been levied. The reply in remaining cases has not been received (August 2007).

The matter was reported to the Government in January 2007; their reply has not been received (August 2007).

<sup>1</sup> DC(A) TT Sardhana (Meerut) and DC(A)-I TT Allahabad.



### 2.11 Short levy of central sales tax

Under the CST Act, tax on inter State sale of goods (other than declared goods) not covered by declaration in form 'C' is leviable at the rate of 10 *per cent* or at the rate applicable on sale or purchase of such goods inside the appropriate State, whichever is higher.

Test check of the records of three trade tax offices<sup>1</sup> revealed that during the year 2003-04 three dealers made inter State sale of duty entitlement pass book (DEPB), *achar*, *murabba* and leather goods worth Rs. 70.16 lakh without declaration in form C. While assessing these dealers between March 2005 and November 2005, the AA exempted/levied tax at lower rate instead of 10 and 12 *per cent*. This resulted in short levy of tax amounting to Rs. 6.87 lakh.

After the cases were pointed out, the department stated in August 2007 that tax of Rs. 88,000 had been levied in one case. Reply in the remaining cases has not been received (August 2007).

The matter was reported to the Government between November 2006 and June 2007; their reply has not been received (August 2007).

### 2.12 Misuse of declaration forms

Section 3 B of the UPTT Act provides that if a person issues a false or wrong declaration, by reason of which tax on sales or purchase ceases to be leviable or becomes leviable at the concessional rate, the dealer shall be liable to pay a sum equal to the amount of relief in tax secured by him on purchase of such material.

Test check of the records of three trade tax offices, conducted between January 2006 and October 2006 revealed that three dealers purchased goods valued as Rs. 44.18 lakh at concessional rate of tax by issuing prescribed declaration forms. As the dealers were not authorised to purchase these goods at concessional rate as per their recognition certificates<sup>2</sup>, they were liable to pay tax of Rs. 6.80 lakh equal to the relief in tax secured by them against these purchases as mentioned below:

(Rupees in lakh)						
Sl. No.	Name of office	Year/Month of assessment	Goods purchased	Value of goods purchased	Differential rate of tax (in <i>per cent</i> )	Amount of tax involved
1.	DC(A) X TT Agra	<u>2003-04</u> April 2005	PVC compound	4.96	7.5	0.53
			Lubricant oil	0.89	17.5	
2.	DC(A) TT Hasanpur	<u>2002-03</u> February 2005	LDO <sup>†</sup>	31.80	17.5	5.56
3.	DC(A) VI TT NOIDA	<u>2003-04</u> November 2005	Cooling tower	3.71	13.5	0.71
			Panel	1.04	7.5	
			Channel	1.54		
			Gas R 22	0.24		
Total				44.18		6.80

<sup>1</sup> (i) DC(A) 11 TT, Agra, (ii) DC(A) TT Khurja, (iii) DC(A) 10 TT Lucknow

<sup>2</sup> A certificate issued by the department to manufacturer stating the names of goods to be manufactured and its raw material.

<sup>†</sup> Light diesel oil.

After the cases were pointed out, the department stated in August 2007 that tax at differential rate amounting to Rs. 16,000 in one case has been levied. The reply in other cases has not been received (August 2007).

The matter was reported to the Government between June 2006 and December 2006; their reply has not been received (August 2007).

### **2.13 Irregular exemption**

Section 8 (5) of the CST Act, amended from 13 May 2002 (read with the Commissioner's circular dated 27 May 2002) provides that benefit of exemption from or reduction in rate of tax on inter State sales of goods is admissible only on submission of declarations in form 'C' or 'D'. Further, such benefit on inter State sale is admissible to new units covered by notification issued under Section 4-A of the UPTT Act.

Test check of the records of the Deputy Commissioner (A)-II, TT, Moradabad revealed in June 2006 that during the year 2003-04, a dealer holding valid EC made inter State sale of paper worth Rs. 80.27 lakh without declaration in form 'C'. The AA assessed the tax and allowed exemption under Section 4-A amounting to Rs. 5.66 lakh. This resulted in irregular allowance of exemption of Rs. 5.66 lakh.

The matter was reported to the department and the Government in June 2006; their replies have not been received (August 2007).



### CHAPTER-III

## STATE EXCISE RECEIPTS AND TAXES ON VEHICLES, GOODS AND PASSENGERS

### 3.1 Results of audit

Test check of the records of the concerned departmental offices conducted during the year 2006-07, revealed non/short levy of duties, fees, taxes, underassessment of road tax, goods tax and other irregularities amounting to Rs. 74.69 crore in 365 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	Number of cases	Amount
<b>State Excise</b>			
1.	Less recovery of alcohol from molasses	25	36.49
2.	Excess transit/storage wastage	6	1.08
3.	Irrational fixation of MGQ	4	0.68
4.	Loss of excise duty due to non-lifting of MGQ of country liquor	11	0.32
5.	Non-realisation of licence fee	16	0.26
6.	Non-levy of interest	5	0.10
7.	Other irregularities	55	21.75
	<b>Total</b>	<b>122</b>	<b>60.68</b>
<b>Taxes on vehicles, goods and passengers</b>			
1.	Non/short levy of passenger/additional tax	96	6.60
2.	Underassessment of road tax	17	0.90
3.	Incorrect computation of lump sum passenger tax	14	0.71
4.	Short levy of goods tax	23	0.63
5.	Other irregularities	93	5.17
	<b>Total</b>	<b>243</b>	<b>14.01</b>
	<b>Grand total</b>	<b>365</b>	<b>74.69</b>

During the year 2006-07, the concerned departments accepted underassessment and other deficiencies of Rs. 20.50 lakh involved in three cases out of which Rs. 17.91 lakh has been recovered.

A few illustrative cases involving financial effect of Rs. 6.63 crore are mentioned in the succeeding paragraphs.

## **STATE EXCISE**

### **3.2 Low yield of alcohol from molasses**

Under the UP Excise Working of Distilleries (Amendment) Rules, 1978, for every quintal of fermentable sugar content present in the molasses, the distillery shall yield alcohol of 52.5 alcoholic litre (AL). For this purpose, composite samples of molasses are required to be drawn by the officer incharge of the distillery and sent for examination to the alcohol technologist. Failure to maintain the minimum yield of alcohol from molasses entails cancellation of licence and forfeiture of security deposit besides imposition of other penalties.

Test check of the records of seven distilleries, revealed that 127 composite samples of molasses were sent to the alcohol technologist during the year 2003-04 to 2006-07. Based on the reports of the alcohol technologist, out of 2.83 lakh quintal of fermentable sugar content present in molasses, 1.49 crore AL of alcohol should have been produced against which the actual production was 1.39 crore AL. This resulted in shortfall of 9.65 lakh AL of alcohol and loss of excise revenue of Rs. 4.63 crore. The department did not initiate any action to cancel the licence of the distilleries and forfeit the security deposit of Rs. 1.40 crore.

The matter was reported to the department and the Government between April 2005 and November 2006; their replies have not been received (August 2007).

### **3.3 Loss of excise duty due to short lifting of minimum guaranteed quota of country liquor**

Under the provisions of the Uttar Pradesh Excise (Settlement of Licences for Retail Sale of Country Liquor) Rules 2001, a licensee is liable to lift the entire minimum guaranteed monthly quota (MGQ) fixed for each licensee during the year. In case of failure, the licensing authority has to adjust the outstanding balance amount of licence fee from the security deposit of the licensee and also issue a notice to the licensee by the third day of the next month to replenish the deficit in the security amount either by lifting such quantity of country liquor involving duty equivalent to the adjusted amount or by depositing cash or a combination of both. In case the licensee fails to replenish the deficit in security amount by the 10<sup>th</sup> day of the next month, his licence shall stand cancelled.

During scrutiny of the records of four district excise offices<sup>1</sup>, it was noticed that 87 licensees lifted 5,89,145.83 bulk litre (BL) against MGQ of 6,54,968 BL of country liquor during the period from 2003-04 to 2005-06. However, these licensees did not replenish the differential licence fee of Rs. 52 lakh for shortfall. The department also did not initiate any action to adjust the amount from security

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<sup>1</sup> Bhadoi, Firozabad, Orai and Raebareli



or cancel the licence. This resulted in short lifting of 65,822.17 BL MGQ involving excise duty of Rs. 52 lakh.

The matter was reported to the department and the Government between March 2005 and September 2006; their replies have not been received (August 2007).

## TAXES ON VEHICLES, GOODS AND PASSENGERS

### 3.4 Non/short realisation of additional tax on vehicles plying without permit

Under the Motor Vehicles Act, 1988, no vehicle owner shall use a transport vehicle in a public place without a proper permit. Under the Uttar Pradesh Motor Vehicle Taxation (UPMVT) Act, 1997 as amended in October 2001, no motor vehicle (stage carriage) registered or adapted to carry more than nine persons excluding the driver, shall be kept for use without permit unless the vehicle owner has paid in addition to tax, an additional tax with 25 per cent of it payable in respect of such vehicles.

Test check of the records of office of seven regional transport officers (RTOs) between April 2005 and November 2006, revealed that during June 2002 to October 2006, 332 stage carriages were plying on their prescribed routes after the expiry of the validity of their permits. The vehicle owners did not get their permits renewed. Though the tax was paid by them but additional tax as required was not paid. This resulted in non/short realisation of additional tax amounting to Rs. 3.94 crore as mentioned below:

(Rupees in lakh)						
Sl. No.	Name of unit	No. of vehicles plying without permit	Period	Additional tax levied	Additional tax leviable	Non/short levy of tax
1.	RTO Aligarh	57	April 2004 to March 2005	--	70.24	70.24
2.	RTO Bareilly	18	November 2004 to February 2005	--	17.10	17.10
3.	RTO Faizabad	48	April 2004 to January 2005	--	48.95	48.95
4.	RTO Varanasi	04	January 2005 to January 2006	3.07	4.90	1.83
5.	RTO Lucknow	183	October 2005 to October 2006	--	237.74	237.74
6.	RTO Gorakhpur	16	June 2002 to October 2006	4.02	19.50	15.48
7.	ARTO Chandauli	06	April 2005 to June 2006	3.27	5.63	2.36
<b>Total</b>		<b>332</b>		<b>10.36</b>	<b>404.06</b>	<b>393.70</b>

The matter was reported to the department and the Government between September 2005 and January 2007; their replies have not been received (August 2007).

### **3.5 Loss of revenue due to underassessment of additional tax**

According to the fourth schedule under Section 6 of the UPMVT Act, additional tax on stage carriage upto a distance of 9,000 km on 'A' and 'B' class routes was applicable in four slabs upto 1 November 2002. From 2 November 2002, these slabs were merged into one slab and additional tax upto 9,000 km on 'A' and 'B' class routes was payable at the rate of Rs. 376 and Rs. 393 per seat per quarter respectively. Further, additional tax on 'A' class route for the distance of 9,001 to 11,700 kms and 11,701 to 14,400 kms was payable at the rate of Rs. 458 and 565 per seat per quarter respectively.

During audit of the records of three offices of Transport Department between April 2005 and June 2006, it was noticed that during the period between April 2004 and March 2006, 641 vehicles were plying on 'A' and 'B' class routes. Additional tax was levied at the slab rates applicable upto 1 November 2002 instead of the revised rates effective from 2 November 2002. This resulted in short levy of additional tax of Rs. 2.17 crore as mentioned below:

(Rupees in lakh)						
Sl. No.	Name of unit	No. of vehicles	Period	Additional tax leviable	Additional tax levied	Short levy of tax
1.	RTO Varanasi	25	1 quarter 2 months to 6 quarters	26.61	6.22	20.39
2.	RTO Aligarh	578	5 quarter and 2 months	657.82	473.49	184.33
3.	ARTO Jyotibaphule Nagar	38	3 quarter to 4 quarter and 2 months	35.49	23.29	12.20
<b>Total</b>		<b>641</b>		<b>719.92</b>	<b>503.00</b>	<b>216.92</b>

The matter was reported to the department and the Government between September 2005 and June 2006; their replies have not been received (August 2007).



## CHAPTER-IV OTHER TAX RECEIPTS

### 4.1 Results of audit

Test check of the records of the concerned departmental offices conducted during the year 2006-07, disclosed non/short realisation or loss of revenue of Rs. 57.00 crore<sup>s</sup> in 310 cases under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
	<b>Land Revenue</b>		
1.	"Allotment/unauthorised occupation of the Government land" (A review)	1	47.93
2.	Non-realisation of collection charges	11	0.07
3.	Non-recovery of fee for supplying <i>Kisan bahis</i>	2	0.01
4.	Other irregularities	55	0.18
	<b>Total:</b>	<b>69</b>	<b>48.19</b>
	<b>Stamp Duty and Registration Fee</b>		
1.	Short levy due to misclassification of documents	81	3.27
2.	Short levy of stamp duty and registration fee due to under valuation of properties	113	3.01
3.	Short deposit of stamp duty on bonds	11	0.01
4.	Other irregularities	28	0.79
	<b>Total:</b>	<b>233</b>	<b>7.08</b>
	<b>Entertainment Tax</b>		
1.	Non-realisation of unutilised maintenance charges	7	0.08
	<b>Total:</b>	<b>7</b>	<b>0.08</b>
	<b>Weights and Measures</b>		
1.	Revenue lost due to non-observance of the provisions of the Act/Rules	1	1.65
		<b>1</b>	<b>1.65</b>
	<b>Grand total</b>	<b>310</b>	<b>57.00</b>

A review of "Allotment/unauthorised occupation of Government land" involving a total financial effect of Rs. 47.93 crore and a few illustrative cases involving Rs. 1.49 crore are included in the following paragraphs.

<sup>s</sup> Accepted and recovered figure from concerned departments is nil.

## LAND REVENUE

### 4.2 Allotment/unauthorised occupation of Government land

#### Highlights

- Lack of a system/procedure for disposal of the estate land through sale/auction resulted in loss of revenue by way of cost of land amounting to Rs. 433.24 crore.  
(Para 4.2.6.1)
- Due to lack of a database on the status of lease granted, the Government was deprived of revenue of Rs. 142.18 crore and stamp duty of Rs. 14.22 crore.  
(Para 4.2.6.2)
- Lack of a time bound plan for disposal of *nazul* land resulted in non-disposal by way of sale. Lack of maintenance of a database on the status of lease granted of *nazul* land resulted in non-reversion after termination of the lease period. The loss of revenue was Rs. 2,074.72 crore.  
(Para 4.2.6.3)
- Lack of a specified time frame for regularisation of unauthorised occupations of *nazul*/estate land deprived the Government of revenue of Rs. 1,763.64 crore.  
(Para 4.2.7)
- Non-payment of cost of ceiling land utilised by the developmental authority and other organisations deprived the Government of revenue of Rs. 251.91 crore.  
(Para 4.2.9.3)
- Under valuation of land resulted in short levy of stamp duty of Rs. 2.04 crore and cost of land amounting to Rs. 25.56 crore.  
(Para 4.2.10.1)

#### 4.2.1 Introduction

Entry 18 of the second list of the seventh schedule to the Constitution, empowers the State Government to legislate on land, i.e. rights over land, land tenure, collection of rents, transfer and alteration of agricultural land, land improvement, etc.

Government land is the land vested in the State Government. It includes *nazul*<sup>1</sup>

<sup>1</sup> It is the land confiscated from the zamindars, nawabs, rajas etc. It was neither acquired nor was the cost thereof paid.



land, estate land<sup>1</sup>, land acquired through ceiling<sup>5</sup>. The State Government is empowered to dispose off the land in its possession by lease or sale as the case may be. The land revenue comprises receipts from land revenue/tax, rates and cesses on land and other receipts. All the receipts from Government land are deposited in the consolidated fund of the State.

The management, administration of Government land and the related activities are governed by the provisions of the Uttar Pradesh *Nazul* Manual, 1949 (hereinafter referred as the *Nazul* Manual), Government Property Management (Amendment) Rules, 2003, Uttar Pradesh Urban Land (Ceiling and Regulation) Act, 1976 and the Government orders issued from time to time.

**A review of the functioning of the Land Revenue Department regarding allotment and occupation of Government land was conducted which revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.**

#### 4.2.2 Organisational set up

The Principal Secretary Avas, Uttar Pradesh is the administrative head of Government land at the Government level. Chairman, Board of Revenue (BOR) is the overall incharge of Government land and the district magistrate (collector) of the respective district is responsible for the management and administration of Government land. He is assisted by the officer incharge/additional district magistrate.

#### 4.2.3 Scope and methodology of audit

The review of the efficacy of the system of allotment/unauthorised occupation of Government land was conducted from July 2006 to March 2007. For this purpose, records for the period between 2002-03 and 2006-07 were test checked in the offices of additional district magistrate, *nagar nigams/nagar palika parishads*/development authorities and sub registrars in 22<sup>2</sup> out of 70 districts.

#### 4.2.4 Audit objectives

The review was conducted with a view to:

- assess the efficiency and effectiveness of the system of allotment of Government land (*nazul* land, estate land and land acquired through ceiling) on lease or otherwise;

<sup>1</sup> Property which are under the management and administration of Board of Revenue is defined as estate land.

<sup>5</sup> Land obtained through ceiling pertains to such land which has been acquired by the Government under the provisions of Urban Land (Ceiling and Regulations) Act, 1976.

<sup>2</sup> Agra, Allahabad, Banda, Bareilly, Basti, Bijnore, Bulandshahar, Faizabad, Ghaziabad, Gorakhpur, Jaunpur, Jhansi, Kanpur, Lucknow, Mathura, Meerut, Moradabad, Raebareili, Rampur, Saharanpur, Sitapur and Varanasi.

- assess the efficiency and effectiveness of the department in initiating eviction proceedings against unauthorised occupants of Government land; and
- assess the effectiveness of the internal control mechanism installed by the department to ensure proper realisation of the cost of Government land.

#### **4.2.5 Acknowledgement**

The Indian Audit and Accounts Department acknowledges the co-operation of the Land Revenue Department in providing the necessary information and records to audit. The draft review report was forwarded to the department and Government in June 2007 and was discussed in the Audit Review Committee meeting held in August 2007. The Special Secretary (Avas) represented the Government while the Additional Commissioner, BOR represented the department. Views of the department/Government have been incorporated in the relevant paragraphs.

### **Audit findings**

#### **System deficiencies**

#### **4.2.6 Management of Government land**

##### **4.2.6.1 Non-disposal of estate land**

Under the provisions of the Government Property Management (Amendment) Rules and the Government order of January 2003 issued under these Rules, estate land absolutely vacant and not let out earlier is required to be disposed off by way of sale/auction on or before 31 March 2004 after keeping in reserve 40 *per cent* of the land for use of the Government. **Audit noticed that no system/procedure for disposal of land i.e. by way of sale/public auction/allotment to any development authority or any other body was prescribed by the Government. In the absence of any system/procedure, the orders could not be implemented and the land remained undisposed in various districts.**

Test check of the revenue records of four districts<sup>1</sup> revealed that total estate land measuring 95.77 lakh square metres (sqm) was available as on January 2003 in these districts. On reserving 38.74 lakh sqm land for the Government purpose (40 *per cent* of the total estate land), 57.03 lakh sqm land was required to be disposed off within the scheduled time (31 March 2004) by way of sale/auction. No action, however, has been initiated by the department to dispose off the land till now (July 2007). This deprived the Government of revenue by way of cost of land of Rs. 433.24 crore.

After the cases were pointed out, the department/Government accepted (August 2007) that the time schedule in this case was not adhered to.

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<sup>1</sup> Faizabad, Mathura, Rampur and Sitapur.



The Government may consider formulating system/procedure for allotment through sale/auction of idle land to unlock the revenue from such land and to protect it from encroachment.

#### 4.2.6.2 Non-regularisation of estate land after termination of lease period

Under the provisions of the Government Property Management (Amendment) Rules, the Government is empowered to lease out estate land with or without transferable rights to anyone. Transferable lease for building purposes where these have expired can be regularised on depositing 50 *per cent* of the cost of land based on the current market value. **Audit noticed that no database is being maintained in respect of the lease granted.**

Test check of the revenue records of four districts<sup>1</sup> revealed that in 954 cases, the periods of lease for building purposes expired between March 1938 and June 2002 in respect of leased out land measuring 10.60 lakh sqm. None of the persons got the lease regularised by depositing 50 *per cent* of the cost of land based on the current market value. Of these, four cases of lease with land area of 5,205 sqm expired after March 2001 alone. **Thus, due to lack of maintenance of a database on the status of lease granted, the Government was deprived of revenue of Rs. 142.18 crore and stamp duty of Rs. 14.22 crore.** Of this, Rs. 1.30 crore and Rs. 13 lakh towards cost of land and stamp duty respectively pertains to lease that had expired after 2001.

#### 4.2.6.3 Non-disposal of *nazul* land

Under the provisions of the *Nazul* manual, *nazul* land can only be leased out. Under the provisions of rule 22 of *Nazul* manual, lease for *nazul* land shall not ordinarily be for a period shorter than 30 years in the first instance and shall, in all cases, provide for renewal after expiry of the first and subsequent terms upto a maximum period of 90 years. The granting of lease in perpetuity in respect of any *nazul* land on any term is prohibited. Under the above provisions, the *nazul* land let out on lease for a stipulated period is required to be evacuated as and when the concerned lease terminates. With the introduction of the new *Nazul* Policy, 1998, *nazul* land can be disposed off by way of sale. If any sale deed is executed, cost of land is to be recovered on the basis of market rate and stamp duty as a conveyance.

- **The policy provides the guidelines to regularise the possession of land in unauthorised occupation. But the time frame and procedure to dispose off *nazul* land in custody of the Government have not been prescribed in the policy or by any subsequent Government order.**

Test check of the revenue records of four districts<sup>2</sup> revealed that *nazul* land measuring 47.86 lakh sqm was not disposed off. **Lapse on the part of the department in not initiating allotment of land deprived the Government of revenue of Rs. 617.26 crore by way of cost of land which could have been recovered as per the provisions of the *Nazul* policy.**

<sup>1</sup> Agra, Bulandshahar, Mathura and Raebareli.

<sup>2</sup> Bulandshahar, Faizabad, Lucknow and Mathura.

- **Audit noticed that the Government/department has not prescribed a procedure for renewing the lease as per the provisions of the manual or for taking back possession of the land after the expiry of the lease period. This has led to the continuance of unauthorised occupation. Penal provisions and accountability of the competent authorities in exercising control over the land have also not been laid down in the *Nazul* manual. No database is being maintained in respect of the lease granted.**

Test check of the revenue records of eight districts<sup>1</sup> revealed that 3,771 lease cases where *nazul* land measuring 56.73 lakh sqm was in possession of the lessee for building purposes expired between March 1939 and October 2006. Of these, 234 lease cases with land area of 46,000 sqm expired after March 2001. **Due to lack of maintenance of a database, no action to get the land evacuated or reverse the title by way of sale was taken by the department.** As a result the land remained in unauthorised possession of the lessees after termination of the lease period. The cost of land at current market value worked out to Rs. 1,324.97 crore and stamp duty of Rs. 132.49 crore was also leviable. Of these, amount totalling Rs. 36.93 crore and Rs. 3.69 crore towards cost of land and stamp duty respectively pertains to leases expired after 2001.

**The Government may consider formulating a time bound plan for allotment of idle land awaiting disposal so as to unlock its value and also to protect it from encroachment. It may also institute appropriate systems for maintenance of database on the status of lease granted, to facilitate efficient monitoring.**

#### **4.2.6.4 Unauthorised retention of the Government's share of lease rent**

Under Paragraph 76 of the *Nazul* manual, one fourth of the gross annual demand of the lease rent realised by the *nagar nigams/nagar palika parishads* is required to be credited to the Government treasury within three months from the start of the financial year. These local bodies are also responsible for maintaining the lease rent account as per the provisions of the *Nazul* manual. **Audit noticed that the Government has not prescribed any return to watch the revenues due from the concerned body.**

Scrutiny of the records of four districts<sup>2</sup> revealed that from 2001-02 to 2006-07, *nagar nigams/nagar palika parishads* realised Rs. 39.15 lakh on account of lease rent but failed to credit Rs. 9.79 lakh (one fourth share of the Government) into Government account.

**The Government needs to institute appropriate mechanism for regular and effective monitoring of the cases of non-deposit of the Government share of lease rent within time.**

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<sup>1</sup> Bulandshahar, Faizabad, Lucknow, Meerut, Moradabad, Raebareli, Saharanpur and Varanasi.

<sup>2</sup> Allahabad, Banda, Jhansi and Saharanpur.



### 4.2.7 Regulation of Government land

#### 4.2.7.1 Non-regularisation of unauthorised occupations

The Government decided, vide its order dated 1 December 1998, that any unauthorised possession of *nazul* land (prior to 1 January 1992) shall be regularised on realising the cost of land from the unauthorised occupants at the rate of 120 *per cent* and 200 *per cent* of the current circle rates for residential and commercial occupations respectively. **Audit noticed that neither has the Government nor the department framed a time schedule for regularising the unauthorised occupations of land and realising the amounts due from the unauthorised occupants.**

Test check of the revenue records of four districts<sup>1</sup> revealed that in 1,283 cases 4.46 lakh sqm of *nazul* land was in possession of unauthorised occupants. **In the absence of a prescribed time schedule, no action to regularise the land in possession of unauthorised occupants as per the Government decision has been initiated so far (May 2007).** Thus, the Government has been deprived of revenue amounting to Rs. 59.97 crore by way of value of land and Rs. 6 crore as stamp duty.

**The Government may consider specifying a time frame for getting the land vacated or regularising it within the frame work of law.**

#### 4.2.7.2 Unauthorised occupation of estate land

Rule 6(A) of the Government Property Management (Amendment) Rules, provides that land under unauthorised occupation can be regularised by way of lease with transferable rights on deposit of 100 *per cent* of the cost of land based on the current circle rate. As per the instructions of the Government of January 2003, the district administration was required to evict cases of unauthorised occupation after 1992. **Audit noticed that neither has the Government nor the department framed a time schedule to regularise the unauthorised occupation and realise the amounts due from the unauthorised occupants.**

Test check of the revenue records of 13 districts<sup>2</sup> revealed that 170.80 lakh sqm of land was in unauthorised possession of 21,289 persons but no action had been initiated by the department to regularise the land as per the Rules. Out of the total unauthorised possession, 213 cases with land area of 34,720 sqm in Raebareilly district pertained to period after 1992 but action to evict unauthorised occupations was not initiated in terms of the Government instructions of January 2003. Thus, the Government was deprived of revenue of Rs. 1,543.34 crore by way of the value of land and stamp duty of Rs. 154.33 crore.

**The Government may consider specifying a time frame for getting the land vacated or regularising it within the frame work of law.**

<sup>1</sup> Mathura, Raebareilly, Rampur and Sitapur.

<sup>2</sup> Agra, Allahabad, Bijnore, Banda, Gorakhpur, Jaunpur, Jhansi, Kanpur, Mathura, Meerut, Raebareilly, Rampur and Sitapur.

## **Compliance deficiencies**

### **4.2.8 Evacuation of unauthorised occupation**

As per the provisions of the Government notification<sup>1</sup> dated 11 December 1996 issued under the Urban Land (ceiling and regulation) Act, the land acquired by the district magistrate is required to be transferred to the development authority of the district as *nazul* land for management. In case, any unauthorised occupation is detected, the authority would evacuate it with the assistance of the district administration.

Test check of the revenue records of Gorakhpur district revealed that ceiling land measuring 12.26 lakh sqm was transferred to the Gorakhpur Development Authority. Out of which 99,975 sqm of land was not in possession of the authority and was in the hands of unauthorised occupants. Cross verification of title in revenue records in nine cases revealed that though the land had been acquired, but was still recorded in the names of the *bhumidhars*. Due to this irregularity, Government land recorded in the names of *bhumidhars* could be transferred through sale deed, power of attorney etc. at the discretion of the *bhumidhars*. No action to evacuate the land valued as Rs. 22.61 crore had been initiated by the development authority.

### **4.2.9 Allotment of Government land through lease**

#### **4.2.9.1 Utilisation of leased land for the purpose other than that set forth**

Under the provisions of Rule 20 of the *Nazul* manual, every lease or sale of *nazul* land at concessional rates under Rule 18 or 19 of the rules shall be subject to the condition that if the land leased or sold is not utilised within a period to be fixed by the State Government or for the purpose for which it was given, the State Government has the power to cancel the lease or sale and resume possession thereof.

Test check of the revenue records of the Collectorate at Mathura, revealed that during the period 1980 and 1986, *nazul* land measuring 1.12 lakh sqm was allotted on lease to the Mathura Development Authority for constructing housing colonies for the weaker sections. The land was, however, misutilised in the year 1992 by letting it out on further lease instead of providing accommodation to the weaker sections. The department issued notices in the year 1999-2000 but failed to evacuate the land by cancelling the lease and taking over its possession as required under the provisions of the *Nazul* manual. Thus, the Government was deprived of revenue of Rs. 19 crore by way of value of the land and stamp duty of Rs. 1.90 crore.

#### **4.2.9.2 Loss of stamp duty due to non-execution of lease deed**

Under the provisions of the *Nazul* manual, if any *nazul* land is transferred by way of sale or lease etc., execution of deed is required and stamp duty is chargeable as a conveyance as laid down in the Indian Stamp Act, 1899. In

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<sup>1</sup> No. 2893/9-NL-96-109 Uc/81 dated 11 December 1996



terms of the Government notification<sup>1</sup> of February 1984 issued under the Urban land (ceiling and regulation) Act, land acquired by the district magistrate and allotted to any organisation or institution by way of perpetual lease, is to be registered by executing a lease deed in favour of the lessee. Stamp duty and registration fee is also chargeable on the consideration money set forth in the lease deed.

- Test check of the revenue records of the Collectorate at Jhansi revealed that *nazul* land measuring 4,878 sqm was let out on lease in January 2003 for the consideration money of Rs. 36.32 lakh but no lease deed was executed. This resulted in loss of stamp duty and registration fee amounting to Rs. 3.68 lakh.
- Test check of the revenue records of three districts<sup>2</sup> revealed that in eight cases, ceiling land measuring 1.63 lakh sqm was allotted to different organisations or institutions on lease between October 1987 and July 2000. The lessor has not executed the lease deed in these cases so far (May 2007). As such, Government was deprived of revenue of Rs. 15.60 lakh by way of stamp duty and registration fee to be charged.

Thus, consideration money had not been recovered and lease deeds of land transferred to various institutions/organisations had not been executed even after the lapse of periods ranging from 6 to 24 years.

#### 4.2.9.3 Loss due to non-payment of the cost of ceiling land utilised by the development authority and other organisations

In terms of Government notification<sup>3</sup> of February 1984 issued under Urban land (ceiling and regulation) Act, for land acquired by the district magistrate and allotted to an organisation or institution, the cost is required to be paid by the allottee at the current market rate as prescribed by the collector of the district concerned on which stamp duty is also chargeable. In case of non-payment, recovery certificate for realisation of dues is required to be issued under the provisions of UP Public Money (Recovery of dues) Act 1972 (RR Act).

- Test check of the revenue records of three districts<sup>4</sup> revealed that ceiling land measuring 3.76 lakh sqm was allotted to different organisations between the years 1985 and 2004. Against the cost of land of Rs. 10.78 crore, only Rs. 13 lakh was paid by these organisations to the Government. This resulted in non-realisation of dues of Rs. 10.65 crore and stamp duty of Rs. 22 lakh.
- Test check of the revenue records of eight districts<sup>5</sup> revealed that ceiling land measuring 37.05 lakh sqm was utilised by eight development authorities in their different schemes between the year 1985 and 2006. As against the cost of land of Rs. 219.82 crore, an amount of Rs. 76 lakh was paid by the development authorities to the Government. Scrutiny of the annual accounts of these organisations as on 31 March 2005/2006,

<sup>1</sup> No. 559/Unchas-109 UC/81 dated 27 February 1984

<sup>2</sup> Allahabad, Lucknow and Meerut

<sup>3</sup> No. 559/Unchas-109 UC/81 dated 27 February 1984

<sup>4</sup> Lucknow, Moradabad and Saharanpur.

<sup>5</sup> Allahabad, Gorakhpur, Kanpur, Lucknow, Meerut, Moradabad, Saharanpur and Varanasi.



revealed that no provisions were made by them for the outstanding dues in their accounts. The department also did not initiate recovery proceeding in these cases under the provisions of RR Act. This resulted in non-realisation of Rs. 219.06 crore. Additionally, stamp duty of Rs. 21.98 crore was also chargeable on the cost of land.

#### **4.2.10 Allotment of Government land through sale**

##### **4.2.10.1 Short levy of stamp duty**

The Government vide its notification<sup>1</sup> dated 11 August, 2004 decided to make available land in Ghaziabad district to M/s Reliance Energy Generation Ltd.(Reliance) for establishment of a power project in which 40 *per cent* of the cost of land including rehabilitation expenses in connection with such land was to be paid by Reliance and the balance cost was to be borne by the Government. Liability of payment of stamp duty as per the provisions of the Indian Stamp Act was also to be borne by Reliance and the Government in the proportion of 40:60.

Test check of the revenue records of the Sub-registrar, Hapur revealed that the Government acquired 850 hectare land in different areas (villages) of Hapur tehsil at the rate of Rs. 150 per square yard. The total cost of acquisition worked out to Rs. 152.50 crore and this value was considered for the transaction with Reliance although the cost of land on the basis of the current circle rate prescribed by the collector, which ranged between Rs. 165 and Rs. 360 per square yard, worked out to Rs. 216.40 crore. The land was transferred through sale deed to Reliance which paid Rs. 61 crore in government account towards 40 *per cent* of the cost of acquisition of the land. This amount was less by Rs. 25.56 crore which the company would have paid had the cost of land been worked out on the basis of the current circle rate. The stamp duty amounting to Rs. 4.88 crore was paid by the company to Government account. According to the UP Stamp (Valuation of Property) Rules, 1997, stamp duty is chargeable on the cost of land based on the current circle rate prescribed by the collector. The stamp duty payable on the transaction should, therefore, have been Rs. 17.31 crore. Of this, the share of Reliance at 40 *per cent* worked out to Rs. 6.92 crore instead of Rs. 4.88 crore that was paid. This resulted in short levy of stamp duty amounting to Rs. 2.04 crore.

##### **4.2.10.2 Non-realisation of the cost of land**

As per the Government order (GO) dated 29 August 1979, 1.24 lakh square meter of land of Irrigation Department in Kanpur Nagar valuing Rs. 3.71 crore was transferred to the Kanpur Development Authority (KDA) with the provision that at the time of transfer of the land, KDA would not make the payment of cost of the land to the Irrigation Department but it would be deemed as an interest free loan. The terms and conditions for the recovery of the loan were to be finalised separately by the Government.

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<sup>1</sup> No. 1329/1-13-2004-20(7)/2004 Ra-13 dated 11 August, 2004



Department and is assisted by 26 chief engineers. To exercise effective control over the irrigation facilities and for assessment of water rates, the State is divided into 115 circles, each headed by a superintending engineer (SE), which are further divided into 402<sup>1</sup> divisions, each headed by an executive engineer/divisional officer (EE). Each EE is assisted by deputy revenue officers (DROs) who are assisted by *ziledars*, *amins* (*Sinch Paryavekshaks*) and *patarols* (*Sinchpals*).

### 5.2.3 Audit objectives

The review was conducted with a view to:

- ascertain whether systems existed and were effective for optimum utilisation of created irrigation potential and water resources;
- assess the efficiency and effectiveness of the system of levy and collection of water charges; and
- ascertain whether there was an efficient and effective internal control mechanism within the department to check non/short levy and evasion of the Government revenues.

### 5.2.4 Audit scope and methodology

The review was conducted between July 2006 and March 2007, in which records for the period from 2001-02 to 2005-06 of 37 divisions of 24 districts (one third of the total districts of the State) and office of the E in C were test checked. Out of 37 divisions, five divisions supplying water for commercial purpose were selected for test check and the basis of the selection of remaining divisions was random.

### 5.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Irrigation Department in providing necessary information and records for audit. The draft review report was forwarded to the department and Government in June 2007 and was discussed in the Audit Review Committee meeting held in August 2007. Special Secretary (Irrigation) represented the Government while the Chief Engineer (Irrigation) represented the department. Views of the Government/department have been incorporated in the relevant paragraphs.

### 5.2.6 Trend of revenue

According to paragraph 216 of the Irrigation Manual of Orders read with the provisions of budget manual for preparation of budget estimates (BEs) of revenue receipts, each divisional officer is required to maintain normal estimates of revenue from irrigation water rates and miscellaneous revenue. These will form the basis of BEs and should be revised from time to time as found necessary.

The table below indicates the BEs, revenue realised by the Irrigation Department during the last five years ending 2005-06:

<sup>1</sup> Only 231 divisions are revenue earning.

(Rupees in crore)			
Year	BEs	Actual receipts	Percentage of variation increase(+)/ decrease (-)
2001-02	96.54	133.49	(+) 38.27
2002-03	101.04	102.23	(+) 1.78
2003-04	207.63	154.62	(-) 25.53
2004-05	106.07	189.12	(+) 78.30
2005-06	125.34	198.71	(+) 58.54
<b>Total</b>	<b>636.62</b>	<b>778.17</b>	

Except in 2003-04, BEs were fixed much below the figures of achievement of the previous year. Test check of the records of 10 units<sup>1</sup> revealed that estimates of revenue receipts were not sent by the divisions for fixing of the targets of revenue receipts. This indicates that the BEs were not prepared as per the norms laid down in the budget manual and the Irrigation Manual of Orders.

After this was pointed out, the department stated that orders are being issued to regional officers to act according to the provisions of Irrigation Manual of Orders. However, the department could not explain the method adopted in fixing of target in absence of figures of the divisions. Reply of the Government has not been received (August 2007).

## Audit findings

### System deficiencies

#### 5.2.7 Irrigation potential and target of irrigation

##### 5.2.7.1 Short utilisation of irrigation potential created

Water is the backbone of irrigation potential. However, the availability of water is limited. In view of the scarcity of water resources and to motivate economic use of water, a detailed water account is required to be prepared at the divisional level. After providing for transit loss of water, balance quantity of water is utilised for the purpose of irrigation or for commercial use. **The Government, however, had not prescribed any monitoring mechanism for optimum utilisation of irrigation potential created.**

The table<sup>5</sup> below indicates the culturable command area (CCA) for irrigation, available irrigation potential and the potential actually utilised during the last five years ending 2005-06.

<sup>1</sup> Meerut Division: Ganga Canal, Meerut, Anoopshahar Division: Ganga Canal, Meerut, Upper Division: East Yamuna Canal, Saharanpur, Sirsi Dam Division: Mirzapur, Muzaffarnagar Division: Ganga Canal, Muzaffarnagar, Mirzapur Canal Division: Mirzapur, Sharda Sahayak Canal Division: Pilibhit, Sharda Canal Division: Shahjahanpur, Bandhi Division: Roberts Ganj, Sonebhadra, Lucknow Division-2: Sharda Nahar, Lucknow.

<sup>5</sup> The figure for CCA has been furnished by the department. The remaining figures in the table have been taken from the Administrative Reports of the department of the concerned years.



(In thousand hectares)

Year	CCA	Available irrigation potential	Percentage of increase in potential with reference to 2001-02	Actual potential utilised	Non-utilisation of potential	Percentage of utilisation of irrigation potential
2001-02	11,429	7,949.45	-	4,285.00	3,664.45	53.90
2002-03	11,429	8,423.38	5.96	4,271.36	4,152.02	50.71
2003-04	11,429	8,500.37	6.93	4,658.17	3,842.20	54.80
2004-05	11,429	8,628.47	8.54	4,441.81	4,186.66	51.48
2005-06	11,429	8,711.26	9.58	4,428.06	4,283.20	50.83
<b>Total</b>		<b>42,212.93</b>		<b>22,084.40</b>	<b>20,128.53</b>	

During 2001-02 to 2005-06, out of total 42,212.93 thousand hectares of available irrigation potential only 22,084.40 thousand hectares of potential was utilised and the remaining 20,128.53 thousand hectares remained unutilised. Percentage of potential utilised ranged between 50.71 and 54.80 per cent. Though the irrigation potential has been showing an increasing trend since 2002-03, yet the maximum utilisation of irrigation potential was below 55 per cent. **Due to lack of monitoring of supply of water, the department could not utilise the full irrigation potential. This resulted not only in less irrigation receipts but also led to adequate water not being supplied to farmers for kharif and rabi crops as has been mentioned in the succeeding paragraph.**

After this was pointed out, the department stated (August 2007) that non-availability of funds; seepage, old canals system, shortage of water etc. were the reasons for non-utilisation of *cent per cent* irrigation potential. The reply of the department regarding shortage of water is not tenable as the figures of total irrigation potential mentioned in the above table have been taken from the administrative report. This clearly indicates that the department also acknowledges that it had irrigation potential upto that extent based on the availability of water.

#### 5.2.7.2 Short fall in achievement of the target of irrigation

Test check of the records of the office of the E in C revealed that though the target fixed for irrigation for the year 2001-02 to 2005-06 were much below the total available irrigation potential, even then there has been shortfall in its achievement as mentioned below:

(In thousand hectares)

Year	Kharif		Rabi		Total			Percentage of shortfall
	Target	Irrigation	Target	Irrigation	Target	Irrigation	Difference	
2001-02	2,632.90	2,012.52	2,979.48	2,272.49	5,612.38	4,285.01	1,327.37	(-)23.65
2002-03	2,635.90	1,962.48	3,075.50	2,308.85	5,711.40	4,271.33	1,440.07	(-)25.21
2003-04	2,630.00	2,100.90	3,080.00	2,557.27	5,710.00	4,658.17	1,051.83	(-)18.42
2004-05	2,500.00	2,113.86	2,800.00	2,327.95	5,300.00	4,441.81	858.19	(-)16.19
2005-06	2,500.00	2,095.39	2,870.00	2,332.67	5,370.00	4,428.06	941.94	(-)17.54
<b>Total</b>	<b>12,898.80</b>	<b>10,285.15</b>	<b>14,804.98</b>	<b>11,799.23</b>	<b>27,703.78</b>	<b>22,084.38</b>	<b>5,619.40</b>	

Due to non-achievement of the target of irrigation, 5,619.40 thousand hectare of land could not be irrigated. The percentage of shortfall ranged between 16.19 and 25.21 per cent. Thus, not only the cultivators were deprived of



irrigation facility, the Government also suffered loss of revenue (water charges) amounting to Rs. 62.94 crore<sup>1</sup>.

**The Government may consider taking appropriate measures for effective monitoring of the utilisation of irrigation potential created with a view to achieve the targets set.**

#### **5.2.8 Excess loss of water in transit**

During the course of supply of water through canals, loss of water in transit is inevitable by way of seepage, evaporation etc. Keeping in view the various factors of losses, transit loss of water is fixed in respect of each division by the concerned SE. **Audit noticed that there was no system of monitoring the receipts vis-à-vis the water available for irrigation by the SE concerned.**

Scrutiny of the records of Raebareli Division (South), Sharda Canal, Raebareli revealed that during 2001-02 to 2005-06, 19.99 lakh cusec of water was available for irrigation. After providing 35 per cent towards admissible transit loss of water, 12.99 lakh cusec of water was to be utilised for irrigation purpose but the department utilised only 9.04 lakh cusec of water. Thus, the balance quantity of 3.95 lakh cusec of water was also covered under transit loss of water. **Due to lack of monitoring of the receipts, the Government lost revenue of Rs. 3.12 crore<sup>2</sup>.**

After the case was pointed out, the department attributed (August 2007) main reason for excess loss of water over the admissible loss to illicit cutting of canals. The reply of the department is not tenable because the responsibility to prevent illicit cutting lies with the department itself.

**The Government may consider constituting a water monitoring cell to check the illicit cutting of canals in order to maximise the utilisation of the irrigation potential.**

#### **5.2.9 Short levy of water charges**

The main function of the Irrigation Department is to supply water to cultivators for agriculture purpose. Water for commercial purpose is also supplied for which water rate is higher than the water rate for irrigation. **Audit noticed that the department had not prescribed any system for measuring the quantity of water supplied for commercial use.**

According to the Government order dated 16 April 1975, an agreement is to be executed and renewed after 10 years for supply of water for commercial purpose. The water charges/royalty for water supply for commercial use are assessed and recovered by the Irrigation Department at the prescribed rates. Water charges for commercial use are Rs. 1.50 lakh per cusec per year with effect from May 1998.

Test check of the records of two divisions<sup>#</sup> revealed that two power plants i.e. Panki Power House, Kanpur and National Thermal Power Corporation (NTPC), Kasimpur were being supplied water although agreements had not been executed. The amount of water supplied to Panki Power House was 150 cusecs per year as per the records of the Power house relating to EE, Kanpur

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<sup>1</sup> Calculated at the average water rate of Rs. 112 per hectare.

<sup>2</sup> Calculated at average revenue of Rs. 79 for one cusec of water

<sup>#</sup> Kanpur Division Lower Ganga Canal Kanpur and Aligarh Division Ganga Canal Aligarh



Division, Lower Ganga Canal. A joint inspection by the representatives of the division and NTPC conducted in June 1976 assessed that 106 cusec water was being supplied per year to NTPC. No further joint inspection was conducted in respect of the Panki Power House or for NTPC, Kasimpur to ascertain the water actually supplied during the subsequent years. Based on the above, during 2001-02 to 2005-06 total 1,280 cusec of water had been supplied at the minimum to the two power projects. For this, water charges amounting to Rs. 19.20 crore were to be levied but the department raised bills only for Rs. 42 lakh. The department did not maintain any record regarding supply of water and the bills were raised on the basis of the water consumption statement supplied by the user agencies instead of the actual utilisation of water. The water consumption mentioned in these statements was worked out by the user agencies according to their formula of water consumption in different activities. Since there would be some wastage/recycling of water, the amount of water used by the agencies would always be less than the water supplied. **As there was no system of maintaining accounts of water actually supplied and raising bills on that basis there was short levy of water charges amounting to Rs. 18.78 crore.**

**The Government may consider supplying water for commercial purpose only after executing an agreement with the user agency, prescribing a system for measurement of water and maintaining accounts of water supply so as to raise the bill for correct amount.**

#### **5.2.10 Non-maintenance of plantation register**

Different types of trees are planted on the land of the Irrigation Department. In such cases where trees are found fallen or dried up, sale proceeds of the trees is credited to the Government account.

According to paragraph 328 (9) of the Irrigation Manual of Orders, a register of annual count of standing trees will be maintained in form No. 84-H and on the basis of this, entries will be made in the "plantation register". **The Government, however, did not prescribe any system of periodical physical verification of the standing trees.**

During test check of the records of 12 divisions\*, it was noticed that during 2001-02 to 2005-06, 'plantation register' showing the actual number of trees was not properly maintained. **Even where it was being maintained, due to lack of physical verification of the trees, the department was not aware of the fact whether these trees actually existed.** Loss of revenue due to illicit cutting/felling of trees cannot, therefore, be ruled out.

After this was pointed out, the department stated (August 2007) that orders had been issued to the regional officers to maintain plantation registers as per laid down in the irrigation manual.

**The Government may introduce a system of periodical physical verification of standing trees as a safeguard against illicit cutting and theft of fallen trees.**

\* Lucknow Division-2: Sharda nahar, Lucknow, Sharda Sahayak Canal Division: Pilibhit, Betwa Canal Division: Jhansi, Sharda Canal Division: Shahjahanpur, Raebareli Division (South): Sharda Canal, Irrigation Division Dibraypur, Aligarh Division Ganga Canal, Barabanki Division Barabanki, Bulandshahr Division Ganga Canal, Meerut Division Ganga Canal, Muzaffarnagar Division Ganga Canal, Lower Division East Yamuna canal Muzaffarnagar.



### 5.2.11 Revision of water rates

In terms of the Northern India Canal and Drainage Act, 1873, the State Government is empowered to fix or revise the water rates as and when necessary. The performance budgets of the irrigation department of UP Government also provide that the expenditure on account of annual repairs, direction and administration, miscellaneous indirect expenditure (working expenses) and interest should be met from the revenue receipts on account of water rates.

In order to minimise the gap between receipt and expenditure, water rates should be revised after a reasonable gap of time. Timely revision and correct fixation of water rates play important roles in earning revenue. **The periodicity of revision of rates has neither been prescribed in the irrigation manual nor in any Government order.** It was noticed that last time water rates for irrigation purpose were revised in 1994.

After this was pointed out the department stated that a proposal for revising the water rates had been sent (October 2007) to the Government for approval.

### 5.2.12 Internal audit

The internal audit cell (IAC) of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed systems are functioning reasonably well. The Government issued an order in January 2001 for constituting an IAC under the control of the Finance Controller in the office of E in C. **However, it was observed that the IAC was not constituted in the office of E in C till March 2007 despite Government orders. In the absence of internal audit, the department remained unaware of the areas of malfunctioning of the systems and did not, therefore, have any opportunity of taking remedial action.**

**The Government may ensure that IAC is constituted in the office of the E in C and conducts regular internal audit of the department.**

## Compliance deficiencies

### 5.2.13 Shortfall in *partol*

Under the provision of paragraph 313 of Irrigation Manual of Orders, the assessment of water rate is done by the *amins*<sup>3</sup> of the irrigation divisions after the measurement of the irrigated area. The bonafide of measurement is based on the check of measurement conducted by the various officers/staff as prescribed in the manual.

Further, under paragraph 323 of the Irrigation Manual of Orders, norms of *partol*<sup>#</sup> to be carried out by the various officers/*ziledars* have been fixed by the department. The *ziledars* shall make a complete check, every *fasal*<sup>&</sup> of at least one whole village in every *partol*'s beat, in addition to any village which the

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<sup>3</sup> Carries out measurements of irrigation and prepares demand statement (Jamabandi)

<sup>#</sup> Checking of irrigated land

<sup>&</sup> Crop



divisional officer may specially order him to check. He is responsible for ensuing that no irregularities are practiced by the *amins*.

Test check of the records of Rohelkhand Canal division, Bareilly revealed that during 2001-02 to 2005-06, after providing for transit loss at the rate of 20 *per cent*, 10.37 lakh cusecs of water was available for irrigation of 6.06 lakh hectare of land (based on the water consumption during 2003-04) but with the above quantity of water, only 4.90 lakh hectare of land was irrigated as mentioned below:

Year	Availability of water excluding 20 <i>per cent</i> loss (in Cusec)	Irrigated area (in hectare)
2001-02	2,44,540.80	1,00,460
2002-03	2,07,049.60	90,079
2003-04	1,71,986.40	1,00,253
2004-05	1,94,843.20	99,325
2005-06	2,18,280.80	99,991
<b>Total</b>	<b>10,36,700.80</b>	<b>4,90,108</b>

It was observed that during 2001-02 to 2005-06, the full allotted area for checking of irrigated land was not checked by *ziledars*. The shortfall in *partol* ranged between 31 and 75 *per cent*. It is evident that due to shortfall in *partol*, 1.16 lakh hectare of land was not recorded as irrigated land and the Government was deprived of revenue amounting to Rs. 2.11 crore<sup>\$</sup>

After the case was pointed out, the department accepted (August 2007) that during 2001-02 to 2005-06 there had been shortfall in checking of irrigated land. It, however, added that with the available water, the irrigation had been above the norms of average irrigation. The reply of the department is not tenable because shortfall in *partol* had definitely affected in recording the actual irrigated land.

#### 5.2.14 Non-levy of centage charges on deposit work

Under the provisions of Financial Hand Book volumes V & VI, centage charges at the rate of 14 *per cent* in respect of Public Works Department and at the rate of 12.5 percent in respect of Irrigation Department on the actual outlay on works are to be levied and credited to the Government account monthly in respect of deposit works undertaken by the Public Works and Irrigation departments on behalf of commercial department and local bodies in the State.

Test check of the records of Headworks division, Agra Canal Okhla, New Delhi revealed that during January 2003 to May 2005, centage charges amounting to Rs. 1.18 crore were leviable on the total deposit work of Rs. 9.46 crore, undertaken by the division on behalf of the local bodies (Rs. 1.92 crore) and commercial units (Rs. 7.54 crore). However, these charges were not levied.

<sup>\$</sup> Calculated at revenue of one hectare i.e. Rs. 182.

### **5.2.15 Remittance/reconciliation of revenue**

#### **5.2.15.1 Remittance of revenue into improper head of account**

Paragraph 711 of the Financial Hand Book volume VI lays down that all receipts of miscellaneous nature such as sale proceeds of wood/grass, fish and tender fee etc. received on behalf of the State Government shall be remitted into the treasury immediately under the correct head of account.

Test check of the records of 18\* divisions revealed that miscellaneous receipts amounting to Rs. 85.48 lakh pertaining to the years from 1975 to 2005 were lying in deposit register under the head "8343-Civil Deposit" although this amount should have been credited to the receipt head of the Irrigation Department. Of this, Rs. 17.02 lakh pertains to the period 2001-02 to 2005-06. The above amount has not been transferred to the correct head of account even after a lapse of more than 25 years.

After this was pointed out, the department stated (August 2007) that in case of the Meerut division Ganga canal, irrigation division Moradabad, irrigation division I & II Maharajganj, miscellaneous receipts were being credited under the receipt head of irrigation and a general order had been issued to credit such receipts under proper head.

#### **5.2.15.2 Non-reconciliation/verification of revenue receipts**

As per paragraph 320 (1) of the Irrigation Manual of Orders, the Collector has to realise water rates assessed by the divisional officer of the Irrigation Department. The Commissioner's responsibility to ensure regular realisation of irrigation revenue is the same as in respect of land revenue. After recovery is made, *tauzi* statements<sup>1</sup> are prepared and sent to the concerned irrigation divisions.

During test check of the records of Rohelkhand Canal division, Bareilly, and Mirzapur Canal division, Mirzapur, it was noticed that neither were the *tauzi* statements sent to the divisions by the Revenue Department nor did the Irrigation Department make any effort to obtain it from the Revenue Department. Accordingly, recovery of water rates of Rs. 12.55 crore pertaining to the year 2001-02 to 2005-06 could not be checked in audit. Further, deposits of 2005-06 of Irrigation Division-I, Maharajganj, and Rohelkhand Canal division, Bareilly, were not reconciled/verified with the Government treasury by these divisions.

After this was pointed out, the department stated (August 2007) that the district magistrate had been requested to send the *tauzi* statements and necessary verification had been made in case of the deposits of Irrigation Division I Maharajganj and Rohelkhand canal division Bareilly.

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\* Sharda sagar Division: Pilibhit, Afzalgarh Irrigation Division: Dhampur, Head works Division-Sharda Canal: Bareilly, Irrigation Division: Moradabad, Barabanki Division-Sharda Canal: Barabanki, Irrigation Division-I: Maharajganj, Anoopshahar Division-Ganga Canal: Meerut, North Division-Ganga Canal: Roorkee, Upper Division-East Yamuna Canal: Saharanpur, Meerut Division-Ganga Canal: Meerut, Middle Ganga Canal Construction Division: Bullandshahar, Lucknow Division-II - Sharda Canal: Lucknow, Minor Irrigation Division: Saharanpur, Irrigation Division-II: Maharajganj, Rohelkhand Canal Division: Bareilly, Irrigation Division-Construction: Robertsganj, Irrigation Division: Chunar Mirzapur, Sharda Canal Division: Shahjahanpur.

<sup>1</sup> A statement containing the details of recovery



### **5.2.16 Conclusion**

The department has not been able to utilise the sizeable irrigation potential created due to the absence of a monitoring mechanism. This led not only to loss of revenue amounting to Rs. 62.94 crore but also led to adequate water not being supplied to farmers for *kharif* and *rabi* crops. Water for commercial purpose is being supplied without executing any agreement with the user agencies and the bills are not being raised as per the actual quantity of water supplied. This led to revenue loss of Rs. 18.78 crore in two cases alone. The system of reconciliation of figures of the revenue collected was practically non-existent. The internal control mechanism of the department was abysmally weak as the IAC was not constituted in the department despite an order of the Government.

### **5.2.17 Summary of recommendations**

The Government may consider:

- taking appropriate measures for effective monitoring of the utilisation of irrigation potential created with a view to achieve the targets set;
- constituting a water monitoring cell to check the illicit cutting of canals in order to maximise the utilisation of the irrigation potential;
- supplying water for commercial purpose only after executing an agreement with the user agency, prescribing a system for measurement of water and maintaining accounts of water supply so as to raise the bills for correct amount;
- introducing a system of periodical physical verification of standing trees as a safeguard against illicit cutting and theft of fallen trees; and
- ensuring that IAC is constituted in the office of E in C and conducts regular internal audit of the department.

## **LABOUR DEPARTMENT**

### **5.3 Non-recovery of compensatory house rent**

According to the provisions of Paragraph 18 *Ka* of Financial Hand book Part II to IV, the Government servants or their family to whom the Government residences are provided should vacate the allotted accommodation within three months of transfer, retirement, termination or death. On expiry of this period, the occupancy should be treated as unauthorised and compensatory rent recovered from such occupants. The Government issued orders (January 1992 effective from July 1988) to recover compensatory rent from the occupants of Type I, II and III residences at the rate of Rs. 20 per square metre and for other residences at the rate of Rs. 25 per square metre of the living area per month. These rates were revised (August 1998) to Rs. 40 and Rs. 50 respectively. The Chief Medical Superintendents (CMS) of the hospitals and the Director of Employees State Insurance Scheme (ESIS) were responsible for getting the residences vacated by unauthorised occupants and recovery of compensatory rent.

Scrutiny of the records of Director, Employees State Insurance Scheme (ESIS) Kanpur and six Medical Superintendents (MSs)/CMSs of ESIS Hospitals<sup>1</sup> between February 2006 and June 2006 revealed that the Government residences remained under unauthorised occupation during January 1986 to May 2006 by the officers/officials even after their transfer, retirement or death. The ESIS authorities failed to get the residences vacated and recover compensatory rent. The compensatory rent from 31 unauthorised occupants works out to Rs. 93.70 lakh out of which Rs. 44.16 lakh pertained to the period from January 2002 to May 2006.

During discussion in November 2006, the Government while accepting the facts stated that the ESI authorities had got four residences vacated and action was being taken as per law for vacation of the remaining 27 residences. Regarding recovery of compensatory rent it was stated that action would be taken to recover the amount from the retirement gratuity of the retired officials with their consent and for the officials who were transferred to other departments, the concerned head of the departments were being requested to recover the amount from their pay bills.

The reply is not tenable as consent of retired officials is not required for recovery of Government dues from gratuity. Further reply has not been received (August 2007).

## **PUBLIC WORKS DEPARTMENT**

### **5.4 Non-recovery of compensation (*pratikar*) in lieu of rent from unauthorised occupants**

As per the office memorandum issued by the Government of Uttar Pradesh on 18 April 1995, compensation in lieu of rent at the rate of Rs. 35 per day per

<sup>1</sup> ESIS Hospital Pandu Nagar, Sarvodaya Nagar, Zazamau, Kidwai Nagar, Agra and Naini.



suite for first 30 days and Rs. 50 thereafter is payable from such visitors who occupy the Public Works Department (PWD) guest house for more than seven days. The above rate of Rs. 50 was revised to Rs. 100 per day per suite with effect from 17 October 1998.

Test check of the records of the PWD guest house, Mirzapur in March 2006 revealed that the Commissioner, Vindhyachal Mandal, Deputy Inspector General of Police and Joint Magistrate occupied it for 3,652 days for different periods with effect from 1 April 1997 to 31 March 2007 for which compensation of Rs. 10.10 lakh was payable by the occupants. Although the amount was not paid, yet the department has neither assessed the compensation nor issued any notice to the occupants for recovery of Rs. 10.10 lakh.

The matter was reported to the department and the Government in November 2006; their replies have not been received (August 2007). Since senior officers of the Government are expected to set high standards of personal conduct, the Government may, apart from recovering the amount, also consider taking administrative action against the officers for defaulting in making the payment.



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Lucknow,  
The 3 JANUARY 2008

Countersigned



(VIJAYENDRA N. KAUL)  
Comptroller and Auditor General of India

New Delhi,  
The 4 JANUARY 2008

