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

**FOR THE YEAR ENDED 31 MARCH 2006**

**(REVENUE RECEIPTS)  
GOVERNMENT OF KERALA**



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## **PREFACE**

This report for the year ended 31 March 2006 has been prepared for submission to Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2005-06 as well as those which came to notice in earlier years but could not be included in previous reports.



# Overview





## Overview

*This Report contains 21 paragraphs including one review, relating to non/short levy/loss of tax involving Rs 29.23 crore. Some of the major findings are mentioned below.*

### I. General

*During the year 2005-06, Government of Kerala raised a total revenue of Rs10,715.40 crore comprising tax revenue of Rs 9,778.62 crore and non tax revenue of Rs 936.78 crore. The State Government received Rs 2,518.20 crore by way of State's share of divisible Union taxes and duties and Rs 2,060.93 crore as grants in aid from Government of India. Sales tax (Rs 7,037.97 crore) formed major portion (72 per cent) of the tax revenue of the State. Receipts from Forestry and Wild Life (Rs 189.63 crore) formed the major portion (20 per cent) of non tax revenue. Compared to the previous year, the total revenue raised by the State Government registered an increase of 10 per cent, the State's share of divisible Union taxes and duties registered an increase of five per cent and grants in aid from Government of India recorded an increase of 57 per cent during 2005-06.*

*(Paragraph 1.1)*

*Test check of records of the departments of commercial tax, State excise, land revenue, motor vehicles, registration, forest, etc., conducted during 2005-06, revealed underassessments /short levy of revenue aggregating to Rs 128.46 crore in 1,378 cases. During the course of the year 2005-06, the departments concerned accepted underassessments, etc., of Rs 5.98 crore involved in 670 cases of which 102 cases involving Rs1.14 crore were pointed out in audit during 2005-06 and the rest in earlier years.*

*(Paragraph 1.11)*

*Out of inspection reports issued up to the end of December 2005 there were 1,813 outstanding reports containing 7,652 audit observations involving Rs 454.24 crore as at the end of June 2006 for want of final replies from the departments.*

*(Paragraph 1.12.1)*

### II. Sales Tax

*Underassessment of turnover in six cases resulted in short levy of tax of Rs 1.32 crore.*

*(Paragraph 2.2)*

*Incorrect grant of exemption in nine cases resulted in short levy of tax of Rs 16.02 crore.*

*(Paragraph 2.3)*

*Application of incorrect rate of tax resulted in short levy of tax of Rs 55.17 lakh in 13 cases.*

*(Paragraph 2.4)*



*Interest of Rs 7.15 crore accrued as a result of delay/non payment of tax/surcharge was short/not demanded in 34 cases.*

*(Paragraph 2.5)*

*Non liquidation of interest first resulted in short realisation of tax /interest of Rs 38.95 lakh in 20 cases.*

*(Paragraph 2.9)*

### **III. Land Revenue and Building Tax**

Review on “*Lease of land by Land Revenue Department*” revealed the following:

- *In 803 cases, leases under RALMCA (effective from 1995 onwards) have not been revised.*

*(Paragraph 3.2.6.2)*

- *Department failed to resume land in 288 cases where lessees did not apply for fresh leases from 1995-96 to 2001-02.*

*(Paragraph 3.2.8)*

- *Additional fine of Rs 15.36 crore for continued unauthorised occupation of Government land was not imposed in 526 cases.*

*(Paragraph 3.2.9)*

*Collection charges of Rs 1.27 crore for recovery of arrears were not demanded from defaulters in 26 offices.*

*(Paragraph 3.3)*

### **IV. Taxes on Vehicles**

*Tax and additional tax of Rs 23.16 lakh were not demanded from 117 vehicle owners.*

*(Paragraph 4.2)*

### **V. Other Tax Receipts**

#### **A. State Excise**

*Gallonage fee of Rs 1.26 crore was short demanded from one FL9 licensee.*

*(Paragraph 5.2)*

#### **B. Stamp duty and Registration fees**

*Stamp duty and registration fee of Rs 30.33 lakh was short demanded on 361 instruments of conveyance.*

*(Paragraph 5.4)*

# **Chapter I**

## **General**



General  
Chapter I



## CHAPTER I

### GENERAL

#### 1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by Government of Kerala during the year 2005-06, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below:

(In crore of rupees)

		2001-02	2002-03	2003-04	2004-05	2005-06
<b>1</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	5,923.42	7,302.54	8,088.77	8,963.65	9,778.62
	• Non tax revenue*	543.38 (477.73)	677.76 (618.05)	806.98 (752.02)	819.09 (760.43)	936.78 (863.79)
	<b>Total</b>	<b>6,466.80</b> <b>(6,401.15)</b>	<b>7,980.30</b> <b>(7,920.59)</b>	<b>8,895.75</b> <b>(8,840.79)</b>	<b>9,782.74</b> <b>(9,724.08)</b>	<b>10,715.40</b> <b>(10,642.41)</b>
<b>2</b>	<b>Receipts from Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	1,614.26	1,715.22	2,012.01	2,404.95	2,518.20
	• Grants in aid	975.33	938.37	907.61	1,312.80	2,060.93
	<b>Total</b>	<b>2,589.59</b>	<b>2,653.59</b>	<b>2,919.62</b>	<b>3,717.75</b>	<b>4,579.13</b>
<b>3</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>9,056.39*</b> <b>(8,990.74)</b>	<b>10,633.89*</b> <b>(10,574.18)</b>	<b>11,815.37*</b> <b>(11,760.41)</b>	<b>13,500.49*</b> <b>(13,441.83)</b>	<b>15,294.53*</b> <b>(15,221.54)</b>
<b>4</b>	<b>Percentage of 1 to 3</b>	<b>71</b>	<b>75</b>	<b>75</b>	<b>72</b>	<b>70</b>

\* The figures shown in brackets are the figures net of expenditure on prize winning tickets of lotteries conducted by Government.

\* For details please see statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of Kerala for the year 2005-06, figures under the major heads 0020 – corporation tax, 0021 – taxes on income other than corporation tax, 0028 – other taxes on income and expenditure, 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** Details of tax revenue raised during the year 2005-06, along with the figures for the preceding four years are given below:

(In crore of rupees)

Sl. No.	Revenue head	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+)/ decrease (-) in 2005-06 over 2004-05
1	Sales tax	4,440.85	5,343.15	5,991.43	6,701.05	7,037.97	(+) 5.03
2	State excise	541.46	663.07	655.91	746.45	841.00	(+) 12.67
3	Stamp duty and registration fees						
	• Stamps- judicial	24.04	39.84	43.32	47.37	53.39	(+) 12.71
	• Stamps – Non judicial	262.87	314.14	334.02	489.99	852.51	(+) 73.99
	• Registration fees	107.37	132.55	172.47	237.99	195.51	(-) 17.85
4	Taxes and duties on electricity	5.18	192.63	189.97	9.62	31.52	(+) 227.65
5	Taxes on vehicles	452.18	513.20	585.78	610.48	628.51	(+) 2.95
6	Taxes on agricultural income	1.87	6.40	8.74	4.93	6.15	(+) 24.75
7	Land revenue	34.93	38.40	40.59	43.85	43.88	(+) 0.07
8	Others	52.67	59.16	66.54	71.92	88.18	(+) 22.61
	<b>Total</b>	<b>5,923.42</b>	<b>7,302.54</b>	<b>8,088.77</b>	<b>8,963.65</b>	<b>9,778.62</b>	<b>(+) 9.09</b>

The departments attributed the reasons for variation in receipts during 2005-06 as compared to 2004-05 to the following:

**State excise:** The increase was due to enhancement of rent of toddy shop from 10 to 25 *per cent*.

**Stamp duty and registration fees:** The increase was due to enhancement of rate of stamp duty on instruments of conveyance from four, five and six *per cent* to 10, 12.5 and 13.5 *per cent* in panchayat, municipal and corporation areas respectively with effect from 1 April 2005.

**Taxes and duties on electricity:** The increase was due to adjustment of Rs 19.36 crore against the dues payable by the Kerala State Electricity Board.

The reasons for variation though called for in June 2006 from heads of other departments have not been received till December 2006.



**1.1.3** Details of non tax revenue realised during the year 2005-06 along with the figures for the preceding four years are given below:

(In crore of rupees)

Sl. No.	Revenue head	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase(+) / decrease (-) in 2005-06 over 2004-05
1	State lotteries	55.94	68.38	78.72	92.72	156.58 <sup>▲</sup>	(+) 68.87
2	Forestry and wild life	113.70	149.58	187.18	199.69	189.63	(-) 5.04
3	Interest receipts	31.08	35.86	32.40	40.51	46.36	(+) 14.44
4	Education, sports, art and culture	53.56	63.41	81.86	85.76	82.09	(-) 4.28
5	Medical and public health	19.85	28.16	27.61	27.52	29.80	(+) 8.28
6	Crop husbandry	7.58	12.76	22.71	11.51	13.74	(+) 19.37
7	Animal husbandry	5.03	6.94	6.31	5.68	5.68	-
8	Public works	1.56	2.15	2.90	2.70	2.68	(-) 0.74
9	Others	189.43	250.81	312.33	294.34	337.23	(+) 14.57
	<b>Total</b>	<b>477.73</b>	<b>618.05</b>	<b>752.02</b>	<b>760.43</b>	<b>863.79</b>	<b>(+) 13.59</b>

The departments attributed the reasons for variation in receipts during 2005-06 as compared to 2004-05 to the following:

**State lotteries:** The increase was due to hike in sale of lottery tickets on its reintroduction in April 2005 after a ban in January 2005.

The reasons for variation though called for in June 2006 from heads of other departments have not been received till December 2006.

## 1.2 Initiatives for mobilisation of additional resources

During the year 2005-06, Government of Kerala raised a total revenue of Rs 10,715.40 crore comprising tax revenue of Rs 9,778.62 crore and non tax revenue of Rs 936.78 crore. The XII Finance Commission's projection of revenue of the State, budget estimates and actual receipts were as under:

(In crore of rupees)

Nature of revenue	XII Finance Commission's Projection	Budget estimates	Actual receipts	Percentage of variation between	
				Finance Commission's projection and actual receipts	Budget estimates and actual receipts
Own tax revenue	11,124.82	11,106.88	9,778.62	(-)12.10	(-)11.96
Own non tax revenue	1,080.90	843.05	936.78	(-)13.33	(+)11.12
<b>Total</b>	<b>12,205.72</b>	<b>11,949.93</b>	<b>10,715.40</b>	<b>(-)12.21</b>	<b>(-)10.33</b>

Against the Finance Commission's projection of Rs 12,205.72 crore, budget estimates aggregated only Rs 11,949.93 crore and the actual receipt of

<sup>▲</sup> From gross receipts of Rs 229.57 crore expenditure of Rs 72.99 crore on prize winning tickets has been deducted, but expenditure of Rs 89.78 crore on commission to agents and establishment expenses of Rs 9.07 crore have not been deducted.

Rs 10,715.40 crore was 12 *per cent* short of the Commission's projection and 10 *per cent* short of the budget estimates.

In the budget speech for 2005-06, the Minister for Finance proposed mobilisation of additional resources to the tune of Rs 12 crore by levying luxury tax on auditoria, *kalyanamandapam* etc., and by enhancement of tax on house boat. Government was requested in September 2006 to furnish the actual revenue realised on account of the above proposal. Government has not furnished the details so far (December 2006).

### **1.3 Analysis of budget preparation**

Under the Kerala Budget Manual, the heads of departments shall forward proposals for budget estimates of receipts directly to the Finance Department with copy to the concerned administrative departments in Government, which in turn shall forward the same to the Finance Department with their remarks. The Finance Department shall thereafter finalise the budget estimates. The budget estimates of revenue shall be based on existing rates and no increase or decrease in the rates shall be proposed unless approved by Government.

The budget estimates of revenue under principal heads for the year 2005-06 and the actual receipts were as under:

Revenue head	Budget estimates made by Government		Actual receipts	Variation between Government estimates and actual receipts
	Original	Revised		
Sales tax	8,200.01	7,281.00	7,037.97	(-) 1,162.04
State excise	825.82	839.76	841.00	(+) 15.18
Taxes and duties on electricity	237.06	468.17	31.52	(-) 205.54
Stamp duty and registration fees				
• Stamps – Non judicial	566.13	566.65	852.51	(+) 286.38
• Registration fees	267.78	248.04	195.51	(-) 72.27

The above table indicates that though estimates under 'sales tax' and 'registration fees' were scaled down, the actual receipts were less than the revised estimates. Under 'Taxes and duties on electricity' the original estimate of Rs 237.06 crore was enhanced to Rs 468.17 crore whereas the actual receipt was only Rs 31.52 crore. Under 'Stamps – non judicial' though the original estimate of Rs 566.13 crore was marginally enhanced to Rs 566.65 crore, the actual receipts were more by Rs 286.38 crore.

The above suggests that the original and revised budget estimates were not prepared in a realistic manner.



### 1.4 Variation between budget estimates and actuals

The variation between budget estimates of revenue for the year 2005-06 and the actual receipts under principal heads of revenue are given below:

(In crore of rupees)

Revenue head	2005-06			Percentage of variation
	Budget estimates	Actual receipts	Variation Increase (+)/ Shortfall (-)	
Sales tax	8,200.01	7,037.97	(-) 1,162.04	(-) 14.17
State excise	825.82	841.00	(+) 15.18	(+) 1.84
Stamp duty and registration fees				
• Stamps- Non-judicial	566.13	852.51	(+) 286.38	(+) 50.59
• Registration fees	267.78	195.51	(-) 72.27	(-) 26.99
Taxes on vehicles	771.02	628.51	(-) 142.51	(-) 18.48
Forestry and wild life	249.67	189.63	(-) 60.04	(-) 24.05
Taxes and duties on electricity	237.06	31.52	(-) 205.54	(-) 86.70
Taxes on agricultural income	10.90	6.15	(-) 4.75	(-) 43.58
Land revenue	68.60	43.88	(-) 24.72	(-) 36.03

The reasons given by the departments for variation between budget estimates and actuals for 2005-06 were as follows:

**Motor Vehicles Department:** The decrease was due to withdrawal of tax revision notified in June 2003 and accounting of excess tax collected against future tax due as a result of withdrawal. Government granted the defaulters the facility to pay in increased number of instalments.

**Electricity duty:** The decrease was due to non remittance of duty by Kerala State Electricity Board during 2005-06.

The reasons for variation though called in May 2006 from the heads of other departments have not been received till December 2006.

### 1.5 Cost of collection

The gross collection under major revenue heads, expenditure incurred on collection and the percentage of expenditure to gross collection during the years 2003-04, 2004-05 and 2005-06 along with the relevant all India average percentage of expenditure on collection to gross collection for 2004-05 are given below:

( In crore of rupees )

Sl. No.	Revenue head	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage
1.	Sales tax	2003-04	5,991.43	56.73	0.95	0.95
		2004-05	6,701.05	52.10	0.78	
		2005-06	7,037.97	60.96	0.87	
2.	Stamps (non judicial) and registration fees	2003-04	506.49	40.00	7.90	3.44
		2004-05	727.98	42.35	5.82	
		2005-06	1,048.03	46.81	4.47	
3.	State excise	2003-04	655.91	41.69	6.36	3.34
		2004-05	746.45	43.72	5.86	
		2005-06	841.00	48.78	5.80	
4.	Taxes on vehicles	2003-04	585.78	15.47	2.64	2.74
		2004-05	610.48	16.52	2.71	
		2005-06	628.51	17.73	2.82	

It can be seen from the above table that percentage of cost of collection in respect of 'stamp duty and registration fees' and 'state excise' was much higher than all India average. The Registration Department had not furnished any specific reason but stated that no system of analysis of cost of collection prevailed in the department. The Excise Department stated that the reason for high cost of collection was due to strengthening of enforcement activities consequent to the ban of arrack.

#### 1.6 Collection of sales tax per assessee

As per the data furnished by the Commissioner of Commercial Taxes, the sales tax revenue realised per assessee was Rs 0.03 crore during 2001-02 and Rs 0.04 crore in 2002-03 and 2003-04 and Rs 0.05 crore in 2004-05 and 2005-06 . The year wise particulars of the number of assesseees and sales tax revenue realised are given below:

(In crore of rupees)

Year	No. of assesseees	Sales tax revenue	Revenue per assessee
2001-02	1,38,100	4,440.85	0.03
2002-03	1,41,290	5,343.15	0.04
2003-04	1,43,669	5,991.43	0.04
2004-05	1,46,909	6,701.05	0.05
2005-06	1,28,220	7,037.97	0.05



### 1.7 Analysis of arrears of revenue

As on 31 March 2006, arrears of revenue under principal heads of revenue, as reported by the departments were as under:

(In crore of rupees)

Sl. No.	Department	Arrears	Arrears outstanding for more than 4 years	Remarks
1.	Mining and geology	0.51	0.22	Arrears were due to dispute regarding claims, court stays, etc.
2.	Local fund audit	64.93	15.66	Non remittance of fees by auditee institutions.

The details of arrears of revenue in respect of other departments though called for in May 2006 have not been received till December 2006.

### 1.8 Arrears in assessment

The details of sales tax, agricultural income tax, building tax and plantation tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 2004-05 and 2005-06 in Commercial Taxes and Land Revenue departments have not been furnished though called for in May 2006.

### 1.9 Write off and waiver of revenue

The table below indicates details of revenue exceeding Rs 10,000 (for each department) written off or waived by some departments during the year 2005-06:

(In lakh of rupees)

Sl. No.	Revenue head	Written off		Waived	
		No. of cases	Amount	No. of cases	Amount
1.	State excise	4	6.33	1	4.18
2.	Stamp duty and registration fees	1	21.40	1	0.22
3.	Forest and wild life	1	0.48	--	--
4.	Land revenue	1	0.73	--	--
5.	Sales tax	--	--	2	1.43

In Excise Department, *abkari* arrears of Rs 6.33 lakh in four cases were written off as they were irrecoverable and excise duty of Rs 4.18 lakh was waived in one case on loss of extra neutral alcohol as the tanker carrying alcohol capsized.

In Registration Department, loss sustained due to irregular exemption of stamp duty of Rs 21.40 lakh granted to mortgage deeds and release deeds of Kerala State Housing Board was written off and the balance amount of Rs 0.22 lakh outstanding in the house building loan of a deceased employee was waived.

In Forest Department, the amount of Rs 0.48 lakh due from a contractor was written off as it was irrecoverable.

In Land Revenue Department, short levy of building tax of Rs 0.73 lakh due from an assessee was written off as it was irrecoverable.

In Commercial Taxes Department, sales tax arrears of Rs 1.43 lakh were waived due to erroneous grant of exemption in one case and irregular levy of sales tax in the other case.

#### **1.10 Refunds**

Information relating to the number of refund cases pending at the beginning of the year 2005-06, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2005-06 have not been made available by the Commercial Taxes Department and State Excise Department as of December 2006.

#### **1.11 Results of audit**

Test check of the records of commercial tax, State excise, motor vehicles, forest and other departmental offices conducted during the year 2005-06 revealed underassessments/short levy/loss of revenue aggregating Rs 128.46 crore in 1,378 cases. During the course of the year, the departments concerned accepted underassessments, etc., of Rs 5.98 crore involved in 670 cases, of which 102 cases involving Rs 1.14 crore were pointed out in audit during 2005-06 and the rest in earlier years. At the instance of audit, the departments collected Rs.58.82 lakh in 250 cases during 2005-06.

This report contains 21 paragraphs including one review relating to short/non levy of tax, duty and interest, penalty, etc., involving financial effect of Rs 29.23 crore. The departments/Government have so far accepted audit observations involving Rs 4.16 crore out of which Rs 48.71 lakh was recovered. Final reply had not been received in the remaining cases till December 2006.



## 1.12 Control environment for accountability

### 1.12.1 Responsiveness to audit inspection reports

According to the instructions issued by Government in November 1965, first reply to inspection reports (IRs) are required to be sent within four weeks from the date of their receipt. In order to apprise Government of the position of pending audit observations from time to time, statements of outstanding audit observations are forwarded to Government and their replies watched in audit. Important irregularities and defects in assessments, demand and collection of State receipts, noticed during local audit but not settled on the spot, are communicated to the heads of the offices and to the next higher departmental authorities through IRs. More important financial irregularities are brought to the notice of the heads of departments and Government for taking prompt corrective measures.

As at the end of June 2006, there were 1,813 outstanding IRs containing 7,652 audit observations involving Rs 454.24 crore issued up to December 2005. The details of reports outstanding as at the end of June for the years 2004 to 2006 are given below:

(In crore of rupees)

Period	Number of IRs	Number of audit observations	Amount involved
As at the end of June 2004	3,095	13,812	447.71
As at the end of June 2005	1,638	9,659	382.14
As at the end of June 2006	1,813	7,652	454.24

Revenue head wise details of the outstanding IRs as at the end of June 2006 are given below:

(In crore of rupees)

Sl. No.	Revenue head	Number of IRs	Number of audit observations	Amount
1	Sales tax	700	3,866	161.06
2	Taxes on agricultural income	150	1,052	47.86
3	State excise	41	54	7.31
4	Taxes on vehicles	249	1,227	7.53
5	Land revenue	75	152	9.28
6	State lotteries	2	2	-
7	Forestry and wild life	73	133	29.01
8	Stamp duty and registration fees	513	1,132	73.63
9	Taxes and duties on electricity	10	34	118.56
	<b>Total</b>	<b>1,813</b>	<b>7,652</b>	<b>454.24</b>

First replies to 241 IRs issued upto December 2005 were not furnished by the departments till the end of June 2006. This was brought to the notice of the Chief Secretary to Government in July 2006.

### 1.12.2 Departmental audit committee meetings

Government set up audit committees (during various periods) to monitor and expedite the progress of settlement of IRs and paragraphs in the IRs relating to departments of Commercial Taxes, Motor Vehicles, Registration, etc. Details of audit committee meetings held during the year 2005-06 and the paragraphs settled are given below:

(In crore of rupees)

Revenue head	No. of meetings held during 2005-06	No. of paragraphs outstanding as on 31 March 2005	Amount	Year-wise details of paragraphs settled		Amount
Sales tax	4	4,310	154.53	Up to 2001-02	204	2.35
				2002-03	8	
				2003-04	1	
				2004-05	-	
				<b>Total</b>	<b>213</b>	
Taxes on vehicles	3	599	11.32	Up to 2001-02	139	3.64
				2002-03	60	
				2003-04	155	
				2004-05	50	
				<b>Total</b>	<b>404</b>	
Stamp duty and registration fees	5	1,126	123.48	Up to 2001-02	25	0.01
				2002-03	16	
				2003-04	9	
				2004-05	6	
				<b>Total</b>	<b>56</b>	
State excise	2	559	8.98	Up to 2001-02	5	-
				2003-04	2	
				2004-05	15	
				2005-06	1	
				<b>Total</b>	<b>23</b>	
Land revenue	2	984	7.61	Up to 2001-02	15	0.82
				2002-03	13	
				2003-04	15	
				2004-05	23	
				<b>Total</b>	<b>66</b>	
Taxes on agricultural income	1	1,136	48.61	Up to 2001-02	1	-
				2004-05	1	
				<b>Total</b>	<b>2</b>	
Forestry and wild life	1	208	41.46	Up to 2001-02	20	6.40
				2002-03	2	
				2003-04	9	
				2004-05	1	
				<b>Total</b>	<b>32</b>	
<b>Grand total</b>	<b>18</b>	<b>8,922</b>	<b>395.99</b>		<b>796</b>	<b>13.22</b>

Seven hundred and ninety six paragraphs involving Rs 13.22 crore were settled in 18 meetings of the audit committees under various revenue heads during 2005-06. Though 8.92 per cent of the number of paragraphs outstanding at the beginning of the year was settled, monetary value of clearance was only 3.34 per cent.



No audit committee has been constituted for the revenue head 'Taxes and duties on electricity'.

### **1.12.3 Response of the departments to draft audit paragraphs**

According to the instructions issued in 1965 by Government of Kerala, result of verification of facts on the draft audit paragraphs are required to be communicated to the Accountant General within six weeks from the date of receipt of the same. Draft paragraphs are forwarded to the secretaries by name drawing their attention to the audit findings and requesting them to send their response within six weeks. In case the final reply cannot be given within six weeks, an interim reply is to be given to the Accountant General and in any case, final reply should be sent within three months from the date of receipt of the draft paragraph. The fact of non receipt of replies from Government is invariably indicated at the end of each paragraph included in the Audit Report.

The Report of the Comptroller and Auditor General of India for the year ended 31 March 2006 (Revenue Receipts), Government of Kerala, includes 64 draft paragraphs which were forwarded to the secretaries to Government. However, replies/response to 33 draft paragraphs have not been received till December 2006. The draft paragraphs have been suitably clubbed into 21 paragraphs in this Report. Nine cases where recoveries of Rs 38.67 lakh have been effected in full are mentioned in the results of audit under the relevant chapters.

### **1.12.4 Follow up action on Audit Reports - Summarised position**

The instructions issued by Government from time to time for timely follow up action on the Audit Reports and matters pertaining to the Committee on Public Accounts stipulate that it is imperative to submit action taken notes (ATNs) on paragraphs and reviews included in the Audit Report indicating the remedial action taken or proposed to be taken, within three months from the date of presentation of Audit Report to the legislature without waiting for any notice or call from the Committee on Public Accounts.

Review of outstanding ATNs on paragraphs included in 10 Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31 March 1995 to 31 March 2004 disclosed that the departments had not submitted remedial ATNs on 66 paragraphs on which ATNs were due as on 31 December 2006. The year wise, revenue head wise statement is furnished in Annexure I.

Out of 442 audit paragraphs included in the above 10 Audit Reports, the departments submitted remedial ATNs on 376 paragraphs and none of these ATNs was furnished within the prescribed period of three months.



Though the Audit Report for the year ended 31 March 2005 was laid on the table of the legislature in February 2006 and the time limit of three months for furnishing remedial ATNs elapsed in May 2006, the departments had not submitted ATN on any of the 23 paragraphs included in the above Audit Report till December 2006.

#### **1.12.5 Recovery of revenue of accepted cases**

Position of recoveries effected based on paragraphs mentioned in Reports of the Comptroller and Auditor General of India for the years from 2001-02 to 2004-05 as on 31 December 2006 is given below:

(In crore of rupees)

Sl No	Year	Money value of paragraphs	Money value of accepted cases	Amount recovered
1	2001-02	454.15	16.69	0.94
2	2002-03	468.78	13.82	1.38
3	2003-04	130.68	23.20	0.82.
4	2004-05	55.49	13.43	0.31

## **Chapter II**

### **Sales tax**





## CHAPTER II

### SALES TAX

#### 2.1 Results of audit

Test check of sales tax assessments and refund cases and connected documents of sales tax offices conducted during the year 2005-06 revealed underassessment of turnover, non levy of interest, grant of incorrect exemption, application of incorrect rate of tax etc., amounting to Rs 50.37 crore in 954 cases which may broadly be categorised as under:

Sl. No.	Category	Number of cases	Amount (In crore of rupees)
1.	Turnover escaping assessment	111	8.71
2.	Grant of incorrect exemption	85	4.37
3.	Application of incorrect rate of tax	153	1.54
4.	Incorrect grant of concessional rate of tax	29	0.54
5.	Non/short levy of interest	225	11.97
6.	Other lapses	351	23.24
	<b>Total</b>	<b>954</b>	<b>50.37</b>

During 2005-06, the department accepted underassessments, etc., of Rs 4.51 crore involved in 558 cases of which 81 cases involving Rs 1.04 crore were pointed out during 2005-06 and the rest in earlier years. The department recovered an amount of Rs 0.15 crore involved in 49 cases during the year.

After the issue of draft paragraphs the department recovered Rs 27.23 lakh in full in seven cases.

A few illustrative cases involving Rs 25.52 crore are given in the following paragraphs:

## 2.2 Underassessment of turnover

**2.2.1** Under the KGST Act, any dealer who in the course of his business purchases from a registered dealer or from any other person any goods, in circumstances under which no tax is payable and disposes of such goods in any manner other than by way of sale in the State or despatches them to any place outside the State except as a direct result of sale, shall pay tax on the taxable turnover relating to such purchase for the year at the prescribed rates. If a dealer has submitted a false return, the assessing authority may impose penalty not exceeding twice the amount of tax evaded or sought to be evaded.

In sales tax office, special circle, Kollam, while finalising the assessment for 1992-93 in November 2002 of a dealer who purchased cashew and cashew kernel without paying tax by issuing form 18A declaration and transferred the same to head office at Chennai, tax leviable on purchase turnover of cashew kernel of Rs 4.89 crore was not levied. This resulted in non levy of tax and surcharge of Rs 37.64 lakh and penalty of Rs 68.44 lakh.

After this was pointed out in November 2002, Government intimated in June 2006 that the assessing authority issued notice to the assessee in April 2004 to revise the assessment. Further progress was awaited (December 2006).

**2.2.2.1** Under the KGST Act, taxable turnover means the turnover on which a dealer shall be liable to pay tax after making the prescribed deductions from the gross turnover. It has been judicially held\* that in order to claim exemption on account of stock transfer of goods outside the State, the dealer has to produce a delivery note in form 26 along with declaration in form F.

In two offices, turnover of Rs 1.29 crore involved in two cases was incorrectly excluded from levy of tax resulting in short levy of tax, additional sales tax and surcharge of Rs 10.78 lakh as shown below:

(in lakh of rupees)

Sl No	Name of office	Assessment year month and year of assessment	Name of commodity	Turnover excluded	Nature of irregularity	Tax short levied	Remarks
1.	STO, Special Circle II, Kozhikode	2001-02 April 2004	Plywood and glass	61.10	The assessing authority exempted turnover as consignment sales covered by form 'F', but was not supported by form 26 or proof of crossing the check post.	7.81	After this was pointed out in June 2005, Government informed in June 2006 that the assessment was revised and Rs 4.50 lakh has been collected. Balance amount has been advised for revenue recovery.

\* Esab India Ltd. Vs State of Kerala- 12 KTR 34 (Ker)



(in lakh of rupees)

Sl No	Name of office	Assessment year month and year of assessment	Name of commodity	Turnover excluded	Nature of irregularity	Tax short levied	Remarks
2.	STO, Special Circle, Mattancherry	1998-99 March 2003	Coffee beans	67.44	The turnover escaped assessment due to erroneous computation of purchase value of coffee beans.	2.97	After this was pointed out in December 2003, the assessing officer stated that further report would be submitted after verifying the records and accounts. Further reply was awaited (December 2006).
	<b>Total</b>					<b>10.78</b>	

The above cases were reported to Government between January 2006 and March 2006; reply has been received in one case (December 2006).

**2.2.2.2** It has been judicially held<sup>^</sup> that warranty charges received for replacing defective parts is sale of goods and is liable to tax. Tax leviable on spares of motor vehicles was at the rate of eight *per cent* at the point of first sale in the State.

In sales tax office, special circle, Tirur, while finalising the assessment for 2000-01 and 2001-02 between October 2004 and March 2005 of an assessee engaged in the business of vehicles and spares, warranty charges of Rs 75.23 lakh received from the manufacturers for replacing defective parts of vehicles were not included in the taxable turnover. This resulted in non levy of tax of Rs 6.53 lakh including additional sales tax.

After this was pointed out in August 2005, Government informed in June 2006 that the assessments were revised between October and December 2005 and the amounts were advised for revenue recovery. Further progress was awaited (December 2006).

**2.2.3** It was judicially held<sup>^</sup> that DEPB<sup>\*</sup> be treated as goods within the meaning of Sales Tax Act and the premium of price received on sale thereof is liable to tax.

In sales tax office, special circle, Palakkad, while finalising the assessment for 1997-98 in March 2002 of a manufacturer and seller in push button telephone, sale proceeds of DEPB license amounting to Rs 59.28 lakh were not assessed to tax. This resulted in non levy of tax of Rs 6.52 lakh.

After this was pointed out in August 2004, the assessing authority stated in January 2005 that action has been initiated to levy tax. Further progress was awaited (December 2006).

<sup>^</sup> M/s Mohammed Ekram Khan and Sons Vs Commissioner of Trade Tax - 12 KTR 572 (SC)

<sup>^</sup> Philco Exports Vs Sales Tax Officer & Ors -10 KTR 245

<sup>\*</sup> Duty entitlement pass book



The case was reported to Government in February 2006; further report has not been received (December 2006).

**2.2.4** It was judicially held\* that an assessee was liable to pay tax when purchase of goods was made from registered dealers who were not liable to tax as their turnovers were below the assessable limit.

In sales tax office, first circle, Thalassery, while finalising the assessment for 2001-02 and 2002-03 between February 2004 and July 2004 of a dealer, sales turnover of Rs 6.14 lakh of soda was exempted from tax treating it as second sales. But the assessee purchased soda from registered dealers who were not liable to tax as the turnover was below the assessable limit. This resulted in short levy of tax and interest of Rs 2.18 lakh.

After this was pointed out in May 2005, Government informed in June 2006 that the assessments were revised and advised for revenue recovery.

### **2.3 Incorrect grant of exemption**

**2.3.1** By a notification issued in August 2001 under the KGST Act, exemption granted on tax payable by dealers who were engaged in printing and supply on contract basis was withdrawn with effect from 16 August 2001. Tax leviable on printing and supply of materials is eight *per cent*.

In sales tax office, special circle III, Ernakulam, while finalising the assessment of a dealer engaged in printing and supply on contract basis for the year 2001-02 in September 2004, turnover of Rs 1.92 crore for the period from 16 August 2001 to 31 March 2002 was exempted from levy of tax. This resulted in non levy of tax of Rs 17.63 lakh.

After this was pointed out in September 2005, Government informed in June 2006 that notice was issued in November 2005 to reassess the turnover and action has been initiated to make good the loss sustained to Government. Further progress was awaited (December 2006).

**2.3.2** As per the KGST Act, tax on motor vehicles is leviable at the rate of eight *per cent* up to March 1997 and at the rate of 10 *per cent* thereafter.

In sales tax office, second circle, Tripunithura, while finalising the assessments for the years from 1995-96 to 1997-98 in June 1999 of a financing company dealing with motor vehicles, turnover of Rs 1.33 crore relating to the sale of vehicles was incorrectly exempted from tax. This resulted in short levy of tax of Rs 12.12 lakh including surcharge.

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\* M.S.Raja Mohammed Vs State of Kerala - 102 STC 143

After this was pointed out, the department informed in June 2006 that case has been reassessed and the amount advised for revenue recovery in February 2005. Collection particulars have not been received (December 2006).

**2.3.3** Under the KGST Act, new SSI\* units are exempted from payment of tax due on goods produced and sold by them for a period of seven years from the date of commencement of commercial production. Exemption from sales tax was admissible only for goods manufactured and sold by the unit. Under the KGST Act, tax at the rate of one *per cent* is charged on first sale of paddy by registered dealers. It has been judicially held\* that a dealer was liable to pay purchase tax on the purchase of paddy procured in circumstances in which no tax had been paid. It was also held\* that SSI units are not entitled to get SSI exemption on purchase tax.

**2.3.3.1** In sales tax office, third circle, Palakkad and sales tax office, Aluva, while finalising the assessment of three dealers of paddy for the years 2000-01 and 2001-02 between November 2002 and April 2003 the assessing authorities levied purchase tax of Rs 6.71 lakh and incorrectly adjusted it against SSI exemption. This resulted in non recovery of purchase tax of Rs 6.71 lakh.

After these cases were pointed out between September 2003 and December 2004, Government informed in September 2006 that the assessing authorities revised the assessments and issued demand notices. Further progress was awaited (December 2006).

**2.3.3.2** In sales tax offices, Alathur and second circle Changanassery, while finalising the assessments of two manufacturing units for the years 1995-96 and 1999-2000, between March 2004 and March 2005, the assessing authorities exempted purchase turnover of rubber wood and coconut shell for Rs 3.27 crore incorrectly. This resulted in non levy of tax of Rs 27.95 lakh and interest of Rs 5.37 lakh.

After these cases were pointed out between August 2004 and March 2005, the department stated in January 2005 that assessing authority had issued notice in the case of Alathur. Government informed in July 2006 that the assessment was revised in the case of Changanassery. Further progress was awaited (December 2006).

**2.3.3.3** In agricultural income tax and sales tax office, Sulthan Bathery, a SSI unit was allowed exemption from sales tax for the period from 5 June 1997 to 4 June 2004 in August 2001. While finalising the assessment for 1999-2000 in March 2004, the assessing authority erroneously granted sales tax exemption of Rs 16.07 lakh as against the available balance of Rs 3.35 lakh for the period from 1 April 1999 to 30 October 1999. This resulted in short levy of tax of Rs 12.72 lakh.

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\* Small scale industrial

\* Raja Provision Stores Vs Appellate Tribunal (Sales Tax), Thiruvananthapuram- 105 STC 325 (SC)

\* State of Kerala Vs M/s Vattukalam Chemicals Industries -10 KTR 69 (SC)



After this was pointed out, the assessing authority stated in February 2006 that the unit had got additional exemption covering the entire period. The reply is not tenable as the revised proceedings dated 24 March 2006 of General Manager, District Industries Centre, Wayanad, revealed that the additional sanction of SSI exemption was with effect from 31 October 1999 and did not cover the period from 1 April 1999 to 30 October 1999. Further reply was awaited (December 2006).

The case was reported to Government in March 2006; further report has not been received (December 2006).

**2.3.4** Under the KGST Act, in respect of manufactured goods other than tea which are sold under a trade mark or brand name, the sale by the brand name holder or the trade mark holder within the State shall be the first sale for the purpose of this Act. Industrial units which manufacture goods on behalf of another brand name holder were not eligible for exemption. It was also judicially held<sup>▼</sup> by the apex court that in the case of an SSI unit excise duty exemption was not applicable if goods are manufactured with brand name or trade name of another which was not a small scale industry.

In sales tax office, special circle, Kottayam, it was noticed that a dealer (a medium and large scale industrial unit) was granted exemption from sales tax of Rs 40.23 crore as per order dated 6 July 1996 for seven years during the period from 14 October 1995 to 13 October 2002. As per the eligibility certificate, the dealer was to manufacture Portland Pozzolana cement.

It was however observed in May 2004 that the dealer entered into an agreement with a dealer of Mumbai in June 1999 to use logo/trade mark of that dealer for three years with effect from 1 June 1999 and undertook not to manufacture and sell cement under any other logo/brand name. While finalising the assessments of the dealer for the years from 1999-2000 to 2001-02 between February and April 2003, the assessing officer assessed tax of Rs 15.19 crore on turnover of Rs 98.56 crore and adjusted the same against exemption limit instead of demanding the tax. Since the dealer was selling manufactured goods by the brand name of other company, the assessee was not entitled to the exemption, and the exemption of Rs 15.19 crore allowed was irregular.

After this was pointed out in May 2004, Government informed in September 2006 that the unit entered into an agreement with M/s Associated Cement Companies Limited and obtained logo from 1 June 1999. So the unit became the brand name holder and a unit having sales tax exemption simultaneously. The assessee had not violated any of the conditions in the notifications granting exemption. The reply was not tenable in view of the agreement made by the company and also in view of the judicial decision that even a use of part of a brand name or trade name, so long as it

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<sup>▼</sup> Commissioner of Central Excise, Raipur Vs Hira Cement - 145 STC 264 (SC)



indicates a connection in the course of trade would be sufficient to disentitle the person from getting exemption.

## 2.4 Application of incorrect rate of tax

Under the KGST Act, rate of tax depends on the nature of sale, point of sale and also on the kind of commodity. Under the Kerala Surcharge on Taxes Act (KST Act), 1957, surcharge at the rate prescribed is also leviable on sale and purchase tax.

In eight offices, it was observed that while finalising assessment between July 2003 and March 2005 the assessing officers levied tax, additional sales tax and surcharge of Rs 55.17 lakh short in 13 cases due to application of incorrect rate. A few examples by way of illustration are given below:

(In lakh of rupees)							
Sl. No.	Name of Office/ No. of cases	Commodity	Assessment year/ Month of assessment	Rate applicable Rate applied (in per cent)	Turn-over	Tax short levied and surcharge and additional sales tax	Remarks
1.	STO, Special Circle III, Ernakulam 4	Polythene films	2003-04 December 2004	$\frac{8}{4}$	176	8.07	After these were pointed out in August 2005, Government informed in July 2006 that polythene films containing logo of the purchaser and details of content printed on it and sold to milk processing units for packing milk were assessable at four per cent as packing materials. The reply is not tenable, as the goods manufactured as polythene films and covers were unsuitable for being used as packing materials without undergoing some manufacturing process.
			2003-04 December 2004	$\frac{8}{4}$	140	6.22	
			2003-04 December 2004	$\frac{12}{4}$	25.18	2.24	
			2002-03 March 2005	$\frac{8}{4}$	101	4.66	
2.	STO, Special Circle, Mattancherry 2	Domex (liquid used for cleaning floor)	2001-02 March 2004	$\frac{12}{8}$	118	5.22	After this was pointed out in November 2004, Government informed in June 2006 that the assessment was revised in May 2006. Further reply was awaited (December 2006).

*Audit Report (Revenue Receipts) for the year ended 31 March 2006*

(In lakh of rupees)							
Sl. No.	Name of Office/ No. of cases	Commodity	Assessment year/ Month of assessment	Rate applicable Rate applied (in per cent)	Turn-over	Tax short levied and surcharge and additional sales tax	Remarks
		Works contract	1999-2000 March 2005	7/8.4 2	54.54	3.12	After this was pointed out in December 2004, the department stated in October 2005 that the rate was correct as works like construction of ponds, wells etc., were also included in Section 7(7) of Finance Act, 2004. The reply is not tenable as the case pertains to the period 1999-2000. Hence, the amendment effected by Finance Act, 2004 would not be applicable in this case.
3.	STO, Second Circle Thiruvananthapuram 1	Coconut oil and coconut oil cake	2000-01 and 2001-02 January 2004	4 2/3	460	10.40	After this was pointed out in November 2004, Government informed in May 2006 that the assessments were revised in February 2005. The amount has been advised for revenue recovery in June 2005. Further progress was awaited (December 2006).
4.	STO, Second Circle, Mattancherry 1	Liquefied petroleum gas (LPG)	2002-03 July 2004	16 12	96.91	3.88	After this was pointed out in October 2005, Government informed in October 2006 that the assessment was reopened and the turnover was assessed at 16 per cent. Further progress was awaited (December 2006).
5.	STO, Aluva 1	Biscuits sold under brand name	2002-03 January 2004	12 8	83.62	3.85	After this was pointed out in December 2004, Government informed in June 2006 that the assessment had been revised levying tax at the rate of 12 per cent. The assessee remitted Rs 2.00 lakh in May 2005. Balance amount with interest of Rs 3.93 lakh was advised for revenue recovery. Further reply was awaited (December 2006).

The above cases were reported to Government between February 2005 and April 2006. Their reply has been received in 12 cases (December 2006).



## 2.5 Non/short levy of interest

**2.5.1.1** Under KGST Act, if tax or any other amount assessed or due under the Act is not paid by any dealer within the time prescribed therefor in the Act or any Rules made thereunder or within the time specified in the notice of demand, the dealer shall pay by way of interest a sum equal to one *per cent* of such amount for each month for the first three months of delay and two *per cent* for each month upto 31 March 2005 and at the rate of one *per cent* per month thereafter.

In nine offices\*, the assessing authorities while finalising the assessments for the period from 1996-97 to 2001-02 between June 2001 and January 2006 either failed to levy or levied short interest of Rs 5.18 crore in 16 cases. A few cases by way of illustration are as under:

(In lakh of rupees)

Sl. No.	Name of office No. of cases	Assessment year/Month and year of assessment	Nature of irregularity	Non/short levy of interest	Remarks
1.	STO, Special Circle, Palakkad 5	2000-01 & 2001-02 January 2006	The assessee paid Rs 0.07 lakh out of the admitted turnover tax of Rs 2.27 crore. But while finalising the assessment the assessing authority failed to levy interest for the unpaid balance tax for the period upto January 2006.	211.38	After these cases were pointed out in March 2006, the assessing authority stated that it was specifically ordered in the assessment order to pay balance amount with interest. The reply is not tenable as demand of interest without specifying amount of accrued interest would apply only to future interest and assessing authority should have specified the amount of interest up to the date of issue of demand.
		2000-01 October 2005	While finalising the assessment, the assessing authority demanded admitted turnover tax of Rs 1.48 crore in January 2006, but failed to levy interest for the period upto issue of demand in January 2006.	149.63	
		1999-2000 September 2005	The assessee paid only Rs 84.84 lakh out of the admitted tax of Rs 1.47 crore. While finalising the assessment, interest for the unpaid balance amount of Rs 62.16 lakh was not levied for the period upto the issue of demand in January 2006.	78.23	
		2001-02 October 2005	Though the assessee admitted tax of Rs 31.32 lakh in the revised return filed in September 2005, no tax was paid till the date of issue of demand notice. The assessing authority failed to compute interest for the period upto the issue of demand in October 2005.	30.69	

\* STO Special Circles: Alappuzha, Ernakulam II, Ernakulam III, Kasargod, Mattancherry, Palakkad, Thiruvananthapuram and Thrissur and STO Chalakkudy

(In lakh of rupees)

Sl. No.	Name of office No. of cases	Assessment year/Month and year of assessment	Nature of irregularity	Non/short levy of interest	Remarks
2.	STO, Special Circle, Thiruvananthapuram 2	1998-99 February 2003	While advising the amount under RRC* in May 2003, interest for March and April 1999 was not reckoned and interest for the period from 12 April to 11 July 2003 was advised at the rate of one <i>per cent</i> instead of two <i>per cent</i> .	23.28	After this was pointed out in August 2003, Government informed in October 2006 that the mistake in computation of interest had been rectified in one case. Further report has not been received on the other case. (December 2006)
3.	STO, Special Circle III, Ernakulam 2	1998-99 & 1999-2000 September 2001 and December 2001	The Sales Tax Appellate Tribunal decided in favour of revenue restoring the original assessment. While issuing RRC in February 2005 the assessing officer failed to levy interest on the balance tax of Rs 15.02 lakh for the period from December 2001 to January 2005.	10.93	After this was pointed out in March 2006, the assessing authority stated that interest was not leviable when the demand was set aside. The reply is not tenable in view of the provisions in KGST Act that interest is leviable on the amount finally settled and period during which the collection of amount was stayed by any authority shall not be excluded in computing the interest.
4.	STO, Special Circle II, Ernakulam 1	2001-02 November 2003	While finalising the assessment of a dealer in jewellery of gold, interest was not levied on unpaid additional sales tax of Rs 18.13 lakh.	7.07	After this was pointed out in December 2004, the department stated that the matter would be examined. Further report has not been received (December 2006).

The above cases were reported to Government in June 2006; their reply has not been received in 15 cases (December 2006).

**2.5.1.2** Under KGST Act, where any dealer has failed to include any turnover in the return filed by him or any turnover has escaped assessment, the dealer shall pay interest at the rate of one *per cent* per month for the first three months and at the rate of two *per cent* for subsequent months up to 31 March 2005 and at the rate of one *per cent* thereafter.

Test check of records of nine offices\* revealed that assessing authorities while finalising the assessments for the period from 2000-01 to 2003-04 between November 2002 and October 2005 failed to levy interest of Rs 1.41 crore on sales tax assessed for turnover suppressed in 12 cases. A few cases by way of illustration are as under:

\* Revenue recovery certificate

\* STO Special Circles: Alappuzha, Ernakulam II, Kozhikode I, Mattancherry (HP) and Palakkad  
STOs: Hosdurg, Ernakulam IV, Kozhikode I and AIT& STO, Ranni



(In lakh of rupees)

Sl. No.	Name of office No. of cases	Assessment year/Month and year of assessment	Nature of irregularity	Non/short levy of interest	Remarks
1.	<u>STO, Special Circle, Palakkad</u> 1	<u>2000-01</u> October 2005	The assessee failed to include the excise duty element of Rs.6.39 crore in the conceded turnover. Though the assessing authority levied tax of Rs 64.04 lakh in October 2005, he omitted to levy interest on the tax for the period upto October 2005.	31.32	After this was pointed out in March 2006, the assessing authority replied that it was specifically ordered in the assessment order itself that the interest due on the amount shall also be paid. The reply is not tenable as the amount of interest due was not specified in the assessment order and without specifying the accrued interest, the order applies only to interest which would accrue in future.
2.	<u>STO, Special Circle II, Ernakulam</u> 2	<u>2000-01</u> March 2005	The assessee failed to include turnover of Rs 3.45 crore in the return. Though the assessing authority added this amount with the taxable turnover, he failed to levy interest on the tax due thereon for the period upto January 2006.	27.87	After this was pointed out in January 2006, the assessing authority stated that the case would be examined. Further report has not been received (December 2006).
		<u>2001-02</u> January 2005	The assessee failed to concede a turnover of Rs 31.68 lakh which was assessed by the assessing authority. But interest due on the tax for the period from May 2002 to February 2005 was not levied.	2.84	After this was pointed out in January 2006 the assessing authority stated that the case would be examined. Further report has not been received (December 2006).
3.	<u>STO, Special Circle I, Kozhikode</u> 1	<u>2000-01</u> February 2003	The assessee suppressed a turnover of Rs 6.73 crore which the assessing officer had assessed to tax based on information from check post. However, interest due on the tax on the suppressed turnover for the period upto April 2003 was not levied.	24.23	After this was pointed out in April 2005, the assessing authority stated that interest was not leviable as the dealer had not produced the accounts. The reply is not tenable since the dealer failed to include the turnover in the return filed by him. So the interest was leviable.
4.	<u>STO, Special Circle (HP), Mattancherry</u> 2	<u>2000-01</u> January 2005	Suppression of turnover of Rs 3.83 crore detected by intelligence squad in June 2001/March 2004 was added and tax levied on the escaped turnover. The assessing authority failed to levy interest on tax due on the escaped turnover.	29.81	After this was pointed out in August 2005, Government informed in July 2006 that interest was to be recovered from the date of demand notice. The reply is not tenable in view of the provisions of the Act that interest is due on the tax from the date from which the tax had fallen due on escaped/suppressed turnover.
5.	<u>STO, Hosdurg</u> 1	<u>2002-03</u> March 2005	A dealer in furniture and timber effected purchase of timber by issuing form 18 at concessional rate. But this was not disclosed		After this was pointed out in October 2005, the assessing authority stated that interest fell due only after creating

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(In lakh of rupees)					
Sl. No.	Name of office No. of cases	Assessment year/Month and year of assessment	Nature of irregularity	Non/short levy of interest	Remarks
			in the accounts. While finalising the assessments, the assessing authority levied tax on escaped turnover, but failed to levy interest on tax due.	9.85	additional demand. The reply is not tenable as the dealer is liable to pay the differential tax and interest from the date of purchase of goods.
6.	STO, First Circle, Kozhikode 1	2000-01 March 2005	Purchase turnover of Rs 2.16 crore of copra was not shown in the accounts and return. While finalising assessment, the assessing authority failed to levy interest on tax due on the escaped turnover.	7.88	After this was pointed out in June 2005, Government informed in June 2006 that the assessee had not admitted the turnover which escaped assessment. The reply was not tenable as suppression of turnover was detected by vigilance and anti corruption bureau and was assessed to tax. So the interest was leviable.

The above cases were reported to Government in June 2006. Further report has not been received in eight cases (December 2006).

**2.5.1.3** Under the CST Act, amended with effect from 1 April 2000, if the tax payable by any dealer is not paid in time, the dealer shall pay interest for the delayed payment of such tax at the rates applicable as per the general sales tax law of the State.

In four offices, it was noticed between March 2005 and March 2006 that while finalising the assessments under CST Act between December 2001 and March 2005 for the years from 1996-97 to 2000-01, the assessing authorities failed to levy interest of Rs 22.21 lakh as shown under:

(In lakh of rupees)					
Sl. No.	Name of office No. of cases	Assessment year/Month and year of assessment	Nature of irregularity	Non/short levy of interest	Remarks
1.	STO, Special Circle, Alappuzha 1	2000-01 March 2005	The assessee did not file return under CST Act. However, in the return filed under GST Act, interstate sale of Rs 1.57 crore was shown. The assessing authority assessed tax of Rs 12.57 lakh but failed to levy interest on tax due for the period upto August 2005.	12.07	After this was pointed out in February 2006, the assessing authority replied that interest was not leviable since the assessment was ex parte. The contention is not tenable as the assessee failed to file return and assessment was made on details available in records; hence interest was leviable.
2.	STO, Special Circle, Thrissur 2	1997-98 & 1998-99 March 2003	The assessee collected CST of Rs 11.32 lakh but did not remit any amount. While finalising the assessments, the assessing officer did not levy interest.	7.81	After this was pointed out in March 2006, the assessing authority replied that case would be examined. Further report has not been received (December 2006).



(In lakh of rupees)					
Sl. No.	Name of office No. of cases	Assessment year/Month and year of assessment	Nature of irregularity	Non/short levy of interest	Remarks
3.	STO, Second Circle, Mattancherry 1	1997-98 December 2001	As the tax of Rs 1.95 lakh assessed was not paid, it was recommended for RR action. While issuing RRC in August 2002, the assessing authority failed to mention the interest to be recovered. The amount of interest upto December 2005 works out to Rs 1.60 lakh.	1.60	After this was pointed out in December 2005, the assessing authority replied that steps would be taken to realise the amount. Further report has not been received (December 2006).
4.	STO, Special Circle, Mattancherry 1	1996-97 December 2002	Assessee failed to remit full amount of admitted tax of Rs 1.87 lakh. Assessing authority omitted to levy interest on unremitted portion of admitted tax for the period April 2000 to December 2002.	0.73	The matter was pointed out in March 2005. No reply has been received (December 2006).
<b>Total</b>				<b>22.21</b>	

The above cases were reported to Government in June 2006. Further report has not been received (December 2006).

### 2.5.2 Non levy of interest on surcharge payable

Under the KST Act, the tax payable under KGST Act shall be increased by a surcharge at the prescribed rates in case of a dealer whose turnover exceeds Rs 10 lakh in a year. As per KST Act, all provisions of KGST Act shall apply in relation to the tax payable. KST Act has been dispensed with effect from 1 January 2000, except for foreign liquor.

In special circle, Mattancherry, it was noticed in March 2005 that assessing authority finalised assessment under KST Act for the year 1996-97 in February 2001 and demand of Rs 17.95 lakh on account of surcharge was raised but the amount has not been paid by the assessee so far. Interest of Rs 33.56 lakh for the period from May 1997 to March 2005 on the amount of unpaid tax has also become due but was not demanded.

After this was pointed out in March 2005, the assessing authority stated that the case would be examined. No reply has been received so far (December 2006).

## 2.6 Non levy of penalty

Under the KGST Act, the assessing authority shall finalise the assessment of certain specified category of dealers without detailed scrutiny. On reopening such assessment, if the tax paid by the dealer is less than the amount of tax he is liable to pay, the assessing authority shall impose penalty at thrice the amount of such difference.

In sales tax office, second circle, Mattancherry, while revising an assessment for 1998-99 completed without detailed scrutiny in January 2005 of a dealer engaged in export of marine products, penalty at three times of the tax on the escaped turnover of Rs 15.67 lakh was not levied. This resulted in non levy of penalty of Rs 4.70 lakh.

After this was pointed out in October 2005, Government informed in June 2006 that notice has been issued in May 2006 to impose penalty. Further reply is awaited (December 2006).

## **2.7 Short levy due to incorrect assessment**

Under the KGST Act, every contractor may at his option, opt for payment of tax at compounded rates instead of paying tax as per the scheduled rates. As per Board of Revenue Circular<sup>\*</sup> for assessments for the period after 1 April 1991 onwards, compounding facility would be granted to those contractors who opt for the same before completion of assessment.

In sales tax office, special circle, Mattancherry, while finalising the assessment for 1998-99 in August 2002 of a contractor who did not file his option for compounding, the assessment was completed under compounding, instead of levying tax as per scheduled rates. This resulted in short levy of tax of Rs 2.64 lakh on taxable turnover of Rs 1.92 crore.

After this was pointed out in November 2003, Government informed in December 2006 that the assessment was revised and the short levy made good.

## **2.8 Short levy of tax due to incorrect compounding**

Under the KGST Act, a dealer in gold or silver ornaments may at his option pay tax at the compounded rate of 200 *per cent* of the tax payable by him as conceded in the return or accounts or the tax paid for the immediate preceding year whichever is higher.

In sales tax office, Perinthalmanna, while finalising the assessment of a dealer in jewellery, who opted to pay tax at the compounded rate for 2002-03 in April 2004, the assessing authority compounded tax at the rate of 200 *per cent* on Rs 6.19 lakh instead of Rs 7.17 lakh which was paid by the assessee during 2001-02. Incorrect compounding resulted in short levy of tax of Rs 2.26 lakh including additional sales tax.

After this was pointed out in September 2005, the assessing authority stated that the case would be examined; further reply was awaited (December 2006).

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<sup>\*</sup> No.2/97/TX



The case was reported to Government in January 2006; further report has not been received (December 2006).

## 2.9 Short realisation of tax/interest due to non liquidation of interest

Under the KGST Act, if the tax due is not paid within the time prescribed, the dealer shall pay interest. Further, where any tax or any other amount due or demanded is paid by any dealer, the payment so made shall be appropriated first towards interest accrued on such tax or other amount under sub section (3) of Section 23 on such date of payment and the balance available shall be appropriated towards principal outstanding.

In 11 offices\*, the assessing authorities while finalising the assessments for the period February 2001 to December 2005 failed to appropriate the remittances first against interest. Instead they adjusted the remittances against the tax. This resulted in short realisation of tax/interest of Rs 38.95 lakh in 20 cases. A few cases by way of illustration are as under:

(In lakh of rupees)

Sl. No.	Name of office No. of cases	Assessment year/Month and year of assessment	Nature of irregularity	Non/short levy of tax/ interest	Remarks
1.	STO, First Circle, Kottayam 2	1999-2000 & 2000-01 November 2003	The assessee remitted Rs 11.03 lakh after the due date for payment of tax of Rs 11.92 lakh. The assessing authority treated these remittances as tax remittance instead of liquidating interest resulting in short realisation of tax/interest.	8.80	After this was pointed out in January 2006, the assessing authority replied that this would be examined. Further report has not been received (December 2006).
2.	STO, Aluva 1	1998-99 December 2005	The assessing authority failed to levy interest on the unremitted portion of tax due amounting to Rs 3.80 lakh and omitted to appropriate the subsequent remittance of Rs 1 lakh towards interest. This resulted in short demand of tax/interest.	5.62	After this was pointed out in February 2006, the assessing authority replied that the case would be examined. Further report has not been received (December 2006).
3.	STO, Special Circle, Kasargod 1	1997-98 December 2003	The assessee remitted Rs 3.30 lakh during the period December 2003 to September 2004. The assessing authority treated these as tax payments without liquidating interest resulting in short demand of tax and interest.	3.96	The case was pointed out in December 2005; no reply was received (December 2006).

\* STO Special Circles: Kannur, Kasargod, Kollam, Kottayam, Mattancherry (HP) and Mattancherry STOs : I Circle Alappuzha, Aluva, Chalakkudy, I Circle Kottayam and II Circle Mattancherry,

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(In lakh of rupees)					
Sl. No.	Name of office No. of cases	Assessment year/Month and year of assessment	Nature of irregularity	Non/short levy of tax/ interest	Remarks
4.	STO, First Circle, Alappuzha 4	1999-2000 July 2004 2000-01 April 2002 2000-01 August 2004 2001-02 April 2005	In four cases, remittances of Rs 7.78 lakh against the tax due of Rs 25.47 lakh made after the due date for payment of tax were not properly appropriated between tax and interest resulting in short demand of tax and interest.	6.16	After this was pointed out in February 2006, the assessing authority replied that the case would be examined. Further report has not been received (December 2006).
5.	STO, Second Circle, Mattancherry 1	1998-99 June 2004	Excess remittance for 1997-98 amounting to Rs 1.95 lakh made in September 2002 was adjusted fully towards tax for 1998-99 instead of appropriating first towards interest.	2.56	After this was pointed out in October 2005, Government informed in October 2006 that the defect had been rectified by issuing revised proceedings and demand notice. Further report has not been received (December 2006).

The above cases were reported to Government in June 2006; their reply has not been received in 19 cases (December 2006).



# **Chapter III**

## **Land revenue and building tax**





## CHAPTER III

### LAND REVENUE AND BUILDING TAX

#### 3.1 Results of audit

Test check of records of the offices of the Land Revenue Department conducted during 2005-06 revealed underassessment of tax and loss of revenue amounting to Rs 16.81 crore in 63 cases which may broadly be categorised as under:

(In crore of rupees)			
Sl. No.	Category	Number of cases	Amount
1	Underassessment and loss under building tax	40	0.34
2	Underassessment and loss under other items	22	1.11
3	Review on Lease of land by Land Revenue Department	1	15.36
	<b>Total</b>	<b>63</b>	<b>16.81</b>

During 2005-06, the department accepted underassessment of Rs 69.97 lakh involved in 39 cases pointed out in audit prior to 2005-06. At the instance of audit, the department recovered an amount of Rs 9.41 lakh in 16 cases pointed out prior to 2005-06.

A few illustrative cases including a review on 'Lease of land by Land Revenue Department' involving Rs 1.40 crore are given in the following paragraphs:

### **3.2 Review: Lease of land by Land Revenue Department**

#### **Highlights**

- In 803 cases, leases under Rules for Assignment of Land in Municipal and Corporation Area, 1995 (RALMCA) effective from 1995 have not been revised. Consequently, the periodical revisions had also become due.

(Paragraph 3.2.6.2)

- Department failed to resume land in 288 cases where lessees did not apply for fresh leases from 1995-96 to 2001-02.

(Paragraph 3.2.8)

- Additional fine of Rs 15.36 crore for continued unauthorised occupation of Government land was not imposed in 526 cases.

(Paragraph 3.2.9)

#### **Recommendations**

Government may ensure that:

- leases on Government land are revised in time and lease rent is demanded and realised promptly;
- stringent penal provisions including resumption of land are invoked on lessees violating terms and conditions of lease;
- market value of the land may be fixed by the competent authority which should be revised periodically; and
- rates of lease rent are revised periodically.

#### **3.2.1 Introduction**

Government lands not required for immediate use are let out on lease to various individuals/institutions in order to augment revenue of the State. Kerala Land Assignment Act, 1960 (KLA Act) and Rules framed thereunder such as Kerala Land Assignment Rules, 1964 (KLA Rules) and RALMCA are to regulate grant of leases of land in Kerala. RALMCA is to regulate the lease of land situated within municipal and corporation areas which are not covered under the KLA Rules.

#### **3.2.2 Organisational set up**

The KLA Act is administered by the Department of Land Revenue headed by the Commissioner of Land Revenue. He is assisted by District Collectors (DCs) in 14 revenue districts and revenue divisional officers (RDOs) in 21 revenue divisions. Tahsildars in 63 taluks are incharge of land revenue administration exercising supervision and control on village officers at the lowest level.



### 3.2.3 Scope of audit

Records relating to assessment, levy and collection of lease rent maintained in office of Commissioner of Land Revenue, four<sup>1</sup> out of 14 DCs, two<sup>2</sup> out of 21 RDOs and 22<sup>3</sup> out of 63 taluk offices for the period from 2001-02 to 2004-05 were test checked during the period from November 2005 to March 2006.

### 3.2.4 Audit objectives

Review was conducted to ascertain whether:

- the system for demand and collection of lease rent on Government land was effective;
- provision of Act/Rules relating to lease of land were complied with; and
- the internal control mechanism was effective.

### 3.2.5 Internal control

**3.2.5.1** In the administration of lease of Government lands, taluk offices and village offices play a crucial role in furnishing prevailing market value of land for fixation and revision of lease rent.

Test check of the records at village and taluk offices revealed that in the absence of any guidelines from Government/Commissioner of Land Revenue to the village officers on market value of land, the proposals for renewal of lease/revision of lease rent were defective. The DCs returned these proposals to village officers on the ground that market value of land proposed by them were inconsistent with prevailing rates in the locality and documents relied upon were not relevant to the period, revision proposals were not supported by requisite forms etc. This resulted in protracted and avoidable correspondence and consequent delay in revision of lease rent.

**3.2.5.2** KLA Rules and RALMCA provide for assigning authority to maintain a register showing details of land assigned with particulars of assignee, survey number, village, taluk etc. They are also to conduct periodical inspection to ensure that no violation of any condition of assignment is made.

Test check of records of DCs and tahsildars revealed that these registers were not maintained in complete and proper form. Periodical inspections were also not conducted by the tahsildars.

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<sup>1</sup> Ernakulam, Kollam, Thiruvananthapuram and Thrissur

<sup>2</sup> Chengannur and Fort Kochi

<sup>3</sup> Aluva, Chengannur, Chittur, Kanayannur, Kanjirappilly, Kannur, Karthikappilly, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, Neyyattinkara, North Paravoor, Ranni, Talappally, Thiruvalla, Thiruvananthapuram, Thrissur and Vatakara

### 3.2.6 Non revision of lease rent

**3.2.6.1** Under KLA Rules, rent on lease and licence shall be charged at rates specified by Government from time to time. Rule does not specify any time frame for revision of such rates. Government of Kerala revised the rates of rent for lease/licence in December 1985.

Test check of records of six<sup>4</sup> taluks revealed that lease rent in 20 cases relating to period from 2001-02 to 2003-04 has not been revised so far in terms of rates as revised by Government in December 1985.

**3.2.6.2** RALMCA (which came into effect from 13 November 1995) provide that the lessee who is holding the lease or whose lease has already expired shall apply for fresh lease within three months from the commencement of Rules and lease shall not be granted for a period exceeding three years and be renewed on application from lessee for every three years.

Test check of lease registers maintained in 19 taluk offices<sup>5</sup> revealed that in 803 cases though the lessees had applied for revision of leases during the period between 1995-96 and 2004-05, the leases have not been revised as on 31 March 2005 as per details shown under:

Sl. No.	Year in which renewal of leases applied for	No. of cases	Remarks
1	1995-96	555 <sup>*</sup>	The revision of leases have also become due in 1998-99, 2001-02 and 2004-05
2	1998-99	1 <sup>*</sup>	The revision of lease became due in 2001-02 and 2004-05
3	2001-02	80 <sup>*</sup>	The revision of leases became due in 2004-05
4	2004-05	167 <sup>*</sup>	-----
<b>TOTAL</b>		<b>803</b>	

After it was pointed out, the department stated that the cases would be revised at the earliest.

**3.2.6.3** Under RALMCA, leases are to be renewed every three years by the assigning authority on the basis of applications filed by the lessees. In such cases, lease rent is to be fixed at the rate of 10 *per cent* of the market

<sup>4</sup> Aluva, Kanjirappilly, Kozhikode, North Paravoor, Thalappally and Thiruvalla

<sup>5</sup> Aluva, Chengannur, Chittur, Kanayannur, Kannur, Karthikappally, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, North Paravoor, Talappally, Thiruvalla, Thiruvananthapuram, Thrissur and Vatakara

<sup>\*</sup> Taluk Offices Aluva, Chengannur, Chittur, Kanayannur, Kannur, Karthikappally, Kochi, Kollam, Kozhikode, Kunnathunad, Meenachil, Mukundapuram, Muvattupuzha, North Paravoor, Talappally, Thiruvalla, Thiruvananthapuram, and Thrissur

<sup>\*</sup> Taluk Office, Vatakara



value of the land if it is used for non commercial purpose and 20 *per cent* if it is used for commercial purposes.

Test check of records of Chengannur, Kollam and Thiruvananthapuram taluks revealed that DCs had revised leases during the period between November 2002 and November 2004. The leases pertain to the period between 13 November 1995 and March 2004. It was observed that the DCs have fixed lease rent for the entire period instead of revising the lease rent at an interval of three years on the basis of prevailing market value of land.

### **3.2.7 Non renewal of time expired leases**

KLA Rules provide for granting Government land to individuals, institutions etc; for a certain period. After the expiry of the lease period it should be renewed.

Scrutiny of records of seven taluks<sup>6</sup> revealed that in 291 cases where leases expired during the period between 1980-81 and 2003-04, no action has been taken to revise the leases.

### **3.2.8 Non resumption of land for contravention of terms and conditions**

Under RALMCA, any assignment of land on lease shall be cancelled on contravention of any condition of lease. On failure of the lessee to apply for renewal of lease on its expiry, the land shall be resumed by Government.

Test check of records of seven taluks<sup>7</sup> revealed that in 288 cases where leases of land expired during the period between 1995-96 and 2001-02, the lessees had not applied for renewal of leases. No action was taken by the department to resume the land.

Government stated in August 2006 that tahsildars had been given strict instructions to resume the land; further progress was awaited.

### **3.2.9 Non levy of additional fine**

The Kerala Land Conservancy Act, 1957 (KLC Act) was enacted to prevent unauthorised occupation of Government lands. The KLC Act empowers the DC to impose a fine not exceeding Rs 200 for occupation of Government land by any person without permission and additional fine up to Rs 200 per day during the period of continued unauthorised occupation.

Test check of records of taluk offices Kollam and Thiruvalla revealed that in 526 cases where Government land was unauthorisedly occupied by individuals during the period between 2001-02 to 2004-05, though the fine for unauthorised occupation at the rate of Rs. 200 was levied by the competent

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<sup>6</sup> Kochi, Thiruvananthapuram, Mukundapuram, Talappally, North Paravoor, Thrissur, Kozhikode

<sup>7</sup> Kannur, Kochi, Kollam, Mukundapuram, Muvattupuzha, North Paravoor and Thiruvananthapuram

authority additional fine at the rate of Rs. 200 per day for continued unauthorised occupation was not levied. This resulted in non levy of additional fine of Rs. 15.36 crores as shown under:

Sl. No	Name of taluk	No. of cases	Additional fine leviable (Rs. in cróre)
1	Kollam	397	11.59
2	Thiruvalla	129	3.77
	<b>Total</b>	526	<b>15.36</b>

Government stated in August 2006 that concerned DCs have been directed to strictly follow imposition of additional fine in future.

### **3.2.10 Non revision of rate of lease rent under KLA Rules**

As per the KLA Rules, rent shall be charged for lease at such rates as Government may by order specify. Government revised the rates of annual lease rent of different types of land i.e, dry land/wet land, for single and double crops and of various types of fruit bearing trees vide orders on 19 December 1985. Thereafter, the rates of lease rent had not been revised so far, though 20 years have elapsed. The Commissioner of Land Revenue had sent a proposal for revision of rates of lease rent in September 1997 but the same was pending with Government for the last eight years.

Government stated in August 2006 that steps were being taken to revise the rate of lease rent under KLA Rules.

### **3.2.11 Exercise of powers beyond jurisdiction**

Under RALMCA, assigning authority is competent for renewal of current/time expired lease and revision of lease rent. Government is the assigning authority for assignment of lands to institutions.

Test check of records of Taluk Office, Thiruvananthapuram revealed that in the case of seven<sup>8</sup> institutions, the lease rent was irregularly revised by the DC, Thiruvananthapuram in October 2004 without approval of Government which is the assigning authority in these cases.

Government stated in August 2006 that DC, Thiruvananthapuram had been directed to rectify the mistake at the earliest.

<sup>8</sup> M/S All India Radio, Chamber of Municipal Chairmen, M/S Indian Airlines, M/S Lions Club, M/S Mannam Memorial National Club, M/S Ex Servicemen Co-Operative Wood Industries and Women's Club.



### **3.2.12 Lacuna in KLC Act**

KLC Act provides fine for the offence of unauthorised occupation of Government land upto Rs.200. If the offence is continued maximum additional fine at the rate of Rs. 200 per day ie., Rs. 73,000/- per annum is leviable.

In municipal and corporation areas, demand of lease rent on time expired leases would not be legally valid if the lessees had not applied for renewal of lease. As per KLC Act, Government is to resume the land and levy fine and additional fine for the period of unauthorised occupation. This provision was not seen invoked in these cases. As such unauthorised occupants are unduly benefited as the fine leviable is less than the lease rent due. If the leasehold is large and is situated in prime locality, lease rent due may exceed several times the maximum fine. As resumption of land is seldom carried out promptly, the offenders were invariably in favour of being levied fine and additional fine.

Government stated in August 2006 that necessary steps were being taken to amend the KLC Act to enhance the rates of fine.

### **3.2.13 Conclusion**

The provisions of KLA Act and Rules made thereunder and KLC Act are not scrupulously followed by the department. The department has failed to resume land where lessees have not applied for renewal of expired lease and continued to occupy land unauthorisedly. The rates of lease rent under KLA Act have not been revised even after a lapse of more than 20 years. Additional fine though meagre has not been invoked in cases of unauthorised occupants.

### **3.2.14 Acknowledgement**

Audit findings as a result of review were reported to department/Government in March 2006 with a specific request to attend the meeting of Audit Review Committee on the topic so that the views of the department/Government were taken into account before finalising the review. The meeting was held on 4 August 2006 and attended by the Additional Secretary, Revenue Department, Government of Kerala and Senior Finance Officer, Commissionerate of Land Revenue. The views expressed by the members have been taken into account while finalising the review.

### **3.3 Non realisation of collection charges**

Under the Kerala Revenue Recovery Rules, 1968 (KRR Rules), collection charges at the rate of five *per cent* of the arrears collected on behalf of any Government departments/notified institutions are to be recovered from the defaulters. Government, however, issued a clarification in September 1999 that collection charges need not be realised in respect of requisition received from Government departments, which was not in conformity with the provisions of the rule. The clarification was subsequently cancelled by Government in August 2005.

Mention was made in para 4.2.7 of the Report of The Comptroller and Auditor General of India for the year ended 31 March 2000 and in subsequent Audit Reports on non/short realisation of collection charges due to non compliance with provisions in Rules.

Test check of records in 26 Offices<sup>▼</sup> between November 2004 and December 2005 revealed that while recovering arrears on behalf of various Government departments during the period from April 2002 to March 2005 tahsildars did not realise collection charge from the defaulters. This resulted in non realisation of collection charge of Rs 1.27 crore.

After this was pointed out between November 2004 and December 2005, department stated in June 2006 that collection charges were not realised in respect of requisitions received from Government departments on the basis of clarification of September 1999 and that a proposal for exempting realisation of collection charge on requisitions of Government departments from 28 September 1999 to 22 August 2005 had been submitted to Government in April 2006.

The case was reported to Government in April 2006; their reply has not been received (December 2006).

### **3.4 Non levy of luxury tax on residential buildings**

Under the Kerala Building Tax Act, 1975 (KBT Act), luxury tax at the rate of Rs 2,000 per annum is leviable on all residential buildings having plinth area of 278.7 sq. m. or more and completed on or after 1 April 1999. The tax shall be paid in advance on or before 31 March every year.

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▼ Taluk Offices: Alathur, Changanassery, Chavakkad, Devikulam, Karthikappally, Kodungalloor, Kunnathur, Mananthavady, Mavelikkara, Mukundapuram, Muvattupuzha, Nilambur, North Paravoor, Pathanapuram, Peerumedu, Perinthalmanna, Ponnani, Thirurangadi and Thodupuzha  
Tahsildar (RR): Chittoor, Fort Kochi, Kanayannur, Kasargod, Kozhikode, Palakkad and Wayanad



In five Taluk Offices♦, luxury tax was not demanded on 209 residential buildings of plinth area exceeding 278.7 sq. m. and completed between June 1999 and March 2005. This resulted in non realisation of luxury tax of Rs 7.64 lakh.

After the cases were pointed out to the department between December 2004 and November 2005 and reported to Government in April 2006, they stated in June 2006 that luxury tax of Rs 5.32 lakh had been realised on 179 buildings and that action had been taken to realise the tax in remaining cases. Further reply has not been received (December 2006).

### **3.5 Incorrect exemption of building tax**

Under the KBT Act, building tax at the rate specified in the Schedule to the Act is leviable on every building, the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeds 100 sq. m. in the case of residential buildings and 50 sq. m. in the case of other buildings. An assessee objecting to a building tax assessment can file either an appeal before the RDO or a revision application before DC. The Act does not empower the assessing authority to cancel an assessment already made. As per Government clarification in October 2003, a building in a campus of an educational institution should be assessed to tax if it is used for commercial purpose.

In Perinthalmanna Taluk, a hostel building appurtenant to a hospital complex was assessed in March 2003 to building tax of Rs 2.66 lakh. The assessee instead of filing appeal to appropriate authority made a representation to the assessing authority in March 2003 and he cancelled the assessment on the plea that the building was used for educational purposes. Incorrect grant of exemption coupled with incorrect cancellation of assessment order resulted in non levy of building tax of Rs 2.66 lakh.

After this was pointed out to the department in October 2005 and reported to Government in April 2006, the department in June 2006 and Government in July 2006 stated that the building had been reassessed in May 2006 for Rs 2.66 lakh of which Rs 0.99 lakh had been remitted in June 2006. Further report has not been received (December 2006).

### **3.6 Non assessment of building tax**

Under the Kerala Building Tax Act and the Kerala Building Tax (Plinth Area) Rules, 1992 (KBTPA Rules) made thereunder, every village officer shall transmit to the assessing authority, within 5 days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from building application register of the local authority within whose area the buildings included in the list are situated.

Cross verification of records of Karthikapally taluk office with the records of Kayamkulam municipality revealed that 26 buildings completed between

♦ Taluk Offices: Kodungalloor, Tirur, Karunagappally, Mananthavady, Pathanapuram

October 2001 and February 2005 and assessed to house tax by municipality, escaped building tax assessment as per the Act. This resulted in non assessment of building tax of Rs 2.37 lakh calculated at prescribed rates on the basis of plinth area.

After this was pointed out to the department in December 2005 and reported to Government in April 2006, they stated in June and August 2006 that 19 buildings were assessed to tax at Rs 1.24 lakh of which Rs 0.45 lakh had been remitted, three cases were being referred to Government for exemption and assessment is pending in remaining four cases. Further reply has not been received (December 2006).



# **Chapter IV**

## **Taxes on vehicles**

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## CHAPTER IV

### TAXES ON VEHICLES

#### 4.1 Results of audit

Test check of records of the offices of Motor Vehicles Department conducted during 2005-06 revealed short/non-levy of tax, incorrect classification etc, amounting to Rs 2.71 crore in 188 cases, which may broadly be categorised as under:

(In crore of rupees)			
Sl. No.	Category	Number of cases	Amount
1.	Short/non levy of tax	123	0.98
2.	Incorrect classification	12	0.08
3.	Other lapses	53	1.65
	<b>Total</b>	<b>188</b>	<b>2.71</b>

During 2005-06, the department accepted underassessments of Rs 35.66 lakh involved in 36 cases of which seven cases involving Rs 3.56 lakh were pointed out in audit during 2005-06 and the rest in earlier years. During the year, the department recovered an amount of Rs 22.88 lakh in 155 cases pointed out in audit prior to 2005-06.

A few illustrative cases involving Rs 27.69 lakh are given in the following paragraphs:

#### **4.2 Non demand of vehicle tax**

Under the Kerala Motor Vehicles Taxation Act, 1976 (KMVT Act), tax on motor vehicles for a quarter or year shall be paid in advance. If a motor vehicle is not intended to be used for the first month or first two months or whole of a quarter or year, no tax is payable for the period of non use provided an intimation in form G has been filed before the concerned transport officer. It was judicially held\* that any operator would be entitled to claim exemption even for the second month or second and third month. KMVT Act further provides that if tax in respect of a vehicle has not been paid within prescribed period, additional tax at the rate of 50 *per cent* shall be payable along with the tax.

In regional transport offices, Kannur and Vadakara, 117 vehicle owners filed non use intimation in form G between April 2002 and March 2005 for the second and third months of a quarter. The owners neither paid tax for the remaining portion of the quarter nor the department raised any demand. This resulted in non realisation of tax of Rs 15.44 lakh and additional tax of Rs 7.72 lakh.

This was pointed out to the department in November and December 2005 and reported to Government in February 2006; their replies were not received (December 2006).

#### **4.3 Non levy of application fee**

Under Motor Vehicles Act, 1989, educational institution buses (EIBs) are required to obtain permits from 14 August 2000. Government prescribed in February 2004 application fee for permits at Rs 500 for each EIB. Transport Commissioner in February 2004 directed the officers of the department to complete the issuance of these permits before 30 April 2004.

Test check of records of 12 transport offices\* between July and November 2005 revealed that owners of 498 EIBs neither applied for permit nor the department initiated any action to realise permit fees from them despite direction from the Transport Commissioner. This resulted in non realisation of application fee for permits of Rs 2.49 lakh.

This was pointed out to the department between July and November 2005 and reported to Government in November 2005; their reply has not been received (December 2006).

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\* RKV Motors and Timbers (P) Ltd. Vs RTO, AIR 1982 Ker 156

\* Regional Transport offices: Attingal, Ernakulam, Kasargod and Thiruvananthapuram  
Sub Regional Transport offices: Aluva, Irinjalakkuda, Kanhangad, Kazhakkootam, Mattancherry, Parassala, Pattambi and Wadakkancherry



#### 4.4 Short levy of composite tax

Goods carriage vehicles registered in other states or union territories in India can ply in Kerala under national permit after remitting composite tax of Rs 3,000 *per annum*. Under KMVT Act, composite tax on such national permit vehicles with multi axle shall be 25 *per cent* less than the rate applicable to two axled vehicles. But this concession is restricted to vehicles of those states which allow similar concession on multi axled vehicles of other states or union territories.

In the office of the Transport Commissioner, Thiruvananthapuram it was observed that during 2004-2005, composite tax at the rate of 75 *per cent* of the normal rate was remitted on 163 multi axled national permit vehicles of States of Haryana, Madhya Pradesh, Maharashtra and Rajasthan which did not allow similar concession on multi axled vehicles registered in Kerala. This resulted in short realisation of composite tax of Rs 2.04 lakh.

After this was pointed out in December 2005, the department stated that necessary action would be taken to realise the short collection. Further reply has not been received (December 2006).

The case was reported to Government in March 2006; their reply has not been received (December 2006).

1. The first part of the paper is devoted to a general discussion of the problem of the origin of life.

2. In the second part, the author discusses the various theories of the origin of life, and compares them with the results of recent research.

3. The third part of the paper is devoted to a detailed discussion of the chemical evolution of life, and the role of the various chemical reactions in the process.

4. In the fourth part, the author discusses the role of the various physical factors in the origin of life, and the importance of the various physical processes in the development of life.

5. The fifth part of the paper is devoted to a discussion of the various problems connected with the origin of life, and the author's conclusions.



# **Chapter V**

## **Other tax receipts**

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## CHAPTER V

### OTHER TAX RECEIPTS

#### 5.1 Results of audit

Test check of records of the offices of the State Excise and Registration departments conducted during the year 2005-06 revealed short demand of gallonage fee, non demand of interest, non/short realisation of revenue under stamp duty and registration fee etc., amounting to Rs 46.95 crore in 154 cases which may be categorised as under:

(in crore of rupees)			
Sl. No.	Category	No. of cases	Amount
<b>A. State excise</b>			
1.	Short demand of gallonage fee	2	1.29
2.	Non demand of interest on delayed remittances	3	0.14
3.	Non/short demand of differential cost of establishment	12	0.11
4.	Other lapses	11	0.24
<b>B. Stamp duty and registration fees</b>			
1.	Undervaluation of documents	36	0.30
2.	Irregular remission	8	0.02
3.	Other lapses	82	44.85
	<b>Total</b>	<b>154</b>	<b>46.95</b>

During the year 2005-06 the department accepted under assessments etc., of Rs 40.62 lakh involved in 35 cases of which 13 cases involving Rs 6.03 lakh were pointed out during 2005-06 and rest in earlier years. At the instance of audit, the department recovered an amount of Rs 9.85 lakh in 28 cases of which eight cases involving Rs 3.39 lakh pertained to 2005-06.

In one case, the Excise Department recovered Rs 2.72 lakh in July 2006 in full after this was pointed out in audit.

Registration Department in June 2006 reversed an excess allocation of transfer duty of Rs 8.72 lakh made to a panchayat after this was pointed out in audit.

A few illustrative cases involving Rs 1.75 crore are given in the following paragraphs:

## **A. State excise**

### **5.2 Short realisation of gallonage fee**

Under the Foreign Liquor Rules, gallonage fee at the rate prescribed by Government is payable on the quantity of Indian made foreign liquor (IMFL) sold by FL 9 licensees\*. Gallonage fee for 2004-05 was Rs 3.20 per bulk litre (BL) of IMFL and beer.

Scrutiny of consumption statement in the office of the Circle Inspector of Excise at Kerala State Beverages Corporation Warehouse, Nedumangad revealed that the licensee sold 135.68 lakh BL of IMFL and beer during 2004-05. But the licensee paid gallonage fee of Rs 3.08 crore against due of Rs 4.34 crore. The department did not raise any demand for short payment of gallonage fee. This resulted in short levy of Rs 1.26 crore.

After this was pointed out in October 2005, the department accepted the audit observation; further reply has not been received (December 2006).

This was reported to Government in May 2006; reply has not been received (December 2006).

### **5.3 Short collection of cost of establishment**

**5.3.1** The Excise Commissioner, vide orders dated 1 June 1999 revised the rates of average cost of pay and allowances and contributions towards leave salary, pension and DCRG etc., recoverable on account of deputing excise supervisory staff for supervision of distilleries, Kerala State Beverages Corporation warehouses (KSBCVWH) etc., with effect from 1 March 1997. The Commissioner of Excise clarified in August 2000 that recovery is to be based on the scale of pay of the incumbents working in the institutions.

Scrutiny of records of KSBCVWH, Alappuzha and Attingal and Chicops distillery, Menonpara revealed that cost of establishment of two excise officials for the period between May 2002 and March 2003 was not recovered at KSBCVWH, Alappuzha. In other two cases, the cost was recovered on the basis of the scale of pay of the sanctioned post instead of the scale of pay of the incumbents. These resulted in short collection of cost of establishment amounting to Rs 2.34 lakh relating to the period from May 2002 to March 2005.

This was pointed out to the department between August 2003 and October 2005 and reported to Government in June 2006. Government stated in October 2006 that Rs 2.15 lakh had been remitted from the bonded warehouses and Rs 0.12 lakh had been demanded from the distillery. Further report had not been received (December 2006).

**5.3.2** Under Kerala Service Rules, combined rate of leave salary and pension contribution of Government servants on deputation to foreign service shall be

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\* FL 9 licence – licence for possession and supply of foreign liquor in wholesale by bonded warehouse



25 *per cent* of the maximum of the scale of pay of the post from which deputation is sanctioned.

In three institutions<sup>+</sup>, leave salary and pension contribution of excise officers posted on deputation were realised at 25 *per cent* of the average cost. This resulted in short recovery of leave salary and pension contribution amounting Rs 2.06 lakh relating to the period from April 2000 to March 2005.

After this was pointed out between July and October 2005, the department stated in January 2006 that Rs 1.36 lakh had been remitted in November 2005 from bonded warehouse at Palakkad. Further report has not been received (December 2006).

This was reported to Government in June 2006; reply has not been received (December 2006).

## **B. Stamp duty and registration fees**

### **5.4 Short levy of stamp duty and registration fee**

Under the Kerala Stamp Act, 1959, instruments on conveyance of property situated in panchayat, municipal and municipal corporation areas attracted stamp duty at Rs 2, Rs 3 and Rs 4 respectively for every Rs 100 or part thereof of the fair value of property or amount or value of such conveyance whichever is higher, during the period from 2 December 2003 to 31 March 2005. Surcharge on stamp duty under the Kerala Panchayat Raj Act, 1994 and Municipalities Act, 1994 was two *per cent* during the above period. Fair value under the Kerala Stamp (Fixation of Fair Value of Land) Rule, 1995 was in force from 5 January 2004 to 18 February 2004. Under Registration Act, 1908, fee for registration of instrument of conveyance is two *per cent* of value.

In 13 sub registry offices<sup>▼</sup>, on 361 instruments of conveyance registered between 5 January 2004 and 18 February 2004, stamp duty and registration fee were levied on aggregate consideration of Rs 3.30 crore shown in the instruments instead of on fair value of Rs 8.29 crore worked out on the basis of fair value approved by the revenue divisional officers. This resulted in short levy of stamp duty, surcharge and registration fee of Rs 30.33 lakh.

The cases were reported to the department between April 2005 and March 2006; their reply has not been received (December 2006).

This was reported to Government in May 2006; their reply has not been received (December 2006).

<sup>+</sup> Chicops distillery, Menonpara, Empee distillery, Kanjikode and KSBCWH, Palakkad

<sup>▼</sup> Enadimangalam, Kareelakulangara, Kodungalloor, Kondotty, Kuthuparamba, Mathamangalam, Mundoor, Nemom, Parappanangadi, Ponnani, Ranni, Sreekantapuram and Varkala

## **C. Entry tax**

### **5.5 Non levy of entry tax**

Kerala Tax on Entry of Goods into Local Areas Act, 1994, provides for levy of tax on entry into any local area of the State, for use or sale therein of any motor vehicle which is liable for registration in the State under the Motor Vehicles Act, 1988. The registration authority shall not register the vehicles, unless vehicle owners submit proof of payment of entry tax. Entry tax on motor vehicle is 13.8 *per cent* of purchase value during 2004-05.

In sub regional transport office, Thripunithura earth moving equipment (a vehicle) purchased from Bangalore in April 2004 by a firm in Kochi was granted registration in January 2005 without payment of entry tax. Reckoning value of Rs 17 lakh shown in insurance policy as purchase value, entry tax amounting to Rs 2.35 lakh was not levied.

This was pointed out to the department in September 2005; reply has not been received (December 2006).

The case was reported to Government in December 2005; reply has not been received (December 2006).



# **Chapter VI**

## **Forest receipts**

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## CHAPTER VI

### FOREST RECEIPTS

#### 6.1 Results of audit

Test check of records of offices of the Forest Department conducted during 2005-06 revealed non levy/short realisation of revenue amounting to Rs 11.62 crore in 19 cases, which may broadly be categorised as under:

(In crore of rupees)			
Sl. No.	Category	Number of cases	Amount
1.	Non/short demand of lease rent/ penal interest due on forest land	10	10.95
2.	Non/short realisation of sales tax/income tax	2	0.03
3.	Other lapses	7	0.64
	<b>Total</b>	<b>19</b>	<b>11.62</b>

During 2005-06, the department accepted non/short demand of lease rent/penal interest of Rs 1.11 lakh involved in two cases of which one case involving Rs 0.04 lakh was pointed out during 2005-06 and the other during earlier period. During the year the department recovered an amount of Rs 1.68 lakh in two cases of which one case involving Rs 0.04 lakh was pointed out during 2005-06 and the other during 2000-01.

An illustrative case involving Rs 2.18 lakh is given below:

## **6.2 Non realisation of revenue due to reauction**

According to the terms and conditions for auction sale of timber, firewood, etc., by Forest Department, the successful bidder should remit the bid amount and remove the items within the specified time. In the event of breach of any of the conditions by the successful bidder, the items would be reaucted and the bidder shall make good to Government any loss due to reauction and the expenditure incurred for such reauction.

Test check of records in Mannarkkad and Thenmala forest divisions revealed that in auctions conducted between August 2002 and February 2004 three bidders failed to remove timber after remitting the entire bid amount. The items were reaucted between September 2003 and November 2004, but the department did not raise demand for loss due to reauction and expenditure thereof against the defaulters. This resulted in non realisation of Rs 2.18 lakh.

After this was pointed out to the department in January 2004 and March 2005 and reported to Government in February 2006, Government stated in July 2006 that revenue recovery steps had been taken to realise the dues from the defaulters. Further report has not been received (December 2006).

Thiruvananthapuram,  
The

12.6 FEB 2007



**(JAYANTA CHATTERJEE)**

Principal Accountant General (Audit), Kerala

Countersigned

New Delhi,  
The

13 MAR 2007



**(VIJAYENDRA N. KAUL)**

Comptroller and Auditor General of India



# ANNEXURE – I

(Ref: Paragraph 1.12.4)

## Yearwise, revenue head wise statements of remedial action taken notes due on Audit Paragraphs

Revenue Head  Year of Report Date of presentation to the Legislature	Sales Tax	Taxes on Agricultural Income	State Excise	Forest Receipts	Stamps and Registration Fees	Others	Total
1994-95 4 March 1996	1	-	-	-	-	-	1
1995-96 11 March 1997	-	-	-	-	-	6	6
1996-97 23 April 1998	-	-	-	-	-	2	2
1997-98 19 February 1999	-	-	-	-	-	4	4
1998-99 21 February 2000	-	-	-	-	-	2	2
1999-00 1 March 2001	-	-	-	-	-	1	1
2000-01 11 March 2002	1	1	-	-	-	-	2
2001-02 16 June 2003	3	1	-	-	1	1	6
2002-03 28 June 2004	11	7	2	-	-	-	20
2003-04 20 July 2005	11	1	-	-	1	9	22
<b>Total</b>	<b>27</b>	<b>10</b>	<b>2</b>	<b>-</b>	<b>2</b>	<b>25</b>	<b>66</b>

11. 11. 1946

12. 12. 1946

13.

14. 14. 1946