



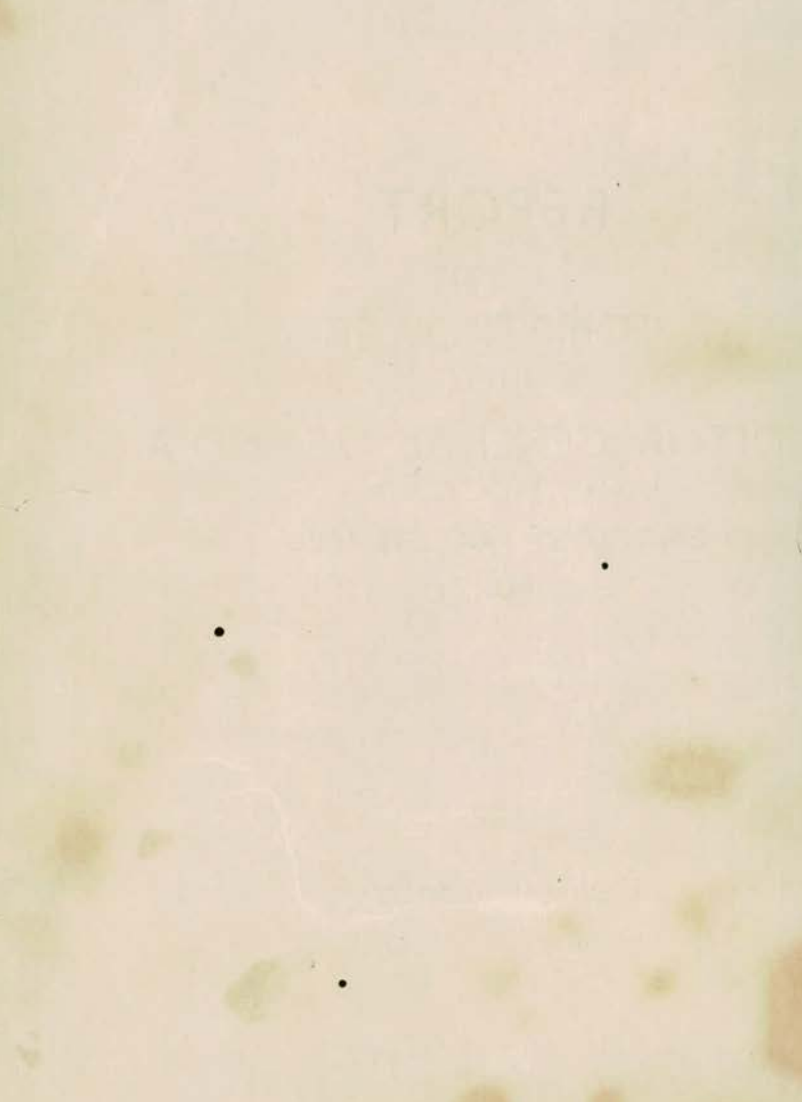
REPORT  
OF THE  
COMPTROLLER  
AND  
AUDITOR GENERAL OF INDIA  
FOR THE YEAR  
ENDED 31 MARCH 1969  
NO. 2

(REVENUE RECEIPTS)  
GOVERNMENT OF ORISSA



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## PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Orissa for the year 1988-89 is presented in this separate volume. The material in the Report has been arranged in the following order:

Chapter I deals with trends of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Revised estimates and actuals in respect of principal heads of revenue, the position of arrears of revenue etc., are discussed in this Chapter.

Chapter 2 to 7 deal with certain cases and points of interest which came to notice in the audit of Sales Tax, Taxes on Motor Vehicles and Passengers, Land Revenue, Forest Receipts and Mining Receipts, etc.





## OVERVIEW

### 1. General

(i) The total revenue raised by the Government of Orissa during the year 1988-89 from the tax and non-tax sources was Rs.635.99 crores. While the tax revenue comprised mainly of Sales Tax (Rs.238.34 crores), Motor Vehicles Tax (Rs.38.03 crores) and Electricity Duty (Rs.68.42 crores), non-tax realisation came mainly from Forest (Rs.59.23 crores), Interest (Rs.15.43 crores) and Mines and Minerals receipts (Rs.16.96 crores).  
[Paragraphs 1.1 and 1.2]

(ii) Arrears in collection of Sales Tax revenues registered an increase from Rs.123.61 crores as on 31.3.1988 to Rs.244.56 crores as on 31.3.1989. This was stated to be due to increase in demands most of which are stayed by different appellate authorities, there being no significant clearance of the outstanding dues as on 31.3.1988. [Paragraph 1.7]

(iii) Test audit during the year revealed a large number of cases of under-assessments, short-levy of taxes etc. totalling Rs.5.89 crores, many of which occurred despite objections of a similar nature having been brought to the notice of Government in previous audit reports. The main areas were Sales Tax (Rs.1.52 crores), Motor Vehicles Tax (Rs.0.98 crore), Land Revenue and related receipts (Rs.2.41 crores), Forest Receipts (Rs.0.26 crore), Mining Receipts (Rs.0.23 crore) and State Excise (Rs.0.49 crore).

(iv) This report includes representative cases of non-levy/short-levy of tax, duty, interest, penalty etc. involving a financial effect of Rs.224.62 lakhs noticed during test check in 1988-89 and in earlier years. Of these under-assessments of Rs.28.19 lakhs were accepted by the departments of which Rs.5.52 lakhs were recovered till January 1990. In respect of the balance amount of Rs.196.43 lakhs comments/final replies of the department/State Government have not been received (March 1990).

## 2. Sales Tax

(i) In the case of one registered dealer in Koraput II Circle, turnover of sales of chassis of motor vehicles returned by him at Rs.3.89 crores was not taxed leading to under-assessment of Rs.4.77 lakhs. [Paragraph 2.2(b)]

(ii) In the case of a works contractor in Keonjhar Circle, allowance of excess deduction towards labour charges resulted in short-levy of Rs.3.56 lakhs.

[Paragraph 2.7]

(iii) In 482 cases, demands of arrear tax amounting to Rs.54.73 lakhs were treated as finally settled without levy of interest of Rs.9.65 lakhs. [Paragraph 2.12]

(iv) Audit Review on "Arrears in collection of Sales Tax" indicated :

- (a) Various lapses of the departmental machinery for collection of arrears, resulting in revenue amounting to Rs.476.69 lakhs becoming irrecoverable. [Paragraph 2.13.4]



- (b) Delay in disposal of appeal cases stayed by departmental appellate authorities resulted in blockage of revenue amounting to Rs.38.76 lakhs. [Paragraph 2.13.5.8]

### 3. Taxes on Motor Vehicles and Passengers

(i) Short-realisation of motor vehicles tax and additional tax in respect of 130 stage carriages due to adoption of incorrect distances or incorrect rates of tax amounted to Rs.9.35 lakhs. [Paragraph 3.3(a)]

(ii) Non-realisation of tax and penalty from the owners of 83 motor vehicles and stage carriages for violating off-road declarations, amounted to Rs.31.59 lakhs. [Paragraph 3.6]

(iii) Realisation of composite tax from 1310 vehicles permitted to ply in Orissa under the National Permit Scheme only for a part of the year instead of full year covered by the permit, resulted in loss of revenue amounting to Rs.9.80 lakhs. [Paragraph 3.7(a)]

(iv) Non-realisation of tax at the appropriate rate in respect of 150 stage carriages found plying without permits amounted to Rs.3.63 lakhs. [Paragraph 3.9]

(v) Non-levy of tax for intervening periods in respect of 210 vehicles amounted to Rs.14.86 lakhs. [Paragraph 3.10]

(vi) Non-realisation of compounding fees at prescribed rates in respect of vehicles for offences committed amounted to Rs.6.53 lakhs. [Paragraph 3.11]



(vii) Evasion of tax and non-levy of penalty in respect of 8 stage carriages due to irregular grant of permits and fraudulent payment of taxes amounted to Rs.10.71 lakhs. [Paragraph 3.14]

(viii) Loss of revenue due to non-assessment of passenger tax within the statutory period of limitation in respect of 6 stage carriages amounted to Rs 1.50 lakhs. [Paragraph 3.17]

#### 4. Land Revenue

(i) Premium and other dues amounting to Rs.2.31 lakhs were not realised from Orissa Cashew Development Corporation for 750 acres of land given to them on advance possession for cashew plantation. [Paragraph 4.2]

(ii) Premium, ground rent etc. amounting to Rs.2.17 lakhs was not recovered from Orissa Maritime and Chilka Area Development Corporation in respect of 25.98 acres of land given to them on advance possession for coconut plantation and similar dues amounting to Rs.6.96 lakhs were not recovered from Orissa State Electricity Board for unauthorised occupation of government land measuring 8.10 acres. [Paragraph 4.3]

(iii) Non-realisation of water rate and interest thereon from four medium irrigation projects due to delay in assessment amounted to Rs.4.23 lakhs.

[Paragraph 4.4]

(iv) Short-realisation of royalty and non-levy of cess and other dues on minor minerals extracted from Government land amounted to Rs.38.56 lakhs.

[Paragraph 4.5]

## 5. Forest Receipts

(i) Wrong classification of trees of higher girth class, sound and normal, as lower girth class, unsound and defective respectively, 1st class and 2nd class species as 3rd class species and defective permissions deviating from the specifications in marking and passing lists led to under-assessment of royalty amounting to Rs.2.84 lakhs. [Paragraph 5.2]

(ii) Illicit felling and removal by miscreants, of trees in reserve forest area, due to negligence of duty by supervisory and watch and ward staff led to loss of forest produce amounting to Rs.16.88 lakhs.

[ Paragraph 5.3]

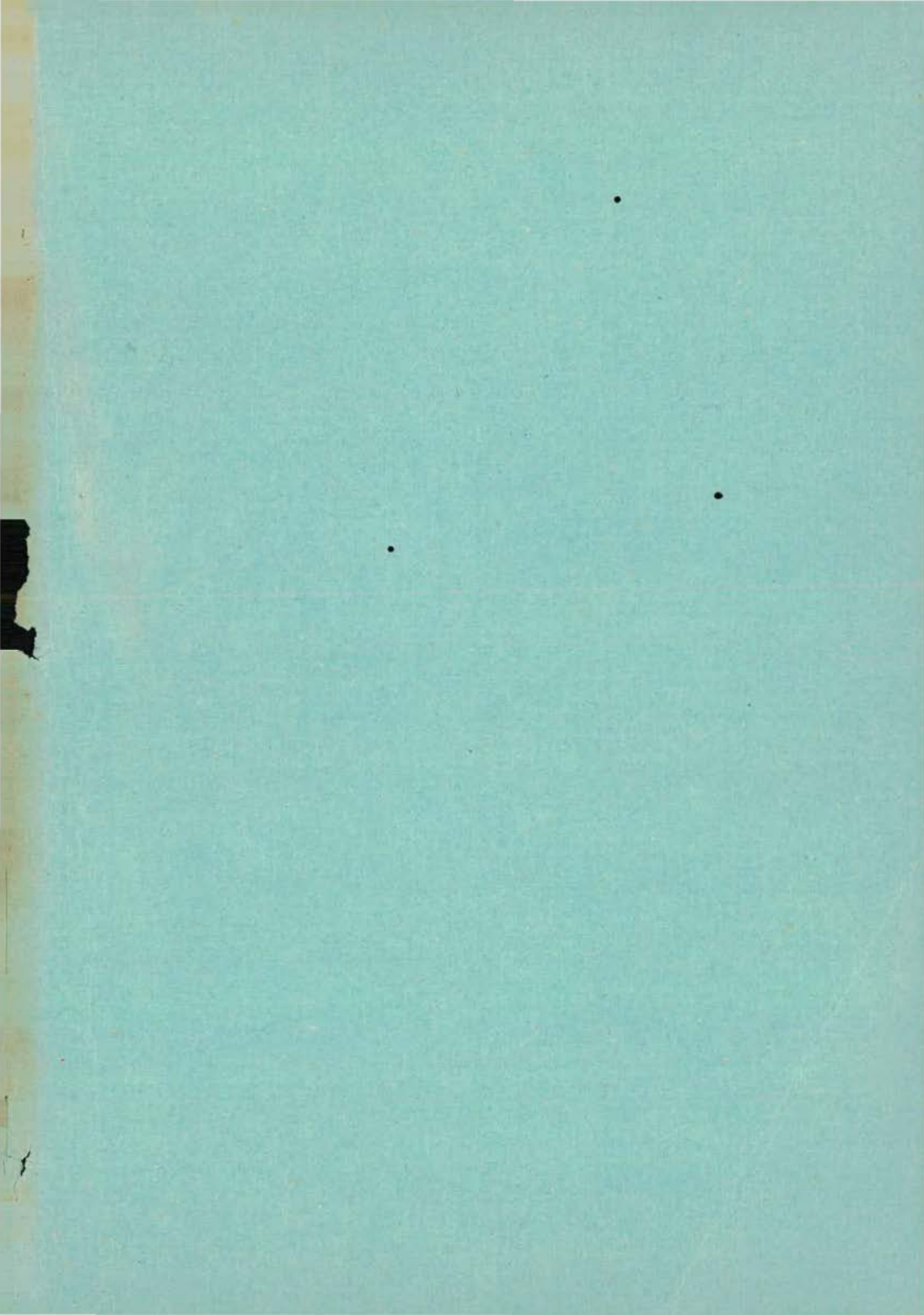
(iii) Non-assessment of compensation for damages caused by the Orissa Forest Corporation, on account of illicit fellings within the contracted area, amounted to Rs.6.04 lakhs. [Paragraph 5.4]

## 6. Mining Receipts

(i) Non-assessment of dead rent, surface rent and cess for 9 years in the case of one mining company amounted to Rs.5.18 lakhs. [Paragraph 6.2]

(ii) Non-assessment of dead rent and other dues on the leasehold area on which surface right was given in the case of one Iron and Manganese mine amounted to Rs.1.21 lakhs. [Paragraph 6.3]





## CHAPTER 1

## GENERAL

## 1.1 Trend of Revenue Receipts

The total receipts of the Government of Orissa for the year 1988-89 were Rs.1550.94 crores against the anticipated receipts of Rs.1763.53 crores. The total receipts during the year registered an increase of 16.34 per cent over those of 1987-88 (Rs.1333.08 crores). Out of the total receipts, revenue raised by State Government amounted to Rs.635.99 crores, of which tax revenue accounted for Rs.442.73 crores while the balance of Rs.193.26 crores was from non-tax revenue. Receipts from Government of India amounted to Rs.914.95 crores.

## 1.2 Analysis of Revenue Receipts

a) An analysis of the receipts during the year 1988-89 alongwith the corresponding figures for the preceding two years, is given below:

	1986-87	1987-88	1988-89
	( In crores of rupees )		
I. Revenue raised by State Government			
(a) Tax Revenue	337.84	386.74	442.73
(b) Non-Tax Revenue	158.30	156.10	193.26
Total	<u>496.14</u>	<u>542.84</u>	<u>635.99</u>
II. Receipts from the Government of India			
(a) State's share of divisible Union Taxes	414.39	402.14	428.71
(b) Grants-in-aid	317.69	388.10	486.24
Total	<u>732.08</u>	<u>790.24</u>	<u>914.95</u>

1986-87 1987-88 1988-89  
( In crores of rupees )

III. Total Receipts of the State (I+II)	1228.22	1333.08	1550.94
IV. Percentage of I to III	40.39	40.72	41.01

Thus, the State mobilised 41.01 *per cent* of its total receipts for 1988-89 and the remaining 58.99 *per cent* came from the Union Government.

b) Tax revenue raised by the State Government constituted about 69.61 *per cent* of the State's own revenue receipts during the year 1988-89. An analysis of the tax revenue for the year 1988-89 and the preceding two years is given below:

	1986-87	1987-88	1988-89	Increase (+) Decrease (-) in 1988-89 with refer- ence to 1987-88
( In crores of rupees )				
1.Land Revenue	20.81	30.16	35.60	(+) 5.44
2.Stamp and Registration fees	20.35	22.18	25.62	(+) 3.44
3.State Excise	22.83	26.52	30.96	(+) 4.44
4.Sales Tax	176.14	206.06	238.34	(+) 32.28
5.Taxes on vehicles	31.84	34.61	38.03	(+) 3.42



1986-87	1987-88	1988-89	Increase (+) Decrease (-) in 1988-89 with refer- ence to 1987-88
---------	---------	---------	---

( In crores of rupees )

6. Taxes on goods and passengers	0.19	0.67	0.23	(-)	0.44
7. Taxes and Duties on <u>Electricity</u>	60.18	61.12	68.42	(+)	7.30
8. Other taxes and Duties on commodities and services	5.50	5.42	5.53	(+)	0.11
Total	<u>337.84</u>	<u>386.74</u>	<u>442.73</u>	<u>(+)</u>	<u>55.99</u>

c) Interest, Education, Public Health, Sanitation and Water Supply, Forest, Mines and Minerals, Irrigation, Navigation, Drainage and Flood Control Projects and Police were the principal sources of non-tax revenue during 1988-89 which constituted about 30.39 per cent of the total revenue raised by the State. An analysis of the non-tax revenue under the principal heads for the year 1988-89 and the preceding two years is given below:

1986-87	1987-88	1988-89	Increase (+) Decrease (-) in 1988-89 with refer- ence to 1987-88
---------	---------	---------	---

( In crores of rupees )•

1. Interest	12.48	8.52	15.43	(+)	6.91
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	1986-87	1987-88	1988-89	Increase (+) Decrease (-) in 1988-89 with refer- ence to 1987-88	
	( In crores of rupees )				
2.Education	3.69	4.03	5.11	(+)	1.08
3.Public Health Sanitation and Water Supply	3.26	3.17	4.64	(+)	1.47
4.Forest	49.94	63.56	59.23	(-)	4.33
5.Irrigation, Navigation, Drainage and Flood Control Projects	4.43	6.99	6.33	(-)	0.66
6.Mines and Minerals	13.82	15.39	16.96	(+)	1.57
7.Police	2.92	4.43	3.29	(-)	1.14
8.Others	67.76	50.01	82.27	(+)	32.26
Total	<u>158.30</u>	<u>156.10</u>	<u>193.26</u>	<u>(+)</u>	<u>37.16</u>

### 1.3 Variations between Budget/revised estimates and actuals

a) The variations between the Budget estimates and actuals of tax revenue and non-tax revenue during

the year 1988-89 are given below:

Budget estimate	Revised estimate	Actuals	Variations Increase(+) Decrease(-) with reference to revised estimate	Percentage of variations
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( In crores of rupees )

A.Tax

Revenue	486.40	476.11	442.73	(-) 33.38	(-) 7.01
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B.Non-Tax

Revenue	208.83	196.89	193.26	(-) 3.63	(-) 1.84
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The total variations between the revised estimate and the actuals during 1988-89 was Rs.37.01 crores and it comprised of a shortfall of Rs.33.38 crores (7.01 per cent) under tax revenue and Rs.3.63 crores (1.84 per cent) under non-tax revenue.

b) Variation between budget/revised estimates and actuals under the principal heads of revenue are given below:

Heads of Revenue	Budget estimates	Revised estimates	Actuals	Variation Increase(+) Decrease(-) with reference to revised estimates	Percentage of variation with reference to revised estimates
(1)	(2)	(3)	(4)	(5)	(6)
( In crores of rupees )					

1.Land

Revenue	28.58	37.94	35.60	(-) 2.34	(-) 6.17
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Heads of Revenue	Budget estimates	Revised estimates	Actuals	Variation Increase(+) Decrease(-) with reference to revised estimates	Percentage of variation with reference to revised estimates
(1)	(2)	(3)	(4)	(5)	(6)
( In crores of rupees )					
2. Stamp and Registration Fees	23.51	25.25	25.62	(+) 0.37	(+) 1.47
3. State Excise	29.49	30.24	30.96	(+) 0.72	(+) 2.38
4. Sales Tax	251.93	242.35	238.34	(-) 4.01	(-) 1.65
5. Taxes on Vehicles	44.27	41.02	38.03	(-) 2.99	(-) 7.29
6. Taxes and Duties on Electricity	101.79	92.81	68.42	(-) 24.39	(-) 26.28
7. Interest	22.58	10.47	15.43	(+) 4.96	(+) 47.37
8. Education	6.62	8.69	5.11	(-) 3.58	(-) 41.20
9. Forest	64.12	62.03	59.23	(-) 2.80	(-) 4.51
10. Mines and Minerals	19.94	18.50	16.96	(-) 1.54	(-) 8.32
11. Police	3.08	4.41	3.29	(-) 1.12	(-) 25.40



The shortfall of revenue was more than 10 per cent under "Taxes and Duties on Electricity" (26.28 per cent), "Education" (41.20 per cent) and "Police" (25.40 per cent). The shortfall under "Taxes and Duties on Electricity" was stated to be due to shortfall in generation vis-a-vis the estimate and non-collection of electricity duty. Reasons for the shortfall under the other heads were not furnished by the concerned departments (March 1990).

#### 1.4 Cost of collection

Expenditure incurred in collecting the major revenue receipts during the year 1988-89 and the corresponding figures for the preceding two years are given below:

Head of Account	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
(In crores of rupees)				
1.Land Revenue	1986-87	20.81	33.68	161.8
	1987-88	30.16	29.11	96.5
	1988-89	35.60	32.57*	91.5
2.Forest	1986-87	49.94	9.90	19.8
	1987-88	63.56	11.43	17.9
	1988-89	59.23	12.79*	21.6

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\*The expenditure incurred under 'Land Revenue' and 'Forests' were not only for collection of revenue, but also for other administrative functions. Pro-rata distribution of expenditure to collection of revenue has not been received from the concerned departments (January 1990).



Head of Account	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
(In crores of rupees)				
3. Stamp and Registration Fees	1986-87	20.35	2.15	10.6
	1987-88	22.18	2.31	10.4
	1988-89	25.62	2.21	8.6
4. State Excise	1986-87	22.83	2.11	9.2
	1987-88	26.52	2.66	10.0
	1988-89	30.96	2.73	8.8
5. Sales Tax	1986-87	176.14	4.54	2.5
	1987-88	205.06	5.04	2.4
	1988-89	238.34	5.38	2.3
6. Taxes on Vehicles	1986-87	31.84	0.71	2.2
	1987-88	34.61	0.70	2.0
	1988-89	38.03	0.85	2.2
7. Taxes and Duties on Electricity	1986-87	60.18	0.19	0.3
	1987-88	61.12	0.14	0.2
	1988-89	68.42	0.21	0.3

### 1.5 Arrears in assessment of Sales Tax

The number of assessments of Sales Tax cases finalised by the department and the assessments pending

finalisation as at the end of March 1989 and the preceding year, as reported by the department, are indicated below:

Year	Number of cases due for assessment	Number of assessments completed	Number of assessments pending at the end of the year	Percentage of pending cases to total cases
1987-88	3,57,518*	1,81,641*	1,75,877*	49.19
1988-89	3,68,939*	1,82,059*	1,86,880*	50.65

#### 1.6 Arrears in disposal of Sales Tax refund cases

The position of pendency of Sales Tax refund cases at the end of March 1989, as reported by the department, is indicated below:

	Number of cases	Amount involved (In lakhs of rupees)
i) Refund cases pending on 1st April 1988	1,938	241.60
ii) Claims received during the year	<u>2,018</u>	<u>193.52</u>
Total	<u>3,956</u>	<u>435.12</u>
iii) Cases disposed of during the year	1,999	213.81
iv) Balance of the cases at the end of March 1989	1,957	221.31

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\*Includes arrear cases, current cases and remand cases.

## 1.7                      Uncollected revenue

Based on the information furnished by the departments, a detailed analysis of arrears of revenue pending collection at the end of March 1989, in respect of the principal sources of revenue, is given below. For purpose of comparison, arrears as at the end of March 1988 have also been indicated.

Source of Revenue	Amount of arrears pending collection as on 31st March 1988 ( in lakhs	Amount of arrears pending collection as on 31st March 1989 of rupees )	Remarks
1. Sales Tax	12361.21	24455.69	<p>The increase in arrears was stated to be due to increase in demands most of which are stayed by different appellate authorities.</p> <p>The year-wise break-up of the arrears was not available. Out of the arrears, recovery of Rs.7597.02 lakhs had been stayed by Judicial courts and Departmental authorities, Rs.534.14 lakhs are proposed to be written off, Rs.3423.61 lakhs are covered by certificate proceedings</p>

Source of Revenue	Amount of arrears pending collection as on 31st March 1988 ( in lakhs of rupees )	Amount of arrears pending collection as on 31st March 1989 ( in lakhs of rupees )	Remarks
			and Rs.12,900.92 lakhs are covered under third party and show-cause notices (i.e. effective process of realisation).
2.Taxes and Duties on Electricity	2341.48	2400.46	The year-wise break-up of the arrears was not available. Of the arrears Rs.1708.14 lakhs were outstanding against Orissa State Electricity Board, Rs.687.57 lakhs against private agencies and Rs.4.75 lakhs against other Appointed Authorities. Out of the arrears, particulars of the amounts covered under certificate proceedings, under dispute etc. were not made available by the Department.
3.Land Revenue	516.64	568.95	The year-wise break-up of the arrears was not available. Category-wise break-up of the arrears



Source of Revenue	Amount of arrears pending collection as on 31st March 1988	Amount of arrears pending collection as on 31st March 1989	Remarks
	( in lakhs	of rupees )	

at the end of March 1989 is indicated below:

Rent 134.97 lakhs

Cess 178.23 lakhs

Nistar Cess 5.90 lakhs

Sairat 37.12 lakhs

Miscellaneous

Revenue 212.73 lakhs

Total Rs. 568.95 lakhs

4.State Excise	47.89	47.66
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Year-wise and item-wise break-up was not available. Out of the arrears, recovery of Rs.5.81 lakhs had been stayed by High Court and other judicial authorities, Rs.2.98 lakhs are proposed to be written off, Rs.37.84 lakhs are covered by certificate proceedings and the balance of arrears of Rs.1.03 lakhs are under the process of realisation.



Source of Revenue	Amount of arrears pending collection as on 31st March 1988	Amount of arrears pending collection as on 31st March 1989	Remarks
	( in lakhs of rupees )		
5.Mines and Minerals	313.90	389.63	Out of the arrears, Rs.11.12 lakhs pertained to the period prior to 1962, Rs.6.79 lakhs from 1962-63 to 1971-72, Rs.26.22 lakhs from 1972-73 to 1980-81, Rs.182.18 lakhs from 1981-82 to 1987-88 and Rs.163.32 lakhs for 1988-89. Of the above arrears, demands covered by certificate proceedings amounted to Rs.203.00 lakhs, demands stayed by Judicial Courts amounted to Rs.16.46 lakhs, demands under dispute were Rs.7.09 lakhs, demands proposed to be written off were Rs.24.27 lakhs and demands under process of recovery at various stages amounted to Rs.138.81 lakhs. Of the total arrears, Rs.220.96 lakhs were outstanding against 11 parties.

Source of Revenue	Amount of arrears pending collection as on 31st March 1988	Amount of arrears pending collection as on 31st March 1989	Remarks
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( in lakhs of rupees )

6. Police	283.18	450.96	Out of the arrears Rs.35.86 lakhs pertained to the period from 1970-71 to 1980-81, Rs.219.04 lakhs from 1981-82 to 1987-88 and Rs.196.06 lakhs for 1988-89. Substantial arrears were outstanding against Government of Assam (Rs.35.59 lakhs), Government of Bihar (Rs.19.52 lakhs), Government of Andhra Pradesh (Rs.16.37 lakhs), Machhkund Hydro-Electric Project (Rs.49.69 lakhs), Balimela Hydro-Electric Project (Rs.119.58 lakhs) and Orissa State Electricity Board (Rs.11.01 lakhs).
✓ 7. Interest	12102.94	13541.74	The arrears represent
(a) Interest payable by Orissa State Electricity Board			(i) interest on assets transferred to Orissa State Electricity Board (Rs.5586.67 lakhs),

Source of Revenue	Amount of arrears pending collection as on 31st March 1988	Amount of arrears pending collection as on 31st March 1989	Remarks
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( in lakhs of rupees )

(ii) interest on Talcher Thermal Power Station expansion perpetual loan (Rs.3336.28 lakhs),

(iii) interest on cash loan to Orissa State Electricity Board (Rs.1016.10 lakhs),

(iv) interest on Talcher Thermal Power Station expansion cash loan (Rs.3602.69 lakhs). Year-wise break-up of the arrears is furnished below:

(rupees in lakhs)

Upto 1986-87	10,783.63
1987-88	1,319.32
1988-89	1,438.79
Total •	<u>13,541.74</u>

✓

Source of Revenue	Amount of arrears pending collection as on 31st March 1988	Amount of arrears pending collection as on 31st March 1989	Remarks
( in lakhs of rupees )			
(b)Interest on loans for community development	61.16	64.58	The outstanding amount pertains to 13 types of loans granted prior to 1968-69. No overdue amount has been written off.

(c)Interest on loans by Industries Department	1601.35	1060.37	Year-wise break-up (rupees in lakhs)
			Upto 1986-87 406.87
			1987-88 87.25
			1988-89 566.25
			<u>Total 1060.37</u>

The amounts are recoverable from Co-operative societies (Rs.98.77 lakhs), Orissa Small Industries Corporation (Rs.74.85 lakhs), Orissa Agro Industries Corporation (Rs.79.57 lakhs); Industrial Development



Source of Revenue	Amount of arrears pending collection as on 31st March 1988	Amount of arrears pending collection as on 31st March 1989	Remarks
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( in lakhs of rupees )

Corporation (Rs.539.11 lakhs), Orissa State Financial Corporation (Rs.121.06 lakhs), Industrial Promotion and Investment Corporation Ltd. (Rs.11.88 lakhs) and other bodies (Rs.135.13 lakhs).

8. Stationery and Printing

41.67

68.82

The arrears of Rs.2.03 lakhs pertained to the period upto 1974-75, Rs.19.01 lakhs for the period from 1975-76 to 1987-88 and Rs.47.78 lakhs for the year 1988-89. The item-wise break-up of the arrears as furnished by the department (August 1989) is given below:

- i) Stationery receipts Rs.16.59 lakhs
- ii) Sale of Gazette etc. Rs. 0.57 lakhs
- iii) Other Press Receipts Rs. 48.47 lakhs
- iv) Other receipts Rs. 3.19 lakhs

Rs68.82 lakhs

Source of Revenue	Amount of arrears pending as on 31st March 1988	Amount of arrears pending as on 31st March 1989
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( in lakhs of rupees )

9. Forest	1196.32	1385.01	The year-wise break-up of the arrears was not available. Of the arrears Rs.152.38 lakhs were covered under certificate proceedings and the balance of Rs.1232.63 lakhs were covered under other cases.
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Information regarding the arrears of revenue pending collection at the end of March 1989 and its year-wise break-up etc., in respect of interest and taxes on vehicles, called for from the Department (June 1989) has not been received (March 1990).

## 1.8 •Outstanding Inspection Reports

(a) Important irregularities and defects in assessment, demand, collection and accounting of state receipts, noticed during local audit, are intimated through Inspection Reports to the departmental officers, heads of departments and also to Government, where necessary, with the request to furnish replies thereto within a month of their receipts. In addition, statements showing details of audit objections remaining outstanding for more than six months are sent to Government every six months in May and November, so that these may receive special attention.

(b) At the end of June 1989, 2724 Inspection Reports, containing 10,014 audit objections, involving receipts of Rs.5,298.94 lakhs issued upto December 1988 were awaiting settlement.

The year-wise break-up of the outstandings as at the end of June 1989 is given below:

	<u>Number of outstanding Inspection Reports</u>	<u>Audit Objections</u>	<u>Revenue involved (In lakhs of rupees)</u>
Upto 1986-87	2338	7742	4,308.27
1987-88	188	1118	278.57
December 1988	198	1154	712.10
	<u>2724</u>	<u>10014</u>	<u>5,298.94</u>

(c) The department-wise break-up is given below:

Department	Nature of receipts	Number of reports	Number of audit objections	Revenue involved (in lakhs of rupees)
Revenue and Excise	Land Revenue	632	1695	2,174.23
	Stamp and Registration Fees	451	701	7.22
	State Excise	131	475	592.84
Finance	Sales Tax	546	3475	630.07
	Entertainment Tax	229	471	9.88

Department	Nature of receipts	Number of reports	Number of audit objections	Revenue involved (in lakhs of rupees)
Commerce and Transport (Transport)	Taxes on vehicles	138	1290	407.90
	Taxes on passengers	83	283	399.36
		<u>221</u>	<u>1573</u>	<u>807.26</u>
Forest, Fisheries and Animal Husbandry (Forest)	Forest	398	1403	701.59
Mining and Geology	Mining Receipts	116	221	375.85

(d) Out of 2724 reports, issued upto December 1988, in respect of 251 reports containing 1775 audit objections, even first replies had not been received till 30th June 1989. The extent of delay in receipt of replies in these cases is shown below:

Period of delay	Number of Inspection Reports	Number of outstanding Audit objections	Revenue involved (In lakhs of rupees)
Upto 6 months	35	265	281.10
Over 6 months and upto 12 months	83	701	397.11
Over 12 months and upto 18 months	52	277	219.62



Period of delay	Number of Inspection Reports	Number of outstanding Audit objections	Revenue involved (In lakhs of rupees)
Over 18 months and upto 24 months	37	238	136.22
Over 24 months	44	294	255.30
Total	<u>251</u>	<u>1775</u>	<u>1289.35</u>

The position referred to in the foregoing paragraphs was reported to Government in January 1990.

## CHAPTER 2

## SALES TAX

## 2.1 Results of Audit

A test check of Sales Tax assessments and refund cases, and the connected documents of the Commercial Tax Offices, conducted in audit during the period from April 1988 to March 1989, revealed under-assessment of tax and loss of revenue amounting to Rs.152.57 lakhs in 1109 cases, which may broadly be categorised as under

	Number of cases	Amount (In lakhs of rupees)
1. Short-levy due to incorrect computation of taxable turnover	135	29.54
2. Under assessment due to application of incorrect rates of tax	83	5.79
3. Irregular grant of exemption from tax	363	99.17
4. Non-levy of interest	482	9.65
5. Other cases	46	8.42
	<u>1109</u>	<u>152.57</u>

Some of the important cases noticed during 1988-89 and earlier years, and important findings of a

review on "Arrears in collection of sales tax" are mentioned in the succeeding paragraphs.

## 2.2 Irregular exemption from tax

In one case, involving under-assessment due to irregular exemption from tax, an amount of Rs.27,649 was recovered on being pointed out (July 1986) in audit. A few other cases are mentioned below.

(a) Under the Orissa Sales Tax Act, 1947 purchase or sale of the following articles are exempted from levy of tax, provided the finished products of such industrial unit are sold inside Orissa, or in course of inter-State trade or export from Orissa.

- (i) raw materials which directly go into the composition of finished products ;
- (ii) machineries and spare parts thereof actually required for starting and maintaining a unit, and;
- (iii) packing materials required for packing finished products in the same form as manufactured by a registered dealer, who is certified by the Director of Industries, as a village/cottage/small scale industry, starting production inside the State on or after 1st August 1980.

The exemption is allowable for a period of five years from the date of certification of the unit by the Director of Industries subject to the condition that the dealer or his authorised agent furnishes a declaration in the prescribed form to the effect that the raw materials will directly go into the composition of the finished product to be manufactured in his manufacturing unit.



(i) In Dhenkanal and Keonjhar Circles, sales of liquid oxygen worth Rs.7.46 lakhs made by two registered dealers during 1984-85 to a small scale industry of Rourkela, engaged in cutting of slabs and ingots into re-rollable sizes, were exempted from tax on production of declarations in Form 1-A. Since liquid oxygen is not a raw material which directly goes into the composition of finished product of cutting of slabs and ingots into re-rollable sizes, the exemption allowed was irregular, and resulted in short levy of tax by Rs.63,395 (including additional sales tax).

On this being pointed out (July 1987 and February 1989) in audit, one assessing officer (Dhenkanal) proposed to reopen the case (July 1987) while the other (Keonjhar) reopened (February 1989) the assessment. Further reports regarding these cases have not been received (March 1990).

The cases were reported to Government in October 1987 and July 1989; their reply has not been received (March 1990).

(ii) In Baripada Circle, a registered dealer sold 'China clay' valued at Rs.1.86 lakhs during 1985-86 and 1986-87 (Rs.96,429 in 1985-86 and Rs.89,730 in 1986-87) to another registered dealer of the same circle against declarations in Form 1-A and the exemption was allowed (August 1987 and March 1988) in assessment. However, it was noticed from the registration certificate issued by the District Industries Centre, Baripada that the purchasing dealer was registered for 'processing activity' in china clay and was thus not having any licence to carry out manufacture of goods for sale. The exemption allowed was thus irregular, and resulted in short levy of tax of Rs.23,721 (including additional sales tax on sale turnover of 1985-86).



On this being pointed out (December 1988) in audit the assessing officer reopened the case (January 1989) for re-assessment. The Commissioner of Sales Tax had stated (November 1989) that the re-assessment proceedings had been completed (September 1989) raising a demand of Rs.23,640. Report on recovery has not been received (March 1990).

The case was reported to Government (April 1989).

(iii) In Puri-II Circle, purchase of ground-nuts worth Rs.6.22 lakhs made by a registered dealer during 1986-87 were exempted from levy of purchase tax, based on the declaration furnished by him to the effect that the goods were purchased for use in manufacture of oil. The assessment record of the dealer however showed that he had sold the ground-nut seeds after decortication (removal of outer shell). Since the dealer did not utilise the materials for the purpose of manufacture, the exemption allowed to the dealer was irregular and resulted in non-levy of tax amounting to Rs.24,889.

On this being pointed out in audit (December 1988) the assessing officer re-opened (December 1988) the case. The department intimated (November 1989) that the assessment was completed in July 1989 raising an extra demand of Rs.24,890 out of which the dealer had paid Rs.13,000 and that the recovery of the balance had been stayed by the Assistant Commissioner of Puri Range. Further report has not been received (March 1990).

The matter was reported to Government (April 1989).

(b) Under the Orissa Sales Tax Act, 1947 Government may, in a series of sales or purchases by successive dealers, notify the points at which any goods or classes or description of goods may be taxed. Accordingly, the

Orissa Sales Tax Rules, 1947 provide for levy of tax on motor vehicles at the first point in a series of sales inside the State. It has been judicially held \*(December 1987) that Chassis of a motor vehicle is not a motor vehicle unless a body is mounted on it, and hence is taxable at the last point of sale in the State.

In Koraput II Circle, in the course of audit of assessment records of a Registered dealer assessed for the year 1981-82 during March 1985, it was noticed (May 1985) that the turnover of sales of chassis of motor vehicles returned by him at Rs.3.89 crores was not taxed on the ground that the purchase price thereof amounting to Rs.3.52 crores had already suffered tax at the first point of sale, in the hands of another registered dealer 'T' of Bhubaneswar Circle. Since 'Chassis' is not a motor vehicle as such and is taxable at the last point of sale in the State, the exemption granted was not correct. Further the irregular exemption led to an effective under-assessment of tax of Rs.4.77 lakhs, computed at 13 per cent on the differential turnover of Rs.0.37 crore as between the two sales.

On this being pointed out by audit (May 1985), the assessing officer reiterated \*(May 1985) that motor chassis was to be treated as goods subject to tax at first point of sale, and did not take any remedial action.

The matter was brought to the notice of the Commissioner of Sales Tax, Orissa and Government (November 1985); their replies have not been received (March 1990). In the meantime, the assessment became barred by limitation for reopening by the end of March 1987 resulting in loss of revenue of Rs.4.77 lakhs.

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\* M/s.R.K.Patnaik Vrs. State of Orissa reported at Page 384 of 67 STC.



(c) As per item 27 of the Rate Chart of goods liable to sales tax, notified under Section 5(1) of the Orissa Sales Tax Act, 1947, 'dal' and 'besan' when obtained from pulses that have not suffered tax earlier, is subject to tax at 4 per cent. According to entry 8A of the tax-free Schedule, the sale of dal and besan obtained from pulses that had already suffered tax under the Orissa Sales Tax Act is exempted from tax.

In Puri II Circle, three registered dealers purchased pulses amounting to Rs.27.40 lakhs during 1984-85 to 1986-87 on furnishing prescribed declarations in Form 1-A without payment of purchase tax thereon, treating the same as raw materials for processing of 'dal'. The sale turnover of dal obtained from such pulses exigible to tax under item 27 was exempted from tax on the ground that 'pulses' and 'dal' were one and the same commodity within the meaning of Section 15(d) of the Central Sales Tax Act, 1956, and pulses having been exempted from tax, 'dal' obtained therefrom is also to be exempted from tax. However in view of the provisions of the Orissa Sales Tax Act, both pulses, and dal obtained therefrom, cannot be exempted from tax. The irregular exemption resulted in short levy of tax amounting to Rs.1.10 lakhs (@ 4 per cent ) computed on the purchase value of pulses, in the absence of sale turnover of 'dal'.

This was pointed out in audit (December 1988), but no remedial measure was taken by the assessing officer.

The matter was reported to the Department/ Government in April 1989; their replies have not been received (March 1990).

(d) As per the provisions of Article 286(i)(b) of the Constitution of India, a sale or purchase of goods which takes place in the course of export is exempt from levy of tax. Under the Central Sales Tax Act, 1956, a sale

or purchase of goods shall be deemed to take place in the course of export of the goods only if the sale or purchase, as the case may be, occasions such export. By virtue of an amendment to the Act *ibid* effective from 1st April 1976, the last sale or purchase of goods, preceding the sale or purchase occasioning the export of these goods out of the territory of India, shall also be deemed to be in the course of export, if such last sale or purchase took place after and was for the purpose of complying with the agreement or order for or in relation to such export. Under the Orissa Sales Tax Act, 1947, 'prawn' is taxable at 8 per cent on purchase turnover.

In Ganjam I Circle, a dealer in prawns entered into an agreement (on 30th April 1985) with a foreign buyer for export of prawns. During the year 1985-86 the dealer effected purchase of prawns worth Rs.38.74 lakhs which included the purchase of Rs.3.79 lakhs made between 1.4.1985 and 29.4.1985 i.e. before entering into the agreement with the foreign buyer. While assessing the dealer for the said year (March 1987), the assessing officer exempted the entire purchase value of prawns worth Rs.38.74 lakhs treating the entire purchases as in the course of export. However, purchase of Rs.3.79 lakhs having been effected before entering into the agreement was not made in the course of export and as such, the exemption from tax was not admissible. This resulted in under assessment of tax amounting to Rs.32,224 (including additional sales tax).

On this being pointed out in audit (October 1987), the assessing officer reopened the case for re-assessment, further reply has not been received (March 1990).

The matter was reported to Government in January 1988; their reply has not been received (March 1990).



## 2.3 Escapement of taxable turnover

(a) Under the Orissa Sales Tax Act, 1947, 'Sale' includes transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. It has been judicially held \* that supply of materials by a company to contractors working for the company in the construction work amounts to 'sale'.

(i) In Cuttack I East Circle, turnover of a dealer amounting to Rs.3.52 lakhs representing rental charges on gas cylinders, received during 1984-85, which constitutes sale in terms of Section 2 g(iv) of the Orissa Sales Tax Act, 1947 was not assessed to tax. This resulted in under assessment of tax amounting to Rs.29,911 (including additional sales tax).

On this being pointed out in audit (February 1988), the assessing officer raised (July 1988) additional demand of Rs.29,911. It was reported in November 1989 that out of the total demand of Rs.37,197, the dealer had paid Rs.23,000 while the recovery of the balance had been stayed by the Commissioner of Sales Tax.

The matter was reported to Government (August 1988).

(ii) In Sambalpur III Circle, a dealer company engaged a works contractor for painting of the building belonging to the dealer and supplied him (during 1985-86) paints worth Rs.6.02 lakhs at a price agreed upon, which was recovered from the works bill of the contractor. This amount was, however, not assessed to tax. Escapement of this taxable turnover resulted in non-realisation of tax amounting to Rs.75,294 (including additional sales tax).

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\* Hindustan Steel Limited Vrs. the State of Orissa 1970 - 25 STC - 211 (S.C).

On the omission being pointed out in audit (January 1989) the assessing officer re-opened (January 1989) the case for re-assessment and raised (August 1989) a demand of Rs.75,293. It was further reported (November 1989) that the dealer had paid (October 1989) Rs.45,000 and recovery of the balance had been stayed till disposal of the first appeal.

The case was reported to Government in April 1989.

(b) 'Sale Price' has been defined in Section 2(h) of the Orissa Sales Tax Act, 1947, as the amount payable to a dealer as consideration for the sale or supply of any goods less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods, at the time of, or before, delivery thereof.

In Balasore I Circle, an unregistered dealer 'G' engaged in supplying building materials to contractors for utilisation in works during 1984-85 was assessed during December 1987 on the basis of reports on payments received from various sources, filed by the field staff. While computing the taxable turnover, the assessing officer however omitted to include the sales of materials valued at Rs.9.07 lakhs. This resulted in a short levy of tax amounting to Rs.77,136 (i.e. Rs.72,598 towards sales tax and Rs.4,538 towards additional sales tax).

On the omission being pointed out in audit (June 1988), the assessing officer reassessed the dealer and raised an extra demand of Rs.77,136 (July 1988).

The matter was reported to the Department and Government in December 1988. The Department has confirmed (July 1989) raising of the demand.



(c) As per the provisions contained in Section 15 of the Orissa Sales Tax Act, 1947, every registered dealer is required to keep a true account of the value of goods bought and sold by him, showing the opening balance and closing balance at the beginning and close of each accounting year which he follows. While passing the assessment order, if the assessing officer finds any concealment of purchases or sales, he shall reject the books of accounts of the dealer and assess him to the best of his judgement.

In Kalahandi Circle, it was noticed in audit that a registered dealer purchased H.S.D. oil and petrol valued at Rs.64,594 and Rs.4.92 lakhs respectively during 1982-83 from outside the State at concessional rate, on the strength of declarations (C forms) for resale, but omitted to incorporate the same in his purchase accounts. These subject goods being taxable at the first point of sale inside the state, sales turnover estimated (adopting the profit margin at 2 per cent) at Rs.65,885 and Rs.5,01,482 respectively had escaped assessment, resulting in an under-assessment of a sum of Rs.58,713 (Rs.8,565.10 @ 13 per cent on H.S.D. oil and Rs.50,148.20 @ 10 per cent on petrol).

On the omission being point out in audit (February 1987) the department, completed (January 1988) re-assessment of the dealer levying an additional demand of Rs.58,717 towards escapement of tax and Rs.15,000 towards penalty for concealing the particulars of his turnover. The dealer had paid Rs.35,000 between December 1988 and February 1989. Report of recovery of the balance amount has not been received (March 1990).

The matter was reported to Government in December 1988.

## 2.4 Inadmissible concessional rate of tax

In one case, involving under-assessment due to inadmissible concessional rate of tax, an amount of Rs.2,62,624 was recovered (March 1989 and June 1989) on being pointed out (August 1988) in audit. One more case is mentioned below.

According to item 39 of the Schedule of Rates of Sales Tax, notified under Section 5(1) of the Orissa Sales Tax Act, 1947, tax on sale of goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for use by him in the manufacture or processing or packing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power, is leviable at the concessional rate of 4 per cent subject to the production of true declaration by the purchasing registered dealer or his authorised agent in the prescribed Form IV.

In Rourkela I Circle, while finalising (March 1987) the assessments for the years 1984-85 and 1985-86 of a dealer, sale turnover of paper, amounting to Rs.20.55 lakhs (Rs.4.83 lakhs in 1984-85 and Rs.15.72 lakhs in 1985-86), were assessed to tax at the concessional rate of 4 per cent on production of declarations in Form IV obtained from the purchasing registered dealer engaged in manufacture of iron and steel goods. On cross verification of the certificate of registration of the purchasing dealer, it was, noticed (August 1987) that paper was not specified therein for use either in manufacture, or in packing of goods for sale. Thus, irregular allowance of the concessional rate of tax had resulted in short levy of tax amounting to Rs.82,216.

On this being pointed out in audit (August 1987), the assessing officer initiated (August 1987) re-assessment proceedings.



The matter was reported to the Department/ Government (January 1988) followed by reminder in August 1988. The Department had stated (November 1989) that the re-assessment proceedings had been completed (August 1989) raising a demand of Rs.84,511. Report of realisation has not been received (March 1990).

## **2.5 Omission to levy tax on goods not utilised for the declared purpose**

Under the Orissa Sales Tax Act, 1947, when a registered dealer purchases goods specified in his registration certificate without payment of tax, for resale in Orissa by furnishing a declaration to that effect in the prescribed form, but utilises those goods for any other purpose, the price of the goods so purchased shall be included in his taxable turnover and he shall be liable to pay tax thereon.

In Rourkela I Circle, a registered dealer purchased during 1985-86, iron and steel goods valued at Rs.26.86 lakhs inside the state without payment of tax, after furnishing the prescribed declarations for re-sale inside the State of Orissa. However, out of the above stock, the dealer sold goods worth Rs.8.56 lakhs in the course of inter-state trade and commerce, which was includible in the taxable turnover, but was not included. This resulted in non-realisation of tax amounting to Rs.34,258.

On this being pointed out in audit (August 1987) the assessing officer re-opened the case for re-assessment and raised (August 1989) a demand of Rs.34,258. It was however intimated in November 1989 that the demand has been stayed in the first appellate forum. Further report has not been received (March 1990).

The case was reported to Government (January 1988).

## 2.6 Excess adjustment of admitted tax

Under the Orissa Sales Tax Act, 1947 every registered dealer shall furnish a return in the prescribed manner by such dates as may be prescribed and every such return shall be accompanied by proof of payment of the tax admitted therein. As per Rule 36 of Orissa Sales Tax Rules, 1947, before furnishing a return or a revised return, the dealer shall pay into the Government Treasury, the amount of tax shown in the return as payable by him for that period. The tax so deposited is adjusted against the tax as finally assessed for the year and the balance, if any, is demanded.

In Cuttack I West Circle, a dealer filed returns for the months of January 1986 and February 1986 admitting therein total tax (including additional sales tax) payable as Rs.38,359 without enclosing any proof of payment of the tax admitted. The assessing officer, while assessing (February 1988) the dealer for the year 1985-86, took the amount as having been paid by the dealer and adjusted the same against the tax finally assessed for that year. The excess adjustment resulted in short levy of tax of Rs.38,359.

On the mistake being pointed out in audit (January 1989) the assessing officer raised (August 1989) the demand. Report on recovery has not been received (March 1990).

The matter was reported to Government (April 1989).

## 2.7 Short-levy of tax due to allowance of inadmissible deduction

Under the Orissa Sales Tax Act, 1947, the taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract less the amounts of labour



charges and service charges incurred for execution of the contract. In the absence of any statutory notification of the State Government regulating the percentage of deduction allowable in respect of labour charges for different types of works, the executive orders of the Government issued on the subject serves as a guideline. Government in Public Works Department circular issued in September 1984, had laid down the labour component in earth (irrigation) work at 60 *per cent* and in structural work at 30 *per cent* of the gross value of the contract.

In Keonjhar Circle, it was noticed in audit that a works contractor was allowed deduction at the rate of 89 *per cent* to 91 *per cent* of the gross receipts for the years 1984-85 and 1985-86 towards labour charges. Allowance of excess deduction towards labour charges resulted in a short levy of tax of Rs.3,56,067 (i.e. Rs.2,14,866 for the year 1984-85 and Rs.1,41,201 for the year 1985-86).

This was pointed out in audit (June 1988). The Commissioner of Sales Tax stated (January 1990) that the reassessment proceedings had been completed (November 1989) raising a demand of Rs.3,62,067.

The matter was reported to Government in December 1988.

## **2.8 Non-levy of interest for furnishing of incorrect returns**

As per the provisions of the Central Sales Tax Act, 1956 and the Central Sales Tax (Orissa) Rules, 1957, if the assessing officer is satisfied that a dealer has wilfully furnished incorrect return or information affecting or intending to affect the quantum of tax payable by him or his liability to pay tax for the period for which such assessment is made, he may direct that the dealer shall, in addition to the tax assessed, pay interest @ 24 *per cent* per annum on the tax payable in respect of

the taxable turnover not incorporated in the return for a period of ninety days or for the period beginning from the date on which the return was due and ending on the date of assessment whichever is less.

A registered dealer in Cuttack II Circle had effected inter-state sales of jute, ground-nut, linseed and black gram to the tune of Rs.126.04 lakhs during 1984-85 but did not include it in his return. The omission was detected during assessment (February 1986) of his return and a demand for Rs.5.04 lakhs was raised towards Central Sales Tax. For the wilful suppression of the turnover by the assessee interest @ 24 per cent for 90 days amounting to Rs.29,835 was leviable; but was not levied.

On being pointed out in audit (December 1986), the assessing officer reopened the assessment. Details of demand raised on reassessment and its recovery have not been received (March 1990).

The matter was reported to Government in March 1987; their reply has not been received (March 1990).

## **2.9 Short-levy due to application of incorrect rate of tax**

As per item 101 of the list of goods subject to sales tax under the Orissa Sales Tax Act, 1947, notified by Government in March 1982 sale of goods which are not specified in the Rate Chart or declared tax free, are taxable at the general rate of 8 per cent with effect from 1st April 1982. Accordingly, while cooked food in hotels is taxable @ 4 per cent, sale of tea/coffee is taxable at the rate of 8 per cent.

In Cuttack I East Circle, one registered dealer running a hotel was found (August 1988) to have effected sale of tea/coffee (i.e., beverage) valued at Rs.5.42 lakhs



during the year 1983-84, 1984-85 and 1985-86 and the same was taxed @ 4 per cent as against the correct rate of 8 per cent resulting in a short levy of Rs.21,684 for the above years.

On this being pointed out (August 1988) the assessing officer raised a demand of Rs.21,684 (October 1988).

The matter was reported to Government in January 1989.

## **2.10 Short-levy due to application of lower rate of tax**

As per the notifications dated 22nd March 1982 and 27th March 1984 issued by the Government of Orissa, 'Jute products' were taxable @ 12 per cent since 1st April 1982 and 8 per cent with effect from 1st April 1984.

In Sambalpur III Circle, it was noticed (July 1985) that sale of empty gunnies made by a dealer valued at Rs.84,591 and Rs.3,49,863 during 1982-83 and 1983-84 respectively, were taxed @ 4 per cent in place of 12 per cent resulting in a short levy of Rs.34,756.

On this being pointed out in audit (July 1985) the department raised a demand of Rs.34,756 (February 1989). The Commissioner of Sales Tax stated (September 1989) that the dealer had preferred an appeal against the demand raised, which is pending for disposal.

The matter was reported to Government in September 1985.

## **2.11 Short-levy of tax due to acceptance of incorrect declarations**

In one case, involving under-assessment due to acceptance of incorrect declarations, an amount of

Rs.39,607 was recovered on being pointed out in Audit. One more case is mentioned below.

Under Section 8 of the Central Sales Tax Act, 1956, inter-State sales of declared goods effected by one registered dealer to another registered dealer are taxable at a concessional rate of 4 per cent, if such sales are supported by valid declarations in the prescribed Form 'C'. Otherwise, tax is leviable at twice the rate applicable to such goods in the appropriate State. As per second proviso below Rule 12(1) of the Central Sales Tax (Registration and Turnover) Rules, 1957, no single declaration shall cover more than one transaction of sale except in cases where the total amount of sales made in a financial year covered by one declaration is equal to or less than Rs.25,000.

In Rourkela-I Circle, sale of declared goods amounting to Rs.5.27 lakhs made by a dealer during 1984-85 through several transactions, were assessed (March 1986) to tax at the concessional rate, although such sales were supported by only one declaration in Form 'C'. Acceptance of the incorrect declaration resulted in under-assessment of tax amounting to Rs.21,097.

On this being pointed out in audit (September 1986) the assessing officer reassessed the dealer and raised (July 1988) further demand of Rs.20,885. Report of recovery has not been received (March 1990).

The case was reported to Government (January 1987).

## **2.12 Non-levy of interest on belated payment of tax**

Under the Orissa Sales Tax Act, 1947 and the Central Sales Tax (Orissa) Rules, 1957, if a dealer defaults in making payment of any amount of tax by the due

date specified in the notice issued to him, he would be liable to pay interest on the amount due at the prescribed rates provided that no interest shall be charged in respect of any amount which remained unpaid at any time prior to 1st January 1971 under the State Act and prior to 1st July 1971 under the Central Act.

In 17 Commercial Tax Circles,\* local Sales Tax demands amounting to Rs.50.22 lakhs outstanding on or after 1st January 1971 (463 cases) and Central Sales Tax demands amounting to Rs.4.51 lakhs outstanding on or after 1st July 1971 (19 cases) were recovered in full during the year 1987-88 but interest amounting to Rs.9.65 lakhs due for the belated payments was not levied.

On the omission being pointed out in audit (between April 1988 and March 1989), the assessing officers accepted (between April 1988 and March 1989) the mistakes. Reports on action taken have not been received (March 1990).

The cases were reported to Government (between June 1988 and July 1989); their reply has not been received (March 1990).

- 
- |                      |                        |
|----------------------|------------------------|
| * 1. Bhadrak         | 2. Sambalpur-II        |
| 3. Rourkela-II       | 4. Koraput-I           |
| 5. Koraput-II        | 6. Phulbani            |
| 7. Puri-II           | 8. Cuttack-I,(Central) |
| 9. Kalahandi         | 10. Dhenkanal          |
| 11. Cuttack-I (East) | 12. Cuttack-II         |
| 13. Cuttack-I (West) | 14. Sambalpur-I        |
| 15. Ganjam-I         | 16. Keonjhar           |
| 17. Baripada         |                        |



## 2.13 Arrears in collection of Sales Tax

### 2.13.1 *Introductory*

Sales Tax is the principal source of revenue to the State, and has been contributing the highest percentage of tax revenue of the State (55.29 *per cent*) over the last three decades. Levy of sales tax is governed by the Orissa Sales Tax Act, 1947, the Orissa Additional Sales Tax Act, 1975, the Central Sales Tax Act, 1956 and the relevant Rules made thereunder. Efficacy of the revenue collection machinery in regard to sales tax is of utmost importance to the state in its efforts for mobilisation of resources. As on 31.3.1988 an amount of Rs.123.61 crores was pending collection on account of sales tax, which worked out to 59.99 *per cent* of the total collection of Sales Tax during the year 1987-88 (Rs.206.06 crores). A yearwise analysis thereof is furnished below:

( Rupees in crores )

Upto 1983-84	15.07
1984-85	3.60
• 1985-86	9.70
1986-87	39.57
1987-88	<u>55.67</u>
	<u>123.61</u>

The above arrears of sales tax as on 31.3.1988 constituted 40.04 *per cent* of the total uncollected revenue of the State (Rs.308.68 crores) as on 31st March 1988.

### 2.13.2 *Scope of audit*

With a view to evaluating the efficacy of the machinery for collection of arrears of Sales Tax, records



pertaining to seven circles (Viz: Cuttack I East, Cuttack II, Dhenkanal, Cuttack I Central, Cuttack I West, Ganjam I and Puri II ) out of 27 circles obtaining in the State were scrutinised by audit during March 1989 to May 1989.

### 2.13.3 *Organisational set-up*

As per the Orissa Sales Tax Act, 1947, the Commissioner of Sales Tax, Orissa is competent to assess the dealers, and demands arising therefrom are to be collected within a period of 30 days from the date of issue of the demand notices. His powers of assessment and collection stand delegated to the various Sales Tax Officers who work in various wards spread over 27 circles of the State. In case of arrears, the collection of tax due is achieved through the following three methods provided under Section 13 of the Orissa Sales Tax Act, 1947, namely :

- (a) Issue of show-cause notices proposing imposition of penalty not exceeding one half of the amount due from him,
- (b) Reference to third parties (garnishee) to pay off the Sales tax dues, briefly referred as 'third party notices'; and
- (c) Consigning the cases to certificate courts and Tax Recovery Officers of the Department enjoying similar powers.

If the above measures also do not yield results, finally the demands are written off by competent authorities depending on the merits of each case.

#### 2.13.4 Highlights

(i) Delayed issue of show-cause notices proposing imposition of penalty upto 50 per cent of the demanded tax and non-initiation of follow-up action rendered recovery of a sum of Rs.39.02 lakhs doubtful in 10 cases.

(ii) Delay in assessments, leading to delayed issue of attachment notices against dues payable to the dealers and outstanding with third parties made the recovery difficult in respect of 3 cases involving a demand of Rs.39.40 lakhs.

(iii) Non-completion of assessments immediately after cancellation of registration certificates, receipt of reports of fraud etc. rendered recovery of an amount of Rs.155.24 lakhs doubtful in 11 cases.

(iv) Withdrawal of attachment notices on receipt of meagre payments of demanded tax, rendered an amount of Rs.7.58 lakhs irrecoverable in respect of 5 cases.

(v) Failure of attachment procedure attributable to non-institution of certificate cases involved a demand of Rs.80.89 lakhs in respect of 9 cases.

(vi) Ineffectiveness of certificate proceedings rendered demands amounting to Rs.42.80 lakhs irrecoverable in respect of 10 cases.

(vii) Various types of inadequacies in the follow-up action led to demands amounting to Rs.109.63 lakhs becoming irrecoverable in respect of 9 cases.

(viii) Loss of revenue due to the claim becoming time barred in one case amounted to Rs.2.13 lakhs.

2.13.5.1 *Delayed issue of show-cause notice/non-levy of penalty/improper pursuance*

Under the Orissa Sales Tax Act, if any amount is not paid by a dealer by the due date, in pursuance of the demand notice, the Sales Tax Officer is empowered to direct that the dealer shall, in addition to the tax demanded, pay by way of penalty a sum not exceeding 50 *per cent* of the total amount due within thirty days from the date of service of the notice.

A test check of cases pending collection in various circles, revealed 10 cases where either belated issue of show-cause notices or non-initiation of follow-up action after issue of show-cause notices had resulted in loss of revenue of Rs.39.02 lakhs. The details of such cases are given in the table below :

[Statement



Sl.No	Name of Circle	Date of assessment	Amount of demand (Rupees in lakhs)	Due date of payment	Date of issue of show-cause notice	Penalty levied / Maximum penalty leviable.	Remarks
1	2	3	4	5	6	7	8
i)	Cuttack-II	a) July 1981 b) July 1982	0.51 <u>0.95</u> 1.46	August 1981 August 1982	December 1981 --	No penalty was levied. Maximum penalty leviable was Rs.0.73 lakh.	No show-cause notice for the demand of Rs.0.95 lakh was issued.
ii)	Cuttack-II	July 1986	2.63	August 1986	--	No penalty was levied. Maximum penalty leviable was Rs.1.31 lakhs.	Show-cause notice was not issued.
iii)	Cuttack-II	March 1987	6.05	April 1987	July 1987	Penalty of Rs.0.60 lakh was levied.	No further action was taken for collection.
iv)	Cuttack-II	July 1986	3.03	August 1986	August 1986 and December 1986	Penalty of Rs.1.00 lakh was levied.	- do -

1	2	3	4	5	6	7	8
v)	Cuttack-II	June 1987	3.82	July 1987	July 1987	No penalty levied. Maximum penalty leviable was Rs.1.91 lakhs.	No further action was taken for collection.
vi)	Cuttack-II	November 1986	1.08	December 1986	Between March 1987 and February 1988	No penalty was levied. Maximum penalty leviable was Rs.0.54 lakh.	-do-
vii)	Cuttack-I (East)	December 1978 to October 1980	7.38	January 1979 to November 1980	December 1986	No penalty was levied. Maximum penalty leviable was Rs.3.69 lakhs.	Show-cause notice issued after six years could not be served as the dealer had closed his business and left the place.

1	2	3	4	5	6	7	8
viii)	Cuttack-I (East)	February 1982	6.94	July 1982	September 1982	No penalty was levied. Maximum penalty leviable was Rs.3.47 lakhs	Show-cause notice could not be served as the dealer had closed his business.
ix)	Cuttack-I (East)	March 1984	4.53	July 1984	July 1984 and August 1984	Penalty of Rs.5,000 was imposed.	No further action was taken for collection of the dues.
x)	Cuttack-I (West)	December 1984	2.10	April 1985	July 1985 to September 1985	No penalty was levied. Maximum penalty leviable was Rs.1.05 lakhs.	--
Total =			<u>39.02</u>				

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### 2.13.5.2 Delay in assessments

#### (a) *Delayed assessments leading to delayed issue of attachment orders*

As per the provisions of the Orissa Sales Tax Act, if a dealer fails to pay the arrears of tax and penalty, the assessing officer may by virtue of a notice, require any person from whom money is due or may become due to the dealer or any person who holds or may subsequently hold any money for or on account of such dealer, to pay into the government treasury the amount specified in the notice either forthwith or upon the money becoming due or being held. In the following cases, failure to complete assessments immediately after cancellation of registration certificates in the respective cases led to delayed issue of attachment orders, making the recovery difficult.

(i) A dealer in Cuttack I East Circle, having arrear demands of Rs.15.93 lakhs against him filed returns upto March 1984 only. His certificate of registration was cancelled on 18th October 1984 on the ground that he had not applied for renewal. Out of the arrears, a sum of Rs.0.13 lakh relating to 1983-84 was payable by him in November 1984 and the balance of Rs.15.80 lakhs, assessed (October 1986) for 1982-83 and 1984-85 was payable in January 1987.

Though the dealer's certificate of registration was cancelled from 18th October 1984, the assessment for 1984-85 was not only delayed till October 1986, but no attachment notice was also issued for the arrear demands promptly, despite the fact that four show-cause notices issued between December 1984 and August 1987 were not received by the defaulting dealer. In November 1987 attachment notices were issued to two branches of the State Bank of India and two other banks, but the

banks were reminded only in August 1988, whereupon they replied that the dealer had no accounts with them.

No further action was taken (April 1989).

(ii) A dealer filed (May 1984) returns upto March 1984 and his certificate of registration was cancelled from 29.3.1984. Though re-assessments for the years 1980-81 to 1982-83 were initiated in June 1983 and July 1984, they were completed alongwith regular assessment of 1983-84 on 30.1.1987 raising total demand of Rs.13.44 lakhs payable in June 1987. The dealer did not pay the demanded tax for 1982-83 amounting to Rs.2.16 lakhs due in March 1984 for which show-cause notices were issued in April 1984, September 1984, February 1985 and September 1986. Attachment notices to four banks were issued in November 1987 for the total arrears of Rs.15.60 lakhs. But the banks replied that they had no accounts of the dealer with them. A penalty of Rs.6.37 lakhs was imposed on the dealer ex parte in December 1987 raising total arrears to Rs.21.97 lakhs but no action was taken thereafter (April 1989).

(iii) In Cuttack II Circle, the arrear demand against a dealer amounted to Rs.1.50 lakhs relating to the years 1970-71 to 1981-82. Though the dealer stopped payment of demanded tax from September 1979, several show-cause notices were issued repeatedly till December 1986 without issuance of attachment notices to banks. When notices were issued ultimately to two banks in December 1986, it was revealed that the dealer had no accounts with them. No action was taken thereafter (April 1989).

(b) *Delay in completion of assessment leading to arrears the recovery of which is doubtful*

The executive instructions of the State Government enjoin upon the assessing officers to complete



all productive assessments (assessments in respect of which a demand can be raised after assessment on examination of relevant documents including fraud reports etc. received from the vigilance/Intelligence Wings and Circle Inspectors) by the month of December of the first succeeding year of the year assessed, without waiting for the statutory limit of 3 years. Assessments are also required to be completed immediately in respect of cases where Registration Certificates were cancelled, reports of fraud established etc.. It was, however, noticed in audit that in six cases indicated below, the assessments involving high turnovers were kept pending till the third succeeding years. This has led to doubts about the recovery of many demands due to closure of business by the concerned dealers, leaving no trace about their whereabouts.

(i) A dealer who carried on business under the same trade name both at Berhampur and Cuttack closed his business at Cuttack in January 1984 and his Registration Certificate was cancelled on 31st October 1985, effective from 1st April 1984. Assessment for the year 1983-84 was, however, completed only on 31st March 1987 raising a demand of Rs.34.80 lakhs. Demand notice was served on 11th July 1987 payable by 10th August 1987. Show-cause notice was sent to the Sales Tax Officer, Berhampur in September 1987 for service on the dealer there and another notice was served on him in November 1987 by post. Attachment notices were sent to four banks in Berhampur and one bank in Phulbani in December 1987 which did not yield any reply except in one case, which was also in the negative. In March 1989 further investigation revealed that the dealer's Certificate of registration in Berhampur Circle was cancelled in February 1988 and that the dealer had no accounts in any bank at Berhampur. No action was taken thereafter (May 1989).

The delay in assessment and the omission to start tax recovery proceedings soon after issue of one show-cause notice in this case led to non-realisation of Rs.34.80 lakhs.



(ii) A dealer's registration was cancelled on 31st January 1983 giving effect from 31st December 1982 on account of discontinuance of business. But assessment of the dealer for 1982-83 alongwith reassessment of the preceding year was completed on 28th February 1986 raising a total demand of Rs.26.71 lakhs. Demand notice was served by affixture at the door of the assessee on 7th July 1986. Tax recovery proceedings were initiated in May 1987 but notice in Form 2 could not be served as the business was closed and his whereabouts could not be ascertained even after an enquiry made by Inspector in October 1987.

No further action was taken to recover the tax (May 1989).

(iii) A dealer stopped submission of returns after March 1985 and his certificate of registration was cancelled by the Assessing Officer on 18th June 1985 giving effect from 1st April 1985 on the ground that the dealer had not applied for renewal. On the basis of reports of fraud received (August 1981 and March 1983) from the vigilance branch, re-assessment of the years 1981-82 and 1982-83 were initiated in February 1985 and 1983-84 in July 1986. Re-assessments of these years and regular assessment of the year 1984-85 were completed on 31st October 1987 raising a total demand of Rs.17.01 lakhs. Demand notice was served on 14th December 1987 making the dues payable by 13th January 1988. Show-cause notices issued in August 1988 were refused by the dealer. In September 1988, attachment notices were issued to three banks but no reply was received from any of them. No action was taken thereafter (May 1989) and the revenue remains unrealised.

(iv) A dealer who continued to default in payment of demanded tax was assessed for 1978-79 in February 1982, 1979-80 in March 1983 and 1980-81 in March 1984

raising demands of Rs.0.84 lakh, Rs.4.00 lakhs and Rs.6.20 lakhs respectively. His certificate of Registration was cancelled in October 1981 giving effect from January 1981. Demand notice for the first year was not served and the demand notices for the subsequent two years were served in October 1983 and May 1984. For the demands of the first two years no action was taken. Show-cause notice issued for demand of 1980-81 in August 1984 could not be served. In June 1988 the Ward Inspector reported that the business was closed in January 1981 and that whereabouts of the dealer are not available. No action was taken thereafter (May 1989).

(v) A dealer who defaulted in payment of demanded tax every year was nevertheless assessed late every year. His assessment for 1979-80 was completed in February 1983 with demand of Rs.1691 payable in April 1983. The assessment for the year 1980-81 was made in March 1984 with demand of Rs.0.73 lakh payable in June 1984, assessment for the year 1981-82 was made in March 1985 with demand of Rs.1.77 lakhs payable in June 1985 and the assessment for the year 1982-83 was made in January 1986 with demand of Rs.8.90 lakhs payable in May 1986 even though he had closed his business in March 1983 and his certificate of registration was cancelled with effect from 1st April 1983.

Show-cause notice for the arrears of 1981-82 was issued in July 1985 and a penalty of Rs.0.88 lakh was imposed exparte in February 1986. For the arrears of 1982-83 tax recovery proceedings were initiated adding interest of Rs.3 lakhs in November 1987, but notice in Form 2 could not be served as the dealer's whereabouts were not known. The total arrears as at the end of March 1988 remained at Rs.15.31 lakhs for which no action could be taken (April 1989).



(vi) In Cuttack I West Circle, a dealer's certificate of registration was cancelled on 17th January 1983 with effect from 17th April 1982 for closure of business. Still, assessments for the years 1981-82 and 1982-83 were completed only on 29th March 1985 raising a total demand of Rs.5.05 lakhs payable by 24th August 1985. By that time the dealer had closed the business and left the place with the result that the demand notice as well as a show-cause notice issued in November 1985 had to be affixed in his reported place of business. Tax Recovery Proceedings were started for tax, penalty and interest of Rs.11.74 lakhs in February 1989 but notice in Form 2 was not issued in the absence of the whereabouts of the dealer.

(c) *Other interesting cases*

(i) A dealer's assessment for 1980-81 was completed on 27th February 1984 raising a demand of Rs.24.77 lakhs. Demand notice was served by affixture on 8th May 1984 making the dues payable by 7th June 1984. Show-cause notices sent to the dealer in July 1984 and January 1985 came back undelivered from his permanent address. An Inspector reported in May 1985 that the dealer closed his business in 1981 and was living at his native place somewhere in Gujarat.

No action was taken thereafter (May 1989).

(ii) In Ganjam I Circle, a dealer stopped submission of monthly returns after November 1978 indicative of discontinuance of business. Still, his assessment for 1977-78 was completed on 31st March 1981 raising a demand of Rs.1.18 lakhs and the assessment for the year 1978-79 was completed on 31st March 1982 raising demand of Rs.1.47 lakhs. The demand notices for both the years could not be served on the dealer as the business was closed and the dealer was neither available in the place of business nor at his permanent address. The total arrears of Rs.2.65 lakhs had become irrecoverable due to delay in assessment.



(iii) A dealer's assessments for 1972-73 and 1973-74 were re-opened in February 1976. His certificate of registration was cancelled from 7th January 1976 on 29th November 1976 and made effective from 7th January 1976 for discontinuance of business. Regardless of this, the re-assessments were completed only after nine years on 29th March 1985 raising demands of Rs.1.45 lakhs. Demand notices were served by affixture in January 1986 making the dues payable in February 1986. Tax recovery proceedings were instituted for the total arrears of Rs.2.67 lakhs (inclusive of other unpaid demands and interest) during December 1988 but notice in Form 2 could not be served as dealer's whereabouts were not known.

(iv) In Puri II Circle, the vigilance branch of the department reported in March 1981 that a dealer was doing, clandestine business and was liable to pay sales tax for the years 1978-79 to 1980-81. Assessment proceedings were completed in December 1986 raising a demand of Rs.4.40 lakhs. Demand notice was served by affixture in March 1987 making the dues payable in April 1987. Show-cause notices were issued in August 1987 and December 1987 and served by affixture. Penalty of Rs.2.20 lakhs was imposed in June 1988 raising arrears to Rs.6.60 lakhs but no further action has been taken so far (April 1989).

(v) In Ganjam I Circle, a dealer's registration was cancelled with effect from 1st April 1977. Despite discontinuance of business and receipt of report of fraud from the vigilance wing in 1976, his assessments for the year 1975-76 was made in March 1979 and assessment for the year 1976-77 was made in March 1980 raising a total demand of Rs.1.95 lakhs. Demand notice for the earlier year was not served while notice for the later year was delivered at his residence in March 1981. Show-cause notices issued in August 1979, February 1980, June 1981 and November 1981 were not served

on the dealer. On being directed to enquire, the Ward Inspector reported in November 1984 that there was no prospect of recovery of the dues. In December 1984, the Sales Tax Officer ordered for institution of tax recovery proceedings but this was not done. In April 1985, the Sales Tax Officer proposed for write-off of the dues amounting to Rs.1.94 lakhs after adjustment of security deposit of the dealer. But the proposal was not sent to higher authorities nor was any action taken in the matter (May 1989).

### 2.13.5.3 *Irregular issue and withdrawal of attachment notices*

In respect of the cases mentioned below, attachment notices were withdrawn consequent on the concerned dealers paying part amounts which were insignificant compared to the outstanding arrears covered by the demand notices.

(i) In Cuttack II Circle, a dealer was in arrears of tax of Rs.1.60 lakhs for the period from June 1984 to March 1987. An attachment notice was served on a Bank on 27th March 1987 for Rs.0.64 lakh, only as against arrears of Rs.1.60 lakhs. The attachment notice was however, withdrawn on 4th May 1987 when the dealer paid a sum of Rs.15,000.

No action was taken for realisation of the balance of Rs.1.45 lakhs (April 1989).

(ii) In another case of the same circle, a dealer was in arrears of Rs.0.94 lakh for the period from 1982-83 to part of 1985-86, which fell due for payment in January 1986. Attachment notice was issued on a bank on 19th March 1986. But the same was withdrawn on 25th March 1986 when the dealer paid a sum of Rs.5,000. No action was however taken for realisation of balance till December 1987. Another attachment notice was issued to the said



bank only in January 1988, which was also withdrawn in May 1988 when the dealer paid another sum of Rs.5,000. The dealer was still to pay the balance of Rs.0.84 lakh, for which no action was taken (April 1989).

(iii) In Cuttack I Central Circle, a dealer was to pay Rs.1.33 lakhs for the years 1984-85 to 1986-87 assessed in November 1987 payable by January 1988. Attachment notice was issued on an Executive Engineer on 24th March 1988 for payment of sales tax dues out of bills payable by the division to the defaulting dealer. The same was withdrawn on 30th March 1988 when he paid a sum of Rs.7,000. Attachment notice on the same authority was issued again on 11th October 1988 but the same was withdrawn on 15th October 1988 when he paid Rs.5,000. The dealer paid another sum of Rs.8,000 by March 1989. No action was taken for realisation of balance of Rs.1.13 lakhs (April 1989).

(iv) In Dhenkanal Circle, a private limited Company carrying on business at Talcher and having its Head Office at Calcutta did not pay its sales tax dues amounting to Rs.0.49 lakh for 1972-73 and 1973-74 payable by end of December 1974.

Attachment notice was issued to the dealer's bankers at Calcutta on 15th January 1976. The same was however withdrawn in February 1976 when he paid a sum of Rs.15,000. The dealer continued to default in payment of tax for subsequent periods also and ultimately closed his business in 1977-78. Attachment notice was issued for Rs.0.59 lakh in November 1976 again on the same bank, but by that time, the dealer had withdrawn all his balances leaving a small sum of Rs.158, as intimated by the bank while the dealer's arrears increased to Rs.1.49 lakhs by the end of January 1978. No action was taken against the dealer for the next ten years



and the arrears with interest amounted to Rs.4.41 lakhs by end of January 1989. A certificate case for this amount filed in the Revenue Court in February 1989, could not be acted upon in the absence of particulars of property held by the defaulting dealer (April 1989).

(v) In Ganjam I Circle, a dealer's arrears of tax amounted to Rs.2.67 lakhs by the end of March 1987. Attachment notice on the dealer's dues with one organisation to which the dealer supplied the goods, was issued in December 1987. But the same was withdrawn later in the same month on the request of the dealer. Attachment notice issued again on three organisations in September 1988 yielded no result as the dealer had collected all his dues and closed the business. No further action was taken thereafter (May 1989).

#### 2.13.5.4 *Non-institution of certificate cases after issue of attachment notices*

Under the Act, any person discharging any liability to the dealer, when issued with an attachment notice for recovery of the arrear demands of the defaulter is bound to honour the directions contained in such notices. Though the Act makes the persons in charge of such garnishee agencies personally responsible in case of non-compliance, action was not taken to ensure prompt compliance of the attachment notices. Similarly, even though the Act does not preclude the Sales Tax Officers from instituting tax recovery proceedings after issue of such notices, no measures to attach their property (both movable and immovable), or their detention in civil prisons etc. were taken. Instances of 9 such cases

are furnished in the table below :

Sl.No.	Name of Circle	Year(s) of asses- sment	Amount assessed (in lakhs)	Due date of payment	Date of issue of attach- ment not- ice to third parties	Remarks Action taken/No action taken
1	2	3	4	5	6	7
i)	Cuttack-II	1984-85 to 1985-86	6.62	December 1986	January 1988	Though arrears increased to Rs.7.65 lakhs by 31.3.88, no follow-up action was taken till January 1989.
ii)	Cuttack-I Central	1985-86	7.33 •	January 1987	February 1987	No further action till April* 1989. •
iii)	Cuttack-I Central	1982-83 to 1985-86	2.46	June 1986, March August 1987 and January 1988	March 1988	-do-
iv)	Cuttack-I Central	1982-83 to 1984-85	3.03	March 1986	December 1986	-do-

Sl.No.	Name of Circle	Year(s) of assessment	Amount assessed (in lakhs)	Due date of payment	Date of issue of attachment notice to third parties	Remarks Action taken/No action taken
1	2	3	4	5	6	7
v)	Cuttack-I Central	1983-84 to 1985-86	17.57	February 1987	August 1987	No further action till April 1989.
vi)	Dhenkanal Circle	1984-85 and 1985-86	4.35	January 1986 and October 1986	February 1986 and November 1986	-do-
vi)	Cuttack-I East	1983-84	1.16	April 1987	December 1987	-do-
viii)	Cuttack-I East	1983-84 to 1985-86	30.92	Between February 1986 and November 1986	December 1986	-do-
ix)	Cuttack-I East	1983-84	7.45	January 1987	December 1987	Tax Recovery Proceedings were not instituted except issuing show-cause notices in September 1988 and April 1989.
			Total =		<u>80.89</u>	



### 2.13.5.5 Ineffectiveness of certificate proceedings

The Act provides that if a dealer fails to pay tax and penalty due from him within the time specified in the demand notice, the same together with interest shall be recoverable as an arrear of public demand to be effected through the State Revenue Department or through tax recovery officers within the Department (created from 1976). Powers of tax recovery were delegated to every assessing officer of the Department from April 1985, first as an assessing officer with the normal power of tax realisation and secondly as a tax recovery officer with additional powers of tax recovery which includes attachment of movable/immovable property of defaulters and their sale, arrest of the defaulter and his detention in prison.

It was noticed in audit in many cases that tax recovery proceedings were initiated so late that by that time the defaulting dealers closed their business and left the place leaving no trace of their whereabouts or the dealers had enough time to sell and transfer their properties which could have been attached. The delay ranged between 2 years and 12 years as could be seen from the table below :

Sl.No.	Name of Circle	period to which arrear related	Due date of payment	Amount of arrear (in lakhs)	Date of starting of tax recovery proceeding	Period of delay	Remarks
i)	Cuttack-II	1971-72	July 1975	1.04	March 1987	At the fag end of 12th year	Notice in Form 2 was issued in August 1987. No

Sl.No.	Name of Circle	Period to which arrear related	Due date of payment	Amount of arrear (in lakhs)	Date of starting of tax recovery proceeding	Period of delay	Remarks
							further action could be taken due to non-availability of any property of the dealer.
ii)	Cuttack-I Central	1972-73 and 1973-74	June 1976	1.72	December 1987	In the 12th year	Notice in Form 2 could not be served as the dealer had closed his business and his whereabouts could not be ascertained.
iii)	Cuttack-I Central	1971-72 and 1972-73	June 1975	1.98	March 1987	In the 12th year	-do-

Sl.No.	Name of Circle	Period to which arrear related	Due date of payment	Amount of arrear(in lakhs)	Date of starting of tax recovery proceeding	Period of delay	Remarks
iv)	Cuttack-I East	1974-75	July 1978	1.43	September 1984	In the 7th year	Notice in Form 2 could not be served as the dealer had closed his business and his whereabouts could not be ascertained (Total arrear amounts Rs.3.52 lakhs with interest upto 15th September 1984).
v)	Cuttack-I East	1981-82 and 1982-83	August 1985	12.77	May 1987	21 months	No action Could be taken due to non-availability of any assets of the dealer.



Sl.No.	Name of Circle	Period to which arrear related	Due date of payment	Amount of arrear(in lakhs)	Date of starting of tax recovery proceeding	Period of delay	Remarks
vi)	Cuttack-I East	1970-71	July 1974	2.90	December 11 1985	Years	Notice in Form 2 could not be served as the dealer closed his business long back and his whereabouts could not be ascertained (total arrears amounted to Rs.7.66 lakhs).
vii)	Ganjam-I	1979-80 and 1980-81	September 1983	3.55	October 4 1987	Years.	Notice could not be served due to closure of business and non-availability of dealer. Total arrears amounted to Rs.8.29 lakhs.

Sl.No.	Name of Circle	Period to which arrear related	Due date of payment	Amount of arrear(in lakhs)	Date of starting of tax recovery proceeding	Period of delay	Remarks
viii)	Ganjam-I	1974-75 to 1976-77	October 1978 and December 1978	3.73	March 1984	5 years	Notice could not be served due to closure of business and non-availability of dealer. Total arrears amounted to Rs.4.62 Lakhs.
ix)	Cuttack-I West	1982-83 and 1983-84	March 1984 and September 1985	12.15	June 1986	2 Years	Dealer closed his business in 1983 and his Registration Certificate was cancelled in November 1983. Total arrear amounted to Rs.16.02 lakhs. Notice in Form 2 could not

Sl.No.	Name of Circle	Period to which arrear related	Due date of payment	Amount of arrear(in lakhs)	Date of starting tax recovery proceeding	Period of delay	Remarks
							be served as dealer's whereabouts are not known
x)	Cuttack-I West	1973-74	May 1975	1.89	March 1987	11 years	By March 1987 total arrear amounted to Rs.7.69 lakhs. Notice in Form 2 could not be served due to non-availability of the dealer.
				Total = <u>42.80</u>			

#### 2.13.5.6 Inadequacies in the follow-up action

Follow-up action constitutes the most important of the procedures of collection. Any laxity in this regard makes the entire effort involved in assessment and collection infructuous and results in huge accumulation of arrears. The purpose of delegation of powers to the departmental officers under the Orissa Sales Tax Act for effecting the recovery of arrear taxes also gets defeated if the follow-up action, as provided under



the Act (stated in para 2.13.5.4), is not resorted to. The review by audit, however, revealed 9 cases involving an amount of Rs.109.63 lakhs (detailed in the table below) were non-pursuance of the arrear demands had led to these amounts becoming irrecoverable.

Sl.No.	Name of the Circle	Period to which the arrear relates	Due date of payment	Amount of arrears (in lakhs)	Date of initiation of Tax Recovery Proceedings	R e m a r k s
i)	Cuttack-I East	1982-83	April 1986	22.05	May 1987	Notice in *Form 2 was issued in June 1987. The dealer refused to receive the notice. No action was taken thereafter (April 1989).
ii)	Cuttack-I East	1971-72 to 1974-75	January 1973 to July 1978	7.50	November 1978	The Tax Recovery Officer sent (December 1978) the notice in Form 2 to the assessing officer for service. This was not served. A fresh notice in Form 2 was issued to one of the partners of the firm in January 1985. He refused

\* Form 2. constitutes an intimation stating that in default of payment, steps would be taken to realise the amount as per

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Sl.No.	Name of the Circle	Period to which the arrear relates	Due date of pay- ment	Amount of arre- ar (in lakhs)	Date of initiation of Tax Recovery Proceedings	R e m a r k s
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iii)	Cuttack-I East	1982-83 and 1983-84 (Upto September 1984	June 1984	14.07	October 1984	to receive it. No action was taken thereafter (April 1989).  Notice in Form 2 was sent (March 1985) to the dea- ler by registered post which came back undelivered as he refused to receive it. The departmental vigi- lance branch was asked in June 1985 to conduct enquiry and rep- ort the particulars of property held by the dealer.No reply was recei- ved from the vigilance branch nor any other action was taken (April 1989).
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Sl.No.	Name of the Circle	Period to which the arrear relates	Due date of payment	Amount of arre-ar (in lakhs)	Date of initiation of Tax Recovery Proceedings	Remarks
iv)	Cuttack-I East	1983-84	October 1984	5.91	November 1984	Notice in Form 2 was served in March 1986. No further action was taken thereafter (April 1989)
v)	Cuttack-I East	1984-85 to 1985-86	January 1987	12.56	May 1987	Notice was served in May 1987 but no action was taken thereafter (April 1989).
vi)	Cuttack-I East	1971-72 to 1973-74	February 1973 to July 1975	2.21	November 1978	The Tax Recovery Officer sent (November 1978) notice in Form 2 to the assessing officer for service on the dealer. But he did not serve the notice. The Tax Recovery Officer sent a fresh notice to the dealer in September 1984 who refused to receive it. No action was taken thereafter (April 1989).



Sl.No.	Name of the Circle	Period to which the arrear relates	Due date of payment	Amount of arrears (in lakhs)	Date of initiation of Tax Recovery Proceedings	Remarks
vii)	Cuttack-I Central	1980-81 to December 1985	May 1986	4.02	October 1986	Notice in Form 2 was served in October 1986. No follow-up action was taken thereafter (April 1989).
viii)	Cuttack-I East	1980-81 to 1982-83	August 1984	26.39	October 1984	Though tax recovery proceeding was started in October 1984, notice in Form 2 was issued only in March 1986. The dealer read the notice in the hands of the process server and did not receive it telling that he was unable to pay the demand. The notice was not served on him nor any further action was taken (April 1989).

Sl.No.	Name of the Circle	Period to which the arrear relates	Due date of payment	Amount of arrears (in lakhs)	Date of initiation of Tax Recovery Proceedings	R e m a r k s
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ix)	Cuttack-II	1978-79 and 1979-80	July 1982 and March 1983	14.92	---	Show-cause notices were issued upto September 1985. After being directed, the ward inspector reported (February 1987) after contacting the dealer that the dealer expressed his inability to pay the dues owing to his bad financial condition and that his factory had been sub-let to another dealer. In March 1987 attachment notice was issued to the sub-tenant who replied that he had nothing to pay to the defaulting dealer. No action was taken thereafter for recovery through tax recovery proceedings.
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### 2.13.5.7 *Withdrawal of the coercive measures without recovery of the arrear dues*

(i) In Cuttack II Circle a dealer was liable to pay central sales tax of Rs.5.91 lakhs relating to the years 1979-80, 1980-81, 1982-83 and January 1985 to September 1985 during April 1986. The arrear demand was certified to Tax Recovery Officer in December 1986 and notice in Form 2 was also served on the dealer in the same month. As the dealer did not respond, officers in charge of three check gates were directed in February 1987 to seize his goods passing through their gates. But the orders were withdrawn during the same month, on the dealer's promise to pay the dues in March 1987.

The dealer however, paid a sum of Rs.1.91 lakhs only in instalments by the end of March 1989 leaving a balance of Rs.4.00 lakhs yet to be paid (April 1989).

(ii) A dealer in the same circle was to pay a sum of Rs.2.19 lakhs relating to the period from September 1984 to February 1986 in April 1986. The arrear was certified in June 1986 and notice was served on the dealer in July 1986. An attachment order served in February 1987 with the State Road Transport Corporation was withdrawn in the same month on the dealer's promise to clear the dues by March 1988. The dealer however did not pay any part of the dues (April 1989). The dealer was still to pay a sum of Rs.0.84 lakh (December 1989).

### 2.13.5.8 *Delay in disposal of appeal cases/blockage of revenue due to stay by departmental appellate authorities*

Under the Orissa Sales Tax Act departmental appellate authorities are empowered to hear appeals against assessments made by Sales Tax Officers and



for that purpose, to order stay in recovery of demanded tax. Out of the total arrears, a sum of Rs.19.33 crores was stayed by departmental appellate authorities pending disposal of appeals relating to those demands. Seventeen cases where recovery of demands amounted to Rs.38.76 lakhs was stayed by departmental appellate authorities, but the appeals relating to them were not disposed of for long periods ranging from two to four years, resulting in blockage of revenue, are illustrated in the following table:

Sl.No.	Name of Circle	Period to which demand related	Amount of demand stayed (in lakhs)	Due date of payment	Date of stay order	Period of delay in disposal of appeal as on 30.4.1989.
i)	Cuttack-I Central	1982-83	0.81	July 1984	December 1985	40 months
ii)	Cuttack-I Central	1985-86	1.68	February 1986	March 1986	37 months
iii)	Cuttack-I Central	1984-85 and 1985-86	2.82	February 1987	February 1987	26 months
iv)	Cuttack-I Central	1984-85	1.17	February 1987	March 1987	25 months
v)	Dhenkanal Circle	1984-85	1.24	April 1986	July 1986	33 months
vi)	Dhenkanal Circle	1984-85	2.12	October 1986	November 1986	29 months
vii)	Dhenkanal Circle	1985-86	9.69	November 1986	December 1986	28 months

Sl.No.	Name of Circle	Period to which demand related (in lakhs)	Amount of de-mand stayed	Due date of pay-ment	Date of stay order	Period of delay in disposal of appeal as on 30.4.1989
viii)	Dhenkanal Circle	1985-86	1.10	February 1987	March 1987	25 months
ix)	Cuttack-I East	1984-85	4.29	December 1985	March 1986	37 months
x)	Cuttack-I East	1983-84	1.64	January 1987	May 1987	23 months
xi)	Cuttack-I East	1984-85	1.42	December 1985	March 1986	37 months
xii)	Cuttack-I East	1985-86	1.88	November 1986	December 1986	28 months
xiii)	Cuttack-I East	1981-82	1.53	August 1985	March 1986	37 months
xiv)	Cuttack-I East	1981-82	2.10	August 1984	April 1985	48 months
xv)	Cuttack-I West	1985-86	2.91	April 1987	October 1987	18 months
xvi)	Cuttack-II Circle	1985-86	0.80	February 1987	February 1988	14 months
xvii)	Ganjam-I Circle	1984-85 and 1985-86	1.56	January 1987	March 1987	25 months
Total =			38.76			

### 2.13.5.9 Loss of revenue due to operation of time bar

In Cuttack-I East Circle, a dealer's arrear amounting to Rs.2.13 lakhs pertaining to the period 1971-72 to 1972-73 was payable by 31st March 1975. Due to non-payment of dues, tax recovery proceedings were initiated on 18th November 1978. The departmental tax recovery officer (functioning from 1976) sent notice in Form 2 to the Assessing Officer on 1st December 1978 for service on the dealer. As this was not done, the Tax Recovery Officer sent another notice in Form 2 to the dealer by registered post on 24th August 1982 which came back un-delivered. The Tax Recovery Officer dropped the certificate proceedings on 22nd February 1984 and sent back the requisition to the assessing officer with direction to file a certificate case with the District Collector as the dealer was not a resident of Orissa. Under the provisions of the Orissa Sales Tax Act, the claim was time barred for recovery on 1st April 1987 which resulted in a loss of revenue to the extent of Rs.2.13 lakhs.

It should be of vital importance for the Government to mop up the available resources and in that context it is for the Government to consider as to how best the dealers/potential sales tax assessees do not vanish without trace.

The above points were brought to the notice of the Government in July 1989; their reply has not been received (March 1990).



## CHAPTER 3

## TAXES ON MOTOR VEHICLES AND PASSENGERS

## 3.1 Results of Audit

A test-check of records relating to assessment and collection and refunds of motor vehicles tax in the offices of State Transport Authority, Orissa and other Regional Transport Offices, conducted during the period from April 1988 to March 1989 revealed under-assessments and losses of revenue amounting to Rs.98.12 lakhs in 6149 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Short-levy/short-realisation of motor vehicle tax/ additional tax	1822	19.19
2. Non-levy/non-realisation of motor vehicle tax/ additional tax	687	16.40
3. Short realisation/non-realisa- tion of compounding fees	485	8.87
4. Short realisation/non-realisa- tion of composite tax	1623	13.57
5. Short realisation/non-realisa- tion of Trade Certificate fees	45	0.65
6. Loss of revenue due to other reasons	<u>1487</u> <u>6149</u>	<u>39.44</u> <u>98.12</u>

Some of the important cases noticed in 1988-89 and earlier are mentioned in the following paragraphs.

### **3.2 Short realisation of tax on transport vehicles of other states plying temporarily in Orissa**

According to a notification (1st October 1975) issued under the provision of the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986), temporary tax tokens may be issued in respect of transport vehicles of other States plying temporarily in the State of Orissa on payment of tax at the prescribed rates. Additional tax at the prescribed rate is also leviable with effect from 18th October 1985. The tax/additional tax in respect of such vehicles is required to be collected by the State Transport Authority of the home state of the vehicles by means of crossed demand drafts, who in turn, is required to remit it to the State Transport Authority, Orissa. The latter is to check the correctness of the remittance received and account for it.

In the office of the State Transport Authority, Orissa, it was noticed (between August 1988 and November 1988) that motor vehicles tax and additional tax to the extent of Rs.43,033 was short realised in respect of 169 transport vehicles of other States which operated temporarily (between December 1986 and June 1988) in Orissa.

On this being pointed out in Audit (August 1988 to November 1988), the State Transport Authority, Orissa stated (November 1988) that steps would be taken to realise the tax. Further report of realisation has not been received (March 1990).

The matter was reported to Government in February 1989; their reply has not been received (March 1990).

### 3.3 Short realisation of tax in respect of stage carriages

(a) Under the Orissa Motor Vehicles Taxation Act, 1975 and the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, the motor vehicles tax and additional tax payable in respect of a stage carriage is to be determined on the basis of number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit.

In nine regions (Mayurbhanj, Bargarh, Bolangir, Sundargarh, Chandikhol, Balasore, Sambalpur, Cuttack and Keonjhar) in respect of 130 stage carriages, tax for various periods between April 1985 and September 1988 was computed by adopting incorrect distance permitted to be covered by the vehicle in a day or application of incorrect rates of tax. The mistakes resulted in short collection of motor vehicles tax and additional tax amounting to Rs.9.35 lakhs.

On the mistakes being pointed out in audit (between May 1988 and January 1989), while the taxing officer, Chandikhol region, issued demand notices (September 1988), the taxing officers of the rest of the regions stated (May 1988 and January 1989) that action would be taken after verification. Further reports on action taken have not been received (March 1990).

The cases were reported to Government between September 1988 and April 1989; their reply has not been received (March 1990).



(b) Where, in pursuance of any agreement between the Government of Orissa and the Government of any other State, a stage carriage plies on a route partly in the State of Orissa and partly in such other state, such stage carriage is liable to pay additional tax to the State of Orissa, and the additional tax in respect of such vehicle shall be calculated on the total distance covered by the vehicle on such route in the State of Orissa, at the rates and in the manner specified under the Orissa Motor Vehicles Taxation Act, 1975 as amended in 1986 and the Orissa Motor Vehicles (Taxation) Rules, 1976 as amended.

(i) In respect of three stage carriages (West Bengal) authorised to ply as "Express Services" in the inter-state routes partly in Orissa and partly in West Bengal under reciprocal agreements, additional tax was not collected at the rates applicable to such vehicles in the prescribed manner resulting in short collection of additional tax amounting to Rs.1.07 lakhs for the period between October 1985 and February 1988.

On this being pointed out in audit (October 1988), the State Transport Authority, Orissa, administering the agreement, stated (October 1988) that steps would be taken to realise the balance due from the concerned permit holders. Report of recovery has not been received (March 1990).

The matter was reported to Government in February 1989; their reply has not been received (March 1990).

(ii) In two regions (Baripada and Chatrapur), in respect of 18 stage carriages authorised to ply in the inter-state routes partly in Orissa and partly in other states (4 in West Bengal, 3 in Bihar and 11 in Andhra Pradesh) under reciprocal agreements, additional tax was not computed correctly in the prescribed manner,

resulting in short collection of tax amounting to Rs.1.10 lakhs for the period between April 1986 and January 1989.

On this being pointed out in audit (June 1988 and February 1989), the taxing officer, Baripada issued (January 1989) demand notices in seven cases whereas the taxing officer, Chatrapur issued (February 1989) demand notices in six cases. Action taken in respect of the remaining cases have not been received (March 1990).

The matter was reported to Government in October 1988 and June 1989; their reply has not been received (March 1990).

(c) Under the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986), motor vehicles tax and additional tax shall be levied at the prescribed rates on every motor vehicle used or kept for use in the State. The rules also provide that no tax is payable in respect of a vehicle which is not intended to be used for any period, if prior intimation of such non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid. If at any time during the period covered by such intimation, the vehicle is found to be plying, it shall be deemed to have been used throughout the period of such intimation. Under Section 13 *ibid* read with Rule 9(2) of the Orissa Motor Vehicles Taxation Rules, 1976, where the tax and additional tax has not been paid and continues to remain unpaid for a period of fifteen days from the due date of payment, the taxing officer shall impose penalty in respect of such vehicle, ranging from 25 *per cent* to 200 *per cent* of the tax due, depending on the number of days delayed in making payment.



In Baripada region, tax in respect of one stage carriage had not been realised for four months (March 1986, April 1986, August 1986 and September 1986) though the vehicle was not covered by off-road declaration during this period. During October 1986, though the vehicle was declared off-road, it was found plying on the road by the enforcement staff. In March 1987, the vehicle was granted a permit though it was under off-road declaration during March 1987. Tax in respect of the vehicle was also short assessed for eight months (July 1986, January 1987, April 1987, June 1987, September 1987, January 1988 to March 1988).

This had resulted in non-levy of tax amounting to Rs.41,659. Besides, penalty to the extent of Rs.83,318 was also leviable.

On this being pointed out in audit (June 1988), the taxing officer issued (January 1989) demand notices. Further report regarding recovery has not been received (March 1990).

The matter was reported to Government (October 1988); their reply has not been received (March 1990).

### **3.4 Non-realisation of tax in respect of stage carriages**

Under the Orissa Motor Vehicles Taxation Act, 1975 and the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, tax payable in respect of a stage carriage is to be determined on the basis of number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit.

In five regions (Mayurbhanj, Balasore, Sambalpur, Keonjhar and Puri), in respect of 18 stage carriages, tax for various periods between October 1986 and July 1988 was not realised at all, even though the stage



carriages were issued permits. These periods were also not covered by off-road declarations. This resulted in non-collection of tax amounting to Rs.2.73 lakhs.

On the omission being pointed out in audit (between June 1988 and March 1989), the taxing officer, Mayurbhanj stated (January 1989) that demand notices had been issued. The other taxing officers stated (between June 1988 and March 1989) that steps would be taken to issue demand notices after due verification. Further reports have not been received (March 1990).

The cases were reported to Government between September 1988 and June 1989; their reply has not been received (March 1990).

### **3.5 Short collection of additional tax**

As per Government Ordinance dated 14th October 1985 issued under the Orissa Motor Vehicles Taxation Act, 1975, an additional tax was leviable on all stage carriages and goods vehicles at specified rates, with effect from 18th October 1985. By another Government notification the rates of additional tax were reduced, effective from 25th November 1985, that is the date of its issue.

In four regions (Keonjhar, Cuttack, Sambalpur and Rourkela) the taxing authorities applied the reduced rates of additional tax with effect from 18th October 1985 itself instead of from 25th November 1985, in respect of 2278 stage carriages and goods vehicles, which resulted in short realisation of additional tax amounting to Rs.3.21 lakhs.

On this being pointed out in audit (September 1986 to November 1987) the taxing authorities stated that a reference had been made to the Transport Commissioner/Government for clarification. No further reports have been received (March 1990).

The matter was reported to Government in September 1987, November 1987 and April 1988, who confirmed (May 1988) the observations of audit. Final reply on action taken to recover the amount has not been received (March 1990).

### 3.6 Non-realisation of tax in respect of vehicles violating off-road declarations

Under the Orissa Motor Vehicles Taxation Act, 1975 motor vehicles tax and additional tax is not payable in respect of vehicle, which is not intended to be used for any period, if prior intimation of such non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid, specifying *inter-alia* the period of non-use and the place where the motor vehicle is to be kept during such period. The registration certificate, fitness certificate, permit and the current tax token of the vehicle are required to be surrendered alongwith the off-road declaration. If, at any time during the period covered by such intimation, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period and in such case the owner of the vehicle would become liable to pay tax and penalty as prescribed for the entire period for which it was declared off-road.

(i) In two regions (Balasore and Chandikhol) 10 stage carriages which had joined the Banner Scheme\* under the Orissa State Road Transport Corporation were declared off-road. During the period of off-road for different spells during 1987-88 regular monthly service charges with reference to distances covered in a month by these

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\* A scheme of hiring private buses for operation by the Orissa State Road Transport Corporation

vehicles (as per agreement executed under the Banner Scheme) were demanded by the Corporation and paid by the operators of these vehicles. These vehicles, therefore plied during the period of off-road without payment of tax. This resulted in evasion of tax of Rs.76,628 during the period from June 1987 to March 1988. Besides, penalty to the extent of Rs.1.53 lakhs was also leviable.

On this being pointed out in audit (between June 1988 and September 1988), the taxing officer, Balasore reported (December 1988) that demand notices had been issued and note kept in relevant records. Action taken report from the taxing officer, Chandikhol has not been received (March 1990).

The matter was reported to Government between September 1988 and January 1989; their reply has not been received (March 1990).

(ii) In two regions (Sambalpur and Cuttack), 10 stage carriages, which had been declared off-road in different spells between June 1986 and December 1987 were issued fitness certificates by the department during the period of off-road. One stage carriage of Cuttack region was also granted permits between July 1987 and December 1987 (period covered under off-road) besides issue of fitness certificate. It was thus evident that the vehicles plied during the period of off-road, without payment of tax, resulting in evasion of tax of Rs.1.31 lakhs. Besides, a penalty of Rs.2.62 lakhs is also leviable.

On this being pointed out in audit (between April 1988 and November 1988) the taxing officer, Cuttack accepted the irregularity and agreed (November 1988) to raise the demands whereas action taken report from taxing officer, Sambalpur has not been received (March 1990).



The matter was reported to Government (May 1989); their reply has not been received (March 1990).

(iii) In Cuttack region, 2 stage carriages which had been declared off-road during various periods between January 1987 and December 1987 were detected by the enforcement staff as plying during the periods for which the vehicles were declared off-road. But no action was taken by the Department to recover the tax due from the vehicle owners and to impose penalty for the offence. The tax and penalty leviable amounted to Rs.30,434 and Rs.60,868 respectively.

On this being pointed out in audit (November 1988), the taxing officer replied (November 1988), that the vehicle check reports could not be linked up due to negligence of the dealing assistant and demand notices were issued against concerned operators. Further reports have not been received (March 1990).

The matter was reported to Government (April 1989).

(iv) In Bolangir region, one stage carriage was declared off-road in different spells between January 1987 and December 1987. In the first spell (January 1987 to March 1987), the vehicle had obtained a fitness certificate in February 1987 and in the second spell (April 1987 to December 1987), it was detected plying during September 1987 by the enforcement staff. However the vehicle was again declared off-road from October 1987 to March 1988 and was subsequently released in December 1987. But the records showed that the vehicle had met with an accident in October 1987. It was thus evident that the vehicle had plied during off-road period and evaded payment of tax of Rs.58,983 for the period from January 1987 to December 1987. Besides, penalty of Rs.1.18 lakhs was also leviable.

On this being pointed out in audit (December 1988), the taxing authority accepted the view point of audit; further report has not been received (March 1990).

The matter was reported to Government in April 1989; their reply has not been received (March 1990).

(v) In six regions (Keonjhar, Sundergarh, Bargarh, Kalahandi, Sambalpur and Cuttack), 60 motor vehicles, which had been declared off-road for various periods between April 1986 and October 1988 were detected by the enforcement staff as plying on the road or not found by the enforcement staff at the declared places during such off-road periods. But no action was taken by the taxing officers to realise the tax and penalty in respect of such vehicles for those periods for violation of the provisions of the Act. Tax leviable on these vehicles amounted to Rs.7.56 lakhs. Besides, penalty leviable at the rate of 200 per cent on the tax due amounted to Rs.15.12 lakhs.

On these omissions being pointed out in audit (between April 1988 and January, 1989), the taxing officers of Keonjhar, Bargarh, Kalahandi and Sambalpur agreed to issue demand notices to realise the dues. The Taxing Officers of Cuttack and Sundergarh stated that the cases would be verified. Further reports have not been received (March 1990).

The matter was reported to Government between November 1988 and May 1989; their reply has not been received (March 1990).



### 3.7 Short realisation of composite tax on vehicles plying under National/Zonal Permit Schemes

(a) Under the National Permit Scheme and effective from 1st April 1986, the operator of a public carrier goods vehicle, authorised to ply in the State of Orissa, but registered in another State is liable to pay composite tax at the rate of Rs.1,500 per annum in Orissa State. The composite tax, which is in addition to the Motor Vehicle Tax and other taxes payable in the State of registration of the vehicle, is payable in advance on or before the 15th March every year. The owner of a Vehicle may however, at his option, pay the tax in two equal instalments on or before 15th March and 15th September, covering the periods from April to September and October to March respectively of the year. Such composite tax payable is to be deposited with the State Transport Authority of the home state in which the vehicle is registered in the form of demand drafts, on behalf of the State Transport Authority of the State in which the vehicle is permitted to ply.

It was noticed from the records of the State Transport Authority, Orissa (August 1988 to November 1988) that composite tax in respect of 11310 vehicles had been realised only for parts of the year instead of for the full year for which the vehicles were authorised to ply in Orissa. The tax recovered short in these cases amounted to Rs.9.80 lakhs for the year 1987-88. No action was however taken by the State Transport Authority, Orissa to obtain the demand drafts relating to composite tax due to them from State Transport Authorities of other States concerned.

On this being pointed out in audit (August 1988 to November 1988) the State Transport Authority, Orissa stated (November 1988) that steps were being taken for realisation of the dues. Reports of realisation have not been received (March 1990).



The matter was reported to Government (February 1989); their reply has not been received (March 1990).

(b) Under the Zonal Permit Scheme, a transport vehicle (i.e. a public carrier goods vehicle) of another state, authorised to ply in Orissa is liable to pay composite tax at the rate of Rs.1,000 per annum to the State of Orissa. The composite tax is payable in advance on or before 15th March every year. Other conditions of payment are similar to the ones applicable to National Permit Scheme.

Scrutiny of the records of the State Transport Authority, Orissa (August 1988 to September 1988), however revealed that composite tax in respect of 93 vehicles authorised to ply in Orissa during the financial year 1987-88 under Zonal Permit Scheme had been realised for part of the year only instead of for the full year, resulting in short realisation of tax amounting to Rs.46,500. No systematic records to watch the receipt of bank drafts for both the instalments in respect of the specified vehicles were maintained.

On this being pointed out in audit (August 1988 to November 1988) the State Transport Authority, Orissa stated (October 1988) that the matter would be taken up with other State Transport Authorities concerned for realisation of the dues. Further reports have not been received (March 1990).

The matter was reported to Government in February 1989; their reply has not been received (March 1990).

### 3.8 Non-realisation of penalty for belated payment of composite tax on vehicles plying under the National Permit Scheme

According to instructions issued by Government of India in December 1980, the State Governments were required to make provisions for levy of penalty for belated payment of composite tax in respect of vehicles covered under the National Permit Scheme. Under the scheme, if the composite tax is not paid within the due date (15th March and 15th September), the holder of the composite permit is liable to pay penalty at the rate of Rs.100 per month or part thereof in addition to composite tax.

In State Transport Authority, Orissa, it was noticed (August 1988 to November 1988) that, in respect of 265 vehicles of other states, which were authorised to ply in Orissa under National Permit Scheme during the period from April 1987 to March 1988, penalty for belated payment of tax amounting to Rs.45,550 was not collected by other State Transport Authorities and remitted to the State Transport Authority, Orissa.

On this being pointed out in audit (August 1988 to November 1988), the State Transport Authority, Orissa, stated (November 1988) that the matter would be taken up with the respective authorities for realisation of the dues. Further reports has not been received (March 1990).

The matter was reported to Government in February 1989; their reply has not been received (March 1990).



### 3.9 Under-assessment of tax in respect of stage carriages found plying without permits

Under the Orissa Motor Vehicles Taxation Act, 1975 and the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, Motor Vehicles tax and additional tax is leviable on the basis of number of passengers (including standing passengers) which the vehicle is authorised to carry and the total distance it covered in a day under the permit. If any such vehicle is found to be plying without a permit, the tax payable shall be assessed on the basis of maximum number of passengers which the vehicle would have been permitted to carry, reckoning the distance covered by it each day as exceeding 320 kilometres, for which, the highest rate is applicable.

In eight regions (Balasore, Koraput, Sambalpur, Puri, Bolangir, Sundergarh, Cuttack and Keonjhar), 150 stage carriages were found by the department to have been plying without any permit during various periods between July 1986 and April 1988, but tax in respect of these stage carriages was not assessed and collected at the correct slab rates applicable in such cases. The omission resulted in under assessment of tax amounting to Rs.3.63 lakhs.

On the omissions being pointed out in audit (between May 1988 and March 1989), the taxing authorities agreed between June 1988 and January 1989 to take action for realisation of balance tax. Further reports have not been received (March 1990).

The cases were reported to Government between September 1988 and May 1989; their reply has not been received (March 1990).

### 3.10 Non-levy of tax for the intervening periods

Under Section 3 of the Orissa Motor Vehicles Taxation Act, 1975, as amended, there shall be levied motor vehicles tax and additional tax on every motor vehicle used or kept for use within the State at the rates specified in the taxation schedule. However, under Section 10 of the Act *ibid*, exemption from payment of such tax is allowed for the period for which necessary undertaking for discontinuance of the use of the vehicle is delivered by the owner of the vehicle on or before the date of expiry of the time for which tax has been paid.

In nine regions (Balasore, Sambalpur, Sundergarh, Keonjhar, Bolangir, Cuttack, Puri, Koraput and Bargarh) it was noticed (between May 1988 and March 1989) that in respect of 210 vehicles, tax for different periods between April 1982 to September 1988 had remained un-realised even though the tax for the earlier and later periods had been collected. The taxation records showed that the intervening periods were neither covered by exemptions for discontinuance of use of the vehicles nor by intimations of payment of tax in any other region. This resulted in non-levy of tax of Rs.14.86 lakhs.

On this being pointed out in audit (between May 1988 and March 1989), the taxing officers accepted the mistakes. Further replies on final action taken have not been received (March 1990).

The cases were reported to Government between May 1988 and June 1989; their reply has not been received (March 1990).



### 3.11 Non-realisation of compounding fees at prescribed rates

As per notification dated 27th June 1984, issued by Government of Orissa under the Motor Vehicles Act, 1939, the minimum amount for compounding an offence shall not be less than half of the maximum penalty provided therefor when such offence is committed for the first time and when the same offence is committed for the second time or subsequent to it, the compounding amount shall not be less than the maximum penalty provided therefor.

In three regions (Koraput, Mayurbhanj and Ganjam), the amount prescribed either in respect of first offence or in cases of offences of similar nature committed for second time or subsequent to it had not been imposed on the vehicles committing the offences. Cases relating to such vehicles had, however, been closed on realisation of compounding fees far less than the prescribed amount, resulting in short realisation amounting to Rs.6.53 lakhs.

On this being pointed out in audit (between April 1987 and December 1988), the Regional Transport Officer, Koraput stated (August 1988) that closure of such cases had been ratified by the Regional Transport Authority and there was no provision for re-opening of such cases in the Motor Vehicles Acts/Rules. The Regional Transport Officer, Mayurbhanj (Baripada) replied (June 1987) that instructions of government had not been received by him, while the Regional Transport Officer, Ganjam (Chatrapur) stated that the audit observations had been noted for future guidance.

The matter was reported to Government between December 1987 and June 1989; their reply has not been received (March 1990).

### 3.12 Issue of tax tokens without realisation of arrears of tax

Under the Orissa Motor Vehicles Taxation Act, 1975 and the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, tax tokens are to be issued only when all arrear taxes and penalties are paid alongwith the tax for the current period. Where the tax for any period has not been paid, nor has the period been covered by off-road declaration, and continues to remain unpaid for a period of 15 days from the due date of payment, the taxing officer may, in respect of such vehicles, impose penalty at the rates prescribed in the Act.

In two regions (Keonjhar and Cuttack), tax tokens in respect of 25 vehicles were issued between April 1986 and June 1988 without realising the arrears of tax amounting to Rs.98,303 relating to different periods between April 1978 and March 1988 during which the vehicles were used or kept for use. No action had also been taken to invoke the penal provisions of the Act for non-payment of tax.

On this being pointed out in audit (between July 1988 and November 1988) while the taxing officer, Keonjhar admitted (July 1988) the mistake, the taxing officer, Cuttack issued (November 1988) demand notices at the instance of audit. Further reports have not been received (March 1990).

The cases were reported to Government between April 1989 and May 1989; their reply has not been received (March 1990).



### 3.13 Non-realisation of Trade Certificate fee/tax

Under the Orissa Motor Vehicles Rules, 1940, manufacturers of or dealers in motor vehicles are required to obtain trade certificates by paying annually, in advance, the requisite fees prescribed in respect of such trade certificates from the registering authority within whose area they have their place of business. Under the Orissa Motor Vehicles Taxation Act, 1975, tax at the annual rate should be paid in advance as prescribed therein for different categories of motor vehicles, by such manufacturers or dealers in respect of vehicles in their possession, in the course of their business under the authorisation of such trade certificates. Under the Motor Vehicles Act, 1939, 'dealer' includes a person who is engaged in the manufacture of motor vehicles, or in building bodies for attachment to the chassis.

In five regions (Balasore, Sundergarh, Chandikhol, Keonjhar and Puri) in respect of 31 dealers and body builders in motor vehicles, no trade certificate fees and tax collected during the period between September 1986 and March 1988, resulting in non-realisation of revenue amounting to Rs.39,525. .

•On this being pointed out in audit (between April 1988 and March 1989), the taxing officer, Balasore issued (April 1988) demand notices, while the taxing officers of Sambalpur and Puri agreed (December 1988 and March 1989) to issue demand notices. The taxing officer, Chandikhol, however stated (September 1988) that the trade certificates of body builders were not insisted upon and the taxing officer, Keonjhar stated (July 1988) that body builders pointed out by audit were not authorised to build bodies over the chassis. Their contention is not correct in view of the provisions of the Acts and Rules. Further reports have not been received (March 1990).



The matter was reported to Government between September 1988 and June 1989; their reply has not been received (March 1990).

### **3.14 Irregular grant of permits on non-payment/ fraudulent payment of taxes**

Under the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986), tax in respect of a stage carriage is leviable on the basis of number of passengers which the vehicle is permitted to carry and the total distance it covered in a day under the permit. Under the Orissa Motor Vehicles Rules, 1940, every application for a permit should invariably be accompanied by documents, such as registration certificate, fitness certificates, insurance certificate and tax clearance certificate in respect of such vehicle.

i) In Cuttack region, one stage carriage was granted temporary permits between August 1986 and April 1988 by the Regional Transport Authority as well as the State Transport Authority on the basis of forged and fake money receipts quoted in support of tax clearance for the periods involved. A cross-check by audit with reference to the relevant receipt numbers quoted in the order sheets and in the Cash Book revealed that the money receipts quoted in support of payment had either been tampered with/ altered or were fake and forged, which resulted in evasion of tax amounting to Rs.1.15 lakhs. Besides, penalty of Rs.2.30 lakhs was also leviable.

On this being pointed out in audit (August 1988), the taxing officer stated (August 1988) that the fake/forged money receipts had been detected and demand notice has been issued for realisation of dues (August 1988). Further report has not been received (March 1990).

The matter was reported to Government in April 1989; their reply has not been received (March 1990).

ii) In the same region (Cuttack), seven stage carriages had been granted temporary stage carriage permits between December 1986 and June 1988, without verification of tax payments, which were either not paid at all, or paid less as compared to what was actually due. This resulted in non-collection/short collection of tax amounting to Rs.2.62 lakhs. Besides, a penalty of Rs.4.64 lakhs was also leviable.

On this being pointed out in audit (November 1988), the taxing officer stated (November 1988) that action had been initiated to realise the dues. Further report has not been received (March 1990).

The matter was reported to Government in April 1989; their reply has not been received (March 1990).

### 3.15 Short-levy due to wrong classification of vehicles

• Under the taxation 'Schedule' appended to Section 3(i) of the Orissa Motor Vehicles Taxation Act, 1975 and Section 3-A of the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, rate of tax in respect of a motor vehicle is fixed based on the classification (from class-1 to class-6) given to the motor vehicle at the time of registration according to its make, construction, adaption and purpose of its use. Thus, vehicles constructed or adapted for use solely for the transport of goods in the course of trade are classified under class-3 and vehicles other than those liable to tax under any of the other classes prescribed in the 'Schedule' are classified under class-6, according to the commercial or private use, depending on their laden weight or unladen weight as the case may be. Rate of tax under class-3 is higher than that of class-6.

In 3 regions, 6 motor vehicles (Cuttack 3, Baripada 2 and Keonjhar 1) constructed or adapted for use as goods vehicles for transport of goods had been wrongly classified (between January 1980 and June 1986) and lesser rate fixed under class-6 as per details shown below:

Region	Month in which registered	Class under which originally registered	Month in which subsequently converted	Class to which converted	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
Cuttack	(a) June 1980	3	November 1980	6	Higher tax payable from November 1980 onwards.
	(b) January 1981	3	January 1983	6	Higher tax payable from January 1983 onwards.
	(c) January 1980	6	June 1987	3	Higher tax payable from January 1980 to June 1987.
Baripada	(a) January 1983	6	Continuing as such		Higher tax payable from January 1983 onwards.



Region	Month in which registered	Class under which origi- nally regis- tered	Month in which subse- quently conver- ted	Class to which conver- ted	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
	(b) January 1986	6	January 1987	3	Higher tax pay- able from January 1986 to January 1987.
Keonjhar	June 1986	6	Continuing as such		Higher tax pay- able from June 1986 onwards.

In all these cases there had been no alterations in the construction of their bodies.

The above mistakes in classification of these vehicles resulted in loss of revenue amounting to Rs.57,934.

• On this being pointed out in audit (between September 1987 and November 1988), the taxing officer, Cuttack agreed (November 1988) to issue demand notice for realisation of the differential tax and the taxing officers of Keonjhar and Baripada agreed (September 1987 and July 1988) to issue notices asking the owners of the vehicles to apply for conversion and pay the differential tax. Further reports have not been received (March 1990).

The matter was reported to Government (between May 1983 and April 1989); their reply has not been received (March 1990).

### 3.16 Irregular adjustment of tax

Under the Orissa Motor Vehicles Taxation Act, 1975 as amended, read with the Orissa Motor Vehicles Taxation Rules, 1976, refund of tax would be admissible, only if -

- (a) tax was paid in respect of a vehicle for the period for which the vehicle was declared off-road by the taxing officer;
- (b) tax was paid in excess for any period due to over assessment by the taxing officer, and
- (c) after payment of tax, it was found that the vehicle was not subject to tax.

No such refund should, however, be made unless the person claiming the refund had made an application in that behalf to the concerned taxing officer within one year from the date on which the refund became due. The amount due to be refunded might, at the option of the applicant, be adjusted towards the tax due for any subsequent period, provided that, if any tax or penalty due from the applicant in respect of any previous period remained outstanding the amount to be refunded should first be adjusted towards the outstanding dues and the balance, if any should be refunded.

In Baripada region (Mayurbhanj District), the District Transport Manager of a state owned statutory transport Corporation, while depositing tax in respect of 35 vehicles owned by the Corporation for the month of March 1987, *suo motu* made a short deposit of Rs.44,623 by way of adjustment, claiming that 17 vehicles were off-road (between February 1983 and September 1985) for which tax was already paid, and tax in respect of one vehicle was paid in excess for the period from January 1986 to October 1986. The taxing officer accepted

the return and allowed the adjustment without observing codal provisions under which no such refund by way of adjustment was admissible. This resulted in irregular adjustment amounting to Rs.44,623.

On this being pointed out in audit (April 1988 to July 1988), the taxing officer proposed (July 1988) to issue demand notice for realisation of the dues. Further report has not been received (March 1990).

The matter was reported to Government (October 1988); their reply has not been received (March 1990).

### **3.17 Time barred cases of passenger tax**

Under the Orissa Motor Vehicles (Taxation of passengers) Act, 1969 (since repealed with effect from 18th October 1985 under Government Notification dated 4th October 1985), any passenger tax which has escaped assessment or has been under-assessed, can be assessed or re-assessed by the taxing authority within a period of three years from the expiry of the month for which it was due and thereafter it is barred by limitation.

In the course of audit of records, of Sambalpur region, it was noticed (February 1989) that passenger tax due in respect of six stage carriages for the period between April 1984 and 17th October 1985 had not been assessed and realised (February 1989). Passenger tax due in these cases had become time barred due to non-assessment within the statutory period of limitation of three years.

The loss on this account amounted to Rs.1.50 lakhs. As the assessment was not made within the statutory period of three years, realisation of tax is doubtful.

The matter was reported to Government (April 1989); their reply has not been received (March 1990).



## CHAPTER 4

## LAND REVENUE

## 4.1 Results of audit

A test check of records relating to assessment and collection of land revenue conducted in audit during the period from April 1988 to March 1989 revealed non-assessment, under-assessment and non-realisation of revenue amounting to Rs.240.79 lakhs in 6016 cases, which may broadly be categorised as under:

	<u>Number of cases</u>	<u>Amount (in lakhs of rupees)</u>
1. Non-realisation of premium and rent on conversion of agricultural land	58	0.11
2. Non-collection of premium and rent etc. from lands occupied by local bodies/ Government undertakings/ private parties	49	67.45
3. Non-assessment/short-assessment/delay in assessment of land revenue and cess	1819	30.29
4. Non-assessment/short-assessment and collection of water rate	106	59.23

	Number of <u>cases</u>	Amount (in lakhs <u>rupees</u> )
5. Non-lease/irregular lease of Sairat and other miscellaneous revenue	60	1.37
6. Non-lease/non-realisation of revenue from surplus Government lands	53	0.40
7. Other irregularities	<u>3871</u> <u>6016</u>	<u>81.94</u> <u>240.79</u>

Some of the important cases noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.

#### **4.2 Non-realisation of premium and other dues from the Orissa Cashew Development Corporation**

According to Government orders issued in January 1980, Government waste land would be leased out in favour of the Orissa Cashew Development Corporation (a Government Company) for Cashew plantation on payment of premium (market value of the land) and rent and the Corporation would execute a lease deed in the prescribed form. Government, in their order dated 11th March 1980, fixed the market value of land to be transferred to the Corporations at Rs.250 per acre of land (irrespective of location) and annual ground rent at 1 per cent of the market value for the first five years, at 7 per cent for the next five years and at 14 per cent for the next 10 years. In addition, cess at 50 per cent of

the ground rent is also leviable as per Government orders of July 1987. Interest at the rate of 6 per cent is chargeable on belated payment of the dues.

In Khalikote Tahsil in Ganjam District, though Government conveyed sanction (January 1980) for handing over advance possession of 1185.12 acres of land in favour of the Corporation, the Tahsildar actually handed over advance possession of 750 acres after a delay of 8 years, in March 1987 leaving aside the balance area which was not free from encumbrances/encroachments, pending finalisation of the lease. Even after this, neither lease of the land in favour of the Corporation was sanctioned and agreement executed with the Corporation, nor did the Corporation pay premium, ground rent or cess till the date of audit (September 1988). Interest had also not been levied on the outstanding dues. The amount due from the Corporation upto 31st March 1989 amounted to Rs.2.31 lakhs (premium : Rs.1.87 lakhs; ground rent : Rs.0.06 lakh; cess : Rs.0.03 lakh and interest Rs.0.35 lakh).

On this being pointed out in audit (September 1988), the Tahsildar stated (September 1988) that due to non-sanction of lease, the dues could not be collected. Further reply has not been received (March 1990).

The matter was reported to Government (January 1989); their reply has not been received (March 1990).

#### **4.3 Non-realisation of premium and rent**

According to Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public undertakings, etc., on payment of premium fixed on the basis of market value plus annual ground rent at the rate of one Per cent



of the market value. Interest at the rate of six *per cent* per annum is also chargeable on belated payments of Government dues.

(i) In Tirtol Tahsil (Cuttack District), advance possession of government land admeasuring 25.98 acres given to the Orissa Maritime and Chilka Area Development Corporation Limited (a Government Company) during September 1979 for coconut plantation had not been regularised even after 9 years (May 1989). The Corporation had paid only Rs.6895 (January 1987) towards premium and annual rent due and defaulted in paying the balance dues amounting to Rs.2.17 lakhs (premium : Rs.1.23 lakhs; ground rent: Rs.12,513 and interest : Rs.81,599) upto the end of March 1989.

On this being pointed out in audit (June 1988), the Tahasildar agreed (June 1988) to realise the dues. Further reports of realisation have not been received (March 1990).

The matter was reported to Government (August 1988); their reply has not been received (March 1990).

(ii) In Jharsuguda Tahsil (Sambalpur District), government land measuring 8.10 acres was under unauthorised occupation of Orissa State Electricity Board from 1982-83 on which an electrical workshop was established. The land occupied had neither been regularised by way of lease (September 1988) nor the dues amounting to Rs.6.96 lakhs (premium : Rs.4.86 lakhs; ground rent : Rs.29,160 and interest on premium and ground rent : Rs.1.81 lakhs) from 1982-83 to the end of March 1988, were recovered by the department.

This was pointed out in audit (September 1988). Final reply on action taken has not been received (March 1990).

The matter was reported to Government (February 1989); their reply has not been received (March 1990).

#### 4.4 Non-assessment of compulsory basic water rate

Under the Orissa Irrigation Act, 1959 and the Rules framed thereunder, compulsory basic water rate at the prescribed rates, is leviable on the lands coming within the culturable command area of an irrigation work for irrigation of staple cereal crop (Khariff paddy harvested between October and January) whether water is used for irrigation or not. The culturable command area, as certified by the Engineers-in-charge is required to be verified by the Revenue Officer (Tahsildar). According to the prescribed procedure the demand for water rate is raised on assessment rolls prepared after such verification. The irrigation works are divided into four classes (Viz. Class I, II, III and IV) on the basis of guaranteed depth and period of water supply. The water rate prescribed for class I and II irrigation works were Rs.16 and Rs.12 per acre per annum. In case of new irrigation projects, no water rate is, however, chargeable for the first year of supply of water, whereas, 50 per cent and 75 per cent of the prescribed rates is chargeable for the second and third years respectively and full rate is chargeable from the fourth year onwards.

In three Tahsils (Udala, Kamakhyanagar and Deogarh), the Engineering authorities certified 21,133.84 acres in respect of four medium irrigation projects as culturable command area (two Class I and two Class II) during 1986-87. Although water was first supplied to these areas between 1984 and 1986, the Tahsildars did not take up work of verification and preparation of assessment rolls for raising demands. This resulted in non-realisation of water rate amounting to Rs.3.88 lakhs during the period from 1984-85 to 1987-88. Further,



interest at the rate of six *per cent* per annum upto 1987-88 amounting to Rs.0.35 lakh was also leviable but not levied.

On this being pointed out in audit in June and September 1988, the Tahsildars stated that the work could not be taken up due to shortage of staff. Final reply on action taken has not been received (March, 1990).

The matter was reported to Government (October 1988 to April 1989) who stated (July 1989) that steps were being taken to take up the work of assessment during that financial year. Further report has not been received (March 1990).

#### **4.5 Short-realisation of royalty and non-levy of cess on minor minerals**

Under the Manual of Tahsil Accounts, read with the Orissa Minor Minerals Concession Rules, 1983, permits are granted by Revenue Authorities on realisation of application fee at the rate of Rs.25 each to persons intending to extract minor minerals from Government land, on which, royalty and surface rent at the rates revised with effect from 12th June 1983 by a Government Notification are payable. Besides, cess at the rate of 100 *per cent* of royalty is also leviable under the Orissa Cess (Amendments) Act, 1980.

In 17 Tahsils (Cuttack, Sambalpur, Koraput, Balasore, Ganjam, Puri, Phulbani and Sundergarh Districts) permits were issued and quarries were leased during the period from 1983-84 to 1987-88 for extraction of minor minerals on which, royalty was realised at rates lesser than those applicable during the period as per Government orders which resulted in short-realisation of royalty amounting to Rs.8.97 lakhs. Besides, application



fee amounting to Rs.10,750, Cess amounting to Rs.29.46 lakhs and surface rent amounting to Rs.2,188 were also not levied and recovered.

On this being pointed out in audit in April 1988 to January 1989, the Tahsildars stated (April 1988 to January 1989), that correct procedure would be followed in future, and amount due would be realised. Final reply on action taken has not been received (March 1990).

The matter was reported to Government (June 1988 to January 1989); their reply has not been received (March 1990).

#### **4.6 Short-levy of court fee and process fee**

Under the Orissa Public Demand Recovery Act, 1962 and Rules made thereunder, when any public demand payable to any person other than the collector is due, such person may send to the certificate officer, a written requisition in the prescribed form. Every such requisition, except in such cases as may be prescribed, shall be chargeable by the certificate officer with a fee of the amount which would be payable under the Court Fees Act 7 of 1870, in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

In five Tahsils (Kendrapara and Tigiria in Cuttack District, Sambalpur and Sohella in Sambalpur District and Kakatpur in Puri District), Certificate requisitions were filed before Certificate Officers (Tahsildars) by the Scheduled and Regional Rural Banks during the period from 1985 to 1988 for recovery of their dues in 370 cases. Against fees amounting to Rs.1.10 lakhs leviable, Rs.3935 only was levied, resulting in short-levy amounting to Rs.1.06 lakhs.

On this being pointed out in audit (September 1988 to February 1989), the Certificate Officers accepted the mistake and stated (September 1988 to February 1989) that the balance amount would be realised. Final reply on action taken has not been received (March 1990).

The matter was reported to Government (January 1989 to May 1989); their reply has not been received (March 1990).

#### 4.7 Non-renewal of lease of Khasmahal\* lands

Under Rule 28 of the Bihar and Orissa Estate Manual, 1919 short-term leases of Khasmahal lands (Government lands) are subject to renewal at an interval of ten years, on payment of rent at one *per cent* of market value of land ruling on the date of renewal. By a Government order issued in December 1975, annual rent payable was fixed at one-fourth *per cent* of the market value for lands used for residential purpose and one *per cent* of the market value of lands used for the purpose of trade, commerce and industries.

In Chandbali Tahsil (District Balasore), 41.12-1/2 acres of Khasmahal land leased out for residential purpose, due for renewal in 1980 had not been renewed even after eight years (December 1988). This resulted in non-realisation of Government dues amounting to Rs.1.39 lakhs (Rent : Rs.0.93 lakh *plus* Cess : Rs.0.46 lakh) computed at the average market value of Rs.1.00 lakh per acre prevailing at the due time of renewal (1980).

On this being pointed out in audit (January 1989), the Tahsildar stated (January 1989) that action was being taken to renew the lease and realise the dues.

The matter was reported to Government (April 1989); their reply has not been received (March 1990).

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\* Khasmahal means government estate i.e. an estate directly managed by Government.

## CHAPTER 5

### FOREST RECEIPTS

#### 5.1 Results of Audit

A test check of the records maintained in the Forest Divisions conducted in audit during the period from April 1988 to March 1989, revealed non-recovery and short-recovery of dues and losses of revenue amounting to Rs.25.82 lakhs in 4655 cases, which may broadly be categorised as under :

	<u>Number of cases</u>	<u>Amount (in lakhs rupees)</u>
1. Non-levy/short-levy of interest for delayed payment of consideration money/royalty	166	20.23
2. Non-realisation of compensation	166	4.41
3. Non-realisation/short-realisation of extension fees	11	0.18
4. Loss of revenue due to non-sale of forest produce	15	0.53
5. Miscellaneous	<u>4297</u> <u>4655</u>	<u>0.47</u> <u>25.82</u>

Some of the important cases noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.



## 5.2 Under-assessment/non-assessment of royalty

(a) As per the schedule of rates appended to the Orissa Forest Produce Rules, 1977 and instructions dated 7th June, 1982 and 4th September 1987, royalty in respect of coupes settled with the Orissa Forest Corporation Limited (a State Government Undertaking) is determined according to the quality of timber available in the coupes, converted into units, which are computed at the ratio adopted on the basis of classification of species and girth class of trees marked for felling.

(i) In 4 forest divisions (Bhanjanagar, Deogarh, Sundergarh and Phulbani), during the period 1987-88, units of timber were wrongly calculated due to irregular classification of trees of higher girth class as lower girth class, sound as unsound and normal as defective, in contravention of the specifications given in the marking lists\* which resulted in under-assessment of royalty in respect of 379.11 units amounting to Rs.1.67 lakhs.

On this being pointed out in audit (between May 1988 and December 1988), the Divisional Forest Officers accepted the omissions (between May 1988 and December 1988). Further report has not been received (March 1990).

The matter was reported to Government (between July 1988 and March 1989); their replies have not been received (March 1990).

(ii) In Jeypore Forest Division (Koraput District), in respect of 6 coupes settled with the Orissa Forest Corporation during 1986-87 and 1987-88, 4 trees (Gambhar)

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\* Marketing list contains details such as serial No., name of the species, quality (sound or unsound), girth at breast height of trees marked for felling in a coupe.

of 1st class species and 176 trees (Kendu, Jamu, Kasi and Mango) of 2nd class species were wrongly classified as 3rd class species, listing them under miscellaneous species. This resulted in under-assessment of royalty amounting to Rs.51,516.

On this being pointed out in audit (November 1988), the Divisional Forest Officer accepted the omission (November 1988). Further report has not been received (March 1990).

The matter was reported to Government and the Principal Chief Conservator of Forests in February 1989; their replies have not been received (March 1990).

In addition to classification of trees in a coupe according to the quality of species, as per instructions and guidelines of the Principal Chief Conservator of Forests, Orissa, procedure prescribed in the Orissa Forest Department Code, 1979 requires that a cut tree with all its conversions should be lifted by the forest contractor only once, through a duly prepared passing list\*, cross-checked with the marking list, in order to check that no

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\*Passing list

As soon as the felling is done by the contractor the trees are converted into logs and the same are entered in a conversion register maintained by the contractor indicating the details of the number and size of the trees felled and those converted into logs with sizes against each tree. The Range Officer inspects the coupe, verifies the conversion register to ensure that the trees are felled according to the sale notice and passes the timber duly marked with a passing hammer seal. A list of timber so passed by the Range Officer from time to time is sent to the Forest Division for check with reference to 'Marking List'. This list is called passing list.



trees in excess or higher class trees than those handed over to them are felled and lifted by them.

In 4 forest division (Phulbani, Sambalpur, Nowrangpur and Bolangir), in respect of 21 coupes settled with the Orissa Forest Corporation Limited during 1987-88 and 1988-89, 71 trees were allowed to be lifted as higher class species than those shown in the marking lists and 72 trees bearing same tree numbers were allowed to be lifted in the passing lists more than once. This had resulted in non-levy of royalty amounting to Rs.65,805.

The omissions were pointed out in audit (between February 1988 and December 1988). Final reply on action taken have not been received (March 1990).

The matter was reported to Government and Principal Chief Conservator of Forests between June 1988 and March 1989; their replies have not been received (March 1990).

### **5.3      Loss due to illicit felling of trees in reserve forest area**

Under the provisions of clause 27(2)(b) of the Orissa Forest Act, 1972, felling of trees inside the reserve forest area is prohibited. As per the provisions of the Orissa Forest Department Code, the Range Officer is responsible for protection of forest property under his jurisdiction.

In the course of audit of a forest division (Kalahandi), it was noticed (December 1988) that in three reserve forest areas (Porgel, Kidding and Kadamguda) 1344 trees were found by the mobile staff of the division to have been illicitly felled during the period from 12.10.1984 to 8.8.1987. Of these 1344 trees involved, details such as names of the species, mid girth, unit content of timber etc. in respect of 24 trees were not



made available to audit, 103 trees were found on the spot and the balance of 1217 trees with timber content of 3086.05 units were removed by miscreants, resulting in loss to Government to the tune of Rs.16.88 lakhs, calculated at the prevailing unit rate of approved royalty for 1987-88, as per details below:

Sl.No.	Name of the Reserve Forest	No. of trees removed after illicit felling	Total units of timber involved	Rate per unit of timber prevailing in 1987-88 (Rupees)	Amount of loss (in lakhs of rupees)
1.	Porgel R.F	775	2186.48	568	12.42
2.	Kidding R.F	204	337.76	574	1.94
3.	Kadamguda PRF	<u>238</u>	<u>561.81</u>	449	<u>2.52</u>
		<u>1217</u>	<u>3086.05</u>		<u>16.88</u>

The loss was attributed to negligence of duty by the supervisory and watch and ward staff of the forest range.

On this being pointed out in audit (December 1988), the Divisional Forest Officer stated (December 1988) that departmental proceedings were initiated against the delinquent officials for the loss. Further report on action taken has not been received (March 1990).

The matter was reported to Government (March 1989); their reply has not been received (March 1990).

#### 5.4 Non-realisation of compensation

Under the Orissa Forest Contract Rules, 1966, a forest contractor is liable to pay compensation as may be fixed by the Divisional Forest Officer, for damages caused by him in Government forest, for illicit fellings within the contracted area or within 20 chains thereof and for other irregularities. In the event of non-payment of compensation, the contract is liable to be terminated. Such dues on account of compensation are recoverable from the security deposit of the contractor and the balance, if any, as arrears of land revenue.

In one Forest Division (Boudh in Phbulbani District), compensation for damages caused by the Orissa Forest Corporation during the contract period from May 1987 to January 1988, amounting to Rs.6.04 lakhs computed at the minimum limit value (3 times in the case of timber removed and two times in respect of timber not removed) in respect of 207 illicitly felled trees, was not assessed by the Divisional Forest Officer.

On this being pointed out in audit (June 1988) the Divisional Forest Officer assessed compensation treating the trees as standard reserve trees and raised demand amounting to Rs.12.25 lakhs (September 1988). Report on the realisation has not been received (March 1990).

The matter was reported to Government (July 1988 and October 1988).

#### 5.5 Loss due to damage of forest produce

Under Rule 289(i) and 294(3) of the Orissa Forest Department Code, all transactions of forest produce collected departmentally or assigned to Government in case of illicit removal should be accounted

for in Form 2 and normally disposed of either by auction or otherwise. Under Rule 28(i) *ibid*, the Range Officer is responsible for protection, *inter-alia*, of forest produce in his charge. Under Rule 306(1) *ibid*, the Divisional Forest Officer is required to send proposals for write-off to the competent authority with the information of the materials proposed to be written off as required therein.

• In Manmunda Range of Boudh Forest Division (Phulbani District), it was noticed in audit (August 1987) that in April 1986, 61080 cft of firewood (3054 cart loads) and 1280 cft of sal and non-sal timber (320 logs) obtained through departmental working and seized from forest offence cases were recorded as completely damaged and needed to be written off. The accounts maintained in the Range did not reveal the period during which these forest produces were obtained. The damage had neither been certified nor the reasons for damage investigated and responsibility fixed on the concerned staff by the Divisional Forest Officer. No write off proposal had also been submitted to the competent authority so far (August 1989). This omission resulted in loss of revenue amounting to Rs.1.07 lakhs.

On this being pointed out in audit (August 1987), the Divisional Forest Officer replied subsequently (July 1989) that action would be taken to verify the position after which write-off proposal would be submitted. Further report has not been received (March 1990).

The matter was reported to Government/Principal Chief Conservator of Forests, Orissa (November 1987); their reply has not been received (March 1990).

#### 5.6 Loss of revenue due to non-exploitation of a minor forest produce (Hill brooms)

"Hill broom" is a seasonal minor forest produce. Its collection season lasts from December to April every year.



Contract for collection of hill brooms from one of the ranges (Manmunda) of Boudh Forest Division was granted (November 1984) by Government to a forest contractor, on long term lease of five years from 1984-85 to 1988-89. The conditions of the lease, *inter-alia*, provided that the contractor would work out the lease after giving an undertaking to pay the royalty/minimum royalty as would be fixed by Government later on. Accordingly, on furnishing the undertaking (January 1985), work order was issued (February 1985).

The minimum royalty payable by the forest contractor for the five years of lease (1984-85 to 1988-89) was fixed (January 1985) by the department, basing on the quantity of hill brooms collected from the range and royalty realised from the previous lessee during the preceding year (1983-84) with 10 per cent increase thereon for each subsequent year. The contractor neither paid the minimum royalty nor worked the lease. Instead, he represented to Government (February 1985) that the proposed royalty was on the higher side and requested for refixation of the royalty on actual collection basis. The Government did not however take any decision in the matter and ultimately the produce remained unexploited for the year 1984-85.

Though the proposals to invest the leasehold right for collection of hill brooms from the range to a co-operative society was under consideration, this did not fructify during the next two succeeding years also, namely 1985-86 and 1986-87 due to avoidable administrative delays on the part of the Government.

Finally, the lease of the forest contractor was cancelled by Government in May 1988 and was settled with the society for the years 1987-88 and 1988-89. Thus, due to undue delay in cancellation of the lease of the forest contractor and ultimate settlement with the society, the minor forest produce for the years

1984-85 to 1986-87 remained unexploited and revenue amounting to Rs.68,767 computed at the rate of minimum royalty, was lost to Government.

The matter was reported to Government in November 1987; their reply has not been received (March 1990).

#### 5.7 Under-assessment of royalty due to adoption of incorrect ratio in computation of units

According to the provisions of Rule 240 and 245 of the Forest Departmental Code and the executive instructions issued in November 1979, royalty in respect of coupes settled with the Orissa Forest Corporation Limited (a State Government Undertaking) is determined with reference to the units of timber available in the coupe. As there was no uniformity in the procedure of reckoning such units in the various Forest Divisions, the Chief Conservator of Forests (CCF), Orissa issued (June 1982 and September 1987) instructions to all Divisional Forest Officers to classify all standing trees (except Sandal wood, Teak and Khair) marked for felling in a coupe into three broad categories of species and compute their units according to prescribed ratio depending upon the girth of the trees.

In Bolangir Forest Division, in six coupes settled with the Orissa Forest Corporation during 1987-88, 1332 trees having girth class of 60 cm, 90 cm, 120 cm, 150 cm and 180 cm were taken to the slabs of under 60 cm, 90 cm, 120 cm, 150 cm and 180 cm (i.e. at one slab less) respectively and units computed accordingly. This resulted in under-assessment of royalty of Rs.93,444.

On this being pointed out in audit (December 1988), the Divisional Forest Officer stated (December 1988) that the cases would be reviewed and demands raised. Further reports have not been received (March 1990).

The matter was reported to Government, in March 1989; their reply has not been received (March 1990).



## CHAPTER 6

## MINING RECEIPTS

## 6.1 Results of Audit

A test check of mining receipts in the offices of Mining Officers, conducted during the period from 1st April 1988 to 31st March 1989 revealed non-levy or short levy of dead rent, cess, surface rent and interest and other losses of revenue amounting to Rs.22.88 lakhs in 71 cases, which may broadly be categorised as under:

	Number of <u>cases</u>	Amount (In lakhs of rupees)
1. Non-levy, short-levy, non-demand of royalty, cess, surface rent and dead rent	7	8.52
2. Non-assessment/non-recovery of royalty and cess on ore found short	1	0.47
3. Non-recovery, short recovery of interest	52	5.07
4. Non-realisation, under assessment of dead rent, cess, royalty and interest	4	7.93
5. Short realisation of application fees and preliminary expenses etc.	7	0.89
	<u>71</u>	<u>22.88</u>

In one case, short assessment of cess amounting to Rs.32,855 was recovered (August 1989) on being pointed out in audit (December 1988).

In another case, involving non-levy of royalty and cess on shortage of minerals detected during physical verification, an amount of Rs.47,110 was recovered (February 1989 and March 1989) on being pointed out in audit (September 1988).

Some of the other important cases noticed during the year 1988-89 are mentioned in the succeeding paragraphs.

## **6.2 Non-assessment of Dead Rent, Surface Rent and Cess**

Under the Mineral Concession Rules, 1960, a lessee can surrender whole or part of a leasehold area after giving notice in writing of not less than twelve months to the Government. Government shall permit such surrender from the date of receipt of application only if the lessee has paid all the dues payable under the lease upto the date of application. Otherwise, the lessee is liable to pay dead rent, surface rent and cess on the entire area till the surrender is permitted.

In mining circle, Joda (District Keonjhar) a total area of 1125 acres of a mine was leased out to a company for thirty years from April 1959. The Company, in March 1977, gave notice to Government for surrender of an area of 847.85 acres. The surrender was not accepted by the Government due to non-deposit of survey fee by the Company. The Company deposited the said fee in July 1978. Government in turn intimated the Company in April 1981 that the surrender could be accepted from

4th July 1978 provided all the dues upto that date were cleared. The company did not pay the outstanding dues and consequently, their surrender of the leasehold area was not accepted by the government (July 1988). The lease deed was therefore, considered to be in operation and the company was liable to pay dead rent, surface rent and cess for the leasehold area.

A certificate case for Rs.26,118.99 towards dues upto June 1979 was instituted (October 1983) with the certificate officer, Barbil who transferred (September 1986) the case to Deputy Commissioner, Singhbhum, Bihar where the case record was reported (September 1987) to be missing. Fresh requisition for certificate has not been sent (July 1988). Further, the dues recoverable from the company for the period from 1st July 1979 to 30th June 1988 amounting to Rs.5.18 lakhs has not been assessed and demanded (July 1988).

On this being pointed out in audit (July 1988) the Mining Officer stated (July 1988) that instructions from Government/Director were awaited for issue of demand notice against the company.

The case was reported to Government in September 1988; their reply has not been received (March 1990).

### **6.3 Non-assessment of dead rent, surface rent and cess on leasehold area**

Under the Mineral Concession Rules, 1960, as amended in October 1982, the lessee of a leasehold area is liable to pay dead rent, surface rent and cess for every year of lease.



## CHAPTER 7

## OTHER TAX AND NON-TAX RECEIPTS

## A - STATE EXCISE

## 7.1 Result of Audit

A test check of the accounts of receipts in the offices of the Excise Commissioner and Superintendents of Excise, conducted during the period from April 1988 to March 1989, revealed non-realisation, short realisation, breakage and other losses of revenue amounting to Rs.48.53 lakhs in 28 cases which may broadly be categorised as under :

	Number of <u>cases</u>	Amount (in lakhs of rupees)
1. Non-levy/non-realisation of duty on breakage loss in movement within the state	3	0.49
2. Loss of revenue due to application of lower rates of duty, short-realisation/non-realisation of duty	9	36.56
3. Other reasons	<u>16</u> <u>28</u>	<u>11.48</u> <u>48.53</u>

An important case noticed is mentioned in the following paragraph.

The cases were reported to Government ~~between~~  
August 1988 to May 1989 ; their reply has not ~~been~~  
received (March 1990).

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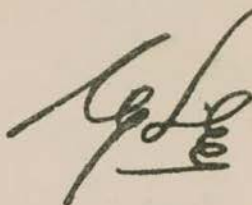
24 JUL 1990



( S.K.PODDER )

Accountant General (Audit)-II  
Orissa

Countersigned



NEW DELHI

The

16 AUG 1990

( C.G.SOMIAH )

Comptroller and Auditor General  
of India





to  
**Report of the Comptroller and Auditor General of India for  
the year ended 31st March 1989 (Revenue Receipts)  
Government of Orissa**

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	Para	Line		
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